

## SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

### PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

#### Subpart 1.0—Organization and General Flow of Functions

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AUTHORITY: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub. L. 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; §1.01-35 also issued under the authority of 44 U.S.C. 3507.

SOURCE: CGD 88-033, 54 FR 50376, Dec. 6, 1989, unless otherwise noted.

#### Subpart 1.01—Organization and General Flow of Functions

##### § 1.01-05 Definitions of terms used in this part.

- (a) The term *Commandant* means the Commandant of the Coast Guard.
- (b) The term *District Commander* means an officer of the Coast Guard

designated as such by the Commandant to command all Coast Guard activities within a district.

(c) The term *Area Commander* means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within an Area.

(d) The term *Credential* means any or all of the following:

- (1) Merchant mariner's document.
- (2) Merchant mariner's license.
- (3) STCW endorsement.
- (4) Certificate of registry.
- (5) Merchant mariner credential.

(e) The term *Merchant mariner credential or MMC* means the credential issued by the Coast Guard under 46 CFR part 10. It combines the individual merchant mariner's document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as the mariner's qualification document, certificate of identification, and certificate of service.

[CGD 88-033, 54 FR 50376, Dec. 6, 1989, as amended by USCG-2006-24520, 71 FR 35818, June 22, 2006; USCG-2006-24371, 74 FR 11213, Mar. 16, 2009]

##### § 1.01-10 Organization.

(a) The Commandant is the head of the agency and exercises overall direction over the policy and administration of the Coast Guard.

(b) To carry out the regulatory and enforcement aspects of marine safety, the staff officers designated in this paragraph are assigned to the Commandant. The chain of military command is directly from the Commandant to the District Commanders, except for marine safety regulatory and enforcement matters within the area of responsibility of Coast Guard Activities Europe. For Activities Europe, the chain of command is from the Commandant to the Atlantic Area Commander. The staff officers at Headquarters act only on the basis of the Commandant's authority and direction.

- (1) The Deputy for Operations Policy and Capabilities (CG-DCO-D), under

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the general direction of the Commandant, directs, supervises, and coordinates the activities of: The Director of Commercial Regulations and Standards (CG-5PS), consisting of the Office of Design and Engineering Standards (CG-ENG), the Office of Operating and Environmental Standards (CG-OES), and the Office of Standards Evaluation and Development (CG-REG); the Assistant Commandant for Response Policy (CG-5R), consisting of the Office of Law Enforcement Policy (CG-MLE), the Office of Counterterrorism and Defense Operations (CG-DOD), the Office of Environmental Response Policy (CG-MER), the Office of Search and Rescue (CG-SAR), and the Office of Crisis and Contingency Planning and Exercise Policy (CG-CPE); the Assistant Commandant for Prevention Policy (CG-5P), consisting of the Office of International and Domestic Port Assessment (CG-PSA), the Office of Auxiliary and Boating Safety (CG-BSX), the Office of Commercial Vessel Compliance (CG-CVC), the Office of Port and Facility Activities (CG-FAC), the Office of Investigations and Casualty Analysis (CG-INV); and the Director of Marine Transportation Systems (CG-5PW), consisting of the Office of Bridge Programs (CG-BRG), the Office of Waterways and Ocean Policy (CG-WWM), and the Office of Navigation Systems (CG-NAV). The Deputy Commandant for Operations (CG-DCO), under the general direction of the Commandant, directs, supervises, and coordinates the activities of the Operations Resource Management Directorate (CG-DCO-R), consisting of the Office of Workforce Management (CG-DCO-R-1), the Office of Budget Development (CG-DCO-R-2), the Office of Budget Execution (CG-DCO-R-3), and the Office of Information Resources (CG-DCO-R-6). The Port Safety and Security programs administered by the Chief, Office of Commercial Vessel Compliance (CG-CVC), and the Marine Environmental Response programs administered by the Chief, Office of Environmental Response Policy (CG-MER), are guided by regulations contained in 33 CFR chapter I. The Deputy for Operations Policy and Capabilities (CG-DCO-D) exercises technical control over the Commanding Officer, National Maritime

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Center (NMC), and, through the District Commander, supervises the administration of the Marine Safety Division of District Offices and Officers in Charge, Marine Inspection.

(i) The Director of Commercial Regulations and Standards (CG-5PS), under the general direction and supervision of the Deputy for Operations Policy and Capabilities (CG-DCO-D), establishes federal policies for development of marine safety, security, and environmental protection treaties, laws, and regulations; develops safety, security, and environmental protection standards for the maritime industry; integrates all marine safety, security, and environmental protection regulatory programs; prepares legislation, regulations, and industry guidance for new safety and environmental protection programs; and maintains an active program for development of third party consensus industry standards.

(A) The Chief, Office of Design and Engineering Standards (CG-ENG), at Headquarters, under the direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Director of Commercial Regulations and Standards (CG-5PS), manages the program for defining the overall regulatory approach for vessels, offshore structures, and other marine systems incorporating safety considerations regarding the role of the human element; develops policies and regulations on load line matters and supervises classification societies authorized to assign load lines on behalf of the Coast Guard; oversees the development and maintenance of programs that incorporate risk-based methods in making safety determinations and policies; and oversees technical research and development for safety and environmental protection associated with marine vessels, structures and facilities.

(B) The Chief, Office of Operating and Environmental Standards (CG-OES), at Headquarters, under the direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Director of Commercial Regulations and Standards (CG-5PS), coordinates and integrates program standards for personnel qualification, vessel manning, vessel and facility operations, cargo

systems and handling, and environmental protection; develops and maintains standards, regulations, and industry guidance for maritime industry operations to prevent deaths, injuries, property damage, and environmental harm; develops and maintains safety standards and regulations for commercial fishing industry vessels and uninspected commercial vessels; and develops and maintains health and safety standards and regulations for U.S.-inspected vessels.

(C) The Chief, Office of Standards Evaluation and Development (CG-REG), at Headquarters, under the Direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Director of Commercial Regulations and Standards (CG-5PS), coordinates the development of new standards, programs, and regulations across all technical and operational areas of marine safety and environmental protection; provides comprehensive analytical support for all standards assessment and development efforts; coordinates development of measures of effectiveness for assessing regulatory programs and consensus standards; and oversees the Coast Guard's rulemaking development program.

(D) The Commanding Officer, Marine Safety Center, under the Direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Director of Commercial Regulations and Standards (CG-5PS), conducts reviews and approvals of plans, calculations, and other materials concerning the design, construction, alterations, and repair of commercial vessels to determine conformance with the marine inspection laws, regulations, and implementing directions, and administers the U.S. Tonnage Measurement program.

(ii) The Assistant Commandant for Prevention Policy (CG-5P), under the general direction and supervision of the Deputy for Operations Policy and Capabilities (CG-DCO-D), acts as Program Manager for the Marine Safety, Security, and Environmental Protection Programs; directs, coordinates, and integrates the Coast Guard's marine safety and environmental protection compliance programs, contingency

planning, response operations, and investigations programs; establishes and coordinates field implementation policies and priorities for all marine safety commands and units; serves as the focal point for field support and technical guidance; and provides oversight of marine documentation and marine personnel administration matters.

(A) The Chief, Office of Commercial Vessel Compliance (CG-CVC), at Headquarters, under the direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Assistant Commandant for Prevention Policy (CG-5P), administers and balances all marine safety and environmental protection compliance programs, including direction of Coast Guard activities and oversight of third parties and industry programs; develops, publishes, and maintains program policies for vessel compliance, interprets standards and regulations, and provides field guidance for execution and enforcement; administers the marine inspection program, commercial fishing vessel examination program, and foreign vessel boarding program for the enforcement of commercial vessel material and operational safety standards; and supervises the administration of the manning of U.S. vessels and credentialing of U.S. mariners.

(B) The Chief, Office of Environmental Response Policy (CG-MER), at Headquarters, under the Direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Assistant Commandant for Response Policy (CG-5R), coordinates and integrates field planning, preparedness, and response operations for pollution incidents, natural disasters, marine accidents, terrorism, and other threats to public safety, the marine environment, or marine transportation and commerce; develops, publishes, and maintains program policies for preparedness and response, interprets laws and regulations, and provides field guidance for execution; provides guidance regarding emergency authorities of the Captain of the Port (COTP); and administers Office programs for ports and waterway management, bridging compliance, and response efforts with an active presence in the marine environment.

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(C) The Chief, Office of Investigations and Analyses (CG-INV), at Headquarters, under the direction of the Deputy for Operations Policy and Capabilities (CG-DCO-D) and the Assistant Commandant for Prevention Policy (CG-5P), reviews investigations of marine casualties; manages, develops policy for and evaluates domestic and international programs and processes associated with investigations of marine casualties and injuries; manages analysis of casualties and casualty data, civil penalties and other remedial programs (including proceedings to suspend or revoke Coast Guard credentials held by mariners); and manages marine employer drug and alcohol testing programs.

(D) The Commanding Officer, Coast Guard National Maritime Center (NMC), under technical control of the Deputy for Operations Policy and Capabilities (CG-DCO-D), administers the mariner credentialing program; evaluates merchant mariners for suitability for service; issues merchant mariner credentials; evaluates and conducts oversight of approved courses; and exercises operational and administrative control over the NMC detachments.

(iii) The Director of Operations Resource Management (CG-DCO-R), under the general direction and supervision of the Deputy Commandant for Operations (CG-DCO), serves as Facility Manager for the marine safety programs; coordinates and integrates financial, informational, and human resources; plans, acquires, develops, and allocates resources for development and execution of the Coast Guard's marine safety programs; provides the focal point for all resource issues in support of the Standards and Operations Directorates; and oversees the development and management of the Coast Guard's direct user fee program.

(2) The Judge Advocate General and Chief Counsel of the Coast Guard (CG-094), under the general direction of and in coordination with the General Counsel, Department of Homeland Security, is the senior legal advisor to the Commandant, Vice Commandant, and senior staff officers. The Judge Advocate General advises on all cases and controversies arising under the various authorities of the Coast Guard involving

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alleged violations of international, maritime, navigation, and vessel inspection laws, or regulations prescribed there under and published in this chapter or in 33 CFR chapter I, and reviews appeals to the Commandant from actions derived from these authorities. On completion of such a review, the Judge Advocate General prepares a proposed action for the Commandant's consideration or, in appropriate cases, takes final action on behalf of, and as directed by, the Commandant.

[CGD 88-033, 54 FR 50376, Dec. 6, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.01-10, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 1.01-15 Organization; Districts; National Maritime Center.

(a) To assist the District Commander, and the Atlantic Area Commander with respect to Activities Europe, in carrying out the regulatory and enforcement aspects of marine safety, there is assigned to each District Commander and to the Atlantic Area Commander a staff officer designated as Chief, Marine Safety Division. The chain of military command is from the District Commander to each Officer in Charge, Marine Inspection, within the district and from the Atlantic Area Commander to the Officer in Charge, Activities Europe. The Chief of the Marine Safety Division is a staff officer assigned to the District Commanders and Atlantic Area Commanders, and acts only on the basis of the authority and direction of the District Commanders, and the Atlantic Area Commanders with respect to Activities Europe.

(1) The Chiefs, Marine Safety Division, in the District Offices, under the supervision of their respective District Commanders, direct the activities of their district relative to vessel, factory and shipyard inspections; reports and investigations of marine casualties and accidents; processing of violations of navigation and vessel inspection laws; the credentialing, shipment and discharge of seamen; the investigation and institution of proceedings looking to suspension and revocation under 46 U.S.C. chapter 77 of credentials held by

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persons; and all other marine safety regulatory activities except those functions related to recreational boating when under the supervision of the Chiefs, Boating Safety Division (CG-BSX-2), in the District Offices.

(2) Unless otherwise provided for, the Chiefs, Boating Safety Division (CG-BSX-2), in the District Offices, under the supervision of their respective District Commanders, direct the activities in their districts relative to administration of the law enforcement program applicable to uninspected vessels used for recreational purposes and the imposition and collection of penalties in connection therewith; maintain liaison with Federal and State agencies having related interests; develop and coordinate agreements and arrangements with Federal and State agencies for cooperation in the enforcement of State and Federal laws related to recreational boating; and review investigative reports of recreational boating accidents.

(b) The Officers in Charge, Marine Inspection, in the Coast Guard districts, under the supervision of the District Commanders, and the Officer in Charge, Activities Europe, under the supervision of the Atlantic Area Commander are in charge of the marine inspection offices in the various ports and have command responsibilities with assigned marine safety zones for the performance of duties with respect to the inspection, enforcement and administration of navigation and vessel inspection laws, and rules and regulations governing marine safety. The Officer in Charge, Marine Inspection, has been designated and delegated to give immediate direction to Coast Guard activities relating to marine safety functions consisting of inspection of vessels in order to determine that they comply with the applicable laws, rules, and regulations relating to construction, equipment, manning and operation, and to be satisfied that such vessels are in seaworthy condition for the services in which such vessels are to be operated; shipyard inspections; factory inspections of materials and equipment for vessels; credentialing shipment and discharge of seaman; investigations of marine casualties and accidents; investigations of violations of law; neg-

ligence, misconduct, unskillfulness, incompetence or misbehavior of persons holding credentials issued by the Coast Guard; initiations of actions seeking suspension or revocation under 46 U.S.C. chapter 77 of credentials held by persons, and presentation of cases at hearings before Administrative Law Judges; and the enforcement of navigation, vessel inspection and seaman laws in general.

(c) The Commanding Officer of the National Maritime Center has been designated and delegated to:

(1) Give direction to Coast Guard activities relating to marine safety functions consisting of the licensing, credentialing, certificating, shipment and discharge of seamen;

(2) Refer to the processing NMC detachment, the Suspension and Revocation National Center of Expertise, or cognizant OCMI potential violations of law, negligence, misconduct, unskillfulness, incompetence or misbehavior of persons holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard, and recommend suspension or revocation under 46 U.S.C. Chapter 77 when deemed appropriate; and

(3) Grant, withhold, suspend, or withdraw course approvals.

(d) The Commanding Officer of the National Maritime Center has the same authority as an OCMI for the purpose of carrying out the marine safety functions listed in paragraph (c) of this section pursuant to the provisions of Subchapter B of this chapter.

(e) Applicants for merchant mariner's documents, licenses, certificates or credentials may apply to the Coast Guard National Maritime Center or any of the NMC detachments. Applicants may contact the National Maritime Center at 100 Forbes Drive, Martinsburg, West Virginia 25404, or by telephone at 1-888-I-ASK-NMC (1-888-427-5662). A list of NMC detachment locations is available through the Coast Guard Web site at <http://www.uscg.mil>.

(f) For descriptions of Coast Guard districts and marine inspection zones, see 33 CFR part 3.

[CGD 88-033, 54 FR 50376, Dec. 6, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.01-15, see the List of CFR Sections Affected, which appears in the

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Finding Aids section of the printed volume and at *www.fdsys.gov*.

### § 1.01-20 Suspension and revocation proceedings.

(a) The Commandant takes final agency action on each proceeding concerned with revocation.

(b) The Commandant has delegated authority to the Vice Commandant in 33 CFR 1.01-40 to take final agency action under subparts I, J, and K of part 5 of this chapter on each proceeding except on a petition or appeal in a case on which an order of revocation has been issued.

(c) The Commandant assigns to his staff a Chief Administrative Law Judge who is an Administrative Law Judge appointed under 5 U.S.C. 3105 and whose assignment is to:

(1) Act as adviser and special assistant to the Commandant on matters concerning the administration of hearings conducted under 46 U.S.C. chapter 77;

(2) Conduct hearings under 46 U.S.C. chapter 77;

(3) Train new Administrative Law Judges assigned to conduct hearings under 46 U.S.C. chapter 77;

(4) Review the written decisions and orders of each Administrative Law Judge assigned to conduct a hearing under 46 U.S.C. chapter 77; and

(5) Act as adviser to the Chief Counsel in preparation of the final action of proceedings conducted under subparts I, J, and K of part 5 of this chapter.

(d) The Chief Counsel of the Coast Guard, under the general direction and supervision of the Commandant, U.S. Coast Guard:

(1) Acts as an adviser and as a special assistant to the Commandant in matters of law; and

(2) Prepares for the consideration of the Commandant or the Vice Commandant, as appropriate, proposed decisions on cases on appeal or review in suspension and revocation proceedings.

### § 1.01-25 General flow of functions.

(a) The Officer in Charge, Marine Inspection, has final authority with respect to the functions described in § 1.01-15(b) of this subpart, subject to the rights of appeal set forth in subpart 1.03 of this part.

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(b)(1) The general course and method by which the functions (other than those dealing with suspension and revocation of credentials described in paragraph (c) of this section) concerning marine safety activities are channeled, begins with the Officer in Charge, Marine Inspection, at the local Sector Office. From this Officer the course is to the Chief, Marine Safety Division, on the staff of the District Commander, and then to the District Commander. From the District Commander, the course is to the Chief of one of the offices with Marine Safety and Environmental Protection at Headquarters.

(2) For Activities Europe, the course is from the Officer in Charge, Activities Europe to the staff of the Atlantic Area Commander, then to the Atlantic Area Commander, and then to the Chief of one of the offices with Marine Safety and Environmental Protection at Headquarters.

(c) In proceedings involving the suspension or revocation of a Coast Guard credential issued to an individual, the course and method by which such proceedings are channeled are as follows:

(1) In the United States, the Commonwealth of Puerto Rico, Territory of Guam, the Virgin Islands, and other possessions, the proceedings are initiated by the issuance of a complaint against the holder of the Coast Guard credential. A Coast Guard Investigating Officer, as defined in 46 CFR 5.15, causes the complaint to be served on the person described therein (respondent) who is a holder of a Coast Guard credential. At a hearing the Coast Guard submits evidence to support the allegations of the complaint, while the respondent may submit evidence in rebuttal or mitigation. The Administrative Law Judge renders a decision on the basis of the evidence adduced at the hearing and the law. The Administrative Law Judge's decision is given to the respondent.

(i) In a case where an appeal is made by either party (Coast Guard or respondent), the notice of appeal is filed in accordance with the procedures of 33 CFR 20.1001(a).

(ii) [Reserved]

(2) [Reserved]

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(d) In the performance of their duties, all Coast Guard Administrative Law Judges are bound by law and the regulations in this chapter or in 33 CFR chapter I. Statements of policy, clarification of points of procedure, and general administrative instructions are published in *Administrative Law Judges' Circulars and Administrative Law Judges' Internal Practices and Procedures Series*. The Chief Administrative Law Judge, located in the Office of the Commandant, U.S. Coast Guard, maintains a complete file of these publications for reading purposes during normal working hours.

[CGD 88-033, 54 FR 50376, Dec. 6, 1989, as amended by CGD 96-041, 61 FR 50725, Sept. 27, 1996; CGD 97-057, 62 FR 51040, 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004; USCG-2006-24520, 71 FR 35818, June 22, 2006, USCG-2006-25556, 72 FR 36329, July 2, 2007; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009; USCG-2009-0314, 74 FR 30937, June 29, 2009]

**§ 1.01-30 Judicial review.**

(a) Nothing in this chapter shall be construed to prohibit any party from seeking judicial review of any Commandant's decision or action taken pursuant to the regulations in this part or part 5 of this chapter with respect to suspension and revocation proceedings arising under 46 U.S.C. chapter 77.

(b) If the person found guilty of any offense fails to make a timely appeal, the decision of the Administrative Law Judge is final and binding on the person charged as of the date that the decision is delivered to the person charged or his authorized representative.

**§ 1.01-35 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and record keeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires agencies display a current control number assigned by the Direc-

tor of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 2.01 .....	1625-0002
§ 2.95-10 .....	1625-0035
§ 3.10 .....	1625-0014
Part 4 .....	1625-0001
Part 6 .....	1625-0002

[CGD 88-033, 54 FR 50376, Dec. 6, 1989, as amended by USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

**Subpart 1.03—Rights of Appeal**

**AUTHORITY:** 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Public Law 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 1070; §1.01-35 also issued under the authority of 44 U.S.C. 3507.

**§ 1.03-10 Definition of terms used in this subpart.**

(a) The term *recognized classification society* means the American Bureau of Shipping or other classification society recognized by the Commandant.

(b) The term *new vessel* means:

(1) For vessels which require a Certificate of Inspection, a new vessel is a vessel which has not received an initial Certificate of Inspection.

(2) For vessels which do not require a Certificate of Inspection, a new vessel is a vessel which has not received a Load Line assignment.

(c) The term *existing vessel* means a vessel which is not a new vessel.

**§ 1.03-15 General.**

(a) Any person directly affected by a decision or action taken under this chapter or under chapter III of this title, by or on behalf of the Coast Guard, except for matters covered by subpart J of part 5 of this chapter dealing with suspension-and-revocation hearings, shall follow the procedures contained in this section when requesting that the decision or action be reviewed, set aside, or revised.

(b) When requesting that a decision or action be reconsidered or reviewed, as may be required by this subpart, such request must be made within 30

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days after the decision is rendered or the action is taken.

(c) When making a formal appeal of a decision or action, as permitted by this subpart, such appeal must be submitted in writing and received by the authority to whom the appeal is required to be made within 30 days after the decision or action being appealed, or within 30 days after the last administrative action required by this subpart. Upon written request and for good cause, the 30 day time limit may be extended by the authority to whom the appeal is required to be made.

(d) A formal appeal must contain a description of the decision or action being appealed and the appellant's reason(s) why the decision or action should be set aside or revised.

(e) When considering an appeal, the Commandant or a District Commander may stay the effect of a decision or action being appealed pending determination of the appeal.

(f) While a request for reconsideration or review or a formal appeal is pending, the original decision or action remains in effect, unless otherwise stayed under paragraph (e) of this section.

(g) The Commandant may delegate authority to act on administrative appeals under this subpart to the Assistant Commandant for Marine Safety and Environmental Protection, and appropriate office chiefs within Marine Safety and Environmental Protection.

(h) Formal appeals made to the Commandant shall be addressed to:

(1) Commandant (CG-CVC) for appeals involving vessel inspection issues, load line issues, and vessel manning issues;

(2) Commandant (CG-5PS) for appeals involving vessel plan review or tonnage measurement issues;

(3) Commandant (CG-54) for all appeals involving suspension or withdrawal of course approvals, all marine personnel issues appealed from the National Maritime Center or from an OCMI through a District Commander, and all appeals regarding the documentation of a vessel under part 67 or part 68 of this title. All appeals regarding the documentation of a vessel under part 67 or part 68 of this title must be addressed to Commandant

(CG-5P), Coast Guard Headquarters, 2100 2nd Street SW., Stop 7581, Washington, DC 20593-7581, and a copy of each such appeal must be sent to the National Vessel Documentation Center, 792 T J Jackson Drive; Falling Waters, WV 25419;

(4) Commandant (CG-ENG), for appeals involving the recognition of a classification society; or

(5) Commandant (CG-5PW) for appeals involving decisions or actions of the Director, Great Lakes Pilotage.

(i) Failure to submit a formal appeal in accordance with the procedures and time limits contained in this subpart results in the decision or action becoming final agency action.

(j) Any decision made by the Commandant, or by the Deputy for Operations Policy and Capabilities (CG-DCO-D), or by an office chief pursuant to authority delegated by the Commandant is final agency action on the appeal.

[CGD 88-033, 54 FR 50376, Dec. 6, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.03-15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 1.03-20 Appeals from decisions or actions of an OCMI.

Any person directly affected by a decision or action of an OCMI may, after requesting reconsideration of the decision or action by the cognizant OCMI, make a formal appeal of that decision or action, via the office of the cognizant OCMI, to the District Commander of the district in which the office of the cognizant OCMI is located, or in the case of the Officer in Charge, Activities Europe, to the Atlantic Area Commander, in accordance with the procedures contained in § 1.03-15 of this subpart.

[USCG-2006-24520, 71 FR 35818, June 22, 2006]

### § 1.03-25 Appeals from decisions or actions of a District Commander.

Any person directly affected by a decision or action of a District Commander made pursuant to § 1.03-20 of this subpart, may make a formal appeal of that decision or action, via the

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office of the cognizant District Commander, to the Commandant, in accordance with the procedures contained in § 1.03–15 of this subpart.

### § 1.03–30 Appeals from decisions or actions of the Marine Safety Center.

(a) Any person directly affected by a decision or action of the Marine Safety Center involving tonnage measurement or which otherwise affects a new vessel or plans for a vessel to be built may, after requesting reconsideration of the decision or action by the Commanding Officer, Marine Safety Center, make a formal appeal, of that decision or action, via the Commanding Officer, Marine Safety Center, to the Commandant, in accordance with the procedures contained in § 1.03–15 of this subpart.

(b) Any person directly affected by a decision or action of the Marine Safety Center not involving tonnage measurement but which otherwise affects an existing vessel, prior to initiating a formal appeal, must request review of that decision or action by the cognizant OCMI. Following review by the cognizant OCMI, the decision or action under review may be appealed to the District Commander, in accordance with the procedures contained in § 1.03–20 of this subpart.

[CGD 97–057, 62 FR 51040, Sept. 30, 1997, as amended by USCG–1998–4442, 63 FR 52188, Sept. 30, 1998]

### § 1.03–35 Appeals from decisions or actions of a recognized classification society acting on behalf of the Coast Guard.

(a) Any person directly affected by a decision or action of a recognized classification society performing plan review, tonnage measurement, or load line assignment on behalf of the Coast Guard may, after requesting reconsideration of the decision or action by the classification society, make a formal appeal, via the classification society headquarters, to the Commandant, in accordance with the procedures contained in § 1.03–15 of this subpart.

(b) Any person directly affected by a decision or action of a recognized classification society acting as a marine inspector, as defined in § 30.10–43 of this chapter, on behalf of the Coast Guard,

prior to initiating a formal appeal, must request review of that decision or action by the cognizant OCMI. Following review by the cognizant OCMI, the decision or action under review may be appealed to the District Commander, in accordance with the procedures contained in § 1.03–20 of this subpart.

[CGD 88–033, 54 FR 50376, Dec. 6, 1989, as amended by CGD 97–057, 62 FR 51041, Sept. 30, 1997]

### § 1.03–40 Appeals from decisions or actions of the National Maritime Center.

Any person directly affected by a decision or action of an officer or employee of the National Maritime Center (NMC) involving any of the marine safety functions listed in § 1.01–15(c) of this subpart may, after requesting reconsideration of the decision or action by the NMC, make a formal appeal of that decision or action, via the NMC, to the Director of Prevention Policy, Commandant (CG–54), in accordance with the procedures contained in § 1.03–15 of this subpart. The decision of the Director of Prevention Policy, Commandant (CG–54), on such an appeal will constitute final agency action.

[USCG–2006–25535, 71 FR 48482, Aug. 21, 2006. Redesignated by USCG–2006–25535, 72 FR 7930, Feb. 22, 2007; USCG–2008–0906, 73 FR 56507, Sept. 29, 2008]

EDITORIAL NOTE: At 77 FR 59772, Oct. 1, 2012, § 1.03–40 was amended; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

### § 1.03–45 Appeals from decisions or actions involving documentation of vessels.

Any person directly affected by a decision or action of an officer or employee of the Coast Guard acting on or in regard to the documentation of a vessel under part 67 or part 68 of this title, may make a formal appeal of that decision or action to the Assistant Commandant for Prevention Policy (CG–5P), in accordance with the procedures contained in § 1.03–15 of this subpart. The decision of the Assistant Commandant for Prevention Policy

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(CG-5P), on such an appeal will constitute final agency action.

[USCG-2006-25535, 72 FR 7930, Feb. 22, 2007, as amended by USCG-2008-0906, 73 FR 56507, Sept. 29, 2008]

### § 1.03-50 Appeals from decisions or actions of the Great Lakes Pilotage Division (CG-WWM-2).

Any person directly affected by a decision or action of the Great Lakes Pilotage Division (CG-WWM-2), may make a formal appeal of that decision or action to Commandant (CG-DCO-D), in accordance with the procedures contained in § 1.03-15 of this subpart.

[USCG 2003-15137, 68 FR 37093, June 23, 2003, as amended by USCG-2008-0906, 73 FR 56507, Sept. 29, 2008]

## PART 2—VESSEL INSPECTIONS

### Subpart 2.01—Inspecting and Certifying of Vessels

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- 2.01-3 Notification of inspection.
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### Subpart 2.75—Approvals of Safety Equipment, Materials and Installations, and Qualifications for Construction Personnel

- 2.75-1 Approvals.
- 2.75-5 Certificates of approval.
- 2.75-10 Procedures for obtaining approvals.
- 2.75-15 Requirements and tests.
- 2.75-25 Portable fire extinguishers.
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- 2.75-60 Hazardous ships' stores.
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### Subpart 2.85—Load Lines

- 2.85-1 Assignment of load lines.

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- 2.90-1 General requirements.

### Subpart 2.95—Retention of Records by the Public

- 2.95-1 Certificates or documents issued by Coast Guard.
- 2.95-5 Certificates or documents issued by others.
- 2.95-10 Equipment or material required to be approved.

AUTHORITY: Sec. 622, Pub. L. 111-281; 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103,

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3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

EDITORIAL NOTE: Nomenclature changes to part 2 appear at 74 FR 49223, Sept. 25, 2009.

SOURCE: CGFR 65-50, 30 FR 16604, Dec. 30, 1965, unless otherwise noted.

### Subpart 2.01—Inspecting and Certifying of Vessels

#### §2.01-1 Applications for inspections.

(a) *Application forms.* (1) Applications for inspections of vessels required to be inspected under Subtitle II, Title 46 of the U.S. Code, Title 46 and Title 33 U.S. Code, or under 50 U.S.C. 198 shall be made by the master, owner, or agent on the following Coast Guard forms which are obtainable from the Officer in Charge, Marine Inspection, at any local U.S. Coast Guard Sector Office.

(i) CG-3752—Application for Inspection of U.S. Vessel.

(ii) CG-986—Application for Inspection of Foreign Vessel.

(2) These applications require information on name and type of vessel, nature of employment and route in which to be operated, and place where and date when the vessel may be inspected.

(b) *To whom submitted.* The completed form must be submitted to the Officer in Charge, Marine Inspection, in the Marine Inspection Zone within which the inspection is to be conducted.

(c) *New vessels.* Applications for inspection of new vessels must be preceded by the submission of applicable drawings or prints in accordance with the specific requirements in subchapters D (Tank Vessels), E (Load Lines), F (Marine Engineering), H (Passenger Vessels), I (Cargo and Miscellaneous Vessels), J (Electrical Engineering), K (Small Passenger Vessels Carrying More Than 150 Passengers Or With Overnight Accommodations For More Than 49 Passengers), L (Offshore Supply Vessels), O (Certain Bulk Dangerous Cargoes), S (Subdivision and Stability), and T (Small Passenger Vessels) of this chapter applicable to that particular type of vessel or type of service in which the vessel is proposed to be operated.

(d) *Foreign-built vessels.* (1) Those foreign-built vessels which are specifi-

cally authorized by public or private laws to engage in the coastwise trade, and those foreign-built vessels which are documented to engage in the foreign trade shall be inspected and certificated as required by law and/or the regulations in this chapter which are applicable to their class and employment.

(2) Foreign-built vessels are not permitted to engage in the U.S. coastwise trade (domestic trade) unless specifically authorized by law. Therefore, when foreign-built vessels are intended for use in the coastwise trade as defined by the U.S. Customs Service, such vessels will not be inspected and certificated unless specifically authorized by law to engage in coastwise trade.

[CG FR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 79-023, 48 FR 51006, Nov. 4, 1983; CGD 91-030, 60 FR 13563, Mar. 13, 1995; CGD 97-057, 62 FR 51041, Sept. 30, 1997; CGD 95-028, 62 FR 51194, Sept. 30, 1997; USCG-2006-25556, 72 FR 36329, July 2, 2007]

#### §2.01-3 Notification of inspection.

(a) At least 30 days prior to the expiration of the Certification of Inspection, a vessel's owner, charterer, managing operator, agent, master or individual in charge shall notify the Coast Guard if the vessel will be required to be reinspected for certification or will be operated in such a manner as to not require a Certificate of Inspection.

(b) The notification required by paragraph (a) shall be in writing and shall be submitted to the Officer in Charge, Marine Inspection for the Marine Inspection or Sector Office of the port that:

(1) Will be reinspecting and Certifying the Vessel;

(2) Issued the vessel's current Certificate of Inspection if the vessel's schedule is such that it is not known where the next reinspection will take place; or

(3) Issued the vessel's current Certificate of Inspection if the vessel will not be requiring reinspection for the issuance of a Certificate of Inspection.

[CGD 85-015, 51 FR 19340, May 29, 1986, as amended by USCG-1999-4976, 65 FR 6498, Feb. 9, 2000; USCG-2006-25556, 72 FR 36329, July 2, 2007]

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### § 2.01-5 Certificate of inspection.

(a) *Issuance of certificates.* Upon completion of the inspection of a United States vessel, and on condition that the vessel and its equipment are approved by the inspector, a certificate of one or more of the following Coast Guard forms is issued by the Officer in Charge, Marine Inspection:

(1) CG-841—Certificate of Inspection.

(2) CG-854—Temporary Certificate of Inspection.

(b) *Description of certificates.* The certificates of inspection issued to United States vessels describe the vessel, the route the vessel may travel, the minimum manning requirements, the safety equipment and appliances required to be on board, the total number of persons that may be carried, and the names of the owners and operators. The period of validity is stated on the certificate. The certificate may be renewed by applying for inspection under § 2.01-1.

(c) *Amending certificates.* When, because of a change in the character of the vessel or vessel's route, equipment, etc., the vessel does not comply with the requirements of the Certificate of Inspection previously issued, an amended certificate may be issued at the discretion of the Officer in Charge, Marine Inspection, to whom a request is made.

[CGD 77-014, 44 FR 5316, Jan. 25, 1979, as amended by USCG-1999-4976, 65 FR 6498, Feb. 9, 2000; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004; USCG-2010-0759, 75 FR 60000, Sept. 29, 2010]

### § 2.01-6 Certificates issued to foreign vessels.

(a) *Issuance of a Certificate of Compliance (COC).* Foreign vessels of countries which are signatory to the International Convention for the Safety of Life at Sea, 1974, are issued a Certificate of Compliance (CG-3585) upon satisfactory completion of a compliance examination by the Officer in Charge, Marine Inspection:

(1) A foreign passenger vessel that is registered in a country which is signatory to the International Convention for the Safety of Life at Sea, 1974, visits U.S. ports with U.S. citizens as passengers or embarks passengers in U.S.

ports, and holds a valid Passenger Ship Safety Certificate;

(2) A foreign vessel that is suitable for carriage of hazardous cargoes in bulk as defined in 46 CFR subchapter 0 and is in compliance with Tankship Cargo Venting and Handling Systems and Minimum Pollution Prevention Regulations and Transfer Procedures (33 CFR parts 155, 156, 157, and 159), and Navigation Safety Inspection Regulations (33 CFR part 164);

(3) A foreign Mobile Offshore Drilling Unit that complies with standards listed in 33 CFR 143.207 and is engaged in U.S. Outer Continental Shelf activities;

(4) A foreign vessel that is suitable for carriage of cargoes as defined in 46 CFR subchapter D and is in compliance with Tankship Cargo Venting and Handling Systems and Minimum Safety Standards (SOLAS 74—46 CFR part 35), Pollution Prevention Regulations and Transfer Procedures (33 CFR parts 155, 156, 157, and 159), and Navigation Safety Regulations (33 CFR part 164).

(b) Foreign vessels of countries which are non-signatory to the International Convention for the Safety of Life at Sea, 1974, are issued a Temporary Certificate of Inspection (CG-854) and a Certificate of Inspection (CG-841), respectively, as described in § 2.01-5. Any amendments to these certificates shall be accomplished in accordance with § 2.01-5(c).

(c) *Description of COC.* CG-3585 describes the vessel's particulars, type of vessel examined, type of certificate(s) required by the International Convention for Safety of Life at Sea, 1974, the period of validity, subsequent exams required to maintain the certificates validity, the Officer in Charge, Marine Inspection zone where the exam was completed in and if there are any deficiencies as to applicable regulations at the time the vessel was examined. If there are deficiencies issued, they are listed in the examination record section of the COC.

[USCG-2010-0759, 75 FR 60000, Sept. 29, 2010]

### § 2.01-7 Classes of vessels (including motorboats) examined or inspected and certificated.

(a) The regulations in this chapter concerning inspecting and certificating

vessels are applicable to vessels (including motorboats) as indicated in the following table 2.01-7(a):

**Table 2.01-7(a)**

Method of propulsion, qualified by size or other limitation. <sup>1</sup>	Vessels inspected and certificated under--					Vessels subject to the provisions of--		
	Subchapter D--Tank Vessels. <sup>2</sup>	Subchapter H--Passenger Vessels <sup>2, 3, 4</sup> and Subchapter K or T--Small Passenger Vessels. <sup>2, 3, and 4</sup>	Column 3	Subchapter I--Cargo and Miscellaneous Vessels. <sup>2 and 5</sup>	Subchapter C--Uninspected Vessels. <sup>2, 3, 6 7, and 8</sup>	Subchapter U--Oceanographic Vessels. <sup>2, 3, 6 7, and 9</sup>	Subchapter O--Certain Bulk and Dangerous Cargoes. <sup>10</sup>	
<p>Column 1</p> <p>(1) Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.</p>	<p>Column 2</p> <p>All vessels carrying combustible or flammable liquid cargo in bulk.<sup>3</sup></p>	<p>Column 3</p> <p>i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.</p> <p>ii) All vessels &lt; 100 gross tons that--</p> <p>A) Carry more than 6 passengers-for-hire whether chartered or not, or</p> <p>B) Carry more than 6 passengers when chartered with the crew provided, or</p> <p>C) Carry more than 12 passengers when chartered with no crew provided, or</p> <p>D) Carry at least 1 passenger-for-hire and are submersible vessels.</p> <p>E) Carry more than 6 passengers and are ferries.</p> <p>iii) All vessels ≥ 100 gross tons that--</p> <p>A) Carry more than 12 passengers-for-hire whether chartered or not, or</p> <p>B) Carry more than 12 passengers when chartered with the crew provided, or</p> <p>C) Carry more than 12 passengers when chartered with no crew provided, or</p> <p>D) Carry at least 1 passenger-for-hire and are submersible vessels.</p> <p>E) Carry at least 1 passenger and are ferries.</p> <p>iv) These regulations do not apply to--</p> <p>A) Recreational vessels not engaged in trade.</p> <p>B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew.</p> <p>C) Fishing vessels not engaged in ocean or coastwise service. Such vessels may carry persons on the legitimate business of the vessel<sup>11</sup> in addition to the crew, as restricted by the definition of passenger.</p>	<p>Column 4</p> <p>All vessels &gt; 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3.</p> <p>All vessels carrying dangerous cargoes, when required by 46 CFR part 98.</p>	<p>Column 5</p> <p>All vessels not covered by columns 2, 3, 4, and 6.</p>	<p>Column 6</p> <p>None.</p>	<p>Column 7</p> <p>All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.<sup>12</sup></p>		

Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation. <sup>1</sup>	Vessels inspected and certificated under--			Vessels subject to the provisions of--		
	Subchapter D--Tank Vessels. <sup>2</sup>	Subchapter H--Passenger Vessels <sup>3,4</sup> and Subchapter K or T--Small Passenger Vessels. <sup>2,3, and 4</sup>	Subchapter I--Cargo and Miscellaneous Vessels. <sup>2 and 3</sup>	Subchapter C--Uninspected Vessels. <sup>2,3,6,7, and 8</sup>	Subchapter U--Oceanographic Vessels. <sup>2,3,6,7, and 9</sup>	Subchapter O--Certain Bulk and Dangerous Cargoes. <sup>10</sup>
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2) Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk. <sup>3</sup>	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade. <sup>7</sup> ii) All ferries < 100 gross tons carrying more than 6 passengers and all ferries ≥ 100 gross tons that carry at least 1 passenger. iii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels not engaged in ocean or coastwise service may carry persons on the legitimate business of the vessel <sup>6</sup> in addition to the crew, as restricted by the definition of passenger. <sup>7</sup>	All vessels, including recreational vessels, not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts. <sup>12</sup>
(3) Non-self-propelled vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk. <sup>5</sup>	i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel. E) Carry more than 12 passengers on an international voyage. F) Carry more than 6 passengers and are ferries.	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or hire except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151. <sup>1, 11, and 12</sup>

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(4)	Non-self-propelled vessels > 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk. <sup>5</sup>	iii) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel, <sup>6</sup> E) Carry more than 12 passengers on an international voyage, F) Carry at least 1 passenger and are ferries.	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or hire except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151. <sup>7, 8, 9, 10, 11, and 12</sup>
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Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation. <sup>1</sup>	Vessels inspected and certificated under-- Subchapter H--Passenger Vessels <sup>2, 3, 4</sup> and Subchapter K or T--Small Passenger Vessels. <sup>2, 3, and 4</sup>	Subchapter I-- Miscellaneous Vessels. <sup>2 and 5</sup>	Vessels subject to the provisions of-- Subchapter C-- Uninspected Vessels. <sup>2, 3, 6, 7, and 8</sup>	Subchapter O-- Certain Bulk and Dangerous Cargoes. <sup>10</sup>		
<p>Column 1</p> <p>(5) Sail.<sup>3</sup> vessels ≤ 700 gross tons.</p>	<p>Column 2</p> <p>All vessels carrying combustible or flammable liquid cargo in bulk.<sup>5</sup></p>	<p>Column 3</p> <p>i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.<sup>7</sup> ii) All vessels &lt; 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.<sup>7</sup> E) Carry more than 6 passengers and are ferries. iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.<sup>7</sup> E) Carry at least 1 passenger and are ferries. iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service. Such vessels may carry persons on the legitimate business of the vessel<sup>6</sup> in addition to the crew, as restricted by the definition of passenger.<sup>7</sup></p>	<p>Column 4</p> <p>All vessels carrying dangerous cargoes, when required by<sup>46</sup> CFR part 98.</p>	<p>Column 5</p> <p>All vessels not covered by columns 2, 3, 4, and 6.</p>	<p>Column 6</p> <p>None.</p>	<p>Column 7</p> <p>All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.<sup>12</sup></p>

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(6) Sail; <sup>13</sup> vessels > 700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk; <sup>5</sup>	i) All vessels carrying passengers or passengers-for-hire, except recreational vessels; ii) All ferries that carry at least 1 passenger.	All vessels carrying dangerous cargoes, when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts. <sup>14</sup>
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Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation. <sup>1</sup>	Vessels inspected and certificated under--		Vessels subject to the provisions of--			
	Subchapter D--Tank Vessels. <sup>2</sup>	Subchapter H--Passenger Vessels <sup>2, 3, 4</sup> and Subchapter K or T--Small Passenger Vessels. <sup>2, 3, and 4</sup>	Subchapter I--Miscellaneous Cargo and Vessels. <sup>2 and 5</sup>	Subchapter C--Uninspected Vessels. <sup>2, 3, 6, 7, and 8</sup>	Subchapter U--Oceanographic Vessels. <sup>2, 3, 6, 7, and 9</sup>	Subchapter O--Certain Bulk and Dangerous Cargoes. <sup>10</sup>
Column 1 (7) Steam, vessels ≤ 19.8 meters (65 feet) in length.	Column 2 All vessels carrying combustible or flammable liquid cargo in bulk. <sup>5</sup>	Column 3 i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade. <sup>7</sup> ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels. <sup>7</sup> E) Carry more than 6 passengers and are ferries. iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels. E) Carry at least 1 passenger and are ferries. iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels not engaged in ocean or coastwise service. Such vessels may carry persons on the legitimate business of the vessel <sup>6</sup> in addition to the crew, as restricted by the definition of passenger. <sup>7</sup>	Column 4 All tugboats and towboats. All vessels carrying dangerous cargoes, when required by 46 CFR part 98.	Column 5 All vessels not covered by columns 2, 3, 4, and 6.	Column 6 None.	Column 7 All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts. <sup>12</sup>

Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation. <sup>1</sup>	Vessels inspected and certificated under--		Vessels subject to the provisions of--			
	Subchapter D--Tank Vessels. <sup>2</sup>	Subchapter H--Passenger Vessels <sup>2, 3, 4</sup> and 5 or Subchapter K or T--Small Passenger Vessels. <sup>2, 3, and 4</sup>	Subchapter I--Miscellaneous Vessels. <sup>2, and 5</sup>	Subchapter C--Uninspected Vessels. <sup>2, 3, 6, 7, and 8</sup>	Subchapter U--Oceanographic Vessels. <sup>2, 3, 6, 7, and 9</sup>	Subchapter O--Certain Bulk and Dangerous Cargoes. <sup>10</sup>
Column 1 (7) Steam, vessels > 19.8 meters (65 feet) in length.	Column 2 All vessels carrying combustible or flammable liquid cargo in bulk. <sup>3</sup>	Column 3 i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade. <sup>7</sup> ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels. <sup>7</sup> E) Carry more than 6 passengers and are ferries. iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels. <sup>7</sup> E) Carry at least 1 passenger and are ferries. iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels not engaged in ocean or coastwise service. Such vessels may carry persons on the legitimate business of the vessel <sup>6</sup> in addition to the crew, as restricted by the definition of passenger. <sup>7</sup>	Column 4 All vessels not covered by columns 2, 3, 6, and 7.	Column 5 None.	Column 6 All vessels engaged in oceanographic research.	Column 7 All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts. <sup>12</sup>

Key to symbols used in this table: ≤ means less than or equal to; > means greater than; < means less than; and ≥ means greater than or equal to.

Footnotes:

- 1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.
- 2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.
- 3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.
- 4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.
- 5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.
- 6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).
- 7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.
- 8 Boilers and machinery are subject to examination on vessels over 40 feet in length.
- 9 Under 46 U.S.C. 441 an oceanographic research vessel " \* \* \* being employed exclusively in instruction in oceanography or limnology, or both, or exclusively in oceanographic research, \* \* \* Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.
- 10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.
- 11 For manned tankbarges, see § 151.01-10(c) of this chapter.
- 12 See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.
- 13 Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

(b) The specific application of regulations concerning inspecting and certificating vessels is set forth in the specific subchapter governing a particular class of vessels.

(1) For passenger vessels see part 70 of subchapter H (Passenger Vessels) of this chapter.

(2) For cargo and miscellaneous vessels see part 90 of subchapter I (Cargo and Miscellaneous Vessels) of this chapter.

(3) For tank vessels see part 30 of subchapter D (Tank Vessels) of this chapter.

(4) For small passenger vessels see part 114 of subchapter K (Small Passenger Vessels Carrying More Than 150 Passengers or with Overnight Accommodations for More Than 49 Passengers) and part 175 of subchapter T (Small Passenger Vessels) of this chapter.

(5) For uninspected vessels see part 24 of subchapter C (Uninspected Vessels) of this chapter.

(6) For vessels carrying certain bulk dangerous cargoes see subchapter O of this chapter.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGFR 67-83, 33 FR 1102, Jan. 27, 1968; CGFR 70-10, 35 FR 3706, Feb. 25, 1970; CGD 73-96, 42 FR 49022, Sept. 26, 1977; CGD 86-033, 53 FR 36023, Sept. 16, 1988; 53 FR 46871, Nov. 21, 1988; CGD 90-008, 55 FR 30659, July 26, 1990; CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-1999-5040, 67 FR 34760, May 15, 2002; USCG-2008-1107; 74 FR 63619, Dec. 4, 2009]

**§ 2.01-8 Application of regulations to vessels or tankships on an international voyage.**

(a) Where, in various places or portions in this chapter, requirements are stipulated specifically for *vessels on an international voyage* or *tankships on an international voyage*, it is intended that these requirements apply only to vessels or tankships, as applicable, which are subject to the International Convention for Safety of Life at Sea, 1974.

(b) For details regarding application of Convention requirements to tankships, see § 30.01-6 of this chapter; to passenger vessels, see § 70.05-10 of this chapter; to cargo ships other than tankships, see § 90.05-10 of this chapter; and to small passenger vessels, see §§ 115.900 and 176.900 of this chapter. (E.O. 11239, 30 FR 9671, 3 CFR, 1965 Supp.).

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 90-008, 55 FR 30659, July 26, 1990; USCG-1999-4976, 65 FR 6499, Feb. 9, 2000]

**§ 2.01-10 Inspection requirements—domestic vessels.**

(a) If during the inspection of a vessel made at the request of the master, owner, or agent, the vessel or her equipment is found not to conform to the requirements of law or regulations in this chapter, the requirements which must be met will be listed on Form CG-835, Notice of Merchant Marine Inspection Requirements, and given to the master of the vessel.

(b) The Coast Guard, on its own initiative, may examine or inspect or reinspect at any time any vessel subject to inspection under Subtitle II, Title 46 of the U.S. Code, Title 46 and Title 33 U.S. Code. If during such examination, inspection, or reinspection, any failure to comply with any applicable requirement of law and/or applicable regulations in this chapter, or any defects or imperfections become apparent tending to render the navigation of the vessel unsafe, or that repairs have become necessary, the Coast Guard will so notify the master and state what is required.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 95-028, 62 FR 51194, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

**§ 2.01-13 Inspection requirements—foreign vessels.**

(a) Foreign vessels registered in countries which are parties to the effective International Convention for Safety of Life at Sea are normally subject to the examination provided for in Chapter I of that Convention. However, in the case of any vessel involving novel features of design or construction, upon which that Convention is silent or which involve potential unusual operating risks, a more extensive inspection may be required when considered necessary to safeguard the life or property in United States ports where such vessel may enter. In such a case, pertinent plans and/or calculations may be required to be submitted sufficiently in advance to permit evaluation before inspection.

(b) Foreign vessels registered in countries which are not parties to the effective International Convention for Safety of Life at Sea, or foreign vessels

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registered in countries which are parties to the effective Convention but which vessels are exempted from part or all of the Convention, may under conditions specified in applicable inspection laws be subject to inspection and certification as specified in regulations governing specific categories of vessels.

(c) For details concerning application of regulations to foreign vessels, see part 30 (Tank Vessels), part 70 (Passenger Vessels), part 90 (Cargo and Miscellaneous Vessels), §147.1 (Dangerous Cargoes), part 148 (Bulk Solid Hazardous Materials), parts 153 and 154 (Certain Bulk Dangerous Cargoes), and part 175 (Small Passenger Vessels) of this chapter.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 73-96, 42 FR 49022, Sept. 26, 1977; CGD 97-057, 62 FR 51041, Sept. 30, 1997]

### §2.01-15 Vessel repairs.

(a) No repairs or alterations affecting the safety of the vessel or its machinery shall be made unless applicable requirements in this chapter are met. The procedures to be followed in notifying the Coast Guard about vessel repairs vary according to the type of vessel and service in which engaged. The requirements are set forth in the subchapter governing a particular class of vessels or in a subchapter governing a particular subject as follows:

(1) For passenger vessels that are 100 gross tons or more, see §§71.55-1 and 71.60-1 of subchapter H (Passenger Vessels) of this chapter.

(2) For small passenger vessels under 100 gross tons, see either §176.700 of subchapter T (Small Passenger Vessels) or §115.700 of subchapter K (Small Passenger Vessels Carrying More than 150 Passengers or with Overnight Accommodations for more than 49 Passengers) of this chapter.

(3) For cargo and miscellaneous vessels, see §§91.45-1 and 91.50-1 of subchapter I (Cargo and Miscellaneous Vessels) of this chapter.

(4) For tank vessels, see §§31.10-25 and 35.01-1 of subchapter D (Tank Vessels) of this chapter.

(5) For public nautical schoolships, see §§167.30-1 and 167.30-10 of subchapter R (Nautical Schools) of this chapter.

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(6) For oceanographic vessels, see §§189.45-1 and 189.50-1 of subchapter U (Oceanographic Vessels) of this chapter.

(7) For repairs to a vessel after it has been surveyed, see §42.09-50 of subchapter E (Load Lines) of this chapter.

(8) For repairs to boilers, pressure vessels, and appurtenances, see part 59 of subchapter F (Marine Engineering) of this chapter.

(9) For repairs to electrical installations or equipment, see §§111.05-5(e), 111.05-10(e), and 111.90-5 of subchapter J (Electrical Engineering) of this chapter.

(10) For vessels carrying compressed gases regulated by subchapter O (Certain Bulk Dangerous Cargoes), see §151.50 30(c) of this chapter.

(11) For repairs to a vessel that affects its subdivision or stability, see §170.005 of this chapter.

(b) If repairs to a vessel are necessary, such a vessel may be permitted to proceed to another port for repairs, if, in the opinion of the marine inspector, it can be done with safety. The permit is granted by the Officer in Charge, Marine Inspection, upon request in writing by the master or owner of the vessel and is issued on Coast Guard Form CG-948, Permit to Proceed to Another Port for Repairs. The requirements for such permits are set forth in the subchapter governing a particular class of vessels as follows:

(1) For passenger vessels that are 100 gross tons or more, see subpart 71.05 of subchapter H (Passenger Vessels) of this chapter.

(2) For small passenger vessels under 100 gross tons, see subpart B of subchapter T (Small Passenger Vessels) of this chapter.

(3) For cargo and miscellaneous vessels, see subpart 91.05 of subchapter I (Cargo and Miscellaneous Vessels) of this chapter.

(4) For tank vessels, see §31.10-35 of subchapter D (Tank Vessels) of this chapter.

(5) For public nautical schoolships, see §167.30-5 of subchapter R (Nautical Schools) of this chapter.

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(6) For oceanographic vessels, see subpart 189.05 of subchapter U (Oceanographic Vessels) of this chapter.

[CGFR 68-126, 34 FR 9010, June 5, 1969, as amended by CGD 73-96, 42 FR 49023, Sept. 26, 1977; CGD 79-023, 48 FR 51006, Nov. 4, 1983; CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### § 2.01-20 Suspension or revocation of certificates of inspection.

Under the authority of 46 U.S.C. 3313 and 46 U.S.C. 3710, a certificate of inspection issued to a vessel may be suspended or revoked if a vessel is found not to comply with the terms of its certificate or fails to meet a standard required by this chapter.

[CGD 95-028, 62 FR 51195, Sept. 30, 1997, as amended by USCG-1998-4442, 63 FR 52188, Sept. 30, 1998; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### § 2.01-25 International Convention for Safety of Life at Sea, 1974.

(a) *Certificates required.* (1) The International Convention for Safety of Life at Sea, 1974, requires one or more of the following certificates to be carried on board certain passenger, cargo or tankships engaged in international voyages:

- (i) Passenger Ship Safety Certificate.
- (ii) Cargo Ship Safety Construction Certificate.
- (iii) Cargo Ship Safety Equipment Certificate.
- (iv) Cargo Ship Safety Radio Certificate.
- (v) Nuclear Passenger Ship Safety Certificate.
- (vi) Nuclear Cargo Ship Safety Certificate.
- (vii) Safety Management Certificate.
- (viii) International Ship Security Certificate.
- (ix) High-Speed Craft Safety Certificate

(2) The U.S. Coast Guard will issue through the Officer In Charge, Marine Inspection, the following certificates after performing an inspection or safety management audit of the vessel's systems and determining the vessel meets the applicable requirements:

- (i) Passenger Ship Safety Certificate.
- (ii) Cargo Ship Safety Construction Certificate, except when issued to cargo ships by a Coast Guard recog-

nized classification society at the option of the owner or agent.

(iii) Cargo Ships Safety Equipment Certificate.

(iv) Exemption Certificate.

(v) Nuclear Passenger Ship Safety Certificate.

(vi) Nuclear Cargo Ship Safety Certificate.

(vii) Safety Management Certificate, except when issued by a recognized organization authorized by the Coast Guard.

(viii) International Ship Security Certificate (ISSC).

(ix) High-Speed Craft Safety Certificate

(3) When authorized by the Commandant, U.S. Coast Guard, an authorized classification society may issue international convention certificates as permitted under part 8, subpart C, of this title.

(4) The Federal Communications Commission will issue the following certificates:

(i) Cargo Ship Safety Radio Certificate.

(ii) Exemption Certificate.

(b) *Applications.* (1) The application for inspection and issuance of a certificate or certificates is made on the appropriate form listed in §2.01-1, or by letter, to the Officer in Charge, Marine Inspection, in or nearest the port at which the inspection is to be made and shall be signed by the master or agent of the vessel. The certificates previously issued are surrendered at the time the inspection is performed. Further details are set forth in subchapter D (Tank Vessels), subchapter H (Passenger Vessels), subchapter I (Cargo and Miscellaneous Vessels), subchapter K (Small Passenger Vessels Carrying more than 150 Passengers or with overnight accommodations for more than 49 Passengers), subchapter L (Offshore Supply Vessels), subchapter O (Certain Bulk Dangerous Cargoes), subchapter T (Small Passenger Vessels), and Subchapter U (Oceanographic Research Vessels), of this chapter.

(2) For vessels other than passenger vessels, you must contact the local office of the Federal Communications Commission to apply for the inspection concerning the issuance of a Cargo Ship Safety Radio Certificate.

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(c) *Certificates issued.* (1) If a vessel meets the applicable requirements of the Convention, it shall be issued appropriate certificates listed in paragraph (a) of this section. These certificates describe the vessel and state the vessel is in compliance with the applicable requirements of the Convention.

(2) A Convention certificate may be withdrawn, revoked or suspended at any time when it is determined the vessel is no longer in compliance with applicable requirements. (See §2.01-70 for appeal procedures.)

(d) *CG-969—Notice of Receipt of Application for Passenger Ship Safety Certificate.* (1) The Passenger Ship Safety Certificate is issued by the Commandant after determining all applicable requirements of the Convention have been met. In the event the completion of the certification of any passenger vessel cannot be effected prior to the sailing of the passenger ship on a foreign voyage, or in any case where the Passenger Ship Safety Certificate is not received from the Commandant before the ship sails on a foreign voyage, the Officer in Charge, Marine Inspection, will issue a completed Form CG-969, describing the passenger ship and certifying that an application for a Passenger Ship Safety Certificate is being processed, and that in his opinion the vessel meets applicable requirements of the Convention administered by the Coast Guard.

(2) The completed Form CG-969 may be exhibited in explanation of the failure of the passenger ship to have on board a current Passenger Ship Safety Certificate. This completed form CG-969 may be accepted as prima facie evidence that the passenger ship described therein is in compliance with the applicable requirements of the Convention.

(e) *Exempted vessel.* (1) A vessel may be exempted by the Commandant from complying with certain requirements of the Convention under his administration upon request made in writing to him and transmitted via the Officer in Charge, Marine Inspection. In such case the exemptions are stated in the Exemption Certificate, which is issued by the Commandant through the appropriate Officer in Charge, Marine Inspection.

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(2) The Federal Communications Commission issues the Exemption Certificate, which modifies the Cargo Ship Safety Radio Certificate.

(f) *Availability of Certificates.* The Convention certificates must be on board the vessel and readily available for examination at all times.

(g) *Foreign flag vessels.* At the request of the government of a country in which is registered a vessel engaged in an international voyage, such a vessel may be issued the applicable certificate or certificates listed in paragraph (a) of this section. The certificate will be issued only after inspection has been made by the issuing agency, providing the vessel is found to comply with the requirements of the Convention.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §2.01-25, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### §2.01-30 Delegation of OCMI signature authority.

The Officer in Charge, Marine Inspection, may redelegate signature authority for documents issued under this subpart to: one individual on his or her staff; and each Marine Safety Unit Commanding Officer within his or her Sector.

[USCG-2009-0702, 74 FR 49223, Sept. 25, 2009]

### §2.01-40 Passengers or persons in addition to crew on cargo or tank vessels.

(a) Under the authority of 46 U.S.C. 3304, a documented vessel transporting cargo may be allowed by its certificate of inspection to carry not more than 12 individuals in addition to the crew on international voyages and not more than 16 individuals in addition to the crew on other voyages.

(b) The application for permission to carry persons in addition to the crew may be included in the application described in §2.01-1. If granted it is endorsed on the certificate of inspection.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

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### § 2.01-45 Excursion permit.

(a) Under 46 U.S.C. 2113, the Coast Guard may issue a permit to the owner, operator, or agent of a passenger vessel, allowing the vessel to engage in excursions that carry additional numbers of passengers, extend an existing route, or both. Details concerning the application process for excursion permits for inspected passenger vessels are contained in §§ 71.10, 115.204, or 176.204 of this chapter. Details concerning the application process for special permits for uninspected passenger vessels are contained in § 26.03-6 of this chapter.

(b) For Marine Events of National Significance, as determined by the Commandant, U.S. Coast Guard, a vessel may be permitted to engage in these events while carrying passengers-for-hire for the duration of the event. Event sponsors must request this determination in writing from the Commandant (CG-54) at least 1 year prior to the event. Details concerning the application process for special permits for Marine Events of National Significance are contained in § 26.03-8 of this chapter.

(c) The application for an excursion permit is made by the master, owner, or agent of the vessel to the Officer in Charge, Marine Inspection, on Coast Guard Form CG-950, Application for Excursion Permit. If, after inspection, permission is granted, it is given on Coast Guard form CG-949, Permission to Carry Excursion Party. The permit describes the vessel, the route over which and the period during which the excursions may be made, and the safety equipment required for the additional persons indicated.

[USCG-1999-5040, 67 FR 34767, May 15, 2002]

### § 2.01-50 Persons other than crew on towing, oyster, or fishing steam vessels.

(a) A steam vessel engaged in towing, oyster dredging and planting, and fishing may be permitted to carry persons in addition to its crew.

(b) The application for a permit to carry such persons may be included in the application described in § 2.01-1. If

granted it is endorsed on the certificate of inspection.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### § 2.01-60 Overtime compensation.

(a) *General.* Extra compensations for overtime services performed by inspectors of vessels and their assistants who may be required to remain on duty between the hours of 5:00 p.m. and 8:00 a.m. or on Sundays or holidays to perform services in connection with the inspection of vessels or their equipment, supplying or signing on or discharging crews of vessels is authorized by 46 U.S.C. 2111 and regulations in part 9 of this chapter, together with the method of computing such extra compensation.

(b) *Application and certification of time.* Application for the performance of such overtime services and certification of services performed is made by the master, owner, or agent of a vessel to the Officer in Charge, Marine Inspection, on Form CG-830, Application for and Certificate of Overtime Service.

(c) *Collection.* The bill for the collection of the overtime compensation is submitted by the Officer in Charge, Marine Inspection to the master, owner, or agent on whose vessel overtime services are performed on Form CG-832, Bill for Collection Overtime Services. Payment is made to the Collector of Customs of the port designated.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2000-7790, 65 FR 58458, Sept. 29, 2000]

### § 2.01-70 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

[CGD 88-033, 54 FR 50379, Dec. 6, 1989]

### § 2.01-80 Vessel inspections in Alaska.

(a) The waters of southeastern Alaska inside of the general trend of the shore from Cape Spencer, southeasterly to Cape Muzon, and thence easterly to Sitklan Island, shall be considered as

bays, sounds, and lakes other than the Great Lakes, for the purpose of administering the vessel inspection laws and applicable regulations in this chapter.

**Subpart 2.10—Fees**

SOURCE: CGD 91-030, 60 FR 13563, Mar. 13, 1995, unless otherwise noted.

**§ 2.10-1 Applicability.**

(a) This subpart establishes vessel inspection fees for all vessels required to have a Certificate of Inspection and vessel examination fees for all foreign vessels required to have a Certificate of Compliance.

(b) The fees in this subpart do not apply to:

- (1) Vessels being inspected for the initial issuance of a Certificate of Inspection;
- (2) Foreign passenger vessels;
- (3) Training vessels operated by State maritime academies;
- (4) Public vessels of the United States except for Maritime Administration vessels; and
- (5) Publicly owned ferries.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 96-067, 62 FR 19232, Apr. 21, 1997; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

**§ 2.10-5 Exemptions.**

(a) Vessels owned or operated by a non-profit organization may be exempted from payment of the fees required by this subpart, only if the vessel is used exclusively for one or more of the following:

- (1) Training youth in boating, seamanship, or navigation skills;
- (2) Educating youth in a course of marine environmental studies;
- (3) Providing excursions for persons with disabilities as defined under the Americans with Disabilities Act (ADA) [42 U.S.C. 12102(2)]; or
- (4) Providing medical services.

(b) Vessels owned or operated by the Federal government or the government of any State or political subdivision thereunder may be exempted from the fees required by this subpart provided the vessel is used exclusively for one or more of the purposes listed in paragraph (a) of this section.

(c) The term *used exclusively* in paragraphs (a) and (b) of this section does not preclude:

- (1) The carriage of adult volunteers or crew, or
- (2) The vessel's use for fundraising activities without regard to the age of the participants aboard the vessel, provided revenues raised are for the operation and maintenance of the vessel and that such fundraising activities do not exceed one day of fundraising for each month of the vessel's operating season.

(d) Vessel owners or operators may submit a written request for exemption to the Officer in Charge, Marine Inspection, of the Marine Inspection Zone in which the vessel normally operates. The exemption request must provide the vessel name, the vessel identification number, and evidence that the organization and the vessel meet the criteria set forth in this section. The Officer in Charge, Marine Inspection will endorse and forward the request to Commandant (CG-DCO-83) for decision.

[CGD 96-067, 62 FR 19232, Apr. 21, 1997, as amended by CDG 96-067, 63 FR 59474, Nov. 4, 1998; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

**§ 2.10-10 Waivers.**

The Commandant (CG-DCO-83) will waive collection of vessel inspection fees in this subpart for a Federally-owned or operated vessel if the fee would be directly paid by an agency acting as the vessel owner using Federal appropriated funds. By October 1 of each year, Federal agencies shall provide Commandant (CG-DCO-83) with a list of the names and vessel identification numbers of vessels for which a fee waiver is requested.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50725, Sept. 27, 1996; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

**§ 2.10-20 General requirements.**

(a) Unless otherwise specified, vessel owners must pay the fees required by this subpart before inspection or examination services are provided.

(b) Fees required by this subpart must be paid in U.S. currency by check or money order, drawn on a U.S. bank, and made payable to the U.S. Treasury.

Payment may also be made by credit card or wire transfer.

(c) All payments must be accompanied by the vessel name and its vessel identification number.

(d) Unless otherwise specified or if payment is made through *www.pay.gov*, fees required by this subpart must be submitted using one of the following methods:

(1) For COI and COC Inspections:

(i) For payment by credit card, online through *www.pay.gov*, or U.S. Coast Guard Finance Center (OGR), 1430A Kristina Way, Chesapeake, VA 23326.

(ii) For payment by check, made payable to U.S. Treasury, with delivery by postal service, USCG Inspection Fees, P.O. Box 531030, Atlanta, GA 30353-1030.

(iii) For payment by check, made payable to U.S. Treasury, with delivery by overnight courier, USCG Vessel Inspection Fees, Bank of America, Lockbox Number 531030 (COI), 1075 Loop Road, Atlanta, GA 30337-6002.

(2) For Overseas Inspection Fees:

(i) For payment by credit card, U.S. Coast Guard Finance Center (OGR), 1430A Kristina Way, Chesapeake, VA 23326.

(ii) For payment by check, made payable to U.S. Treasury, with delivery by postal service, USCG User Fees, P.O. Box 531769, Atlanta, GA 30353-1769.

(iii) For payment by check, made payable to U.S. Treasury, with delivery by overnight courier, USCG User Fees, Bank of America, Lockbox Number 531769 (USF), 1075 Loop Road, Atlanta, GA 30337-6002.

(e) For purposes of this subpart, the address for Commandant (CG-DCO-83) is: Commandant (CG-DCO-83), United States Coast Guard, 2100 2nd St. SW., Stop 7681, Washington, DC 20593-7681.

(f) Information concerning a vessel's user fee anniversary date may be obtained from any Coast Guard Coast Guard Sector, Officer in Charge, Marine Inspection, or Marine Safety Detachment.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50725, Sept. 27, 1996; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010; USCG-2011-0618, 76 FR 60753, Sept. 30, 2011; USCG-2012-0832, 77 FR 59773, Oct. 1, 2012]

#### § 2.10-25 Definitions.

The following definitions apply to this subpart:

*Drill ship MODU* means a mobile offshore drilling unit with a ship shape displacement hull intended for operation in the floating condition.

*Ferry* means a vessel that is used on a regular schedule—

(1) To provide transportation only between places that are not more than 300 miles apart; and

(2) To transport only—

(i) Passengers; or

(ii) Vehicles, or railroad cars, that are being used, or have been used, in transporting passengers or goods.

*Freight barge* means a non-self-propelled vessel carrying freight for hire.

*Freight ship* means a self-propelled freight vessel.

*Freight vessel* means a motor vessel of more than 15 gross tons that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

*Industrial vessel* means a vessel which, by reason of its special outfit, purpose, design, or function engages in certain industrial ventures. For the purposes of this subpart, this classification includes such vessels as dredges, cable layers, derrick barges, and construction and wrecking barges, but does not include vessels which carry passengers or freight for hire, OSVs, oceanographic research vessels, or vessels engaged in the fisheries.

*Liquefied gas tankship* means a self-propelled vessel equipped with cargo tanks primarily designed to carry liquefied or compressed gases in bulk.

*Mobile offshore drilling unit (MODU)* means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources that is: seagoing and 300 or more gross tons and self-propelled by machinery; Seagoing and 100 or more gross tons and non-self-propelled; or more than 65 feet in length and propelled by steam.

*Nautical school vessel* means a vessel operated by or in connection with a nautical school or an educational institution under section 13 of the Coast Guard Authorization Act of 1986, Public Law 99-640.

*Non-profit organization* means an organization under Internal Revenue

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Code (I.R.C.) section 501(c) which is exempt for the purposes of federal income taxation.

*Oceanographic research vessel* means a vessel that is being employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including those studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

*Offshore supply vessel* or *OSV* means a vessel that—

(1) Is propelled by machinery other than steam;

(2) Does not meet the definition of a passenger-carrying vessel in 46 U.S.C. 2101(22) or 46 U.S.C. 2101(35);

(3) Is more than 15 but less than 500 gross tons (as measured under the Standard, Dual, or Simplified Measurement System under part 69, subpart C, D or E of this chapter) or less than 6,000 gross tons (as measured under the Convention Measurement System under part 69, subpart B of this chapter); and

(4) Regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

*Passenger barge* means a non-self-propelled passenger vessel, including a prison barge or a barge which carries occupied recreational vehicles.

*Passenger ship* means a self-propelled passenger vessel.

*Passenger vessel* means a vessel of at least 100 gross tons:

(1) Carrying more than 12 passengers, including at least one passenger for hire;

(2) That is chartered and carrying more than 12 passengers;

(3) That is a submersible vessel carrying at least one passenger for hire; or

(4) That is a ferry carrying a passenger.

*Political subdivision* means a county, district, parish, township, city or similar governmental entity established within a State.

*Publicly owned* means, owned by (1) the federal government, or (2) the gov-

ernment of any State or political subdivision thereunder.

*Sailing school vessel* means a vessel of less than 500 gross tons, carrying more than 6 individuals who are sailing school instructors or sailing school students, principally equipped for propulsion by sail even if the vessel has an auxiliary means of propulsion, and owned or demise chartered and operated by a qualified organization during such times as the vessel is operated exclusively for the purposes of sailing instruction.

*Sea-going towing vessel* means a sea-going commercial vessel engaged in or intending to engage in the service of pulling, pushing or hauling alongside, or any combination of pulling, pushing or hauling alongside.

*Self-elevating MODU* means a mobile offshore drilling unit with movable legs capable of raising its hull above the surface of the sea.

*Semi-submersible MODU* means a mobile offshore drilling unit with the main deck connected to an underwater hull by columns or caissons, that is intended for drilling operations in the floating condition.

*Small passenger vessel* means a vessel of less than 100 gross tons:

(1) Carrying more than 6 passengers, including at least 1 passenger for hire;

(2) That is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

(3) That is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers;

(4) That is a submersible vessel carrying at least one passenger for hire; or

(5) That is a ferry carrying more than 6 passengers.

*State* means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands and any other territory or possession of the United States.

*Submersible MODU* means a mobile offshore drilling unit intended for drilling operations in the bottom-bearing condition, having the main deck connected to an underwater hull or pontoons by way of columns or caissons.

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*Submersible vessel* means a vessel that is capable of operating below the surface of the water.

*Tank barge* means any tank vessel not equipped with means of propulsion.

*Tank vessel* means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue.

*Tankship* means any tank vessel propelled by power or sail, including an integrated tug and barge designed to operate together only in the pushing mode.

*User fee anniversary date* means the date on which a vessel's annual inspection fee is due each year. Once established by the Coast Guard, a vessel's user fee anniversary date remains fixed for as long as the vessel remains in service.

*Vessel identification number (VIN)* means a U.S. official number, a number assigned by a State, a number assigned by the Coast Guard, or a Lloyd's Register of Shipping identification number issued to a U.S. or foreign commercial vessel for purposes of vessel identification. For U.S. vessels, VIN means the number listed on the Certificate of Inspection. For foreign vessels, VIN means either the Lloyd's Register of Shipping identification number or the number assigned by the Coast Guard.

*Youth* means an individual 21 years of age or younger.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 96-067, 62 FR 19232, Apr. 21, 1997; CGD 97-057, 62 FR 51041, Sept. 30, 1997; CDG 96-067, 63 FR 59474, Nov. 4, 1998; USCG-2008-1107; 74 FR 63628, Dec. 4, 2009]

**§ 2.10-101 Annual vessel inspection fee.**

(a)(1) Unless otherwise provided by this subpart, each vessel required to have a Certificate of Inspection is subject to the annual vessel inspection fee listed in table 2.10-101 for its vessel category.

(2) A vessel certificated for more than one service must pay only the higher of the two applicable fees in table 2.10-101 of this section.

(b) The vessel owner or operator must pay the annual vessel inspection fee each year on or before the vessel's user fee anniversary date, unless the fee has been prepaid under § 2.10-105 of this subpart.

(c) Payment of the annual vessel inspection fee entitles a vessel to all inspection services related to compliance with its Certificate of Inspection, including but not limited to the inspection for renewal of the Certificate of Inspection, reinspections (annual and periodic inspections), hull (drydock) inspections, deficiency inspections, damage surveys, repair and modification inspections, change in vessel service inspections, permit to proceed inspections, drydock extension inspections, and all inspections required for the issuance of international certificates.

(d) Entitlement to inspection services for the current year remains with the vessel if it is sold. The entitlement to inspection services may not be transferred to any other vessel.

**TABLE 2.10-101—ANNUAL VESSEL INSPECTION FEES FOR U.S. AND FOREIGN VESSELS REQUIRING A CERTIFICATE OF INSPECTION**

Any inspected vessel not listed in this table .....	\$1,030
Freight Barges:	
Length not greater than 150 feet .....	495
More than 150 feet but not more than 300 feet .....	610
More than 300 feet .....	955
Freight Ships:	
Length not greater than 100 feet .....	1,425
More than 100 feet but no more than 300 feet .....	1,870
More than 300 feet .....	5,410
Industrial Vessels:	
Length not greater than 200 feet .....	1,435
More than 200 feet .....	2,550
Mobile Offshore Drilling Units (MODUs):	
Drill ship MODUs .....	6,710
Submersible MODUs .....	4,695
Self-elevating MODUs .....	4,695

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TABLE 2.10-101—ANNUAL VESSEL INSPECTION FEES FOR U.S. AND FOREIGN VESSELS REQUIRING A CERTIFICATE OF INSPECTION—Continued

Semi-submersible MODUs .....	8,050
Nautical School Vessels:	
Length not greater than 100 feet .....	835
More than 100 feet but not more than 200 feet .....	1,450
More than 200 feet .....	7,205
Oceanographic Research Vessels:	
Length not greater than 170 feet .....	840
More than 170 feet but not more than 240 feet .....	1,980
More than 240 feet .....	3,610
Offshore Supply Vessels:	
Length not greater than 140 feet .....	1,135
More than 140 feet .....	1,470
Offshore Supply Vessels: Alternate Reinspection Program*:	
Length not greater than 140 feet .....	940
More than 140 feet .....	1,260
Passenger Barges:	
Less than 100 gross tons and:	
Less than 65 feet in length .....	300
65 feet or more in length .....	600
100 gross tons or more and:	
Certified for fewer than 150 passengers .....	2,215
Certified for 150 or more passengers .....	2,525
Passenger Ships:	
Length not greater than 250 feet:	
Certified for fewer than 150 passengers .....	3,600
Certified for 150 or more passengers .....	4,050
More than 250 feet but not more than 350 feet .....	5,330
More than 350 feet but not more than 450 feet .....	6,835
More than 450 feet .....	14,650
Sailing School Vessels:	
Length not greater than 30 feet .....	530
More than 30 feet but not more than 65 feet .....	560
More than 65 feet .....	980
Sea-going Towing Vessels .....	2,915
Small Passenger Vessels:	
Less than 65 feet in length .....	300
65 feet or more in length .....	600
Tank Barges .....	500
Tankships:	
Length not greater than 100 feet .....	1,295
More than 100 feet but not more than 300 feet .....	2,310
More than 300 feet .....	5,805
Liquefied Gas Tankships .....	12,120

\*Note: Eligibility for the reduced annual vessel inspection fee for Offshore Supply Vessels is contingent upon the vessel's continued acceptance in the alternative reinspection program by the cognizant Officer in Charge, Marine Inspection.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 96-067, 62 FR 19232, Apr. 21, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

**§ 2.10-105 Prepayment of annual vessel inspection fees.**

(a) Vessel owners may prepay the annual vessel inspection fee for any period of not less than three years, and not more than the design life or remaining expected service life of the vessel.

(b) To prepay the annual vessel inspection fee for a period of three or

more years, the owner must submit a written request to Commandant (CG-DCO-83) specifying the vessel identification number and the period for which prepayment is to be made.

(c) The total of the annual fees for the requested prepayment period will be discounted to its net present value using the following formula:

$$PV = \sum_{t=0}^n \frac{R_0(1+\pi)^t}{(1+i)^t}$$

Where:

PV is the Present Value of the series of annual user fees to be prepaid (the net amount to be prepaid)

$R_0$  is the published user fee of the vessel

$i$  is the interest rate for 10-year Treasury notes at the time of prepayment calculation

$\pi$  is the rate of inflation (based on projected military personnel costs at the time of prepayment calculation)

$n$  is the total number of years to be prepaid

$t$  is the number of years after prepayment of the fee, for each annual increment ( $t=0, 1, 2, 3 \dots n$ )

(d) When the annual vessel inspection fee has been prepaid, the entitlement to inspection services for the prepayment period attaches to the vessel and remains with the vessel if it is sold. The entitlement to inspection services may not be transferred to any other vessel.

(e) If a vessel is removed from Coast Guard certification and the vessel owner surrenders the vessel's Certificate of Inspection, the owner may request a refund of the remaining prepayment amount. The annual vessel inspection fee will not be refunded for the year in which the Certificate of Inspection is surrendered. The request for refund must be submitted to the Officer in Charge, Marine Inspection to whom the Certificate of Inspection is surrendered. The Officer in Charge, Marine Inspection will endorse and forward the request to Commandant (CG-DCO-83) for decision.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50725, Sept. 27, 1996; USCG-1999-6216, 64 FR 53223, Oct. 1, 1999; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

#### § 2.10-115 Changes in vessel service.

(a) If a vessel certificated for a single service, changes service, the annual vessel inspection fee is not adjusted during the year in which a change in service occurs. The annual vessel inspection fee for the new vessel category is payable on the vessel's user fee anniversary date immediately following the date of the change in service.

(b) If a change in service occurs and the annual vessel inspection fee has been prepaid, Commandant (CG-DCO-83) will recalculate the prepayment amount based on the new vessel category and advise the owner of available prepayment options.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50725, Sept. 27, 1996; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004 ; USCG-2010-0759, 75 FR 60000, Sept. 29, 2010]

#### § 2.10-120 Overseas inspection and examination fees.

(a) In addition to any other fee required by this subpart, an overseas inspection and examination fee of \$4,585 must be paid for each vessel inspection and examination conducted outside the United States and its territories. This fee does not apply to vessel inspections and examinations conducted in Canada, Mexico, or the British Virgin Islands.

(b) The overseas inspection and examination fee for each vessel must accompany each request to the cognizant Officer in Charge, Marine Inspection for an overseas inspection or examination.

#### § 2.10-125 Fees for examination of foreign tankships.

Each foreign tankship of a country party to the International Convention for the Safety of Life at Sea, 1974 as amended, must pay:

(a) For examination for the issuance of a Certificate of Compliance under § 2.01-6(a)(2)(i) of this part, or examination for the annual endorsement to a Certificate of Compliance, a fee of \$1,100.

(b) For examination for the issuance of a Tank Vessel Examination Letter under § 2.01-6(a)(3) of this part, a fee of \$1,100.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

#### § 2.10-130 Fees for examination of foreign mobile offshore drilling units.

Each foreign mobile offshore drilling unit must pay:

(a) For examination for the issuance of a Certificate of Compliance indicating compliance with the design and

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equipment standards of either the documenting nation or the International Maritime Organization Code for Construction and Equipment of Mobile Offshore Drilling Units, a fee of \$1,830.

(b) For examination for the issuance of a Certificate of Compliance indicating compliance with the design and equipment standards of 46 CFR part 108, the inspection fee listed in table 2.10-101 of this subpart for the same type of mobile offshore drilling unit.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

### § 2.10-135 Penalties.

(a) A vessel owner or operator who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty.

(b) In addition to the fees established in this subpart, the Coast Guard may recover collection and enforcement costs associated with delinquent payments of, or failure to pay, a fee. Coast Guard inspection and examination services may also be withheld pending payment of outstanding fees owed to the Coast Guard for inspection and examination services provided.

(c) Each District Commander or Officer in Charge Marine Inspection 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 a vessel for which a fee or charge established under this part has not been paid or until a bond is posted for the payment.

[CGD 91-030, 60 FR 13563, Mar. 13, 1995, as amended by CGD 96-052, 62 FR 16703, Apr. 8, 1997]

## Subpart 2.20—Reports and Forms

### § 2.20-40 Chief engineer's reports.

(a) Repairs to boilers and pressure vessels. The chief engineer is required to report any repairs to boilers or unfired pressure vessels in accordance with §§ 33.25-5, 78.33-1, and 97.30-1 of this chapter.

(b) The chief engineer of any vessel is required to report any accident to a boiler, unfired pressure vessel, or machinery tending to render the further

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use of the item unsafe until repairs are made by §§ 35.25-5, 78.33-5, and 97.30-5 of this chapter.

(c) When fusible plugs in boilers are renewed at a time other than the inspection for certification and there is no marine inspector in attendance at the renewal, the chief engineer must report the renewal of the fusible plugs by letter to the OCMI who issued the certificate of inspection. This letter report must contain the following information:

- (1) Name and official number of vessel.
- (2) Date of renewal of fusible plugs.
- (3) Number and location of fusible plugs renewed in each boiler.
- (4) Manufacturer and heat number of each plug.
- (5) Reason for renewal.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGFR 68-82, 33 FR 18804, Dec. 18, 1968; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### § 2.20-50 Repairs or alterations in life-saving or fire prevention equipment.

No repairs or alterations shall be made to any lifesaving or fire-detecting or fire-extinguishing equipment, except in an emergency, without advance notice to the Officer in Charge, Marine Inspection. See §§ 78.33-10 and 97.30-10 of this chapter.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

## Subpart 2.45—Classification Society Activities

SOURCE: 77 FR 47551, Aug. 9, 2012, unless otherwise noted.

### § 2.45-1 Definitions.

The following definitions apply to this subpart:

*Administration* means the Government of the State whose flag the ship is entitled to fly.

*Classification society* means an organization that, at a minimum, verifies that a vessel meets requirements embodying the technical rules, regulations, standards, guidelines and associated surveys, and inspections covering

the design, construction, and/or through life compliance of a ship's structure and essential engineering and electrical systems.

*Recognized Organization (RO)* means an organization authorized to act on behalf of an Administration.

*Regional port state control secretariat* means an organization established to collect and maintain port state control inspection data in addition to other functions under a regional agreement among countries.

#### § 2.45-5 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). Also, it is available for inspection at the Coast Guard's Office of Design and Engineering Systems (CG-ENG), 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in this section.

(b) International Maritime Organization, 4 Albert Embankment, London SE1 7SR, U.K. +44 (0)20 7735 7611, <http://www.imo.org/>.

(1) IMO Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, adopted 4 November 1993, incorporation by reference approved for § 2.45-15.

(2) [Reserved]

#### § 2.45-10 General.

(a) A classification society (including an employee or agent of that society) must not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless it is approved under the provisions of this subpart.

(b) This subpart applies to a recognized organization that meets the definition of a classification society provided in § 2.45-1 of this subpart.

#### § 2.45-15 Approval requirements.

(a) A classification society may be approved for purpose of § 2.45-10 if the following conditions are met:

(1) Vessels surveyed by the classification society must have a worldwide port state control detention rate of less than 2 percent based on the number of Recognized Organization (RO)-related detentions divided by the number of vessel inspections for at least 40 port state control inspections for the past 3 years;

(2) The classification society must not be identified in the most recent publication of "Port State Control in the United States" as a Priority I and as having more than one RO-related detention for the past 3 years;

(3) The classification society must comply with the minimum standards for an RO recommended in IMO Resolution A.739(18), Appendix 1 (incorporated by reference, see § 2.45-5.);

(4) The classification society must be an RO for at least one country under a formal written agreement that includes all of the elements described in IMO Resolution A.739(18), Appendix 2 (incorporated by reference, see § 2.45-5.);

(5) The referenced country that is cited for satisfaction of the requirement of paragraph (a)(4) of this section for which the classification society is an RO—

(i) Must be signatory to each of the following: The International Safety of Life at Sea Convention (SOLAS), the International Convention on the Prevention of Pollution from Ships (MARPOL 73/78), the International Convention on Load Lines (ICLL), 1966, and the Protocol of 1988 relating to the ICLL, 1966; and

(ii) Must not be identified as a flag state targeted for additional port state control action by the Coast Guard or any regional port state control secretariat.

(6) The classification society must use a system to—

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(i) Make its safety records and those of persons acting on behalf of the classification society available to the Coast Guard in electronic format;

(ii) Provide its safety records and those of persons acting on behalf of the classification society to another classification society that requests those records for the purpose of conducting surveys of vessels; and

(iii) Request the safety records of a vessel to be surveyed from any other classification society that previously surveyed that vessel.

(b) Where sufficient performance records are not available from a regional port state control secretariat, the Coast Guard may consider an equivalent safety performance indicator proposed by the classification society seeking approval.

### § 2.45-20 Probation, suspension, and revocation.

(a) A classification society approved for the purpose of this subpart must maintain the minimum requirements for approval set forth in § 2.45-15.

(b) If an approved classification society fails to maintain compliance with paragraph (a) of this section, the Coast Guard may place the classification society approval on probation, or suspend or revoke the classification society's approval, as appropriate.

(c) *Probation.* A classification society on probation is approved for the purpose of this subpart. The probation continues until the next review of the classification society's compliance with paragraph (a) of this section.

(1) If the review shows that compliance with paragraph (a) of this section is achieved, the probation may end.

(2) If the review shows significant improvement but compliance with paragraph (a) of this section is not achieved, the probation may be extended.

(3) If the review does not show significant improvement, and compliance with paragraph (a) of this section is not achieved, the approval may be suspended.

(d) *Suspension.* A classification society whose approval is suspended is not approved for the purpose of this subpart. Suspension will continue until the next review of the classification so-

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ciety's compliance with paragraph (a) of this section.

(1) If the review shows compliance with paragraph (a) of this section, the classification society's approval may be restored.

(2) If the review shows significant improvement toward compliance with paragraph (a) of this section, the suspension may be extended.

(3) If the review does not show significant improvement and compliance with paragraph (a) of this section, the classification society's approval may be revoked.

(e) *Revocation.* A classification society whose approval is revoked is not approved for the purpose of this subpart. The classification society may reapply for approval when the requirements of § 2.45-15 are met.

(f) The Coast Guard's Office of Design and Engineering Standards (CG-ENG) administers probations, suspensions, and revocations and makes all related notifications to affected classification societies.

### § 2.45-25 Application for approval.

(a) An application for approval must be made in writing and in the English language to U.S. Coast Guard, Commandant (CG-ENG), Office of Design and Engineering Standards, 2100 Second Street SW, Stop 7126, Washington DC 20593-7126.

(b) The application must—

(1) Indicate the type of work the classification society intends to perform on vessels in the United States;

(2) Include documentation demonstrating that the classification society complies with § 2.45-15;

(3) Contain a list of the vessels surveyed by the classification society over the previous 3 calendar years. The list must include vessel names, flags, and IMO numbers, as well as initial vessel inspections and detentions; and

(4) Provide a summary of the safety records of vessels the classification society surveys for each of the previous 3 calendar years, including initial vessel inspections and detentions for all data contained in regional port state control Memoranda of Understanding (MOU) and other port state control data sources, including the U.S. Coast Guard.

(c) An application submitted in accordance with 46 CFR part 8, subpart B satisfies the application requirements of paragraph (a) of this section, provided the applicant:

(1) Has been notified in writing by the Commandant that it met the criteria to be a recognized classification society, and its recognized status has not been revoked, under 46 CFR part 8, subpart B;

(2) Submits in writing and in the English language to the address in paragraph (a) of this section a statement that the applicant is applying for approval under this subpart; and

(3) Certifies in the submission under paragraph (c)(2) of this section that the information in the application submitted under 46 CFR part 8, subpart B remains valid.

#### § 2.45-30 Penalties.

The owner, charterer, managing operator, agent, master, or individual in charge of a vessel that employs a classification society to review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States is subject to civil penalties in accordance with Title 46 U.S.C. 3318 if the classification society is not approved by the Coast Guard under this subpart.

### Subpart 2.50—Penalties

#### § 2.50-1 Penalty procedures.

Civil and criminal penalty procedures appear in 33 CFR part 1. Civil monetary penalty amounts are set forth in 33 CFR part 27.

[CGD 96-052, 62 FR 16703, Apr. 8, 1997]

### Subpart 2.75—Approvals of Safety Equipment, Materials and Installations, and Qualifications for Construction Personnel

#### § 2.75-1 Approvals.

(a) Certain navigation and vessel inspection laws, or regulations in this chapter or in 33 CFR chapter I, require the Commandant's approval before specific types of safety equipment, materials, or installations may be installed or used on vessels subject to Coast Guard inspection, or on other described

vessels, motorboats, artificial islands, and fixed structures.

(b) The Commandant's approvals are issued to persons, partnerships, companies, or corporations who offer for sale specific items of safety equipment, materials, or installations, or intend them for their own or others' use. These approvals are intended to provide a control over the quality of such approved items. The Commandant's approvals apply only to those items constructed or installed in accordance with applicable requirements, and the details as described in the documents granting specific approval. If a specific item when manufactured does not comply with these details, then it is not considered to be approved and the approval issued does not apply to such modified item. For example, if an item is manufactured with changes in design or material not previously approved, the approval does not apply to such modified item. The failure to comply with applicable requirements and details specified in the approval subjects the holder to immediate suspension of approval as described in § 2.75-40, and if necessary, to a public hearing seeking withdrawal of approval and removal of all such items from use or installation as provided in § 2.75-50.

(c) The Commandant's approvals are issued to qualified holders in the form of certificates of approval (Form CGHQ-10030), by appropriate description and identification in documents filed with the Office of the Federal Register and published in the FEDERAL REGISTER, or by letters, or by appropriate markings on drawings, plans, etc. Under the direction of the Commandant, the Deputy for Operations Policy and Capabilities (CG-DCO-D) is delegated the authority to exercise the necessary actions relating to the granting, suspension, cancellation or revocation of approvals for special items of safety equipment, materials or installations required by law in regulation in this chapter or in 33 CFR chapter I to have the Commandant's approval. The authority delegated to the Deputy for Operations Policy and Capabilities (CG-DCO-D) may be further delegated by him.

(d) The approvals granted to holders qualifying under the regulations in this

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chapter or in specifications, copies of which may be obtained from the Commandant (CG-ENG), and to which official Coast Guard numbers are assigned, will be in the form of certificates of approval. Unless specifically provided otherwise, the approval shall be valid for a period of five years from the date on the certificate of approval, but subject to suspension and/or cancellation if it is found the item offered, sold, or used as Coast Guard approved differs in any detail from the item as described in the certificate of approval and referenced material.

(e) A specific Commandant's approval granted to anyone, which is described in a certificate of approval, or a letter, or marked plans, etc., cannot be transferred to another without a specific prior authorization from the Commandant. Such a transfer without the Commandant's authorization normally terminates such approval.

(f) A listing of current and formerly approved equipment and materials may be found on the internet at: <http://cgmix.uscg.mil/equipment>. Each OCMI may be contacted for information concerning approved equipment.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 82-063b, 48 FR 4781, Feb. 3, 1983; CGD 88-070, 53 FR 34533, Sept. 7, 1988; CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 93-055, 61 FR 13927, Mar. 28, 1996; CGD 96-041, 61 FR 50725, Sept. 27, 1996; CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004; USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

### § 2.75-5 Certificates of approval.

(a) The Deputy for Operations Policy and Capabilities (CG-DCO-D) or his delegate, will issue a certificate of approval to the manufacturer or party named therein and certify that such manufacturer or party has submitted satisfactory evidence that the item described therein complies with the applicable laws and regulations, which are outlined on the reverse side of the certificate.

(b) The approval shall be in effect for a period of 5 years from the date on the certificate of approval unless canceled or suspended by proper authority, or

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otherwise specifically stated in the certificate.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 82-063b, 48 FR 4781, Feb. 3, 1983; CGD 88-070, 53 FR 34533, Sept. 7, 1988; CGD 96-041, 61 FR 50725, Sept. 27, 1996; CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### § 2.75-10 Procedures for obtaining approvals.

(a) The requirements for obtaining approvals of items covered by specifications and bearing official Coast Guard approval numbers are set forth in parts 159 through 164 of this chapter. For other items, the requirements are described in the regulations governing such items.

(b) Unless otherwise specified, correspondence concerning approvals should be addressed to the Commandant (CG-ENG), 2100 2nd St., SW., Stop 7126, Washington, DC 20593-7126. When plans, drawings, test data, etc., are required to be submitted by the manufacturer, the material being transmitted with the application should be clearly identified.

[CGD 76-048, 44 FR 73043, Dec. 17, 1979, as amended by CGD 82-063b, 48 FR 4781, Feb. 3, 1983; CGD 88-070, 53 FR 34533, Sept. 7, 1988; CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50725, Sept. 27, 1996]

### § 2.75-15 Requirements and tests.

(a) Approved items described in certificates of approval are usually required to meet specific requirements and/or tests, prior to obtaining the approval. Additional factory tests to determine that proper uniformity and quality controls are followed during the manufacture of the specific items may be required. These requirements governing the manufacturer in particular are set forth in the regulations in this chapter or in specifications, copies of which may be obtained from the Commandant (CG-ENG). If the requirements are met, a certificate of approval will be issued.

(b) When the specific item described in an application, together with accompanying drawings, plans, etc., does not meet applicable requirements or fails to meet specified tests, the applicant will be notified accordingly. The Coast Guard may suggest changes in order

for the item to qualify and permit the issuance of an approval.

(c) For items not covered by specification requirements in parts 160 to 164, inclusive (subchapter Q—Specifications) of this chapter, the requirements in the navigation and vessel inspection laws, and applicable regulations in this chapter or in 33 CFR chapter I apply and shall be met before approvals may be issued.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 82-063b, 48 FR 4781, Feb. 3, 1983; CGD 88-070, 53 FR 34533, Sept. 7, 1988; CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50725, Sept. 27, 1996]

#### § 2.75-25 Portable fire extinguishers.

(a) The portable fire extinguishers listed and labeled as *marine type* by a recognized laboratory, as provided in subpart 162.028 of part 162 of subchapter Q (Specifications) of this chapter, will be accepted as approved for use on merchant vessels, motorboats, etc., whenever required by the regulations in this chapter, and for use on artificial islands and fixed structures on the Outer Continental Shelf whenever required by the regulations in 33 CFR parts 140 to 146, inclusive.

(b) The procedures for manufacturers to follow and the requirements governing portable fire extinguishers to qualify being listed and labeled as *marine type* by a recognized laboratory are set forth in subpart 162.028 of part 162 of subchapter Q (Specifications) of this chapter.

(c) The procedures for a laboratory to qualify as a *recognized laboratory* and to be listed in §162.028-5 of subchapter Q (Specifications) of this chapter are as follows:

(1) The laboratory shall submit an informal application in writing on its usual letterhead paper to the Commandant (CG-5PS), U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593-7126, requesting recognition and listing, as a recognized laboratory.

(2) Accompanying the informal application, as identified enclosures, shall be:

(i) A certification that it is a laboratory which has been and is regularly engaged in the examination, testing,

and evaluation of portable fire extinguishers.

(ii) A certification that it has an established factory inspection, listing, and labeling program, together with a complete description of it and how it works.

(iii) A description of its facilities used in the examination, testing, and evaluation of portable fire extinguishers, together with its name (if different from that of submitter), and location (city, street, and state).

(iv) A list of the names and home and office addresses of its principal officers and its managing directors (if any).

(v) A description of its special standards for listing and labeling portable fire extinguishers as *marine type*, as contemplated by the specification in subpart 162.028 of part 162 of subchapter Q (Specifications) of this chapter.

(3) If the Commandant finds that a laboratory qualifies as a *recognized laboratory*, and it is subject to Coast Guard jurisdiction, the approval and listing will be published in the FEDERAL REGISTER and will be in effect until suspended, canceled or terminated by proper authority. The failure of a recognized laboratory to maintain its established factory inspection, listing and labeling program as approved by the Commandant shall be cause for terminating a listing as a *recognized laboratory*.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 82-063b, 48 FR 4781, Feb. 3, 1983]

#### § 2.75-40 Suspension of approval.

(a) Whenever it is determined that a specific item is not in compliance with the applicable laws, rules, and regulations, and the requirements specified in the approval issued by the Coast Guard, the District Commander or the Officer in Charge, Marine Inspection, will immediately notify the holder of the approval wherein the specific item fails to meet applicable requirements. If the defects, deficiencies or variations in the item are deemed important, such officer is authorized and may immediately suspend the approval, may require the holder to surrender the certificate of approval (if any), and may direct the holder to cease claiming the

## § 2.75-50

defective items are Coast Guard approved, pending a final decision from the Commandant in the matter.

(b) The procedures for appealing the temporary suspension shall be those described in § 2.01-70.

### § 2.75-50 Withdrawals or terminations of approvals and appeals.

(a) The Commandant may withdraw approval for any item which is found not to be in compliance with the conditions of approval, found to be unsuitable for its intended purpose, or does not meet the requirements of applicable regulations.

(b) Approvals of equipment are terminated when the manufacturer is no longer in business, or when the item is no longer being manufactured, or when the approval expires.

(c) Any person directly affected by a decision to deny, withdraw, or terminate an approval may appeal the decision to Director of Commercial Regulations & Standards (CG-5PS) as provided in § 1.03-15 of this chapter.

[CGFR 65-50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 93-055, 61 FR 13927, Mar. 28, 1996; CGD 96-041, 61 FR 50725, Sept. 27, 1996; CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### § 2.75-60 Hazardous ships' stores.

Hazardous ships' stores, as defined in § 147.3 of this chapter, must not be brought on board or used on any vessel unless they meet the requirements of part 147 of this chapter.

[CGD 84-044, 53 FR 7748, Mar. 10, 1988]

### § 2.75-70 Welding procedure and performance qualifications.

(a) Welding procedures and welder performance utilized in the fabrication of vessels and their various systems and components subject to Coast Guard inspection shall be qualified as required by the applicable subchapter. For applicable requirements see §§ 32.60-1(a) of subchapter D (Tank Vessels), § 72.01-15 of subchapter H (Passenger Vessels), § 92.01-10 of subchapter I (Cargo and Miscellaneous Vessels), or § 190.01-10 of subchapter U (Oceanographic Vessels) of this chapter. See part 57 of subchapter F (Marine Engineering) for requirements for the welding of pressure piping, boilers, pressure

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vessels, and nonpressure vessel type tanks, and associated secondary barriers as defined in § 38.05-4 of subchapter D (Tank Vessels) of this chapter.

[CGFR 68-82, 33 FR 18804, Dec. 18, 1968]

## Subpart 2.85—Load Lines

### § 2.85-1 Assignment of load lines.

Most U.S. vessels, and foreign vessels in U.S. waters are required to have load line assignments in accordance with 46 U.S.C. Chapter 51. The load lines marks, when placed on a vessel, indicate the maximum draft to which such vessel can be lawfully submerged, in the various circumstances and seasons applicable to such vessel. See subchapter E (Load Lines) of this chapter for applicable details governing assignment and marking of load lines.

[CGD 95-028, 62 FR 51195, Sept. 30, 1997, as amended by USCG-1998-4442, 63 FR 52188, Sept. 30, 1998; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

## Subpart 2.90—Plans, Drawings or Blueprints

### § 2.90-1 General requirements.

(a) Drawings, blueprints or plans showing the details of construction of vessels subject to inspection or installations thereon are required to be submitted for approval in accordance with applicable regulations in this chapter, information as to which may be obtained at any local Marine Inspection Office.

(b) The requirements for passenger vessel construction are in parts 43-46, 70-78, of this chapter.

(c) The requirements for tank vessel construction are in parts 30-39, 43-45, of this chapter.

(d) The requirements for cargo and miscellaneous vessel construction are in parts 43-45, 90-97, of this chapter.

(e) The requirements for marine engineering installations or equipment are in parts 50-69 of this chapter.

(f) The requirements for electrical engineering installations or equipment are in parts 110-113 of this chapter.

(g) The requirements for items to be manufactured under specific approval

by the Commandant are in parts 160–164 of this chapter.

(h) The requirements for vessels carrying certain bulk dangerous cargoes are in parts 148, 151, 153, and 154 of this chapter.

(i) The requirements for subdivision and stability plans and calculations are in part 170 of this chapter.

[CGFR 65–50, 30 FR 16604, Dec. 30, 1965, as amended by CGD 73–96, 42 FR 49203, Sept. 26, 1977; CGD 79–023, 48 FR 51006, Nov. 4, 1983]

### **Subpart 2.95—Retention of Records by the Public**

#### **§ 2.95–1 Certificates or documents issued by Coast Guard.**

(a) Certificates or documents issued to the public, as required by laws, rules, or regulations, shall be retained for the applicable period of time, as follows:

(1) If the certificate or document specifies a definite period of time for which it is valid, it shall be retained for so long as it is valid unless it is required to be surrendered; or,

(2) If the certificate or document does not specify a definite period of time for which it is valid, it shall be retained for that period of time such certificate or document is required for operation of the vessel; or,

(3) If the certificate or document is evidence of a person's qualifications, it shall be retained for so long as it is valid unless it is required to be surrendered.

(b) Nothing in this section shall be construed as preventing the Coast Guard from canceling, suspending, or withdrawing any certificate or document issued at any time.

#### **§ 2.95–5 Certificates or documents issued by others.**

(a) Certificates or documents issued by other public agencies or private organizations, which are accepted as prima facie evidence of compliance with requirements administered by the Coast Guard, shall be retained for the applicable period of time as follows:

(1) If the certificate or document specifies a definite period of time for which it is valid, it shall be retained for so long as it is valid unless it is required to be surrendered; or

(2) If the certificate or document does not specify a definite period of time for which it is valid, it shall be retained for the period of time such certificate or document is required for operation of the vessel; or,

(3) If the certificate or documents is evidence of a person's qualifications, it shall be retained for so long as it is valid unless it is required to be surrendered.

#### **§ 2.95–10 Equipment or material required to be approved.**

(a) The manufacturer of any equipment or material, which must also be approved by or found satisfactory for use by the Commandant, shall keep the required drawings, plans, blueprints, specifications, production models (if any), qualification tests, and related correspondence containing evidence that the Coast Guard has found such equipment or material satisfactory, during the period of time the approval or listing is valid. Most of the specifications containing detailed descriptions of records required to be retained by the public are in parts 160 to 164, inclusive in subchapter Q (Specifications) of this chapter.

## **PART 3—DESIGNATION OF OCEANOGRAPHIC RESEARCH VESSELS**

### **Subpart 3.01—Authority and Purpose**

Sec.

3.01–1 Purpose of regulations.

### **Subpart 3.03—Application**

3.03–1 Vessels subject to the requirements of this part.

### **Subpart 3.05—Definition of Terms Used in This Part**

3.05–1 Letter of designation.

3.05–3 Oceanographic research vessel.

### **Subpart 3.10—Designation**

3.10–1 Procedures for designating oceanographic research vessels.

3.10–5 Renewal of letter of designation.

3.10–10 Right of appeal.

AUTHORITY: 46 U.S.C. 2113, 3306; Department of Homeland Security Delegation No. 0170.1.

## § 3.01-1

SOURCE: CGD 77-081, 46 FR 56202, Nov. 16, 1981, unless otherwise noted.

### Subpart 3.01—Authority and Purpose

#### § 3.01-1 Purpose of regulations.

The purpose of the regulations in this part is to establish standard procedures for the designation of certain vessels as oceanographic research vessels as defined in 46 U.S.C. 2101(18).

[CGD 77-081, 46 FR 56202, Nov. 16, 1981, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### Subpart 3.03—Application

#### § 3.03-1 Vessels subject to the requirements of this part.

The regulations in this part are applicable to U.S. flag vessels desiring designation as oceanographic research vessels in accordance with 46 U.S.C. 2101(18).

[CGD 77-081, 46 FR 56202, Nov. 16, 1981, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997; USCG-2005-22329, 70 FR 57183, Sept. 30, 2005]

### Subpart 3.05—Definition of Terms Used in This Part

#### § 3.05-1 Letter of designation.

A letter issued by an Officer in Charge, Marine Inspection, designating an uninspected vessel as an oceanographic research vessel.

#### § 3.05-3 Oceanographic research vessel.

“An oceanographic research vessel is a vessel which the U.S. Coast Guard finds is employed exclusively in one or more of the following:

- (a) Oceanographic instruction;
- (b) Limnologic instruction;
- (c) Oceanographic research; or,
- (d) Limnologic research.”

### Subpart 3.10—Designation

#### § 3.10-1 Procedures for designating oceanographic research vessels.

(a) Upon written request by the owner, master, or agent of a vessel, a determination will be made by the Officer in Charge, Marine Inspection, of

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the zone in which the vessel is located, whether the vessel may be designated as an oceanographic research vessel.

(b) The request should contain sufficient information to allow the Officer in Charge, Marine Inspection, to make this determination. At a minimum, the following items must be submitted:

(1) A detailed description of the vessel, including its identification number, owner and charterer.

(2) A specific operating plan stating precisely the intended use of the vessel.

(3) Any additional information as may be requested by the Officer in Charge, Marine Inspection.

(c) If designation is granted, it shall be indicated as follows:

(1) For inspected vessels—indicated on the certificate of inspection, valid for its duration.

(2) For uninspected vessels—indicated by a letter of designation, which shall be maintained on board the vessel and remain in effect for two years from date of issuance.

(d) All designations shall remain valid for the period specified on the applicable document, provided all operating conditions remain unchanged from the date of designation.

(e) In the event of a change in operating conditions, the owner, master, or agent of the vessel shall advise the Officer in Charge, Marine Inspection who issued the designation. After reviewing the pertinent information concerning the operational changes, the Officer in Charge, Marine Inspection, shall determine if the vessel is still eligible to retain its designation as an oceanographic research vessel.

[CGD 77-081, 46 FR 56202, Nov. 16, 1981, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

#### § 3.10-5 Renewal of letter of designation.

At least 60 days prior to the expiration date of the letter of designation or certificate of inspection, a request for renewal must be submitted in the same manner as described in 3.10-1. However, if the request for renewal is submitted to the Officer in Charge, Marine Inspection, who made the initial determination and all operating conditions

remain unchanged, the information required by §3.10-1(b) need not be resubmitted with the request.

### §3.10-10 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

[CGD 88-033, 54 FR 50379, Dec. 6, 1989]

## PART 4—MARINE CASUALTIES AND INVESTIGATIONS

### Subpart 4.01—Authority and Scope of Regulations

Sec.

- 4.01-1 Scope of regulation.
- 4.01-3 Reporting exclusion.

### Subpart 4.03—Definitions

- 4.03-1 Marine casualty or accident.
- 4.03-2 Serious marine incident.
- 4.03-4 Individual directly involved in a serious marine incident.
- 4.03-5 Medical facility.
- 4.03-6 Qualified medical personnel.
- 4.03-7 Chemical test.
- 4.03-10 Party in interest.
- 4.03-15 Commandant.
- 4.03-20 Coast Guard district.
- 4.03-25 District Commander.
- 4.03-30 Investigating officer.
- 4.03-35 Nuclear vessel.
- 4.03-40 Public vessels.
- 4.03-45 Marine employer.
- 4.03-50 Recreational vessel.
- 4.03-55 Law enforcement officer.
- 4.03-60 Noxious liquid substance (NLS).
- 4.03-65 Significant harm to the environment.
- 4.03-70 Tank vessel.
- 4.03-75 Merchant mariner credential and credential.

### Subpart 4.04—Notice of Potential Vessel Casualty

- 4.04-1 Reports of potential vessel casualty.
- 4.04-3 Reports of lack of vessel communication.
- 4.04-5 Substance of reports.

### Subpart 4.05—Notice of Marine Casualty and Voyage Records

- 4.05-1 Notice of marine casualty.
- 4.05-2 Incidents involving foreign tank vessels.
- 4.05-5 Substance of marine casualty notice.
- 4.05-10 Written report of marine casualty.

- 4.05-12 Alcohol or drug use by individuals directly involved in casualties.
- 4.05-15 Voyage records, retention of.
- 4.05-20 Report of accident to aid to navigation.
- 4.05-25 Reports when state of war exists.
- 4.05-30 Incidents involving hazardous materials.
- 4.05-35 Incidents involving nuclear vessels.
- 4.05-40 Alternate electronic means of reporting.

### Subpart 4.06—Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service

- 4.06-1 Responsibilities of the marine employer.
- 4.06-3 Requirements for alcohol and drug testing following a serious marine incident.
- 4.06-5 Responsibility of individuals directly involved in serious marine incidents.
- 4.06-15 Accessibility of chemical testing devices.
- 4.06-20 Specimen collection requirements.
- 4.06-30 Specimen collection in incidents involving fatalities.
- 4.06-40 Specimen handling and shipping.
- 4.06-50 Specimen analysis and follow-up procedures.
- 4.06-60 Submission of reports and test results.
- 4.06-70 Penalties.

### Subpart 4.07—Investigations

- 4.07-1 Commandant or District Commander to order investigation.
- 4.07-5 Investigating officers, powers of.
- 4.07-7 Opening statement.
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- 4.07-15 Recommendations, action on.
- 4.07-20 Transfer of jurisdiction.
- 4.07-25 Testimony of witnesses in other districts, depositions.
- 4.07-30 Testimony of witnesses under oath.
- 4.07-35 Counsel for witnesses and parties in interest.
- 4.07-45 Foreign units of Coast Guard, investigation by.
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### Subpart 4.09—Marine Board of Investigation

- 4.09-1 Commandant to designate.
- 4.09-5 Powers of Marine Board of Investigation.
- 4.09-10 Witnesses, payment of.
- 4.09-15 Time and place of investigation, notice of; rights of witnesses, etc.
- 4.09-17 Sessions to be public.
- 4.09-20 Record of proceedings.
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4.09-35 Preferment of charges.

### Subpart 4.11—Witnesses and Witness Fees

4.11-1 Employees of vessels controlled by Army or Navy as witnesses.

4.11-5 Coercion of witnesses.

4.11-10 Witness fees and allowances.

### Subpart 4.12—Testimony by Interrogatories and Depositions

4.12-1 Application, procedure, and admissibility.

### Subpart 4.13—Availability of Records

4.13-1 Public availability of records.

### Subpart 4.19—Construction of Regulations and Rules of Evidence

4.19-1 Construction of regulations.

4.19-5 Adherence to rules of evidence.

### Subpart 4.21—Computation of Time

4.21-1 Computation of time.

### Subpart 4.23—Evidence of Criminal Liability

4.23-1 Evidence of criminal liability.

### Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

4.40-1 Purpose.

4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.

4.40-5 Definitions.

4.40-10 Preliminary investigation by the Coast Guard.

4.40-15 Marine casualty investigation by the Board.

4.40-20 Cause or probable cause determinations from Board investigation.

4.40-25 Coast Guard marine casualty investigation for the Board.

4.40-30 Procedures for Coast Guard investigation.

4.40-35 Records of the Coast Guard and the Board.

AUTHORITY: 33 U.S.C. 1231; 43 U.S.C. 1333; 46 U.S.C. 2103, 2303a, 2306, 6101, 6301, and 6305; 50 U.S.C. 198; Department of Homeland Security Delegation No. 0170.1. Subpart 4.40 issued under 49 U.S.C. 1903(a)(1)(E).

SOURCE: CGD 74-119, 39 FR 33317, Sept. 17, 1974, unless otherwise noted.

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### Subpart 4.01—Authority and Scope of Regulations

#### § 4.01-1 Scope of regulation.

The regulations in this part govern the reporting of marine casualties, the investigation of marine casualties and the submittal of reports designed to increase the likelihood of timely assistance to vessels in distress.

[CGD 85-015, 51 FR 19341, May 29, 1986]

#### § 4.01-3 Reporting exclusion.

(a) Vessels subject to 33 CFR 173.51 are excluded from the requirements of subpart 4.05.

(b) Vessels which report diving accidents under 46 CFR 197.484 regarding deaths, or injuries which cause incapacitation for greater than 72 hours, are not required to give notice under § 4.05-1(a)(5) or § 4.05-1(a)(6).

(c) Vessels are excluded from the requirements of § 4.05-1(a)(5) and (a)(6) with respect to the death or injury of shipyard or harbor workers when such accidents are not the result of either a vessel casualty (e.g., collision) or a vessel equipment casualty (e.g., cargo boom failure) and are subject to the reporting requirements of Occupational Safety and Health Administration (OSHA) under 29 CFR 1904.

(d) Except as provided in subpart 4.40, public vessels are excluded from the requirements of this part.

[CGD 76-170, 45 FR 77441, Nov. 24, 1980; 46 FR 19235, Mar. 30, 1981, as amended by CGD 76-170, 47 FR 39684, Sept. 9, 1982; CGD 95-028, 62 FR 51195, Sept. 30, 1997; USCG-2000-7790, 65 FR 58458, Sept. 29, 2000]

### Subpart 4.03—Definitions

#### § 4.03-1 Marine casualty or accident.

*Marine casualty or accident* means—

(a) Any casualty or accident involving any vessel other than a public vessel that—

(1) Occurs upon the navigable waters of the United States, its territories or possessions;

(2) Involves any United States vessel wherever such casualty or accident occurs; or

(3) With respect to a foreign tank vessel operating in waters subject to the jurisdiction of the United States,

including the Exclusive Economic Zone (EEZ), involves significant harm to the environment or material damage affecting the seaworthiness or efficiency of the vessel.

(b) The term “marine casualty or accident” applies to events caused by or involving a vessel and includes, but is not limited to, the following:

(1) Any fall overboard, injury, or loss of life of any person.

(2) Any occurrence involving a vessel that results in—

- (i) Grounding;
- (ii) Stranding;
- (iii) Foundering;
- (iv) Flooding;
- (v) Collision;
- (vi) Allision;
- (vii) Explosion;
- (viii) Fire;

(ix) Reduction or loss of a vessel’s electrical power, propulsion, or steering capabilities;

(x) Failures or occurrences, regardless of cause, which impair any aspect of a vessel’s operation, components, or cargo;

(xi) Any other circumstance that might affect or impair a vessel’s seaworthiness, efficiency, or fitness for service or route; or

(xii) Any incident involving significant harm to the environment.

(3) Any occurrences of injury or loss of life to any person while diving from a vessel and using underwater breathing apparatus.

(4) Any incident described in § 4.05-1(a).

[USCG-2000-6927, 70 FR 74675, Dec. 16, 2005]

#### § 4.03-2 Serious marine incident.

The term *serious marine incident* includes the following events involving a vessel in commercial service:

(a) Any marine casualty or accident as defined in § 4.03-1 which is required by § 4.05-1 to be reported to the Coast Guard and which results in any of the following:

(1) One or more deaths;

(2) An injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid, and, in the case of a person employed on board a vessel in commercial service, which renders the indi-

vidual unfit to perform routine vessel duties;

(3) Damage to property, as defined in § 4.05-1(a)(7) of this part, in excess of \$100,000;

(4) Actual or constructive total loss of any vessel subject to inspection under 46 U.S.C. 3301; or

(5) Actual or constructive total loss of any self-propelled vessel, not subject to inspection under 46 U.S.C. 3301, of 100 gross tons or more.

(b) A discharge of oil of 10,000 gallons or more into the navigable waters of the United States, as defined in 33 U.S.C. 1321, whether or not resulting from a marine casualty.

(c) A discharge of a reportable quantity of a hazardous substance into the navigable waters of the United States, or a release of a reportable quantity of a hazardous substance into the environment of the United States, whether or not resulting from a marine casualty.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997]

#### § 4.03-4 Individual directly involved in a serious marine incident.

The term *individual directly involved in a serious marine incident* is an individual whose order, action or failure to act is determined to be, or cannot be ruled out as, a causative factor in the events leading to or causing a serious marine incident.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

#### § 4.03-5 Medical facility.

The term *medical facility* means an American hospital, clinic, physician’s office, or laboratory, where blood and urine specimens can be collected according to recognized professional standards.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

#### § 4.03-6 Qualified medical personnel.

The term *qualified medical personnel* means a physician, physician’s assistant, nurse, emergency medical technician, or other person authorized under State or Federal law or regulation to collect blood and urine specimens.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

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### § 4.03-7 Chemical test.

The term *chemical test* means a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

### § 4.03-10 Party in interest.

The term *party in interest* shall mean any person whom the Marine Board of Investigation or the investigating officer shall find to have a direct interest in the investigation conducted by it and shall include an owner, a charterer, or the agent of such owner or charterer of the vessel or vessels involved in the marine casualty or accident, and all licensed or certificated personnel whose conduct, whether or not involved in a marine casualty or accident is under investigation by the Board or investigating officer.

### § 4.03-15 Commandant.

The Commandant, U.S. Coast Guard, is that officer who acts as chief of the Coast Guard and is charged with the administration of the Coast Guard.

### § 4.03-20 Coast Guard district.

A Coast Guard district is one of the geographical areas whose boundaries are described in 33 CFR part 3.

### § 4.03-25 District Commander.

The District Commander is the chief of a Coast Guard district and is charged with the administration of all Coast Guard responsibilities and activities within his respective district, except those functions of administrative law judges under the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1001 *et seq.*) and activities of independent units of the Coast Guard, such as the Coast Guard Yard and the Coast Guard Academy.

### § 4.03-30 Investigating officer.

An investigating officer is an officer or employee of the Coast Guard designated by the Commandant, District Commander or the Officer in Charge, Marine Inspection, for the purpose of making investigations of marine casualties and accidents or other matters

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pertaining to the conduct of seamen. An Officer in Charge, Marine Inspection, is an investigating officer without further designation.

### § 4.03-35 Nuclear vessel.

The term *nuclear vessel* means any vessel in which power for propulsion, or for any other purpose, is derived from nuclear energy; or any vessel handling or processing substantial amounts of radioactive material other than as cargo.

[CGD 84-099, 52 FR 47534, Dec. 14, 1987]

### § 4.03-40 Public vessels.

Public vessel means a vessel that—

(a) Is owned, or demise chartered, and operated by the U.S. Government or a government of a foreign country, except a vessel owned or operated by the Department of Transportation or any corporation organized or controlled by the Department (except a vessel operated by the Coast Guard or Saint Lawrence Seaway Development Corporation); and

(b) Is not engaged in commercial service.

[CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### § 4.03-45 Marine employer.

*Marine employer* means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

[CGD 84-099, 52 FR 47534, Dec. 14, 1987]

### § 4.03-50 Recreational vessel.

*Recreational vessel* means a vessel meeting the definition in 46 U.S.C. 2101(25) that is then being used only for pleasure.

[CGD 84-099, 52 FR 47534, Dec. 14, 1987]

### § 4.03-55 Law enforcement officer.

*Law enforcement officer* means a Coast Guard commissioned, warrant or petty officer; or any other law enforcement officer authorized to obtain a chemical test under Federal, State, or local law.

[CGD 84-099, 52 FR 47534, Dec. 14, 1987]

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### § 4.03-60 Noxious liquid substance (NLS).

*Noxious liquid substance (NLS)* means—

(a) Each substance listed in 33 CFR 151.47 or 151.49;

(b) Each substance having an “A,” “B,” “C,” or “D” beside its name in the column headed “IMO Annex II pollution category” in table 1 of part 153 of this chapter; and

(c) Each substance that is identified as an NLS in a written permission issued under § 153.900(d) of this chapter.

[USCG-2000-6927, 70 FR 74676, Dec. 16, 2005]

### § 4.03-65 Significant harm to the environment.

*Significant harm to the environment* means—

(a) In the navigable waters of the United States, a discharge of oil as set forth in 40 CFR 110.3 or a discharge of hazardous substances in quantities equal to or exceeding, in any 24-hour period, the reportable quantity determined in 40 CFR part 117;

(b) In other waters subject to the jurisdiction of the United States, including the EEZ—

(1) A discharge of oil in excess of the quantities or instantaneous rate permitted in 33 CFR 151.10 or 151.13 during operation of the ship; or

(2) A discharge of noxious liquid substances in bulk in violation of §§ 153.1126 or 153.1128 of this chapter during the operation of the ship; and

(c) In waters subject to the jurisdiction of the United States, including the EEZ, a probable discharge of oil, hazardous substances, marine pollutants, or noxious liquid substances. The factors you must consider to determine whether a discharge is probable include, but are not limited to—

(1) Ship location and proximity to land or other navigational hazards;

(2) Weather;

(3) Tide current;

(4) Sea state;

(5) Traffic density;

(6) The nature of damage to the vessel; and

(7) Failure or breakdown aboard the vessel, its machinery, or equipment.

[USCG-2000-6927, 70 FR 74676, Dec. 16, 2005]

### § 4.03-70 Tank vessel.

*Tank vessel* means a vessel that is constructed or adapted to carry, or that carries, oil, hazardous substances, marine pollutants, or noxious liquid substances, in bulk as cargo or cargo residue.

[USCG-2000-6927, 70 FR 74676, Dec. 16, 2005]

### § 4.03-75 Merchant mariner credential and credential.

The following definitions apply to this part:

*Credential* means any or all of the following:

(1) Merchant mariner’s document.

(2) Merchant mariner’s license.

(3) STCW endorsement.

(4) Certificate of registry.

(5) Merchant mariner credential.

*Merchant mariner credential or MMC* means the credential issued by the Coast Guard under 46 CFR part 10. It combines the individual merchant mariner’s document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as the mariner’s qualification document, certificate of identification, and certificate of service.

[USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

## Subpart 4.04—Notice of Potential Vessel Casualty

SOURCE: CGD 85-015, 51 FR 19341, May 29, 1986, unless otherwise noted.

### § 4.04-1 Reports of potential vessel casualty.

A vessel owner, charterer, managing operator or agent shall immediately notify either of the following Coast Guard officers if there is reason to believe a vessel is lost or imperiled.

(a) The Coast Guard district rescue coordination center (RCC) cognizant over the area the vessel was last operating in; or

(b) The Coast Guard search and rescue authority nearest to where the vessel was last operating.

Reasons for belief that a vessel is in distress include, but are not limited to,

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lack of communication with or non-appearance of the vessel.

#### § 4.04-3 Reports of lack of vessel communication.

The owner, charterer, managing operator or agent of a vessel that is required to report to the United States flag Merchant Vessel Location Filing System under the authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), shall immediately notify the Coast Guard if more than 48 hours have passed since receiving communication from the vessel. This notification shall be given to the Coast Guard district RCC cognizant over the area the vessel was last operating in.

(Information collection requirements approved by the Office of Management and Budget under control number 1625-0048)

[CGD 85-015, 51 FR 19341, May 29, 1986, as amended by USCG-2006-25697, 71 FR 55745, Sept. 25, 2006]

#### § 4.04-5 Substance of reports.

The owner, charterer, managing operator or agent, notifying the Coast Guard under § 4.04-1 or § 4.04-3, shall:

(a) Provided the name and identification number of the vessel, the names of the individuals on board, and other information that may be requested by the Coast Guard (when providing the names of the individuals on board for a passenger vessel, the list of passengers need only meet the requirements of 46 U.S.C. 3502); and

(b) Submit written confirmation of that notice to the Coast Guard facility that the notice was given to within 24 hours.

(Information collection requirements approved by the Office of Management and Budget under control number 1625-0048)

[CGD 85-015, 51 FR 19341, May 29, 1986, as amended by USCG-2006-25697, 71 FR 55745, Sept. 25, 2006]

### Subpart 4.05—Notice of Marine Casualty and Voyage Records

#### § 4.05-1 Notice of marine casualty.

(a) Immediately after the addressing of resultant safety concerns, the owner, agent, master, operator, or person in charge, shall notify the nearest

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Sector Office, Marine Inspection Office or Coast Guard Group Office whenever a vessel is involved in a marine casualty consisting in—

(1) An unintended grounding, or an unintended strike of (allison with) a bridge;

(2) An intended grounding, or an intended strike of a bridge, that creates a hazard to navigation, the environment, or the safety of a vessel, or that meets any criterion of paragraphs (a) (3) through (8);

(3) A loss of main propulsion, primary steering, or any associated component or control system that reduces the maneuverability of the vessel;

(4) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure of or damage to fixed fire-extinguishing systems, life-saving equipment, auxiliary power-generating equipment, or bilge-pumping systems;

(5) A loss of life;

(6) An injury that requires professional medical treatment (treatment beyond first aid) and, if the person is engaged or employed on board a vessel in commercial service, that renders the individual unfit to perform his or her routine duties; or

(7) An occurrence causing property-damage in excess of \$25,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

(8) An occurrence involving significant harm to the environment as defined in § 4.03-65.

(b) Notice given as required by 33 CFR 160.215 satisfies the requirement of this section if the marine casualty involves a hazardous condition as defined by 33 CFR 160.204.

(c) Except as otherwise required under this subpart, if the marine casualty exclusively involves an occurrence or occurrences described by paragraph (a)(8) of this section, a report made pursuant to 33 CFR 153.203, 40 CFR 117.21, or 40 CFR 302.6 satisfies the

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immediate notification requirement of this section.

[CGD 94-030, 59 FR 39471, Aug. 3, 1994, as amended by USCG-2000-6927, 70 FR 74676, Dec. 16, 2005; USCG-2006-25556, 72 FR 36330, July 2, 2007; USCG-2011-0618, 76 FR 60754, Sept. 30, 2011]

### § 4.05-2 Incidents involving foreign tank vessels.

(a) *Within the navigable waters of the United States, its territories, or possessions.* The marine casualty reporting and investigation criteria of this part apply to foreign tank vessels operating on the navigable waters of the United States, its territories, or possessions. A written marine casualty report must be submitted under § 4.05-10 of this chapter.

(b) *Outside the U.S. navigable waters and within the Exclusive Economic Zone (EEZ).* The owner, agent, master, operator, or person in charge of a foreign tank vessel involved in a marine casualty must report under procedures detailed in 33 CFR 151.15, immediately after addressing resultant safety concerns, whenever the marine casualty involves, or results in—

(1) Material damage affecting the seaworthiness or efficiency of the vessel; or

(2) An occurrence involving significant harm to the environment as a result of a discharge, or probable discharge, resulting from damage to the vessel or its equipment. The factors you must consider to determine whether a discharge is probable include, but are not limited to—

(i) Ship location and proximity to land or other navigational hazards;

(ii) Weather;

(iii) Tide current;

(iv) Sea state;

(v) Traffic density;

(vi) The nature of damage to the vessel; and

(vii) Failure or breakdown aboard the vessel, its machinery, or equipment.

[USCG-2000-6927, 70 FR 74676, Dec. 16, 2005]

### § 4.05-5 Substance of marine casualty notice.

The notice required in § 4.05-1 must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and

circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

[CGD 76-170, 45 FR 77441, Nov. 24, 1980]

### § 4.05-10 Written report of marine casualty.

(a) The owner, agent, master, operator, or person in charge shall, within five days, file a written report of any marine casualty required to be reported under § 4.05-1. This written report is in addition to the immediate notice required by § 4.05-1. This written report must be delivered to a Coast Guard Sector Office or Marine Inspection Office. It must be provided on Form CG-2692 (Report of Marine Accident, Injury or Death), supplemented as necessary by appended Forms CG-2692A (Barge Addendum) and CG-2692B (Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident).

(b) If filed without delay after the occurrence of the marine casualty, the report required by paragraph (a) of this section suffices as the notice required by § 4.05-1(a).

[CGD 94-030, 63 FR 19192, Apr. 17, 1998, as amended by USCG-2006-25556, 72 FR 36330, July 2, 2007]

### § 4.05-12 Alcohol or drug use by individuals directly involved in casualties.

(a) For each marine casualty required to be reported by § 4.05-10, the marine employer shall determine whether there is any evidence of alcohol or drug use by individuals directly involved in the casualty.

(b) The marine employer shall include in the written report, Form CG-2692, submitted for the casualty information which:

(1) Identifies those individuals for whom evidence of drug or alcohol use, or evidence of intoxication, has been obtained; and,

(2) Specifies the method used to obtain such evidence, such as personal observation of the individual, or by chemical testing of the individual.

(c) An entry shall be made in the official log book, if carried, pertaining to those individuals for whom evidence of

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intoxication is obtained. The individual must be informed of this entry and the entry must be witnessed by a second person.

(d) If an individual directly involved in a casualty refuses to submit to, or cooperate in, the administration of a timely chemical test, when directed by a law enforcement officer or by the marine employer, this fact shall be noted in the official log book, if carried, and in the written report (Form CG-2692), and shall be admissible as evidence in any administrative proceeding.

[CGD 84-099, 52 FR 47534, Dec. 14, 1987]

#### § 4.05-15 Voyage records, retention of.

(a) The owner, agent, master, or person in charge of any vessel involved in a marine casualty shall retain such voyage records as are maintained by the vessel, such as both rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyro records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and received, radio logs, crew and passenger lists, articles of shipment, official logs and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer or person responsible for the custody thereof, shall make these records available upon request, to a duly authorized investigating officer, administrative law judge, officer or employee of the Coast Guard.

(b) The investigating officer may substitute photostatic copies of the voyage records referred to in paragraph (a) of this section when they have served their purpose and return the original records to the owner or owners thereof.

#### § 4.05-20 Report of accident to aid to navigation.

Whenever a vessel collides with a buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, it shall be the duty of the person in charge of such vessel to report the accident to the nearest Officer in Charge, Marine Inspection. No report on Form

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CG-2692 is required unless one or more of the results listed in § 4.05-1 occur.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 88-070, 53 FR 34533, Sept. 7, 1988]

#### § 4.05-25 Reports when state of war exists.

During the period when a state of war exists between the United States and any foreign nation, communications in regard to casualties or accidents shall be handled with caution and the reports shall not be made by radio or by telegram.

#### § 4.05-30 Incidents involving hazardous materials.

When a casualty occurs involving hazardous materials, notification and a written report to the Department of Transportation may be required. See 49 CFR 171.15 and 171.16.

[CGD 76-170, 45 FR 77441, Nov. 24, 1980]

#### § 4.05-35 Incidents involving nuclear vessels.

The master of any nuclear vessel shall immediately inform the Commandant in the event of any accident or casualty to the nuclear vessel which may lead to an environmental hazard. The master shall also immediately inform the competent governmental authority of the country in whose waters the vessel may be or whose waters the vessel approaches in a damaged condition.

[CGD 84-099, 52 FR 47534, Dec. 14, 1987]

#### § 4.05-40 Alternate electronic means of reporting.

The Commandant may approve alternate electronic means of submitting notices and reports required under this subpart.

[USCG-1999-6216, 64 FR 53223, Oct. 1, 1999]

#### Subpart 4.06—Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service

SOURCE: CGD 86-067, 53 FR 47078, Nov. 21, 1988, unless otherwise noted.

**§ 4.06-1 Responsibilities of the marine employer.**

(a) At the time of occurrence of a marine casualty, a discharge of oil into the navigable waters of the United States, a discharge of a hazardous substance into the navigable waters of the United States, or a release of a hazardous substance into the environment of the United States, the marine employer shall make a timely, good faith determination as to whether the occurrence currently is, or is likely to become, a serious marine incident.

(b) When a marine employer determines that a casualty or incident is, or is likely to become, a serious marine incident, the marine employer shall take all practicable steps to have each individual engaged or employed on board the vessel who is directly involved in the incident chemically tested for evidence of drug and alcohol use as required in this part.

(c) The marine employer determines which individuals are directly involved in a serious marine incident (SMI). A law enforcement officer may determine that additional individuals are directly involved in the SMI. In these cases, the marine employer must take all practical steps to have these additional individuals tested according to this part.

(d) The requirements of this subpart do not prevent personnel who are required to be tested from performing duties in the aftermath of an SMI when their performance is necessary to respond to safety concerns directly related to the incident.

(e) The marine employer shall ensure that all individuals engaged or employed on board a vessel are fully indoctrinated in the requirements of this subpart, and that appropriate vessel personnel are trained as necessary in the practical applications of these requirements.

[CGD 86-067, 53 FR 47078, Nov. 21, 1988, as amended by USCG-2000-7759, 66 FR 42967, Aug. 16, 2001; USCG-2001-8773, 70 FR 75960, Dec. 22, 2005]

**§ 4.06-3 Requirements for alcohol and drug testing following a serious marine incident.**

When a marine employer determines that a casualty or incident is, or is likely to become, an SMI, the marine

employer must ensure that the following alcohol and drug testing is conducted:

(a) *Alcohol testing.* (1) Alcohol testing must be conducted on each individual engaged or employed on board the vessel who is directly involved in the SMI.

(i) The alcohol testing of each individual must be conducted within 2 hours of when the SMI occurred, unless precluded by safety concerns directly related to the incident.

(ii) If safety concerns directly related to the SMI prevent the alcohol testing from being conducted within 2 hours of the occurrence of the incident, then alcohol testing must be completed as soon as the safety concerns are addressed.

(iii) Alcohol testing is not required to be conducted more than 8 hours after the occurrence of the SMI.

(2) Alcohol-testing devices must be used according to the procedures specified by the manufacturer of the testing device and by this part.

(3) If the alcohol testing required in paragraphs (a)(1)(i) and (a)(1)(ii) of this section is not conducted, the marine employer must document on form CG-2692B the reason why the testing was not conducted.

(4) The marine employer may use alcohol-testing results from tests conducted by Coast Guard or local law enforcement personnel to satisfy the alcohol testing requirements of this part only if the alcohol testing meets all of the requirements of this part.

(b) *Drug testing.* (1) Drug testing must be conducted on each individual engaged or employed on board the vessel who is directly involved in the SMI.

(i) The collection of drug-test specimens of each individual must be conducted within 32 hours of when the SMI occurred, unless precluded by safety concerns directly related to the incident.

(ii) If safety concerns directly related to the SMI prevent the collection of drug-test specimens from being conducted within 32 hours of the occurrence of the incident, then the collection of drug-test specimens must be conducted as soon as the safety concerns are addressed.

(2) If the drug-test specimens required in paragraphs (b)(1)(i) and

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(b)(1)(ii) of this section were not collected, the marine employer must document on form CG-2692B the reason why the specimens were not collected.

[USCG-2001-8773, 70 FR 75960, Dec. 22, 2005]

#### § 4.06-5 Responsibility of individuals directly involved in serious marine incidents.

(a) Any individual engaged or employed on board a vessel who is determined to be directly involved in an SMI must provide a blood, breath, saliva, or urine specimen for chemical testing when directed to do so by the marine employer or a law enforcement officer.

(b) If the individual refuses to provide a blood, breath, saliva, or urine specimen, this refusal must be noted on form CG-2692B and in the vessel's official log book, if a log book is required. The marine employer must remove the individual as soon as practical from duties that directly affect the safe operation of the vessel.

(c) Individuals subject to alcohol testing after an SMI are prohibited from consuming alcohol beverages for 8 hours following the occurrence of the SMI or until after the alcohol testing required by this part is completed.

(d) No individual may be compelled to provide specimens for alcohol and drug testing required by this part. However, refusal to provide specimens is a violation of this subpart and may subject the individual to suspension and revocation proceedings under part 5 of this chapter, a civil penalty, or both.

[USCG-2001-8773, 70 FR 75961, Dec. 22, 2005]

#### § 4.06-15 Accessibility of chemical testing devices.

(a) *Alcohol testing.* (1) The marine employer must have a sufficient number of alcohol testing devices readily accessible on board the vessel to determine the presence of alcohol in the system of each individual who was directly involved in the SMI.

(2) All alcohol testing devices used to meet the requirements of this part must be currently listed on either the Conforming Products List (CPL) titled "Modal Specifications for Devices To Measure Breath Alcohol" or "Con-

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forming Products List of Screening Devices To Measure Alcohol in Bodily Fluids," which are published periodically in the FEDERAL REGISTER by National Highway Traffic Safety Administration (NHTSA).

(3) The alcohol testing devices need not be carried on board each vessel if obtaining the devices and conducting the required alcohol tests can be accomplished within 2 hours from the time of occurrence of the SMI.

(b) *Drug testing.* (1) The marine employer must have a sufficient number of urine-specimen collection and shipping kits meeting the requirements of 49 CFR part 40 that are readily accessible for use following SMIs.

(2) The specimen collection and shipping kits need not be carried on board each vessel if obtaining the kits and collecting the specimen can be completed within 32 hours from the time of the occurrence of the SMI.

[USCG-2001-8773, 70 FR 75961, Dec. 22, 2005]

#### § 4.06-20 Specimen collection requirements.

(a) *Alcohol testing.* (1) When conducting alcohol testing required in § 4.06-3(a), an individual determined under this part to be directly involved in the SMI must provide a specimen of their breath, blood, or saliva to the marine employer as required in this subpart.

(2) Collection of an individual's blood to comply with § 4.06-3(a) must be taken only by qualified medical personnel.

(3) Collection of an individual's saliva or breath to comply with § 4.06-3(a) must be taken only by personnel trained to operate the alcohol-testing device in use and must be conducted according to this subpart.

(b) *Drug testing.* (1) When conducting drug testing required in § 4.06-3(b), an individual determined under this part to be directly involved in the SMI must provide a specimen of their urine according to 46 CFR part 16 and 49 CFR part 40.

(2) Specimen collection and shipping kits used to conduct drug testing must be used according to 49 CFR part 40.

[USCG-2001-8773, 70 FR 75961, Dec. 22, 2005]

**§ 4.06-30 Specimen collection in incidents involving fatalities.**

(a) When an individual engaged or employed on board a vessel dies as a result of a serious marine incident, blood and urine specimens must be obtained from the remains of the individual for chemical testing, if practicable to do so. The marine employer shall notify the appropriate local authority, such as the coroner or medical examiner, as soon as possible, of the fatality and of the requirements of this subpart. The marine employer shall provide the specimen collection and shipping kit and request that the local authority assist in obtaining the necessary specimens. When the custodian of the remains is a person other than the local authority, the marine employer shall request the custodian to cooperate in obtaining the specimens required under this part.

(b) If the local authority or custodian of the remains declines to cooperate in obtaining the necessary specimens, the marine employer shall provide an explanation of the circumstances on Form CG-2692B (Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident).

**§ 4.06-40 Specimen handling and shipping.**

(a) The marine employer shall ensure that blood specimens collected in accordance with §§ 4.06-20 and 4.06-30 are promptly shipped to a testing laboratory qualified to conduct tests on such specimens. A proper chain of custody must be maintained for each specimen from the time of collection through the authorized disposition of the specimen. Blood specimens must be shipped to the laboratory in a cooled condition by any means adequate to ensure delivery within twenty-four (24) hours of receipt by the carrier.

(b) The marine employer shall ensure that the urine specimen collection procedures of § 16.113 of this chapter and the chain of custody requirements of 49 CFR part 40, subpart D, are complied with. The marine employer shall ensure that urine specimens required by §§ 4.06-20 and 4.06-30 are promptly shipped to a laboratory complying with the requirements of 49 CFR part 40. Urine specimens must be shipped by an

expeditious means, but need not be shipped in a cooled condition for overnight delivery.

[CGD 86-067, 53 FR 47078, Nov. 21, 1988, as amended by USCG-2000-7759, 66 FR 42967, Aug. 16, 2001]

**§ 4.06-50 Specimen analysis and follow-up procedures.**

(a) Each laboratory will provide prompt analysis of specimens collected under this subpart, consistent with the need to develop all relevant information and to produce a complete analysis report.

(b) Reports shall be sent to the Medical Review Officer meeting the requirements of 49 CFR 40.121, as designated by the marine employer submitting the specimen for testing. Wherever a urinalysis report indicates the presence of a dangerous drug or drug metabolite, the Medical Review Officer shall review the report as required by 49 CFR part 40, subpart G, and submit his or her findings to the marine employer. Blood test reports indicating the presence of alcohol shall be similarly reviewed to determine if there is a legitimate medical explanation.

(c) Analysis results which indicate the presence of alcohol, dangerous drugs, or drug metabolites shall not be construed by themselves as constituting a finding that use of drugs or alcohol was the probable cause of a serious marine incident.

[CGD 86-067, 53 FR 47078, Nov. 21, 1988, as amended by CGD 90-053, 58 FR 31107, May 28, 1993; USCG-2000-7759, 66 FR 42967, Aug. 16, 2001]

**§ 4.06-60 Submission of reports and test results.**

(a) Whenever an individual engaged or employed on a vessel is identified as being directly involved in a serious marine incident, the marine employer shall complete Form CG-2692B (Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident).

(b) When the serious marine incident requires the submission of Form CG-2692 (Report of Marine Casualty, Injury or Death) to the Coast Guard in accordance with § 4.05-10, the report required

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by paragraph (a) of this section shall be appended to Form CG-2692.

(c) In incidents involving discharges of oil or hazardous substances as described in § 4.03-2 (b) and (c) of this part, when Form CG-2692 is not required to be submitted, the report required by paragraph (a) of this section shall be submitted to the Coast Guard Officer in Charge, Marine Inspection, having jurisdiction over the location where the discharge occurred or nearest the port of first arrival following the discharge.

(d) Upon receipt of the report of chemical test results, the marine employer shall submit a copy of the test results for each person listed on the CG-2692B to the Coast Guard Officer in Charge, Marine Inspection to whom the CG-2692B was submitted.

(e) The Commandant may approve alternate electronic means of submitting reports and test results as required under paragraphs (a) through (d) of this section.

[CGD 86-067, 53 FR 47078, Nov. 21, 1988, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-1999-6216, 64 FR 53223, Oct. 1, 1999]

## § 4.06-70 Penalties.

Violation of this part is subject to the civil penalties set forth in 46 U.S.C. 2115.

[USCG-2001-8773, 70 FR 75961, Dec. 22, 2005]

## Subpart 4.07—Investigations

### § 4.07-1 Commandant or District Commander to order investigation.

(a) The Commandant or District Commander upon receipt of information of a marine casualty or accident, will immediately cause such investigation as may be necessary in accordance with the regulations in this part.

(b) The investigations of marine casualties and accidents and the determinations made are for the purpose of taking appropriate measures for promoting safety of life and property at sea, and are not intended to fix civil or criminal responsibility.

(c) The investigation will determine as closely as possible:

- (1) The cause of the accident;
- (2) Whether there is evidence that any failure of material (either physical

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or design) was involved or contributed to the casualty, so that proper recommendations for the prevention of the recurrence of similar casualties may be made;

(3) Whether there is evidence that any act of misconduct, inattention to duty, negligence or willful violation of the law on the part of any person holding a Coast Guard credential contributed to the casualty, so that appropriate proceedings against the credential of such person may be recommended and taken under 46 U.S.C. 6301;

(4) Whether there is evidence that any Coast Guard personnel or any representative or employee of any other government agency or any other person caused or contributed to the cause of the casualty; or,

(5) Whether the accident shall be further investigated by a Marine Board of Investigation in accordance with regulations in subpart 4.09.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

### § 4.07-5 Investigating officers, powers of.

(a) An investigating officer investigates each marine casualty or accident reported under §§ 4.05-1 and 4.05-10.

(b) Such investigating officer shall have the power to administer oaths, subpoena witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires and require the production of relevant books, papers, documents and other records.

(c) Attendance of witnesses or the production of books, papers, documents or any other evidence shall be compelled by a similar process as in the United States District Court.

[CGFR 65-50, 30 FR 17099, Dec. 30, 1965, as amended by CGD-104R, 37 FR 14234, July 18, 1972]

### § 4.07-7 Opening statement.

The investigating officer or the Chairman of a Marine Board of Investigation shall open the investigation by announcing the statutory authority for the proceeding and he shall advise parties in interest concerning their

rights to be represented by counsel, to examine and cross-examine witnesses, and to call witnesses in their own behalf.

**§ 4.07-10 Report of investigation.**

(a) At the conclusion of the investigation the investigating officer shall submit to the Commandant via the Officer in Charge, Marine Inspection, and the District Commander, a full and complete report of the facts as determined by his investigation, together with his opinions and recommendations in the premises. The Officer in Charge, Marine Inspection, and the District Commander shall forward the investigating officer's report to the Commandant with an endorsement stating:

- (1) Approval or otherwise of the findings of fact, conclusions and recommendations;
- (2) Any action taken with respect to the recommendations;
- (3) Whether or not any action has been or will be taken under part 5 of this subchapter to suspend or revoke credentials; and,
- (4) Whether or not violations of laws or regulations relating to vessels have been reported on Form CG-2636, report of violation of navigation laws.

(b) At the conclusion of the investigation, the investigating officer shall submit the report described in paragraph (a) of this section, to the Commandant via the Merchant Marine Detail Officer or the Officer in Charge, Marine Inspection, and the Commander, Coast Guard MIO Europe for a European port or Commander, Fourteenth Coast Guard for an Asian or Pacific port. The Merchant Marine Detail Officer or the Officer in Charge, Marine Inspection, and Commander, Coast Guard MIO Europe or Commander, Fourteenth Coast Guard District shall forward the investigating officer's report to the Commandant with the endorsement described in paragraphs (a) (1) through (4) of this section.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 75-196, 41 FR 18655, May 6, 1976; CGD 97-057, 62 FR 51042, Sept. 30, 1997; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

**§ 4.07-15 Recommendations, action on.**

Where the recommendations of an investigating officer are such that their accomplishment is within the authority of the District Commander or any of the personnel under his command, immediate steps shall be taken to put them into effect and his forwarding endorsement shall so indicate.

**§ 4.07-20 Transfer of jurisdiction.**

When it appears to the District Commander that it is more advantageous to conduct an investigation in a district other than in the district where the casualty was first reported, that officer shall transfer the case to the other district together with any information or material relative to the casualty he may have.

**§ 4.07-25 Testimony of witnesses in other districts, depositions.**

When witnesses are available in a district other than the district in which the investigation is being made, testimony or statements shall be taken from witnesses in the other districts by an investigating officer and promptly transmitted to the investigating officer conducting the investigation. Depositions may be taken in the manner prescribed by regulations in subpart 4.12.

**§ 4.07-30 Testimony of witnesses under oath.**

(a) Witnesses to marine casualties or accidents appearing before an investigating officer may be placed under oath and their testimony may be reduced to writing.

(b) Written statements and reports submitted as evidence by witnesses shall be sworn to before an officer authorized to administer oaths and such statements and/or reports shall be signed.

**§ 4.07-35 Counsel for witnesses and parties in interest.**

(a) All parties in interest shall be allowed to be represented by counsel, to examine and cross-examine witnesses and to call witnesses in their own behalf.

(b) Witnesses who are not parties in interest may be assisted by counsel for the purpose of advising such witnesses

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concerning their rights; however, such counsel will not be permitted to examine or cross-examine other witnesses or otherwise participate in the investigation.

#### **§ 4.07-45 Foreign units of Coast Guard, investigation by.**

Investigations of marine casualties conducted by foreign units of the Coast Guard shall be in accordance with the regulations in this part and all actions taken in connection with the investigations of such marine casualties entered in the official log(s) of the vessel(s) concerned.

#### **§ 4.07-55 Information to be furnished Marine Board of Investigation.**

When a Marine Board of Investigation is convened in accordance with § 4.09-1, the investigating officer shall immediately furnish the board with all testimony, statements, reports, documents, papers, a list of witnesses including those whom he has examined, other material which he may have gathered, and a statement of any findings of fact which he may have determined. The preliminary investigation shall cease forthwith and the aforementioned material shall become a part of the Marine Board of Investigation's record.

### **Subpart 4.09—Marine Board of Investigation**

#### **§ 4.09-1 Commandant to designate.**

If it appears that it would tend to promote safety of life and property at sea or would be in the public interest, the Commandant may designate a Marine Board of Investigation to conduct an investigation.

[CGD 76-170, 45 FR 77441, Nov. 24, 1980]

#### **§ 4.09-5 Powers of Marine Board of Investigation.**

Any Marine Board of Investigation so designated shall have the power to administer oaths, summon witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires, and to require the production of relevant books, papers, documents or any other evidence. Attendance of witnesses or the produc-

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tion of books, papers, documents or any other evidence shall be compelled by a similar process as in the United States District Court. The chairman shall administer all necessary oaths to any witnesses summoned before said Board.

#### **§ 4.09-10 Witnesses, payment of.**

Any witness subpoenaed under § 4.09-5 shall be paid such fees for his travel and attendance as shall be certified by the chairman of a Marine Board of Investigation or an investigating officer, in accordance with § 4.11-10.

#### **§ 4.09-15 Time and place of investigation, notice of; rights of witnesses, etc.**

Reasonable notice of the time and place of the investigation shall be given to any person whose conduct is or may be under investigation and to any other party in interest. All parties in interest shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses in their own behalf.

#### **§ 4.09-17 Sessions to be public.**

(a) All sessions of a Marine Board of Investigation for the purpose of obtaining evidence shall normally be open to the public, subject to the provision that the conduct of any person present shall not be allowed to interfere with the proper and orderly functioning of the Board. Sessions will not be open to the public when evidence of a classified nature or affecting national security is to be received.

#### **§ 4.09-20 Record of proceedings.**

The testimony of witnesses shall be transcribed and a complete record of the proceedings of a Marine Board of Investigation shall be kept. At the conclusion of the investigation a written report shall be made containing findings of fact, opinions, and recommendations to the Commandant for his consideration.

#### **§ 4.09-25 U.S. Attorney to be notified.**

The recorder of a Marine Board of Investigation shall notify the United States Attorney for the District in which the Marine Board of Investigation is being conducted of the nature of

the casualty under investigation and time and place the investigation will be made.

**§ 4.09-30 Action on report.**

Upon approval of the report of a Marine Board of Investigation the Commandant will require to be placed into effect such recommendations as he may deem necessary for the better improvement and safety of life and property at sea.

**§ 4.09-35 Preferment of charges.**

(a) If in the course of an investigation by a Marine Board there appears probable cause for the preferment of charges against any licensed or certificated personnel, the Marine Board shall, either during or immediately following the investigation and before the witnesses have dispersed, apprise the District Commander of such evidence for possible action in accordance with part 5 of this subchapter, without waiting for the approval of the report by the Commandant. Such action or proceedings shall be independent and apart from any other action which may be later ordered by the Commandant or taken by other authorities.

**Subpart 4.11—Witnesses and Witness Fees**

**§ 4.11-1 Employees of vessels controlled by Army or Navy as witnesses.**

No officer, seaman, or other employee of any public vessel controlled by the Army or Navy (not including the Coast Guard) of the United States, shall be summoned or otherwise required to appear as a witness in connection with any investigation or other proceeding without the consent of the Government agency concerned.

**§ 4.11-5 Coercion of witnesses.**

Any attempt to coerce any witness or to induce him to testify falsely in connection with a shipping casualty, or to induce any witness to leave the jurisdiction of the United States, is punishable by a fine of \$5,000.00 or imprisonment for one year, or both such fine and imprisonment.

**§ 4.11-10 Witness fees and allowances.**

Witness fees and allowances are paid in accordance with 46 CFR 5.401.

[CGD 79-080, 45 FR 2046, Jan. 10, 1980, as amended by CGD 96-041, 61 FR 50726, Sept. 27, 1996]

**Subpart 4.12—Testimony by Interrogatories and Depositions**

**§ 4.12-1 Application, procedure, and admissibility.**

(a) Witnesses shall be examined orally, except that for good cause shown, testimony may be taken by deposition upon application of any party in interest or upon the initiative of the investigating officer or Marine Board of Investigation.

(b) Applications to take depositions shall be in writing setting forth the reasons why such deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Such application shall be made to an investigating officer or the Marine Board of Investigation prior to or during the course of the proceedings.

(c) The investigating officer or Marine Board of Investigation, shall, upon receipt of the application, if good cause is shown, make and serve upon the parties an order which will specify the name of the witness whose deposition is to be taken, the name and place of the taking of such deposition and shall contain a designation of the officer before whom the witness is to testify. Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States.

(d) The party desiring the deposition may submit a list of interrogatories to be propounded to the absent witness; then the opposite party after he has been allowed a reasonable time for this purpose, may submit a list of cross-interrogatories. If either party objects to any question of the adversary party, the matter shall be presented to the investigating officer or Marine Board of Investigation for a ruling. Upon agreement of the parties on a list of interrogatories and cross-interrogatories (if

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any) the investigating officer or Marine Board of Investigation may propound such additional questions as may be necessary to clarify the testimony given by the witness.

(e) The subpoena referred to in subpart F of this subchapter together with the list of interrogatories and cross-interrogatories (if any) shall be forwarded to the officer designated to take such deposition. This officer will cause the subpoena to be served personally on the witness. After service the subpoena shall be endorsed and returned to the investigating officer or Marine Board of Investigation.

(f) When the deposition has been duly executed it shall be returned to the investigating officer or Marine Board of Investigation. As soon as practicable after the receipt of the deposition the investigating officer or Marine Board of Investigation shall present it to the parties for their examination. The investigating officer or Marine Board of Investigation shall rule on the admissibility of the deposition or any part thereof and of any objection offered by either party thereto.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 96-041, 61 FR 50726, Sept. 27, 1996]

### Subpart 4.13—Availability of Records

#### § 4.13-1 Public availability of records.

Coast Guard records are made available to the public in accordance with 49 CFR part 7.

[CGD 73-43R, 40 FR 13501, Mar. 27, 1975]

### Subpart 4.19—Construction of Regulations and Rules of Evidence

#### § 4.19-1 Construction of regulations.

The regulations in this part shall be liberally construed to insure just, speedy, and inexpensive determination of the issues presented.

#### § 4.19-5 Adherence to rules of evidence.

As hearings under this part are administrative in character, strict adherence to the formal rules of evidence is not imperative. However, in the interest of orderly presentation of the facts

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of a case, the rules of evidence should be observed as closely as possible.

### Subpart 4.21—Computation of Time

#### § 4.21-1 Computation of time.

The time, within which any act, provided by the regulation in this subchapter, or an order of the Marine Board of Investigation is to be done, shall be computed by excluding the first day and including the last unless the last day is Sunday or a legal holiday, in which case the time shall extend to and include the next succeeding day that is not a Sunday or legal holiday: *Provided, however,* That where the time fixed by the regulations in this subchapter or an order of the Board is five days or less all intervening Sundays or legal holidays, other than Saturdays, shall be excluded.

### Subpart 4.23—Evidence of Criminal Liability

#### § 4.23-1 Evidence of criminal liability.

If, as a result of any investigation or other proceeding conducted hereunder, evidence of criminal liability on the part of any licensed officer or certificated person or any other person is found, such evidence shall be referred to the U.S. Attorney General.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

SOURCE: CGD 76-149, 42 FR 61200, Dec. 1, 1977, unless otherwise noted.

#### § 4.40-1 Purpose.

This subpart prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of marine casualties.

[CGD 82-034, 47 FR 45882, Oct. 14, 1982]

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### § 4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.

(a) The Coast Guard's responsibility to investigate marine casualties is not eliminated nor diminished by the regulations in this subpart.

(b) In those instances where the National Transportation Safety Board conducts an investigation in which the Coast Guard also has responsibility under 46 U.S.C. Chapter 63, the proceedings are conducted independently but so as to avoid duplication as much as possible.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### § 4.40-5 Definitions.

As used in this subpart:

(a) *Act* means title III of Public Law 93-633, the Independent Safety Board Act of 1974, (49 U.S.C. 1131).

(b) *Board* means the National Transportation Safety Board.

(c) *Chairman* means the Chairman of the National Transportation Safety Board.

(d) *Major marine casualty* means a casualty involving a vessel, other than a public vessel, that results in:

(1) The loss of six or more lives;

(2) The loss of a mechanically propelled vessel of 100 or more gross tons;

(3) Property damage initially estimated at \$500,000 or more; or

(4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(e) *Public vessel* means a vessel owned by the United States, except a vessel to which the Act of October 25, 1919, c.82, (41 Stat. 305, 46 U.S.C. 363) applies.

(f) *Vessel of the United States* means a vessel:

(1) Documented or required to be documented under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### § 4.40-10 Preliminary investigation by the Coast Guard.

(a) The Coast Guard conducts the preliminary investigation of marine casualties.

(b) The Commandant determines from the preliminary investigation whether:

(1) The casualty is a major marine casualty; or

(2) The casualty involves a public and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(3) The casualty involves a Coast Guard and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(4) The casualty is a major marine casualty which involves significant safety issues relating to Coast Guard safety functions, e.g., search and rescue, aids to navigation, vessel traffic systems, commercial vessel safety, etc.

(c) The Commandant notifies the Board of a casualty described in paragraph (b) of this section.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 82-034, 47 FR 45882, Oct. 14, 1982]

### § 4.40-15 Marine casualty investigation by the Board.

(a) The Board may conduct an investigation under the Act of any major marine casualty or any casualty involving public and non-public vessels. Where the Board determines it will convene a hearing in connection with such an investigation, the Board's rules of practice for transportation accident hearings in 49 CFR part 845 shall apply.

(b) The Board shall conduct an investigation under the Act when:

(1) The casualty involves a Coast Guard and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(2) The Commandant and the Board agree that the Board shall conduct the investigation, and the casualty involves a public and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(3) The Commandant and the Board agree that the Board shall conduct the investigation, and the casualty is a major marine casualty which involves

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significant safety issues relating to Coast Guard safety functions.

[CGD 82-034, 47 FR 45882, Oct. 14, 1982]

#### § 4.40-20 Cause or probable cause determinations from Board investigation.

After an investigation conducted by the Board under § 4.40-15, the Board determines cause or probable cause and issues a report of that determination.

#### § 4.40-25 Coast Guard marine casualty investigation for the Board.

(a) If the Board does not conduct an investigation under § 4.40-15 (a), (b) (2) or (3), the Coast Guard, at the request of the Board, may conduct an investigation under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board will request the Coast Guard to conduct an investigation under paragraph (a) of this section within 48 hours of receiving notice under § 4.40-10(c).

(c) The Coast Guard will advise the Board within 24 hours of receipt of a request under paragraph (b) of this section whether the Coast Guard will conduct an investigation under the Act.

[CGD 82-034, 47 FR 45882, Oct. 14, 1982]

#### § 4.40-30 Procedures for Coast Guard investigation.

(a) The Coast Guard conducts an investigation under § 4.40-25 using the procedures in 46 CFR 4.01-1 through 4.23-1.

(b) The Board may designate a person or persons to participate in every phase of an investigation, including an on scene investigation, that is conducted under the provisions of subpart 4.40-25 of this part.

(c) Consistent with Coast Guard responsibility to direct the course of the investigation, the person or persons designated by the Board under paragraph (b) of this section may:

(1) Make recommendations about the scope of the investigations.

(2) Call and examine witnesses.

(3) Submit or request additional evidence.

(d) The Commandant provides a record of the proceedings to the Board of an investigation of a major marine

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casualty under paragraph (a) of this section.

(e) The Board, under the Act, makes its determination of the facts, conditions, circumstances, and the cause or probable cause of a major marine casualty using the record of the proceedings provided by the Commandant under paragraph (d) of this section, and any additional evidence the Board may acquire under its own authority.

(f) An investigation by the Coast Guard under this section is both an investigation under the Act and under 46 U.S.C. Chapter 63.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

#### § 4.40-35 Records of the Coast Guard and the Board.

(a) Records of the Coast Guard made under § 4.40-30 are available to the public under 49 CFR part 7.

(b) Records of the Board made under §§ 4.40-20 and 4.40-30 are available to the public under 49 CFR part 801.

### PART 5—MARINE INVESTIGATION REGULATIONS—PERSONNEL ACTION

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AUTHORITY: 46 U.S.C. 2103, 7101, 7301, 7701; Department of Homeland Security Delegation No. 0170.1.

SOURCE: CGD 82-002, 50 FR 32184, Aug. 9, 1985, unless otherwise noted.

## Subpart A—Purpose

### § 5.3 Purpose of regulations.

The regulations in this part establish policies for administrative actions against mariners' credentials or endorsements issued by the Coast Guard.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-1998-3472, 64 FR 28075, May 24, 1999; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

### § 5.5 Purpose of administrative actions.

The administrative actions against a license, certificate, merchant mariner credential, endorsement, or document are remedial and not penal in nature. These actions are intended to help maintain standards for competence and conduct essential to the promotion of safety at sea.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

## Subpart B—Definitions

### § 5.11 Officer in Charge, Marine Inspection.

*Officer in Charge, Marine Inspection (OCMI)* for the purposes of part 5

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means the officer or individual so designated at one of the Regional Examination Centers, or any person so designated by the Commandant.

[USCG-2006-25535, 71 FR 48482, Aug. 21, 2006]

### § 5.15 Investigating Officer.

An *investigating officer* is a Coast Guard official designated by the Commandant, a District Commander, or the Officer in Charge, Marine Inspection, for the purpose of conducting investigations of marine casualties or matters pertaining to the conduct of persons applying for or holding merchant mariner's documents, licenses, certificates or credentials issued by the Coast Guard. An Officer in Charge, Marine Inspection is an investigating officer without further designation.

[USCG-2006-25535, 71 FR 48482, Aug. 21, 2006]

### § 5.19 Administrative Law Judge.

(a) An *Administrative Law Judge* shall mean any person designated by the Commandant pursuant to the Administrative Procedure Act (5 U.S.C. 556(b)) for the purpose of conducting hearings arising under 46 U.S.C. 7703 or 7704.

(b) The Commandant has delegated to Administrative Law Judges the authority to admonish, suspend, with or without probation, or revoke a credential or endorsement issued to a person by the Coast Guard under any navigation or shipping law.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58341, Sept. 30, 2004; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

### § 5.27 Misconduct.

*Misconduct* is human behavior which violates some formal, duly established rule. Such rules are found in, among other places, statutes, regulations, the common law, the general maritime law, a ship's regulation or order, or shipping articles and similar sources. It is an act which is forbidden or a failure to do that which is required.

### § 5.29 Negligence.

*Negligence* is the commission of an act which a reasonable and prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act

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which a reasonable and prudent person of the same station, under the same circumstances, would not fail to perform.

### § 5.31 Incompetence.

*Incompetence* is the inability on the part of a person to perform required duties, whether due to professional deficiencies, physical disability, mental incapacity, or any combination thereof.

### § 5.33 Violation of law or regulation.

Where the proceeding is based exclusively on that part of title 46 U.S.C. section 7703, which provides as a basis for suspension or revocation, a violation or failure to comply with 46 U.S.C. subtitle II, a regulation prescribed under that subtitle, or any other law or regulation intended to promote marine safety or protect navigable waters, the complaint must state the specific statute or regulation by title and section number, and the particular manner in which it was allegedly violated.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-1998-3472, 64 FR 28075, May 24, 1999; USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

### § 5.35 Conviction for a dangerous drug law violation, use of, or addiction to the use of dangerous drugs.

Where the proceeding is based exclusively on the provisions of title 46, U.S.C. 7704, the complaint will allege *conviction for a dangerous drug law violation* or *use of dangerous drugs* or *addiction to the use of dangerous drugs*, depending upon the circumstances and will allege jurisdiction by stating the elements as required by title 46, U.S.C. 7704, and the approximate time and place of the offense.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-1998-3472, 64 FR 28075, May 24, 1999]

### § 5.40 Credential and merchant mariner credential.

*Credential* means any or all of the following:

- (1) Merchant mariner's document.
- (2) Merchant mariner's license.
- (3) STCW endorsement.
- (4) Certificate of registry.
- (5) Merchant mariner credential.

*Merchant mariner credential or MMC* means the credential issued by the Coast Guard under 46 CFR part 10. It combines the individual merchant mariner's document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as the mariner's qualification document, certificate of identification, and certificate of service.

[USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

### Subpart C—Statement of Policy and Interpretation

#### § 5.51 Construction of regulations.

The regulations in this part shall be construed so as to obtain a just, speedy, and economical determination of the issues presented.

#### § 5.55 Time limitations for service of a complaint.

(a) The time limitations for service of a complaint upon the holder of a credential are as follows:

(1) When based exclusively on 46 U.S.C. 7704, service shall be within 10 years after the date of conviction, or at anytime if the person charged is a user of or addicted to the use of a dangerous drug.

(2) For one of the misconduct offenses specified in § 5.59(a) or § 5.61(a), service shall be within five years after commission of the offense alleged therein.

(3) For an act or offense not otherwise provided for, the service shall be within three years after the commission of the act or offense alleged therein.

(b) When computing the period of time specified in paragraphs (a) (2) and (3) of this section there shall be excluded any period or periods of time when the respondent could not attend a hearing or be served charges by reason of being outside of the United States or by reason of being in prison or hospitalized.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-1998-3472, 64 FR 28075, May 24, 1999; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

#### § 5.57 Acting under authority of Coast Guard credential or endorsement.

(a) A person employed in the service of a vessel is considered to be acting under the authority of a credential or endorsement when the holding of such credential or endorsement is:

- (1) Required by law or regulation; or
- (2) Required by an employer as a condition for employment.

(b) A person is considered to be acting under the authority of the credential or endorsement while engaged in official matters regarding the credential or endorsement. This includes, but is not limited to, such acts as applying for renewal, taking examinations for raises of grade, requesting duplicate or replacement credentials, or when appearing at a hearing under this part.

(c) A person does not cease to act under the authority of a credential or endorsement while on authorized or unauthorized shore leave from the vessel.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11214, Mar. 16, 2009]

#### § 5.59 Offenses for which revocation of credentials or endorsements is mandatory.

An Administrative Law Judge enters an order revoking a respondent's credential or endorsement when—

(a) A charge of misconduct for wrongful possession, use, sale, or association with dangerous drugs is found proved. In those cases involving marijuana, the Administrative Law Judge may enter an order less than revocation when satisfied that the use, possession or association, was the result of experimentation by the respondent and that the respondent has submitted satisfactory evidence that he or she is cured of such use and that the possession or association will not recur.

(b) The respondent has been a user of, or addicted to the use of, a dangerous drug, or has been convicted for a violation of the dangerous drug laws, whether or not further court action is pending, and such charge is found proved. A conviction becomes final when no issue

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of law or fact determinative of the respondent's guilt remains to be decided.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### § 5.61 Acts or offenses for which revocation of credentials is sought.

(a) An investigating officer seeks revocation of a respondent's credential or endorsements when one of the following acts or offenses is found proved:

- (1) Assault with a dangerous weapon.
- (2) Misconduct resulting in loss of life or serious injury.
- (3) Rape or sexual molestation.
- (4) Murder or attempted murder.
- (5) Mutiny.
- (6) Perversion.
- (7) Sabotage.
- (8) Smuggling of aliens.
- (9) Incompetence.
- (10) Interference with master, ship's officers, or government officials in performance of official duties.

(11) Wrongful destruction of ship's property.

(b) An investigating officer may seek revocation of a respondent's credential or endorsements when the circumstances of an act or offense found proved or consideration of the respondent's prior record indicates that permitting such person to serve under the credential or endorsements would be clearly a threat to the safety of life or property, or detrimental to good discipline.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### § 5.65 Commandant's decisions in appeal or review cases.

The decisions of the Commandant in cases of appeal or review of decisions of Administrative Law Judges are officially noticed and the principles and policies enunciated therein are binding upon all Administrative Law Judges, unless they are modified or rejected by competent authority.

### § 5.67 Physician-patient privilege.

For the purpose of these proceedings, the physician-patient privilege does not exist between a physician and a respondent.

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### § 5.69 Evidence of criminal liability.

Evidence of criminal liability discovered during an investigation or hearing conducted pursuant to this part will be referred to the Attorney General's local representative or other appropriate law enforcement authority having jurisdiction over the matter.

### § 5.71 Maritime labor disputes.

Under no circumstances will the Coast Guard exercise its authority for the purpose of favoring any party to a maritime labor controversy. However, if the situation affecting the safety of the vessel or persons on board is presented, the matter shall be thoroughly investigated and when a violation of existing statutes or regulations is indicated, appropriate action will be taken.

## Subpart D—Investigations

### § 5.101 Conduct of investigations.

(a) Investigations may be initiated in any case in which it appears that there are reasonable grounds to believe that the holder of a credential or endorsement issued by the Coast Guard may have:

(1) Committed an act of incompetency, misconduct, or negligence while acting under the authority of a credential or endorsement;

(2) Violated or failed to comply with subtitle II of title 46, U.S.C., a regulation prescribed under this subtitle, or any other law or regulations intended to promote marine safety or to protect the navigable waters, while acting under the authority of a credential or endorsement;

(3) Been convicted of a dangerous drug law violation, or has been a user of, or addicted to the use of, a dangerous drug, so as to be subject to the provisions of 46 U.S.C. 7704.

(b) In order to promote full disclosure and facilitate determinations as to the cause of marine casualties, no admission made by a person during an investigation under this part or part 4 of this title may be used against that person in a proceeding under this part, except for impeachment.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

## Coast Guard, DHS

## § 5.201

### § 5.103 Powers of investigating officer.

During an investigation, the investigating officer may administer oaths, issue subpoenas in accordance with subpart F of this title, and require persons having knowledge of the subject matter of the investigation to answer questions.

### § 5.105 Course of action available.

During an investigation, the investigating officer may take appropriate action as follows:

- (a) Issue complaint.
- (b) Accept voluntary surrender of a credential or endorsement.
- (c) Accept voluntary deposit of a credential or endorsement.
- (d) Refer the case to others for further action. The investigating officer may refer the case to the Commandant or to an Officer in Charge, Marine Inspection, at any port for completion of administrative action if an adequate basis for action is found and the person under investigation and/or witnesses are not locally available.
- (e) Give a written warning. The investigating officer may give a warning to any person holding a credential or endorsement. Refusal to accept the written warning will normally result in a withdrawal of the warning and the preferral of charges. An unrejected warning will become a part of the person's record.
- (f) Close the case.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-1998-3472, 64 FR 28075, May 24, 1999; USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### § 5.107 Service of complaints.

(a) When the investigating officer determines that an S&R proceeding is appropriate, he or she shall prepare and serve a complaint in accordance with 33 CFR part 20.

(b) When the investigating officer serves the complaint, he or she shall also advise the respondent—

- (1) Of the nature of S&R proceedings and their possible results;
- (2) Of the right to be represented at the hearing by another person, who may, but need not, be a lawyer;
- (3) Of the right to obtain witnesses, records, and other evidence by subpoena; and

(4) That failure or refusal to answer the complaint or to appear at the time, date, and place specified for the hearing may result in a finding of default, which will constitute an admission of the facts alleged in the complaint and the waiver of his or her right to a hearing.

[USCG-1998-3472, 64 FR 28075, May 24, 1999]

## Subpart E—Deposit or Surrender of Coast Guard Credential or Endorsement

### § 5.201 Voluntary deposits in event of mental or physical incompetence.

(a) A holder may deposit a credential or endorsement with the Coast Guard in any case where there is evidence of mental or physical incompetence. A voluntary deposit is accepted on the basis of a written agreement, the original of which will be given to the holder, which specifies the conditions upon which the Coast Guard will return the credential or endorsement to the holder.

(b) Where the mental or physical incompetence of a holder of a credential or endorsement is caused by use of or addiction to dangerous drugs, a voluntary deposit will only be accepted contingent on the following circumstances:

- (1) The holder is enrolled in a bona fide drug abuse rehabilitation program;
- (2) The holder's incompetence did not cause or contribute to a marine casualty.

(3) The incompetence was reported to the Coast Guard by the individual or any other person and was not discovered as a result of a Federal, State or local government investigation; and

(4) The holder has not voluntarily deposited or surrendered a credential or endorsement, or had a credential or endorsement revoked for a drug related offense on a prior occasion.

(c) Where the mental or physical incompetence of a holder of a credential or endorsement is caused by use or addiction to alcohol, a voluntary deposit will only be accepted contingent on the following circumstances:

- (1) The holder is enrolled in a bona fide alcohol abuse rehabilitation program;

## § 5.203

(2) The holder's incompetence did not cause or contribute to a marine casualty; and

(3) The incompetence was reported to the Coast Guard by the individual or any other person and was not discovered as a result of a Federal, State, or local government investigation.

(d) Where the conditions of paragraphs (b) and (c) of this section are not met, the holder may only surrender such credential or endorsement in accordance with § 5.203.

[CGD 84-099, 52 FR 47535, Dec. 14, 1987, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### § 5.203 Voluntary surrender to avoid hearing.

(a) Any holder may surrender a credential or endorsement to the Coast Guard in preference to appearing at a hearing.

(b) A holder voluntarily surrendering a credential or endorsement shall sign a written statement containing the stipulations that:

(1) The surrender is made voluntarily in preference to appearing at a hearing;

(2) All rights to the credential or endorsement surrendered are permanently relinquished; and,

(3) Any rights with respect to a hearing are waived.

(c) A voluntary surrender of a credential or endorsement to an investigating officer in preference to appearing at a hearing is not to be accepted by an investigating officer unless the investigating officer is convinced that the holder fully realizes the effect of such surrender.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### § 5.205 Return or issuance of a credential or endorsement.

(a) A person may request the return of a voluntarily deposited credential or endorsement at any time, provided he or she can demonstrate a satisfactory rehabilitation or cure of the condition which caused the incompetence; has complied with any other conditions of the written agreement executed at the time of deposit; and complies with the physical and professional requirements

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for issuance of a credential or endorsement.

(b) Where the voluntary deposit is based on incompetence due to drug abuse, the deposit agreement shall provide that the credential or endorsement will not be returned until the person:

(1) Successfully completes a bona fide drug abuse rehabilitation program;

(2) Demonstrates complete non-association with dangerous drugs for a minimum of six months after completion of the rehabilitation program; and

(3) Is actively participating in a bona fide drug abuse monitoring program.

(c) Where the voluntary deposit is based on incompetence due to alcohol abuse, the deposit agreement shall provide that the credential or endorsement will not be returned until the person:

(1) Successfully completes a bona fide alcohol abuse rehabilitation program; and

(2) Is actively participating in a bona fide alcohol abuse monitoring program.

(d) The voluntary surrender of a credential or endorsement is the equivalent of revocation of such papers. A holder who voluntarily surrenders a credential or endorsement must comply with provisions of §§ 5.901 and 5.903 when applying for the issuance of a new credential or endorsement.

[CGD 84-099, 52 FR 47535, Dec. 14, 1987, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

## Subpart F—Subpoenas

### § 5.301 Issuance of subpoenas.

(a) Every subpoena shall command the person to whom it is directed to appear at a specified time and place to give testimony or to produce books, papers, documents, or any other evidence, which shall be described with such particularity as necessary to identify what is desired.

(b) The investigating officer may issue subpoenas for the attendance of witnesses or for the production of books, papers, documents, or any other relevant evidence needed by the investigating officer or by the respondent.

(c) After charges have been served upon the respondent the Administrative Law Judge may, either on the Administrative Law Judge's own motion or the motion of the investigating officer or respondent, issue subpoenas for the attendance and the giving of testimony by witnesses or for the production of books, papers, documents, or any other relevant evidence.

**§ 5.303 Service of subpoenas on behalf of the respondent.**

Service of subpoenas issued on behalf of the respondent is the responsibility of the respondent. However, if the Administrative Law Judge finds that the respondent or respondent's counsel is physically unable to effect the service, despite diligent and bona fide attempts to do so, and if the Administrative Law Judge further finds that the existing impediment to the service of the subpoena is peculiarly within the authority of the Coast Guard to overcome, the Administrative Law Judge will have the subpoena delivered to an investigating officer participating in the case for the purpose of effecting service.

**§ 5.305 Quashing a subpoena.**

Any person subpoenaed to appear to produce evidence at a hearing may request that the subpoena be quashed or modified using the procedures in 33 CFR 20.609.

[USCG-1998-3472, 64 FR 28075, May 24, 1999]

**§ 5.307 Enforcement.**

Upon application and for good cause shown, or upon its own initiative, the Coast Guard will seek judicial enforcement of subpoenas issued by investigating officers or Administrative Law Judges. This is done by making application to the United States District Court, through the office of the appropriate U.S. Attorney, to issue an order compelling the attendance of, and/or giving of testimony by, witnesses, or for the production of books, papers, documents, or any other relevant evidence.

**§ 5.309 Proof of service.**

(a) The person serving a subpoena shall make a written statement setting

forth the date, time and manner of service and shall return such report with or on a copy of the subpoena to the investigating officer or Administrative Law Judge who issued it. In case of failure to make service of a subpoena, the person assigned to serve such subpoena shall make a written statement setting forth the reasons the subpoena was not served. The statement should be placed on the subpoena or attached to it and returned to the investigating office or Administrative Law Judge who issued the subpoena.

(b) When service of a subpoena is made by certified mail with return receipt to be signed by the addressee only, the person mailing the subpoena shall make a written statement on a copy of the subpoena or attached to it, setting forth the date, time and location of the post office where mailed, the post office number assigned thereto. If delivered, the receipt requested shall be returned, by the person receiving the receipt, to the investigating officer or Administrative Law Judge who issued the subpoena. In case the subpoena is not delivered, any information reported by the post office regarding non-delivery shall be given to the investigating officer or Administrative Law Judge who issued the subpoena.

**Subpart G—Witness Fees**

**§ 5.401 Payment of witness fees and allowances.**

(a) Duly subpoenaed witnesses, other than Federal government employees, may apply for payment of their attendance as witnesses at an investigation or hearing conducted pursuant to this part by submitting a request for payment (Standard Form 1157) accompanied by any necessary receipts.

(b) Fees and allowances will be paid as provided by 28 U.S.C. 1821, except that a person called to testify as an expert witness may be paid a higher fee to be fixed by the District Commander.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985; 50 FR 35228, Aug. 30, 1985]

**Subpart H—Hearings****§ 5.501 General.**

A hearing concerning the suspension or revocation of a merchant mariner's credential or endorsement is a formal adjudication under the Administrative Procedure Act (APA) (5 U.S.C. 551, *et seq.*). It is presided over by, and conducted under the exclusive control of, an ALJ in accordance with applicable requirements in the APA, the rules in this part, and the rules of administrative practice at 33 CFR part 20. The ALJ shall regulate and conduct the hearing so as to bring out all the relevant and material facts and to ensure a fair and impartial hearing.

[USCG-1998-3472, 64 FR 28075, May 24, 1999, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

**§ 5.521 Verification of credential or endorsement.**

(a) The Administrative Law Judge shall require the respondent to produce and present at the opening of the hearing, and on each day the hearing is in session thereafter, all valid credentials issued by the Coast Guard to the respondent. In the event that the respondent alleges that credential has been lost, misplaced, stolen, destroyed, or is otherwise beyond his ability to produce, the respondent shall execute a lost document affidavit (Form CG-4363). The Administrative Law Judge shall warn the respondent that a willful misstatement of any material item in such affidavit is punishable as a violation of a Federal criminal statute. (See 18 U.S.C. 1001).

(b) When a hearing is continued or delayed, the Administrative Law Judge returns the credential to the respondent: unless a prima facie case has been established that the respondent committed an act or offense which shows that the respondent's service on a vessel would constitute a definite danger to public health, interest or safety at sea.

[CGD82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 97-057, 62 FR 51042, Sept. 30, 1997; USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

**§ 5.567 Order.**

(a) The Administrative Law Judge enters an order which recites the disposition of the case. When the finding is *not proved*, the Administrative Law Judge issues an order *dismissing* the proceeding with or without prejudice to refile. When the finding is *proved*, the Administrative Law Judge may order an *admonition*, *suspension* with or without probation, or *revocation*.

(b) The order is directed against all credentials or endorsements, except that in cases of negligence or professional incompetence, the order is made applicable to specific credentials or endorsements. If the Administrative Law Judge determines that the respondent is professionally incompetent in the grade of the license, certificate or document held, but is considered competent in a lower grade, the credential or endorsement may be revoked and the issuance of one of a lower grade ordered.

(c) An order must specify whether the credential or endorsement affected is:

- (1) Revoked;
- (2) Suspended outright for a specified period after surrender;
- (3) Suspended for a specified period, but placed on probation for a specific period; or
- (4) Suspended outright for a specified period, followed by a specified period of suspension on probation.

(d) The order will normally state, *that the credential or endorsement is to be surrendered to the Coast Guard immediately*, if the order is one of revocation or includes a period of outright suspension. In cases involving special circumstances, the order may provide for surrender on a certain date.

(e) The time of any period of outright suspension ordered does not commence until the credential or endorsement is surrendered to the Coast Guard. The time of any period of suspension on probation begins at the end of any period of outright suspension or the effective date of the order if there is no outright suspension.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-1998-3472, 64 FR 28075, May 24, 1999; USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

§ 5.569 Selection of an appropriate order.

(a) This section addresses orders in a general manner. The selection of an appropriate order is the responsibility of the Administrative Law Judge, subject to appeal and review. The investigating officer and the respondent may suggest an order and present argument in support of this suggestion during the presentation of aggravating or mitigating evidence.

(b) Except for acts or offenses for which revocation is mandatory, factors which may affect the order include:

(1) Remedial actions which have been undertaken independently by the respondent;

(2) Prior record of the respondent, considering the period of time between prior acts and the act or offense for which presently charged is relevant; and

(3) Evidence of mitigation or aggravation.

(c) After an order of revocation is entered, the respondent will be given an opportunity to present relevant material on the record for subsequent consideration by the special board convened in the event an application is filed in accordance with subpart L of this part.

(d) Table 5.569 is for the information and guidance of Administrative Law Judges and is intended to promote uniformity in orders rendered. This table should not affect the fair and impartial adjudication of each case on its individual facts and merits. The orders are expressed by a range, in months of outright suspension, considered appropriate for the particular act or offense prior to considering matters in mitigation or aggravation. For instance, without considering other factors, a period of two to four months outright suspension is considered appropriate for *failure to obey a master's written instructions*. An order within the range would not be considered excessive. Mitigating or aggravating factors may make an order greater or less than the given range appropriate. Orders for repeat offenders will ordinarily be greater than those specified.

TABLE 5.569—SUGGESTED RANGE OF AN APPROPRIATE ORDER

Type of offense	Range of order (in months)
Misconduct:	
Failure to obey master's/ship officer's order.	1-3.
Failure to comply with U.S. law or regulations.	1-3.
Possession of intoxicating liquor.	1-4.
Failure to obey master's written instruction.	2-4.
Improper performance of duties related to vessel safety.	2-5.
Failure to join vessel (required crew member).	2-6.
Violent acts against other persons (without injury).	2-6.
Failure to perform duties related to vessel safety.	3-6.
Theft .....	3-6.
Violent acts against other persons (injury).	4-Revocation.
Use, possession, or sale of dangerous drugs.	Revocation (Note: see § 5.59).
Negligence:	
Negligently performing duties related to vessel navigation.	2-6.
Negligently performing non-navigational duties related to vessel safety.	1-3.
Neglect of vessel navigation duties.	3-6.
Neglect of non-navigational safety related duties.	2-4.
Incompetence .....	The only proper order for a charge of incompetence found proved is revocation.
Violation of Regulation:	
Refusal to take chemical drug test.	12-24
Refusal to take required alcohol test.	12-24
Dangerous drugs (46 U.S.C. 7704).	The only proper order for a charge under 46 U.S.C. 7704 found proved is revocation.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 86-067, 53 FR 47079, Nov. 21, 1989; USCG-2000-7759, 66 FR 42967, Aug. 16, 2001]

Subpart I [Reserved]

Subpart J—Appeals

§ 5.701 Appeals in general.

A party may appeal the decision of an ALJ under the procedures in subpart J of 33 CFR part 20. A party may appeal only the following issues:

(a) Whether each finding of fact rests on substantial evidence.

## § 5.707

(b) Whether each conclusion of law accords with applicable law, precedent, and public policy.

(c) Whether the ALJ committed any abuses of discretion.

(d) The ALJ's denial of a motion for his or her disqualification.

[USCG-1998-3472, 64 FR 28075, May 24, 1999]

### **§ 5.707 Stay of effect of decision and order of Administrative Law Judge on appeal to the Commandant; temporary credential or endorsement.**

(a) A person who has appealed from a decision suspending outright or revoking a credential or endorsement, except for revocation resulting from an offense enumerated in § 5.59, may file a written request for a temporary credential or endorsement. This request must be submitted to the Administrative Law Judge who presided over the case, or to any Officer in Charge, Marine Inspection for forwarding to the Administrative Law Judge.

(b) Action on the request is taken by the ALJ unless the hearing transcript has been forwarded to the Commandant, in which case, the Commandant will make the final action.

(c) A determination as to the request will take into consideration whether the service of the individual is compatible with the requirements for safety at sea and consistent with applicable laws. If one of the offenses enumerated in § 5.61(a) has been found proved, the continued service of the appellant will be presumed not compatible with safety at sea, subject to rebuttal by the appellant. A temporary credential or endorsement may be denied for that reason alone.

(d) All temporary credentials or endorsements will provide that they expire not more than six months after issuance or upon service of the Commandant's decision on appeal, whichever occurs first. If a temporary credential or endorsement expires before the Commandant's decision is rendered, it may be renewed, if authorized by the Commandant.

(e) If the request for a temporary credential or endorsement is denied by the Administrative Law Judge, the individual may appeal the denial, in writing, to the Commandant within 30 days after notification of such denial. Any

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decision by the Commandant to deny is the final agency action.

(f) Copies of the temporary credential issued become a part of the record on appeal.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004; USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### **§ 5.713 Appeals to the National Transportation Safety Board.**

(a) The rules of procedure for appeals to the National Transportation Safety Board from decisions of the Commandant, U.S. Coast Guard, affirming orders of suspension or revocation of credentials or endorsements are in 49 CFR part 825. These rules give the party adversely affected by the Commandant's decision 10 days after service upon him or his attorney of the Commandant's decision to file a notice of appeal with the Board.

(b) In all cases under this part which are appealed to the National Transportation Safety Board under 49 CFR part 825, the Chief Counsel of the Coast Guard is designated as the representative of the Commandant for service of notices and appearances. Communications should be addressed to Commandant (CG-094), U.S. Coast Guard, 2100 2nd St. SW., Stop 7121, Washington, DC 20593-7121.

(c) In cases before the National Transportation Safety Board the Chief Counsel of the Coast Guard may be represented by others designated of *counsel*.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009; USCG-2009-0702, 74 FR 49224, Sept. 25, 2009]

### **§ 5.715 Stay of effect of Decision of the Commandant on Appeal: Temporary credential and/or endorsement pending appeal to National Transportation Safety Board.**

(a) A Decision of the Commandant on Appeal affirming an order of revocation, except a revocation resulting from an offense enumerated under § 5.59 or suspension that is not placed entirely on probation, which is appealed to the National Transportation Safety Board, may be stayed if, in the Commandant's opinion, the service of the

appellant on board a vessel at that time or for the indefinite future would be compatible with the requirements of safety at sea and consistent with applicable laws. If one of the offenses enumerated in § 5.61(a) has been found proved, the continued service of the appellant will be presumed not compatible with safety at sea, subject to rebuttal by the appellant; in cases of offenses under § 5.61(a), a temporary credential and/or endorsement may be denied for that reason alone.

(b) A stay of the effect of the Decision of the Commandant on Appeal may be granted by the Commandant upon application by the respondent filed with the notice served on the Commandant under 49 CFR 825.5(b).

(c) An Officer in Charge, Marine Inspection, on presentation of an original stay order, issues a temporary credential and/or endorsement as specified in the stay order. This credential and/or endorsement is effective for not more than six months, renewable until such time as the National Transportation Safety Board has completed its review.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### Subpart K—Review of Administrative Law Judge’s Decisions in Cases Where Charges Have Been Found Proved

#### § 5.801 Commandant’s review.

Any decision of an Administrative Law Judge, in which there has been a finding of *proved*, may be called up for review by the Commandant without procedural formality.

#### § 5.803 Record for decision on review.

The transcript of the hearing, together with all papers and exhibits filed, shall constitute the record for consideration and review.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

#### § 5.805 Action on review.

(a) The Commandant may adopt, in whole or in part, the findings, conclusions, and basis therefor stated by the Administrative Law Judge, may make

entirely new findings on the record, or may remand the case to the Administrative Law Judge for further proceedings.

(b) In no case will the review by the Commandant be followed by any order increasing the severity of the Administrative Law Judge’s original order.

(c) The Decision of the Commandant on Review, shall be the final agency action in the absence of a remand.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

#### § 5.807 Commandant’s Decision on Review.

The Commandant’s Decisions on Review are available for reading purposes at Coast Guard Headquarters, at Offices of District Commanders, Sector Offices and Marine Inspection Offices. (See 33 CFR subpart 1.10.)

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-25556, 72 FR 36330, July 2, 2007]

### Subpart L—Issuance of New Credential or Endorsement After Revocation or Surrender

#### § 5.901 Time limitations.

(a) Any person whose credential or endorsement has been revoked or surrendered for one or more of the offenses described in § 5.59 and § 5.61(a) may, three years after compliance with the Administrative Law Judge’s decision and order or the date of voluntary surrender, apply for the issuance of a new credential or endorsement.

(b) The three year time period may be waived by the Commandant upon a showing by the individual that, since the occurrence upon which the revocation or surrender was based, the individual has demonstrated his good character in the community for a period exceeding three years.

(c) Any person whose credential or endorsement has been revoked or surrendered for one or more offenses which are not specifically described in §§ 5.59 or 5.61(a) may, after one year, apply for the issuance of a new credential or endorsement.

## §5.903

(d) For a person whose credential or endorsement has been revoked or surrendered for the wrongful simple possession or use of dangerous drugs, the three year time period may be waived by the Commandant upon a showing that the individual:

(1) Has successfully completed a bona fide drug abuse rehabilitation program;

(2) Has demonstrated complete non-association with dangerous drugs for a minimum of one year following completion of the rehabilitation program and;

(3) Is actively participating in a bona fide drug abuse monitoring program.

(e) For a person whose credential or endorsement has been revoked or surrendered for offenses related to alcohol abuse, the waiting period may be waived by the Commandant upon a showing that the individual has successfully completed a bona fide alcohol abuse rehabilitation program and is actively participating in a bona fide alcohol abuse monitoring program.

(f) The waivers specified under subparagraphs (d) or (e) of this section may only be granted once to each person.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 84-099, 52 FR 47535, Dec. 14, 1987; USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### §5.903 Application procedures.

(a) An application form for a new credential or endorsement may be obtained from any Officer in Charge, Marine Inspection.

(b) The completed application and letter must be addressed to the Commandant, U.S. Coast Guard, 2100 2nd St. SW., Stop 7121, Washington, DC 20593-7121, and must be delivered in person to the nearest Officer in Charge, Marine Inspection.

(c) The letter is an informal request for the issuance of a new credential or endorsement and should include the following:

(1) A letter from each employer during the last three years attesting to the individual's work record;

(2) Information supportive of rehabilitation or cure when the credential or endorsement was revoked because of incompetency or association with dangerous drugs; and

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(3) Any other information which may be helpful in arriving at a determination in the matter.

(d) The Officer in Charge, Marine Inspection, forwards the letter and application, together with an evaluation and recommendation, to the Commandant.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009; USCG-2009-0702, 74 FR 49224, Sept. 25, 2009]

### §5.905 Commandant's decision on application.

(a) The applicant's letter and application form, as well as the evaluation and recommendation, are referred to a special board appointed by the Commandant. The board examines all the material submitted with the application and such other information as may, in the judgment of the board, be considered appropriate. The board shall submit its findings and recommendation to the Commandant.

(b) The Commandant shall determine whether or not a new credential or endorsement will be issued. The applicant will be notified by letter of such determination.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

## PART 6—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS<sup>1</sup>

Sec.

6.01 Procedures for effecting individual waivers of navigation and vessel inspection laws and regulations.

6.04 Vessels requisitioned by the United States for emergency evacuation.

6.06 Vessels operated by or chartered to Military Sealift Command.

6.07 Chronological record of seaman's previous employment.

AUTHORITY: Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1); Department of Homeland Security Delegation No. 0170.1.

<sup>1</sup>This is also codified in 33 CFR part 19.

**§6.01 Procedures for effecting individual waivers of navigation and vessel inspection laws and regulations.**

(a) It is hereby found necessary in the interest of national defense to waive compliance with the navigation and vessel inspection laws administered by the Coast Guard, as well as the regulations issued thereunder and published in 33 CFR chapter I or in this chapter, to the extent and in the manner and upon the terms and conditions as set forth in this section.

(b) An application requesting that a waiver be made effective, with respect to a particular vessel, may be made by any authorized representative of an agency of the United States Government or any other interested person (including the master, agent, or owner of the vessel involved). Except as provided in paragraph (d) of this section, the application shall be in writing. The application shall be delivered to the Coast Guard District Commander or to his designated representative at the port or place where the vessel is located. In the case of a vessel in any foreign port or place, the application shall be made to the designated representative of the Commandant at such port or place, or if the Coast Guard has not established facilities in such port or place, to the nearest designated representative of the Commandant at a port or place where such facilities have been established. Every application shall contain a statement of the particular provisions of law with respect to which waiver of compliance is requested, a certification that the waiver of compliance with such laws with respect to the vessel involved is necessary in the interest of national defense and, an outline of the facts upon which such certification is based. The Coast Guard District Commander (or his designated representative or the designated representative of the Commandant, as the case may be) shall promptly examine every application for the purpose of determining whether the necessity for prompt action is such as to require that the waiver be made effective by him without reference to the Commandant. In any case in which it appears to the Coast Guard officer concerned that reference of the appli-

cation to the Commandant for action would not delay the sailing of the vessel or otherwise be contrary to the interest of national defense, the application shall be so referred. In all other cases, such Coast Guard officer shall give immediate consideration to the application and if he reaches the conclusion that the urgency of the situation outweighs the marine hazard involved, then such waiver shall be made effective in regard to such vessel to the extent and under the circumstances specified by him.

(c) The Coast Guard officer making such a waiver effective pursuant to paragraph (b) of this section shall immediately prepare, in triplicate, an order setting forth the name of the vessel involved, the laws (also regulations, if any) with respect to which the waiver is effective, the extent to which compliance with such laws (also regulations, if any) is waived, and the period for which the waiver shall be effective. If practicable, one copy of this order shall be delivered to the master of the vessel involved before such vessel sails. In any case where the order is not delivered to the master, it shall be delivered to the owner, operator, or agent of the vessel without delay. One copy of the order shall be transmitted to the Commandant and the remaining copy kept on file.

(d) In any case of extreme urgency the application for a waiver may be made orally, and if the Coast Guard District Commander (or his designated representative or the designated representative of the Commandant, as the case may be) reaches the conclusion referred to in paragraph (b) of this section, the waiver shall be made effective without further delay, subject to the condition that the application be reduced to writing and delivered within such period after the date of the oral request as the Coast Guard officer making the waiver effective shall specify in the order.

(e) No penalty shall be imposed because of failure to comply with any provision of law (or regulation, if any),

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the waiver of which has been made effective pursuant to the requirements in this section.

[CGFR 51–10, 16 FR 1959, Mar. 1, 1951. Redesignated by CGFR 69–123, 34 FR 19076, Dec. 2, 1969; CGD 96–041, 61 FR 50726, Sept. 27, 1996; USCG-2004–18884, 69 FR 58342, Sept. 30, 2004]

### § 6.04 Vessels requisitioned by the United States for emergency evacuation.

Pursuant to the request of the Acting Secretary of Defense, dated November 21, 1951, made under the provisions of section 1 of Public Law 891, 81st Congress, approved December 27, 1950, compliance with the provisions of the navigation and vessel inspection laws administered by the United States Coast Guard is hereby waived, as well as the regulations issued thereunder and published in 33 CFR chapter I or in this chapter, to the extent necessary to permit the operation of vessels which might be requisitioned by the United States for the purpose of emergency evacuation.

[CGFR 51–61, 16 FR 12792, Dec. 20, 1951. Redesignated by CGFR 69–123, 34 FR 19076, Dec. 2, 1969]

### § 6.06 Vessels operated by or chartered to Military Sealift Command.

(a) Pursuant to the request of the Deputy Secretary of Defense, dated August 6, 1958, and to the request of the Assistant Secretary of Defense, Installations and Logistics, dated May 23, 1964, made under the provisions of section 1 of Public Law 891, 81st Congress, approved December 27, 1950 (64 Stat. 1120; 46 U.S.C., note preceding section 1), and their findings that a waiver is necessary in the interest of national defense, compliance with the provisions of the navigation and vessel inspection laws administered by the United States Coast Guard, as well as the regulations issued thereunder and contained in 33 CFR chapter I, or in this chapter, is hereby waived to the extent and upon the terms and conditions as set forth in this section, in order to permit vessels operated by or chartered to the Military Sealift Command to carry out their assigned missions.

(b) An application requesting that this waiver be made effective with re-

spect to a particular vessel may be made by the Commander, Military Sealift Command, or any one of his duly designated representatives. Except as provided in paragraph (e) of this section, the application shall be in writing. The application shall be delivered to the Coast Guard District Commander or to his designated representative at the port or place where the vessel is located. In the case of a vessel in any foreign port or place, the application shall be made to the designated representative of the Commandant at such port or place, or if the Coast Guard has not established facilities in such port or place, to the nearest designated representative of the Commandant at a port or place where such facilities have been established, or to the Commandant (CG–CVC), U.S. Coast Guard, 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581. Every application shall:

(1) Describe the laws and/or regulations by appropriate references and/or subjects with respect to which the waiver of compliance is desired;

(2) Contain a certification that the waiver of compliance with such laws and/or regulations with respect to the vessel involved is necessary in the interest of national defense and is necessary for the Military Sea Transportation Service to carry out an assigned mission;

(3) The name and official number of the vessel involved (including the names of master, agent, and owner of the vessel involved); and,

(4) For how long the waiver is needed.

(c) The Coast Guard officer making the waiver in paragraph (a) of this section, effective for a particular vessel, shall immediately prepare, in quadruplicate, an order setting forth:

(1) The name and official number of the vessel involved;

(2) The laws and/or regulations with respect to which the waiver is effective;

(3) The extent to which compliance with such laws and/or regulations is waived; and,

(4) The period for which the waiver shall be effective.

(d) If practicable, one copy of this waiver order shall be delivered to the master of the vessel involved before

such vessel sails. In any case where the waiver order is not delivered to the master, it shall be delivered to the owner, operator, or agent of the vessel without delay. One copy of the waiver order shall be delivered to the Commander, Military Sealift Command, or his duly designated representative, who submitted the application. One copy of the waiver order shall be transmitted to the Commandant (G-MOC) and the remaining copy kept on file.

(e) In any case of extreme urgency, the application for a waiver order may be made orally and if the Coast Guard District Commander (or his designated representative, or the designated representative of the Commandant, or the Commandant, as the case may be), determines that the conditions in this section have been met, the waiver order shall be made effective without further delay, subject to the condition that the application be reduced to writing and delivered within such period after the date of the oral request as the Coast Guard officer making the waiver effective shall specify in the confirming written waiver order.

(f) No penalty shall be imposed because of failure to comply with any provision of law and/or regulation, the waiver of which has been made effective pursuant to the requirements of this section.

(g) This waiver order shall remain in effect until terminated by proper authority and notice of cancellation is published in the FEDERAL REGISTER.

[CGFR 64-86, 30 FR 89, Jan. 6, 1965. Redesignated by CGFR 69-123, 34 FR 19076, Dec. 2, 1969, and amended by CGD 88-070, 53 FR 34533, Sept. 7, 1988; CGD 88-070, 54 FR 3038, Jan. 23, 1989; CGD 95-072, 60 FR 50459, Sept. 29, 1995; CGD 96-041, 61 FR 50726, Sept. 27, 1996; USCG-2004-18884, 69 FR 58342, Sept. 30, 2004; USCG-2009-0702, 74 FR 49224, Sept. 25, 2009]

#### § 6.07 Chronological record of seaman's previous employment.

(a) Compliance is hereby waived with regard to the provisions of 46 U.S.C. 10311(c), to the extent necessary to permit the Commandant of the United States Coast Guard to issue a chronological record of a seaman's previous employment on a single document, in lieu of making individual entry in a duplicate continuous discharge book or

furnishing individual certificates of discharge.

(b) It is hereby found that the waiving of the provisions of 46 U.S.C. 10311(c), is necessary in the interest of national defense.

[CGFR 51-9, 16 FR 1830, Feb. 27, 1951, as amended by CGFR 59-4a, 24 FR 3055, Apr. 21, 1959. Redesignated by CGFR 69-123, 34 FR 19076, Dec. 2, 1969, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### PART 7—BOUNDARY LINES

#### GENERAL

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- 7.180 Kotzebue Sound, AK.

AUTHORITY: 14 U.S.C. 633; 33 U.S.C. 151, 1222; Department of Homeland Security Delegation No. 0170.1.

SOURCE: CGD 81-058, 50 FR 25230, June 18, 1985, unless otherwise noted.

### GENERAL

#### § 7.1 General purpose of boundary lines.

The lines in this part delineate the application of the following U.S. statutes: 33 U.S.C. 152 relating to the length of towing hawsers; 33 U.S.C. 1201 *et seq.*, the Vessel Bridge-to-Bridge Radiotelephone Act; 46 U.S.C. 5102(b)(6), which exempt from load line requirements certain vessels on domestic voyages; 46 U.S.C. 3301(6) requiring the inspection of seagoing barges which are defined in 46 U.S.C. 2101(32); 46 U.S.C. 3301(7) requiring the inspection of seagoing motor vessels which are defined in 46 U.S.C. 2101(33); 46 U.S.C. 3302(d) which exempts from inspection requirements certain vessels under 150 gross tons that operate within the waters of southeastern Alaska and the State of Washington; and 46 U.S.C. 8304, "Implementing the Officers' Competency Certificates Convention, 1936."

[CGD 81-058, 50 FR 25230, June 18, 1985, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997; USCG-1998-4442, 63 FR 52188, Sept. 30, 1998]

#### § 7.5 Rules for establishing boundary lines.

- (a) For application of the Vessel Bridge-to-Bridge Radiotelephone Act,

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33 U.S.C. 1201 *et seq.*, the line is 12 nautical miles seaward of the baseline from which the territorial sea is measured.

(b) Barges of 100 gross tons and over operating on the sheltered waters of British Columbia as defined in the United States-Canada treaty of 1933 (49 Stat. 2685, TS 869) are not required to be inspected as seagoing barges under 46 U.S.C. 3301.

(c) Except as otherwise described in this part, Boundary Lines are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the seaward, highwater shorelines across entrances to small bays, inlets and rivers.

[CGD 81-058, 50 FR 25230, June 18, 1985, as amended by USCG-2001-9044, 68 FR 42602, July 18, 2003]

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#### § 7.10 Eastport, ME to Cape Ann, MA.

(a) A line drawn from the easternmost extremity of Kendall Head to latitude 44°54'45" N. longitude 66°58'30" W.; thence to the range marker located in approximate position latitude 44°51'45" N. longitude 66°59" W.

(b) A line drawn from West Quoddy Head Light to latitude 44°48.5' N. longitude 66°56.4' W. (Sail Rock Lighted Whistle Buoy "1"); thence to latitude 44°37.5' N. longitude 67°09.8' W. (Little River Lighted Whistle Buoy "2LR"); thence to latitude 44°14.5' N. longitude 67°57.2' W. (Frenchman Bay Approach Lighted Whistle Buoy "FB"); thence to Mount Desert Light; thence to Matinicus Rock Light; thence to Monhegan Island Light; thence to latitude 43°31.6' N. longitude 70°05.5' W. (Portland Lighted Horn Buoy "P"); thence to Boon Island Light; thence to latitude 42°37.9' N. longitude 70°31.2' W. (Cape Ann Lighted Whistle Buoy "2").

#### § 7.15 Massachusetts Bay, MA.

A line drawn from latitude 42°37.9' N. longitude 70°31.2' W. (Cape Ann Lighted Whistle Buoy "2") to latitude 42°22.7' N. longitude 70°47.0' W. (Boston Lighted Horn Buoy "B"); thence to Race Point Light.

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### § 7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Island Sound and easterly entrance to Long Island Sound, NY.

(a) A line drawn from Chatham Light to latitude 41°36.1' N. longitude 69°51.1' W. (Pollack Rip Entrance Lighted Horn Buoy "PR"); thence to latitude 41°26.0' N. longitude 69°46.2' W. (Great Round Shoal Channel Lighted Buoy "2"); thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Nantucket Island to the southwesternmost extremity of Wasque Point, Chappaquiddick Island.

(c) A line drawn from Gay Head Light to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island.

### § 7.25 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock East Breakwater Light to Shinnecock West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

### § 7.30 New York Harbor, NY.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to Highlands Light (north tower).

### § 7.35 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light "2" to Shark River Inlet South Breakwater Light "1".

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn along the submerged Barnegat Inlet North Breakwater to Barnegat Inlet North Breakwater Light "2"; thence to Barnegat Inlet Light "5"; thence along the submerged

Barnegat Inlet South Breakwater to shore.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent of Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39°18.2' N. longitude 74°32.2' W. to the northeasternmost point of Ocean City at latitude 39°17.6' N. longitude 74°33.1' W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of the seaward, highwater shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

### § 7.40 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to latitude 38°55.8' N. longitude 74°51.4' W. (Cape May Harbor Inlet Lighted Bell Buoy "2CM"); thence to latitude 38°48.9' N. longitude 75°02.3' W. (Delaware Bay Entrance Channel Lighted Buoy "8"); thence to the northernmost extremity of Cape Henlopen.

### § 7.45 Cape Henlopen, DE to Cape Charles, VA.

(a) A line drawn from the easternmost extremity of Indian River Inlet North Jetty to latitude 38°36.5' N. longitude 75°02.8' W. (Indian River Inlet Lighted Gong Buoy "1"); thence to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light "6" to latitude 38°19.4' N. longitude 75°05.0' W. (Ocean City Inlet Entrance Lighted Buoy "4"); thence to latitude 38°19.3' N. longitude 75°05.1' W. (Ocean City Inlet Entrance Lighted Buoy "5"); thence to the easternmost extremity of the south breakwater.

(c) A line drawn from Assateague Beach Tower Light to latitude 37°50.2'

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N. longitude 75°24.9' W. (Chincoteague Inlet Lighted Bell Buoy "CI"); thence to the tower charted at latitude 37°52.6' N. longitude 75°26.7' W.

(d) A line drawn from the southernmost extremity of Cedar Island to latitude 37°34.7' N. longitude 75°36.0' W. (Wachapreague Inlet Entrance Lighted Buoy "1"); thence due south to shore at Paramore Beach.

(e) A line drawn from the seaward tangent of Paramore Beach to the lookout tower on the northern end of Hog Island chartered in approximate position latitude 37°27.2' N. longitude 75°40.5' W.

## § 7.50 Chesapeake Bay and tributaries.

A line drawn from Cape Charles Light to latitude 36°56.8' N. longitude 75°55.1' W. (North Chesapeake Entrance Lighted Gong Buoy "NCD"); thence to latitude 36°54.8' N. longitude 75°55.6' W. (Chesapeake Bay Entrance Lighted Bell Buoy "CBC"); thence to latitude 36°55.0' N. longitude 75°58.0' W. (Cape Henry Buoy "1"); thence to Cape Henry Light.

## § 7.55 Cape Henry, VA to Cape Fear, NC.

(a) A line drawn from Rudee Inlet Jetty Light "2" to latitude 36°50' N. longitude 75°56.7' W.; thence to Rudee Inlet Jetty Light "1".

(b) A line drawn from Bodie Island Light to latitude 35°49.3' N. longitude 75°31.9' W.; thence to Oregon Inlet Radiobeacon.

(c) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(d) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04' N. longitude 76°00.8' W. to the northeasternmost extremity of Portsmouth Island at latitude 35°03.7' N. longitude 76°02.3' W.

(e) A line drawn across Drum Inlet parallel with the general trend of the seaward, highwater shoreline.

(f) A line drawn from the southernmost extremity of Cape Lookout to latitude 34°38.4' N. longitude 76°40.6' W.; thence to the seaward extremity of the Beaufort Inlet west jetty.

(g) A line drawn from the seaward extremity of Masonboro Inlet north jetty to latitude 34°10.3' N. longitude 77°48.0'

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W.; thence to the beach in approximate position latitude 34°10' N. longitude 77°49.4' W.

[CGD 81-058, 50 FR 25230, June 18, 1985, as amended by USCG-2009-0702, 74 FR 49224, Sept. 25, 2009]

## § 7.60 Cape Fear, NC to Sullivans Island, SC.

(a) A line drawn from the southernmost extremity to Cape Fear to latitude 33°49.5' N. longitude 78°03.7' W. (Cape Fear River Entrance Lighted Bell Buoy "2CF"); thence to Oak Island Light.

(b) A line drawn from the southernmost extremity of Bird Island at approximate position latitude 33°51.2' N. longitude 78°32.6' W. to latitude 33°50.3' N. longitude 78°32.5' W. (Little River Inlet Entrance Lighted Whistle Buoy "2LR"); thence to the northeasternmost extremity of Waties Island at approximate position latitude 33°51.2' N. longitude 78°33.6' W.

(c) A line drawn from the seaward extremity of Murrells Inlet north jetty to latitude 33°31.5' N. longitude 79°01.6' W. (Murrells Inlet Lighted Bell Buoy "MI"); thence to Murrells Inlet South Jetty Light.

(d) A line drawn from Georgetown Light to latitude 33°11.6' N. longitude 79°05.4' W. (Winyah Bay Lighted Bell Buoy "2WB"); thence to the southernmost extremity of Sand Island.

## § 7.65 Charleston Harbor, SC.

A line drawn from Charleston Light on Sullivans Island to latitude 32°40.7' N. longitude 79°42.9' W. (Charleston Lighted Whistle Buoy "2C"); thence to a point on Folly Island at latitude 32°41.0' N. longitude 79°53.2' W.

[USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

## § 7.70 Folly Island, SC to Hilton Head Island, SC.

(a) A line drawn from the southernmost extremity of Folly Island to latitude 32°35' N. longitude 79°58.2' W. (Stono Inlet Lighted Whistle Buoy "1S"); thence to Kiawah Island bearing approximately 307° true.

(b) A line drawn from the southernmost extremity of Kiawah Island to latitude 32°31' N. longitude 80°07.8' W. (North Edisto River Entrance Lighted

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Whistle Buoy "2NE"); thence to Botany Bay Island in approximate position latitude 32°33.1' N. longitude 80°12.7' W.

(c) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3' N. longitude 80°19.2' W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island charted in approximate position latitude 32°22.5' N. longitude 80°26.5' W.

(d) A line drawn from the abandoned lighthouse on Hunting Island in approximate position latitude 32°22.5' N. longitude 80°26.2' W. to latitude 32°18' N. longitude 80°25' W.; thence to the standpipe on Fripp Island in approximate position latitude 32°19' N. longitude 80°28.7' W.

(e) A line drawn from the westernmost extremity of Bull Point on Capers Island to latitude 32°04.8' N. longitude 80°34.9' W. (Port Royal Sound Lighted Whistle Buoy "2PR"); thence to the easternmost extremity of Hilton Head at latitude 32°13.2' N. longitude 80°40.1' W.

### § 7.75 Savannah River/Tybee Roads.

A line drawn from the southwesternmost extremity of Braddock Point to latitude 31°58.3' N. longitude 80°44.1' W. (Tybee Lighted Whistle Buoy "T"); thence to the southeasternmost extremity of Little Tybee Island bearing approximately 269° true.

### § 7.80 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A line drawn from the southernmost extremity of Little Tybee Island at Beach Hammock to the easternmost extremity of Wassaw Island.

(c) A line drawn from Wassaw Island in approximate position latitude 31°52.5' N. longitude 80°58.5' W. to latitude 31°48.3' N. longitude 80°56.8' W. (Ossabaw Sound North Channel Buoy "OS"); thence to latitude 31°39.3' N. longitude 81°02.3' W. (St. Catherines Sound Buoy "St. C."); thence to latitude 31°31.2' N. longitude 81°03.8' W. (Sapelo Sound Buoy "S"); thence to

the easternmost extremity of Blackbeard Island at Northeast Point.

(d) A line drawn from the southernmost extremity of Blackbeard Island to latitude 31°19.4' N. longitude 81°11.5' W. (Doboy Sound Lighted Buoy "D"); thence to latitude 31°04.1' N. longitude 81°16.7' W. (St. Simons Lighted Whistle Buoy "ST S").

### § 7.85 St. Simons Island, GA to Little Talbot Island, FL.

(a) A line drawn from latitude 31°04.1' N. longitude 81°16.7' W. (St. Simons Lighted Whistle Buoy "ST S") to latitude 30°42.7' N. longitude 81°19.0' W. (St. Mary's Entrance Lighted Whistle Buoy "1"); thence to Amelia Island Light.

(b) A line drawn from the southernmost extremity of Amelia Island to latitude 30°29.4' N. longitude 81°22.9' W. (Nassau Sound Approach Buoy "6A"); thence to the northeasternmost extremity of Little Talbot Island.

### § 7.90 St. Johns River, FL.

A line drawn from the southeasternmost extremity of Little Talbot (Spike) Island to latitude 30°23.8' N. longitude 81°20.3' W. (St. Johns Lighted Whistle Buoy "2 STJ"); thence to St. Johns Light.

### § 7.95 St. Johns Point, FL to Miami Beach, FL.

(a) A line drawn from the seaward extremity of St. Augustine Inlet north jetty to latitude 29°55' N. longitude 81°15.3' W. (St. Augustine Lighted Whistle Buoy "ST. A."); thence to the seaward extremity of St. Augustine Inlet south jetty.

(b) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(c) A line drawn from the seaward extremity of Ponce de Leon Inlet north jetty to latitude 29°04.7' N. longitude 80°54' W. (Ponce de Leon Inlet Lighted Bell Buoy "2"); thence to Ponce de Leon Inlet Approach Light.

(d) A line drawn from Canaveral Harbor Approach Channel Range Front Light to latitude 28°23.7' N. longitude 80°32.2' W. (Canaveral Bight Wreck Lighted Buoy "WR6"); thence to the radio tower on Canaveral Peninsula in approximate position latitude 28°22.9' N. longitude 80°36.6' W.

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(e) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(f) A line drawn from the seaward extremity of the Fort Pierce Inlet North Jetty to latitude 27°28.5' N. longitude 80°16.2' W. (Fort Pierce Inlet Lighted Whistle Buoy "2"); thence to the tank located in approximate position latitude 27°27.2' N. longitude 80°17.2' W.

(g) A line drawn from the seaward extremity of St. Lucie Inlet north jetty to latitude 27°10' N. longitude 80°08.4' W. (St. Lucie Inlet Entrance Lighted Whistle Buoy "2"); thence to Jupiter Island bearing approximately 180° true.

(h) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast extremity of the concrete apron on the south side of Jupiter Inlet.

(i) A line drawn from the seaward extremity of Lake Worth Inlet North Jetty to latitude 26°46.4' N. longitude 80°01.5' W. (Lake Worth Inlet Lighted Bell Buoy "2LW"); thence to Lake Worth Inlet Lighted Buoy "3"; thence to the seaward extremity of Lake Worth Inlet South Jetty.

(j) A line drawn across the seaward extremity of the Boynton Inlet Jetties.

(k) A line drawn from Boca Raton Inlet North Jetty Light "2" to Boca Raton Inlet South Jetty Light "1".

(l) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light "2"; thence to Hillsboro Inlet Entrance Light "1"; thence west to the shoreline.

(m) A line drawn from the tower located in approximate position latitude 26°06.9' N. longitude 80°06.4' W. to latitude 26°05.5' N. longitude 80°04.8' W. (Port Everglades Lighted Whistle Buoy "1"); thence to the signal tower located in approximate position latitude 26°05.5' N. longitude 80°06.5' W.

(n) A line drawn from the seaward extremity of Bakers Haulover Inlet north jetty 090° true to longitude 80°07.2' W.; thence to the seaward extremity of Bakers Haulover Inlet south jetty.

**§ 7.100 Florida Reefs and Keys from Miami, FL to Marquesas Keys, FL.**

(a) A line drawn from the tower located in approximate position latitude 25°46.7' N. longitude 80°08' W. to latitude 25°46.1' N. longitude 80°05.0' W.

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(Miami Lighted Whistle Buoy "M"); thence to Fowey Rocks Light (latitude 25°35.4' N. longitude 80°05.8' W.); thence to Pacific Reef Light (latitude 25°22.3' N. longitude 80°08.5' W.) thence to Carysfort Reef Light (latitude 25°13.3' N. longitude 80°12.7' W.); thence to Molasses Reef Light "10" (latitude 25°00.7' N. longitude 80°22.6' W.); thence to Alligator Reef Light (latitude 24°51.1' N. longitude 80°37.1' W.); thence to Tennessee Reef Light (latitude 24°44.7' N. longitude 80°46.9' W.); thence to Sombrero Key Light (latitude 24°37.6' N. longitude 81°06.6' W.); thence to American Shoal Light (latitude 24°31.5' N. longitude 81°31.2' W.); thence to latitude 24°27.7' N. longitude 81°48.1' W. (Key West Entrance Lighted Whistle Buoy); thence to Cosgrove Shoal Light (latitude 24°27.5' N. longitude 82°11.2' W.); thence due north to a point 12 miles from the baseline from which the territorial sea is measured in approximate position latitude 24°47.5' N. longitude 82°11.2' W.

**GULF COAST**

**§ 7.105 Marquesas Keys, FL to Rio Grande, TX.**

A line drawn from Marquesas Keys, Florida at approximate position latitude 24°47.5' N, longitude 82°11.2' W; along the 12-mile line which marks the seaward limits of the territorial sea (as defined in 33 CFR 2.22(a)(1)) to Rio Grande, Texas at approximate position latitude 25°58.6' N, longitude 96°55.5' W.

[USCG-2001-9044, 68 FR 42602, July 18, 2003]

**HAWAII**

**§ 7.110 Mamala Bay, HI.**

A line drawn from Barbers Point Light to Diamond Head Light.

**PACIFIC COAST**

**§ 7.115 Santa Catalina Island, CA.**

(a) A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

(b) A line drawn from White Rock to the northernmost point of Abalone Point.

**§ 7.120 Mexican/United States border to Point Fermin, CA.**

(a) A line drawn from the southerly tower of the Coronado Hotel in approximate position latitude 32°40.8' N. longitude 117°10.6' W. to latitude 32°39.1' N. longitude 117°13.6' W. (San Diego Bay Channel Lighted Bell Buoy "5"); thence to Point Loma Light.

(b) A line drawn from Mission Bay South Jetty Light "2" to Mission Bay North Jetty Light "1".

(c) A line drawn from Oceanside South Jetty Light "4" to Oceanside Breakwater Light "3".

(d) A line drawn from Dana Point Jetty Light "6" to Dana Point Breakwater Light "5".

(e) A line drawn from Newport Bay East Jetty Light "4" to Newport Bay West Jetty Light "3".

(f) A line drawn from Anaheim Bay East Jetty Light "6" to Anaheim Bay West Jetty Light "5"; thence to Long Beach Breakwater East End Light "1". A line drawn from Long Beach Entrance Light "2" to Long Beach Light. A line drawn from Los Angeles Main Channel Entrance Light "2" to Los Angeles Light.

**§ 7.125 Point Vicente, CA to Point Conception, CA.**

(a) A line drawn from Redondo Beach East Jetty Light "2" to Redondo Beach West Jetty Light "3".

(b) A line drawn from Marina Del Rey Light "4" to Marina Del Rey Breakwater South Light "1". A line drawn from Marina Del Rey Breakwater North Light "2" to Marina Del Rey Light "3".

(c) A line drawn from Port Hueneme East Jetty Light "4" to Port Hueneme West Jetty Light "3".

(d) A line drawn from Channel Islands Harbor South Jetty Light "2" to Channel Islands Harbor Breakwater South Light "1". A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light "5".

(e) A line drawn from Ventura Marina South Jetty Light "6" to Ventura Marina Breakwater South Light "3". A line drawn from Ventura Marina Breakwater North Light to Ventura Marina North Jetty Light "7".

(f) A line drawn from Santa Barbara Harbor Light "4" to latitude 34°24.1' N. longitude 119°40.7' W. (Santa Barbara Harbor Lighted Bell Buoy "1"); thence to Santa Barbara Harbor Breakwater Light.

**§ 7.130 Point Conception, CA to Point Sur, CA.**

(a) A line drawn from the southernmost extremity of Fossil Point at longitude 120°43.5' W. to the seaward extremity of Whaler Island Breakwater.

(b) A line drawn from the outer end of Morro Bay Entrance East Breakwater to latitude 35°21.5' N. longitude 120°52.3' W. (Morro Bay Entrance Lighted Bell Buoy "1"); thence to Morro Bay West Breakwater Light.

**§ 7.135 Point Sur, CA to Cape Blanco, OR.**

(a) A line drawn from Monterey Harbor Light "6" to latitude 36°36.5' N. longitude 121°53.2' W. (Monterey Harbor Anchorage Buoy "A"); thence to the northernmost extremity of Monterey Municipal Wharf No. 2.

(b) A line drawn from seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(c) A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

(d) A straight line drawn from Point Bonita Light across Golden Gate through Mile Rocks Light to the shore.

(e) A line drawn from the northwestern tip of Tomales Point to latitude 38°15.1' N. longitude 123°00.1' W. (Tomales Point Lighted Horn Buoy "2"); thence to latitude 38°17.2' N. longitude 123°02.3' W. (Bodega Harbor Approach Lighted Gong Buoy "BA"); thence to the southernmost extremity of Bodega Head.

(f) A line drawn from Humboldt Bay Entrance Light "4" to Humboldt Bay Entrance Light "3".

(g) A line drawn from Crescent City Outer Breakwater Light "5" to the southeasternmost extremity of Whaler Island at longitude 124°11' W.

**§7.140**

**§7.140 Cape Blanco, OR to Cape Flattery, WA.**

(a) A line drawn from the seaward extremity of the Coos Bay South Jetty to latitude 43°21.9' N. longitude 124°21.7' W. (Coos Bay Entrance Lighted Bell Buoy "1"); thence to the seaward extremity of the Coos Bay North Jetty.

(b) A line drawn from the lookout tower located in approximate position latitude 46°13.6' N. longitude 124°00.7' W. to latitude 46°12.8' N. longitude 124°08.0' W. (Columbia River Entrance Lighted Whistle Buoy "2"); thence to latitude 46°14.5' N. longitude 124°09.5' W. (Columbia River Entrance Lighted Bell Buoy "1"); thence to North Head Light.

(c) A line drawn from latitude 46°52.8' N. longitude 124°12.6' W. (Grays Harbor Light to Grays Harbor Entrance Lighted Whistle Buoy "2"); thence to latitude 46°55.0' N. longitude 124°14.7' W. (Grays Harbor Entrance Lighted Whistle Buoy "3"); thence to Grays Harbor Bar Range Rear Light.

**§7.145 Strait of Juan de Fuca, Haro Strait and Strait of Georgia WA.**

(a) A line drawn from the northernmost point of Angeles Point to latitude 48°21.1' N. longitude 123°02.5' W. (Hein Bank Lighted Bell Buoy); thence to latitude 48°25.5' N. longitude 122°58.5' W. (Salmon Bank Lighted Gong Buoy "3"); thence to Cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to latitude 48°46.6' N. longitude 122°53.4' W. (Clements Reef Bouy "2"); thence to International Boundary Range B Front Light.

ALASKA

**§7.150 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.**

(a) A line drawn from the northeasternmost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southeasternmost extremity of Island Point, Sitklan Island to the southernmost extremity of Garnet Point, Kanagunut Island; thence to Lord Rock Light;

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thence to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

(c) A line drawn from Point Cornwallis Light to Cape Bartolome Light; thence to Cape Edgecumbe Light; thence to the westernmost extremity of Cape Cross.

(d) A line drawn from Surge Bay Entrance Light to Cape Spencer Light.

**§7.155 Cape Spencer, AK to Cape St. Elias, AK.**

(a) A line drawn from the westernmost extremity of Harbor Point to the southernmost extremity of LaChaussee Spit at Lituya Bay.

(b) A line drawn from Ocean Cape Light to latitude 59°31.9' N. longitude 139°57.1' W. (Yakutat Bay Entrance Lighted Whistle Buoy "2"); thence to the southeasternmost extremity of Point Manby.

(c) A line drawn from the northernmost extremity of Point Riou to the easternmost extremity of Icy Cape.

**§7.160 Point Whitshed, AK to Aialik Cape, AK.**

(a) A line drawn from the southernmost extremity of Point Whitshed to the easternmost extremity of Hinchinbrook Island.

(b) A line drawn from Cape Hinchinbrook Light to Schooner Rock Light "1".

(c) A line drawn from the southwesternmost extremity of Montague Island to Point Elrington Light; thence to the southernmost extremity of Cape Puget.

(d) A line drawn from the southernmost extremity of Cape Resurrection to the Aialik Cape.

**§7.165 Kenai Peninsula, AK to Kodiak Island, AK.**

(a) A line drawn from the southernmost extremity of Kenai Peninsula at longitude 151°44.0' W. to East Amatuli Island Light; thence to the northwesternmost extremity of Shuyak Island at Party Cape; thence to the easternmost extremity of Cape Douglas.

(b) A line drawn from the southernmost extremity of Pillar Cape on Afognak Island to Spruce Cape Light; thence to the easternmost extremity of

Long Island; thence to the north-easternmost extremity of Cape Chiniak.

(c) A line drawn from Cape Nunilak at latitude 58°09.7' N. to the northernmost extremity of Raspberry Island. A line drawn from the westernmost extremity of Raspberry Cape to the northernmost extremity of Miners Point.

**§ 7.170 Alaska Peninsula, AK to Aleutian Islands, AK.**

(a) A line drawn from the southernmost extremity of Cape Kumlium to the westernmost extremity of Nakchamik Island; thence to the easternmost extremity of Castle Cape at Chignik Bay.

(b) A line drawn from Second Priest Rock to Ulakta Head Light at Iliuliuk Bay entrance.

(c) A line drawn from Arch Rock to the northernmost extremity of Devilfish Point at Captains Bay.

(d) A line drawn from the easternmost extremity of Lagoon Point to the northwesternmost extremity of Cape Kutuzof at Port Moller.

**§ 7.175 Alaska Peninsula, AK to Nunivak, AK.**

(a) A line drawn from the northernmost extremity of Goose Point at Egegik Bay to Protection Point.

(b) A line drawn from the westernmost extremity of Kulukak Point to the northernmost extremity of Round Island; thence to the southernmost extremity of Hagemeister Island; thence to the southernmost extremity of Cape Peirce; thence to the southernmost extremity of Cape Newenham.

(c) A line drawn from the church spire located in approximate position latitude 59°45' N. longitude 161°55' W. at the mouth of the Kanektok River to the southernmost extremity of Cape Avinof.

**§ 7.180 Kotzebue Sound, AK.**

A line drawn from Cape Espenberg Light to latitude 66°52' N. longitude 163°28' W.; and thence to Cape Krusenstern Light.

**PART 8—VESSEL INSPECTION ALTERNATIVES**

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AUTHORITY: 33 U.S.C. 3803 and 3821; 46 U.S.C. 3103, 3306, 3316, 3703; Department of Homeland Security Delegation No. 0170.1 and Aug. 8, 2011 Delegation of Authority, Anti-Fouling Systems.

EDITORIAL NOTE: Nomenclature changes to part 8 appear at 74 FR 49224, Sept. 25, 2009.

SOURCE: CGD 95-010, 62 FR 67532, Dec. 24, 1997, unless otherwise noted.

### Subpart A—General

#### § 8.100 Definitions.

*Authorized Classification Society* means a recognized classification society that has been delegated the authority to conduct certain functions and certifications on behalf of the Coast Guard.

*Class Rules* means the standards developed and published by a classification society regarding the design, construction and certification of commercial vessels.

*Classed* means that a vessel meets the classification society requirements that embody the technical rules, regulations, standards, guidelines and associated surveys and inspections covering the design, construction and through-life compliance of a ship's structure and essential engineering and electrical systems.

*Commandant* means the Commandant of the Coast Guard.

*Delegated Function* means a function related to Coast Guard commercial vessel inspection which has been delegated to a classification society. Delegated functions may include issuance of international convention certificates and participation in the Alternate Compliance Program under this part.

*Delegated Function Related to General Vessel Safety Assessment* means issuance of the SOLAS Cargo Ship Safety Construction Certificate or issuance of the SOLAS Cargo Ship Safety Equipment Certificate.

*Exclusive Surveyor* means a person who is employed solely by a classification society and is authorized to conduct vessel surveys. Independent surveyors, hired on a case-by-case basis, or surveyors of another classification society are not considered exclusive

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surveyors for the performance of delegated functions on behalf of the Coast Guard.

*Gross Tons* means vessel tonnage measured in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Vessels not measured by this convention must be measured in accordance with the method utilized by the flag state administration of that vessel.

*MARPOL 73/78* means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention which means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols or Annexes which have entered into force for the United States.

*Officer in Charge, Marine Inspection (OCMI)* means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the superintendence and direction of a Coast Guard District Commander, is in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and administration of 46 U.S.C., Revised Statutes, and acts amendatory thereof or supplemental thereto, and rules and regulations thereunder.

*Recognized Classification Society* means the American Bureau of Shipping or other classification society recognized by the Commandant under this part.

*SOLAS* means International Convention for the Safety of Life at Sea, 1974, as amended.

#### § 8.110 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the FEDERAL REGISTER and the material must be available to the public. All material is available for inspection at the U.S. Coast Guard, Office of Design

and Engineering Standards, (CG-ENG), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). All material is available from the sources listed in paragraph (b).

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

*American Bureau of Shipping (ABS)—ABS Plaza, 16855 Northchase Drive, Houston, TX 77060.*

Rules for Building and Classing Steel Vessels, 1996—31.01-3(b), 71.15-5(b), 91.15-5(b)

Rules for Building and Classing Steel Vessels, 1997—31.01-3(b), 71.15-5(b), 91.15-5(b)

Rules for Building and Classing Steel Vessels, 1998—31.01-3(b), 71.15-5(b), 91.15-5(b)

Rules for Building and Classing Mobile Offshore Drilling Units, 1998—107.205(b)

U. S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 21 October 1996—31.01-3(b), 71.15-5(b), 91.15-5(b)

U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 1 August 1997—31.01-3(b), 71.15-5(b), 91.15-5(b)

U.S. Supplement to ABS Rules for Mobile Offshore Drilling Units, 1 June 1998—107.205(b)

*American National Standards Institute (ANSI)—11 West 42nd St., New York, NY 10036.*

ANSI/ASQC Q9001—1994, Quality Assurance in Design, Development, Production and Servicing, 1994—8.230

*Lloyd's Register of Shipping (LR)—100 Leadenhall Street, London EC3A 3BP.*

Rules and Regulations for the Classification of Ships, 1998—31.01-3(b), 71.15-5(b), 91.15-5(b)

*Lloyd's Register of Shipping Supplemental Requirements, 19 September 1998—31.01-3(b), 71.15-5(b), 91.15-5(b)*

[CGD 95-010, 62 FR 67532, Dec. 24, 1997, as amended by USCG-1999-5004, 64 FR 30439, June 8, 1999; USCG-2000-7790, 65 FR 58458, Sept. 29, 2000]

#### § 8.120 Reciprocity.

(a) The Commandant may delegate authority to a classification society that has its headquarters in a country other than the United States only to the extent that the flag state administration of that country delegates authority and provides access to the

American Bureau of Shipping to inspect, certify and provide related services to vessels flagged by that country. The Commandant will determine reciprocity on a “case-by-case” basis.

(b) In order to demonstrate that the conditions described in paragraph (a) of this section are satisfied, a classification society must provide to the Coast Guard an affidavit, from the government of the country that the classification society is headquartered in, listing the authorities delegated by the flag state administration of that country to the American Bureau of Shipping, and indicating any conditions related to the delegated authority.

(c) The Commandant will not consider an application for authorization to perform a delegated function submitted under this part until the conditions described in paragraph (a) of this section are satisfied. Where simultaneous authorization by a foreign government for ABS is involved, this requirement may be waived.

(d) The Commandant will not evaluate a classification society for recognition until the conditions described in paragraph (a) of this section are satisfied for at least one of the authorized delegations being sought. Where simultaneous recognition by a foreign government for ABS is involved, this requirement may be waived.

(e) The Commandant may make a delegation regarding load lines under 46 U.S.C. 5107 or measurement of vessels under 46 U.S.C. 14103 without regard to the conditions described in paragraph (a) of this section.

#### § 8.130 Agreement conditions.

(a) Delegated functions performed by, and statutory certificates issued by, an authorized classification society will be accepted as functions performed by, or certificates issued by, the Coast Guard, provided that the classification society maintains compliance with all provisions of its agreement with the Commandant. Any agreement between the Commandant and a recognized classification society authorizing the performance of delegated functions will be written and will require the classification society to comply with each of the following:

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(1) Issue any certificates related to a delegated function in the English language.

(2) Maintain a corporate office in the United States that has adequate resources and staff to support all delegated functions and to maintain required associated records.

(3) Maintain all records in the United States related to delegated functions conducted on behalf of the Coast Guard.

(4) Make available to appropriate Coast Guard representatives vessel status information and records, including outstanding vessel deficiencies or classification society recommendations, in the English language, on all vessels for which the classification society has performed any delegated function on behalf of the Coast Guard.

(5) Report to the Commandant (CG–CVC) the names and official numbers of any vessels removed from class for which the classification society has performed any delegated function on behalf of the Coast Guard and include a description of the reason for the removal.

(6) Report to the Commandant (CG–CVC) all port state detentions on all vessels for which the classification society has performed any delegated function on behalf of the Coast Guard when aware of such detention.

(7) Annually provide the Commandant (CG–CVC) with its register of classed vessels.

(8) Ensure vessels meet all requirements for class of the accepting classification society prior to accepting vessels transferred from another classification society.

(9) Suspend class for vessels that are overdue for special renewal or annual survey.

(10) Attend any vessel for which the classification society has performed any delegated function on behalf of the Coast Guard at the request of the appropriate Coast Guard officials, without regard to the vessel's location—unless prohibited to do so under the laws of the United States, the laws of the jurisdiction in which the vessel is located, the classification society's home country domestic law, or where the classification society considers an un-

acceptable hazard to life and/or property exists.

(11) Honor appeal decisions made by the Commandant (CG–ENG) or Commandant (CG–CVC) on issues related to delegated functions.

(12) Apply U.S. flag administration interpretations, when they exist, to international conventions for which the classification society has been delegated authority to certificate or perform other functions on behalf of the Coast Guard.

(13) Obtain approval from the Commandant (CG–CVC) prior to granting exemptions from the requirements of international conventions, class rules, and the U.S. supplement to class rules.

(14) Make available to the Coast Guard all records, in the English language, related to equivalency determinations or approvals made in the course of delegated functions conducted on behalf of the Coast Guard.

(15) Report to the Coast Guard all information specified in the agreement at the specified frequency and to the specified Coast Guard office or official.

(16) Grant the Coast Guard access to all plans and documents, including reports on surveys, on the basis of which certificates are issued or endorsed by the classification society.

(17) Identify a liaison representative to the Coast Guard.

(18) Provide regulations, rules, instructions and report forms in the English language.

(19) Allow the Commandant (CG–DCO–D) to participate in the development of class rules.

(20) Inform the Commandant (CG–5PS) of all proposed changes to class rules.

(21) Provide the Commandant (CG–DCO–D) the opportunity to comment on any proposed changes to class rules and to respond to the classification society's disposition of the comments made by the Coast Guard.

(22) Furnish information and required access to the Coast Guard to conduct oversight of the classification society's activities related to delegated functions conducted on behalf of the Coast Guard.

(23) Allow the Coast Guard to accompany them on internal and external

quality audits and provide written results of such audits to appropriate Coast Guard representatives.

(24) Provide the Coast Guard access necessary to audit the authorized classification society to ensure that it continues to comply with the minimum standards for a recognized classification society.

(25) Use only exclusive surveyors of that classification society to accomplish all work done on behalf of, or under any delegation from, the Coast Guard. For tonnage-related measurement service only, however, classification societies may use part-time employees or independent contractors in place of exclusive surveyors.

(26) Allow its surveyors to participate in training with the Coast Guard regarding delegated functions.

(b) Amendments to an agreement between the Coast Guard and an authorized classification society will become effective only after consultation and written agreement between parties.

(c) Agreements may be terminated by one party only upon written notice to the other party. Termination will occur sixty days after written notice is given.

### **Subpart B—Recognition of a Classification Society**

#### **§ 8.200 Purpose.**

This subpart establishes criteria and procedures for vessel classification societies to obtain recognition from the Coast Guard. This recognition is necessary in order for a classification society to become authorized to perform vessel inspection and certification functions delegated by the Coast Guard as described in this part.

#### **§ 8.210 Applicability.**

This subpart applies to all vessel classification societies seeking recognition by the Coast Guard.

#### **§ 8.220 Recognition of a classification society.**

(a) A classification society must be recognized by the Commandant before it may receive statutory authority delegated by the Coast Guard.

(b) In order to become recognized, a classification society must meet the requirements of § 8.230.

(c) A classification society found to meet the criteria for recognition will be notified in writing by the Commandant.

(d) If the Coast Guard determines that a classification society does not meet the criteria for recognition, the Coast Guard will provide the reason for this determination.

(e) A classification society may re-apply for recognition upon correction of the deficiencies identified by the Coast Guard.

#### **§ 8.230 Minimum standards for a recognized classification society.**

(a) In order to receive recognition by the Coast Guard a classification society must:

(1) Establish that it has functioned as an international classification society for at least 30 years with its own class rules;

(2) Establish that it has a history of appropriate corrective actions in addressing vessel casualties and cases of nonconformity with class rules;

(3) Establish that it has a history of appropriate changes to class rules based on their application and the overall performance of its classed fleet;

(4) Have a total classed tonnage of at least 10 million gross tons;

(5) Have a classed fleet of at least 1,500 ocean-going vessels over 100 gross tons;

(6) Have a total classed tonnage of ocean-going vessels over 100 gross tons totaling no less than 8 million gross tons;

(7) Publish and maintain class rules in the English language for the design, construction and certification of ships and their associated essential engineering systems;

(8) Maintain written survey procedures in the English language;

(9) Have adequate resources, including research, technical, and managerial staff, to ensure appropriate updating and maintaining of class rules and procedures;

(10) Have adequate resources and geographical coverage to carry out all plan review and vessel survey activities associated with delegated functions as

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well as classification society requirements;

(11) Employ a minimum of 150 exclusive surveyors;

(12) Have adequate criteria for hiring and qualifying surveyors and technical staff;

(13) Have an adequate program for continued training of surveyors and technical staff;

(14) Have a corporate office in the United States that provides a continuous management and administrative presence;

(15) Maintain an internal quality system based on ANSI/ASQC Q9001 or an equivalent quality standard;

(16) Determine classed vessels comply with class rules, during appropriate surveys and inspection;

(17) Determine that attended vessels comply with all statutory requirements related to delegated functions, during appropriate surveys and inspection;

(18) Monitor all activities related to delegated functions for consistency and required end-results;

(19) Maintain and ensure compliance with a Code of Ethics that recognizes the inherent responsibility associated with delegation of authority;

(20) Not be under the financial control of shipowners or shipbuilders, or of others engaged commercially in the manufacture, equipping, repair or operation of ships;

(21) Not be financially dependent on a single commercial enterprise for its revenue;

(22) Not have any business interest in, or share of ownership of, any vessel in its classed fleet; and

(23) Not be involved in any activities which could result in a conflict of interest.

(b) Recognition may be granted after it is established that the classification society has an acceptable record of vessel detentions attributed to classification society performance under the Coast Guard Port State Control Program.

### § 8.240 Application for recognition.

(a) A classification society must apply for recognition in writing to the Commandant (CG-ENG).

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(b) An application must indicate which specific authority the classification society seeks to have delegated.

(c) Upon verification from the Coast Guard that the conditions of reciprocity have been met in accordance with § 8.120, the requesting classification society must submit documentation to establish that it meets the requirements of § 8.230.

### § 8.250 Acceptance of standards and functions delegated under existing regulations.

(a) Classification society class rules will only be accepted as equivalent to Coast Guard regulatory standards when that classification society has received authorization to conduct a related delegated function.

(b) A recognized classification society may not conduct any delegated function under this title until it receives a separate written authorization from the Commandant to conduct that specific function.

### § 8.260 Revocation of classification society recognition.

A recognized classification society which fails to maintain the minimum standards established in this part will be reevaluated and its recognized status revoked if warranted.

## Subpart C—International Convention Certificate Issuance

### § 8.300 Purpose.

This subpart establishes options for vessel owners and operators to obtain required international convention certification through means other than those prescribed elsewhere in this chapter.

### § 8.310 Applicability.

This subpart applies to:

(a) Recognized classification societies; and

(b) All U.S. flag vessels that are certificated for international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to issue the applicable international certificate as specified in this subpart.

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### § 8.320 Classification society authorization to issue international certificates.

(a) The Commandant may authorize a recognized classification society to issue certain international convention certificates. Authorization will be based on review of:

- (1) Applicable class rules; and
- (2) Applicable classification society procedures.

(b) The Coast Guard may delegate issuance of the following international convention certificates to a recognized classification society:

- (1) International Load Line Certificate;
- (2) International Tonnage Certificate (1969);
- (3) SOLAS Cargo Ship Safety Construction Certificate;
- (4) SOLAS Cargo Ship Safety Equipment Certificate;
- (5) International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
- (6) International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk;
- (7) International Maritime Organization (IMO) Mobile Offshore Drilling Unit Safety Certificate;
- (8) MARPOL 73/78 International Oil Pollution Prevention Certificate;
- (9) MARPOL 73/78 International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
- (10) SOLAS Passenger Ship Safety Certificate;
- (11) High-Speed Craft Safety Certificate;
- (12) MARPOL 73/78 International Air Pollution Prevention Certificate; and
- (13) International Anti-fouling System Certificate.

(c) The Coast Guard will enter into a written agreement with a recognized classification society authorized to issue international convention certificates. This agreement will define the scope, terms, conditions and requirements of that delegation. Conditions of

these agreements are presented in § 8.130.

[CGD 95-010, 62 FR 67532, Dec. 24, 1997, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004; USCG-2004-19823; 74 FR 20419, May 4, 2009; USCG-2008-1014, 74 FR 21558, May 8, 2009; USCG-2011-0745, 76 FR 76899, Dec. 9, 2011]

### § 8.330 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) In the event that a flag administration of a country changes conditions related to the authority that is delegated to ABS, the Commandant may modify or revoke the Coast Guard's authorization of that classification society that has its headquarters in that country.

(c) Certificates issued by a classification society which has had its authorization terminated will remain valid until the next classification society survey associated with that certificate is required or until the certificate expires, whichever occurs first.

## Subpart D—Alternate Compliance Program

### § 8.400 Purpose.

This subpart establishes an alternative to subpart 2.01 of this chapter for certification of United States vessels.

### § 8.410 Applicability.

This subpart applies to:

(a) Recognized classification societies; and

(b) U.S. flag vessels that are certificated for international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to participate in the Alternate Compliance Program (ACP) as specified in this subpart and whose vessel type is authorized to participate in the ACP

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per the applicable subchapter of 46 CFR chapter I.

### **§ 8.420 Classification society authorization to participate in the Alternate Compliance Program.**

(a) The Commandant may authorize a recognized classification society to participate in the ACP. Authorization will be based on a satisfactory review of:

- (1) Applicable class rules; and
- (2) Applicable classification society procedures.

(b) Authorization for a recognized classification society to participate in the ACP will require development of a U.S. Supplement to the society's class rules that meets the requirements of § 8.430 of this part, which must be accepted by the Coast Guard.

(c) A recognized classification society:

(1) Will be eligible to receive authorization to participate in the ACP only after the Coast Guard has delegated to it the authority to issue the following certificates:

- (i) International Load Line Certificate;
- (ii) International Tonnage Certificate;
- (iii) Cargo Ship Safety Construction Certificate;
- (iv) Cargo Ship Safety Equipment Certificate; and
- (v) International Oil Pollution Prevention Certificate; and

(2) Must have performed a delegated function related to general vessel safety assessment, as defined in § 8.100 of this part, for a two-year period.

(d) If, after this two-year period, the Coast Guard finds that the recognized classification society has not demonstrated the necessary satisfactory performance or lacks adequate experience, the recognized classification society will not be eligible to participate in the ACP. The Coast Guard will provide the reason for this determination to the recognized classification society. A classification society may appeal the decision of the Coast Guard concerning recognition to the Commandant in writing in accordance with 46 CFR 1.03-15(h)(4).

(e) The Coast Guard will enter into a written agreement with a recognized

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classification society authorized to participate in the ACP. This agreement will define the scope, terms, conditions and requirements of the necessary delegation. Conditions of this agreement are presented in § 8.130.

[CGD 95-010, 62 FR 67532, Dec. 24, 1997, as amended by USCG-2004-19823; 74 FR 20419, May 4, 2009]

### **§ 8.430 U.S. Supplement to class rules.**

Prior to receiving authorization to participate in the ACP, a recognized classification society must prepare, and receive Commandant (CG-ENG) approval of, a U.S. Supplement to the recognized classification society's class rules. This supplement must include all regulations applicable for issuance of a Certificate of Inspection (COI) which are not, in the opinion of the Commandant, adequately established by either the class rules of that classification society or applicable international regulations.

### **§ 8.440 Vessel enrollment in the Alternate Compliance Program.**

(a) In place of compliance with other applicable provisions of this title, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a COI may submit the vessel for classification, plan review and inspection by a recognized classification society authorized by the Coast Guard to determine compliance with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG-3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by an authorized classification society under the ACP.

(c) Based on reports from an authorized classification society that a vessel complies with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast

Guard, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports made by the authorized classification society indicate that the vessel meets applicable standards, the vessel owner or operator may appeal the OCMI decision as provided in subpart 1.03 of this chapter.

(d) If reports from an authorized classification society indicate that a vessel does not comply with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may decline to issue a certificate of inspection. If the OCMI declines to issue a certificate of inspection, the vessel owner or operator may:

(1) Correct the reported deficiencies and make arrangements with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the authorized classification society to the Chief, Office of Commercial Vessel Compliance, Commandant (CG-CVC), U.S. Coast Guard, 2100 2nd St. SW., Stop 7581 Washington, DC 20593-7581.

#### **§ 8.450 Termination of classification society authority.**

(a) The Coast Guard may terminate an authorization agreement with a classification society to participate in the Alternate Compliance Program if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) In the event that a flag administration of a country changes conditions related to the authority that is delegated to ABS, the Commandant may modify or revoke the Coast Guard's authorization of that classification society that has its headquarters in that country.

(c) Certificates issued by a classification society which has had its author-

ization to participate in the Alternate Compliance Program terminated, will be subject to the provisions of § 8.330.

(d) Owners or operators of vessels enrolled in the ACP and classed by a classification society that has its authority to participate in the ACP terminated, must:

(1) Change the classification society for the vessel to a classification society that is authorized to participate in the ACP; or

(2) Disenroll the vessel from the ACP.

(e) The Coast Guard will provide guidance to a vessel owner affected by the revocation of a classification society's authority to participate in the ACP. This will include notification of when the action required under paragraph (d) of this section must be completed.

[CGD 95-010, 62 FR 67532, Dec. 24, 1997, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

### **Subpart E—Streamlined Inspection Program**

SOURCE: CGD 96-055, 63 FR 44353, Aug. 18, 1998, unless otherwise noted.

#### **§ 8.500 Purpose.**

(a) This subpart establishes the Streamlined Inspection Program (SIP) which is a voluntary alternative inspection program for U.S. documented or registered vessels required to maintain a valid certificate of inspection (COI).

(b) This subpart sets out the eligibility and application requirements and the plan development and approval procedures for enrollment of companies and their vessels in the SIP.

#### **§ 8.505 Scope and applicability.**

(a) This subpart applies to U.S. documented or registered vessels that have a valid COI.

(b) A vessel enrolled in the SIP will be inspected in accordance with its approved Vessel Action Plan (VAP).

(c) The SIP includes all inspections required to renew and maintain a valid COI. The SIP does not include dry-dock examinations, unscheduled inspections related to vessel casualties, equipment

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repair or replacement, or vessel modifications. Those inspections will be conducted in accordance with the subparts applicable to the vessel.

### §8.510 Definitions.

The following definitions apply to this subpart:

*Civil penalty* means a final assessment under the provisions of 33 CFR part 1, subpart 1.07 or part 20 of this chapter.

*Coast Guard SIP Advisor* means the Coast Guard marine inspector assigned by the Officer in Charge, Marine Inspection (OCMI), to assist in the development of an action plan.

*Company* means the owner of the vessel or any other organization or person, such as the manager or the bareboat charterer, who operates a vessel under the SIP.

*Company Action Plan (CAP)* means the document describing a company's organization, policies, and responsibilities required for participation in the SIP.

*Company SIP Agent* means the individual who is responsible for the Company Action Plan and the Vessel Action Plan development and implementation and who has the authority to bind the company to the terms of these plans.

*Correction Report* means a document which sets out specific vessel deficiencies and is used to record their correction by the company.

*Documented deficiency* means an incident documented in a Coast Guard record in which the condition of a vessel, its equipment, or its operation was not in compliance with Coast Guard regulations.

*Examination Checklist* means any document or form approved in the VAP, that may be used by company employees to record the periodic examinations required by the VAP.

*Inspection Criteria References (ICR)* means the individual pages in the VAP that list each item on the vessel required by regulation to be periodically inspected.

*Inspection Schedule and Verification (ISV)* means the document that lists the items to be inspected and the intervals for their inspection, and on which is recorded the completion of required

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examinations and tests conducted by designated company employees.

*Prototype SIP plan* means the SIP plans developed for a company or vessel participating in a Coast Guard District- or OCMI-endorsed SIP before August 18, 1998.

*Reportable casualty* means a marine casualty or accident required to be reported under 46 CFR part 4, subpart 4.05 of this chapter.

*Streamlined Inspection Program (SIP)* means the alternative inspection program set out in this subpart.

*Vessel Action Plan (VAP)* means the document that prescribes procedures for maintenance, examination, and inspection of a vessel enrolled in the SIP.

### §8.515 Eligibility.

(a) The company must—

(1) Have owned or operated at least one U.S. documented or registered vessel for a minimum of 3 consecutive years before the SIP application date; and

(2) Have paid all civil penalties and user fees.

(b) Except as allowed by paragraph (c) of this section, each vessel must—

(1) Have been in operation with an eligible owner or operator for at least 3 consecutive years before the SIP application date;

(2) Have had no revocation of its COI during the 3 years before the SIP application date; and

(3) Have no documented deficiency for any of the following in the 3 years before the SIP application date:

(i) Any vessel operation inconsistent with the operating details specified on its COI.

(ii) Operating without the required amount of lifesaving appliances on board the vessel or with inoperable survival craft.

(iii) Operating without the required firefighting equipment on board the vessel or with an inoperable fire pump(s).

(iv) Unauthorized modifications to the vessel's approved systems or structure, such as fixed firefighting systems, pollution prevention arrangements, overcurrent protection devices, or watertight boundary arrangements.

(v) Operating without the required navigation equipment on board the vessel or with inoperable navigation equipment.

(c) A vessel constructed for, or acquired by, a company with one or more vessels enrolled in the SIP need not meet the requirement in paragraph (b)(1) of this section for enrollment in the SIP, provided that the vessel holds a valid COI issued by the OCMI where the vessel will principally operate.

#### § 8.520 Application.

To apply for SIP enrollment, a company will submit an application, in writing, to the cognizant OCMI. The application must contain the following:

(a) A statement that the company and prospective vessel(s) meet the requirements of § 8.515.

(b) A summation of the company's current status in relation to § 8.530(a).

(c) The name and official number of the vessel(s) the company intends to enroll in the SIP.

(d) The name and contact information for the Company SIP Agent.

#### § 8.525 OCMI review and action.

(a) The cognizant OCMI will review Coast Guard records for the 3 years before the SIP application date to verify the eligibility of the company and each vessel listed in the SIP application.

(b) If the company and one or more of its vessels meets the eligibility requirements contained in § 8.515, the cognizant OCMI will notify the company of its eligibility and assign a Coast Guard SIP Advisor.

(c) If, according to Coast Guard records, a company or vessel does not meet the eligibility requirements contained in § 8.515, the cognizant OCMI will notify the company in writing of its ineligibility stating each reason for not accepting the company or a vessel.

#### § 8.530 Plan development and approval.

The Company SIP Agent will develop the CAP and VAP with guidance from the Coast Guard SIP Advisor for OCMI approval.

(a) *Company Action Plan.* The CAP shall include at least the following:

(1) A copy of the OCMI CAP approval letter (once the CAP is approved).

(2) An organization commitment statement.

(3) A company organization chart that includes the name(s) of the designated SIP support personnel who will be responsible for implementation and oversight of the approved CAP and VAP(s).

(4) A statement describing the responsibilities and authorities of personnel involved in the examination and maintenance of the vessel(s) for the company.

(5) A description of the method the company will use to integrate the applicable subpart regulations into its SIP and the method or system used to initiate corrective action.

(6) A description of the company's safety program.

(7) A description of the company's environmental protection program.

(8) A description of the company's training infrastructure, the method used to track and record training for individual employees, and the training required for the designated SIP support personnel to implement the CAP and the VAP.

(9) A master list of all SIP documents and ICRs that the company intends to use in its VAP(s).

(10) Appendices for each approved VAP.

(b) *Vessel Action Plan.* Each VAP shall include at least the following:

(1) A copy of the OCMI VAP approval letter (once the VAP is approved).

(2) A description of the method that will be used to integrate the VAP into the vessel's regular operations.

(3) Vessel-specific ICRs.

(4) Vessel-specific ISV forms.

(5) Vessel-specific examination checklists.

(6) Correction reports.

(c) *Plan Approval.* The Company SIP Agent will submit the CAP and each VAP to the cognizant OCMI for approval. Once approved, a copy of the VAP shall be kept on board the vessel.

#### § 8.535 Training and operational evaluation.

When the CAP and VAP(s) have been approved by the cognizant OCMI, the company may begin training and operating under the plans. This evaluation phase includes the following:

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(a) The company shall provide the designated SIP support personnel with training as required by the CAP.

(b) The vessel must operate and be examined under the VAP for a period of at least 3 months.

(c) During the operational periods, the Coast Guard SIP Advisor will conduct an ongoing evaluation of the vessel's operation, the training records, and the ability of all designated persons to perform their assigned functions under the VAP. The Coast Guard SIP Advisor will report periodically to the cognizant OCMI and the Company SIP Agent on the vessel's performance, and make recommendations, if needed.

(d) Revisions recommended under paragraph (c) of this section, or any additional operational periods under a revised CAP or VAP as may be required by the cognizant OCMI must be completed prior to enrollment.

### § 8.540 Enrollment in SIP.

Upon successful completion of the training and evaluation phase, the Coast Guard SIP Advisor will recommend to the OCMI that the company or vessel be enrolled in the SIP. If the OCMI concurs with the recommendation, he or she will issue an enrollment letter and endorse the vessel's COI. Subsequent inspections covered under this subpart will be conducted in accordance with the approved VAP.

### § 8.545 Scope of inspection for enrolled vessels.

(a) A Coast Guard marine inspector will conduct required periodic and follow-on inspections necessary to ensure compliance with Coast Guard regulations.

(b) A Coast Guard marine inspector will conduct the inspections in paragraph (a) of this section in accordance with the procedures set out in the VAP. These inspections will normally include the following:

(1) *Administrative review.* This portion of the inspection consists of a review of prior Coast Guard SIP inspection forms, the contents of the VAP, and other certifications of equipment and vessel systems.

(2) *SIP performance review.* This portion of the inspection consists of a re-

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view of vessel SIP documentation and records, review of the SIP procedures, and a company evaluation of their SIP.

(3) *Materiel review.* This portion of the inspection consists of a general examination of the vessel, witnessing the examination of selected items under the VAP by company designated SIP support personnel, inspection of selected items, and witnessing crew performance in drills.

(4) *Conclusion and recommendations.* This portion of the inspection contains the Coast Guard marine inspector's evaluation of regulatory compliance of the vessel under its VAP.

(c) A Coast Guard marine inspector may conduct any additional tests or examinations of vessel equipment or systems necessary to ensure compliance with Coast Guard regulations during an inspection covered in paragraph (a) of this section.

### § 8.550 Plan review and revisions.

(a) Mandatory reviews and revisions. The CAP and VAP(s) must be reviewed and revised as follows:

(1) Every 2 years after the plan approval date, the company shall review the CAP and update all information required by § 8.530.

(2) Every 5 years after the plan approval date, the Coast Guard SIP Advisor and the Company SIP Agent will review the VAP.

(3) If a reportable casualty occurs, the cognizant OCMI will review the portions of the VAP related to equipment, training, personnel, and systems involved in the casualty and determine whether revisions to the VAP are appropriate.

(4) When statutes or regulations change, the appropriate sections of the CAP and VAP(s) will be revised.

(b) *Discretionary reviews and revisions.* The CAP and VAP(s) may be reviewed and revised by the company at any time. The revisions must be submitted to the cognizant OCMI for approval.

### § 8.555 Disenrollment.

(a) *Voluntary disenrollment.* A company may request SIP disenrollment (which includes all of its vessels) or may request disenrollment of a specific vessel from the SIP by writing to the cognizant OCMI. The OCMI will then

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.
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- 9.8 Broken periods.
- 9.9 Two hours between broken periods.
- 9.10 Waiting time.
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- 9.15 Application form.
- 9.16 Billing for services.
- 9.17 Protests.

AUTHORITY: 46 U.S.C. 2103; Department of Homeland Security Delegation No. 0170.1.

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, 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 the master, owner, or

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

[CGD 74-119, 39 FR 33336, Sept. 17, 1974, as amended by USCG-2000-7790, 65 FR 58458, Sept. 29, 2000]

### §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

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hours amounting to at least one hour to be counted as 2 hours. In computing 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

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services performed at night on a week-day, the time between the completion 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 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.

[CGD 74-119, 39 FR 33336, Sept. 17, 1974, as amended by USCG-2010-0759, 75 FR 60001, Sept. 29, 2010]

### §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.