U.S. Department of
Homeland Security

**United States
Coast Guard**

MARITIME LAW ENFORCEMENT MANUAL

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Table of Contents

CHAPTER 1 ENFORCEMENT OF LAWS AND TREATIES (ELT) PROGRAM 1-1
Section A. Introduction 1-3
A.1. Statutory Basis 1-3
A.2. History 1-3
A.3. Tradition 1-3
A.4. Coast Guard Reputation 1-4
Section B. Modern ELT Program 1-4
B.1. Missions 1-4
B.2. Overarching Policy 1-4
B.3. Boardings and Law Enforcement Ashore 1-4
Section C. Purpose, Organization, and Use 1-5
C.1. Purpose 1-5
C.2. Relationship to Other Programs 1-5
C.3. Organization 1-5
C.4. Intended Use 1-5
C.5. Public Dissemination 1-6
C.6. Foreign Dissemination 1-6

CHAPTER 2 DOMESTIC AND INTERNATIONAL LAW AND POLICY FRAMEWORK 2-1
Section A. Authority 2-3
A.1. General Authority 2-3
A.2. Customs Authority 2-4
A.3. Protection and Security of Vessels, Harbors, and Waterfront Facilities Authority 2-4
A.4. Assistance Authority 2-6
A.5. Authority for CGIS Special Agents 2-8
A.6. Other Authority 2-8
Section B. Jurisdiction 2-8
B.1. Substantive Law 2-9
B.2. Vessel Status/Flag 2-9
B.3. Location 2-10
B.4. Jurisdictional Exceptions 2-11
B.5. Areas in Dispute 2-15
Section C. Special Circumstances 2-15
C.1. Right of Visit (ROV) 2-15
C.2. Consensual Boarding 2-17
C.3. Rendering Assistance to Persons/Property 2-18
Section D. Bilateral/Multilateral Law Enforcement Agreements 2-18
D.1. Maritime Law Framework 2-18
D.2. Agreement Compliance 2-18
Section E. Policy Guidance 2-19
E.1. Approval Requirements 2-19
E.2. Law Enforcement Authority Ashore 2-19
E.3. Intelligence Information Collection and Reporting 2-21
E.4. Cooperation with Foreign Law Enforcement Officials 2-21
E.5. Interference with Law Enforcement Activity 2-22
E.6. Interagency Cooperation 2-23
E.7. Law Enforcement Detachment Program 2-24
E.8. Role of Coast Guard Auxiliary 2-24
E.9. Special Interest Vessel 2-25
E.10 Support to U.S. Secret Service for Protective Duties 2-25
E.11. Use of Race 2-25

CHAPTER 3 CONDUCT OF BOARDING OPERATIONS 3-1
Section A. Introduction 3-3
A.1. Fundamental Reasons for Boardings 3-3

A.2. Conduct 3-3
A.3. Lawful Rights and Human Dignity 3-3
A.4. Accommodating Mariners 3-3
A.5. Preparedness 3-3
Section B. Pre-Boarding Activity 3-4
B.1. Right of Approach Questions 3-4
B.2. Pre-Boarding Questions 3-4
B.3. Authority and Jurisdiction 3-4
B.4. Whether to Board (Risk/Benefit Assessment) 3-5
B.5. Non-Compliant Vessels 3-6
Section C. Boarding Procedures 3-7
C.1. Boarding Team Composition 3-7
C.2. Obtaining and Reporting Information During a Boarding 3-10
C.3. Initial Safety Inspections (ISIs) 3-11
C.4. Vessel Inspections 3-12
C.5. Special Boarding Procedures 3-13
C.6. DoD and Allied Navy Support During Boardings 3-15
C.7. Detention and Release of Persons and Property 3-17
C.8. Investigation Activities 3-18
C.9. Searches of Vessels 3-18
C.10. Pre-Arrest Searches of Persons 3-24
Section D. Enforcement 3-26
D.1. Civil Penalty Process 3-26
D.2. Arrests 3-26
D.3. Rights Advice 3-27
D.4. Seizures 3-28
D.5. Post-Arrest Searches 3-30
D.6. Evidence Collection and Case Preparation 3-31

CHAPTER 4 COAST GUARD USE OF FORCE POLICY AND STANDING RULES OF ENGAGEMENT 4-1
Section A. Definitions 4-3
Section B. Coast Guard Use of Force Policy 4-4
B.1. Applicability 4-4
B.2. Guiding Principles 4-4
B.3. Rules Governing Use of Force 4-5
Section C. Use of Force Continuum 4-7
C.1. Classification of Subjects 4-7
C.2. Levels of Force 4-7
Section D. Use of Force Against Non-Compliant Vessels 4-9
D.1. Stopping a Vessel at Sea 4-9
D.2. Suitability Assessment 4-10
D.3. Stopping Non-Compliant Vessels 4-10
D.4. Special Circumstances 4-13
Section E. Standing Rules of Engagement 4-15
E.1. Applicability 4-15
E.2. Guiding Principles 4-15
E.3. Rules Governing SROE 4-16
Section F. Use of Force Reports 4-16

CHAPTER 5 DRUG LAW ENFORCEMENT 5-1
Section A. Introduction 5-3
A.1. Posse Comitatus Act, 18 USC 1385 5-3
A.2. Interagency Relationships 5-3
A.3. Further Guidance 5-3
Section B. Legal Framework 5-4
B.1. Sources of Substantive Law 5-4
B.2. Authority and Jurisdiction 5-4
B.3. Mansfield Amendment 5-4
Section C. Offenses 5-5
C.1. Maritime Drug Law Enforcement Act (MDLEA), 46 USC App. 1903-1904 5-5

C.2. 21 USC 955 5-8
C.3. 21 USC 844 5-9
C.4. State Prosecution 5-10
Section D. Policy and Procedures 5-11
D.1. Bilateral/ Multilateral Counterdrug Agreements 5-11
D.2. Contraband Recovery 5-13
D.3. Representative Samples of Contraband 5-13
D.4. Venue Decisions 5-14
D.5. Federal Drug Seizure System (FDSS) 5-15

CHAPTER 6 IMMIGRATION LAW ENFORCEMENT 6-1
Section A. Introduction 6-3
A.1. Interagency Relations 6-3
A.2. Migrant Interdiction Mission 6-3
A.3. Further Guidance 6-4
Section B. Legal Framework 6-4
B.1. Sources of Substantive International Law 6-4
B.2. Domestic Legal Framework 6-5
B.3. Authority and Jurisdiction 6-7
Section C. Offenses 6-8
C.1. Suspension of Entry of Undocumented Aliens 6-8
C.2. Bringing in and Harboring Certain Aliens, 8 USC 1324(a)(2) 6-9
C.3. Stowaways, 18 USC 2199 6-10
Section D. Policy and Procedures 6-11
D.1. Interdiction of Undocumented Aliens 6-11
D.2. General Disposition of Migrants Interdicted at Sea 6-12
D.3. Nationality- and Geographic-Specific Disposition Issues 6-14
D.4. Prescreening 6-15
D.5. Disposition of Migrant Vessels 6-15
D.6. Aliens Detained for Prosecution or Arrested at Sea 6-16
D.7. Disclosure/ Requests for Information 6-16
D.8. Terminology 6-16
D.9. Citizenship/ Immigration Documents 6-16
D.10. Requests for DoD Support 6-17
D.11. Activities Inconsistent with Immigration Status 6-18

CHAPTER 7 FISHERIES LAW ENFORCEMENT 7-1
Section A. Definitions 7-3
Section B. Introduction 7-3
B.1. Responsibilities 7-3
B.2. Objectives 7-3
B.3. Interagency Relationships 7-4
B.4. Further Guidance 7-4
Section C. Legal Framework 7-5
C.1. Sources of Substantive Law 7-5
C.2. Authority and Jurisdiction 7-5
Section D. Offenses 7-6
D.1. Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1801-1883 7-6
D.2. Lacey Act, 16 USC 3371-3378 7-8
Section E. Policy and Procedures 7-9
E.1. Ocean Guardian 7-9
E.2. Regional Fishery Management Councils 7-10
E.3. Bilateral/ Multilateral Fisheries Agreements 7-10
E.4. Fisheries Law Enforcement Authority Ashore 7-10
E.5. NOAA Fisheries Observer Program 7-11
E.6. NOAA OLE National Vessel Monitoring System (N-VMS) 7-12
E.7. Inspection of Fixed Gear 7-12
E.8. Gear Conflicts 7-12
E.9. Commercial Fishing Industry Vessel Safety Act 7-13
E.10. Living Marine Resources Enforcement Summary Report 7-13

CHAPTER 8 ENFORCEMENT OF PROTECTED SPECIES AND PROTECTED AREAS 8-1
Section A. Introduction 8-3
Section B. Legal Framework 8-4
B.1. Sources of Substantive Law 8-4
B.2. Authority and Jurisdiction 8-5
Section C. Offenses 8-5
C.1. Endangered Species Act (ESA), 16 USC 1531-1544 8-5
C.2. Marine Mammal Protection Act (MMPA), 16 USC 1361-1407 8-7
C.3. National Marine Sanctuaries Act (NMSA), 16 USC 1431-1445 8-9
C.4. Migratory Bird Treaty Act (MBTA), 16 USC 703 8-10
C.5. National Wildlife Refuge (NWR) System, 16 USC 668dd 8-11
Section D. Policy and Procedures 8-12
D.1. Marine Mammal Assistance Program 8-12
D.2. Procedures for Initial Response 8-13
D.3. Procedures for Rescue and Disposal 8-13
D.4. Sighting Reports 8-15

CHAPTER 9 ENVIRONMENTAL/POLLUTION LAW ENFORCEMENT 9-1
Section A. Introduction 9-3
A.1. Responsibilities 9-3
Section B. Legal Framework 9-4
B.1. International Law and Agreements 9-4
B.2. Domestic Law and Regulations 9-4
Section C. Offenses 9-5
C.1. Clean Water Act (33 USC 1319 and 1321) 9-5
C.2. Act to Prevent Pollution from Ships (33 USC 1901-1912) 9-6
C.3. Ocean Dumping Act (33 USC 1401 and 1445) 9-9
C.4. The River and Harbors Act of 1899 (Refuse Act) (33 USC 407 and 411) 9-10
C.5. Migratory Bird Treaty Act (16 USC 703 et seq.; 50 CFR Parts 10, 12, and 20) 9-11
C.6. Other Related Statutes 9-11
Section D. Policy and Procedures 9-12
D.1. Initial Response and Reporting Procedures 9-12
D.2. Command, Control, and Consultation 9-14
D.3. Investigations 9-16
D.4. Post Investigation Actions 9-18

CHAPTER 10 MARITIME HOMELAND SECURITY LAW ENFORCEMENT 10-1
Section A. Definitions 10-3
Section B. Introduction 10-6
B.1. Overarching Requirements 10-6
B.2. Maritime Law Enforcement Operations 10-6
B.3. Port Security Duties 10-6
B.4. Criminal and/or Civil Offenses 10-7
B.5. Terrorist Threats and Incidents in Marine Environment 10-7
B.6. Tactical Guidance 10-7
B.7. Aircraft Use 10-7
Section C. Policy and Procedures 10-7
C.1. Guiding Principles 10-7
C.2. Security Boardings 10-9
C.3. Control Measures 10-16
C.4. MHS Law Enforcement Ashore 10-19
C.5. Searches of Structures, Vehicles, and Persons Ashore 10-22
C.6. Special Deputation Program 10-25
C.7. High-Risk Crewmembers, Deserters, and Stowaways 10-28

CHAPTER 11 VESSEL SAFETY 11-1
Section A. Introduction 11-3
A.1. Overarching Policy 11-3
A.2. Applicable Documents 11-3
Section B. Legal Framework 11-3

B.1. Sources of Substantive Law 11-3
B.2. Authority and Jurisdiction 11-3
Section C. Offenses 11-4
C.1. Titles 33 and 46 USC 11-4
C.2. Violations of Navigation Rules and Regulations, 33 USC 1608, 2072 11-6
C.3. Commercial Fishing Industry Vessel Safety Act, 46 USC 4501-4508 11-7
C.4. Negligent and Grossly Negligent Operations, 46 USC 2302(a)-(b) 11-8
C.5. BUI, 46 USC 2302(c) 11-9
Section D. Policy and Procedures 11-12
D.1. Voyage Termination 11-12
D.2. Marine Casualty Reporting 11-13
D.3. Boating Accident Reporting 11-13
D.4. Foreign Flag Recreational Vessels 11-14

CHAPTER 12 GENERAL CRIMINAL LAW 12-1
Section A. Introduction 12-3
A.1. Overarching Policies 12-3
A.2. Applicable Documents 12-3
Section B. Legal Framework 12-3
B.1. Sources of Substantive Law 12-3
B.2. Authority and Jurisdiction 12-3
Section C. Offenses 12-4
C.1. Seizure and Forfeiture of Vessels Outfitted for Smuggling, 19 USC 1703 12-4
C.2. Aviation Smuggling, 19 USC 1590 12-5
C.3. Theft Within the Special Maritime and Territorial Jurisdiction (SMTJ), 18 USC 661 12-6
C.4. Prohibited Acts Regarding Federally Regulated Firearms, 26 USC 5861 12-7
C.5. Persons Prohibited From Possessing Any Firearm in Commerce, 18 USC 922(g) 12-7
C.6. Hostage Taking, 18 USC 1203 12-8
C.7. Piracy, 18 USC 1651 12-9
C.8. Violence Against Maritime Navigation, 18 USC 2280 12-10
C.9. Mutiny, 18 USC 2193 12-12
C.10. Firing or Tampering with a Vessel (Scuttling), 18 USC 2275 12-13
C.11. Obstructions to Navigation, 33 USC 409 12-13
Section D. Policy and Procedures 12-14
D.1. Special Maritime and Territorial Jurisdiction (SMTJ) 12-14
D.2. Servicing Legal Office 12-15

APPENDIX A. LIST OF ACRONYMS A-1

APPENDIX B. GLOSSARY B-1

APPENDIX C. STATUTORY REFERENCE C-1

APPENDIX D. COMMAND, CONTROL, APPROVAL, AND COORDINATION D-1
D.1. Jurisdictional Areas D-3
D.2. Presidential Directive/NSC-27 ..... D-3
D.3. Statement of No Objection D-3
D.4. Interplay between PD-27 and the SNO Process D-3
D.5. Dissemination and Use of Intelligence Information D-4
D.6. Guiding Principles D-4
D.7. How to Use the Matrix D-4

APPENDIX E. LAW ENFORCEMENT REPORTS E-1
E.1. Law Enforcement SITREP E-3
E.2. Use of Force Reports E-5
E.3. Living Marine Resource (LMR) Enforcement Summary Report E-7
E.4. Report of Boarding (CG-4100) E-7
E.5. Supplemental Boarding Report (CG-4100S) E-10
E.6. Commercial Fishing Industry Supplemental Boarding Report (CG-4100F) E-10
E.7. Offense Investigation Report (CG-5202) E-13
E.8. Offense Investigation Report Supplemental (CG-5202A) E-14

E.9. Enforcement Action Report (EAR) (CG-5201) E-17
E.10. Summons to Appear (CF-358) E-18
E.11. Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances and Notice of Expedited Judicial Forfeiture Procedures (CF-364) E-21
E.12. Statement of No Objection (SNO) Requests E-27

APPENDIX F. VESSEL DOCUMENTS, PAPERS, AND FORMS F-1

F.1. Procedures F-3
F.2. Further Guidance F-3
F.3. U.S. Vessels F-3
F.4. Foreign Flag Vessels and U.S. Commercial Vessels on Foreign Voyages F-3
F.5. Certificate of Documentation F-4
F.6. Certificate of Number F-6
F.7. Certificate of Registry F-7
F.8. Certificate of Inspection (COI) F-7
F.9. Merchant Mariner's License F-8
F.10. Load Line Certificate F-9
F.11. Certificate of Financial Responsibility F-9
F.12. Crew List F-9
F.13. Passenger List F-9
F.14. Manifest F-10
F.15. Log Book F-10
F.16. Shipping Articles F-10
F.17. Officer's License F-10
F.18. Safe Manning Document F-10
F.19. International Oil Pollution Prevention Convention (IOPP) Certificate F-10
F.20. Safety of Life at Sea Certificates F-10
F.21. U.S. Documents and Papers Issued to Foreign Flag Commercial Vessels F-11
F.22. Customs Forms F-11

APPENDIX G. LAW ENFORCEMENT CASE PACKAGE PREPARATION AND TRIAL SUPPORT .. G-1

G.1. Criteria for Preparing LE Case Package G-3
G.2. LE Case Package Checklist G-3
G.3. LE Case Package Content G-4
G.4. Transfer of Case Package to Foreign Authorities G-6
G.5. Funding G-8
G.6. Witnesses G-8

APPENDIX H. OUTFITTING AND EQUIPPING LAW ENFORCEMENT PERSONNEL H-1

H.1. Boarding Team Clothing H-3
H.2. Name Tags and Name Tapes H-3
H.3. Insignia H-3
H.4. Outer Garments H-3
H.5. Headgear H-4
H.6. Footwear H-4
H.7. Body Armor H-4
H.8. Personal Flotation Devices and Survival Vest H-5
H.9. Head, Feet, Ear, Hand, and Eye Protection H-5
H.10. Gas and Radiation Monitoring Equipment H-6
H.11. Respiratory Protection H-6
H.12. Other Protective Clothing or Equipment H-6
H.13. Law Enforcement Belt H-7
H.14. Holsters H-7
H.15. Restraint Devices H-8
H.16. Chemical Irritants H-9
H.17. Expandable Baton H-9
H.18. Standard Service Weapons H-9
H.19. Boarding Kits H-11
H.20. Access Kit H-12
H.21. Job Aids H-12

H.22. Confined Space Equipment H-13
H.23. Breathalyzer H-13
H.24. Document Examination Tools H-13
H.25. Other Specialized Tools and Equipment H-13
H.26. Identification Cards H-14
H.27. Law Enforcement Badges and Credentials H-14
H.28. K-9 Patches H-14

APPENDIX I. WEAPONS CARRIAGE ABROAD AND ABOARD AIRCRAFT I-1

I.1. Conformance with U.S. Ambassador Policies I-3
I.2. Threat Level I-3
I.3. Ambassador Direction I-3
I.4. Qualification I-3
I.5. Weapons I-3
I.6. Host Nation Boarding Operations I-3
I.7. Cognizant Program Manager I-3
I.8. Responsibility of CO/OICs and Pilots in Command I-4
I.9. Weapons Carried by Coast Guard Aircrew Personnel I-4
I.10. Weapons Carried by Non-Aircrew Personnel I-4
I.11. Rules and Regulations I-4
I.12. OC Pepper Spray I-5

APPENDIX J. SPECIAL INCIDENT PROCEDURES J-1

J.1. Search Techniques J-3
J.2. Explosion on a Boarding Vessel J-3
J.3. Self-Defense J-3
J.4. Response Procedures J-3
J.5. Calming Influence J-4
J.6. Affect on U.S. Ports and Waterways J-4
J.7. Disputes Aboard Foreign Vessels J-4
J.8. Further Guidance J-4
J.9. Boarding Termination J-5
J.10. Boarding Suspension J-5
J.11. Procedures J-5
J.12. Initial Response Actions J-5
J.13. Crime Scene Preservation J-5
J.14. Definitions J-6
J.15. Legal Authority J-6
J.16. Procedures J-7
J.17. Responsibilities of Persons Involved J-8
J.18. Unit Responsibilities J-9
J.19. District/Area Responsibilities J-9

APPENDIX K. IMMIGRATION DOCUMENTS K-1

K.1. Legitimacy of Documents K-3
K.2. Valid Citizenship Documents K-3
K.3. Unreliable Indicators K-3
K.4. Procedures K-4
K.5. Terms K-4
K.6. U.S. Immigrant Documents K-4
K.7. Temporary Visas K-4
K.8. Validity K-5
K.9. Non-Immigrant Classes K-5
K.10. Employments K-5
K.11. Deportation K-5
K.12. Extension of Stay K-5
K.13. Doubt of Ownership K-6
K.14. Document Status K-6
K.15. General Document Examination K-6
K.16. Checking for Photo Substitutions K-6

K.17. Checking for Data Alterations K-7
K.18. Fictitious Passports K-7
K.19. Examination Tools K-7
K.20. Training K-7
K.21. Security Features K-7
K.22. Misrepresentation K-7

APPENDIX L. REQUESTS MADE BY FOREIGN NATIONALS FOR PROTECTION FROM PERSECUTION OR TORTURE L-1

L.1. Objective L-3
L.2. Refugee Convention Obligations L-3
L.3. Torture Convention Obligations L-3
L.4. Asylum L-4
L.5. Notification L-4
L.6. Temporary Refuge L-4
L.7. Disposition L-5
L.8. Requests for Information L-5

APPENDIX M. CLAIMS PROCEDURES M-1

M.1. Claims Arising from Joint Operations M-3
M.2. Claims Against Coast Guard Personnel M-3
M.3. Injuries M-3
M.4. Property Damage M-3
M.5. Forms, Instructions, and Information M-4
M.6. Claims M-4

APPENDIX N. MARITIME LAW ENFORCEMENT (MLE) TRAINING N-1

N.1. Training Sources N-3
N.2. Responsibilities N-5
N.3. Administration N-7
N.4. Personnel Qualification Standards N-8
N.5. Unit MLE Training Syllabus N-8
N.6. Boarding Debriefs N-8
N.7. Organizational Clothing for MLE Instructors N-9

APPENDIX O. MARITIME SAFETY AND SECURITY OFFENSES O-1

O.1. Marine Environment O-3
O.2. Navigable Waters O-3
O.3. Exclusive Economic Zone (EEZ) O-3
O.4. Outer Continental Shelf (OCS) O-3
O.5. Violations of COTP Orders Issued Under the PWSA O-4
O.6. Violations of COTP Orders Issued Under the Magnuson Act O-5
O.7. Security Zone Violations O-7
O.8. Safety Zone Violations O-9
O.9. Safety Zone Violations Around OCS Facilities O-9
O.10. Naval Vessel Protection Zone (NVPZ) Violations O-11
O.11. Regulated Navigation Area (RNA) Violations O-12
O.12. Special Local Regulation (SLR) Violations O-12
O.13. Restricted Waterfront Area (RWA) Violations O-13
O.14. Naval Defensive Sea Area (NDSA) Violations O-14
O.15. Restricted Area (RA) Violations O-15
O.16. Danger Zone Violations O-16

APPENDIX P. COMMAND, CONTROL, APPROVAL, AND COORDINATION FOR ACTUAL AND SUSPECTED CREDIBLE TERRORIST THREATS AND INCIDENTS IN THE MARINE ENVIRONMENT P-1

P.1. References for this Appendix P-3
P.2. Background P-3
P.3. Definitions P-5

P.4. Command, Control, Approval, and Coordination for Incidents in U.S. Territorial Waters (Including the U.S. Contiguous Zone Where Applicable), or Aboard U.S. Flagged Vessels Wherever Located P-6
P.5. Command, Control, and Coordination for Incidents Aboard Foreign Flagged and Stateless Vessels Seaward of U.S. Territorial Waters (Including the U.S. Contiguous Zone Where Applicable) P-8
P.6. Situations Not Covered by this Appendix P-8
P.7. Secure Communication P-9
P.8. Inherent Authority and Obligation for Unit Self-Defense P-9
P.9. Internet Release P-9
INDEX……...Index - 1

List of Figures

Figure 2-1 Jurisdictional Areas 2-27
Figure 6-1 Operations Procedures for Cuban Repatriations 6-19
Figure 10-1 Security Boarding FIR 10-30
Figure 10-2 Standard Consent Form 10-31
Figure 11-1 Field Sobriety Test Performance Report 11-19
Figure 11-1 Field Sobriety Test Performance Report - Continued 11-20
Figure D-1 Command and Control Matrix D-7
Figure E-1 Use of Force Report Template E-6
Figure E-2 Living Marine Resource Enforcement Summary Report Template E-8
Figure E-3 Report of Boarding (CG-4100) E-9
Figure E-4 Supplemental Boarding Report (CG-4100S) E-11
Figure E-5 Commercial Fishing Vessel Boarding Report (CG-4100F) E-12
Figure E-6 Offense Investigation Report (CG-5202) E-15
Figure E-7 Offense Investigation Report Supplemental (CG-5202A) E-16
Figure E-8 Enforcement Action Report (CG-5201) E-19
Figure E-9 Summons to Appear (CF-358) E-20
Figure E-10 Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances (CF-364) E-22
Figure E-11 Notice of Expedited Judicial Forfeiture Procedures (CF-364) E-23
Figure E-12 Coast Guard Form Index E-24
Figure E-13 Non-Coast Guard Form Index E-24
Figure E-14 Chinese National Questionnaire (page 1 of 2) E-25
Figure E-14 Chinese National Questionnaire (page 2 of 2) E-26
Figure F-1 Certificate of Documentation (CG-1270) F-12
Figure F-2 Certificate of Inspection (CG-841) F-13
Figure F-3 Master License F-14
Figure F-4 License to Operate or Navigate Passenger-Carrying Vessels F-14
Figure F-5 License to Operate Uninspected Towing Vessels F-15
Figure F-6 U.S. Merchant Mariner's Document F-15
Figure F-7 Load Line Certificate F-16
Figure G-1 LE Case Package Cover Letter Template (Foreign Turnover) G-9
Figure G-2 Witness Travel Funding Message Template G-10
Figure K-1 Citizenship Certificate K-8
Figure K-2 Naturalization Certificate K-9
Figure K-3 U.S. Passport K-10
Figure K-4 Reentry Permit and Refugee Travel Document K-11
Figure K-5 Alien Registration Receipt Card (I-551) K-12
Figure K-6 Alien Registration Receipt Card (I-551) K-13
Figure K-7 Alien Registration Receipt Card (I-551) K-14
Figure K-8 Employment Authorization and Temporary Resident Cards K-15
Figure K-9 Visas and Form I-94 ..... K-16

List of Tables

Table 4-1. Checklist for Stopping Non-Compliant Vessels 4-17
Table 4-1. Checklist for Stopping Non-Compliant Vessels - Continued 4-18
Table 4-1. Checklist for Stopping Non-Compliant Vessels - Continued 4-19
Table 11-1. Safety of Life at Sea (SOLAS) Checklist 11-15
Table 11-1. Safety of Life at Sea (SOLAS) Checklist - Continued 11-16
Table 11-1. Safety of Life at Sea (SOLAS) Checklist - Continued 11-17
Table 11-1. Safety of Life at Sea (SOLAS) Checklist - Continued 11-18
Table N-1. Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits O-17
Table N-1. Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits - Continued O-18
Table N-1. Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits - Continued O-19

Chapter 1
Enforcement of Laws and Treaties (ELT) Program

Introduction

This chapter provides an overview of the Coast Guard's enforcement of laws and treaties (ELT) program.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	1-3
B	Modern ELT Program	1-4
C	Purpose, Organization, and Use	1-5

Section A. Introduction

Introduction

This section contains a historical overview of the ELT program.

A.1. Statutory Basis

The United States Coast Guard (USCG) is the nation's lead maritime law enforcement (MLE) agency and has broad, multifaceted jurisdictional authority. The specific statutory basis for the Coast Guard's law enforcement mission, 14 USC 2, is indeed expansive:

> *"The Coast Guard shall enforce or assist in the enforcement of all applicable federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States."*

A.2. History

The Coast Guard has served as our nation's primary federal MLE agency since 1790 when its predecessor, the Revenue Cutter Service, was established. Treasury Secretary Alexander Hamilton promulgated the first "Regulations" for the Revenue Cutter Service in the form of a historic letter regarding the rights and freedoms guaranteed all Americans. An excerpt from this inaugural directive is as follows:

> *"While I recommend in the strongest terms to the respective officers, activity, vigilance, and firmness, I feel no less solicitude that their deportment may be marked with prudence, moderation and good temper. Upon these last qualities, not less than the former, must depend the success, usefulness and consequently continuance of the establishment in which they are included…*
>
> *They will always keep in mind that their countrymen are freemen, and, as such, are impatient of everything that bears the least mark of domineering spirit. They will refrain, therefore, with the most guarded circumspection, from whatever has the semblance of haughtiness, rudeness, or insult. If obstacles occur, they will remember that they are under the particular protection of the laws and that they can meet with nothing disagreeable in the execution of their duty which these will not severely reprehend. This reflection, and a regard to the good of the service, will prevent at all times a spirit of irritation or resentment. They will endeavor to overcome difficulties, if any are experienced, by a cool and temperate perseverance in their duty -- by address and moderation, rather than by vehemence or violence...*
>
> *It is not doubted that the instruction will be received, as it ought to be, and will have its due effect. And, that all may be apprised of what is expected you will communicate this part of your orders, particularly, to all your officers, and you will inculcate upon your men a correspondent disposition."*

A.3. Tradition

While the foregoing language is dated, the principles expressed over two hundred years ago still remain valid today. The significance of the rights and freedoms Secretary Hamilton addressed is underscored by his decision to devote his entire first letter to this topic. Mr. Hamilton could easily have chosen to emphasize the importance of stopping the smuggling, which was literally siphoning away the lifeblood of the young nation because of lost revenues. Instead, he felt it more important to ensure the Revenue Cutter Service understood that enforcement of U.S. laws and treaties is second to protecting the constitutional rights of every individual entitled to such protection. The charge initially entrusted to the Revenue Cutter Service is as appropriate and challenging for today's Coast Guard. Not only must the Constitution be conscientiously upheld, but this priority must be accomplished while at the same time effectively detecting and apprehending those who would circumvent the laws of our nation for personal reasons and private gain. Thus, in the

performance of their duties as federal law enforcement officers, Coast Guard personnel must remember they are public servants who are to be guided by the constitutional principles and protections designed to safeguard the freedoms of the American people.

A.4. Coast Guard Reputation

Over the span of more than two hundred years, the Coast Guard has earned a reputation as the world's premier MLE agency. Today, our boarding expertise in particular is internationally recognized and is in significant demand worldwide. It is incumbent upon all Coast Guard personnel to uphold and enhance our preeminent reputation.

Section B. Modern ELT Program

Introduction

This section contains an overview of the modern ELT program including overarching policy that applies across the full spectrum of ELT operations.

B.1. Missions

Since the time of Alexander Hamilton, the Coast Guard's law enforcement role has grown considerably but has retained its historical focus on unlawful activities at sea. The modern ELT program is directed primarily at protecting fisheries and other marine resources, combating illicit drug trafficking, interdicting illegal migrants at sea, ensuring compliance with recreational and other vessel safety laws, including Boating Under the Influence (BUI), enforcement of environmental protection statutes, maritime homeland security-related law enforcement, and responding to vessel incidents involving violent acts or other criminal activity.

B.2. Overarching Policy

Policy set forth in this section applies across the full spectrum of ELT operations.

B.2.a. Professionalism

All Coast Guard personnel shall maintain the highest standards of ethical conduct and professionalism expected of law enforcement officers and federal public servants.

B.2.b. Safety

The safety of Coast Guard personnel involved in ELT operations shall always be a paramount concern. While a measure of risk is inherent in MLE, proactive steps to minimize risk are essential. The benefit of any contemplated enforcement action must be carefully weighed against the potential danger to persons and property.

B.2.c. Sensitivity to General Public and Regulated Industries

Nearly all persons encountered by the Coast Guard in the course of ELT operations are law-abiding citizens who are entitled to be treated with courtesy, respect, and due consideration for the nature of any legitimate activity in which they are engaged. Congress clearly intends for the Coast Guard to fully exercise its authority to enforce applicable maritime laws. Coast Guard personnel must recognize that the continued effectiveness of the ELT program depends upon public support for the importance of the laws we enforce and public recognition of the professional manner in which we discharge our enforcement responsibilities.

B.3. Boardings and Law Enforcement Ashore

MLE under the ELT program is primarily accomplished by conducting vessel boardings to detect and suppress violations of all federal laws, as well as by engaging in maritime air surveillance or interdiction to enforce or assist in the enforcement of these laws. Accordingly, this Manual primarily addresses the boarding process as the principal vehicle for Coast Guard law enforcement at sea. This Manual also addresses law enforcement ashore by armed and uniformed Coast Guard personnel in support of the Maritime Homeland Security (MHS) mission.

Section C. Purpose, Organization, and Use

Introduction

This section describes the purpose, organization, and dissemination guidelines for this Manual.

C.1. Purpose

This Manual outlines the domestic and international law and policy framework for Coast Guard law enforcement activities and sets forth fundamental policy guidance and operational procedures for the entire ELT program. Specific tactics for patrols and boarding operations are found in *Maritime Counter Drug and Alien Migrant Interdiction Operations (AMIO)*, COMDTINST M16247.4 (series)/NWP 3-07.4. While that publication primarily supports units performing counterdrug and AMIO, the information found therein applies to other MLE missions including fisheries law enforcement, pollution prevention, MHS, and general law enforcement patrols.

C.2. Relationship to Other Programs

The Marine Inspection and Marine Environmental Protection programs are addressed briefly to provide a general sense of Coast Guard responsibilities in these areas. The intent is to provide personnel who are engaged in ELT program activities sufficient guidance to enable them to take prompt action themselves when urgently required and/or to refer emerging cases to Coast Guard experts in these other programs.

C.3. Organization

In using this Manual, several organizational points should be kept in mind:

- The progression of chapters is as follows:
  - ELT program overview (*Chapter 1*)
  - Policy guidance applicable to the entire ELT program (*Chapters 2-4*)
  - Policy guidance applicable to individual mission areas (*Chapters 5-11*)
  - Policy guidance regarding enforcement of general criminal laws (*Chapter 12*).
- Cross-references in the Manual use terminology as follows:
  - When cross-referencing a part of this Manual, the word "Chapter" is used to denote a section or paragraph external to the chapter in which the cross-reference is contained. When cross-referencing a part of another manual, the word "Chapter" is used to denote the entire contents of the cross-referenced chapter.
  - The word "section" is used to encompass a paragraph and all subordinate paragraphs.
  - The word "paragraph" is used to denote a single paragraph or sub-paragraph.
- The Glossary (*Appendix B)* contains definitions of key terms used throughout the Manual.
- Subsequent appendixes contain policy guidance more effectively set forth in matrix/table format or provide supplemental information relating to topics discussed in the chapters.
- A List of Acronyms is provided in Appendix A and a Topical Index is provided at the end of the Manual as additional user aids.

C.4. Intended Use

This Manual is intended to improve the internal management of the Coast Guard. Neither the Manual nor any Coast Guard guidelines, procedures, instructions, directives, rules, or regulations implementing this Manual shall create, or shall be construed to create, any right or benefit, substantive or procedural (including without limitation any right or benefit under the Administrative Procedure Act), legally enforceable by any party against the U.S., its agencies or instrumentalities, officers, employees, or any other person. The Coast Guard retains the discretion to deviate from or change this guidance without notice.

C.5. Public Dissemination

This Manual is "For Official Use Only" (FOUO). No public or foreign dissemination of the Manual, or any portion thereof, is authorized unless mandated by law or approved by Commandant (G-OPL). All requests for the Manual or any portion thereof, including Freedom of Information Act (FOIA) requests or discovery requests pursuant to litigation, shall be referred to Commandant (G-OPL) for action.

C.6. Foreign Dissemination

Appendixes D and *P* of this Manual shall not be released to foreign nationals. Units shall ensure foreign shipriders are not permitted to view these sections. Release to foreign governments will be coordinated by Commandant (G-CI/G-OPL).

Chapter 2
Domestic and International Law and Policy Framework

Introduction

This chapter provides a legal and policy framework applicable to the entire ELT program by describing the five issues involved in determining whether it is lawful and appropriate to take law enforcement action.

The Coast Guard may take law enforcement action when it has both authority and jurisdiction to do so or when international law allows limited action under special circumstances (i.e., consensual boardings, rendering assistance). In determining whether the Coast Guard has authority and jurisdiction, it is important to note that bilateral/multilateral agreements may exist that provide the Coast Guard with a basis of authority for limited, pre-defined actions or expanded jurisdiction. Once it has been established that the Coast Guard has both authority and jurisdiction to take law enforcement action, units must examine whether relevant policy guidance may counsel for or against taking law enforcement action in a particular case.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Authority	2-3
B	Jurisdiction	2-8
C	Special Circumstances	2-15
D	Bilateral/Multilateral Law Enforcement Agreements	2-18
E	Policy Guidance	2-19

Section A. Authority

Introduction

This section provides a basis for determining whether legal authority exists to take law enforcement action.

Authority is the government's legal power to act. With the exception of those special circumstances described in *Section C* of this chapter (i.e., right of visit, consensual boardings, rendering assistance), the Coast Guard must have a specific statutory basis of authority before taking law enforcement action. The Coast Guard may rely on one or more sources of authority to take law enforcement action. There are five fundamental sources of Coast Guard enforcement authority, to include:

- General Authority
- Customs
- Protection and Security of Vessels, Harbors, and Waterfront Facilities
- Assistance
- Coast Guard Investigative Service (CGIS) Special Agents

A.1. General Authority

14 USC 89 is the principal source of Coast Guard enforcement authority. It provides:

"a. The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction or to the operation of any law of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel, and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty, and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

b. The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) Be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) Be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

c. The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States."

A.2. Customs Authority

Pursuant to 14 USC 143 and 19 USC 1401, Coast Guard petty officers, warrant officers, and commissioned officers are also customs officers. In 19 USC 1589a, Congress granted customs officers general law enforcement authority, including authority to:

- Carry a firearm.
- Execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States.
- Make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.
- Perform any other law enforcement duty that the Secretary of the Department of Homeland Security may designate.
- Conduct border searches.

A.2.a. Limitations

Coast Guard personnel shall exercise customs authority only in situations and to the extent authorized by this Manual. When acting as customs officers, Coast Guard personnel are bound by the same rules and regulations as other customs officers, which include federal regulations and internal policy limiting the exercise of customs enforcement authority. These regulations limit seizures of property to laws or regulations enforced by the Customs Service. Customs has also imposed other regulations on its search and arrest authority, and has provided that in the absence of direction or instructions from the Secretary of the Department of Homeland Security, the principal customs field officer shall supervise the activities of customs officers engaged in the exercise of authority of the "customs or navigation laws." Accordingly, Coast Guard Operational Commanders shall closely coordinate the exercise of customs authority by Coast Guard personnel with the local and/or regional Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) supervisors to ensure compliance with customs rules and regulations.

A.2.b. Additional Authority

Pursuant to customs authority and when coordinated with local and/or regional ICE/CBP supervisors, Coast Guard personnel may:

- Conduct customs border searches in accordance with *Chapter 3.C.9.c* and *Chapter 10.C.2.q*.
- Carry firearms and make warrantless arrests ashore in accordance with *Chapter 2.E.2.d*.
- Obtain the assistance of any person, including private entities, in making any arrest, search, or seizure authorized by any law enforced or administered by customs officers, if such assistance may be necessary in accordance with *Chapter 2.A.4* pursuant to 19 USC 507.

A.3. Protection and Security of Vessels, Harbors, and Waterfront Facilities Authority

The authority for protection and security of vessels, harbors, and waterfront facilities includes:

- The Magnuson Act and 33 CFR 6
- The Ports and Waterways Safety Act (PWSA)

A.3.a. Magnuson Act and 33 CFR Part 6

The primary authority for issuing Captain of the Port (COTP) orders regarding vessel and facility security is the Magnuson Act, 50 USC 191, *paragraph 2*, and its implementing regulations, 33 CFR Part 6. Located in the "War and National Defense" Title of the United States Code (USC), the Magnuson Act is an exercise of Congress' power to provide for national defense and the complementary power "[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof". The Magnuson Act is concerned with national security and reflects a congressional policy to safeguard from sabotage or other subversive acts vessels, harbors, ports, and waterfront facilities.

NOTE

The Magnuson Act, 50 USC 191-195, which provides maritime national security authority, should be distinguished from the similarly named Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), 16 USC 1801-1883.

A.3.a.1. Institution of Rules and Regulations

The Magnuson Act authorized the President to institute such measures and issue such rules and regulations to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States and all territory and water, continental or insular, subject to the jurisdiction of the United States. In order to institute measures and issue rules and regulations, Congress required the President to make a finding "that the security of the United States is endangered by reason of actual or threatened war, insurrection, invasion, subversive activity, disturbance or threatened disturbance of the international relations of the United States." In 1950, President Truman made such a finding, and prescribed regulations at 33 CFR Part 6 to "safeguard vessels, harbors, ports, and waterfront facilities". The President updated the finding in Executive Order 13273 following the terrorist attacks of September 11, 2001.

A.3.a.2. Enforcement Authority

The enforcement authority granted to COTPs under 33 CFR Part 6 includes, but is not limited to, the authority to establish security zones, issue orders, inspect and search any vessel, waterfront facility, security zone, or person, article or thing thereon or therein, place guards, and remove unauthorized persons, articles, and things therefrom if the COTP deems such action necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States.

A.3.b. Ports and Waterways Safety Act (PWSA)

While the PWSA is not an independent source of law enforcement authority for Coast Guard Boarding Officers, the anti-terrorism provision of the PWSA, 33 USC 1226, provides authority for the Coast Guard to take actions to prevent or respond to an act of terrorism against an individual, vessel, or public or commercial structure, that is subject to the jurisdiction of the United States and located within or adjacent to the marine environment, or a vessel of the United States or an individual onboard that vessel. Such actions to prevent or respond to acts of terrorism include, but are not limited to:

- Inspections.
- Port and harbor patrols.
- Establishment of security and safety zones.
- Development of contingency plans and procedures.

The statute also expressly authorizes the Coast Guard to dispatch properly trained and qualified armed Coast Guard personnel on vessels and public or commercial structures on or adjacent to waters subject to United States jurisdiction to deter or respond to acts of terrorism or transportation security incidents.

A.3.c. Policy Guidance

Chapter 10 and *Appendix O* to this Manual provide policy guidance for law enforcement personnel engaged in the exercise of MHS operations. The *Marine Safety Manual*, *Volume VII*, *Port Security*, COMDTINST M16000.12 (series), provides detailed background and guidance on the exercise of COTP port security authority.

A.4. Assistance Authority

Generally, there are two means whereby other agencies may assist with Coast Guard law enforcement operations. First, other agencies may assist the Coast Guard while performing their own missions pursuant to their own organic authority to engage in the activity. Second, the Coast Guard may formally request assistance from other agencies and entities. In addition to requesting and receiving assistance from other agencies and entities, the Coast Guard may also provide assistance to other agencies.

A.4.a. Limitations

The Coast Guard's ability to request and receive assistance external to the agency, particularly with federal law enforcement, is controlled by federal law. Additionally, because the Coast Guard's law enforcement authority cannot be transferred to or used by an assisting entity, each entity providing assistance must do so within the bounds imposed by its own legal authority and policy. Despite these constraints, the Coast Guard can obtain significant assistance to its law enforcement missions from other federal, state, and local agencies, and, resources permitting, may provide significant assistance to other federal, state, and local agencies. In contrast, the Coast Guard has very limited authority to seek and accept law enforcement assistance from private entities.

A.4.b. Prohibitions

The Coast Guard must have explicit legal authority to request law enforcement assistance from another entity, and may not accept voluntary services for the United States Government unless the law authorizes that acceptance. The broad purpose of this prohibition is to prevent the government from incurring financial obligations over and above those authorized by Congress. Acceptance of assistance not authorized by law, in the form of voluntary services, is illegal and subject to administrative and criminal punishment.

A.4.c. 14 USC 141

Under 14 USC 141, federal, state, and local agencies can request Coast Guard law enforcement assistance when Coast Guard facilities and persons are especially qualified to perform a particular activity. Subject to the availability of resources, Operational Commanders are authorized to fulfill such requests provided the assistance provided by the Coast Guard is within the bounds of Coast Guard organic legal authority and consistent with the policies set forth in this Manual.

14 USC 141 also authorizes the Coast Guard to avail itself of officers and employees, advice, information, and facilities of any federal agency, state, territory, possession, or political subdivision thereof, or the District of Columbia as may be helpful in the performance of its law enforcement duties. The requirements for a lawful request for assistance made by the Coast Guard under 14 USC 141 are:

- The head of the agency concerned must consent to the agency's cooperation.
- It must be for personal services, advice, information, or use of facilities.
- It must be directed toward a federal agency, state, territory, possession, or political subdivision thereof, or the District of Columbia.
- The requested assistance must be helpful in the performance of the Coast Guard's duties.

The Coast Guard routinely requests assistance from other agencies at the local, regional, and national levels. The Coast Guard presumes that supervisors and managers of other agencies consenting to provide such assistance act consistently with policies approved by the head of the requested agency.

A.4.d. 33 CFR Part 6

In addition to the authority provided in 14 USC 141 and in the context of domestic port security, 33 CFR 6.04-11 permits Coast Guard COTPs to enlist the aid and cooperation of federal, state, county, municipal, and private agencies to assist in the enforcement of regulations issued pursuant to 33 CFR Part 6, which primarily involve enforcement of security zones.

- To "enlist the aid and cooperation" of another entity means to secure the support and aid of that entity or to employ it in advancing or achieving an operational requirement or mission. The COTP may not, however, require or compel another agency or private entity to assist in the enforcement of Part 6 regulations.
- This regulation does not provide authority to request private entity assistance with any other Coast Guard activities, including enforcement of security zones and limited access areas promulgated pursuant to other federal laws and regulations.
- As the regulations in 33 CFR Part 6 note, private entities have primary responsibility for the protection and security of their facilities. This is not a grant of authority to those private entities, but recognition of their responsibility and inherent authority to secure and protect their own property. The scope of this inherent authority, which is a matter of state law, will determine the scope of assistance that the private entity may provide to the Coast Guard. Additionally, state law may provide private security guards and others with special status that confers upon them some form of law enforcement power. Operational Commanders shall consult their servicing legal office if the assistance of private entities is desired for law enforcement operations.
- Although COTPs can not directly compel another agency or private entity to assist in the enforcement of Part 6 regulations, such a commitment by the agency or private entity can be a prerequisite to a decision for the COTP to establish an appropriate limited access area.

A.4.e. Law Enforcement Powers of Assisting Agencies

A request for assistance under 14 USC 141 or 33 CFR 6.04-11, and the acceptance of it, have no effect on the assisting agency's law enforcement powers. In other words, the assisting agency's organic legal authority and policy will dictate the type of assistance it may provide. No law enforcement power is implied with, or derived from, the request for assistance from the Coast Guard. The authorities contained in 14 USC 141 and 33 CFR 6.04-11 merely allow the Coast Guard to lawfully request and accept volunteer services from other entities. That said, it is well-settled that state law enforcement officers are permitted to enforce federal statutes where such enforcement activities do not impair federal regulatory interests. This general principle extends to state enforcement of the federal port security laws when requested by the COTP.

A.4.f. Memoranda of Understanding or Agreement (MOU/MOA)

MOU/MOA clearly describing the Coast Guard's and the assisting entity's authorities, roles, and responsibilities, may help align operational expectations and minimize legal risks. Accordingly, Operational Commanders should consider concluding MOU/MOA to memorialize long-term, unique, or complex assistance arrangements. Operational Commanders shall comply with the process set forth in *Memoranda of Understanding/Agreement*, COMDTINST 5216.18 (series), when negotiating and concluding such arrangements with domestic agencies.

A.4.g. Foreign Governments

The Coast Guard often provides assistance to foreign governments, pursuant to the request of the Department of State (DOS) (e.g., in boarding, searching, and if evidence of contraband is found, in detaining vessels and persons aboard) pursuant to 14 USC 141, and exchanges law enforcement information with foreign governments through the DOS pursuant to 14 USC 142. See the *Policy for Dissemination and Use of Intelligence Information*, COMDTINST 3820.14 (series), for detailed guidance regarding dissemination of intelligence information, including law enforcement intelligence to foreign governments.

A.4.h. Coast Guard Auxiliary

The collaborative relationship between the Coast Guard and the Coast Guard Auxiliary is governed by statute, and the law enforcement policy guidance for employment of Auxiliary personnel and facilities is provided in *Chapter 2.E.8*.

A.5. Authority for CGIS Special Agents

14 USC 95 grants law enforcement authority to CGIS special agents. The authority granted under 14 USC 95 is different than that granted by 14 USC 89. Consult the *Coast Guard Investigations Manual*, COMDTINST M5527.1 (series) for further details.

Under this law, special agents are authorized to:

- Carry firearms.
- Execute and serve any warrant or other process issued under the authority of the United States.
- Make arrests without warrant for:
  - Any offense against the United States committed in the agent's presence.
  - Any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

Authority granted under 14 USC 95 shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority or in exigent circumstances.

Authority granted under 14 USC 95 is limited by and subject to regulations approved by the Commandant, Secretary of Homeland Security, and the Attorney General.

A.6. Other Authority

Other sources of domestic or international law exist that establish, broaden, or restrict Coast Guard law enforcement authority. Examples include the Maritime Transportation Security Act, Mansfield Amendment, and the Magnuson-Stevens Fishery Conservation and Management Act. The application of these laws is addressed within chapters of this Manual covering specific ELT mission areas.

Section B. Jurisdiction

Introduction

This section provides a basis for determining whether legal jurisdiction exists to take law enforcement action.

Jurisdiction is a government's power to exercise authority over its persons, vessels, and territory. Within the context of MLE, jurisdiction is comprised of three elements:

- Substantive law
- Vessel status/flag
- Location.

With the exception of those special circumstances described in *Section 2.C* (i.e., right of visit, consensual boardings, rendering assistance), the Coast Guard must have jurisdiction with respect to all three elements before taking law enforcement action.

B.1. Substantive Law

As the first element of jurisdiction, a substantive domestic, foreign, or international law must apply to the particular enforcement situation. A substantive law is one that prohibits certain action or requires affirmative conduct. Substantive laws most commonly enforced by the Coast Guard are organized by subject in chapters of this Manual covering specific mission areas. These include:

- Drug Enforcement Laws in *Chapter 5*
- Immigration Laws in *Chapter 6*
- Fisheries Enforcement Laws in *Chapter 7*
- Protected Areas and Species Laws in *Chapter 8*
- Environmental/Pollution Laws in *Chapter 9*
- Maritime Homeland Security Laws in *Chapter 10* and *Appendix O*
- Vessel Safety Laws in *Chapter 11*
- General Criminal Laws in *Chapter 12*

B.2. Vessel Status/Flag

Warships, military aircraft, and other government vessels or aircraft on non-commercial service have sovereign immunity and are subject only to the jurisdiction of the flag State. The only action that may be taken, with respect to a sovereign immune vessel engaged in activity that would otherwise be an enforceable violation of U.S. law or international law, is requiring such vessel to leave coastal State internal waters or territorial sea. Such vessels and the persons aboard them may not be boarded, searched, seized, or arrested under any circumstances.

NOTE

Nothing in this guidance is intended to restrict the inherent right of self-defense under the Standing Rules of Engagement (SROE) for U.S. Forces.

B.2.a. Exclusive Flag State Jurisdiction

One of the fundamental concepts of customary international law is the principle of exclusive flag State jurisdiction. This principle means that a vessel exercising freedom of navigation (FON) in international waters is subject only to the jurisdiction of the flag State. Such vessels are not subject to boarding, search, seizure or arrest by any nation other than their flag State, unless one of its jurisdictional exceptions applies (see *Section 2.B.4*).

In general, U.S. vessels and aircraft are always subject to U.S. jurisdiction. However, the location of the vessel may impose restrictions and/or limitations on assertion of it (see *Section 2.B.3*).

B.2.b. Vessels without Nationality

In general, vessels (or aircraft) without nationality, and those assimilated as such, are subject to the jurisdiction of any nation. However, the location of the vessel may impose restrictions and/or limitations on U.S. jurisdiction (see *Section 2.B.3*). Vessels without nationality are not encountered frequently. More common is one that has been assimilated to a vessel without nationality. A vessel assimilated to one without nationality is treated as if it had no nationality because of a false or conflicting claim of nationality. International law provides that a ship, save in exceptional cases provided for in international treaties (e.g., a fishing vessel flying a courtesy flag in addition to or instead of its State while in another country's Exclusive Economic Zone (EEZ)), can only sail under the flag of one State. A vessel that sails under the flag of two or more States cannot claim the protection of any of those States, and may be assimilated to a vessel without nationality. In U.S. law, (46 USC 1903 (c)(3)(B)), a valid claim of nationality may be evidenced only by:

- Production of documents evidencing the vessel's nationality.
- Flying its flag State's ensign or flag.
- A verbal claim of nationality or registry by the master or person in charge of the vessel.

Whether a vessel is to be treated as one without nationality is an issue that is resolved through the Statement of No Objection (SNO)/PD-27 process, not by a unit involved in a law enforcement case. See *Appendix D*.

B.2.c. Effect of Location, Activity, and Waiver

Consistent with the principle of exclusive flag State jurisdiction, foreign flag vessels and aircraft are not generally subject to U.S. jurisdiction outside the U.S. territorial sea. However, for certain enforcement purposes, the location and activity of the vessel may subject it to U.S. jurisdiction (see *Section 2.B.3*). Additionally, the flag State may waive its right of exclusive jurisdiction or consent to the exercise of U.S. jurisdiction (see *paragraph 2.B.4.h*).

B.3. Location

The allowable extent of U.S. jurisdiction over persons, vessels, and aircraft is determined by the character of the waters in or over which they are located. Refer to **Figure 2-1** for a depiction of jurisdictional areas.

B.3.a. Internal Waters

The following vessels are subject to U.S. jurisdiction when located in U.S. internal waters:

- U.S. vessels.
- Vessels without nationality and those assimilated as such.
- Foreign flag vessels, except when any of the jurisdictional exceptions listed below apply. These jurisdictional exceptions are described in detail in *Section 2.B.4*.
  - Force majeure.
  - Peace of the port doctrine.

B.3.b. Territorial Sea

The following vessels are subject to U.S. jurisdiction when located in the U.S. territorial sea:

- U.S. vessels.
- Vessels without nationality and those assimilated as such.
- Foreign flag vessels, except when any of the jurisdictional exceptions listed below apply. These jurisdictional exceptions are described in detail in *Section 2.B.4*.
  - Force majeure.
  - Transit passage.
  - Peace of the port doctrine.
  - Innocent passage.
  - Assistance entry.

B.3.c. International Waters

The following vessels are subject to U.S. jurisdiction when located in international waters:

- U.S. vessels.
- Vessels without nationality and those assimilated as such.
- Foreign flag vessels when one of the jurisdictional exceptions listed below applies. These jurisdictional exceptions are described in detail in *Section 2.B.4*. Nothing in this section shall be construed to prevent the Coast Guard from boarding foreign flag vessels under special circumstances associated with right of visit, master's consent, or rendering assistance to persons/property (see *Section 2.A.5*).
  - Enforcement of natural resources laws in the EEZ.
  - Exercise control necessary to prevent violation of fiscal, immigration, sanitary, and customs laws and regulations in the U.S. contiguous zone.
  - Flag State authorization.
  - Hot pursuit.
  - Constructive presence.
  - Enforcement activity to combat certain universal crimes.

B.3.d. Foreign Territorial Sea and Internal Waters	Any exercise of jurisdiction in or over foreign territorial waters and foreign territory requires the authorization of the coastal State. The vessel's flag State authorization is not required. ("Territorial waters" here means the coastal State's territorial sea recognized by the U.S., archipelagic waters, if any, and internal waters.) See *Chapter 5.B.3* for Mansfield Amendment restrictions (22 USC 2291(c)) related to certain drug law enforcement activities.
B.4. Jurisdictional Exceptions	The following principles of international law affect the extent of jurisdiction the U.S. may exercise over a foreign flag vessel or aircraft.
B.4.a. Force Majeure	The principle of force majeure means that a vessel forced into coastal State waters by virtue of distress, whether brought about by natural or man-made causes, is generally not subject to coastal State jurisdiction during a reasonable period of time necessary to remedy such distress. A coastal State may, however, verify a claim of force majeure by boarding the vessel. As such, a foreign flag vessel claiming force majeure may enter U.S. territorial sea or internal waters without becoming subject to U.S. jurisdiction. However, the vessel remains subject to the direction of the COTP to protect port safety and may, under exceptional circumstances involving significant threats to the U.S. (e.g., serious pollution), be subject to U.S. jurisdiction or entry controls.
B.4.b. Transit Passage	Transit passage is the right of non-interference for a vessel or aircraft transiting through a foreign territorial sea that comprises an international strait used for navigation between areas of international waters. In such straits, vessels may generally operate without restriction (e.g., submarines may proceed submerged, vessels having aircraft may launch and recover such aircraft), provided their transit is continuous and expeditious. The passage may include anchoring in the course of ordinary navigation. The U.S. may not exercise jurisdiction over foreign flag vessels engaged in transit passage, but may impose limited restrictions related to navigation safety; the prevention, reduction, and control of pollution; fishing; and the unloading or loading of any commodity, currency, or person in contravention of any fiscal, immigration, sanitary, or customs laws and regulations.
B.4.c. Peace of the Port	Under the "peace of the port" doctrine, the U.S. may choose to refrain from asserting its jurisdiction over foreign flag vessels in its territorial sea and internal waters, leaving control of the matter to the flag State. Jurisdiction will generally not be asserted over incidents that involve only internal discipline and management of the vessel. Jurisdiction will generally be asserted over those incidents which have consequences beyond the vessel and affect the "peace and tranquility" of the U.S.
B.4.d. Innocent Passage	Innocent passage is the right of non-interference for a vessel transiting inbound, outbound, or through a foreign territorial sea. Aircraft have no right of innocent passage. For a vessel to enjoy this right, it must be engaged in "passage" that is "innocent." "Passage" means a continuous and expeditious traversing of the territorial sea, but may include anchoring in the course of ordinary navigation. Passage is "innocent" so long as it is not prejudicial to the peace, good order, or security of the coastal State.
B.4.d.1. Non-Innocent Passage	Passage shall be considered non-innocent if it involves any of the following activities: • Any threat or use of force against the sovereignty, territorial integrity, or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the U.N. • Any exercise or practice with weapons of any kind. • Any act aimed at collecting information to the prejudice of the defense or security of the coastal State.

- Any act of propaganda aimed at affecting the defense or security of the coastal State.
- The launching, landing, or taking onboard of any aircraft.
- The launching, landing, or taking onboard of any military device.
- The loading or unloading of any commodity, currency, or person contrary to the fiscal, immigration, sanitary, or customs laws and regulations of the coastal State.
- Any act of willful and serious pollution contrary to the 1982 Law of the Sea (LOS) Convention.
- Any fishing activities.
- The carrying out of research or survey activities.
- Any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State.
- Any other activity not having a direct bearing on passage.

B.4.d.2. Foreign Flag Vessels

The U.S. may not exercise jurisdiction over foreign flag vessels engaged in innocent passage. However, foreign flag vessels calling at a U.S. port are subject to U.S. conditions for port entry. Foreign flag vessels engaged in innocent passage but not calling at a U.S. port may be boarded if suspected of engaging in activities inconsistent with innocent passage. If there is good reason to believe the vessel is either not engaged in passage or that its passage is not innocent, such vessel is subject to U.S. jurisdiction. Boarding or taking any other law enforcement action against foreign flag vessels claiming to be in innocent passage requires a Commandant (G-C) SNO.

B.4.d.3. Coastal State Suspension

A coastal State may suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. In the United States, the authority to suspend innocent passage resides with the President. Operational Commanders desiring to recommend suspension of innocent passage shall make such requests through the PD-27 or PDD-39 processes, as appropriate, which are described *Appendixes D* and *P*, respectively.

B.4.e. Assistance Entry

Assistance entry is the right of non-interference for a vessel (or aircraft in certain circumstances) to enter a foreign territorial sea to conduct a bona fide rescue of those in danger or distress at sea. The location of the distress must be reasonably well known. Foreign flag vessels engaged in assistance entry into the U.S. territorial sea are not normally subject to U.S. jurisdiction. Additional policy regarding assistance entry is contained in the *U.S. Coast Guard Addendum to the United States National Search and Rescue Supplement (NSS) to the International Aeronautical and Maritime Search and Rescue Manual (ISMAR)*, COMDTINST M16130.2 (series).

B.4.f. Exclusive Economic Zone (EEZ)

International law allows for the establishment of an EEZ, adjacent to the territorial sea and extending 200 nautical miles (NM) from the baseline, in which a coastal State may exercise the control necessary to protect natural resources. As such, the U.S. may exercise jurisdiction over foreign flag vessels for the purpose of management and conservation of the natural resources of the waters, seabed, and subsoil of the zone.

B.4.g. Contiguous Zone

International law allows for the establishment of a contiguous zone, adjacent to the territorial sea and extending 24 NM from the baseline, in which a coastal State may exercise the control necessary to prevent and punish infringements of its fiscal, immigration, sanitary, and customs laws.

B.4.g.1. Fiscal, Immigration, Sanitary, and Customs (FISC) Laws	U.S. FISC laws include, but are not necessarily limited to: • Federal narcotics laws in Titles 19, 21, 46, and 49 USC. • Immigration laws in Title 8 USC. • Customs and importation laws in Titles 16, 19, 21, 46, and 49 USC. • Environmental laws applicable in the contiguous zone as described in *Chapter 9* of this Manual. • Quarantine laws in Title 42 USC.
B.4.g.2. Effect of Presidential Proclamation	The Presidential proclamation extending the U.S. contiguous zone does not amend or alter existing federal or state law. Thus, the proclamation does not extend the reach of statutes or change the definitions or applicability of key jurisdiction terms such as "customs waters."
B.4.g.3. Conditions for Boarding	Coast Guard units may board a foreign flag vessel in the U.S. contiguous zone when there is reasonable suspicion that the vessel is in violation of U.S. fiscal, immigration, sanitary, and customs laws and either of the following conditions is met: • There is reasonable suspicion to believe that the vessel is headed to or has departed from the U.S. territorial sea or internal waters. • There is reasonable suspicion to believe that the vessel is constructively present within the U.S. territorial sea or internal waters as described in *Chapter 2.B.4.j*.
B.4.g.4. Overlap with Foreign EEZ	Coast Guard units that encounter a foreign flag vessel in portions of the contiguous zone that are part of a foreign EEZ, such as along U.S. borders with foreign nations, shall follow the procedures and requirements for the boarding of foreign flag vessels on the high seas.
B.4.g.5. Enforcement of Non-FISC Statutes	Coast Guard law enforcement action (e.g., arrest, seizure) beyond that described above requires an additional basis of jurisdiction (e.g., flag State authorization). Flag State authorization and approval to conduct such action is obtained through a Commandant (G-O) SNO (with PD-27). Questions regarding the applicability and enforceability of particular statutes and regulations in the contiguous zone shall be referred to the servicing legal office.
B.4.h. Flag State Authorization	In the exercise of its exclusive jurisdiction, the flag State may authorize law enforcement actions by any other nation over vessels flying its flag in international waters or its own territorial waters. The flag State may choose to allow the boarding State to assist in the enforcement of flag State law or to enforce the boarding State's law. As a matter of policy, when assisting in the enforcement of the flag State's law, Coast Guard personnel shall not take law enforcement action beyond detaining the vessel and persons onboard on behalf of the flag State. Such detention may include escorting the vessel to a convenient port for turnover to flag State authorities. When acting pursuant to flag State authorization, the boarding State may not exceed the terms of the authorization. Such authorization may be contained in a pre-existing written agreement or may be provided on an ad hoc basis. Any contemplated law enforcement action involving ad hoc flag State authorization requires a Commandant SNO (with PD-27). A Commandant SNO is not required when operating within the guidelines of specific bilateral agreements. See *Appendix D*.
B.4.h.1. Registry and Nationality	"Registry" and "nationality" have separate and distinct meanings, and must be used precisely to avoid confusion. Registry refers to flag State procedures for fixing the conditions that entitle a vessel to fly the flag of that State. In contrast, nationality is simply the assertion that a vessel claims the protection of a particular flag State and, therefore, is subject to that State's jurisdiction.

B.4.h.2. Presumptive Flag State Authority

Under the concept of presumptive flag State authority, completion of a registry check by the claimed flag State is not a prerequisite for the flag State granting permission to take appropriate actions based on a vessel's claim of nationality (flag, verbal, or otherwise). Because the status of a vessel claiming the protection of a State can only be either that of a vessel of the claimed flag State or a vessel without nationality, the presumed flag State has the right, if not the responsibility, to determine if a vessel claiming the protection of their flag is entitled to such protection. Registry checks by some claimed flag States can be time-consuming and result in evasion by the suspect vessel and/or destruction of evidence, and therefore, the U.S. government occasionally requests flag State authorization to take certain actions (stop, board, search) based on the presumption that the claim is valid, pending the results of the registry check. If the registry check subsequently results in the claimed flag State refuting the claimed registry/nationality, the actions taken pursuant to the presumptive authority are deemed permissible because the vessel was actually without nationality and subject to U.S. jurisdiction since the beginning of the boarding. Hence, if a claimed flag State grants presumptive authority to board a suspect vessel and evidence collected during the boarding indicates that the vessel is not of the nationality it originally claimed, then, subject to the command, control, and approval policies of *Appendix D*, the vessel may be assimilated to without nationality status.

B.4.i. Hot Pursuit

Hot pursuit allows a coastal State to preserve its jurisdiction to take law enforcement action against a foreign flag vessel that flees beyond normal jurisdictional limits after it has committed a violation of the coastal State's law. Hot pursuit may be initiated in any coastal zone of jurisdiction, but only for violation of laws applicable in that zone. The right of hot pursuit may only be exercised by warships, military aircraft, or other clearly marked vessels or aircraft in government service. In order to preserve jurisdiction, the law enforcement vessel or aircraft must give a visual or auditory signal (under international law, radio communication alone does not fulfill this prerequisite) to the suspect vessel to heave to while within the relevant coastal zone of jurisdiction, and the suspect vessel must fail to heave to, and be continuously pursued. If the pursuit is not continuous (visual or radar), or if the pursued vessel enters foreign territorial waters, the pursuit must cease. To clarify, hot pursuit of a foreign flag vessel or aircraft can proceed seaward from the coastal State's:

- Territorial sea for virtually any violation of coastal State laws.
- Contiguous zone for violations of fiscal, immigration, sanitary, or customs laws.
- EEZ or waters over the continental shelf for relevant resource (e.g., fisheries) violations.

B.4.j. Constructive Presence

Customary international law allows a coastal State to exercise jurisdiction over a vessel that is constructively present within its coastal zone of jurisdiction. Specifically, a coastal State may exercise jurisdiction over a foreign flag vessel ("mothership") that remains seaward of the applicable zone of jurisdiction, but acts in concert with another vessel ("contact vessel") or aircraft that violates coastal State laws inside the applicable zone of jurisdiction. In order to exercise jurisdiction over a mothership located seaward of coastal State waters, the contact vessel must be physically present in coastal State waters or be subject to coastal State jurisdiction under the doctrine of hot pursuit. Cases potentially involving the doctrine of constructive presence can be complex and require a Commandant (G-O) SNO (with PD-27) prior to any law enforcement action.

B.4.k. Universal Crimes

Under international law, vessels engaged in universal crimes such as piracy, transport of slaves (quasi-universal crime), and unauthorized broadcasting may be subject to the jurisdiction of any nation. Cases potentially involving universal crimes aboard foreign flag vessels require a Commandant (G-O) SNO prior to any law enforcement action. See *Chapter 12.C.7* for additional enforcement policy regarding piracy.

B.5. Areas in Dispute

International disputes concerning maritime areas may become significant for ELT program operations in several circumstances:

- These circumstances may arise in areas in which the U.S. has either a territorial or maritime boundary dispute with another nation where the U.S. seeks to exercise jurisdiction in waters claimed by more than one nation, or where a single nation unilaterally makes an excessive maritime claim. Except where pre-existing arrangements govern as described below, Coast Guard actions in these matters should normally be resolved through the PD-27 process.
- In many cases, the U.S. and other nations have entered into arrangements that restrict the exercise of Coast Guard law enforcement jurisdiction in disputed waters. In the disputed territory, these arrangements typically allow both nations to exercise jurisdiction over third-nation vessels, but both nations agree to refrain from exercising jurisdiction over vessels of the other signatory nation.
- Further, such arrangements may only be applicable to certain types of offenses. Such U.S. arrangements exist with Canada for fisheries jurisdiction (e.g., Dixon Entrance, vicinity of the Strait of Juan de Fuca, Machias Seal Island, and Nose & Tail of the Grand Banks) and Russia for resource jurisdiction (e.g., the Bering Sea). The impact of these arrangements on regional law enforcement operations shall be addressed in Area Standard Operating Procedures (SOP) and/or District instructions.

Section C. Special Circumstances

Introduction

This section describes those instances where international law provides the Coast Guard with a basis for taking limited action without respect to authority or jurisdiction.

The following three principles of customary international law provide the Coast Guard with a basis for taking limited action without obtaining flag State authorization:

- Right of visit (ROV).
- Master's consent.
- Rendering assistance.

Once onboard a vessel pursuant to these principles, limitations apply to the scope of allowable Coast Guard activity. Authority and jurisdiction are required for law enforcement action (e.g., arrest, seizure).

C.1. Right of Visit (ROV)

ROV boardings are authorized by Article 110 of the 1982 Law of the Sea Convention (LOSC). Although the U.S. is not a party to the LOSC, for traditional uses of the sea, including Article 110, the U.S. recognizes the provisions of the LOSC as customary international law.

C.1.a. Grounds for ROV

Article 110(1), in relevant part, states: "…a warship which encounters on the high seas a foreign ship…is not justified in boarding it unless there is reasonable ground for suspecting that: (a) the ship is engaged in piracy, (b) the ship is engaged in the slave trade, (c) the ship is engaged in unauthorized broadcasting and the flag State of the warship has jurisdiction under Article 109, (d) the ship is without nationality, or (e) though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship." For purposes of this guidance, "reasonable ground" means "reasonable suspicion."

C.1.b. Process for ROV

Article 110(2), states: "in the cases provided for in *paragraph 1*, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat…to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination onboard the ship, which must be carried out with all possible consideration." ROV boardings may also be conducted from properly marked vessels on non-commercial government service regardless of whether they are under the command of a commissioned officer.

C.1.c. Commencing ROV Boardings

Subject to the command and control requirements set forth in *Appendix D*, units may commence ROV boardings:

- For vessels with no indicators of nationality.
- For vessels reasonably suspected to be engaged in piracy, slave trade, and unauthorized broadcasting.
- When they have clear, articulable evidence to believe that indicators and/or claims of vessel nationality are false or conflicting.

An ROV boarding is "commenced" once the boarding team has been dispatched from the law enforcement platform (cutter or ship). Following commencement of an ROV boarding, if a claim is made or other indicator of nationality is found, and the vessel is reasonably suspected of illicit activity, units shall immediately request a registry check and flag State authorization to board and search the vessel, or invoke the applicable bilateral/multilateral agreement. An onboard examination limited to ascertaining vessel nationality may continue until there are no longer reasonable grounds for suspecting the vessel's claim of nationality, or until the onboard examination is completed, whichever comes first.

C.1.d. Pre-Boarding Procedures

Pre-boarding procedures for ROV boardings include the following:

- ROV boardings will only be conducted seaward of the territorial sea of any nation.
- Typically, units may commence ROV boardings on vessels with no indicators of nationality. It is U.S. policy that ROV boardings will not be commenced for vessels with any indicators of nationality, without clear, articulable evidence that those indicators are false or conflicting. Indicators of nationality include, but are not necessarily limited to:
  - Production of documents evidencing the vessel's nationality.
  - Display of a national ensign or flag.
  - Verbal claim of vessel nationality by the master or person in charge of the vessel made prior to the commencement of an ROV boarding.
  - The display of a homeport or official numbers.
- Reasonable force may be used to compel an ROV boarding in accordance with existing procedures. Likewise, the boarding team may take measures necessary for officer safety, including a basic initial safety inspection (BISI).

C.1.e. Onboard Procedures

Onboard procedures for ROV boardings include the following:

- The ROV boarding is limited to an onboard examination for evidence of vessel nationality.
- The onboard examination should be as thorough as circumstances warrant, but must be carried out with all possible care and courtesy. The examination typically includes:
  - Checking the vessel's documents.
  - Asking the master or person in charge of the vessel to claim/verify the vessel's nationality.
  - Locating markings that may indicate vessel nationality (homeport, official numbers, main beam numbers, identification marks on equipment, etc.).

- Locating other indicators of nationality such as flags.

- Boarding team safety is still a consideration during ROV boardings. Therefore, Boarding Officers are authorized to conduct a BISI during ROV boardings in accordance with *Chapter 3*.
- The ROV boarding does not include a search for evidence of illegal activity or preservation of evidence. Evidence found in plain view may be documented via notes, photographs, video, etc., but may not otherwise be subjected to U.S. enforcement action during the ROV boarding. The ROV boarding may continue until there are no longer reasonable grounds for suspecting that the vessel is without nationality or a U.S. vessel, or until the onboard examination is completed, whichever comes first.
- A verbal claim made after the commencement of a ROV boarding with no other indicators of vessel nationality will normally not be sufficient to dispel reasonable suspicion; therefore, the onboard examination may normally continue.
- If a claim is made or other indicator of nationality is found, and the vessel is reasonably suspected of illicit activity, units shall immediately request a registry check and flag State authorization to board and search the vessel, or invoke the applicable bilateral/multilateral agreement. Such requests may be processed while the ROV boarding is being conducted.
- If credible evidence of nationality is found or the onboard examination is complete, the ROV boarding is over and the boarding team must have other authority to remain onboard (e.g., bilateral/multilateral agreement, consent of the master, ad hoc authorization from the flag State).
- Because the ROV is limited to an "examination onboard" the vessel, boarding teams may not remain onboard solely to complete external inquiries such as registry check requests to the claimed flag State or SNO requests.
- If the vessel is determined to be engaged in piracy, slave trade, or unauthorized broadcasting, the Coast Guard may have a separate basis for taking further law enforcement action. Authority and jurisdiction will derive from other sources of customary international law. See *Chapter 12.C.7* for additional enforcement policy regarding piracy.

C.2. Consensual Boarding

Under customary international law, which recognizes the master's complete authority over all activities onboard that vessel, a consensual boarding in international waters may be conducted by voluntary invitation of the master. Consensual boardings are completely subject to the control of the vessel master as to commencement, scope, and duration. The extent of Coast Guard activity during a consensual boarding is limited to the scope of the master's consent. If, at any time during the consensual boarding, the master withdraws consent, the boarding cannot proceed on this basis.

C.2.a. Existence of Reasonable Suspicion

In cases where the vessel's flag State is party to a bilateral/multilateral agreement that includes a ship boarding provision and there exists reasonable grounds to suspect that the vessel is engaged in the illicit activity that is the subject of the agreement, boardings shall be conducted under the auspices of that agreement and a consensual boarding of the vessel is not authorized.

C.2.b. Absence of Reasonable Suspicion

In the absence of reasonable suspicion of the subject illicit activity, units may conduct a consensual boarding of the vessel even though the vessel's flag State is party to a counterdrug bilateral/multilateral agreement. Units desiring to conduct such boardings shall consult OPCON before seeking consent to board. In those instances, if reasonable grounds to suspect the vessel is engaged in illicit trafficking is developed during a consensual boarding, the applicable agreement shall be invoked and the boarding shall proceed on that basis.

C.3. Rendering Assistance to Persons/Property

The Coast Guard may go aboard a foreign flag vessel or vessel of unknown nationality in international waters to render assistance to persons or property in distress. Normally, this requires the consent of the vessel's master. However, in unusual circumstances in which it is reasonably believed that the master's action constitutes a breach of faith with the flag State's interest, the vessel owner's interest, and/or the cargo owner's interest, assistance may be rendered even if the master objects.

For example, drug smugglers may intentionally scuttle the foreign flag vessels they operate to avoid prosecution. In such circumstances, the Coast Guard may render assistance to the vessel, notwithstanding the master's objection, to preserve the interests of the vessel owner and the flag State. To render assistance to a vessel despite an objecting master, it must be obvious that the vessel is in distress (e.g., grossly overloaded, fire aboard, vessel listing, settling or drifting into a situation of distress).

C.3.a. Decision to Assist

The decision to render assistance rests with the On-Scene Commander. However, if time permits, permission to take such action with respect to a foreign flag vessel should be sought from the flag State via a Commandant (G-O) SNO (with PD-27).

C.3.b. Limited Access

Upon boarding a foreign flag vessel to render assistance despite the master's objection, only those locations necessary to respond to the distress may be accessed. If, during this process, evidence of illegal activity is discovered in plain view, such evidence should ordinarily be secured until disposition instructions are received.

Section D. Bilateral/Multilateral Law Enforcement Agreements

Introduction

This section provides a basis for determining whether agreements with other nations may impact legal authority and/or jurisdiction to take law enforcement action.

D.1. Maritime Law Framework

The U.S. has entered into a number of bilateral or multilateral agreements with other nations that provide a framework for cooperation and enforcement of maritime law. These agreements may include provisions for such things as:

- Information exchange.
- Expanded jurisdiction.
- Repatriation of migrants.
- Advance authorizations or expedited procedures to obtain authorization for defined actions.

D.2. Agreement Compliance

In cases where there is an applicable agreement, law enforcement operations should be conducted under the auspices of that agreement. Coast Guard personnel should be familiar with and review the applicable agreements when there is a likelihood that operations will involve a person, vessel, or territory of a foreign nation with which the U.S. has entered into an agreement. Bilateral/multilateral agreements are further addressed within chapters of this Manual covering specific ELT mission areas.

Section E. Policy Guidance

Introduction

This section sets forth broad policy guidance which influences the exercise of Coast Guard law enforcement authority and/or jurisdiction in particular circumstances.

E.1. Approval Requirements

The ELT Command and Control System discussed in *Appendix D* sets forth policy guidance that prohibits the exercise of Coast Guard authority and jurisdiction in certain circumstances without first obtaining an SNO.

E.2. Law Enforcement Authority Ashore

Coast Guard personnel are authorized and trained to take law enforcement actions on the water. However, situations occasionally arise wherein Coast Guard personnel may become involved in law enforcement actions on land, both within the U.S. (states, territories, possessions) and on foreign soil. The following policy applies to armed and uniformed Coast Guard personnel while assigned to law enforcement duties and does not apply to Coast Guard personnel in an off-duty status. Boarding Officers and boarding team members may only exercise law enforcement authority ashore in the following limited circumstances.

E.2.a. Pursuit Ashore in the U.S. from the Water

As a matter of Coast Guard policy, Boarding Officers may pursue persons ashore in the U.S. from the water to effect an arrest only when **all** of the following criteria are met:

- The Boarding Officer has probable cause to believe that a person is committing or has committed a federal felony rendering that person subject to arrest.
- The person flees ashore from Coast Guard pursuit.
- Shoreside law enforcement personnel are not present, or have insufficient capacity to pursue and specifically request Coast Guard assistance.
- The Boarding Officer is accompanied by another Boarding Officer or boarding team member.
- The pursuit ashore of the person fleeing can be initiated immediately, maintained continuously, and completed expeditiously.

E.2.a.1. Actions

In such situations, if the level of risk is acceptable, Boarding Officers should take all of the following actions:

- Pursue the suspect ashore on foot.
- Immediately notify OPCON and shoreside law enforcement for assistance.
- If able, detain the person fleeing ashore for shoreside law enforcement authorities, or arrest if appropriate.

E.2.a.2. Restrictions

The pursuit should extend no further from the shoreline than is reasonably necessary to affect the arrest. Boarding Officers shall not use vehicles onshore to conduct the pursuit and shall not enter private dwellings during the pursuit. The above guidance does not prevent boarding personnel from retreating from any situation if necessary for their safety. Boarding team members who are not qualified Boarding Officers may take action under this policy only when acting under the direct authority of a qualified Boarding Officer.

E.2.b. Law Enforcement at Waterfront Facilities and at Public and Commercial Structures Adjacent to the Marine Environment

When conducting law enforcement activities ashore in support of the MHS mission, appropriate Coast Guard personnel acting pursuant to 50 USC 191 *paragraph 2, section (b*) (Magnuson Act), 33 CFR Part 6, the PWSA, and the special deputation program described in *Chapter 10.C.6*:

- May carry firearms.
- Conduct warrantless searches and seizures of property.
- Make warrantless arrests for federal offenses in the Law Enforcement Ashore Operating Area (LEAOA) defined in *Chapter 10*.

As a matter of policy, not all Coast Guard personnel may exercise law enforcement authority ashore in this context – the authority to do so is dependent on training and qualification criteria set forth in *Chapter 10*. This policy is in addition to, and not in limitation of, the policy regarding law enforcement ashore in exigent circumstances described in *Chapter 2.E.2.d*. For a discussion of shoreside enforcement in the MHS context, see *Chapter 10.C.4.*

E.2.c. Fisheries Enforcement

For a discussion of shoreside law enforcement in a fisheries context, see *Chapter 7.E.4.*

E.2.d. Exigent Circumstances

In addition to activities described in this section, Boarding Officers may also exercise law enforcement authority ashore in exigent circumstances when the following criteria are met:

- In the Boarding Officer's presence, a person is committing or has committed an unlawful act involving use of force, or the threat of use of force, that is likely to cause death or serious physical injury.
- Shoreside law enforcement personnel are not present, or have insufficient capacity to pursue and specifically request Coast Guard assistance.

E.2.d.1. Actions

In such situations, if the level of risk is acceptable, Boarding Officers **should** take the following actions:

- Provide for self-defense (including defense of other persons in the vicinity), consistent with Coast Guard Use of Force Policy.
- Immediately notify OPCON and shoreside law enforcement for assistance.
- If the Boarding Officer has reasonable suspicion to believe the person has committed a federal felony, the officer shall detain the person until shoreside law enforcement personnel arrive on scene and take control. Detention shall only be for a reasonable period necessary for shoreside law enforcement to respond. The Boarding Officer, who has a reasonable suspicion that the detainee may have a weapon, and that either the officer or others may be endangered, should conduct a frisk search. In cases of detention, if shoreside law enforcement personnel are unable to respond in a reasonable period of time, OPCON shall contact the servicing CGIS Office, Coast Guard Legal Office, and the servicing U.S. Attorney Office and/or local state's Attorney Office for instructions with respect to further detention and transport.

E.2.d.2. Restrictions

The above guidance does not prevent boarding personnel from retreating from any situation if necessary for their safety. Boarding team members who are not qualified Boarding Officers may take action under this policy only when acting under the direct authority of a qualified Boarding Officer.

E.2.e. Foreign Soil

Except on U.S. vessels, Coast Guard Boarding Officers have no law enforcement authority in non-U.S. territory, including foreign territorial sea, internal waters, and soil. Coast Guard law enforcement actions on foreign soil are limited to actions specifically authorized by the appropriate foreign and U.S. authorities. See *Section 2.E.4* for guidance pertaining to

	interaction with foreign law enforcement officials. See *Chapter 5.B.3.a* for Mansfield Amendment restrictions (22 USC 2291(c)) related to certain drug law enforcement activities. See *Appendix I* for guidance on weapons carriage abroad.
E.2.e.1. Pursuit Ashore	Coast Guard personnel shall not pursue a fleeing suspect ashore on foreign soil unless exigent circumstances exist that require an immediate response to prevent death or serious physical injury. Coast Guard actions in such cases are limited to self-defense (including defense of others), consistent with the Coast Guard Use of Force Policy. Coast Guard personnel in such cases shall immediately notify OPCON. This policy shall apply even in cases when appropriate foreign law enforcement official specifically requests that Coast Guard personnel pursue a suspect ashore (e.g., coastal State shiprider requests Coast Guard vessel to continue pursuit of fleeing suspects ashore on coastal State soil).
E.2.e.2. Not Involving Pursuit Ashore	Absent prior authorization from OPCON, Coast Guard personnel ashore on foreign soil may take law enforcement action only when exigent circumstances require an immediate response to prevent death or serious physical injury and foreign law enforcement authorities are not available to respond. Coast Guard actions in such cases are limited to self-defense (including defense of others), consistent with the Coast Guard Use of Force Policy. Coast Guard personnel in such cases shall immediately notify foreign authorities, OPCON, and the nearest U.S. diplomatic post.
E.3. Intelligence Information Collection and Reporting	Coast Guard personnel performing ELT missions are well positioned to overtly gather and report certain information in response to Coast Guard or other agency intelligence requirements.
E.3.a. Overt Collection	"Overt" refers to collection of information in the course of regular Coast Guard operations. Examples of overt collection include a cutter Command Intelligence Officer photographing port facilities and vessels from the cutter during a foreign port call, a coxswain reporting suspicious activity during patrol operations, and a boarding team member reporting observations made or comments heard during a boarding. Such information should be reported in accordance with *Coast Guard Intelligence Collection and Reporting*, COMDTINST C3821.5 (series), and applicable Area/District directives.
E.3.b. Clandestine Collection	Coast Guard personnel shall not engage in clandestine collection of information unless authorized by Commandant (G-C2) in accordance with the *Coast Guard Intelligence Manual*, COMDTINST M3800.1 (series), or *Coast Guard Investigations Ma*nual, COMDTINST M5527.1 (series). "Clandestine" refers to collection of information by a means designed to conceal that the information is being collected or that the means of collection. Examples of clandestine collection include conducting surveillance while in civilian clothes, cultivating informants (whether paid or volunteer), and assuming undercover roles. The use of operational deception (e.g., unique lighting or maneuvering) by a Coast Guard vessel or aircraft is not considered clandestine collection.
E.4. Cooperation with Foreign Law Enforcement Officials	This section sets forth guidance for cooperating in law enforcement activity with foreign officials outside the context of a formal bilateral or multilateral agreement or arrangement. Such cooperation includes combined operations such as planned operations, requests for technical assistance, or ad hoc shiprider arrangements. See *Chapter 5.D.1* for policy on cooperation with foreign law enforcement officials within the scope of counterdrug agreements. See *Chapter 5.B.3.a* for Mansfield Amendment restrictions (22 USC 2291(c)) related to certain drug law enforcement activities.

E.4.a. Authorization	Except pursuant to effective bilateral or multilateral agreements in force, all ELT operations involving Coast Guard assets and the military forces or law enforcement agencies of one or more foreign nations in pursuit of a common objective require an advance Commandant (G-O) SNO, even when participating in a DoD-coordinated combined operation. • While informal liaison with foreign government representatives at the local level is at times appropriate for exploratory purposes, no actual negotiations may be conducted, nor may such consultations serve as authorization to proceed with ELT operations and/or specific enforcement actions. • Draft plans or operations orders should be forwarded to Commandant (G-OPL) for review as early as possible in the planning stages. This policy does not apply to training exercises so long as no operational law enforcement activity is contemplated or conducted by either party.
E.4.b. Enforcement of Flag or Coastal State Law	When assisting in the enforcement of flag or coastal State law (vice U.S. law), Coast Guard personnel shall not take law enforcement action beyond detaining the vessel and persons onboard on behalf of the flag or coastal State. Such detention may include escorting the vessel to a convenient port for turnover to flag or coastal State authorities and actions necessary for officer safety and to prevent destruction of evidence.
E.4.c. Action Against U.S. Persons, Vessels, and Aircraft	Coast Guard personnel generally should not facilitate or assist with legitimate foreign law enforcement action against U.S. persons, vessels, or aircraft. When a foreign government requests Coast Guard assistance in enforcing foreign law against a U.S. person, vessel, or aircraft, the request should be directed to the U.S. DOS through the cognizant U.S. Embassy. Units shall not take law enforcement action with respect to such a request without a Commandant (G-O) SNO (with PD-27).
E.5. Interference with Law Enforcement Activity	There are occasions when Coast Guard enforcement assets operating in international waters or in U.S. waters adjacent to international borders will come in contact with law enforcement agencies of foreign governments. Significant incidents involving interaction between the Coast Guard and a foreign enforcement agency shall be thoroughly documented and reported to Commandant (G-O) as soon as possible.
E.5.a. Principal Objectives	The Coast Guard's principal objectives in these situations are to: • Ensure that foreign enforcement assets do not encroach in areas of exclusive U.S. jurisdiction. • Attempt to prevent potential conflict or escalation of tensions. • Ensure there is no breach of international law. • Minimize potential damage to international relations.
E.5.b. Coast Guard Interference with Foreign Law Enforcement	Foreign law enforcement actions may be legitimate or non-legitimate. In actual practice, Coast Guard personnel are usually not in a position while on scene to determine the legitimacy of an observed action. Communication with the foreign law enforcement aircraft or vessel is not interference and is encouraged.
E.5.b.1. Legitimate Foreign Law Enforcement	Coast Guard personnel shall not interfere with legitimate foreign law enforcement.

E.5.b.2. Non-Legitimate Foreign Law Enforcement

Coast Guard personnel may interfere with non-legitimate foreign law enforcement when:

- The incident occurs in a maritime area over which the U.S. exercises exclusive sovereign jurisdiction.
- The enforcement is directed against a U.S. vessel or U.S. nationals.
- The Commandant has directed a response.

Authorization to interfere with non-legitimate foreign law enforcement activity requires a Commandant (G-C) SNO (with PD-27) and may require adherence to the Standing Rules of Engagement (SROE) instead of the Coast Guard Use of Force Policy.

E.5.c. Foreign Interference with Coast Guard Law Enforcement

Coast Guard personnel will not normally tolerate foreign interference with Coast Guard law enforcement, even in situations where Coast Guard assets are legitimately operating in waters where another nation has concurrent jurisdiction (e.g., a Coast Guard unit enters a foreign EEZ as a result of hot pursuit). However, in cases where the Coast Guard is carrying out enforcement operations against a foreign flag vessel and the flag State desires to exercise jurisdiction, units shall contact Commandant (G-OPL) for resolution through diplomatic channels. In all cases, communication with the foreign law enforcement vessel or aircraft should be attempted to prevent an escalation in tensions. In situations where a coastal State has granted the Coast Guard authorization to engage in law enforcement activity in its waters, and subsequently interferes with that activity, Coast Guard units shall cease law enforcement operations in the coastal State's waters until the situation is resolved.

E.6. Interagency Cooperation

As described in *Chapter 2.A.4*, the Coast Guard may assist federal, state, and local authorities in executing their responsibilities in areas where Coast Guard personnel and facilities are especially qualified. In turn, the Coast Guard may request assistance from these agencies.

E.6.a. Other Agency (including Department of Defense (DoD)) Assistance to Coast Guard

Personnel from other federal law enforcement agencies may participate in Coast Guard boardings. Before permitting such participation, Commanding Officers (COs) shall ensure that the other agency personnel understand relevant Coast Guard policies, and shall comply with the requirements of *Chapter 4.B.1*. COs should facilitate participation of other federal law enforcement agencies in cases involving ongoing investigations by other agencies, requiring special expertise and/or overriding safety considerations. Personnel from state and local law enforcement agencies may also participate in Coast Guard boardings subject to the guidance provided in this section, and with particular emphasis on ensuring that state and local law enforcement personnel have the legal authority to conduct law enforcement activities under the circumstances of the boarding.

Operational Commanders shall ensure that for all such joint operations, the lead agency and respective roles are clearly identified. In all such cases, the Coast Guard Boarding Officer shall remain in charge of the boarding team. If the Coast Guard is the lead agency, all non-Coast Guard personnel must agree in advance to follow the direction of the Boarding Officer. Operational Commanders shall ensure alignment of use of force policies in accordance with the requirements of *Chapter 4.B.1.*

Whenever members of other agencies participate in a Coast Guard boarding, all concerned must be sensitive to the limitations on the authority of non-Coast Guard personnel.

E.6.b. Coast Guard Assistance to Other Agencies

Coast Guard personnel shall not take law enforcement action solely under state or local authority. However, resources permitting, Coast Guard personnel may assist federal, state, and local agencies pursuant to 14 USC 141. See *Chapter 2.A.4.c*. There is no requirement to provide requested assistance merely because Coast Guard resources are available.

E.6.b.1. Qualifications and Facilities

In many cases involving law enforcement assistance to other agencies, the underlying rationale stems from the unique qualifications and facilities the Coast Guard has relating to the maritime realm. Specifically authorized are Coast Guard transport of other agency personnel, equipment or assets, and providing backup assistance in the marine environment (i.e., on or immediately adjacent to navigable waters) so that the state or local officers may execute their duties. Assistance beyond the scope of activity described above requires approval of the cognizant District Commander.

E.6.b.2. Coast Guard Use of Force Policy

In accordance with *Chapter 4*, the Coast Guard Use of Force Policy shall apply to all law enforcement personnel under the TACON of the Coast Guard. However, when the Coast Guard acts in cooperation with or support of another agency, the District Commander may allow Coast Guard participation so long as the use of force policies of all participating agencies are appropriately aligned. At all times, Coast Guard personnel shall be governed by the Coast Guard Use of Force Policy and Standing Rules of Engagement.

E.7. Law Enforcement Detachment Program

Coast Guard personnel embarked in U.S. Navy vessels or foreign naval vessels shall exercise Coast Guard law enforcement authority only in U.S. and international waters. Any deviation from this policy must be approved in advance by Commandant (G-OPL) unless the law enforcement authority is being exercised pursuant to a bilateral/multilateral agreement that specifically authorizes law enforcement actions under such circumstances. *Chapter 16* of *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, contains additional policy and procedures regarding the Law Enforcement Detachment (LEDET) program.

E.8. Role of Coast Guard Auxiliary

The Coast Guard Auxiliary is a uniformed, civilian volunteer organization established to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

E.8.a. Authority

The Auxiliary has no law enforcement authority. Auxiliarists are not to participate in law enforcement boardings. However, provided they are properly trained, Auxiliarists may assist Coast Guard law enforcement in accordance with the *Auxiliary Operations Policy Manual*, COMDTINST 16798.3 (series), in the following capacities:

- Serving as radio watchstanders.
- Conducting marine event safety patrols in coordination with Coast Guard assets.
- Conducting vessel safety checks and voluntary fishing vessel safety examinations.
- Providing and operating a vessel (if properly marked) from which a Coast Guard Boarding Officer may take law enforcement action.
- Providing people or vessels to facilitate training and assisting with any other law enforcement activities, as long as those activities do not involve the exercise of direct law enforcement authority.
- Serve as linguists/interpreters (see *Chapters 3.C.1.a.2 and 3.C.1.a.3*).
- Conducting overt information collection during patrol operations in accordance with *Chapter 4* of the *Auxiliary Operations Policy Manual*, COMDTINST M16798.3 (series).

E.8.b. Advice

Auxiliary personnel operating a facility without a Coast Guard Boarding Officer onboard may advise another boater by recommending actions to facilitate the boater's departure from an undesirable location. Examples of these situations include advising boaters that their presence in a safety zone has placed their vessel in a hazardous situation and recommending their immediate departure; or advising a boater that they have entered a race course in violation of a published notice and that their continued presence in the area may subject them to arrest by law enforcement authorities, and recommending their immediate departure.

Auxiliary personnel shall not use force to compel compliance with such recommendations, nor shall they issue compelling instructions to a boater at any time.

E.9. Special Interest Vessel

A Special Interest Vessel (SIV) is one flagged by certain nations whose relationship with the U.S. raises unique national security concerns. Vessels flagged by these nations may be required to provide more than 96-hours notice before arriving in certain U.S. ports or may be prohibited from entering U.S. ports. Commandant (G-MWP) publishes periodic message traffic updating the list of SIV nations and port access procedures. Any doubt as to whether a vessel is an SIV shall be resolved in consultation with Commandant (G-OPL) and Commandant (G-MWP-2).

E.10 Support to U.S. Secret Service for Protective Duties

Coast Guard support to the U.S. Secret Service is governed by the Memorandum of Understanding between the United States Coast Guard and the United States Secret Service for Providing Coast Guard Resources in Support of Secret Service Statutory Protective Duties (signed June 1981 and renewed March 1991). The MOU is available at http://cgweb.comdt.uscg.mil/G-OPL/G-OPL.htm. The MOU provides a framework in which the Coast Guard assists Secret Service in the performance of its executive protective functions in the maritime area. All Coast Guard personnel assigned to assist the Secret Service in accordance with the MOU shall be subject to the operational control of the senior Secret Service agent in charge. Secret Service personnel deployed on Coast Guard units and conducting Secret Service protective duties follow the Secret Service Use of Force Policy. Coast Guard personnel shall at all times follow the Coast Guard Use of Force Policy. Operational commanders shall provide appropriate operations orders and plans to support deployment of Coast Guard resources in accordance with the MOU.

E.11. Use of Race

"Racial profiling" concerns the invidious use of race or ethnicity as a criterion in conducting stops, boardings, searches, and other law enforcement investigative procedures. Racial profiling is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than is any particular individual of another race or ethnicity.

E.11.a. Use of Race or Ethnicity in Traditional Domestic Law Enforcement Activities

In making routine or spontaneous domestic law enforcement decisions, such as random boardings, Coast Guard law enforcement officers may not use race or ethnicity to any degree, except that officers may rely on race and ethnicity if a specific suspect description exists in which race or ethnicity is included.

E.11.a.1. Domestic Patrol Activities

Coast Guard law enforcement officers often engage in domestic law enforcement activities, such as maritime and facility patrols, that generally do not involve either the ongoing investigation of specific criminal activities or the prevention of catastrophic events or harm to the national security. Rather, their activities are typified by spontaneous action in response to the activities of individuals whom they happen to encounter in the course of their patrols and about whom they have no information other than their observations. These general enforcement responsibilities should be carried out without any consideration of race or ethnicity.

The situation is different when a Coast Guard law enforcement officer acts on the personal identifying characteristics of potential suspects, including age, sex, ethnicity, or race. Common sense dictates that when a victim or witness describes the assailant as being of a particular race, authorities may properly limit their search for suspects to persons of that race. In such circumstances, the Coast Guard officer is not acting based on a generalized assumption about persons of different races; rather, the officer is helping locate a specific

individual previously identified as involved in crime.

E.11.a.2. Domestic Investigative Activities	In conducting activities in connection with a specific investigation, Coast Guard law enforcement officers may consider race and ethnicity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization. Accordingly, use of race or ethnicity is permitted only when the federal officer is pursuing a specific lead concerning the identifying characteristics of persons involved in an identified criminal activity.
E.11.b. Use of Race or Ethnicity in National Security and Border Integrity Law Enforcement Activities	The Constitution prohibits consideration of race or ethnicity in law enforcement decisions in all but the most exceptional instances. Given the incalculably high stakes involved in protecting national security or preventing catastrophic events, however, Coast Guard law enforcement officers engaged in such activities (including the performance of duties related to air and maritime transportation security), may consider race, ethnicity, alienage, and other relevant factors to the extent permitted by the Constitution and laws of the United States. Similarly, because enforcement of the laws protecting the Nation's borders may necessarily involve a consideration of a person's alienage in certain circumstances, such as extraterritorial maritime migrant interdiction operations, the use of race or ethnicity in such circumstances is permissible in accordance with existing statutory and constitutional standards. Race should not be the sole factor in making alienage determinations, but may be considered along with other relevant factors such as location and condition of vessel, indicia of nationality displayed by the vessel, and language spoken and assertions of nationality made by persons onboard, in determining the nationality or alien status of individuals in maritime migrant interdiction operations.

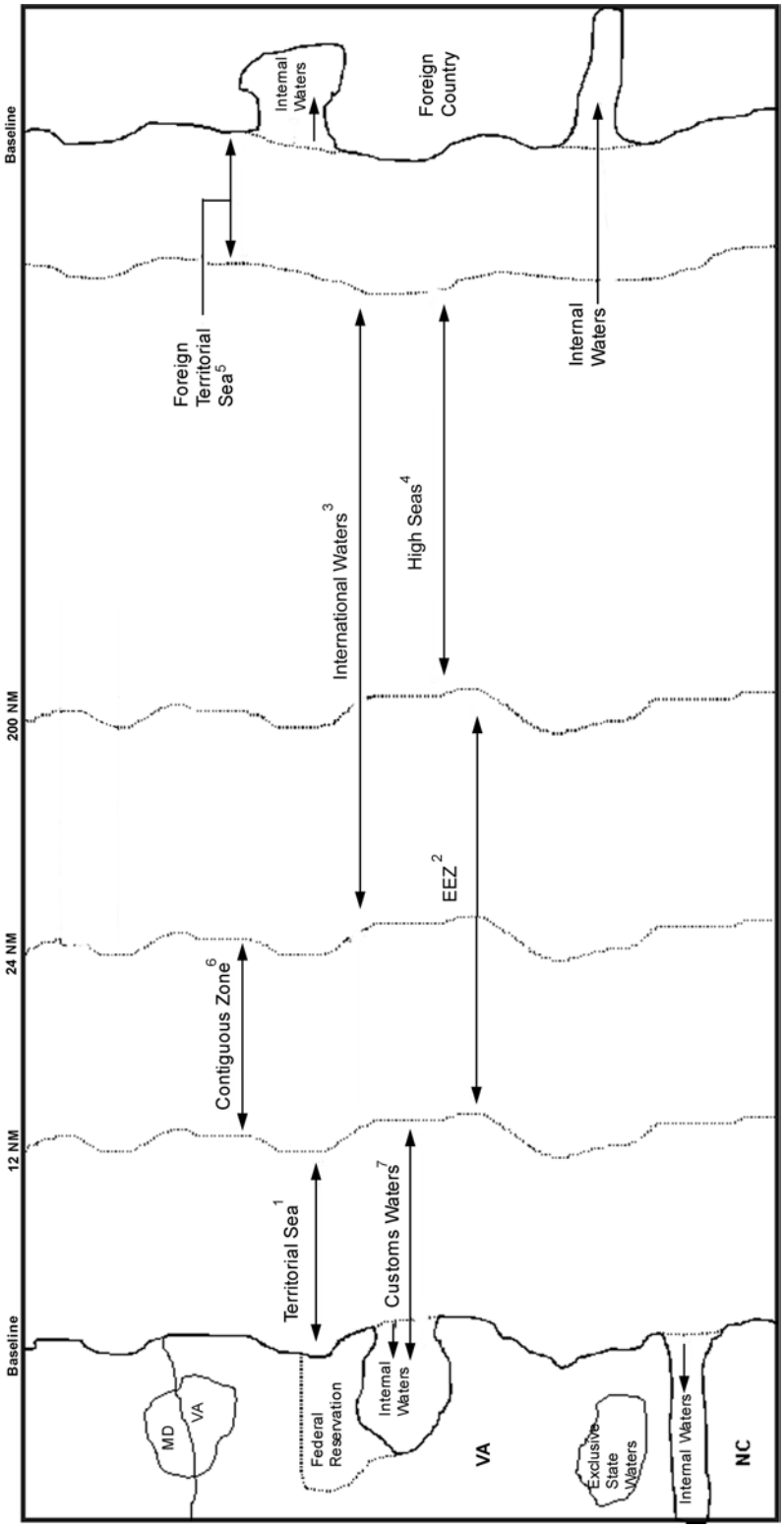


Figure 2-1
Jurisdictional Areas

FOOTNOTES:

1. Territorial sea for international purposes by Presidential Proclamation 5928, 27 Dec 1988. For the purpose of enforcing some domestic U.S. laws, the territorial sea extends only 3 NM seaward of the baseline.
2. Exclusive Economic Zone (EEZ) is measured from the outer limit of the territorial sea to a distance of 200 NM from the baseline.
3. International waters include all waters seaward of the territorial sea including EEZ, high seas, and contiguous zone (when claimed seaward of the territorial sea).
4. High seas for international purposes are those waters seaward of the EEZ. When a nation has not proclaimed an EEZ, the high seas begin at the seaward edge of the territorial sea. Many domestic U.S. laws and regulations continue to define high seas for enforcement purposes as those waters seaward of a line drawn 3 NM from the baseline.
5. The U.S. recognizes territorial sea claims of other nations up to a maximum distance of 12 NM from the baseline.
6. Contiguous zone for international law purposes by Presidential Proclamation 7219 on 2 Sep 1999.
7. See 19 USC 1401(j).

Chapter 3
Conduct of Boarding Operations

Introduction

This chapter provides policy governing the conduct of boarding operations.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	3-3
B	Pre-Boarding Activity	3-4
C	Boarding Procedures	3-7
D	Enforcement	3-26

Section A. Introduction

Introduction	This section contains overarching policy that governs the conduct of all Coast Guard law enforcement boardings.
A.1. Fundamental Reasons for Boardings	The fundamental reasons for conducting MLE boardings are: • To enforce all U.S. law applicable in the maritime realm, particularly relating to marine safety, MHS, drugs, customs, fisheries, and immigration. • To educate mariners on the proper and safe practices associated with operating vessels.
A.2. Conduct	Boardings shall be conducted thoroughly but expeditiously to interfere as little as possible with legitimate voyages. However, mere superficial checks defeat the purpose of vessel boardings.
A.2.a. Safeguarding Sensitive Information	During boardings, boarding personnel shall safeguard sensitive information. Coast Guard patrol areas, frequency of boardings, time remaining in the area, etc., should not be discussed among the boarding team members or with the crew of the vessel being boarded.
A.2.b. Professionalism	Boarding personnel shall promote a positive impression of the service through outstanding appearance, professional conduct and competence. All boardings should be conducted in a polite, courteous, and professional manner, even in the face of open resentment or non-cooperation. Boarding personnel should never be argumentative, overbearing or oppressive. The *Standards of Conduct*, COMDTINST M5370.8 (series), applies to all boarding personnel at all times.
A.3. Lawful Rights and Human Dignity	Coast Guard personnel are vested with broad law enforcement authority to protect and serve the public. Boarding personnel shall be respectful of the lawful rights and human dignity of the people they encounter. They should remember that most mariners with whom they come in contact are engaged in legitimate recreational or commercial pursuits. However, a small percentage of mariners use the oceans and waterways for illicit purposes. For this reason, Coast Guard personnel shall take those precautions necessary to protect the safety of all concerned.
A.4. Accommodating Mariners	Consistent with the need for safety, boarding teams should accommodate reasonable requests of the mariner (e.g., to maintain a comfortable heading into the seas, to pass through a drawbridge prior to boarding). Boarding personnel may offer mariners weather and navigational information but should not provide courses to steer. Instead, limit navigational advice to providing current location. Boarding personnel are encouraged to distribute boating safety pamphlets, informational brochures, and other public information materials consistent with the goal of promoting the safe operation of vessels.
A.5. Preparedness	Boarding personnel must be prepared for the unexpected. Boardings range from relatively straightforward inspections to comprehensive searches for evidence of criminal and/or terrorist activity. Boarding procedures to cover every contingency are not practicable. This chapter presents only core policies and guidance. Detailed boarding procedures are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4.

Section B. Pre-Boarding Activity

Introduction

This section contains policy regarding pre-boarding activity including the risk/benefit assessment that must be made in determining whether to board a particular vessel.

Refer to *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 for detailed guidance regarding intercept, approach, and pre-boarding activity.

B.1. Right of Approach Questions

Under international law, a warship, military aircraft, or other duly authorized vessel may approach in international waters any vessel, other than a warship or government vessel on non-commercial service, to verify its nationality. In order to determine the vessel's nationality, the unit shall ask the Right of Approach questions contained in Part I of the Law Enforcement Checklist (see *Appendix G*).

B.2. Pre-Boarding Questions

Pre-boarding questioning may be conducted by Coast Guard vessels, boats, and aircraft under Coast Guard TACON to obtain specific law enforcement information and to enhance the safety of boarding team personnel. In counterdrug operations and at the discretion of the DoD TACON, pre-boarding questions may be conducted before shifting to Coast Guard TACON. Units contemplating law enforcement action shall, if practicable, ask the pre-boarding questions contained in Part I of the Law Enforcement Checklist (see *Appendix G*). Radio communications with fishing vessels actively engaged in fishing in a fleet should be minimized. Unless there is reason to believe the vessel may be engaged in illicit activity unrelated to fishing (e.g., smuggling contraband or migrants), units should be sensitive to the concerns of the fishers with respect to broadcasting catch information over a common radio circuit. Specifically, units should refrain from asking questions related to fishing locations, catch amounts, and fishing techniques or methods.

Similarly, many fishing vessel captains have weapons aboard, but seldom disclose the existence or location of them to the crew. Rather than ask during pre-boarding questions about weapons, boarding teams should query the master upon boarding.

B.2.a. Sightings and Boardings

CO/OICs shall ensure all sightings and boardings are entered into the Marine Information for Safety and Law Enforcement (MISLE).

B.2.b. Intelligence Database Check

When practicable, units contemplating law enforcement action should conduct an intelligence database check on the vessel and master.

B.3. Authority and Jurisdiction

Units shall ascertain whether Coast Guard authority and jurisdiction exist prior to conducting a boarding and/or taking follow-up law enforcement action. All authority and jurisdiction determinations shall be made in conformance with *Chapter 2*. Whether authority and jurisdiction to conduct a boarding exist must be distinguished from the follow-on question of whether, given all of the circumstances, a boarding is appropriate and should be conducted. Additionally, units shall comply with policy guidance in *Appendix D* that may limit the exercise of authority and jurisdiction without first obtaining an SNO.

B.4. Whether to Board (Risk/Benefit Assessment)

Given the limited number of enforcement resources, the Coast Guard cannot board all vessels encountered. Operational cost/benefit decisions must be made. Maritime enforcement resources must be allocated wisely in conducting ELT Program operations, weighing the urgency and probability of success together with the risks involved and the competing alternatives. While all possible contingencies cannot be addressed, the below factors should figure prominently in deciding whether to initiate a boarding.

B.4.a. Safety

Ensuring the safety of Coast Guard personnel during law enforcement operations shall have equal priority with completion of mission objectives. During the planning and execution of law enforcement operations, personnel at all levels of the organization, from Operational Commanders to boarding team personnel, shall ensure that safety is a critical factor used in evaluating enforcement actions. Coast Guard personnel and assets, the people and property against which enforcement action is contemplated, and bystanders shall not be placed at undue risk of injury or loss.

B.4.a.1. Precautions

Personnel must be able to recognize, evaluate, and control the hazards associated with the activities being conducted. Appropriate safety precautions shall be taken.

Law enforcement personnel must remain particularly vigilant with respect to the risks of entry into confined and enclosed spaces. The *Marine Safety Manual*, *Volumes I-X*, COMDTINST M16000 (series), available at http://cgweb.uscg.mil/g-c/g-ccs/g-cit/g-cim/directives/welcome.htm, outlines confined space entry policy and includes a number of safe work practices. COMDTNOTE 16000 of 27 APR 01 updated this policy and provides additional safe work practices. Additional confined space guidance may be found in NSTM 074, 29 CFR 1915, and NFPA 306.

B.4.a.2. Risk Management

Operational and tactical commanders should provide field units with guidance that establishes expectations or boundaries regarding acceptable risks. However, the authority and responsibility of deciding upon a course of action ultimately rests with on-scene personnel. At times, inaction or monitoring the situation until the situation changes, or until additional law enforcement assets can be brought to bear, may be the most prudent action. This is particularly true when an action taken in pursuit of a law enforcement objective may involve a degree of risk disproportionate to the value of the objective.

The possibility of recovering evidence or apprehending alleged violators of federal law does not normally warrant risking more than minor damage to a cutter, boat, or aircraft.

B.4.a.3. Safety of Life

ELT and SAR are not always mutually exclusive missions. Rather, they may be bound together by an inextricable web of circumstances. In such situations, and except in exigent circumstances, the safety of life shall always take precedence over the enforcement of laws. Decisive action shall be taken to alleviate the distress, including undertaking rescue and assistance, except that such action should not normally be taken against the will of those in distress unless they are in immediate and life-threatening danger. Genuine doubt in this regard should be resolved in favor of providing assistance. Specific policy regarding rendering assistance to persons/property at sea is contained in *Chapter 2.C.3*. Additional policy and doctrine on conducting SAR cases is in the *U.S. Coast Guard Addendum to the United States National Search and Rescue Supplement (NSS) to the International Aeronautical and Maritime Search and Rescue Manual (IAMSAR)*, COMDTINST M16130.2 (series).

B.4.b. Probability of Detecting Unlawful Conduct

The probability of detecting unlawful conduct should figure prominently in most boarding decisions, especially when there are multiple boarding candidates.

B.4.c. Maritime Commerce and Boating Public

Where there is a high probability of detecting unlawful conduct, or a need to increase the frequency of boardings in a given area and/or of particular vessel types, the possible negative impact on maritime commerce or potential ill will among the boating public should not be a significant factor in boarding decisions. In other circumstances, however, impacts on maritime commerce and the boating public should be considered carefully. Both groups have legitimate interests relating to ocean and waterway use, and the continuing support of both groups is important to the future effectiveness of Coast Guard law enforcement and other operations.

B.4.d. Special Operations Vessel

A Special Operations Vessel (SOV) is one involved in a controlled delivery, an undercover law enforcement operation, or a non-law enforcement mission for another U.S. agency, and normally should not be boarded.

SOVs involved in law enforcement operations should be identifiable through law enforcement/intelligence database checks, while any other such vessels should be on a special list maintained at the U.S. Coast Guard Intelligence Coordination Center (ICC) and accessible through the Coast Guard National Command Center.

A Coast Guard unit may inadvertently initiate a boarding of a SOV without being aware of its status (e.g., operation never entered into appropriate database, no database check performed). The first indication may be a request from a person aboard the vessel asking that an agency or individual ashore be contacted immediately with the name of the vessel.

While confirmation is in progress, the vessel should be watched carefully in the event that someone aboard the vessel may be in danger or the claim is a ruse to buy time for flight or destruction of evidence. Additional recommended procedures for such scenarios are provided in *Appendix J*.

B.5. Non-Compliant Vessels

Given the thousands of Coast Guard boardings conducted each year, cases in which vessels fail to heave to for a boarding or comply with other lawful orders are comparatively rare. Nonetheless, units must be prepared to take effective and forthright action in these situations. Relevant guidance and policy regarding the use of force against non-compliant vessels is contained in *Chapter 4.D. Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 contains additional procedural guidance regarding techniques to stop non-compliant vessels.

Section C. Boarding Procedures

Introduction

This section provides policy regarding program level requirements applicable to the execution of boardings. Detailed guidance and explicit boarding procedures and tactics are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 and in *Chapter 10*.

C.1. Boarding Team Composition

CO/OICs shall ensure their law enforcement personnel are properly trained, equipped and motivated to carry out MLE duties. Only those personnel who possess the requisite judgment, maturity, attitude, and aptitude should be assigned MLE duties. At the discretion of the CO/OIC, non-qualified Coast Guard personnel (e.g., break-in boarding personnel, cadets, engineering personnel) may accompany the boarding team for assistance or training purposes, but shall not engage in law enforcement activities, except as provided for in *Chapter 10*.

C.1.a. Boarding Team Organization

The Boarding Officer, under the CO/OIC's supervision, is in charge of the boarding team and is responsible for the proper conduct of the boarding. Boarding team members assist the Boarding Officer in conducting the boarding.

C.1.a.1. Non-Coast Guard Personnel from Other Government Agencies

Consistent with *Chapter 2.E.6* and *Chapter 10.C.2.e*, non-Coast Guard personnel from a federal, state, or local government agency may, in some instances, participate in a Coast Guard boarding. When the Coast Guard is designated as lead agency for a boarding, the Coast Guard Boarding Officer shall remain in charge of the boarding team, and all non-Coast Guard personnel must agree in advance to follow his/her direction. If another agency is designated as the lead agency for a boarding, or the lead agency has shifted from the Coast Guard to another agency, then the Coast Guard boarding team may assist/continue with the boarding, but still must comply with the Coast Guard Use of Force Policy. Non-Coast Guard personnel from a federal, state, or local government agency participating in Coast Guard boardings shall be armed, if authorized, and outfitted in accordance with policy established by their parent organization.

C.1.a.2. Non-Coast Guard Civilian Personnel

Non-Coast Guard, civilian personnel shall not participate in a Coast Guard boarding unless required to assist the boarding team (e.g., contract language interpreter).

In all cases, the Coast Guard Boarding Officer shall remain in charge of the boarding team and all non-Coast Guard personnel must agree in advance to follow his/her direction. Non-Coast Guard personnel in such cases shall not be armed, but shall be outfitted with body armor, PFDs and/or other personal protective equipment as necessary.

C.1.a.3. Media Personnel and Observers

Media personnel and other observers may accompany Coast Guard boarding teams under the following conditions:

- District Commander has approved the request to accompany the boarding team.
- The media or other observers have obtained the owner/operator's permission to be present before boarding the vessel.
- No media or other observer shall embark the boarded vessel until the boarding team has completed the BISI and the Boarding Officer has authorized embarkation.

C.1.b. Boarding Team Qualifications

The qualifications for Boarding Officers and team members are as follows:

C.1.b.1. Boarding Officers	Boarding Officers must be: • A Coast Guard commissioned, warrant, or petty officer. • Qualified in accordance with the *Boarding Officer/Boarding Team Member Personnel Qualification Standard (PQS)*, COMDTINST M16247.3 (series). • Authorized to carry a personal defense weapon in accordance with *Appendix H* and the *Ordnance Manual*, COMDTINST M8000.2 (series). • Knowledgeable of this Manual and appropriate sections of *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4. • Command designated in writing.
C.1.b.2. Coast Guard Non-Rated Personnel	Coast Guard non-rated personnel may not be Boarding Officers, but can be boarding team members under the supervision of a person with law enforcement authority. To be a boarding team member, an individual must meet all but the first criteria in *Section C.1.b.1*.
C.1.b.3. Reservists	Reservists while drilling in Inactive Duty for Training (IDT) status or on active duty (Active Duty for Training (ADT); Active Duty Special Work in Support of Active, or Reserve Component (ADSW-AC/RC); or Extended Active Duty (EAD)) have the same law enforcement authority, and must meet the same qualification requirements, as active duty personnel.
C.1.b.4. Auxiliarists	Auxiliarists shall not qualify as a Boarding Officer or be part of a boarding team, unless providing specialized assistance as authorized under *Chapter 3.C.1.a.2.*
C.1.c. Boarding Team Size	Boarding teams shall be comprised of at least two qualified personnel, at least one of which shall be a qualified Boarding Officer. Boarding team size beyond this minimum requirement is determined on a case-by-case basis. Factors that should be considered when making these determinations include: • Suspicion of criminal activity. • Size and condition of the vessel. • Number of personnel thought to be onboard. • Vessel activity being examined or regulated. • Need for interpreters. • Recent experience in the operating area. When an adequate number of qualified boarding personnel are not available to safely conduct a boarding, units should consider postponing the boarding and either call for additional personnel or escort the vessel to a location where the boarding may proceed safely.
C.1.d. Outfitting the Boarding Team	All Coast Guard boarding personnel shall comply with the uniform, equipment, and weapons requirements in accordance with *Appendix H* and as follows:
C.1.d.1. M-9 Pistol	Except as set forth in *Chapter 3.C.1.d.6-7*, Coast Guard boarding personnel participating in vessel boardings or other law enforcement activities shall be armed with the M-9 pistol.
C.1.d.2. Personal Weapons	Carriage of personal or privately owned weapons or ammunition is prohibited.

C.1.d.3. Riot Shotgun

When there is an articulable suspicion that there is an increased threat to the boarding team's safety, one or more boarding team members may carry a riot shotgun and the equipment necessary to support its use. Due to the difficulty in ensuring sidearm retention when carrying the shotgun, only one or the other will normally be carried. If circumstances warrant, the CO/OIC may specifically authorize carriage of both the shotgun and sidearm simultaneously.

C.1.d.4. M-16 Rifle

At the discretion of the COs, boarding team personnel may carry the M-16 rifle on to a boarded platform when conducting a security boarding pursuant to *Chapter 10* or in other boardings where there is reason to believe the vessel or persons onboard pose a substantial risk to the boarding team. During security boardings, the M-16 is intended to provide a point-defense capability. Boarding team personnel carrying the M-16 rifle on a boarding shall meet all training requirements for level II qualifications in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series), be trained on the Coast Guard Use of Force Policy, and have successfully completed the Judgmental Pistol Course. Carriage shall be in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series). A round may be chambered when firing the weapon is contemplated. Boarding team members carrying the M-16 rifle during a boarding shall be mindful of the ricochet, spark, and other risks of using semi-automatic and automatic fire in confined spaces.

C.1.d.5. Other Equipment

Coast Guard personnel participating in vessel boardings or other law enforcement activities shall be equipped with:

- Expandable baton.
- Oleoresin Capsicum (OC) pepper spray canister.
- Chain-linked handcuffs.
- Flashlight.
- Body armor.
- Adequate personal flotation device.

Additional equipment that shall be worn by boarding team members or shall be readily available to them during the boarding as appropriate under the circumstances includes:

- Atmospheric monitoring devices.
- Personal radiation detectors.
- Escape respiratory protection.
- Other personal protective equipment shall be worn by boarding team members or be readily available to them during the boarding, as appropriate under the circumstances.

In addition, at least one member of the boarding team shall have an intrinsically safe means to communicate with the boarding platform (i.e., cutter/small boat/station/Marine Safety Office (MSO)).

C.1.d.6. Exceptions to Outfitting Requirements - Team Members

Subject to the discretion of the CO/OIC, on a case by case basis, some or all members of the boarding team may be relieved of the requirement to wear the prescribed equipment in this section in the following circumstances:

- Boardings of foreign fishing vessels where the presence of firearms would prevent or otherwise hinder the purpose of the boarding. An example would be a consensual boarding on a foreign fishing vessel outside the U.S. EEZ, the purpose of which would be to gather information regarding catch and level of effort.
- Boardings of commercial vessels where certain boarding team members will be required to work for extended periods in physically restrictive spaces or where the lifting or moving of a large number of items is required (e.g., boarding team members designated as "the hold team" when boarding large factory trawlers). The CO/OIC should ensure

	that the Boarding Officer and an appropriate number of boarding team members are armed to provide necessary security. • Routine marine safety inspections of commercial vessels in port. • Commercial Fishing Vessel Safety Regulations examinations in port.
C.1.d.7. Exceptions to Outfitting Requirements - Non-Qualified Coast Guard Personnel	Subject to the discretion of the CO/OIC, non-qualified Coast Guard personnel accompanying the boarding for training or assistance purposes (e.g., marine inspectors, Commercial Fishing Industry Vessel Safety Act (CFIVSA) examiners, engineering personnel, cadets) may be relieved of the requirement to be armed, but shall be outfitted as per *Appendix H*. The CO/OIC should ensure that the Boarding Officer and an appropriate number of boarding team members are armed to provide necessary security.
C.1.d.8. Removal of Survival Vest and PFD	Boarding Officers and boarding team members are permitted to remove their survival vests and PFD after boarding a vessel, if, in the opinion of the Boarding Officer, wearing these items unduly restricts their range of movement and negatively impacts their ability to safely carry out the boarding.
C.2. Obtaining and Reporting Information During a Boarding	Obtaining information from persons aboard the vessel may be required by law, regulation, for record-keeping and data collection, or to assist in corroborating facts for law enforcement purposes. The use of physical force to obtain any information during a boarding is not authorized.
C.2.a. Disclosure of Information	Completion of forms, reports, and database checks described in this section may call for obtaining identification information from an individual such as date of birth, nationality, and/or driver's license number. Such information, when not required by law or regulation, may be obtained if given freely. Coast Guard policy is to request such information as needed to complete forms, reports, and intelligence database checks. See *Section C.9.c.3.a* for policy regarding information disclosure during a border search.
C.2.a.1. Licenses	The master of a vessel is required to present appropriate licenses and papers on demand.
C.2.a.2. Social Security Number	Boarding teams may request, but not require, that U.S. citizens disclose their Social Security Number (SSN). When a U.S. citizen voluntarily discloses their SSN, they must be provided a copy of the Privacy Act Statement located on the back of Form CG-4100.
C.2.a.3. Weapon Serial Number	Serial numbers of regulated weapons should be obtained to verify compliance with federal firearms laws. See *Chapter 12* and *Appendix C* for specific information on federal firearms laws. Serial numbers of non-regulated weapons, when obtained lawfully (e.g., plain view, consent), may be used to conduct intelligence database checks.
C.2.b. Sightings and Boardings	CO/OICs shall ensure all sightings and boardings are entered for every boarding in accordance with MISLE.
C.2.c. Applicable Reports	Boarding teams shall attempt to obtain the necessary information to complete required reports and forms in accordance with *Appendix E*.
C.2.d. Intelligence Database Check	In addition to a pre-boarding intelligence database check on the vessel and master, units should consider conducting an intelligence database check on other person(s) onboard the vessel. The minimum information needed to conduct an intelligence database check is the individual's name, nationality, and date of birth.

C.3. Initial Safety Inspections (ISIs)

The ISI is conducted to identify any safety hazards that may exist and ensure the seaworthiness of the vessel being boarded. There are two levels of the ISI: (1) basic, and (2) extended. Detailed procedures and guidance for the actual conduct of an ISI are contained in *Chapter 8* of *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4.

C.3.a. Basic ISI (BISI)

The BISI is a quick and limited protective sweep of a vessel for boarding team safety. Since the basic ISI is conducted only for protective purposes and not to gather evidence, it is not based on either probable cause or reasonable suspicion. It is conducted upon initial boarding and is limited to identifying potential safety hazards and ensuring the vessel's seaworthiness. The scope of the basic ISI is determined by the circumstances of the boarding, particularly the size, type, and condition of the vessel; the demeanor of the crew (knowledge, skill level and experience); and information available to the boarding team about potential threats or hazards aboard the vessel.

- A basic ISI shall be conducted as part of every boarding.
- Since evidence gathering is not a purpose of the basic ISI, boarding team members conducting a basic ISI will not ordinarily enter private areas of vessels (e.g., staterooms on large vessels) where hazards would not likely exist. Boarding team members conducting a basic ISI should not simultaneously conduct evidence gathering or other activities (e.g., vessel inspection items, contraband detection activities) inconsistent with identifying safety hazards and ensuring the vessel's seaworthiness.

C.3.b. Extended ISI

The extended ISI is still part of the protective sweep of a vessel for the safety of the boarding team, but is more focused. An extended ISI may be conducted only when reasonable suspicion exists that there is a particular hazard that may threaten the boarding team. The scope and conduct of the extended ISI is guided by the suspected hazard. In deciding whether to conduct an extended ISI, Boarding Officers must consider all available information in light of their training and experience, and must have a reasonable suspicion that something is wrong before proceeding. Once the targeted person, item, or condition has been located, or the basis for the suspicion is otherwise addressed, the justification for continuing the extended ISI may cease in the absence of other suspected hazards.

Situations that may lead to the decision to conduct an extended ISI include:

- There are weapons aboard the vessel, based on the statement of persons onboard, intelligence, or visual examination, and the location of the weapons is reasonably well known. The extended ISI should be conducted to secure and neutralize the weapon. If the weapon's location is not reasonably well known, the Boarding Officer may not conduct an extended ISI. However, the Boarding Officer should take other measures to ensure the safety of the boarding team (e.g., selecting an area of the vessel, frisking that area for weapons, and mustering the persons onboard in that area to prevent their access to suspected weapons).
- The Boarding Officer has reasonable suspicion that unaccounted for persons are aboard the vessel. The boarding team should inspect all person-sized compartments, including private spaces, to locate the missing persons.
- The Boarding Officer has reasonable suspicion that there is a particular safety hazard that may threaten the team. Examples include the pervasive odor of fuel, missing deck plates or lifelines, a sheen extending from behind the vessel, or any other situation where the safety of the boarding team may be in jeopardy. Boarding team members should only inspect individual areas or items in the vessel aimed at addressing the particular suspected safety hazard(s).

Boarding team members conducting an extended ISI should not simultaneously conduct

evidence gathering or other activities (e.g., vessel inspection items, contraband detection activities) inconsistent with the purpose of the extended ISI.

C.3.c. Role of the Master

The master or his/her designee should be invited to accompany the boarding team for both types of ISIs, unless the Boarding Officer determines this action to be inadvisable. Factors to consider in determining that an ISI should be unaccompanied include, but are not limited to:

- Inappropriate responses to pre-boarding questions.
- Lack of cooperation.
- Appearance of the vessel.
- Specific intelligence.

C.3.d. Foreign Flag Vessels

- Both types of ISIs may be conducted aboard a foreign flag vessel in waters subject to U.S. jurisdiction.
- Flag or coastal State authorization to board and search (via SNO or maritime bilateral agreement) authorizes both types of ISIs. However, any restrictions imposed by the flag or coastal State must be complied with.
- During consensual boardings, the master's consent must be obtained prior to conducting either form of ISI.

C.4. Vessel Inspections

A vessel inspection is a systematic process used to ensure compliance with governmental regulations (e.g., boating safety, fisheries, marine safety, vessels, and port security).

C.4.a. Fourth Amendment Protection

The Fourth Amendment protects U.S. persons and foreign persons in U.S. territory from searches that unreasonably interfere with a person's reasonable expectation of privacy, and thus applies to inspections conducted to ensure compliance with governmental regulations. Properly conducted vessel inspections are fully consistent with Fourth Amendment standards in that they: (a) are limited in scope; (b) are not searches for evidence of criminal violations; (c) serve an important public interest; and (d) involve lesser expectations of privacy than searches for evidence of criminal activity (i.e., mariners are on notice that vessels are subject to inspection through issuance of regulations and publication of informational materials).

Vessel inspections are not searches. No suspicion is required to initiate an inspection. However, a vessel inspection is not a basis of authority for Coast Guard personnel to go everywhere aboard a vessel. On the contrary, vessel inspection activities must relate directly and reasonably to ensuring compliance with the applicable regulations.

C.4.b. Evidence of Criminal Activity

If, during the course of a vessel inspection, evidence of criminal activity is encountered (e.g., contraband is discovered on the chart table while checking required publications on the bridge), a criminal investigation should commence. The evidence encountered during the vessel inspection may be admissible in a criminal proceeding under the "plain view" doctrine, as well as any additional evidence discovered during a proper criminal investigation. In such cases, the vessel inspection should still be completed either prior to commencing or after concluding the criminal investigation.

C.4.c. Vessel Safety Inspection

Units shall conduct a vessel safety inspection (by verifying compliance with at least all applicable regulations listed on Form CG-4100 (see *Appendix E*)) during all boardings of U.S. recreational and uninspected commercial vessels.

C.4.c.1. U.S. Uninspected Commercial Fishing Vessels	For boardings of U.S. uninspected commercial fishing vessels, units shall verify compliance with CFIVSA safety regulations in accordance with *Chapter 3.C.5.b* and *Chapter 11*.
C.4.c.2. U.S. Recreational Vessels	For boardings of U.S. recreational vessels displaying a Vessel Safety Check (VSC) decal, units may conduct an abbreviated vessel inspection in accordance with *Chapter 3.C.5.b.1*.
C.4.c.3. Foreign Flag Vessels	Foreign flag vessels outside waters subject to U.S. jurisdiction are not subject to U.S. vessel safety laws and regulations. Such boardings will not include a vessel safety inspection. Even foreign flag vessels (both commercial and recreational) inside waters subject to U.S. jurisdiction are generally exempt from the majority of U.S. vessel safety regulations (e.g., Titles 33 and 46 USC). They are, however, required to comply with flag State and applicable international law (e.g., SOLAS, COLREGs). Policy regarding safety inspections of foreign flag vessels is contained in *Chapter 11*.
C.4.d. Fisheries Regulations Inspection	Units shall normally conduct a fisheries regulations inspection of vessels subject to regulations described in *Chapters 7* and *8*. Fisheries regulations inspections shall be conducted in accordance with *Chapter 3.C.5.b*.
C.5. Special Boarding Procedures	Certain boardings involve unique procedures by virtue of the status, type, or activity of the vessel boarded.
C.5.a. Consensual Boardings	As discussed in *Chapter 2.C.2*, authority to board a foreign flag vessel may derive from the consent of the master. During a consensual boarding, the boarding team may only examine spaces with the voluntary consent of the master or individual controlling them. The consent may be limited in scope and may be revoked at any time. No suspicion is required, and there is no prohibition against the Boarding Officer actively requesting consent to inspect or search in areas that might otherwise be inaccessible to the boarding team.
C.5.a.1. Evidence of Criminal Activity	If evidence of a crime is discovered during a consensual boarding, the boarding team must receive authorization from the coastal State (in whose waters the vessel is located) or the vessel's flag State prior to taking enforcement action. While awaiting flag/coastal State authorization, if doubt exists as to the master's consent for the boarding team to remain aboard, confirmation of continuing consent should be sought from the master.
C.5.a.2. Guest Status	During a consensual boarding, the boarding team has the same status as guests and cannot exert control over the vessel or its crew. However, the Boarding Officer may suggest that the person in charge take certain action (e.g., provide a lee, muster the crew).
C.5.b. Fisheries Boardings	While most of the boarding procedures and tactics contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 can be applied to fisheries boardings, some unique procedures exist that are not described therein.
C.5.b.1. Inspections	Fisheries boardings typically include two independently conducted inspections. Boarding teams shall normally conduct a vessel safety inspection to verify compliance with CFIVSA regulations described in *Chapter 11*. Additionally, boarding teams shall normally conduct an inspection of the vessel's catch, gear, and other items to ensure compliance with fisheries regulations described in *Chapter 7*.

C.5.b.1.a. Voluntary Dockside Examination

Compliance with CFIVSA regulations is verified primarily through at-sea boardings by inspecting all items listed on Form CG-4100F. However, the Coast Guard has also established a no-cost, no-fault, voluntary dockside examination (VDE) program to promote compliance with CFIVSA requirements. VDEs are only conducted by Coast Guard personnel who have received specific training and qualification as an examiner or an authorized third party organization accepted by the Commandant in accordance with 46 CFR 28.73. Vessels successfully completing a VDE are issued a dated decal by the examiner. The VDE decal does not expire and should be displayed on a starboard pilothouse window. A VDE decal shall not be issued based on an at-sea boarding. No vessel shall be targeted for an at-sea boarding as a result of deficiencies noted during a VDE.

- A vessel displaying a VDE decal is not exempt from boarding. However, if the decal is less than 2 years old, absent visible indications of unsatisfactory conditions or criminal activity, the vessel shall be considered a low priority boarding target. At-sea boardings of vessels displaying a VDE decal require only an abbreviated check of the eight most critical items. These items include survival craft, PFD/immersion suits, distress signals, EPIRBs, fire extinguishers, high-water alarms, stability instructions and compliance with mandatory drills. When this abbreviated inspection is conducted, boarding personnel should inform the master that the shortened process was authorized as a result of the VDE.
- If a vessel is not displaying a VDE decal, the boarding team should inspect as many items listed on Form CG-4100F as boarding team personnel are trained to inspect. At a minimum, boarding teams shall inspect those eight items listed above. Boarding personnel should encourage vessel masters to schedule a VDE.
- Units encountering evidence of VDE decals being issued without proper equipment onboard or uncorrected safety problems shall report such findings to OPCON for investigation by the cognizant CFIVSA coordinator.

C.5.b.1.b. Abbreviated Fisheries Regulations Inspections

Compliance with fisheries regulations described in *Chapter 7* is verified through inspection of a vessel's catch, gear, and other required items. There may be circumstances where it is practical and desirable to abbreviate the fisheries regulations inspection. Abbreviated fisheries regulations inspections may be appropriate in the following situations:

- To make the most effective use of limited enforcement resources during short periods of time, such as checking for possible fishing prior to the opening of an area with a short fishery and numerous participants.
- When longer boardings on one vessel would provide an opportunity for other vessels in the area to stow or dispose of illegal gear prior to being boarded.
- When the Operational Commander desires to focus enforcement only on a specific conservation measure.
- To minimize the impact of a boarding on vessels where the fishery is short and a lengthy boarding puts the vessel at a competitive disadvantage.

C.5.b.2. Additional Procedures

Commercial fisheries are highly regulated activities that require at-sea boardings to ensure compliance with fisheries and safety regulations. While most fishers recognize the need for Coast Guard boardings, nearly all perceive them as disruptive to their livelihood. However, there are ways to limit the disruptive impact of boardings. Unless the safety of the boarding party is in question or there is a likelihood of other illicit activity, such as smuggling contraband or migrants, the following additional procedures apply when conducting boardings of vessels that appear to be legitimately fishing:

- Boarding teams should, as much as practicable, allow the master and crew to continue fishing operations. If the location of the crew is known or observable, boarding teams

are not required to muster the crew.

- When species identification or other training is conducted during the boarding, Coast Guard personnel may be perceived as unnecessarily increasing the length of the boarding and being insensitive to the impact their presence has on the fisher's livelihood. Conducting fisheries on-the-job training for inexperienced personnel during a boarding may create an undesired image that Coast Guard personnel are unprepared to conduct fisheries enforcement. To minimize boarding duration, units should conduct fisheries training in a non-enforcement setting (e.g., Coast Guard regional fisheries training centers, visits to a fish market or fishing port, unit training program).

C.5.c. Post-SAR Boarding	If practicable, units shall conduct a boarding of all U.S. vessels receiving SAR assistance, either at-sea or after the vessel is moored.
C.5.d. Boardings of U.S. Coast Guard Auxiliary Vessels	Auxiliary vessels are subject to law enforcement boardings. However, when under Coast Guard orders, such as for SAR or regatta patrols, Auxiliary vessels should normally not be boarded. If the operator claims to be under Auxiliary orders, the claim should be verified with the local Coast Guard unit issuing the orders or coordinating the event. Once verified, the Boarding Officer should terminate the boarding. Boardings based upon probable cause of a criminal offense should be conducted notwithstanding Auxiliary orders. Auxiliarist complaints relative to being boarded should be documented on Form CG-4100 and brought to the attention of the District Commander for resolution.
C.5.e. Vessel Safety Check (VSC) Decals	Vessel safety checks are conducted by the Coast Guard Auxiliary, U.S. Power Squadrons, and states with MOUs with the Coast Guard Auxiliary, to educate the boating public and promote compliance with boating safety requirements. The VSC typically includes all documentation, numbering, and equipment carriage requirements. Vessels passing a VSC are awarded a decal, the color of which changes annually. Abbreviated vessel safety inspections are authorized and encouraged for vessels bearing a current VSC decal when, upon initial inspection, all indications are that the vessels are being operated in compliance with federal laws and regulations. At the discretion of the Boarding Officer, examination of documentation, numbering, and equipment carriage requirements may be omitted. At the end of the boarding, the Boarding Officer shall inform the master that not all items routinely checked during a conventional boarding were inspected, provide the status of those that were, and inform the master of his/her responsibility to comply with those items not checked. The Boarding Officer should line out or otherwise indicate on Form CG-4100 those items that were not inspected.
C.6. DoD and Allied Navy Support During Boardings	
C.6.a. Navy Unit Operational Support	The Navy surface unit (U.S. or Allied) should provide the following operational support to an embarked LEDET.
C.6.a.1. Detection and Monitoring (D&M)	The Navy ship will engage in air and surface detection, monitoring, and surveillance in support of counterdrug operations. D&M operations will be at the direction of the unit's TACON.

C.6.a.2. Boarding Opportunities

The host unit will take action to maximize boarding opportunities by aggressively pursuing intercepts and identification of targets of interest (TOIs), and by fully supporting the LEDET's operational requests.

NOTE The LEDET OIC is responsible for making the decision to board a particular vessel.

C.6.a.3. Rigid Hull Inflatable Boat (RHIB)

The CO will ensure an operationally safe rigid hull inflatable boat is available for use by the LEDET. The Navy unit will coordinate RHIB maintenance and provide qualified RHIB coxswains for operations.

C.6.a.4. Damage Control Team

The host unit should have at the ready for immediate use during all approaches and boardings an experienced rescue and assistance team tailored to meet the requirements of the law enforcement mission. In the event that a TOI begins flooding or burning, the Navy crew may render assistance as necessary, but may not take law enforcement action.

C.6.a.5. Intelligence Team

The CO should provide an intelligence team, also known as a "snoopy team" to assist embarked LEDETs by reporting information on vessels and boardings. This includes photographing and videotaping the entire sequence of events, from pre-boarding questions to the termination of law enforcement activity from the Navy vessel, but does not include the participation of the intelligence team in the boarding.

C.6.b. DoD Support

Federal law and DoD policy prohibit the Navy and other DoD personnel from direct involvement in law enforcement activity, including boarding, searching, seizing, arresting, or directing the boarding of a vessel. However, Navy and other DoD personnel may engage in the following activities supporting counterdrug and other law enforcement operations:

- With the approval of TACON, employ Navy or DoD personnel to assist a Coast Guard boarding team with a special function not otherwise available to the team (e.g., gas-free engineering, liquid load transfer to provide access to the boarding team, welding/cutting, pre-seizure force protection for the boarding team).
- With a Commandant (G-O) SNO, the Coast Guard Boarding Officer may employ a Navy or DoD interpreter to accompany the boarding team to provide translation during the boarding of a suspect vessel. A Commandant (G-O) SNO is not required if an existing MOU/MOA pre-authorizes the interpreter to accompany the boarding team.
- In accordance with the Coast Guard Use of Force Policy and *Appendix D*, Navy and DoD assets may fire warning shots and disabling fire while under Coast Guard TACON.
- Acting as interpreters when conducting pre-boarding questioning via radio, loudhailer, or other means from the host ship.
- Towing or escorting seized vessels, contraband, and prisoners.
- Assisting Coast Guard personnel in manning custody crews and maintaining seized vessels during transit to port.
- Effecting damage control to keep boarded or seized vessels afloat.
- Standing post-seizure prisoner security watches under the control of Coast Guard personnel.
- Refueling and replenishing undercover and/or seized vessels.
- Recovering contraband or other evidence jettisoned from a vessel.
- Assisting Coast Guard personnel in disposal of seized drugs and other contraband.
- Assisting in recording (e.g., video, photography) the sequence of events from pre-boarding to post-seizure.

Tactical guidance regarding DoD involvement in support of Coast Guard LEDET activities is contained in *Chapter 16* of *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4.

C.6.c. Allied Navy Support

Coast Guard LEDETs may deploy aboard allied naval vessels, primarily surface forces of the United Kingdom, the Netherlands, and Belgium. These allied units are limited in their ability to provide law enforcement support due to their own nation's laws and regulations. Limits will be included in the applicable OPORDER/OPTASK or MOU between the U.S. and the host nation. All law enforcement support, including the use of warning shots or disabling fire, transfer of prisoners, and towing of seized vessels, must be approved by their TACON and OPCON and may require final approval by the allied nation's government or the U.S. DOS. United Kingdom Royal Fleet Auxiliary (RFA) ships are further restricted from providing any personnel or equipment for law enforcement operations. Therefore, LEDETs deploying in RFA vessels may have to provide their own RHIB and coxswain for law enforcement use.

C.7. Detention and Release of Persons and Property

Vessels, the persons aboard, and property associated with either may be detained by the Coast Guard, at sea or ashore, for the time reasonably necessary to:

- Complete an investigation of a violation of law (including interviewing suspects and witnesses).
- Ensure the safety of persons and property.
- Effect other law enforcement action (e.g., seizing the catch of a fishing vessel).
- Carry out the enforcement of a law where the vessel, person, or property is subject to a more severe sanction (e.g., vessel subject to forfeiture or person subject to arrest).

C.7.a. Persons

Detention of a person is the temporary limitation of that person's freedom of movement. To be lawful, a detention must be reasonable in duration, method and location, and must be undertaken by a person with authority to detain. Duration reasonableness depends upon the circumstances. The courts, instead of setting time limits, have focused on the diligence of law enforcement personnel in carrying out their duties during detention. If the length of time of a detention becomes unreasonable, an arrest may be implied. The minimum non-deadly force necessary may be used to detain individuals, consistent with the Coast Guard Use of Force Policy.

C.7.a.1. Suspicion of Criminal Activity

Coast Guard personnel may temporarily detain an individual to investigate when reasonable suspicion of criminal activity exists. In other words, if there are facts that tend to point to criminal activity, but they have not reached the point where probable cause exists, the individual may be detained for a reasonable amount of time to investigate the suspicions.

C.7.a.2. Individual Safety

It may be necessary to detain individuals for their safety or the safety of others, including the boarding team. Examples include mustering individuals in a particular place on a vessel or detaining an intoxicated operator of a vessel.

C.7.a.3. In Lieu of Arrest

Where there has been a violation of law that would justify arrest, an individual may be detained in lieu of arrest. This should be accomplished by informing the individual that he/she is being detained in lieu of arrest and that he/she remains subject to arrest. Notwithstanding the officer's subjective intent, a detention may later be construed as an arrest by the courts.

C.7.a.4. Intoxicated Operators

Chapter 11 contains additional guidance regarding the detention of intoxicated operators.

C.7.a.5. Breach of State or Local Laws

Where Coast Guard personnel encounter persons who have committed breaches of state or local criminal law, such individuals may be detained on scene at the request of a state or local agency for a reasonable amount of time to allow that agency to take appropriate action. If the detention persists for an unreasonable length of time, it may become an illegal arrest. Therefore, Operational Commanders should contact their servicing legal office for guidance in all such cases. The individual should not be transferred to a Coast Guard unit until the Operational Commander has received guidance from the servicing legal office concerning disposition of the individual. The individual should not be relocated while in this detention status unless necessary for safety reasons. Such relocation from the scene could imply an arrest.

C.7.a.6. Foreign Flag Vessel

Authority to detain individuals aboard a foreign flag vessel requires flag or coastal State authorization and, unless specified to the contrary, is considered implicit in any flag or coastal State authorization to take law enforcement action with respect to the vessel.

C.7.b. Property

Property (including vessels) may be detained for investigative or safety reasons, or as a necessary consequence of other law enforcement action. Detention of property aboard a vessel is always lawful when a vessel violating the law is subject to seizure or forfeiture.

Detention of property must meet the same reasonableness standard as for the detention of people. If detention of the vessel is unreasonable, it may imply a seizure of the vessel and/or arrest of the people onboard. Further, the Coast Guard must weigh the justification for detaining the vessel against the reasonableness of the consequences to those aboard. The most common example involves directing a vessel to port to facilitate a dockside boarding, thus detaining the vessel and the people for the time of transit and duration of the boarding. Owing to the inconvenience and disruption, such direction should be given only when there is a reasonable basis to do so.

Authority to detain a foreign flag vessel and/or associated property requires flag or coastal State authorization and, unless specified to the contrary, is considered implicit in any flag or coastal State authorization to board the vessel.

C.8. Investigation Activities

All U.S. citizens regardless of location, and all persons in U.S. territory, are protected by the Fourth Amendment from unreasonable search and seizure. The Fourth Amendment generally requires a warrant, based on probable cause, be issued prior to any governmental search of people, their houses, vessels, papers, and effects. However, the courts have held that because of the exigent circumstances of most Coast Guard boardings, obtaining a warrant before conducting a search aboard a vessel (including moored vessels) is not required. However, to conduct a search absent a warrant, the overarching Fourth Amendment reasonableness standard must still be met. Searches must be based on an appropriate level of suspicion as discussed below.

C.9. Searches of Vessels

Before the boarding team may proceed beyond the ISI and subsequent vessel inspection, the Boarding Officer must have reasonable suspicion that evidence of a crime may be found aboard the vessel. If such reasonable suspicion exists, the Boarding Officer should commence a criminal investigation. The permissible focus and scope of that investigation is determined by two factors:

- Specific factual basis for the suspicion.
- Intended search location aboard the vessel.

C.9.a. Guiding Principles

Once the Boarding Officer has reasonable suspicion of criminal activity and intends to commence an investigation, the Fourth Amendment, as applied in the maritime context, requires adherence to three general rules:

- If the suspected evidence is located in an area aboard the vessel to which the Coast Guard has unrestricted access during the course of a properly conducted vessel inspection, such evidence may be sought for in that area without any other criteria being met.
- If the suspected evidence is located outside the area to which the Coast Guard has unrestricted access during the course of a properly conducted vessel inspection, but within a common area in which no person aboard the vessel has a reasonable expectation of privacy (e.g., cargo hold, engine room, bridge, weather decks, mess deck, supply locker, laundry, most hidden compartments), such evidence may be sought for in that area without any other criteria being met.
- If the suspected evidence is located in an area of the vessel in which any person aboard the vessel has a reasonable expectation of privacy (e.g., a stateroom, personal locker, locked tool drawer, vessel safe), such evidence may only be searched for if one or more of the following applies:
  - A person who is entitled to control access to the area in question knowingly and voluntarily consents to the search.
  - The entire vessel is subject to a customs border search and access to the area in question is reasonable under the circumstances.
  - The Boarding Officer has probable cause to believe that evidence of criminal activity will be found in the area to be searched.

C.9.b. Intrusive Search

An intrusive search is a quest for evidence that may require the destruction or permanent alteration of personal property to complete the search.

C.9.b.1. Frequency

Intrusive searches are not, and should not be, routinely conducted. As a matter of policy, this type of intrusion (except during customs border searches, see *Section C.9.c.3*) is only permitted when there is probable cause to believe a person is or was engaged in criminal activity and that evidence of this crime may be discovered in the area to be searched. The extent of the intrusiveness must be commensurate with the level of suspicion and must be based on objective, articulable fact(s).

C.9.b.2. Authorization to Search

For intrusive searches aboard vessels subject to U.S. jurisdiction, the boarding team shall obtain concurrence from OPCON before proceeding. The right to conduct an intrusive search aboard a vessel not otherwise subject to U.S. jurisdiction is not implicit in flag or coastal State authorization to board that vessel. Therefore, separate authorization to conduct an intrusive search aboard such vessels must be obtained from the flag or coastal State.

C.9.b.3. Claim for Damages

A vessel owner may make a claim for damages resulting from a Coast Guard boarding. Such claims are payable only when there is no evidence of criminal activity rendering the vessel subject to seizure and/or the master/owner subject to arrest. See *Appendix M* for detailed guidance regarding claims procedures.

C.9.c. Customs Border Search

Border searches, as authorized pursuant to 19 USC 482 and 19 USC 1582, among other statutes, are an exception to the Fourth Amendment's warrant and probable cause requirements. As long as certain conditions are met, no suspicion or probable cause that an offense has been committed is required to conduct a border search. Although border searches do not require a warrant or probable cause, they must be reasonable (i.e., requiring the traveler to remove all clothing in public in order to conduct a border search would be unreasonable).

C.9.c.1. Elements of the Border Exception

The border exception exists only when:

- A Customs Officer;
- Is searching for merchandise;
- At the border, the functional equivalent of the border (FEB), or the extended border.

C.9.c.2. Authorized Officers

Pursuant to 19 USC 1401(i), commissioned, warrant, or petty officers of the Coast Guard are Customs Officers by law and may conduct border searches as long as they are searching for merchandise at the border, FEB, or the extended border. Customs officers, including qualified Coast Guard officers and petty officers, may conduct border searches on inbound and outbound vessels, cargo, objects, and persons.

C.9.c.3. Authority and Coordination

In almost all cases, the Coast Guard's broad law enforcement authority under 14 USC 89 precludes the need to rely on customs authority. However, under Coast Guard policy, a customs border search may be deemed appropriate in any of the following circumstances:

- Conducting security boardings of appropriate vessels pursuant to *Chapter 10* and the elements for a lawful customs border search are otherwise met.
- When an Operational Commander in consultation with the servicing legal office otherwise deems it desirable to accomplish effective enforcement and the boarding unit coordinates the search with the local ICE/CBP office, as appropriate.
- In those instances at the extended border when the boarding team has exhausted other authority, reasonable suspicion of criminal activity remains, and the elements for a lawful customs border search are met.

District Commanders may require a Flag SNO for the conduct of border searches or may delegate supervision of such activity to subordinates. Except for security boardings conducted pursuant to *Chapter 10*, all customs border searches conducted by Coast Guard personnel shall be coordinated with the servicing the ICE/CBP office. Such coordination may be ad hoc or take the form of standing oral or written arrangements, including MOAs.

C.9.c.4. "Border" Defined

Coast Guard Boarding Officers may conduct a customs border search only at the border, functional equivalent of the border (FEB), or the extended border.

C.9.c.4.a. U.S. Border

The United States border is defined in terms of the land border, the sea border, and the air border. The land border is the actual dividing line between the United States and Canada or Mexico. The sea border, along the Atlantic and Pacific Coasts, is 3 NM from the low mean water mark. Texas and Florida (in the Gulf of Mexico) maintain a 9-NM sea border. The remaining Gulf Coast states recognize a 3-NM sea border. The air border extends directly upward from the land and sea border. Coast Guard boarding officers may conduct a customs border search (e.g., upon a vessel, cargo, an object, or a person) when the officer is reasonably certain that the item to be examined has "nexus" or a connection with the land, sea, or air border.

C.9.c.4.b. Functional Equivalent of the U.S. Border (FEB)

A border search need not take place at the actual border. Rather, it may be conducted at a place considered "the functional equivalent of the border" (a location that acts or "functions" just like the border) such as the port where a ship docks in the U.S. after entering U.S. territorial waters from the high seas. Likewise, the FEB may be a cargo container at a U.S. pier in a customs control area about to be shipped abroad.

C.9.c.4.b.1. Factors Creating an Inbound FEB

The factors that create an inbound FEB are:

- Reasonable certainty that the vehicle, container, or person to be searched has a "nexus" with the border. A nexus means a border crossing or contact with something that has crossed the border.
- Reasonable certainty that there has been no material change in the item to be examined since nexus, (i.e., any merchandise present now was present at time of nexus).
- The search, and any seizure if warranted, must occur at the first practicable detention point since nexus (e.g., a vessel that enters from beyond the territorial sea and ties up at a private dock behind a house may be searched at the FEB if this was the officer's first feasible opportunity to search the vessel).

C.9.c.4.b.2. Factors Creating an Outbound FEB

Persons and objects may be searched leaving the country when the search occurs at the outbound FEB. The factors that create an outbound FEB are:

- Reasonable certainty that there will be "nexus" with the border.
- Reasonable certainty that there will be no material change in the item to be examined before nexus.
- The search is done at the last practicable detention point.

C.9.c.4.c. Extended Border

Under the following circumstances, a customs officer may conduct a border search after the person or object has left the border or FEB under the concept of the "extended border":

- Reasonable certainty that the item to be examined has a nexus with the border.
- Reasonable certainty that there has been no material change since the nexus (i.e., any merchandise present now was present at time of nexus, and reasonable suspicion of criminal activity).
- Reasonable suspicion that the vessel and/or persons aboard the vessel may be engaged in criminal activity.

Searches at the extended border may be conducted even if the search is purposely delayed or an earlier search at the border or FEB has already been conducted.

The fact that a border search takes place at a customs pre-clearance facility outside the U.S. does not prevent a subsequent search at the point of entry (border or FEB) into the United States or one conducted after entry under extended border principles. Such secondary searches require no suspicion of criminal activity. Customs has pre-clearance offices in Bermuda, Calgary, Edmonton, Freeport, Montreal, Nassau, Ottawa, Toronto, Vancouver, and Winnipeg.

C.9.c.5. Scope of Border Searches

Coast Guard Boarding Officers may conduct complete and thorough non-destructive searches of any vessel meeting the conditions for a border search. The only limitation on the search is that it be reasonable (i.e., no more destructive or intrusive than necessary). The scope of the search is very broad and may include a complete search of the vessel and everything onboard the vessel. As a matter of Coast Guard policy, destructive border searches of vessels shall not be conducted without reasonable suspicion of criminal activity. Units desiring to do destructive searches shall seek approval from OPCON, which shall consult with the servicing legal office.

The scope of the non-destructive border search includes any compartment, container, envelope, baggage, luggage, or cargo *wherever located aboard the vessel* that might reasonably contain merchandise subject to duty.

C.9.c.5.a. Establishing Identity

Coast Guard Boarding Officers may detain a person subject to border search pursuant to 19 USC 1582 until that person's identity has been established. In addition, the master of a vessel is required to present appropriate licenses and papers on demand.

C.9.c.5.b. Removal of Outer Garment and Search of Personal Belongings

Persons subject to border search, including all persons aboard a vessel subject to border search, may be directed to remove outer garments such as sport jackets and coats. Such persons can be asked to remove the contents of their pockets as part of a routine border search. Likewise, searches of handbags, briefcases, and luggage are not considered searches of the person, but are treated as searches of containers, which are permissible under border search authority.

C.9.c.5.c. Patdown Search

A person subject to a border search may be subjected to a patdown search for merchandise by an officer of the same gender when the officer has at least one articulable fact that the person may have merchandise subject to duty or inspection on his or her person. Under no circumstances may an officer conduct a patdown of a person of the opposite sex for merchandise. A patdown search for merchandise includes removal of shoes, lifting of a pants leg or the hem of a skirt a few inches, intrusions by the officer into pockets, removal of belts, rolling up shirt sleeves, and patting of an officer's hands over the suspect's clothed body. Any further search of the clothing or body of the person, however, is a personal search and can only be conducted subject to the requirements of *Chapter 3.C.10.d*. If circumstances arise during a patdown search for merchandise that causes the officer to suspect an individual may have a weapon that poses a threat to the boarding team or others, the officer should immediately conduct a frisk search of the person for weapons in accordance with *Chapter 3.C.10.b*.

C.9.c.5.d. Documents, Papers, and Electronic Devices/Media

Documents, papers, electronic devices, and electromagnetic media, such as computer disks, videographic film, and semiconductor chips, are subject to border search to determine whether they contain materials the importation of which is prohibited or restricted. These items are subject to border search if they are merchandise such as books, pamphlets, or other printed, manuscript, or electronic material; monetary instruments; or relate to the importation of merchandise.

- Boarding Officers may take a cursory look at documents, papers, and electronic media to make the initial determination of whether they are merchandise. If, as a result of this cursory view, the Boarding Officer reasonably suspects a particular document, paper, or electronic media is merchandise, then it may be examined fully to determine if it is contraband or relates to the importation or exportation of merchandise. The officer may read these documents and media and may continue to detain such items for such further inquiry as may be reasonably necessary to make the determination whether probable cause exists to seize the item.
- If an officer has probable cause to believe that a document, paper, or electronic media is subject to seizure because it is contraband, evidence of a crime, or otherwise subject to forfeiture, it may be seized upon approval of OPCON.
- If an officer has probable cause to believe a document, paper, or electronic media is subject to seizure, then it may also be copied and referred to appropriate law enforcement agencies.
- If an officer reasonably suspects that documents, papers, or electronic media are subject to examination as merchandise or related to merchandise, but cannot determine their nature without specialized assistance (e.g., foreign language documents), the documents

or media can be forwarded by fax or other means to someone with the necessary expertise, provided the determination can be accomplished within a reasonable time.

- If the officer does not have probable cause to seize items, the originals must be returned and all copies destroyed. The destruction should be documented by a notation on the Form CG-4100 or in MISLE if Form CG-4100 is not issued.
- Passports (U. S. and foreign), Seamen's Papers and Airmen's Certificates, Drivers Licenses, state identification cards, and similar identification documents may be photocopied when necessary for investigation.
- Seditious matter advocating or urging treason or insurrection against the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States may also be seized pursuant to 19 USC 1305. Prohibited materials are those directed to inciting or producing imminent lawless action and are such as likely to incite or produce such action in order for it to be prohibited. Prohibited seditious matter does not include abstract teaching that promotes violence and other illegal acts. Units shall consult with OPCON and their servicing legal office upon the discovery of any such material during a border search.

C.9.c.5.e. Mobile Telephones and Beepers

Mobile telephones and beepers may be physically inspected for concealed merchandise. However, Boarding Officers shall not access information stored in mobile telephones and beepers as part of a border search. Units shall contact OPCON and the servicing legal office in cases where it becomes necessary to access information stored in mobile telephones and beepers.

C.9.d. Contraband Detection Activities

Contraband detection activities (CDA) are the use of trained and certified canines by trained and qualified handlers, organic, mechanical, or chemical devices that sample or examine the air or physical surfaces to detect the presence of contraband (e.g., cocaine, heroin, marijuana, explosives, weapons). CDA include, but are not limited to, the use of:

- IONSCAN
- Compact Integrated Narcotics Detection Instrument (CINDI)
- Dogs
- Chemical reagent sprays
- Narcotics testing kits
- Magnetometers

Specific policy on the Coast Guard canine program is found in the *Canine Law Enforcement Manual*, COMDTINST M16247.8 (series). Specific policy on radiation detection and interdiction policy is found in the *Marine Safety Manual*, COMDTINST 16000 (series).

C.9.d.1. Detection Activity Results

Positive results from detection activities shall not be the sole basis for the arrest of individuals or the seizure of vessels. However, the results may supplement other facts as the basis for such action and may contribute to probable cause determinations to justify a search.

C.9.d.2. Proper Training

Personnel employing and operating CDA shall be properly trained in the use of the equipment and have completed the required PQS and/or job qualification requirement (JQR), if applicable.

C.9.d.3. Lawful Presence

CDA shall only be used in areas where the Boarding Officer and team may lawfully be present. On foreign flag vessels not subject to U.S. jurisdiction, flag or coastal State authorization to board and search constitutes authorization to conduct CDA aboard the vessel.

C.9.d.4. Other Agency or Foreign Law Enforcement

Boarding teams shall not conduct CDA in support of another agency or foreign law enforcement unless authorized by OPCON.

C.9.d.5. Operational Guidance

- CDA may only be employed during evidence gathering phases of the boarding (e.g., criminal investigation, search, customs border search). CDA shall not be employed during the basic ISI, extended ISI or vessel inspection.
- Absent valid consent, CDA may be used aboard a vessel for evidence gathering only if the boarding team has reasonable suspicion to commence a criminal investigation, the vessel is subject to a search based on probable cause, or the vessel is subject to a customs border search.
- Absent valid consent, CDA may be used or directed at persons or clothing being worn only if there is probable cause to believe that evidence of criminal activity is present on the person's body or clothing being worn. On foreign flag vessels not subject to U.S. jurisdiction, flag or coastal State authorization to board and search constitutes authorization to conduct CDA against persons or clothing being worn.
- CDA may be employed against vessels or persons without prior suspicion if an authorized person knowingly and voluntarily consents to its use. Because of the technical nature of some CDA (e.g., IONSCAN, CINDI), Boarding Officers seeking consent to employ CDA on vessels or persons should communicate to the person authorized to give consent that the purpose of the request is to detect the presence of contraband. Exact wording or explanations of the CDA function/operation are not required.
- To ensure the safety of the unit, the CO/OIC may authorize the use of CDA against persons in the screening of individuals placed aboard units under Coast Guard TACON (e.g., persons under arrest, migrants being held for transport, other detainees, so-called "SAR survivors" in scuttling cases) without any prior suspicion of criminal activity. Such screening may take place prior to transfer to the unit or immediately thereafter, and may include personal items or belongings brought aboard the unit. Although conducted for unit safety, the results of such testing may also be used to supplement other facts that serve as the basis for actions requiring reasonable suspicion (e.g., criminal investigation) or probable cause (e.g., arrest, search, seizure).

C.9.d.6. Post-Seizure Analysis

CDA may be used during post-seizure analysis of vessels for intelligence collection and analysis.

C.10. Pre-Arrest Searches of Persons

Searches of persons are conducted for various purposes, including the protection of personnel, shipboard security, and preservation of evidence.

C.10.a. Guiding Principles

Except for carefully limited purposes, an individual's person is inviolable in the American legal tradition. While Coast Guard personnel involved in law enforcement operations should not subject themselves or others to unnecessary risk, appropriate restraint is called for in situations justifying searches of persons. This is particularly true when an individual is not arrested.

- Searches of persons shall be conducted with the utmost tact and in a manner to ensure the dignity of the individual being searched is respected. Searches shall be conducted in a professional manner without comments about appearance, clothing or character.
- Searches of persons should be conducted by a qualified member of the same sex as the person being searched. If a qualified person of the same sex is not available, use a qualified person of the opposite sex along with a witness of the same sex, if available.
- Searches should be conducted without making direct contact with, or exposure of, genitalia or female breasts. If a search requires direct contact with, or exposure of,

genitalia or female breasts, then the unit must document the following information in the evidence package:
  - Reasonable suspicion justifying the search.
  - The reason that other alternatives to conducting the search were unavailable.
- As set forth in the Coast Guard Use of Force Policy, the minimum non-deadly force reasonably necessary may be used to compel submission to lawful searches of persons. Absent a circumstance requiring immediate compliance, the individual should be given notice of the consequences for failure to comply, and a reasonable time for compliance.
- Any article seized during a search must be properly treated as evidence. Property detained, but not seized, should be safeguarded and properly inventoried.

C.10.b. Frisk Search

A frisk search is the crushing and passing of hands over the outer clothing of a person in search of weapons, when the officer suspects an individual may have a weapon that poses a threat to the boarding team or others. The scope of a frisk search may be extended to the "grab area" of an individual reasonably suspected to have a weapon (e.g., if someone is carrying a purse and a weapon is suspected, the purse may be searched to the extent necessary to rule out the existence of a weapon if it is within the "grab area" of that person).

- A person who is not under arrest may be frisked when reasonable suspicion exists that the individual may have a weapon secreted upon his or her body that could endanger an officer or others.
- During the frisk search the officer may remove from the person, for further examination, any object readily apparent as a weapon or potential weapon. The officer shall not remove other objects that do not feel like a weapon (e.g., soft packages). If, in the course of a legal frisk search, evidence of a violation is discovered, that evidence is considered a plain view discovery, should be seized and may be used as a basis for enforcement action. Whether or not weapons or evidence are discovered, the officer should always complete the frisk search.
- Specific procedures for conducting frisk searches are contained in the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *paragraph 8.9.2.3*.

C.10.c. Searches of Persons Detained Onboard Coast Guard Units and Units Under Coast Guard TACON

Persons detained, but not under arrest, aboard Coast Guard units and units under Coast Guard TACON (e.g., migrants being held for transport) may be searched to find weapons and/or means of escape to ensure unit security. This search may extend to personal items or belongings brought aboard the unit by a detainee that will remain within the individual's "grab area".

- No suspicion is required to conduct this search. It should be conducted either prior to the person being placed aboard the Coast Guard unit, or as soon as practicable after the person has been placed aboard the Coast Guard unit. This search may be repeated when the detainee is transferred to another law enforcement unit.
- This search is conducted following the same procedures as a frisk search described in the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *paragraph 8.9.2.3.*

C.10.d. Intrusive Pre-Arrest Searches of Persons

More intrusive searches of persons are sometimes authorized prior to arrest for the discovery of evidence of a crime. A person who is not under arrest may be searched if there is probable cause that the evidence of crime is secreted on the person to be searched. The permissible focus and scope of the search is determined by the specific factual basis for the probable cause and the intended search location on the person. If possible, such searches should be delayed until after the person is arrested.

Section D. Enforcement

Introduction	This section contains policy regarding regulatory violations, arrests, rights advice, seizures, post-arrest searches, and evidence collection and case preparation.
D.1. Civil Penalty Process	Most violations of law encountered during a boarding are regulatory in nature, calling for a civil penalty initiated by the Boarding Officer, normally through the issuance of a notice of violation.
D.1.a. Evidence Package Preparation	See *Appendix G* for evidence package preparation procedures and *Appendix E* for guidance on completing Form CG-4100 and related forms, Enforcement Action Report (CG-5201), Offense Investigation Report (CG-5202), and related fisheries enforcement forms.
D.1.b. Written Warning	For certain minor regulatory violations, a written warning may be issued at the discretion of the Boarding Officer (in lieu of processing the case for a civil penalty). Specific guidance regarding warnable violations is contained in the *Boarding Officer Job Aid Kit, (BOJAK)*, COMDTINST 16247.6 (series). All written warnings issued shall be maintained by the record holder for a minimum of one year.
D.1.c. Notice of Violation	For regulatory violations, when a written warning is not appropriate, a notice of violation should be issued. A notice of violation is a formal, written notice of an apparent violation that is adjudicated by a hearing officer or administrative law judge to determine the appropriate penalty.
D.1.d. Arrest and Property Seizure	When criminal violations are encountered, the Boarding Officer, in consultation with the CO/OIC and other appropriate authority, may arrest the person(s) and/or seize the property involved. These options, as well as the related policies and procedures, are discussed in the sections that follow.
D.2. Arrests	An arrest occurs when a person believed to have committed a crime is physically taken into custody. A crime is an act in violation of the penal law for which the punishment of a fine or imprisonment or both is imposed upon conviction. Some violations of the law do not constitute a crime, but may instead subject the violator to civil or administrative penalties or sanctions. Arrest requires approval from appropriate authority in accordance with *Appendix D*.
D.2.a. Authority	Coast Guard commissioned, warrant, and petty officers are authorized by 14 USC 89 to arrest when: • Probable cause indicates that a federal felony has been committed. • A federal misdemeanor is committed in their presence.
D.2.b. Jurisdiction	The Coast Guard must also have jurisdiction to make the arrest. See *Chapter 2.B* for detailed guidance on jurisdictional analysis. If the person to be arrested escapes ashore, he/she may be pursued and arrested ashore. See *Chapter 2.E.2* and *Chapter 10.C.4* for discussion related to law enforcement actions ashore.

D.2.c. Whether to Arrest

The mere fact that there is a lawful basis for an arrest does not mandate that Coast Guard personnel affect an arrest. Arresting an individual may hamper operations in that the arrested individual must be taken ashore to appear before a U.S. Magistrate without undue delay. Moreover, by affecting an arrest pursuant to federal law, speedy trial clock considerations are implicated. This limits the time available to process and fully investigate the case. Further, affecting an arrest in situations involving an unnecessary risk of harm to Coast Guard personnel and/or others may call for postponing an arrest until additional enforcement personnel are available.

- Other law enforcement action other than arrest may be more appropriate (e.g., detention and transfer to other agency, summons to appear, obtaining a warrant for the subsequent arrest of the individual).
- If the offense is observed by Coast Guard personnel, but the circumstances preclude affecting an arrest at the time, a warrant may be obtained for the subsequent arrest of the individual(s). Coast Guard personnel desiring to obtain a warrant for subsequent arrest should contact their servicing legal office for guidance.
- Arrest of the master, operator, and crew/passengers of a vessel need not occur at the time a vessel is seized.

D.2.d. Effecting an Arrest

Specific procedures for effecting an arrest are contained in *paragraph 9.2.3* of *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4.

D.2.e. Appearance Before Federal Magistrate

The following procedures apply after an arrest has taken place:

- The unit shall immediately notify the appropriate District legal office, which will arrange for the arresting officer and arrestee(s) to appear before a U.S. Magistrate without delay. If a U.S. Magistrate is unavailable, it may be necessary to make arrangements to have the arrested person placed in jail as a “federal holdover” prisoner. District Commanders shall maintain a current list of local Assistant U.S. Attorneys and Magistrates as well as any specific appearance requirements.
- Keep the immediate superior in command informed of any events of interest, such as disposition of arrested persons, the vessel, equipment, etc.
- Undue delays in transporting an individual arrested at sea to a U.S. port for an appearance before a U.S. Magistrate are not acceptable. However, reasonable delays such as responding to other law enforcement or SAR cases while returning to port with the arrestees are generally acceptable.
- In some situations, foreign individuals found aboard foreign vessels have been arrested pursuant to U.S. law, then released and returned to the flag State for prosecution (this occurs when the flag State originally indicated that the vessel was without nationality, but subsequently confirmed registry and demanded flag State prosecution). Where this situation has not been resolved prior to 48 hours after arrival in a U.S. port, the arrested individual should be taken before a U.S. Magistrate. This presents no difficulty in subsequently relinquishing custody to the flag State.

D.3. Rights Advice

Rights advice need not be given to a suspect in custody if the suspect is not subjected to interrogation. Interrogation includes any questions, statements or actions reasonably likely to elicit an incriminating response. Rights advice should be given if the suspect (any individual, irrespective of status or citizenship) in custody is questioned about any illegal activity. Until rights advice has been given to the suspect, then any of the suspect’s answers, which may tend to incriminate the suspect, may not be used in court. Rights advice should always be provided if a suspect desires to confess. Specific procedures for administering rights advice are contained in *Section 9.5* of *Maritime Counter Drug and Alien Migrant*

Interdiction Operations, COMDTINST M16247.4 (series)/NWP 3-07.4.

D.3.a. Determining Custodial Situation

Rights advice should be given prior to interrogating suspects if they are in a custodial situation. A typical vessel inspection conducted in accordance with the policies and procedures outlined in this chapter is not a custodial situation, nor would the questions put by boarding team members to the operator/crew members be considered an interrogation. Whether a situation is custodial depends on whether a reasonable person in the suspect's position would believe their freedom of movement has been limited in a way that approaches a formal arrest. Whether a person's belief is reasonable depends on the circumstances of the situation. The following factors are significant in analyzing whether a particular situation is custodial:

- Whether there is probable cause to arrest the suspect.
- Whether the suspect subjectively believes that his/her freedom is being restricted beyond that which is customary in a routine boarding and that he/she is imminently subject to arrest.
- Whether the questioning has become accusatory and focused on the individual suspect.

If no rights advice has been given, interrogation should not be conducted except when an imminent threat to public safety is involved (e.g., questioning necessary to locate a known weapon).

D.3.b. Written Advisement and Waiver of Rights

Written advisement and waiver of rights is not required. However, it is desirable in that it significantly eases the burden of proving that a suspect was properly given their rights advice and knowingly and voluntarily waived those rights. If possible, both the advisement and waiver of rights should be documented in writing and witnessed by another law enforcement officer.

D.3.c. Transfer of Custody

If custody of a suspect is transferred to another law enforcement agent, the receiving agent should be told whether the suspect has been advised of his/her rights and whether the suspect invoked any of those rights (especially the right to talk with a lawyer).

D.4. Seizures

Coast Guard boarding personnel may seize contraband, vessels, and other evidence during the course of a law enforcement action. A seizure occurs when evidence is taken into official custody in order to facilitate the prosecution of an offense. Seizure requires approval from higher authority in accordance with *Appendix D*. When any contraband, vessel, or property is seized, it becomes the responsibility of the seizing authority to safeguard the material until it is properly transferred to another agency or properly destroyed. Specific procedures for effecting a seizure are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *Chapter 9*.

D.4.a. Contraband

Contraband is always subject to seizure. However, during a consensual boarding, no contraband may be seized absent flag or coastal State authorization; contraband may be taken into temporary custody upon request of the master/person in charge (often the outcome if the boarding team asks to whom the contraband belongs).

D.4.a.1. Representative Samples

Drug seizures may yield hundreds or even thousands of pounds of contraband. An entire shipment of drugs is usually not needed for evidence in court. Instead, a representative sample of the substance will normally suffice. See *Appendix G* for discussion regarding representative samples of contraband as it relates to evidence package preparation.

D.4.a.2. Disposition of Remaining Contraband	For reasons relating to health, safety, and crew workload, transfer of the remaining contraband (not required for evidence) to an appropriate agency (usually BICE or drug enforcement administration (DEA)) is the preferred method of disposition. Units should not destroy drugs at sea without approval from OPCON. Disposal of cocaine at sea is prohibited. If destruction of other drugs at sea is authorized, units shall follow procedures set forth in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *Section 10.6*.
D.4.b. Vessels	Seizure of a vessel is only authorized if provided for by the substantive law being enforced. Specific guidance for each statute is contained in the chapters of this Manual covering specific mission areas (*Chapters 5-12*).
D.4.b.1. Discretion	In many cases, vessel seizure will be discretionary and its appropriateness should be considered carefully in light of the circumstances involved. This is particularly true in the case of commercial vessels, where the complicity, knowledge, and standard of care of the owner/master are all relevant factors. In the case of such commercial vessels (particularly U.S. fishing vessels), or in any case of personal use amounts of illicit drugs, constructive seizure and a notice to appear (allowing the vessel to proceed with its voyage and then report to a given port for further forfeiture action) may be appropriate or required.
D.4.b.2. Additional Evidence	Subsequent to seizure, if a unit develops probable cause that additional evidence or contraband is on the seized asset, the unit shall contact their servicing legal office prior to searching for this additional evidence. (It may be in the best interest of the prosecution to obtain a search warrant for the vessel.)
D.4.b.3. Procedures for Vessel Seizure	When seizure of a vessel is appropriate, the unit should take control of the vessel and proceed to an adequate dock or anchorage consistent with arrangements for transfer of custody to customs or local officials. Specific procedures for vessel seizure are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *Section 9.9*.
D.4.b.4. Inventory of Seized Vessel	Units should conduct a thorough inventory of a seized vessel to protect the owner's property, document its condition, and/or to secure the vessel or other property for transit to an impoundment location. The scope of the inventory extends to accounting for all property of significant value or of a pilferable nature. No suspicion is necessary to conduct an inventory; the only requirement is that a seizure must have been made. • The inventory should be conducted promptly after the seizure has been made. No transfer or destruction of property should occur prior to an inventory being completed. • During the inventory, any evidence discovered in plain view may be seized. Subsequent to conducting the inventory, if a unit develops probable cause that additional evidence or contraband is on the seized asset, the unit shall contact their servicing legal office prior to searching for this additional evidence. (It may be in the best interest of the prosecution to obtain a search warrant for the vessel.)
D.4.c. Other Evidence	In addition to the seizure of contraband and/or vessels, other evidence of a violation of U.S. law is also subject to seizure for use in criminal prosecution or civil proceedings. Other evidence may include such items as charts, cargo manifests, clothing, etc. See *Appendix G* for specific procedures regarding chain of custody issues as it relates to evidence package preparation.

D.5. Post-Arrest Searches	Searches following arrest of an individual are used to find weapons, evidence, and means of escape. A post-arrest inventory is conducted to account for property seized from a person or vessel.
D.5.a. Guiding Principles	See *Section 3.C.10* for guiding principles governing the conduct of both pre-arrest and post-arrest searches.
D.5.b. Search Incident to Arrest	A search incident to arrest (SIA) is a detailed "crush and feel" search of an arrested individual's person and thorough search of outer clothing. An SIA, while not a strip search, is more intrusive than a frisk search.
D.5.b.1. No Suspicion Required	No suspicion is required for the search itself, although the underlying arrest must be lawful.
D.5.b.2. Time and Location	An SIA should be conducted concurrent with, or as soon as practicable after, the arrest. If circumstances permit, the SIA should be conducted on the vessel where the individual was arrested. An SIA should be repeated after custody of an arrestee has been transferred from one law enforcement unit to another.
D.5.b.3. Scope	This is a very thorough search of a person and his/her clothing. Removal of clothing that will expose the undergarments (more than mere elastic wastebands, or back and arm straps) which cover male and female genitalia and female breasts constitutes a strip search and is beyond the scope of an SIA. In addition to a complete search of the arrestee, an SIA may be conducted in the immediate area where the individual was arrested. The "grab area" where an arrestee will be held is also subject to search.
D.5.b.4. Specific Procedures	Specific procedures for conducting an SIA are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *Section 9.4*.
D.5.c. Strip Search	A strip search involves the intrusive removal of clothing and may be as extensive as a visual examination of the nude body. As a rule of thumb, if there is a reasonable likelihood that the removal of clothing during a search would be offensive or cause embarrassment to the average person, then it should be considered a strip search.
D.5.c.1. Reasonable Suspicion	A strip search may be conducted when there is a reasonable suspicion that a weapon, evidence, or means of escape is secreted on a person. The mere arrest of an individual does not necessarily justify a strip search; there must be a reasonable suspicion that the items sought are on the arrestee's person.

D.5.c.2. Location and Other Circumstances	A strip search will be conducted in a location free from outside observation except for the personnel necessary to conduct the search. Strip searches should be conducted with a witness present. The witness should be of the same sex as the person being searched. If no witness of the same sex as the person to be searched is available, then the witness should remain immediately outside the search location, but within hearing distance to closely monitor the progress of the search. Videotaping of strip searches is not authorized.
D.5.c.3. Procedures	Most, if not all, clothing should be removed from the subject while he or she remains handcuffed. The handcuffs should be removed only when absolutely necessary and should be put back on as soon as practicable. Removal of clothing exposing buttocks, genitalia and/or female breasts is authorized only when necessary to resolve specific suspicions related to those areas. Persons being searched should be requested to manipulate their own bodies as required to permit adequate visual examinations.
D.5.d. Body Cavity Search	A body cavity search is a visual or physical examination into a body cavity. A visual inspection of the mouth, ears, or nose during either an SIA or strip search is not considered a body cavity search.
D.5.d.1. Reasonable Suspicion	A body cavity search may be conducted when there is a reasonable suspicion that a weapon, evidence or means of escape is secreted in the specified body cavity to be examined.
D.5.d.2. Procedures	During a visual body cavity search, the person(s) being searched should be requested to manipulate their own bodies to permit adequate visual examination. If the visual examination reveals a suspicious object, the person should be requested to remove the object. If he/she refuses, removal by the examiner is not authorized. Videotaping of body cavity searches is not authorized.
D.5.d.3. Licensed Physician	Physical body cavity searches are to be conducted only by a licensed physician under clinical conditions. If a licensed physician is not readily available and suspicion remains that the individual has secreted a weapon, evidence or means of escape in a body cavity, then the individual should be kept under observation. If a physical body cavity search is immediately necessary due to medical reasons, it must be conducted by available medical personnel using standard medical procedures.
D.6. Evidence Collection and Case Preparation	Evidence collection and case preparation are essential to any successful criminal prosecution or civil suit. The law enforcement checklist provided in *Appendix G* and the procedures in *Chapter 9* of *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, serve as guides to evidence collection and preparation of the evidence package.
D.6.a. Videotape	Coast Guard personnel are authorized and encouraged to videotape or otherwise record boarding evolutions from the Coast Guard unit. When the boarding team has discovered evidence of a criminal or significant civil violation, Coast Guard personnel may videotape or otherwise record from the boarded vessel to document such evidence.
D.6.b. Concealed Recording Devices	The use of concealed recording devices is not authorized.

Chapter 5
Drug Law Enforcement

Introduction

This chapter provides detailed discussion regarding the most common laws enforced by the Coast Guard in conducting counterdrug law enforcement.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	5-3
B	Legal Framework	5-4
C	Offenses	5-5
D	Policy and Procedures	5-11

Section A. Introduction

Introduction

The Coast Guard carries out extensive maritime counterdrug operations, ranging from enforcing drug possession and drug use laws in the course of routine recreational vessel boardings to conducting sustained multi-unit evolutions targeting major traffickers far from U.S. shores. Consistent with statutory and jurisdictional limitations, U.S. government policy requires that individuals in violation of federal drug laws applicable in the maritime realm be subject to the full extent of available criminal and civil sanctions.

This section contains overarching principles or philosophies that apply to counterdrug law enforcement.

A.1. Posse Comitatus Act, 18 USC 1385

U.S. law (most notably, the Posse Comitatus Act, 18 USC 1385, as amended and applied to the U.S. Navy by 10 USC 375 and DoD regulations) historically prohibits U.S. Navy (and other DoD) personnel from directly executing domestic law unless expressly authorized by Congress. More recent congressional enactments have specifically prohibited DoD personnel from participating in a "search, seizure, arrest, or other similar activity" unless otherwise authorized by law, while at the same time clarifying the authorized DoD law enforcement support role. In 1981, Congress specifically authorized the limited use of DoD military facilities, platforms and equipment to assist federal authorities in maritime drug interdiction. As an example, Coast Guard LEDETs routinely deploy aboard U.S. Navy vessels to conduct law enforcement boardings.

A.2. Interagency Relationships

Good working relationships between the Coast Guard and other agencies are vital to effective and efficient maritime counterdrug operations. Coast Guard personnel involved in counterdrug operations should actively seek to establish and maintain such relationships.

A.3. Further Guidance

Chapters 1 through 4 contain overarching MLE policy. These chapters apply to the entire ELT program, including drug law enforcement.

The *Maritime Counter Drug and Alien Migrant Interdiction Operations Manual*, COMDTINST M16247.4 (series)/NWP 3-07.4 contains tactics, lessons learned, and best practices for conducting drug law enforcement operations. Guidance includes patrol preparation; patrol tactics; post-seizure actions; guidelines for developing a Unit Law Enforcement Bill; and boarding, inspection, search, seizure, and arrest procedures.

Section B. Legal Framework

Introduction

This section contains discussion regarding the domestic and international legal framework for the counterdrug mission area.

B.1. Sources of Substantive Law

Various U.S. laws and regulations, codified in Titles 21 and 46 of the United States Code, prohibit the transportation, possession, and distribution of controlled substances. *Chapter 5.A* discusses those most significant to the Coast Guard. *Appendix C* contains a list of other potentially applicable U.S. laws.

Treaties and international law lend additional support for the development of U.S. laws and/or application of U.S. laws extraterritorially. Article 108 of UNCLOS calls upon all nations to cooperate in the suppression of illicit traffic of narcotic drugs and psychotropic substances. Article 17 of the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances specifically targets "illicit traffic by sea" and sets forth a detailed framework for improving cooperation among nations in this regard. U.S. statutory framework for this mission area reflects these international legal regimes.

B.2. Authority and Jurisdiction

With the exception of those special circumstances described in *Chapter 2*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action.

Title 14 of the United States Code provides the Coast Guard's primary authority to enforce substantive U.S. drug laws.

The following three elements comprise jurisdiction:

- Vessel nationality, *Chapter 2.*
- Location, *Chapter 2.*
- Substantive law, *Chapter 5.B.1.*

Jurisdiction over the substantive law does not preclude the need for units to establish whether jurisdiction over the vessel status/flag and location also exist.

B.3. Mansfield Amendment

The Mansfield Amendment to the Foreign Assistance Act, 22 USC 2291(c), prohibits U.S. agency personnel from conducting certain law enforcement activities in support of foreign counterdrug operations within the territory of a foreign nation. Such territory includes the land, internal waters, archipelagic waters, and territorial seas of the foreign nation. Even outside foreign territory, in ambiguous or potentially sensitive cases (e.g., suspect vessels first encountered in coastal waters are chased into international waters by coastal authorities in hot pursuit), Coast Guard personnel should seek guidance from OPCON prior to assisting foreign law enforcement. Guidelines for participating in foreign counterdrug law enforcement actions follow.

B.3.a. Restrictions

No officer or employee of the U.S. may directly effect an arrest in any foreign nation as part of any foreign police action with respect to narcotics control efforts.

No officer or employee of the U.S. may interrogate or be present during the interrogation of any U.S. person arrested in any foreign nation with respect to narcotics control efforts without the voluntary written consent of such person.

B.3.b. Exceptions

The restriction on effecting arrest does not preclude U.S. personnel from taking direct action to protect life or safety if unanticipated exigent circumstances create an immediate threat to U.S. officers or employees, officers or employees of a foreign government, or members of the public.

The restriction on effecting arrest does not apply with respect to assisting foreign MLE operations in the territorial sea or archipelagic waters of that nation, provided the foreign nation authorizes the participation of U.S. personnel. While not precluded by the statute, Coast Guard policy is to avoid making arrests in such circumstances. With respect to narcotics control efforts, affecting an arrest as part of a foreign police action within the internal waters of a foreign nation is never authorized.

The restriction on effecting arrest does not preclude U.S. personnel, with the approval of the U.S. DOS Chief of Mission, from being present when foreign officers are affecting an arrest or from assisting foreign officers who are affecting an arrest. Tactical commanders shall verify approval and ensure Coast Guard personnel comply with any special conditions. Such approval shall be documented, in writing where feasible, in all cases.

Section C. Offenses

Introduction

This section contains a list of the criminal and/or civil offenses applicable to the counterdrug mission area. Each offense is discussed in terms of its elements, applicability, and enforcement policy.

C.1. Maritime Drug Law Enforcement Act (MDLEA), 46 USC App. 1903-1904

46 USC App. 1903 is the primary federal statute prohibiting the illegal transportation of controlled substances by vessel.

C.1.a. Elements

It is unlawful for any person onboard a vessel of the United States or onboard a vessel subject to the jurisdiction of the United States, or who is a citizen of the United States or a resident alien of the United States onboard any vessel; 46 USC App. 1903 applies within the U.S. contiguous zone, territorial sea, and internal waters to both foreign and U.S. vessels. 46 USC App. 1903 also applies seaward of the U.S. contiguous zone to vessels otherwise subject to the jurisdiction of the U.S. (see *Chapter 2.B*), to knowingly or intentionally manufacture or distribute, or to possess with the intent to manufacture or distribute, a controlled substance. Factors to be used in making this determination include oral admissions, log entries, chart notations, distance of the vessel from the U.S., time remaining prior to intended U.S. port call, vessel's last and next ports of call, and quantity, location and packaging of the controlled substance.

C.1.b. Applicability

46 USC App. 1903 is the primary criminal statute the Coast Guard enforces in the counterdrug mission area and is the only appropriate statute for cases involving significant amounts of controlled substances. A significant amount of controlled substance, which infers intent to manufacture or distribute, is defined as an amount in excess of that typically intended for individual consumption. 21 USC 844 and/or 21 USC 955, as described below, govern prosecutions for personal use amounts of controlled substances.

C.1.c. Enforcement Policy	46 USC App. 1903 provides for only criminal penalties. Enforcement options are described below. 46 USC App. 1904 provides that vessels and other property used or intended for use to commit, or to facilitate the commission of an offense under the MDLEA, shall be subject to seizure and forfeiture. *Appendix D* contains approval requirements for arrest and seizure.
C.1.c.1. Arrest	The U.S. government has wide discretion with regard to prosecutorial options for a violation of 46 USC App. 1903. Individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In cases involving foreign flag vessels, the Coast Guard may agree to take law enforcement action on behalf of the flag or coastal State and transfer custody of the individuals to the flag or coastal State. In all cases, units shall contact Coast Guard TACON for guidance regarding disposition of persons.
C.1.c.2. Seizure	For a violation of 46 USC App. 1903, the vessel and its contents, contraband, and other evidence are subject to seizure and are normally transferred to federal agencies. In cases involving foreign flag vessels, the Coast Guard may agree to take law enforcement action on behalf of the flag or coastal State and transfer custody of the vessel to the flag or coastal State. In cases when escort of the vessel to port is not possible due to operational reasons, the Coast Guard may constructively seize the vessel and order it to proceed to a designated port, where it is subject to customs authority. In all cases, units shall contact Coast Guard TACON for guidance regarding disposition of vessels, all property aboard, and contraband.
C.1.c.2.a. Common Carrier Vessels	When illicit drugs are discovered aboard a vessel that is a common carrier, certain exceptions to seizure authority exist. A common carrier vessel is one engaged in the business of public employment for the carriage of goods or passengers for hire (e.g., ferries, head-boats, merchant break-bulk freighters carrying cargoes for many owners). Common carrier vessels are normally not seized unless the owner, master or person in charge was a consenting party or privy to the discovered violation. While the ultimate burden is upon the ship owner to prove common carrier status, the Boarding Officer should seek guidance from OPCON prior to seizing any vessel that appears to have the distinguishing characteristics of a common carrier.
C.1.c.2.b. Outfitted for Smuggling	Pursuant to 46 USC App. 1904, practices commonly recognized as smuggling tactics may provide evidence of intent to use a vessel to commit or to facilitate the commission of an offense and may support the seizure and forfeiture of the vessel, even in the absence of controlled substances found aboard the vessel.
C.1.c.2.c. Evidence	The following indicia, among others, may be considered, in the totality of the circumstances, to be evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under the MDLEA: • The construction or adaptation of the vessel in a manner that facilitates smuggling, including: ➢ The configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar. ➢ The presence of any compartment or equipment which is built or outfitted for smuggling, not including items such as a safe or lockbox reasonably used for the storage of personal valuables. ➢ The presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capacity. ➢ The presence of engines that are excessively over-powered in relation to the design and size of the vessel. ➢ The presence of materials used to reduce or alter the heat or radar signature of the

vessel and avoid detection.
  - The presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection.
  - The display of false vessel registration numbers, false indicia of nationality, false vessel name, or false vessel homeport.
- The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.
- The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.
- The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.
- The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.
- The declaration to government authority of apparently false information about the vessel, crew or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.
- The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature, which reasonably indicates manufacturing or distribution activity.
- The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.
- The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.

C.1.c.2.d. Considerations

The presence of any combination of these factors should not be deemed grounds for seizure before consideration is given to concerns such as, but not limited to:

- The vessel's location, condition, costs, and logistics associated with transporting it to the U.S. for forfeiture proceedings.
- The possibility of obtaining additional evidence from the vessel by covert monitoring, coordination of a controlled pick-up or delivery, etc.
- The level of prosecutorial interest in the suspects aboard the vessel.

C.1.c.2.e. Customs Form 364

In all cases involving seizure of a vessel for violation of 46 USC App. 1903, the Boarding Officer shall provide the master or person in charge a copy of Customs Form 364 (CF-364). The Boarding Officer shall draw an "X" through the entire front of the form (Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances) and complete the backside of the form (Notice of Expedited Judicial Forfeiture Procedures). *Appendix E* contains instructions on how to complete this form.

C.1.c.3. Case Package Preparation

Any violation of this statute requires a case package prepared in accordance with *Appendix G* (including requirements for retaining a representative sample of contraband).

C.1.d. DOS Certification

Status and nationality of the vessel is often the critical element in establishing U.S. jurisdiction for violations of 46 USC App. 1903. The key to establishing U.S. jurisdiction under international law is proving the consent or waiver of objection by a claimed flag State to the enforcement of U.S. law, or the denial of a claim of nationality or registry. This is accomplished by a certification process through the DOS.

DOS certification may be employed to prove jurisdiction in the following instances:

- When a claimed flag State has consented or waived objection to the enforcement of U.S. law aboard a suspect vessel.
- When a coastal State consents to the enforcement of U.S. law aboard a vessel in the coastal State's territorial sea.
- When a foreign nation denies a claim of nationality or registry.

To obtain DOS certification, contact the Commandant (G-OPL) Legal Advisor or Commandant (G-OPL-3) duty officer by the most expeditious means (e.g., e-mail, phone call, message traffic).

C.2. 21 USC 955

21 USC 955 prohibits possession or transportation of controlled substances aboard vessels arriving in or departing from the U.S. It is the preferred federal statute for cases involving possession of personal use amounts of controlled substances where a vessel border crossing (arriving or departing the customs territory of the U.S.) has occurred.

C.2.a. Elements

It is unlawful for any person to bring or possess onboard any vessel or aircraft, or onboard any vehicle of a carrier, arriving in or departing from the United States or the customs territory of the United States (this includes any vessel departing the U.S. that crosses a line 3 NM from the baseline of the U.S., or any vessel arriving in the U.S. that crosses a line 12 NM from the baseline of the U.S.) a controlled substance, unless such substance or drug is a part of the cargo entered in the manifest or part of the official supplies of the vessel, aircraft, or vehicle. Factors to be used in making this determination include oral admissions, log entries, chart notations, distance of the vessel from the U.S., time remaining prior to intended U.S. port call, and vessel's last and next ports of call).

C.2.b. Applicability

21 USC 955 is the preferred federal statute for possession of personal use quantities of controlled substances. A personal use quantity of controlled substance is a comparatively small amount typically intended for individual consumption. Although 21 USC 955 may be applied to significant quantities of controlled substances, 46 USC App. 1903 is more appropriate in those cases.

In cases of concurrent jurisdiction, the District Commander may exercise discretion in making cases available to either federal or state officials based on circumstances of the arrest and/or forfeiture action.

C.2.c. Enforcement Policy

21 USC 955 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.

C.2.c.1. Arrest

Units should normally discuss a case involving personal use quantities with the cognizant District legal office prior to making any arrests, as federal prosecutorial options for a violation of 21 USC 955 are relatively limited. Although a violation of 21 USC 955 renders an individual subject to arrest, units will not normally be directed to arrest individuals involved. However, other law enforcement action such as seizure of contraband or constructive seizure of the vessel or referral to state or local law enforcement authorities may be appropriate and authorized.

C.2.c.2. Seizure	As a general rule, discovery of measurable quantities of illicit drugs aboard a vessel subjects that vessel and its contents, contraband, and other evidence to seizure. However, cases involving personal use quantities aboard vessels within 12 NM of the baseline will typically result in constructive, vice actual, seizure of the vessel. In cases involving personal use quantities aboard vessels seaward of U.S. customs waters (i.e., beyond 12 NM from the baseline), Coast Guard policy is not to require seizure of the vessel in all cases. Due to wide variance in options for applying this statute, units shall contact Coast Guard TACON for relevant guidance.
C.2.c.2.a. Constructive Seizure	Constructive seizure, in lieu of actual seizure, will normally occur in all personal use cases except: • Where the owner, master or person in charge is in possession of the controlled substance. • Where the owner, master, or person in charge appears to be impaired by the use of a controlled substance. • Where the owner, master or person in charge refuses to sign Customs Form 358 (CF-358), Summons to Appear. • Where previous personal use violations involving the same vessel have occurred. Completing and providing the master or person in charge with CF-358, Summons to Appear, accomplishes the constructive seizure of a vessel for a personal use violation. *Appendix E* contains instructions on how to complete this form.
C.2.c.2.b. Contraband Disposition	Units shall contact Coast Guard TACON for guidance regarding contraband disposition.
C.2.c.2.c. Customs Form 364	The Boarding Officer shall also provide the master or person in charge a copy of Customs Form 364 (CF-364) in all cases involving personal use violations. CF-364 is a two-sided form containing a Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances and Notice of Expedited Judicial Forfeiture Procedures. *Appendix E* contains instructions on how to complete this form and CF-358.
C.2.c.2.d. Common Carrier Vessels	The guidelines for seizure of common carrier vessels set forth in *Chapter 5.C.1.c.2.a* also apply to this statute.
C.2.c.3. Case Package Preparation	Any violation of this statute requires a case package prepared in accordance with *Appendix G*.
C.3. 21 USC 844	21 USC 844 prohibits possession of controlled substances aboard vessels located shoreward of 3 NM from the baseline of the U.S. It is the preferred federal statute for cases involving possession of personal use amounts of controlled substances in the absence of a vessel border crossing (arriving or departing the customs territory of the U.S.).
C.3.a. Elements	It shall be unlawful for any person, knowingly or intentionally, to possess a controlled substance. Unless such substance was obtained directly, or pursuant to, a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by law.

C.3.b. Applicability	This statute applies shoreward of 3 NM from the baseline of the U.S. A personal use quantity of controlled substance is a comparatively small amount typically intended for individual consumption. 21 USC 844 is the preferred federal statute for possession of personal use quantities of controlled substances that **do not** involve a border crossing by a vessel. Although 21 USC 844 may be applied to significant quantities of controlled substances, 46 USC App. 1903 is more appropriate in those cases. In cases of concurrent jurisdiction, the District Commander may exercise discretion in making cases available to either federal or state officials based on circumstances of the arrest and/or forfeiture action.
C.3.c. Enforcement Policy	21 USC 844 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.3.c.1. Arrest	Units should normally discuss a case involving personal use quantities with the cognizant District legal office prior to making any arrests as federal prosecutorial options for a violation of 21 USC 844 are relatively limited. Although a violation of 21 USC 844 renders an individual subject to arrest, units will not normally be directed to arrest individuals involved. However, other law enforcement action such as seizure or destruction of contraband or constructive seizure of the vessel may be appropriate and authorized.
C.3.c.2. Seizure	As a general rule, discovery of measurable quantities of illicit drugs aboard a vessel subjects that vessel and its contents, contraband, and other evidence to seizure. However, violations of 21 USC 844 will typically result in constructive, vice actual, seizure of the vessel.
C.3.c.2.a. Constructive Seizure	The guidelines for constructive seizure set forth in *Chapter 5.C.2.c* also apply to constructive seizure under this statute. Due to wide variance in options for applying this statute, units shall contact Coast Guard TACON for relevant guidance.
C.3.c.2.b. Contraband Disposition	Units shall contact Coast Guard TACON for guidance regarding contraband disposition.
C.3.c.2.c. Common Carrier Vessels	The guidelines for seizure of common carrier vessels set forth in *Chapter 5.C.1.c.2.a* also apply to this statute.
C.3.c.3. Case Package Preparation	Any violation of this statute requires case package preparation in accordance with *Appendix G*.
C.4. State Prosecution	District legal officers should also consider making cases that have been declined for federal prosecution available to state and local authorities for prosecution.

Section D. Policy and Procedures

Introduction

This section provides counterdrug specific policy and procedures.

D.1. Bilateral/ Multilateral Counterdrug Agreements

The U.S. government has entered into comprehensive bilateral maritime counterdrug agreements with the governments of most Caribbean and Central American nations, as well as many South American nations. A matrix summarizing each agreement is available at http://cgweb.comdt.uscg.mil/g-opl/drugs/matrix/cdagreematrix.html (Commandant (G-OPL) intranet site). Frequent U.S. government success in exercising these agreements has led to enhanced counterdrug program effectiveness in the Caribbean and eastern pacific regions. Although individual agreements are specifically tailored for each country, each generally contains all or some the of seven basic provisions. Some of the agreements are reciprocal, while others refer only to U.S. action in foreign waters or aboard foreign flag vessels.

The seven basic provisions contained in these agreements are:

- Ship Boarding
- Shiprider
- Pursuit and Entry to Investigate
- Overflight
- Order to Land
- International Maritime Interdiction Support (IMIS)
- Boarding Policy

D.1.a. Ship Boarding

This provision provides standing authority or procedures for the Coast Guard to stop, board, and search (but not to perform a destructive search) vessels registered in that flag State which are reasonably suspected of drug trafficking and located seaward of any nation's territorial sea. If drugs are found during such a search, the U.S. law enforcement asset will detain the vessel, cargo, and crew, preserving the flag State's option to exercise or waive jurisdiction to prosecute the vessel and crew. Separate authorization to conduct a destructive search must be obtained from the flag State. Unless the agreement provides otherwise, the use of force up to and including warning shots and disabling fire to compel compliance with an order to stop is implied in the authorization to stop and board the vessel.

D.1.b. Shiprider

This provision provides standing authority or procedures to embark foreign law enforcement personnel on Coast Guard cutters, U.S. naval vessels with embarked LEDETs, and/or foreign naval vessels with embarked LEDETs. The agreement empowers the shiprider to authorize the law enforcement vessel in which he/she is embarked to board vessels registered in the same State as the shiprider, to take law enforcement action within that State's waters, or to otherwise provide U.S. assistance to the shiprider in the exercise of his/her full authority.

D.1.c. Pursuit and Entry to Investigate

This provision authorizes U.S. law enforcement vessels (including embarked aircraft), under very limited circumstances, to enter coastal State waters or airspace to take appropriate action against suspect vessels and aircraft. These provisions do not permit routine or random patrolling in coastal State waters or airspace. Rather, they permit entry, and boarding and search of suspect vessels in two specific situations as authorized by the coastal State under the terms of the agreement:

- To pursue suspect vessels or aircraft fleeing from international waters or airspace into coastal State waters or airspace when no coastal State asset or other unit with an embarked shiprider is available to respond immediately.

	• To investigate suspect vessels or aircraft, located within the coastal State's waters or airspace when no coastal State asset or other unit with an embarked shiprider is available to respond immediately.
D.1.d. Overflight	This provision permits U.S. law enforcement aircraft to enter coastal State airspace, with appropriate notice to coastal State authorities, while conducting, or in support of, operations to suppress illicit drug traffic. Units shall follow required coastal State aviation safety procedures at all times.
D.1.e. Order to Land	This provision provides standing authority and procedures for U.S. law enforcement assets to relay an order to land from the host nation to a suspect aircraft. Use of force by U.S. aircraft is not authorized to enforce such an order.
D.1.f. International Maritime Interdiction Support (IMIS)	This provision may include: • Transfer of third-party national detainees and a representative sample of contraband to an awaiting U.S. aircraft in the coastal State's territory for further transfer to the U.S. • Expedited access to a dockside facility for law enforcement activities including intrusive searches of suspect vessels. • Expedited access to an expeditionary logistics capability facilitating fueling/provisioning of vessels and expedited fly-in/fly-out procedures for transfer of personnel and equipment. • Expedited procedures for hiring of contractors, security, stevedores, crane, and lightering services as necessary, for offloading cargo, fuel, liquids, and water to support completion of the dockside boarding of suspect vessels. • A framework pertaining to disposition of seized assets, including storage of vessels in the coastal State, transfer of forfeited assets or equitable sharing of proceeds of their sale as a consequence of any operations undertaken pursuant to the agreement. • The parties of the agreement and the flag nation of the suspect vessel (if different) will decide jurisdiction over suspect vessels on a case-by-case basis before entry into any territorial seas.
D.1.g. Boarding Policy	In cases where the vessel's flag State is party to a counterdrug bilateral/multilateral agreement that includes a ship boarding provision and there exists reasonable grounds to suspect that the vessel is engaged in illicit drug traffic, boardings shall be conducted under the auspices of that agreement and a consensual boarding of the vessel is not authorized.
D.1.g.1. Consensual Boarding	In the absence of reasonable suspicion of illicit drug trafficking, units may conduct a consensual boarding of the vessel even though the vessel's flag State is party to a counterdrug bilateral/multilateral agreement. Units desiring to conduct such boardings shall consult TACON before seeking consent to board. In those instances, if reasonable grounds to suspect the vessel is engaged in illicit trafficking is developed during a consensual boarding, the applicable agreement shall be invoked and the boarding shall proceed on that basis.
D.1.g.2. Illicit Traffic	Units may invoke a bilateral agreement if there is a threshold level of suspicion that a vessel is engaged in "illicit traffic", as set forth in the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. For easy reference, the definition of "illicit traffic" is contained in the matrix on the Commandant (G-OPL) intranet page.

D.1.g.3. Operations Center Communications

Where bilateral agreements authorize operations center-to-operations center communications, especially as they relate to jurisdictional/flag State issues surrounding suspect vessels, accurately and carefully documenting all interactions relating to the exercise of these agreements is critical for criminal prosecution, civil litigation, and diplomatic efforts. Coast Guard personnel shall ensure that all descriptive information about the vessel in question is accurate, note the name and title of any foreign official providing any statement relating to the exercise of law enforcement jurisdiction over a specific vessel, and any/all conditions attached to flag State authorizations. District Operations Centers shall convey this information to the Commandant (G-OPL-3) duty officer in a timely manner.

D.2. Contraband Recovery

Contraband recovery is vital to successful prosecution and program management. Coast Guard policy is to recover contraband in jettison cases, whenever possible. Even if law enforcement assets ultimately stop a fleeing vessel, the U.S. Attorney's Office will likely require at least a representative sample of contraband (see *Appendix G*) connected to the vessel before accepting a case for prosecution. Consequently, a stopped vessel in the absence of recovered contraband is an unlikely candidate for prosecution. Operational Commanders should ensure units photograph (video/still) the jettisoning and mark the debris field, then consider interrupting the pursuit in order to recover sufficient evidence (representative sample size) to support successful prosecution. The decision to continue pursuit or interrupt pursuit for contraband recovery depends on the totality of the circumstances, including availability of other assets to assist in pursuit, availability of other assets to effect contraband recovery, proximity to foreign nation territorial seas, location of the debris field, capability to relocate the debris field, weather, and availability of daylight.

In cases in which suspects abandon/destroy their vessel and from whom U.S. agents recover no contraband, the suspects shall normally be processed as follows:

- Photograph and interview all suspects to gather law enforcement intelligence information. Miranda warnings are not required to conduct the interview. Fingerprinting is encouraged if facilities are available. Handle photographs and interview results in accordance with existing law enforcement intelligence collection procedures, and transmit to Joint Interagency Task Force (JIATF) via TACON. Units shall info JIATF and El Paso Intelligence Center (EPIC) on relevant message traffic.
- Detain suspects in handcuffs as necessary for officer safety.
- Otherwise, process suspects as SAR survivors and repatriate. TACON shall coordinate disposition with the Commandant (G-OPL-3) duty officer.

D.3. Representative Samples of Contraband

The Department of Justice (DOJ) implements the statutory authority of the Attorney General to direct the destruction of all seized controlled substances, and applies it uniformly to all U.S. Attorneys. Procedures governing the destruction of contraband drug evidence in the custody of federal law enforcement authorities are found in 28 CFR 50.21. For all controlled substances other than marijuana, except for the retention of quantities identified as "threshold amounts" set forth at 28 CFR 50.21(d)(4), DOJ destroys all additional amounts of contraband to prevent the stockpiling of drugs that are unnecessary for due process in criminal cases, given the inordinate security and storage problems, which create additional economic burdens on limited law enforcement resources. With respect to marijuana, the regulation provides for retention of only a "representative sample," 28 CFR 50.21(e)(4). As with "threshold amounts," DOJ destroys all additional amounts of marijuana.

The final determination of the amount of narcotics, if any, to be turned over to flag or coastal States resides with the Attorney General. If there is an independent basis for the exercise of U.S. jurisdiction over a non-U.S. flagged vessel, upon which narcotics are discovered during the course of a boarding, or if the United States has custody of abandoned contraband, U.S.

policy remains that only a representative sample of contraband will normally be turned over to the flag or coastal State, as appropriate. Examples of these instances include stateless vessels, vessels in waters subject to the jurisdiction of the United States, contraband jettisoned and floating in international waters, vessels scuttled in international waters and contraband floating therein or nearby, and vessels over which the flag State has granted criminal jurisdiction to the United States. If there is no independent basis for the exercise of U.S. jurisdiction over the vessel, U.S. policy is to first offer (and strongly advocate) a representative sample to the interested State. However, if the flag or coastal State intends to take law enforcement action against the vessel and crew, and requests the total quantity of narcotics, the U.S. government normally will turn over all the narcotics.

Representative samples may also be required to accompany detainees transferred from sea to U.S. law enforcement authorities in the United States. *Appendix G* lists representative sample amounts.

D.4. Venue Decisions

Successful maritime drug interdiction often involves contributions and information from a variety of law enforcement agencies. Likewise, interdictions at sea are often tied to ongoing and organized criminal investigations ashore. In order to ensure that interdiction operations best support investigation and prosecution efforts, Commandant (G-OPL) coordinates venue decisions with the interagency for all foreign flag/stateless vessel interdictions seaward of the U.S. contiguous zone. These procedures apply in order to prepare for and facilitate venue decisions:

D.4.a. Case Information at TACON Shift

JIATFs will provide the U.S. Coast Guard TACON with all known case information during or as soon after TACON shift, as possible. Specifically, JIATFs will alert the U.S. Coast Guard TACON if the case is associated (or believed to be associated) with a particular USAO or investigation (e.g., PANEX North, PANEX South, San Diego Maritime Group). Accordingly, standing investigative groups becoming aware of case prosecution in which they have an interest should notify the servicing JIATF as early as possible.

D.4.b. Subsequent Associations after TACON Shift

If a case remains unassociated at TACON shift, the servicing JIATF will provide the U.S. Coast Guard TACON with any subsequent associations as soon as they become available. The U.S. Coast Guard TACON shall in all cases pass the names, dates of birth, and other identifying information from crew aboard suspect vessels to EPIC and the servicing JIATF as early in the boarding as possible to facilitate exploitation by the intelligence watch and cognizant case agents/LEA LNOs.

D.4.c. Foreign Flag/Stateless Vessel Cases

Commandant (G-OPL-L) will coordinate venue decisions with DOJ's Narcotic and Dangerous Drugs Section (NDDS) duty attorney for all cases involving foreign flag/stateless vessel interdictions seaward of the U.S. contiguous zone. In so doing, Commandant (G-OPL-L) and the NDDS duty attorney may consult with USAOs believed to have an interest in the case. Commandant (G-OPL-L) and NDDS will make venue decisions based on various factors, including Coast Guard logistics considerations, detainee transfer logistics, investigative investment of respective USAOs, availability of favorable case law, potential witness travel and evidence storage/shipment costs, and considerations of foreign policy objectives.

D.4.d. Coordination of Dispositions

Once Commandant (G-OPL) notifies TACON regarding venue, TACON shall coordinate disposition of persons, contraband, property, and other evidence with the cognizant USAO. Boarding teams shall comply with *Appendix G* for case package preparation in all cases.

D.4.e. Post-Seizure Tasking Messages

Post-seizure tasking messages shall contain the following standard provision: DETAIN SUSPECTS FOR FURTHER TRANSFER TO USAO IN (city). CONDUCT SEARCH INCIDENT TO ARREST. UNODIR BY ORIG, DO NOT MIRANDIZE OR CONDUCT CUSTODIAL INTERROGATION OF DETAINEES. YOU MAY, HOWEVER, RECORD ANY UNSOLICITED AND VOLUNTARY STATEMENTS AND REPORT THEM TO ORIG IMMEDIATELY. PREPARE DETAINEES, REPRESENTATIVE SAMPLE OF CONTRABAND, AND CASE PACKAGE IAW ENCLOSURE 6 TO THE MLEM FOR TRANSFER TO AUSA REPRESENTATIVE (via another platform or LEDET) (3rd Country transfer location, if applicable).

D.5. Federal Drug Seizure System (FDSS)

The FDSS is a consolidated reporting system that records drugs seized by all federal agencies. The FDSS is for statistical analysis only and does not to credit any reporting agency with a given seizure. Each agency submits its own drug seizure data to the FDSS. The FDSS correlates data from multiple agencies involving the same contraband to prevent double-counting.

D.5.a. Federal Drug Identification Numbers (FDINs)

FDINs are used to track seizures and are critical to successful administration of the FDSS. They are ten-digit numbers, comprised of four digits that signify the current fiscal year, followed by a six-digit number denoting the specific case (e.g., 2003012345). Each seizure of a drug type involving estimated quantities at or above the following thresholds requires an FDIN:

Marijuana	50 lbs
Cocaine	1 lb
Hashish	2 lbs
Heroin	4 oz
Morphine	4 oz
Khat	10 lbs
Opium	1 lb
LSD	100 dosage units
Other	5,000 dosage units

NOTE A single case involving multiple drug types may require multiple FDINs.

D.5.b. El Paso Intelligence Center (EPIC)

The EPIC provides FDINs. When the Coast Guard is either the first federal law enforcement agency to seize/interdict or take custody of illicit drugs, or leads a task force that does so, the controlling OPCEN shall obtain an FDIN as soon as possible, but at a minimum prior to transfer of the contraband to another agency. FDIN assignment requires the following information:

- Name/rank of the individual requesting the FDIN.
- Command.
- Telephone number.
- Seizing agency or task force.
- Date/time (local) drugs were seized.
- Place of seizure (Coast Guard District, latitude/longitude or closest city/state, if shoreward of 3 NM from the baseline of the U.S.).
- Type of conveyance.

- Conveyance identifier (vessel name; A/C tail number, tag, or vehicle number; or person's name).
- Quantity, unit of measure, and type of all drugs seized.
- Distinctive markings on packaging.

D.5.c. Custody Transfer Package

Boarding teams shall provide the FDIN to the receiving agency as part of the custody transfer package when transferring contraband to another federal agency.

Chapter 6
Immigration Law Enforcement

Introduction

This chapter provides detailed discussion regarding the most common laws enforced by the Coast Guard in conducting immigration law enforcement and disposition of migrants interdicted at sea.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	6-3
B	Legal Framework	6-4
C	Offenses	6-8
D	Policy and Procedures	6-11

Section A. Introduction

Introduction

The nation's immigration laws and policies create an orderly process for the review and acceptance of prospective immigrants. The Coast Guard supports the national policy of orderly, safe, and legal migration, upholding U.S. immigration laws and international conventions against human smuggling by:

- Conducting effective maritime interdiction.
- Engaging partner nations, supporting their efforts to enhance their border control and MLE capabilities.
- Educating, communicating, and cooperating with both governmental and non-governmental partner agencies and organizations.
- Operating to uphold the human dignity of migrants and to ensure the safety of life at sea.
- Maintaining a pro-active public affairs posture to deter illegal and dangerous migrant departures.

This section contains overarching principles or philosophies that apply to immigration law enforcement.

A.1. Interagency Relations

The Coast Guard works with the Border and Transportation Security Directorate (BTS), the Bureau of Immigration and Customs Enforcement (ICE), the Bureau of Customs and Border Protection (CBP), and the Bureau of Citizenship and Immigration Services (BCIS) in enforcing U.S. immigration laws and implementing U.S. immigration policies.

A.1.a. BTS Directorate

The BTS Directorate incorporates ICE and CBP to enforce the nation's immigration laws. BTS is also responsible for securing the transportation systems and includes the Transportation Security Administration (TSA).

A.1.b. Bureau of Immigration and Customs Enforcement (ICE)

The ICE is responsible for the enforcement of immigration and customs laws within the U.S. ICE has air and marine interdiction assets as well as investigations, intelligence, and deportation/removal programs. ICE also has the Federal Protective Service.

A.1.c. Bureau of Customs and Border Protection (CBP)

The CBP is responsible for border enforcement, protection, and inspection at and between the ports of entry into the United States. CBP also has the U.S. Border Patrol (USBP).

A.1.d. Bureau of Citizenship and Immigration Services (BCIS)

The BCIS provides administrative immigration services such as applications for citizenship, permanent resident cards, and work authorization permits. BCIS manages the Asylum Prescreening Officers (APSOs) and the Asylum and Refugee program.

A.2. Migrant Interdiction Mission

The Coast Guard's migrant interdiction mission consists of two distinct functions: border control and law enforcement. Although this distinction may be transparent during at-sea operations, Coast Guard personnel should be aware that a situation that begins as an exercise of the border control function may develop into a law enforcement case, thereby changing the rights and processes to which particular aliens are entitled. Most migrant cases begin with an interdiction at sea conducted pursuant to the border control function or SAR. Subsequent actions will be governed by different legal authorities associated with either the border control function (e.g., repatriation) or the law enforcement function (e.g., arrest for alien smuggling), depending on the circumstances. In carrying out these functions, the

Coast Guard's role in migrant interdiction generally consists of:

- Preventing the entry of undocumented aliens into the U.S. through at-sea interdiction, including repatriation or return to third countries when directed to do so.
- Seizing the conveyance, arresting the smuggler(s), and/or gathering evidence in alien smuggling cases to facilitate criminal prosecution of the smuggler(s) and/or civil forfeiture of their vessels.
- Ensuring those aliens found after having already illegally entered the U.S. are held in custody (in the case of stowaways, by the vessel which brought them in) for further transfer to CBP.
- Ensuring aliens encountered during boardings are not engaged in activities inconsistent with their status (e.g., working in the U.S. without a permit, serving as master of a U.S. documented vessel).
- Complying with relevant procedures for handling requests for protection from persecution or torture.

A.3. Further Guidance

Pursuant to the border control function, DoD is authorized to support Coast Guard efforts to interdict illegal migrants at sea. Procedures for requesting DoD support are contained in *Chapter 6.D.10*.

Chapters 1 through 4 contain overarching policy regarding the conduct of MLE operations, including a law and policy framework, policy on the conduct of boarding operations, and rules governing use of force. These chapters apply to the entire ELT program, including immigration law enforcement and border control.

Tactics, lessons learned, and best practices for conducting immigration law enforcement operations are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4. Guidance in that manual covers the wide range of AMIO activities including patrol preparation; patrol tactics; guidelines for developing a unit AMIO Bill; and boarding, migrant care, and migrant processing procedures.

Section B. Legal Framework

Introduction

As previously discussed, the AMIO mission is unique in that Coast Guard actions and responsibilities are carried out pursuant to two distinct functions (law enforcement and border control). The legal framework associated with both of these functions is discussed below.

This section contains discussion regarding the international and domestic legal framework for the migrant interdiction operations mission area.

B.1. Sources of Substantive International Law

Both customary and conventional international law endow coastal States with sovereign rights in their territorial seas and sovereign control in their contiguous zones, including the authority to restrict access to their borders, and to regulate admission of aliens by establishing circumstances and conditions over who enters the nation. Accordingly, the United States has a right to refuse entry to any particular individual. Likewise, a nation seeking to repatriate undocumented migrants interdicted at sea must first obtain host nation authorization.

B.1.a. Non-Refoulement

Notwithstanding the sovereign authority states exercise over their borders and immigration laws, international law and customary practices dictate that states have a responsibility to prevent the return of persons to territories where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. Article 33 of the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol, to which more than 130 states are parties, codifies this principle of non-refoulement.

B.1.b. Human Rights Standards

Additionally, the United States has led and strongly supported the establishment of international human rights standards. Since World War II, the United States has signed several international human rights-related instruments that affect the conduct of the migrant interdiction mission, such as:

- The Universal Declaration of Human Rights is a fundamental international document stating the universal right to request asylum from persecution.
- Articles 19 and 33 of UNCLOS authorize coastal nations to establish a contiguous zone and exercise the control necessary to prevent infringement of their immigration laws.
- The 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defined torture and the protocols for protection from torture and rearticulated the principle of non-refoulement.
- The United Nations Convention Against Transnational Organized Crime (TOC), and its Protocol Against the Smuggling of Migrants by Land, Sea and Air, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, signed in 2000 and pending entry into force.
- The Maritime Safety Committee of the International Maritime Organization has disseminated a circular (MSC/Circ.896/Rev.1) containing non-binding measures for the prevention and suppression of unsafe practices associated with the transport of migrants by sea. The MSC circular provides interim guidance pending the entry into force of the TOC and its protocols, which require states to cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants at sea.

These principles of international law are factors in establishing the domestic U.S. law and policy. Further, the principle of non-refoulement influences the development of U.S. procedural safeguards necessary to ensure that refugees are not mistakenly returned to persecution. These processes may affect repatriation decisions, and drive the need for bilateral agreements to provide for timely disposition options in appropriate cases.

B.2. Domestic Legal Framework

The United States has established its sovereign authority over immigration and border control in the U.S. Constitution and in the Immigration and Nationality Act (INA), codified in Title 8 USC and in implementing regulations found in Title 8 CFR. Of these laws, the most significant to the Coast Guard, pursuant to its law enforcement function, are discussed in *Section C* of this chapter. *Appendix C* contains a list of other U.S. laws that may be applicable.

The INA only applies in the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands.

In brief, the INA and its implementing regulations provide that aliens may lawfully enter the United States only after having passed through a U.S. immigration inspection station at which their compliance with various U.S. entry or admission requirements has been verified. Individuals requesting protection from persecution or torture are treated according to the provisions of international conventions and protocols and may be afforded temporary refuge regardless of their compliance with U.S. entry requirements.

B.2.a. Executive Orders and Presidential Directives

Pursuant to the INA and acting under his constitutional authority as commander-in-chief to ensure the security of U.S. borders (U.S. Constitution, Art. 1, Sec. 2, cl. 1), the President issued three directives establishing policy for undocumented migrant interdiction and repatriation:

- Executive Order 12807: Interdiction of Illegal Aliens (E.O. 12807, May 24, 1992).
- Presidential Decision Directive-9: Repatriation Process (PDD-9, June 1993).
- Executive Order 13276: Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region.

B.2.a.1. Executive Order 12807

President Bush issued E.O. 12807 to the Secretary of the Department in which the Coast Guard is operating. Pursuant to E.O. 12807, the Coast Guard enforces the suspension of the entry of undocumented aliens by sea and interdicts vessels carrying such aliens. Consequently, the Coast Guard stops and boards vessels, in accordance with domestic and international law, when there is reason to believe that they are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action. The Coast Guard makes inquiries of those onboard, examines documents, and takes other actions necessary to carry out the Executive Order. When there is reason to believe that an offense is being committed against U.S. immigration laws, or appropriate laws of a foreign country with which the U.S. has an arrangement to assist, then the Coast Guard shall return the vessel and its passengers to the country from which it came, or to another country. The Executive Order (as amended by E.O. 13286) provides that the Secretary of Homeland Security, in his or her unreviewable discretion, may decide that a person who is a "refugee" will not be returned involuntarily. In Sale v. Haitian Centers Council, 509 U.S. 155 (1993), the U.S. Supreme Court upheld the validity of E.O. 12807, ruling that neither U.S. law nor Article 33 of the 1951 Refugee Convention restricted the power of the President to order the Coast Guard to repatriate undocumented aliens, including refugees, found seaward of U.S. territorial seas. Coast Guard policy for enforcing this prohibition, pursuant to its border control function, is contained in *Chapter 6.C.1.*

B.2.a.2. PDD-9

In 1993, the President issued PDD-9 establishing U.S. government organization and tasks for dealing with alien smuggling. PDD-9 provides that "[t]he U.S. government will take the necessary measures to preempt, interdict, and deter alien smuggling into the U.S." PDD-9 specifically tasks the Coast Guard to "direct U.S. interdiction efforts at sea with appropriate DoD support if necessary." Consistent with E.O. 12807, PDD-9 establishes that U.S. policy is to "attempt to interdict and hold smuggled aliens as far as possible from the U.S. border and to repatriate them when appropriate." The Coast Guard "will direct/escort [interdicted suspect vessels] to flag States or the nearest non-U.S. port if practical and assuming host nation concurrence."

B.2.a.3. Executive Order 13276

E.O. 13276, as amended by E.O. 13286 (February 28, 2003) sets forth the duties and authorities of the Secretary of Homeland Security, Secretary of State, and Secretary of Defense with respect to maintaining custody of undocumented aliens interdicted or intercepted in the Caribbean region. This Executive Order provides authority to maintain such undocumented aliens in extraterritorial detention facilities and allocates responsibilities among the participating agencies.

B.2.b. Office of Legal Counsel Opinions

Between 1993 and 1996 the Office of Legal Counsel (OLC) of the DOJ issued a series of legal opinions binding on all federal agencies, which concluded that undocumented aliens seeking to reach the U.S., but who have not landed or been taken ashore on United States dry land, are not entitled to removal or other proceedings under the INA. Undocumented aliens who are on U.S. land, bridges, or piers are considered to have landed ashore in the

United States, even if they subsequently reenter the water to complete their journey (e.g., wade from a rock out to a boat). However, migrants who are interdicted in U.S. internal waters, U.S. territorial seas, or onboard vessels moored to a U.S. pier are not considered to have landed ashore, and thus, in cases not involving credible fear of persecution, U.S. law permits direct repatriation without further process.

B.2.c. Protection from Persecution

U.S. immigration policy long recognized protection from persecution as a general principle, but the past 20 years have seen Congress providing specific direction in handling asylum cases. The Refugee Act of 1980 prevented the return of individuals facing persecution, extending protection to those who approach U.S. officials overseas as well as those individuals arriving on the border. The Immigration Act of 1990 established standards for automatically denying asylum to those aliens who commit serious nonpolitical crimes. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) resulted in some of the most significant changes to U.S. immigration law in decades, including provisions for expedited removal of arriving aliens who are seeking admission to the U.S. but who are inadmissible either because they lack proper entry documents or present fraudulent entry documents. Under the expedited removal process, BCIS/ICE may order such aliens removed from the United States without further hearing or review. The IIRAIRA, however, provides that, in the course of the expedited removal process, any person who asserts an intention to seek asylum or a fear of persecution will be referred for an interview by an Asylum Prescreening Officer (APSO). The APSO will forward the person's situation to BCIS Headquarters for further evaluation against the "credible fear of persecution standard." The United States will provide an asylum claimant with additional process, or whether the person's removal should be effected through the expedited removal process.

B.2.d. Prescreening

Although the provisions of the INA and IIRAIRA do not apply extraterritorially (see Sale v. Haitian Centers Council, 509 U.S. 155 (1993)), as a matter of policy, the U.S. government prescreens migrants from nations with a history of persecution or torture or those who make specific requests for protection. The Coast Guard accommodates this prescreening by hosting an APSO onboard its vessels at sea as needed.

B.2.e. Protection from Torture

In addition to protection from persecution, the United States also has immigration laws and policies concerning protection from torture. In the Foreign Affairs Reform and Restructuring Act of 1998, Congress directed U.S. immigration authorities to establish regulations encompassing the protection and non-refoulement provisions of the 1984 Convention Against Torture. In December 1998, the President signed Executive Order 13107, Implementation of Human Rights Treaties (E.O. 13107, December 10, 1998), which ordered all agencies to "…respect and implement [their] obligations under the international human rights treaties to which [the Government of the United States] is a party."

B.3. Authority and Jurisdiction

With the exception of those special circumstances described in *Chapter 2.C*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action.

As discussed in *Chapter 2.A*, the Coast Guard's primary authority to enforce substantive U.S. immigration law pursuant to its law enforcement function, is provided in Title 14 of the United States Code. The Coast Guard's authority to exercise its border control function derives from E.O. 12807 and Presidential Decision Directive 9 (PDD-9) as confirmed by the Supreme Court in Sale v. Haitian Centers Council, Inc, 509 U.S. 155 (1993). This border control authority directs the Coast Guard to stop and board vessels, make inquiries, examine documents, and take actions necessary to return interdicted migrants and their vessels to a nation other than the U.S.

Jurisdiction is comprised of three elements:

- Vessel status/flag
- Location
- Substantive law.

Two of the three jurisdictional elements (vessel status/flag and location) are addressed in *Chapter 2.B*. Jurisdiction over substantive immigration laws is addressed in *Section C* of this chapter. Jurisdiction over the substantive law does not preclude the need for units to establish whether jurisdiction over the vessel status/flag and location also exist.

Section C. Offenses

Introduction

This section contains a list of the criminal and/or civil offenses applicable to the AMIO mission area. Each offense is discussed in terms of its elements, applicability, and enforcement policy.

C.1. Suspension of Entry of Undocumented Aliens

Under the Executive power to control the borders of the U.S., the President has suspended the entry of undocumented aliens into the U.S. In 1992, Executive Order 12807 was issued directing the Coast Guard to enforce this suspension as part of its border control function. Presidential Decision Directive 9 (PDD-9), issued in June 1993, establishes national policy to prevent and suppress alien smuggling, and mandates the Coast Guard interdict migrants as far at sea as possible. In Sale v. Haitian Centers Council, Inc., 509 U.S. 155 (1993), the Supreme Court upheld the assertion of Executive Order 12807 that neither refugee screening procedures nor deportation processing requirements apply outside the territory of the U.S. More recently, various court opinions and executive agency practice have refined national policy related to interdiction, screening and processing of migrants, and repatriation.

C.1.a. Elements

Although "migration" is not a criminal offense, the legal scheme cited above clearly directs the Coast Guard to exercise its border control function in the interest of national security. As such, vessels may, in accordance with *Appendix D*, be stopped and boarded when there is reason to believe the vessel is engaged in unsafe practices associated with the transport of migrants by sea, violation of U.S. immigration law, or violations of the immigration law of a foreign country with which the U.S. has an agreement. "Unsafe practices" means any practice which involves operating a ship that is obviously in conditions which violate fundamental principles of safety at sea, in particular those of the SOLAS Convention, or not properly manned, equipped, or licensed for carrying passengers on international voyages, and thereby constitute a serious danger for the lives or the health of the persons onboard, including the conditions for embarkation and disembarkation.

C.1.b. Applicability

Units shall interdict undocumented migrants, wherever located, who are attempting to reach the U.S., but have not yet entered the U.S. This includes migrants intending to transit through the territory of a third country before proceeding to the U.S. Intent on the part of migrants to enter the U.S. may be established by statements made by the migrants, course and position of the vessel in relation to their claimed destination, and other evidence indicating a nexus to the U.S.

Migrants are not deemed to have entered the U.S. unless they are located on U.S. dry land, bridges, or piers. According to a legal determination by the Office of Legal Counsel (OLC) of the DOJ, migrants interdicted in U.S. internal waters, U.S. territorial sea, or onboard a vessel moored to a U.S. pier are not considered to have entered the U.S. Migrants located on

	pilings, low-tide elevations, or aids to navigation are not considered to have entered the U.S. However, migrants who land ashore but subsequently reenter the water (e.g., wade from a rock out to a boat) are considered to have entered the U.S.
C.1.c. Enforcement Policy	Enforcement actions taken with respect to this section comprise the Coast Guard's border control function of the migrant interdiction mission. Interdiction and repatriation, carried out in support of the border control function, constitute the overwhelming majority of migrant interdiction activities conducted by the Coast Guard. *Appendix D* contains the command, control, approval, and coordination requirements for interdiction and disposition of migrants.
C.1.c.1. Interdiction	National and Coast Guard policy is to interdict undocumented migrants prior to landfall in the U.S. as far at sea as possible. While this appears a simple mandate, its execution can be complex and may not always be feasible. Operational Commanders can quickly exhaust available resources through interdiction and a lengthy at-sea detention process. Experience with interdiction in the Pacific has shown the U.S. government is willing to allow time for interagency consideration of all options prior to Coast Guard action. The Coast Guard is not always required to immediately deploy surface forces upon detection of a migrant vessel. Unless timing is critical, the Coast Guard may evaluate the situation before acting.
C.1.c.2. Rendering Assistance	Many migrant cases involve persons traveling aboard unsafe, overcrowded, and/or unseaworthy vessels. As defined by international law and service regulations, it is the duty of Coast Guard units encountering such vessels to take appropriate actions to render assistance and alleviate distress. However, categorizing a situation as a SAR case does not preclude subsequent enforcement action. See *Chapter 2.C.3* for the legal basis for rendering assistance to persons/property at sea. See *Chapter 3.B.4.a.3* for policy regarding the relationship between ELT and SAR.
C.1.d. Disposition	See *Section D* of this chapter for further disposition policy and procedures.
C.2. Bringing in and Harboring Certain Aliens, 8 USC 1324(a)(2)	8 USC 1324(a)(2) prohibits the smuggling of undocumented migrants into the U.S. and is intended to hold smugglers responsible regardless of official action taken with respect to the migrants.
C.2.a. Elements	It is unlawful for any person knowing, or in reckless disregard of, the fact that an alien has not received prior official authorization to come to, enter, or reside in the U.S., to bring or attempt to bring such alien to the U.S. Intent to enter the U.S. may be presumed when: • The alien is aboard a vessel in the U.S. territorial sea or contiguous zone (other than a foreign flag vessel planning no port call in the U.S.). • The alien is aboard a U.S. vessel anywhere. • The vessel is destined to stop at a U.S. port at some point in the voyage. • The alien is the subject of intelligence reports. • Another person aboard indicates the alien intends to enter the U.S. An alien (migrant) is any person not a citizen or national of the U.S. In general, except for individuals requesting protection from persecution or torture, aliens may lawfully enter the U.S. only after having passed through a U.S. port of entry where compliance with entry or admission requirements has been checked.
C.2.b. Applicability	This statute applies to all persons and vessels in all locations where the INA is applicable. See *Chapter 6.B.2* for more information on the INA.

C.2.c. Enforcement Policy	8 USC 1324(a)(2) provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.2.c.1. Arrest	For a violation of 8 USC 1324(a)(2), suspected smugglers are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency (usually ICE/CBP). In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.2.c.2. Seizure	For a violation of 8 USC 1324(a)(2), the vessel and all property aboard are subject to seizure. Units shall contact OPCON for guidance regarding disposition of the vessel and all property aboard. When smuggled migrants are discovered aboard a vessel that is a common carrier, certain exceptions to seizure authority exist. A common carrier vessel is one engaged in the business of public employment for the carriage of goods or passengers for hire (e.g., ferries, head-boats, merchant break-bulk freighters carrying cargoes for many owners). Common carrier vessels are normally not seized unless the owner, master or person in charge was a consenting party or privy to the discovered violation. While the ultimate burden is upon the ship owner to prove common carrier status, the Boarding Officer should seek guidance from OPCON prior to seizing any vessel that appears to have the distinguishing characteristics of a common carrier.
C.2.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.2.d. Material Witnesses	Aliens may be required as witnesses for prosecution. Concurrence by appropriate regional interagency stakeholders (e.g., ICE, CBP, U.S. Attorney) is required to determine whether to bring aliens who are potential witnesses into the U.S.
C.3. Stowaways, 18 USC 2199	A stowaway is as an alien coming to the United States surreptitiously on an airplane or vessel without legal status for admission. Such an alien is subject to denial of formal admission and return to the point of embarkation by the transportation carrier. 18 USC 2199 prohibits any person from attempting to obtain transportation through concealment onboard a vessel or aircraft without consent of the owner, charterer, master, or person in charge.
C.3.a. Elements	It is unlawful for any person, without the consent of the owner, master, or person in charge of a vessel, with intent to obtain transportation, to board, enter, or secret themselves aboard such vessel and either remain aboard after such vessel departs a U.S. port, or remain aboard when such vessel has departed a certain place and subsequently enters an area shoreward of 12 NM from the baseline of the U.S.
C.3.b. Applicability	This statute applies to all persons and in all locations.
C.3.c. Enforcement Policy	18 USC 2199 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.3.c.1. Arrest	For a violation of 18 USC 2199, federal prosecutorial options are relatively limited. Although a violation of 18 USC 2199 technically renders a stowaway subject to arrest, units will normally not be directed to do so. Units shall discuss a case involving stowaways with the cognizant District legal office prior to making any arrests.

C.3.c.2. Fine	For a violation of 18 USC 2199, a person may be fined.
C.3.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.3.d. Disposition	CBP holds common carriers responsible for returning stowaways to their nation of origin. Due to the wide range of options for returning stowaways, units shall contact OPCON for relevant guidance. Coast Guard action regarding a stowaway located aboard a foreign vessel in, bound for, or arriving in a U.S. port shall be coordinated with CBP and the COTP. The Coast Guard does not take law enforcement action regarding a stowaway located aboard a foreign vessel in a U.S. port unless the stowaway attempts to leave the vessel, or there is reasonable suspicion that the stowaway is involved in other criminal activity. *Chapter 10.C.7.* provides policy guidance on high-risk stowaways, absconders, and deserters. All stowaways must be detained onboard the vessel. Responsibility for stowaway detention and care remain with the carrier. Typically, stowaways will be ordered detained and removed from the United States onboard the vessel. The master of the vessel may request that a stowaway be removed from the United States by other means of transportation where compelling or emergent reasons exist. Permission for removal is at the discretion of CBP, but all costs relating to stowaway removal remain with the carrier. Detention pending removal will be in CBP custody. Cuban stowaways present unique policy concerns and operational challenges. Notify Commandant (G-OPL) if a vessel bound for the U.S. reports having Cuban stowaway(s) onboard, and arrange to remove the Cuban stowaways before the vessel moors in a U.S. port and to process them in accordance with *Chapter 6.D.3.a*. If a stowaway has jumped overboard and the vessel of origin cannot be determined, the stowaway should be treated as a migrant in accordance with *Chapter 6.D.1-3.*

Section D. Policy and Procedures

Introduction	This section contains policy and procedures that apply to the following: • Migrant disposition. • Screening. • Vessel disposition. • Detention/arrest. • Disclosure/requests for information. • Terminology. • Citizenship/immigration documents. • Requests for DoD support. • Activities inconsistent with immigration status.
D.1. Interdiction of Undocumented Aliens	Undocumented aliens seeking to reach the U.S., but who have not landed or been taken ashore on U.S. dry land are not entitled to removal or other proceedings under the INA. Interdicted migrants who have not yet reached U.S. soil are normally returned to the country from which they departed.

Migrants are not deemed to have entered the U.S. unless they are located on U.S. dry land, bridges or piers. Migrants who are on U.S. land, bridges, or piers are considered to have landed ashore in the U.S., even if they subsequently reenter the water (e.g., wade from a rock out to a boat). Migrants interdicted in U.S. internal waters, U.S. territorial sea or onboard a vessel moored to a U.S. pier are not considered to have entered the U.S. Migrants located on pilings, low-tide elevations or aids to navigation are not considered to have come ashore in the U.S. However, migrants who land ashore but subsequently reenter the water (e.g., wade from a rock out to a boat) are considered to have come ashore in the U.S.

If suspicion or evidence exists that a migrant interdicted at sea may have previously been ashore in the United States, contact Commandant (G-OPL) and request disposition instructions.

D.2. General Disposition of Migrants Interdicted at Sea

All migrant interdictions by Coast Guard assets, regardless of disposition or Coast Guard Headquarters involvement, must be reported to Commandant (G-OPL) in real time.

Unless exigent circumstances exist, migrants interdicted at sea shall be detained at sea until Commandant (G-OPL) provides disposition instructions. Arriving at interagency consensus through the PD-27 process involves decisions at high levels of the U.S. government that may create operational delays.

As a matter of policy, migrants should be afforded an opportunity to communicate in a language understood by shipboard personnel or immigration personnel ashore receiving communications from the ship. If the Coast Guard cannot provide such an opportunity due to operational, resource, or personnel constraints, the Operational Commander shall notify Commandant (G-OPL-2) in real time.

Communications with migrants shall be limited to those necessary to accomplish on-loading, initial briefing, security, safety, medical care, food distribution, and off-loading.

D.2.a. Reporting to Commandant (G-OPL)

Report immediately to Commandant (G-OPL) any of the following:

- Requests for asylum made by migrants. For handling such claims, refer to *Appendix L*.
- Physical evidence or verbal claims of police or governmental harassment or torture.
- Physical evidence or verbal claims of migrant affiliation with opposition parties in their home country.
- Obvious widespread fear among the migrant population of persecution or torture upon return.
- If, in the opinion of the unit CO, sufficient evidence exists that the migrants may be persecuted upon return due to their ethnicity, race, religion, or political beliefs, the CO will notify his/her Operational Commander, provide all relevant details, and, if deemed appropriate, recommend a BCIS prescreening. If doubt exists as to the veracity of claims or other evidence, or as to whether a statement constitutes a valid verbal request for asylum, COs shall treat all such claims and/or evidence as valid until the issue is resolved by the interagency.

D.2.b. Commandant (G-O) SNO Requirements

A Commandant (G-O) SNO is required unless otherwise noted in *Chapter 6.D.2.c* (or in subsequent published guidance) for the following:

- Disposition of all migrants interdicted at sea.
- To bring a migrant ashore to any location, including to transport migrants through a third country. Bringing migrants ashore in the United States to be processed under expedited removal will be considered only if extraterritorial options are exhausted or

deemed operationally infeasible. If a representative from another agency makes a specific request that any or all of the migrants be brought to a particular location, forward that request with the name/title/phone of the requesting official to Commandant (G-OPL) for consideration in the disposition process.

D.2.c. Commandant (G-O) SNO Not Required

A Commandant (G-O) SNO is not required for the following:

- To bring migrants ashore in any case presenting exigent circumstances involving the safety of life at sea. In such cases, the Operational Commander shall take appropriate action to preserve the safety of life and notify Commandant (G-OPL) in real time. The spouse and/or unmarried children under the age of 21 of a MEDEVAC'D migrant may be brought ashore. If an unaccompanied minor is MEDEVAC'D, the primary caretaker shall be identified for consideration in the disposition process.
- Cubans approved by Commandant (G-OPL) for repatriation or transfer ashore to Naval Station Guantanamo Bay, Cuba.
- To transfer migrants apprehended ashore in the U.S. to ICE or CBP.
- To transfer known stowaways ashore to ICE or CBP. See *Chapter 6.C.3.d* for additional policy guidance regarding disposition of stowaways.
- For the Seventh District Commander to contact the Bahamas directly (via CGLO Bahamas) and to transfer custody of migrants to the Bahamas when such migrants are apprehended in the land territory of the Bahamas or interdicted in Bahamian territorial waters.
- To transfer Mexican migrants interdicted at Sea to CBP authorities ashore. If other nationality migrants are onboard in addition to the Mexicans, they shall be managed separately in accordance with the policies contained in *Chapter 6.D.1-3*.
- To transfer migrants interdicted on the Great Lakes/St. Lawrence Seaway in waters subject to United States jurisdiction to CBP authorities ashore, regardless of nationality.
- In cases involving illegal aliens discovered working aboard U.S. or stateless vessels. Such persons are not considered migrants. With the exception of Cubans and People's Republic of China (PRC) migrants, all illegal aliens discovered working aboard U.S. or stateless vessels should be removed and transferred to CBP. If this course of action is operationally prohibitive, pass all available info to BCIS. See *Chapter 6.D.11* for additional policy guidance regarding activity inconsistent with status.
- When Commandant (G-O) has delegated SNO authority to an Operational Commander via message traffic or other correspondence.
- For actions taken pursuant to an applicable multilateral or bilateral agreement or arrangements in force. The U.S. has established bilateral or multilateral agreements or arrangements with foreign governments to govern disposition of migrants interdicted at sea. These agreements are available at http://cgweb.comdt.uscg.mil/g-opl/amio/amioagreematrix.htm. Subject to the terms of the agreement or arrangement, units shall comply with the instructions of the designated foreign law enforcement or immigration officials concerning disposition of migrants subject to the jurisdiction of the those officials.

D.2.d. Unseaworthy Craft or Peril from the Sea

Every effort shall be made to rescue persons embarked in unseaworthy craft or otherwise in peril from the sea, regardless of the nationality or other circumstances of the person onboard (POB).

Unless the persons onboard are in immediate and life threatening danger, assistance should not be provided to a foreign vessel not subject to the jurisdiction of the United States without the consent of the master or approval from the flag State. However, the decision to render such non-consensual assistance must be made by the On-Scene Commander (OSC) based on all the circumstances.

If persons rescued in foreign territorial waters appear to be migrants, notify Commandant (G-OPL), who will work with the DOS to transfer the migrants to the authorities of the coastal nation in whose territory they were rescued, or to otherwise determine disposition.

D.2.e. Distress at Sea

U.S. and international law requires mariners to recover people in distress at sea.

If notified of search and rescue by a Good Samaritan, and absent exigent circumstances, U.S. government policy is to require the rescuing vessel to safeguard the migrants in a place where the INA does not apply pending disposition instructions. See *Chapter 6.B.2* for more information on the INA.

Disposition of migrants intercepted at sea by non-government vessels is the responsibility of the vessel master and the vessel's flag State. Any request, including from the vessel, agent, master, or flag State, to remove undocumented aliens at sea shall be referred to Commandant (G-OPL) for consultation with the interagency and decision.

D.2.f. Undocumented Migrants Not in Distress

Unless an international agreement or arrangement otherwise provides, units detecting persons suspected of being undocumented migrants who are not in distress and are located within foreign territory or territorial waters shall notify Commandant (G-OPL) by most expeditious means and via the chain of command. Commandant (G-OPL) shall work with DOS to contact the coastal State. If a vessel is detected in foreign territorial waters adjacent to U.S. waters, units shall monitor the vessel closely to interdict it upon entry into U.S. waters.

If persons suspected of being undocumented migrants are detected aboard vessels bound for countries other than the U.S., units shall notify Commandant (G-OPL) who will work with DOS to contact the appropriate flag and coastal States to coordinate a response.

D.3. Nationality- and Geographic-Specific Disposition Issues

Nationality- and geographic-specific disposition issues are discussed below for:

- Cuba
- People's Republic of China (PRC)
- Great Lakes/St. Lawrence Seaway and Mexico

D.3.a. Cuba

Absent exigent circumstances, Cuban migrants will be detained at sea and an APSO will be provided by BCIS to complete the required screening process. See *Chapter 6.D.4* for additional policy guidance regarding prescreening.

Commandant (G-OPL) will notify District of the final disposition of migrants.

See **Figure 6-1** for repatriation procedures for Cuban migrants. In addition to the procedures set forth in **Figure 6-1**, non-Coast Guard personnel (except USINT Havana and approved BCIS personnel) should not be present on deck during repatriation of Cuban migrants.

See *Chapter 6.C.3.d* for policy regarding Cuban stowaways on vessels bound for the United States.

D.3.b. People's Republic of China (PRC)

Prescreening of PRC migrants may be required. See *Chapter 6.D.4* for additional policy guidance regarding prescreening.

D.3.c. Great Lakes/St. Lawrence Seaway and Mexico

If persons suspected of being undocumented migrants are detected within foreign internal waters adjacent to U.S. internal waters (e.g., across the St. Claire River), units shall notify the cognizant District. Unless there are unusual circumstances present or significant Coast Guard involvement, Commandant (G-OPL) does not need to be notified.

Notify Commandant (G-OPL) of any cases with unusual circumstances, such as large groups of migrants, cases of possible trafficking in persons, or cases in which transfer to CBP is not feasible. In these cases, Commandant (G-OPL) will work with the interagency on disposition. Barring exigent circumstances, detain migrants on the water and seek disposition instructions from Commandant (G-OPL).

D.4. Prescreening

A prescreening is a limited-scope migrant interview afforded certain migrants interdicted at sea. When a BCIS official is embarked, the CO shall attempt to provide a secure, private location for the official to confer with those migrants desiring a meeting.

The current U.S. Government policy is to prescreen all Cuban migrants interdicted at sea. The APSO conducts interviews for determining the disposition of migrants by BCIS.

The U.S. Government may prescreen PRC migrants interdicted at sea. BCIS and State Department have developed a Chinese national questionnaire that the Coast Guard may be asked to distribute to the migrants. This questionnaire, **Figure E-14**, is contained in *Appendix E*. PRC migrants interdicted while coming directly from China may require direct prescreening by BCIS officials. BCIS personnel may be transferred to the ship to meet with the migrants. Since many PRC interdictions occur far offshore, it may take several days for BCIS personnel to arrive on scene.

D.4.a. Information Sensitivity

Information contained in asylum prescreening interviews is particularly sensitive.

- Units shall send this information only to appropriate command centers, which will only forward it to Commandant (G-OPL) and BCIS Headquarters in Washington, DC. If these interviews are sent via message traffic, info addees will be limited to the appropriate command centers, Commandant (G-OPL), and BCIS.
- Coast Guard or other military personnel shall not be directly involved in the prescreening process, except to facilitate the prescreening through logistical, language, security, or administrative support to BCIS officials.

D.4.b. Immigration Prescreening

During the course of a migrant interdiction, the unit may encounter information that may trigger an immigration prescreening for the embarked migrants. If, in the opinion of the unit CO, sufficient evidence exists that the migrants may be persecuted upon return due to their ethnicity, race, religion, or political beliefs, the CO shall notify the Operational Commander, provide all relevant details, and, if deemed appropriate, recommended BCIS prescreenings.

- Prescreenings are not appropriate in circumstances where individuals are fleeing their homeland solely on the basis of economic, social, or personal reasons.
- BCIS officials will be dispatched on a case-by-case basis after evaluation of the information provided.

D.5. Disposition of Migrant Vessels

Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of 8 USC 1324 may be seized and subject to forfeiture. Other laws in which illegal migrant activity is implicated may also permit vessel seizure.

- In cases involving U.S. vessels or vessels assimilated to without nationality status, operational units shall consult their servicing legal office for assistance in determining vessel disposition. Such determinations shall be coordinated with the CBP and

servicing U.S. Attorney Office.

- In cases involving foreign flag vessels seaward of the contiguous zone, a Commandant (G-O) SNO is required for disposition.
- Specific procedures and techniques regarding disposition of migrant vessels are contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 (*Section 11*).

D.6. Aliens Detained for Prosecution or Arrested at Sea

Units that detain for prosecution or arrest aliens at sea for violations of U.S. law (including migrant and drug-related cases) shall comply with the command, control, and approval policy for arrests in *Appendix D*. In addition to internal command and control, Operational Commanders shall not permit arrested or detained aliens to be brought into the U.S. without proper field coordination with ICE and CBP. CBP may parole such persons into the U.S. for the purpose of criminal prosecution.

D.7. Disclosure/ Requests for Information

The location and personal information about any migrant interdicted by the Coast Guard is FOUO and shall not be released to the public (including immediate family). Requests for this information shall be referred to local BCIS, CBP, or ICE offices. Refer all inquiries concerning Cuban migrants to the BCIS recording at 800-264-2577.

For on-going cases, the ultimate disposition location is sensitive information for diplomatic and operational reasons. Refer all requests for information concerning the ultimate destination of the migrants to the District PAO. District PAOs shall obtain guidance as needed from Commandant (G-OPL).

D.8. Terminology

Coast Guard reports of, or official reference to, "migrants encountered at sea" shall refer to these individuals as either "migrants" or "aliens". The descriptive terms "illegal" or "undocumented" may also be used, if accurate. See *Appendix B* for additional information.

D.8.a. Refugee

The term "refugee," which is defined in *Appendix B* and 8 USC 1101(a)(42), shall not be used in place of alien or migrant.

D.8.b. Political or Economic

The terms "political" or "economic" shall not be used to describe aliens/migrants encountered at sea.

D.8.c. Asylum

The term "asylum" has specific meaning under U.S. law. A request for asylum shall be referred to as a request for protection from persecution or torture.

D.9. Citizenship/ Immigration Documents

In conducting migrant interdiction operations, units are often required to validate the citizenship or immigration status of individuals to determine compliance with U.S. immigration law(s). For example, an alien may present an expired, false, or altered document, an authentic document belonging to someone else, or a document with incomplete or missing visas (or other attachments). *Appendix K* provides further guidance and a description of commonly used documents.

D.9.a. Race, Ethnicity, Religion, or English-Speaking

Race, ethnicity, religion, or the ability to speak English, shall not be the sole basis when determining the immigration status of an individual, and shall not be the sole basis for initiating that determination process.

D.9.b. U.S. Citizenship

Units should first determine whether the person is a U.S. citizen. This is particularly important with respect to statutes that require certain officers and crewmembers of U.S. vessels be U.S. citizens (see *Appendix C* regarding violations of 46 USC 8103).

D.9.c. Non-U.S. Citizenship	If the person is not a U.S. citizen, units shall determine the immigration status of the individual, including whether that person is a documented or undocumented alien. This is significant in determining if the individual is subject to the suspension of the entry of undocumented aliens or otherwise in violation of U.S. immigration law. *Appendix K* provides further guidance and a description of immigration documents (e.g., Alien Registration Receipt Card, Reentry Permit, Refugee Travel Document).
D.9.d. Validity of Citizenship Immigration Documents	In case of doubt concerning the validity of citizenship/immigration documents, units shall seek assistance from local CBP or ICE office via OPCON. If an alien's documents are determined to be fraudulent or otherwise improper or inadequate, unless immigration officials otherwise direct, the Coast Guard shall treat the alien as an undocumented migrant in accordance with this chapter. If local or regional immigration officials are not readily available to assist and reasonable doubt remains as to the validity of the documents, contact Commandant (G-OPL) for immediate assistance.
D.9.d.1. Validation Assistance	When assisting in the enforcement of foreign immigration laws pursuant to an international agreement in force or arrangement, units shall seek assistance from appropriate foreign law enforcement and/or immigration officials in determining the validity of documents.
D.9.d.2. Smuggling Evidence	Valid documentation is not the only requirement for legal entry into the United States (or most other countries). Accordingly, if aliens at sea present valid or apparently valid travel documents, boarding teams should be cognizant of and report to TACON statements and other evidence suggesting smuggling or other illegal entry activity, such as intent to enter at a place other than a designated port-of-entry.

D.10. Requests for DoD Support	The following procedures apply when requesting DoD support for migrant interdiction operations.
	
	Area Commanders are encouraged to develop an MOU with the cognizant Combatant Commander(s) that establishes procedures for requesting incidental support for migrant interdiction events. Incidental support is that which DoD assets can provide without significant interference with normal DoD operations. In the absence of an MOU, requests for support shall be processed as follows:
	
	• Requests for incidental DoD support shall be accomplished via direct liaison between the Area Commander and the cognizant Combatant Commander.
	• Requests for other than incidental DoD support shall be made by the Area/District Commander via message to Commandant (G-OPL). The decision to provide such support will be made by the Joint Staff (JCS/J3). Informal liaison between the Area Commander and cognizant Combatant Commander in advance of a formal request for support is encouraged to expedite the process. Message requests for DoD support should not be classified higher than "SECRET" and shall adhere to the following guidelines:
	  ➢ Requests shall include a description of the situation and basis for the request.
	  ➢ Requests shall identify the capability required without specifying the type or number of assets desired.
	  ➢ Requests shall be sent to Commandant (G-OPL) with the Joint Staff (JCS/J3) and the cognizant Combatant Commander as information addressees.

D.11. Activities Inconsistent with Immigration Status

Persons on non-immigrant visas are generally not permitted to work for pay in the U.S. With certain exceptions, aliens (including permanent resident aliens) are not permitted to serve as a master, chief engineer, radio officer, or Officer-in-Charge of a deck watch or engineering watch on a U.S. documented vessel. However, permanent resident aliens, in many cases, may serve as a member of its crew as an unlicensed seaman. See *Appendix C* regarding violations of 46 USC 8103.

Persons suspected of migrant smuggling or other criminal activity, and interdicted at sea while possessing U.S. immigration documents or claiming immigration status in the U.S., may be brought into the U.S. upon validation of any documents or status claims and with the concurrence of CBP and ICE.

OPERATIONAL PROCEDURES
AGREED TO BETWEEN THE UNITED STATES COAST GUARD
AND THE TROPAS GUARDA FRONTERAS
REGARDING CUBAN REPATRIATION

The following are the operational procedures to be used between the United States Coast Guard (USCG) and the Tropas Guarda Fronteras (TGF) for the repatriation of Cubans attempting to illegally enter the United States and picked up upon the High Seas by the United States Coast Guard:

1. When the United States Government has decided to repatriate Cuban citizens illegally attempting to enter the United States and who have been placed aboard a USCG Vessel, the following information will be provided by the Coast Guard Command Center, Seventh Coast Guard District, Miami, Florida, to the Tropas Guarda Fronteras, Havana, Cuba, via both facsimile and TELEX and to the U.S. Interests Section in Havana via FAX. USINT Havana will informally send to MINREX copies of the personal data listed below available to it:
   a. Date/time/position of embarkation of Cuban migrants.
   b. A description of individuals who were placed aboard the vessel including nationality; total number of migrants.
   c. Personal data as available of individuals to be provided to the TGF:
      (1) Full name (include both surnames if available)
      (2) Nationality
      (3) Sex
      (4) ID Card Number
      (5) Date of Birth
      (6) Place (city, province, country) of birth
      (7) Address in Cuba
   d. Name of Coast Guard cutter (CGC) designated to execute the repatriation.
   e. Date and time a CGC will be available to repatriate migrants at designated port.
   f. Date/time the CGC will enter Cuban territorial water.
   g. Date/time the CGC will be expected pier side of repatriation port.
   h. Whether a Harbor Pilot will be required.
2. Once the TGF have reviewed the above information, they will indicate concurrence in writing to Coast Guard Command Center, Miami, or redesignate the repat port/time. The concurrence by the TGF of date, time, and location will serve as the authorization for the U.S. Coast Guard to enter Cuban territorial waters to repat the Cuban migrants. This information will be passed by the Cuban Border Guard Command Center to both the Seventh District Command Center and the U.S. Interests Section in Havana.
3. Once Cuban concurrence is received, the Seventh District Command Center will relay via the fastest available means to the designated repatriation USCG cutter the date, time, and repatriation port. Additionally, the designated Coast Guard cutter will establish communications with the TGF via HF (2182 KHZ) or VHF/FM channel 16/22A prior to entering Cuban territorial seas. Direct tactical communications between the designated Coast Guard cutter and the TGF is authorized until the Coast Guard cutter has safely discharged all migrants and returned to International Waters.
4. It is further agreed that:
   a. All repatriations will be conducted during daylight hours.
   b. The Coast Guard cutter will be first boarded pierside by the U.S. officer designated by the U.S. Interests Section in Havana to explain legal migration procedures to those being returned and escort and those being returned to TGF representatives on the pier.
   c. Neither USCG nor any other USG personnel will at any time disembark from the cutter while in the territorial seas or internal waters of Cuba.
   d. Cuban nationals (other than the designated Harbor Pilot it used) will not at any time embark onto the cutter while the cutter is in the territorial seas or internal waters of Cuba.
   e. Communications between the Coast Guard cutter and the TGF will be in Spanish if Spanish speaking crew members are available.
   f. The Coast Guard cutter will get underway immediately after the safe transfer of all migrants is completed and proceed directly to international waters.
5. Deviations from these operational procedures are to be resolved through direct communications via facsimile and TELEX between the TGF Command Center and the Seventh District Command Center, with concurrence of USINT Havana.
6. This set of procedures is effective May 8, 1995, and will remain indefinite until either party gives 24-hour advance notice in writing of intention to terminate these procedures.

Figure 6-1
Operations Procedures for Cuban Repatriations

Chapter 7
Fisheries Law Enforcement

Introduction

This chapter provides detailed discussion regarding the most common laws enforced by the Coast Guard in conducting fisheries law enforcement.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Definitions	7-3
B	Introduction	7-3
C	Legal Framework	7-5
D	Offenses	7-6
E	Policy and Procedures	7-9

Section A. Definitions

Introduction

The terms listed below have specific meanings unique to this chapter. See *Appendix B* for terms that have meanings commonly applied to all chapters.

A.1. Permit

A document issued under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) which authorizes vessels to engage in fishing in U.S. waters over which the U.S. exercises exclusive fisheries management authority.

A.2. State

Each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the U.S.

Section B. Introduction

Introduction

This section contains overarching principles or philosophies that apply to fisheries law enforcement.

B.1. Responsibilities

Federal fisheries management and enforcement responsibilities are as follows:

- The National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) under the Department of Commerce, is the lead agency for managing fisheries resources. NOAA Fisheries Office of Sustainable Fisheries is primarily responsible for managing U.S. fisheries and works with the Regional Fishery Management Councils (RFMC) to develop Fishery Management Plans (FMP) and implement fisheries regulations. NOAA Fisheries Office for Law Enforcement (NOAA OLE) is primarily responsible for shoreside enforcement of federal fisheries laws.
- Eight Regional Fishery Management Councils (RFMC), in partnership with NOAA Fisheries, provide for management of fisheries in specific geographic regions through development of FMPs to maintain healthy stocks important to commercial, recreational, and subsistence fisheries. The Coast Guard holds an advisory, non-voting seat on each RFMC.
- As the only non-DoD agency with the maritime infrastructure to project a federal presence in the U.S. EEZ, the Coast Guard is the primary agency responsible for at-sea enforcement of federal fisheries laws and related international agreements.
- NOAA General Counsel provides legal advice and represents the U.S. in the civil adjudication process for violations of federal fisheries laws documented by Coast Guard and NOAA OLE enforcement personnel.

B.2. Objectives

The purpose of the Coast Guard's fisheries law enforcement program is to ensure compliance with federal fisheries laws and regulations and international agreements. The objectives that support this goal are:

- Preventing illegal encroachment of the U.S. EEZ and territorial waters by foreign fishing vessels.
- Ensuring compliance with domestic living marine resource laws and regulations by U.S. fishers.
- Ensuring compliance with international living marine resource agreements.

Enforcement actions typically include ensuring compliance with federal regulations

regarding catch limitations, gear restrictions, permits, closed areas, regulated seasons, and other management measures implemented by NOAA Fisheries.

B.3. Interagency Relationships

The fisheries law enforcement mission involves Coast Guard enforcement of regulations written by another agency, enforcement priorities determined in consultation with other agencies, and violations adjudicated outside of the Coast Guard. Because of these characteristics, it is essential that appropriate interagency relationships be developed to set priorities, coordinate efforts and ensure interagency consensus with respect to certain law enforcement actions.

B.3.a. NOAA OLE

The Coast Guard and NOAA OLE have a long history of close cooperation and support. NOAA OLE agents often participate in joint operations with Coast Guard units, embark Coast Guard units to provide specialized expertise in support of unusual or complex cases, and provide training to Coast Guard personnel.

B.3.b. State Programs

Most states have fisheries management and enforcement programs that not only apply in state waters but may also address areas of concurrent jurisdiction and straddling fish stocks. The MSFCMA provides a mechanism for states to enter into agreements with the Coast Guard for fisheries enforcement. District Commanders are authorized to sign such agreements using a MOU template available from Commandant (G-OPL). Copies of all signed agreements shall be provided to Commandant (G-OPL).

B.3.c. Additional Policy

See *Chapter 2.E.6* for additional policy regarding interagency cooperation.

B.4. Further Guidance

Chapters 1 through 4 contain overarching policy regarding the conduct of MLE operations, including a law and policy framework, policy on the conduct of boarding operations and rules governing use of force. These chapters apply to the entire ELT program, including fisheries law enforcement.

Although *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 focuses on the counterdrug and migrant interdiction missions, it covers a wide range of general law enforcement topics that can be applied to the enforcement of laws described in this chapter. These include various legal issues; patrol tactics; pre-boarding activity; and boarding, inspection, search, seizure, and arrest procedures. Where *Chapters 1 through 4* and appendixes specifically refer to the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, units shall adhere to the referenced procedures irrespective of the mission area they are executing.

Section C. Legal Framework

Introduction

This section contains discussion regarding the domestic and international legal framework for the fisheries mission area.

C.1. Sources of Substantive Law

The U.S. has passed laws and regulations, codified in Title 16 of the United States Code and Title 50 of the Code of Federal Regulations, to regulate fishing activities and conserve fisheries resources. Of these laws, the most significant to the Coast Guard are discussed in *Section D* of this chapter. *Appendix C* contains a list of other U.S. laws that may be applicable.

Treaties and international law lend additional support for the development of U.S. laws and/or application of U.S. laws extraterritorially. Articles 55 through 75 of UNCLOS authorize coastal nations to establish an EEZ to protect natural resources. Article 118 of UNCLOS calls upon all nations to cooperate in the conservation of living marine resources. The 1991 U.N. Moratorium Prohibiting the Use of High Seas Driftnets calls for a worldwide ban on all large-scale driftnet fishing on the high seas. These international legal regimes are reflected in the U.S. statutory framework for this mission area.

C.2. Authority and Jurisdiction

With the exception of those special circumstances described in *Chapter 2.C*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action.

C.2.a. Authority

As discussed in *Chapter 2.A*, the Coast Guard's primary authority to enforce substantive U.S. living marine resource laws is provided in Title 14 of the United States Code. Additionally, the Lacey Act and the MSFCMA, in general terms, authorize Coast Guard commissioned, warrant and petty officers to take law enforcement action (e.g., board, inspect, search, arrest, seize) against persons or vessels subject to the provisions of those Acts. While Coast Guard personnel should be aware of these additional sources of authority, they are not routinely relied upon as independent bases for law enforcement action since much of the authority provided by them is already contained in 14 USC 89. However, these additional sources of authority may be used to exercise limited fisheries authority ashore in accordance with *Section E.4* of this chapter.

C.2.b. Jurisdiction

Jurisdiction is comprised of three elements:

- Vessel status/flag
- Location
- Substantive law.

Two of the three jurisdictional elements (vessel status/flag and location) are addressed in *Chapter 2*. Jurisdiction over substantive fisheries laws is addressed in *Section D* of this chapter. Jurisdiction over the substantive law does not obviate the need for units to establish whether jurisdiction over the vessel status/flag and location also exist.

Section D. Offenses

Introduction

This section contains a list of the criminal and/or civil offenses applicable to the fisheries mission area. Each offense is discussed in terms of its elements, applicability, and enforcement policy.

D.1. Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1801-1883

The MSFCMA establishes a national program for the conservation and management of the fishery resources of the U.S. to prevent overfishing, to rebuild over-fished stocks, and to facilitate long-term protection of essential fish habitats. Pursuant to the MSFCMA, domestic fisheries regulations implementing the provisions of fisheries management plans and relevant statutes (e.g., North Pacific Halibut Act, Atlantic Tunas Convention Act, Pacific Salmon Treaty Act) are promulgated in 50 CFR 600-697. In general, these regulations establish administrative provisions, catch limitations, closed areas, gear restrictions, and other requirements for particular species. Although this section addresses statutory provisions of the MSFCMA, it is beyond the scope of this Manual to describe elements and enforcement policy associated with each of these regulations. Customized extracts from the Code of Federal Regulations (CFR) are provided to enforcement units by Commandant (G-OPL) based on their geographic location and probable patrol areas. These extracts are arranged in volumes according to region and provide units with a summarized, topical reference publication. The publisher automatically distributes regular supplements reflecting changes to the regulations. Questions regarding this service should be directed to Commandant (G-OPL-4).

D.1.a. Applicability

Within the U.S. EEZ, the MSFCMA applies to prevent foreign encroachment and unauthorized harvesting and to ensure compliance with domestic fisheries regulations. Seaward of the U.S. EEZ, the MSFCMA applies to special interest areas of the high seas to monitor compliance with relevant international agreements (e.g., high seas driftnets) and to protect U.S.-origin anadromous species throughout their range.

D.1.a.1. Commerical Fishing

Under the MSFCMA, foreign flag commercial fishing vessels are prohibited from fishing in the U.S. EEZ unless they are in possession of a valid fishing permit issued by NOAA, are not capable of fishing (e.g., gear removed or stowed), are engaged in scientific research, or are operating subject to the provisions of a bilateral/multilateral agreement. Foreign flag commercial fishing vessels are prohibited in all cases from fishing in U.S. state waters.

D.1.a.2. Recreational Fishing

Foreign vessels not operating for profit may conduct recreational fishing within the U.S. EEZ or state waters. Fish caught may not be sold, bartered, or traded. The persons onboard a foreign vessel conducting recreational fishing must comply with federal laws and regulations applicable to the relevant domestic fishery while in the EEZ, and any state regulations applicable while in state waters.

D.1.b. Enforcement Policy

Regulations and statutory provisions enforced under the MSFCMA provide for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For violations of the MSFCMA, concurrence on the part of interagency stakeholders (e.g., NOAA General Counsel, NOAA OLE, U.S. Attorney) is required prior to exercising an enforcement option. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).

D.1.b.1. Civil Penalty Process

The civil penalty process is the preferred enforcement option for the majority of domestic fisheries cases. The civil penalty process is initiated by completing the Enforcement Action Report (EAR) (Form CG-5201) and the Offense Investigation Report (OIR) (Form CG-

5202) in accordance with *Appendix E*. The EAR is a short form used to inform the master of a vessel that an infraction has been detected. The OIR is a more detailed form used to document an infraction and is used by the NOAA General Counsel to determine the appropriate disposition of the case. Subject to instructions received from OPCON, units may be directed to:

- Ensure on-the-spot corrective action for relatively minor violations.
- Issue written warnings for minor first-time violations not having a substantial adverse impact on U.S. fish stocks.
- Issue summary settlements, where authorized. Summary settlements are an expedited method of assessing and collecting civil penalties for minor fisheries offenses, similar to traffic tickets. Summary settlements are not appropriate for non-fishing violations (e.g., assaulting an authorized enforcement officer). Specific guidance for the use of summary settlements is issued by the office of the Regional NOAA General Counsel. In most cases, the violator is given a written report of the violation and an assessed penalty by the enforcement unit. The recipient can either pay the fine within the specified period or contest the charge through the NOAA adjudication system.
- Issue a citation and collect evidence to allow NOAA to seek a civil penalty and/or permit sanction (i.e., revocation, suspension or modification).

D.1.b.2. Arrest

For a violation of the MSFCMA, arrest is normally reserved for assaults on enforcement personnel and/or the most egregious and deliberate violations against marine resources.

Arrest of persons onboard foreign flag vessels for purely fisheries violations is prohibited by Article 73 of UNCLOS unless an agreement with the flag State exists that authorizes such action. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

D.1.b.3. Seizure

For a violation of the MSFCMA, the vessel and its contents, any fish taken or retained in violation of the MSFCMA, and any other evidence related to the violation are subject to seizure. Seizure is normally justified only in the following circumstances:

- Fishing in the U.S. EEZ without appropriate permit.
- Continued fishing after closure of a fishery or greatly exceeding an incidental catch quota.
- Handling a large incidental catch of a prohibited species in violation of the regulations or in a way greatly increasing their mortality rate.
- Violating any permit condition imposed as a result of a previous offense.
- Serious false reporting of fish catch.
- Fisheries closed area violations.
- Illegal gear configurations.

In all cases, units shall contact OPCON for guidance regarding disposition of the vessel, all property aboard and illegal catch.

If OPCON determines that illegal catch will be seized, the seizure should be conducted in a manner consistent with the goal of protecting living marine resources and preserving marketable catch. Illegal catch with no marketable value shall be photographed/videotaped and returned to the sea. Illegal catch with marketable value shall, if alive, be photographed/videotaped and returned to the sea; but if the catch will not survive, be returned to port for sale.

If the unit is able to keep the seized catch in marketable condition (e.g., onboard refrigeration or using another fishing vessel that volunteers), it may seize the catch without

detaining the vessel and crew. Otherwise, the unit may effect catch seizure by detaining the crew and escorting the vessel to port. If the vessel will be brought to port to effect the catch seizure, units shall isolate the illegal catch to prevent evidence tampering. Normally, this is accomplished by sealing the hold or container to preclude unauthorized entry. Units may also at the request of NOAA OLE order vessels to port without escort. Units should be sure to thoroughly document any and all fisheries violations prior to issuing this order to prevent the vessel and its crew from destroying evidence while enroute port.

D.1.b.4. Case Package Preparation

A case package is required for any violation of this statute (civil or criminal) and shall be prepared in accordance with guidance provided by the District Commander.

D.1.c. Other

As stated above, the MSFCMA prohibits foreign flag commercial fishing vessels from fishing in the U.S. EEZ. This violation can be established by direct evidence (e.g., observation, logs, charts) of either fishing activity or a failure on the part of the vessel to properly stow its gear while in the EEZ. In cases where the violation cannot be proven by direct evidence, a rebuttable presumption exists that any vessel in the EEZ with catch aboard took that catch in the EEZ.

D.2. Lacey Act, 16 USC 3371-3378

The Lacey Act prohibits unlawful transportation of certain fish or wildlife.

D.2.a. Elements

It is unlawful for any person to import, export, sell, receive, acquire or purchase any fish or wildlife or plant, taken or possessed in violation of any U.S. law, treaty, regulation, Indian tribal law, or any foreign law. Generally, a Lacey Act violation is difficult to prove unless the vessel is observed fishing or taking wildlife illegally, there is fish or wildlife discovered onboard, and intent to import/export can be established.

D.2.b. Applicability

This statute applies in the U.S. EEZ and territorial sea including U.S. territory. Application of this statute beyond the U.S. EEZ may be possible under certain circumstances, depending on the specific facts of the case.

Where the U.S. has cooperative agreements with foreign nations, the importance of the Lacey Act to Coast Guard enforcement efforts is diminished by the availability of more substantial civil penalties for violations of foreign law under the MSFCMA. However, since Canada is the only country with which we have a cooperative enforcement agreement, enforcement of foreign fisheries violations under authority of the MSFCMA is currently limited to violations of Canadian law.

Due to the availability of more useful enforcement options, there should be an articulable benefit or objective of the enforcement effort when considering dedicating assets to Lacey Act enforcement. The following are circumstances when it may be appropriate to dedicate resources:

- Support of U.S. foreign policy interests (e.g., a report by the State Department of recurring incursions by U.S. fishing vessels into the EEZ of another nation).
- Assistance in ensuring a level playing field so that fishers, legally fishing in U.S. waters, are not economically penalized.
- Request for assistance from a foreign government.

D.2.c. Enforcement Policy	The Lacey Act provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For violations of the Lacey Act, concurrence on the part of interagency stakeholders (e.g., NOAA General Counsel, NOAA OLE, U.S. Attorney) is required prior to taking enforcement action. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).
D.2.c.1. Civil Penalty Process	The civil penalty process is the preferred enforcement option for the Lacey Act. The civil penalty process is initiated by completing the EAR (Form CG-5201) and the Offense Investigation Report (OIR) (Form CG-5202) in accordance with *Appendix E.*
D.2.c.2. Arrest	For a violation of the Lacey Act, arrest is normally reserved for only the most egregious and deliberate violations against marine resources. Arrest of persons onboard foreign flag vessels for purely fisheries violations is prohibited by Article 73 of UNCLOS unless an agreement with the flag State exists that authorizes such action. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
D.2.c.3. Seizure	For a violation of the Lacey Act, any fish taken or retained in violation of the Act, and any other evidence related to the violation are subject to seizure. Seizure of the vessel is only authorized subsequent to a felony conviction. In all cases, units shall contact OPCON for guidance regarding disposition of the vessel, all property aboard and illegal catch. Seizure of illegal catch shall be effected in a manner consistent with guidance set forth in *Section D.1.b.3* of this chapter.
D.2.c.4. Case Package Preparation	A case package is required for any violation of this statute (civil or criminal) and shall be prepared in accordance with guidance provided by the District Commander.

Section E. Policy and Procedures

Introduction	This section contains policy and procedures that apply to the entire fisheries mission area.
E.1. Ocean Guardian	Ocean Guardian is the Coast Guard's Fisheries Enforcement Strategic Plan to provide for effective enforcement in support of national goals for fisheries resource management and conservation. Ocean Guardian establishes a comprehensive framework for fisheries law enforcement activity within the Coast Guard, including performance goals and objectives. Area and District Commanders shall craft their operational plans in accordance with guidance contained therein. Ocean Guardian calls for enforcement efforts to be focused on those violations likely to have a significant impact on fisheries resources, or those that would place the violator at a substantial economic advantage over others who are in compliance. These determinations are made by the Area or District Commander in conjunction with NOAA OLE, NOAA General Counsel, and the appropriate RFMC or other management authority. Ocean Guardian is an unnumbered publication available for download at http://cgweb.comdt.uscg.mil/g-opl/OceanG/OceanGuard.html.

E.2. Regional Fishery Management Councils

Domestic fisheries concerns vary significantly by region and fishing activity, and are subject to change as fish stocks and harvesting practices change. The eight RFMCs provide for management of important fisheries by developing FMPs. Once approved by the Secretary of Commerce, FMPs are implemented via regulations codified in Title 50 CFR.

The Coast Guard holds an advisory, non-voting seat on each RFMC. A senior Coast Guard representative (LCDR or above), with the requisite knowledge and experience, shall be designated by the appropriate District Commander to fill the seat as follows:

RFMC	Coast Guard Representative
New England	CCGD1
Mid-Atlantic	CCGD5
South Atlantic	CCGD7
Caribbean	CCGD7
Gulf of Mexico	CCGD8(lead)/CCGD7
Pacific	CCGD13
North Pacific	CCGD17
Western Pacific	CCGD14

RFMC meetings are open to the public. CO/OICs involved in fisheries law enforcement are strongly encouraged to attend a council meeting. Interested personnel should contact the cognizant Coast Guard representative. Use of unit travel funds to attend council meetings is authorized.

E.3. Bilateral/ Multilateral Fisheries Agreements

The U.S. has entered into treaties and bilateral or multilateral agreements with foreign governments that establish cooperative fisheries conservation, management and enforcement policies. The most far reaching of these agreements is the UN Agreement for the Conservation and Management of Straddling and Highly Migratory Fish Stocks (commonly referred to as the UN Fish Stocks Agreement). This agreement, which entered into force in 2001, has substantial enforcement provisions including authorization for non-flag State boardings on the high seas. In some cases, the U.S. has entered into agreements that give U.S. fishers access to foreign EEZs (e.g., U.S./Russia Governing International Fishery Agreement, South Pacific Tuna Act). Specific fisheries treaties and agreements are addressed in Area Standard Operating Procedures (SOP) and District instructions.

E.4. Fisheries Law Enforcement Authority Ashore

NOAA OLE is the lead agency for enforcement of fisheries laws ashore. As discussed in *Chapter 2.E.2*, Coast Guard personnel do not routinely exercise law enforcement authority ashore. However, the Coast Guard may, if authorized by OPCON, exercise limited fisheries authority ashore. Specifically, Coast Guard personnel may, at the request of NOAA OLE:

- Monitor catch off-loads and take law enforcement action for straightforward MSFCMA violations such as prohibited species, fish landed in excess of quotas, or landings made outside authorized landing periods.
- Provide backup for NOAA OLE agents for shoreside patrols, monitoring catch off-loads and participating in NOAA OLE dockside boardings.

E.5. NOAA Fisheries Observer Program

The NOAA Fisheries Observer Program authorizes NOAA Fisheries employees or contract personnel to embark fishing vessels in support of an FMP.

Observers are not enforcement personnel, but can provide valuable assistance in the enforcement of marine resource laws. Boarding Officers may ask observers to assist the boarding team (e.g., provide insight into the vessel's operations, assist with species identification, verify the accuracy of the vessel's logs).

If an observer provides the boarding team with information that an offense has been committed, the Boarding Officer shall request a written statement from the observer and attach it to the Offense Investigation Report (OIR) as described in *Appendix E*.

E.5.a. Unbiased Observer Data

Maintaining the integrity of unbiased observer data is at the core of effective fisheries management and is NOAA OLE's top enforcement priority. It is therefore a high Coast Guard priority to promote compliance with observer regulations and ensure that observers can effectively and accurately collect and report unbiased data. Significant violations include failure to carry a required observer, observer harassment, and biasing of samples.

E.5.b. Interviews

During all boardings where observers are present, they are to be discreetly interviewed to ensure they are being allowed to perform their duties. Reports from observers describing harassment, intimidation, and safety issues are of particular concern.

E.5.c. Regulations

NOAA Fisheries regulations establish national safety standards for commercial fishing vessels carrying observers. These regulations require that any commercial fishing vessel, not otherwise inspected, must pass a Coast Guard dockside safety examination before carrying a NOAA Fisheries observer. Further, an observer may conduct an independent review of the fishing vessel's major safety items and may refuse to sail if there are major deficiencies. This is significant because NOAA Fisheries prohibits a vessel required to carry an observer from fishing if an observer is not aboard. Therefore, disagreements over the safety condition of a vessel are liable to occur. If contacted to help resolve these disagreements, Coast Guard units shall adhere to the following procedures:

- Notify the nearest NOAA OLE enforcement agent and the Coast Guard District Commercial Fishing Vessel Safety (CFVS) Coordinator who will assemble appropriate parties and attempt to resolve the dispute.
- If the dispute cannot be resolved, a boarding team or commercial fishing vessel examiner may be asked to conduct a dockside boarding of the vessel and report the findings to the CFVS Coordinator. NOAA Fisheries, not the Coast Guard, will make the final determination as to what remedial action, if any, the vessel must take in order to meet observer safety requirements.
- If the vessel meets the Coast Guard criteria for voyage termination, then the District Commander shall decide whether voyage termination is appropriate, irrespective of NOAA Fisheries observer safety requirements.

E.5.d. Requesting Assistance

On occasion, observers may have difficulty with the master or crew and request immediate Coast Guard assistance. In these cases, OPCON should deploy the nearest available unit to assist the observer. Units shall notify District (ole) when observers report sexual abuse, sexual harassment, assault, request removal from the vessel, or when circumstances exist that prevent the observer from doing his/her job (e.g., severe seasickness or other medical condition, crew refusal to cooperate with observer). For reports of sexual abuse, sexual harassment, or assault, the Boarding Officer shall gather facts related to the allegation and seek guidance from District (ole) regarding appropriate action. Such offenses may be prosecutable under the provisions of the MSFCMA. Any decision to remove the observer

from the vessel will be made by the District Commander in consultation with NOAA OLE.

E.6. NOAA OLE National Vessel Monitoring System (N-VMS)

NOAA OLE is connecting their regional vessel monitoring systems into a nationwide network, which will be linked into Coast Guard command and control systems, for near real-time surveillance of commercial fishing fleets. N-VMS data is owned by NOAA OLE and provided to the Coast Guard to improve the efficiency of our fisheries law enforcement operations. Due to confidentiality of information requirements of the MSFCMA, use of this data must be carefully controlled and protected. Any requests for access to N-VMS data shall be directed to the appropriate NOAA OLE regional special agent in charge (SAC) for access to that data.

E.7. Inspection of Fixed Gear

Inspection of fixed gear (e.g., gillnets, crab/lobster pots, traps, longlines) to verify compliance with regulations is typically accomplished pursuant to Coast Guard boardings during haul back. However, units may initiate an inspection of, or receive requests from other agencies to inspect fixed gear when the fishing vessel is not present. Units shall not handle fixed gear in state waters except in cooperation with state enforcement officers. Prior to inspecting fixed gear when the fishing vessel is not present, CO/OICs shall consider the following factors:

- The inspection of fixed gear may create risk of injury to Coast Guard personnel or risk of damage to the Coast Guard vessel and the gear.
- Because Coast Guard units are not specially equipped to handle fixed gear, the inspection process will likely be difficult and time-consuming.
- Gear that is seized subsequent to inspection will require storage and preservation in accordance with proper evidence handling procedures.

E.8. Gear Conflicts

Federal regulations establish a mechanism to compensate U.S. fishers for fishing gear destroyed in the course of fishing operations by other fishing vessels operating in the U.S. EEZ. These regulations also provide a compensation mechanism for vessels seized by foreign nations under a claim of jurisdiction the U.S. does not recognize.

Gear conflicts typically involve disputes between mobile gear fishers (e.g., trawlers) and fixed gear fishers (e.g., gillnetters, long liners, crab/lobster pot fishers). They may also include conflicts between fishers using the same type of gear (e.g., encroachment on traditional territory), or disputes between resource users (e.g., recreational big game fishers, pelagic commercial long liners).

The Coast Guard is generally the first agency that fishers call to report destruction or loss of gear and units shall respond to these reports whenever practical. The following procedures apply:

- Units shall, if necessary, attempt to defuse the situation and prevent violence or retaliatory action. Although violent incidents are relatively rare, threats should be taken seriously.
- Units should investigate the incident for possible violations of the MSFCMA. It is a violation of the MSFCMA to knowingly steal, or without authorization, to remove, damage or tamper with fishing gear owned by another person which is located in the EEZ, or fish contained in such gear.
- Units shall notify state authorities when gear conflicts occur in state waters.
- Units receiving requests for assistance from fishers seeking to file claims or pursue litigation shall consult with District Legal to determine the appropriate response. Fishers reporting gear loss should be directed to the Financial Services Division, NOAA Fisheries, 1335 East-West Highway, Silver Spring, MD 20910; (301) 713-2396.

E.9. Commercial Fishing Industry Vessel Safety Act	As a result of the Commercial Fishing Industry Vessel Safety Act of 1988, regulations have been promulgated in 46 CFR Part 28 to reduce commercial fishing vessel losses and fatalities. See *Chapter 11* for enforcement policy regarding these safety regulations.
E.10. Living Marine Resources Enforcement Summary Report	Area Commanders shall complete and submit Living Marine Resources Enforcement Summary Reports in accordance with *Appendix E.*

Chapter 8
Enforcement of Protected Species and Protected Areas

Introduction

This chapter provides detailed discussion regarding the most common laws enforced by the Coast Guard in conducting enforcement of protected species and areas.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	8-3
B	Legal Framework	8-4
C	Offenses	8-5
D	Policy and Procedures	8-12

Section A. Introduction

Introduction

The Coast Guard is deeply committed to stewardship of living marine resources through an effective law enforcement program. A robust ocean environment is essential to the nation's prosperity. If the U.S. is to enjoy a rich, diverse, and sustainable ocean environment, ocean resources must be properly managed and protected. Maintaining sustainable populations of marine protected species is essential to the continued health of the ocean environment.

This section contains overarching principles or philosophies that apply to enforcement of protected species and protected areas.

A.1. Responsibilities

Federal management and enforcement responsibilities for protected species and protected areas are as follows:

- NOAA Fisheries of the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) is the lead agency for managing marine protected species. The U.S. Fish and Wildlife Service (FWS) of the Department of Interior is the lead agency for managing freshwater and terrestrial protected species. The FWS also manages sea otters, walruses, polar bears, manatees and migratory birds. Management responsibility for sea turtles is shared, with NOAA Fisheries having responsibility when turtles are at sea and FWS when onshore.
- As the only non-DoD agency with the maritime infrastructure to project a federal presence in the U.S. EEZ, the Coast Guard is the primary agency responsible for at-sea enforcement of relevant federal laws and international agreements.
- In addition to their enforcement of state laws within state boundaries (including state waters), many of the state wildlife, environmental protection, and natural resource agencies are also involved in the enforcement of relevant federal statutes.
- The NOAA General Counsel provides legal advice and represents the U.S. in the civil adjudication process for violations of federal law where NOAA Fisheries has lead agency enforcement responsibility. The FWS Regional Law Enforcement Offices represent the U.S. in the civil adjudication process for violations of federal law where the FWS has lead agency enforcement responsibility.

A.2. Interagency Relationships

Coast Guard enforcement of laws discussed in this chapter involves regulations written by another agency, enforcement priorities determined in consultation with other agencies and violations adjudicated outside of the Coast Guard. Because of these characteristics, it is essential that appropriate interagency relationships be developed to set priorities, coordinate efforts and ensure interagency consensus with respect to certain law enforcement actions.

Coast Guard units should consult NOAA Fisheries and FWS personnel regarding enforcement policy, common species and violations in their area. Direct and frequent interaction with regional NOAA Fisheries and FWS officers is highly encouraged.

Subject to availability of Coast Guard resources, units should assist state agencies where possible, including providing platforms for enforcement of state law by state officials.

See *Chapter 2.E.6* for additional policy regarding interagency cooperation.

A.3. Training

All units that are engaged in enforcing the regulations discussed in this section shall be trained and have personnel who are PQS qualified in accordance with the standards set by the District Commander. Additionally, it is important for CO's/OIC's to conduct applicable marine mammal specific training to help prevent adverse Coast Guard/marine mammal interaction and to be able to educate boaters during public interaction.

A.4. Public Affairs

Public affairs shall be handled in accordance with the *Public Affairs Manual*, COMDTINST M5728.2 (series). Because NOAA General Counsel or the U.S. Attorney's Office will ultimately decide whether a Notice of Violation and Assessment (NOVA) is issued, care must be taken when commenting on enforcement actions.

A.5. Further Guidance

Chapters 1 through 4 contain overarching policy regarding the conduct of MLE operations, including a law and policy framework, policy on the conduct of boarding operations and rules governing the use of force . These chapters apply to the entire ELT program, including operations conducted to enforce protected area and species laws.

Although *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, focuses on the counterdrug and migrant interdiction missions, it covers a wide range of general law enforcement topics that can be applied to the enforcement of laws described in this chapter. These include various legal issues; patrol tactics; pre-boarding activity; and boarding, inspection, search, seizure and arrest procedures. Where *Chapters 1 through 4* and appendixes specifically refer to the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, units shall adhere to the referenced procedures irrespective of the mission area they are executing.

Section B. Legal Framework

Introduction

This section contains discussion regarding the domestic and international legal framework for enforcement of protected species and protected areas.

B.1. Sources of Substantive Law

The U.S. has passed laws and regulations, codified in Title 16 of the United States Code and Titles 15 and 50 of the Code of Federal Regulations, to manage and protect living marine resources. Of these laws, the most significant to the Coast Guard are discussed in *Section C* of this chapter. *Appendix C* contains a list of other U.S. laws that may be applicable.

Treaties and international law lend additional support for the development of U.S. laws and/or application of U.S. laws extraterritorially. Article 118 of UNCLOS calls upon all nations to cooperate in the conservation of living marine resources. Articles 65 and 120 petition all nations to conserve and protect marine mammals. The International Convention for the Regulation of Whaling seeks to manage international efforts for the conservation of whales and includes provisions to prevent indiscriminate killing of whales. The Convention on International Traffic in Endangered Species of Wild Fauna and Flora (CITES) establishes international protocol with respect to trade in endangered species. These international legal regimes are reflected in the U.S. statutory framework for this mission area.

B.2. Authority and Jurisdiction

With the exception of those special circumstances described in *Chapter 2.C*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action.

B.2.a. Authority

As discussed in *Chapter 2.A*, the Coast Guard's primary authority to enforce substantive U.S. living marine resource laws is provided in Title 14 of the United States Code.

B.2.b. Jurisdiction

Jurisdiction is comprised of three elements:

- Vessel status/flag.
- Location.
- Substantive law.

Two of the three jurisdictional elements (vessel status/flag and location) are addressed in *Chapter 2*. Jurisdiction over substantive laws related to protected species and protected areas are addressed in *Section C.1* of this chapter. Jurisdiction over the substantive law does not preclude the need for units to establish whether jurisdiction over the vessel status/flag and location also exists.

Section C. Offenses

Introduction

This section contains a list of the criminal and/or civil offenses applicable to enforcement of protected species and protected areas. Each offense is discussed in terms of its elements, applicability, and enforcement policy.

C.1. Endangered Species Act (ESA), 16 USC 1531-1544

The ESA provides a program for the conservation of endangered and threatened species and the ecosystems upon which they depend. In order to implement the ESA, numerous regulations are promulgated in Title 50 CFR. Although the statutory provisions of the ESA are addressed below, it is beyond the scope of this Manual to describe elements and enforcement policy associated with each regulation. However, regulations established pursuant to the ESA for turtle excluder devices (TED), critical habitat areas, and minimum approach distances for certain whale species merit particular attention and are discussed in *Chapter 8.D*. Customized extracts from the CFR are provided to enforcement units by Commandant (G-OPL) based on their geographic location and probable patrol areas. These extracts are arranged in volumes according to region and provide units with a summarized, topical reference publication. The publisher automatically distributes regular supplements reflecting changes to the regulations. Questions regarding this service should be directed to Commandant (G-OPL-5).

C.1.a. Elements

It is unlawful for any person to:

- Import any endangered species into, or export any such species from, the U.S. (endangered species also include any products, eggs, body parts or dead bodies of any of the species on the list).
- Take any endangered species within the U.S., the territorial sea of the U.S., or upon the high seas (take any endangered species means to harass, harm, pursue, hurt, shoot, wound, kill, trap, capture or collect an endangered species).
- Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any species taken in violation of *bullet 2* above.
- Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity, any such species.
- Sell or offer for sale in interstate or foreign commerce any endangered species.

- Violate any regulation pertaining to endangered species (e.g., requirements for TEDs, prohibitions on entering critical habitat exclusion areas, minimum approach distances for northern right whales and humpback whales) or to any threatened species of fish or wildlife listed pursuant to 16 USC 1533(c) and promulgated by the Secretary.
- Attempt any of the above.

C.1.b. Applicability

The ESA applies to any person or vessel shoreward of 3 NM from the baseline and to U.S. persons and vessels wherever located, except in the territorial sea of a foreign nation. Limited exceptions where the provisions of the ESA do not apply are as follows:

- Persons holding valid permits issued by the Department of Commerce or Department of Interior. These permits are very limited in scope, and are normally issued only for purposes of scientific research, enhancement of the species or taking endangered species, incidental to lawful activities.
- Any Indian, Aleut, or Eskimo who is an Alaskan Native residing in Alaska, or any non-native permanent resident of an Alaskan native village is exempt with respect to the taking or subsequent importation of any endangered species, if such taking is primarily for subsistence purposes and not wasteful.

The prohibitions listed above apply to endangered species only. These same prohibitions can be made applicable to threatened species via regulations promulgated by the Secretary of Interior or the Secretary of Commerce (see 16 USC 1533(c)). In practice, the Secretary extends the prohibitions to a threatened species when it is first listed.

Lists of species regulated by the ESA are contained in 50 CFR 223 (threatened species) and 50 CFR 224 (endangered species). A comprehensive list of all threatened and endangered species is contained in 50 CFR 17.

C.1.c. Enforcement Policy

The ESA provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For violations of the ESA, concurrence on the part of interagency stakeholders (e.g., NOAA General Counsel, NOAA Fisheries Enforcement, FWS, U.S. Attorney) is required prior to taking enforcement action. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).

C.1.c.1. Civil Penalty Process

The civil penalty process is the preferred enforcement option for the ESA. The civil penalty process is initiated by completing the EAR (Form CG-5201 as described in *Appendix E*) and the case package documentation required by the District Commander.

C.1.c.2. Arrest

For a violation of the ESA, arrest is normally reserved for only the most egregious and deliberate violations against protected species. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

C.1.c.3. Seizure

For a violation of the ESA, any protected species taken, retained or possessed in violation of the Act, and any other evidence related to the violation are subject to seizure. In most cases, protected species that are seized should, if alive, be photographed/videotaped and returned to the sea; if dead or unlikely to survive, be returned to port for transfer to another agency. Seizure of the vessel and any guns, traps, nets, and other equipment used to take the protected species is only authorized subsequent to a criminal conviction. In all cases, units shall contact OPCON for guidance regarding disposition of the vessel, the protected species and other equipment.

C.1.c.4. Case Package Preparation	A case package is required for any violation of this statute (civil or criminal) and shall be prepared in accordance with guidance provided by the District Commander.
C.1.d. Other	While the ESA does not apply to foreign flag vessels seaward of the U.S. territorial sea, enforcement action may be pursued by seeking flag State authorization through diplomatic channels. However, enforcement against foreign flag vessels should be limited to egregious violations, such as intentional taking and retention or other acts involving true harm to the species involved.
C.1.d.1. Endangered Sea Turtles	To protect endangered sea turtles, regulations located in 50 CFR 223 require shrimp trawlers in certain regions of the Atlantic and in the Gulf of Mexico to have an approved TED in each net that is rigged for fishing. For specific regulatory requirements, refer to 50 CFR 223, located in the South Atlantic and Gulf of Mexico volumes of the customized CFR extracts provided by Commandant (G-OPL).
C.1.d.2. Critical Habitats	Regulations contained in 50 CFR 226 identify designated critical habitats for endangered and threatened species. For specific regulatory requirements, refer to the customized CFR extracts provided by Commandant (G-OPL). Prohibitions on entering critical habitat areas also apply to Coast Guard units even when conducting MLE.
C.1.d.3. North Atlantic Right Whale	Regulations contained in 50 CFR 224.103 make it unlawful to approach within 500 yards of a North Atlantic right whale by a vessel, aircraft or other means, or fail to take required avoidance measures. Avoidance measures include steering a course away from the right whale and immediately leaving the area at a slow, safe speed. This regulation does not apply to approaches authorized by NOAA Fisheries or to vessels unable to comply because they are restricted in ability to maneuver.
C.1.d.4. Humpback Whale	Regulations contained in 50 CFR 224.103 make it unlawful, when within 200 NM of the Islands of Hawaii, to approach within 100 yards of a humpback whale.
C.1.d.5. Potential Rewards	16 USC 1540(d) provides for potential rewards for private persons who observe and report ESA violations. Units shall direct inquiries regarding potential rewards to the regional NOAA Fisheries office.
C.2. Marine Mammal Protection Act (MMPA), 16 USC 1361-1407	The MMPA provides a program to ensure optimum sustainable populations of marine mammals. In order to implement the MMPA, numerous regulations are promulgated in Title 50 CFR. Although the statutory provisions of the MMPA are addressed below, it is beyond the scope of this Manual to describe elements and enforcement policy associated with each regulation. These regulations are described in the customized CFR extracts provided by Commandant (G-OPL).
C.2.a. Elements	It is unlawful for any person to do any of the following: • Take marine mammals; take marine mammals means to harass, hunt, capture, collect, or kill or attempt to do any of the above. This includes collecting dead animals or parts, restraining or detaining no matter how temporary, or the negligent operation of an aircraft or vessel which results in the disturbing or molesting of a marine mammal. • Possess, transport, sell, or offer to purchase or sell any marine mammal or product that is made from marine mammals taken in violation of the MMPA. • Import any marine mammal or product that is made from marine mammals taken in violation of foreign law.

- Violate an MMPA regulation regarding: the number of animals which may be taken in a calendar year; the age, size, or sex restrictions on importation; the restrictions on time, method, and location of taking; or the prohibited fishing techniques causing undue fatalities to marine mammals.
- Violate an MMPA permit.
- Fail to have an issued MMPA permit in one's possession when engaged in the activity allowed by the permit.

C.2.b. Applicability

The MMPA applies to any person or vessel shoreward of 3 NM from the baseline and to U.S. persons and vessels wherever located, except in the territorial sea of a foreign nation. Limited exceptions where the provisions of the MMPA do not apply are as follows:

- Any Indian, Aleut, or Eskimo who is an Alaskan Native residing in Alaska, or any non-native permanent resident of an Alaskan native village is exempt with respect to the taking or subsequent importation of any endangered species, if such taking is primarily for subsistence purposes and not wasteful.
- Marine mammals and marine mammal products taken or imported prior to 21 October 1972.
- Marine mammals taken under the provision of permits issued by the Departments of Commerce or Interior.
- Marine mammals taken in a humane manner (including euthanasia) by authorized officials for the protection or welfare of an individual marine mammal, the protection of the public health and welfare (including emergency disposal of carcasses as a hazard to navigation), or the non-lethal removal of nuisance animals. Authorized officials include federal, state, and local government employees in the performance of official duties, and members of the marine mammal Stranding Networks.

C.2.c. Enforcement Policy

The MMPA provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For violations of the MMPA, concurrence on the part of interagency stakeholders (e.g., NOAA General Counsel, NOAA Fisheries Enforcement, FWS, U.S. Attorney) is required prior to taking enforcement action. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).

C.2.c.1. Civil Penalty Process

The civil penalty process is the preferred enforcement option for the MMPA. The civil penalty process is initiated by completing the EAR (Form CG-5201 as described in *Appendix E*) and the case package documentation required by the District Commander.

C.2.c.2. Arrest

For a violation of the MMPA, arrest is normally reserved for only the most egregious and deliberate violations against marine mammals. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

C.2.c.3. Seizure

For a violation of the MMPA, any marine mammal taken, retained or possessed in violation of the Act, and any other evidence related to the violation are subject to seizure. In most cases, marine mammals that are seized should, if alive, be photographed/videotaped, examined for identifying tags or markings and returned to the sea. Dead or injured marine mammals may pose a potential hazard to navigation if left floating in navigable waterways. See *Section D.1.a* of this chapter for guidance regarding disposal of dead marine mammals. The vessel's cargo (e.g., other catch) is also subject to seizure. In all cases, units shall contact OPCON for guidance regarding disposition of the cargo, the mammal, and other evidence.

C.2.c.4. Case Package Preparation

A case package is required for any violation of this statute (civil or criminal) and shall be prepared in accordance with guidance provided by the District Commander.

C.2.d. Other

While the MMPA does not apply to foreign flag vessels seaward of the U.S. territorial sea, enforcement action may be pursued by seeking flag State authorization through diplomatic channels. However, enforcement against foreign flag vessels should be limited to egregious violations, such as intentional taking and retention or other acts involving true harm to the species involved.

Certain marine mammals are also threatened or endangered species under the ESA (e.g., North Atlantic right whale, Stellar sea lion, Hawaiian monk seal). Case packages involving threatened or endangered marine mammals should cite applicable provisions of both the ESA and the MMPA.

16 USC 1376(c) provides for potential rewards for private persons who observe and report MMPA violations. Units shall direct inquiries regarding potential rewards to the regional NOAA Fisheries office.

C.3. National Marine Sanctuaries Act (NMSA), 16 USC 1431-1445

The NMSA provides for designation of discrete areas of the marine environment as national marine sanctuaries to promote comprehensive management of their unique ecological, historical, recreational, and aesthetic resources. Each marine sanctuary is managed and regulated with regard to its location and the specific nature of, and threats to, its resources. In order to implement the NMSA, each sanctuary has its own separate set of regulations promulgated in Title 15 CFR. Although the statutory provisions of the NMSA are addressed below, it is beyond the scope of this Manual to describe elements and enforcement policy associated with each regulation. These regulations are described in the customized CFR extracts provided by Commandant (G-OPL).

C.3.a. Elements

It is unlawful for any person to do any of the following:

- Destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary.
- Possess, sell, offer for sale, purchase, import or export, deliver, carry, transport, or ship by any means any illegally taken sanctuary resource.
- Violate any provision of the NMSA or any regulation or permit issued under the NMSA.
- Interfere with enforcement of the NMSA. Interference includes assaulting, resisting, opposing, impeding, intimidating, or interfering with an authorized officer conducting a search or inspection, refusing a boarding, and submitting false information in connection with a search or inspection.

C.3.b. Applicability

The NMSA applies to any person or vessel in the U.S. EEZ and territorial sea, and to U.S. persons and vessels wherever located, except in the territorial sea of a foreign nation.

A list of designated national marine sanctuaries is contained in 15 CFR 922.

C.3.c. Enforcement Policy

The NMSA provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for seizure. For violations of the NMSA, concurrence on the part of interagency stakeholders (e.g., NOAA General Counsel, NOAA Fisheries Enforcement, FWS) is required prior to taking enforcement action. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).

C.3.c.1. Civil Penalty Process	The civil penalty process is initiated by completing the EAR (Form CG-5201 as described in *Appendix E*) and the case package documentation required by the District Commander.
C.3.c.2. Arrest	For a violation of the NMSA, arrest is normally reserved for the most egregious and deliberate violations within the sanctuary. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.3.c.3. Seizure	For a violation of the NMSA, any sanctuary resource taken, retained, or possessed in violation of the Act, the vessel, and any other evidence related to the violation are subject to seizure. In all cases, units shall contact OPCON for guidance regarding disposition of the sanctuary resource, vessel, and other evidence.
C.3.c.4. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with guidance provided by the District Commander.
C.3.d. Other	Coast Guard vessels or aircraft transiting through or near national marine sanctuaries should be alert to potential NMSA violations. Units are encouraged to provide routine surveillance of the sanctuaries concurrent with other Coast Guard operations, and to provide targeted law enforcement as appropriate and on an as-requested basis. In addition to enforcing sanctuary regulations issued under the NMSA, units shall ensure compliance with other applicable natural resource-related regulations (e.g., MSFCMA, ESA). Coast Guard sanctuary enforcement activities should be coordinated with the regional NOAA Fisheries special agent in charge and local sanctuary managers. Coast Guard units should inform NOAA Fisheries and local sanctuary managers of other Coast Guard operations occurring within sanctuary boundaries. Each sanctuary already has or will soon have a Sanctuary Advisory Council (SAC) made up of representatives from the major constituent groups, state agencies and applicable federal agencies. Coast Guard participation in the SAC should be encouraged and fostered as it provides an excellent forum to exchange information and ensure that sanctuary regulations are enforceable. This will aid in determining the most efficient response to potential enforcement issues.
C.4. Migratory Bird Treaty Act (MBTA), 16 USC 703	The MBTA was enacted to help preserve certain species of migratory birds and to regulate their importation and exportation. In order to implement the MBTA, regulations are promulgated in Title 50 CFR. Although the statutory provisions of the MBTA are addressed below, it is beyond the scope of this Manual to describe elements and enforcement policy associated with each regulation.
C.4.a. Elements	It is unlawful, with respect to any migratory bird, part, nest, egg, or any product, to pursue, hunt, take, capture or kill, attempt to take, capture or kill or possess, offer for sale, sell, offer to barter, offer to purchase, deliver for shipment, ship, export, or import.
C.4.b. Applicability	The MBTA applies to any person or vessel shoreward of 3 NM from the baseline and to U.S. persons and vessels wherever located, except in the territorial sea of a foreign nation. MBTA prohibitions do not apply to activities conducted pursuant to a Commerce Department permit or license.

A list of designated birds protected under the MBTA is contained in 50 CFR 10.13.

C.4.c. Enforcement Policy

The MBTA provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For violations of the MBTA, concurrence on the part of interagency stakeholders (e.g., FWS) is required prior to taking enforcement action. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).

C.4.c.1. Arrest

For a violation of the MBTA, arrest is normally reserved for only the most egregious and deliberate violations against migratory birds. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

C.4.c.2. Seizure

For a violation of the MBTA, any prohibited item taken, retained or possessed in violation of the Act, the vessel, and any other evidence related to the violation are subject to seizure. Seizure of any guns, traps, nets and other equipment used to take the protected species is also authorized. In all cases, units shall contact OPCON for guidance regarding disposition of the vessel, the prohibited item, and other equipment.

C.4.c.3. Case Package Preparation

A case package is required for any violation of this statute and shall be prepared in accordance with guidance provided by the District Commander.

C.4.d. Other

While the MBTA does not apply to foreign flag vessels seaward of the U.S. territorial sea, enforcement action may be pursued by seeking flag State authorization through diplomatic channels. However, enforcement against foreign flag vessels should be limited to egregious violations, such as intentional taking and retention or other acts involving true harm to the species involved.

C.5. National Wildlife Refuge (NWR) System, 16 USC 668dd

The NWR system provides for administration of a national network of lands and waters for the conservation, management, and where appropriate, restoration of fish, wildlife, and plant resources and their habitats. In order to implement the NWR system, regulations are promulgated in Title 50 CFR. Although the statutory provisions of the NWR system are addressed below, it is beyond the scope of this Manual to describe elements and enforcement policy associated with each regulation.

C.5.a. Elements

It is unlawful for any person to do any of the following:

- Disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the U.S., including natural growth from a NWR.
- Take or possess any fish, bird, mammal, or other wild vertebrate or invertebrate or part or nest or egg from a NWR.
- Enter, use, or otherwise occupy a NWR for any purpose other than those authorized by the Act.

C.5.b. Applicability

NWR prohibitions apply to any act committed within the geographic limits of designated refuges. NWR prohibitions do not apply, however, to the following:

- Activities performed by persons authorized to manage the area.
- Activities permitted by the Department of Interior.
- Activities permitted by law, Presidential Proclamation, Executive Order, or public land order creating the area.

Regulations regarding hunting and fishing in designated refuges are contained in 50 CFR 32-35.

C.5.c. Enforcement Policy	The NWR system provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For any NWR violation, concurrence on the part of interagency stakeholders (e.g., FWS) is required prior to taking enforcement action. If concurrence cannot be obtained at the regional level, District (ole) shall consult with Commandant (G-OPL).
C.5.c.1. Arrest	For NWR violations, arrest is authorized. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.5.c.2. Seizure	For NWR violations, any prohibited item taken, retained, or possessed in violation of the NWR system and any other evidence related to the violation are subject to seizure. In all cases, units shall contact OPCON for guidance regarding disposition of the prohibited item and other evidence.
C.5.c.2. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with guidance provided by the District Commander.
C.5.d. Other	Coast Guard vessels or aircraft transiting through or near NWRs should be alert to potential NWR violations. Units are encouraged to provide routine surveillance of the wildlife refuges concurrent with other Coast Guard operations, and to provide targeted law enforcement as appropriate and on an as-requested basis. Units should consult with their District law enforcement office for a list of NWRs located in their area of operations. In addition to enforcing regulations issued under the NWR system, units shall ensure compliance with other applicable natural resource-related regulations (e.g., MSFCMA, ESA). Coast Guard refuge enforcement activities should be coordinated with the regional FWS office. Coast Guard units should inform FWS of other Coast Guard operations occurring within refuges.

Section D. Policy and Procedures

Introduction	This section contains policy and procedures that apply to all protected species and protected area laws and enforcement efforts.
D.1. Marine Mammal Assistance Program	Pursuant to Letters of Authorization issued by NOAA Fisheries, the Coast Guard is authorized to provide initial response actions for the immediate protection or welfare of a beached, stranded or entangled marine mammal. Private individuals who have received NOAA Fisheries Letters of Authorization or FWS permits (in the case of endangered species such as manatees or sea otters) are also authorized to respond. Coast Guard units should conduct initial response actions in accordance with the procedures contained in *Section D.2* of this chapter.

D.1.a. Rescue and Disposal Operations	Beached, stranded, and entangled marine mammals, whether dead or alive, are protected by the MMPA and/or ESA. Therefore, rescue or disposal operations for these animals may be carried out only under the authority of NOAA Fisheries or the FWS (depending on the species). The above mentioned Letters of Authorization permit Coast Guard units to participate in such operations as agents of NOAA Fisheries, but units should contact the local Stranding Network or NOAA Fisheries as soon as practical. In areas where repeated strandings, beachings, or entanglements are likely, District and Area Commanders should develop standing agreements with interagency stakeholders to ensure Coast Guard units are able to promptly provide appropriate levels of assistance consistent with availability of resources. When assisting in rescue and disposal operations, Coast Guard units shall follow the procedures contained in *Section D.3* of this chapter.
D.1.b. Local Stranding Networks	In many areas, local Stranding Networks are established to ensure prompt and appropriate response to marine mammal strandings. Each District shall maintain a list of Stranding Network points of contact for their area of operations.
D.1.c. Local Disentanglement Networks	In some areas, local Disentanglement Networks are established to ensure prompt and appropriate response to marine mammal entanglements. Each District shall maintain a list of Disentanglement Network points of contact for their area of operations.
D.2. Procedures for Initial Response	Authorized initial response actions are normally limited to observation of the animal and, if necessary, first aid to promote the survival of the animal. Normally, initial response actions can be undertaken as agents of NOAA Fisheries, and any actions beyond those described in the Letters of Authorization require express authorization from NOAA Fisheries or the FWS. Notwithstanding the Letters of Authorization, units should contact the local Stranding Network or NOAA Fisheries as soon as practical.
D.2.a. Pinnipeds	Coast Guard units that encounter or respond to a pinniped (e.g., seal, sea lion, walrus) that is in apparent distress shall immediately notify the local Stranding Network. In most cases, appropriate action may be limited to observing the animal for a period of 24 to 48 hours to ensure the animal is not in need of medical assistance. Under no circumstances should pups be picked up; their mothers often leave them for periods of time to feed. If a pup is picked up in violation of the MMPA, the pup should be returned to the spot where it was picked up and observed to determine if the mother returns. If it becomes apparent that the animal requires more drastic intervention to ensure its survival, units shall notify NOAA Fisheries or the FWS for direction in accordance with *Section D.3* of this chapter.
D.2.b. Cetaceans	Any cetacean (e.g., whale, dolphin, porpoise) that is alive and on the beach requires immediate attention. Cetaceans overheat very quickly due to their thick blubber layer. Units that encounter or respond to a beached or stranded cetacean shall immediately notify the local Stranding Network. Units should also take appropriate first aid measures including keeping the animal wet and protected from the sun (e.g., wet blankets), ensuring that the blowhole remains clear and applying ice packs to the flippers, dorsal fin, and flukes. Any attempt to return the animal to the sea constitutes a rescue operation and shall not be conducted, except upon the request and under the direction of NOAA Fisheries.
D.3. Procedures for Rescue and Disposal	Although rescue and disposal operations may only be conducted with authorization from NOAA Fisheries or the FWS, Coast Guard units may be the first or only government agency on scene. As such, the following guidelines are provided:

D.3.a. Rescue of Pinnipeds and Cetaceans	Coast Guard units are normally requested by NOAA Fisheries or the FWS to assist rescue and disposal operations by providing security, logistical support and/or transportation of the animal to the sea or a rehabilitation facility.
D.3.b. Entangled Animals	Attempting to free animals entangled in fishing gear or debris can be dangerous and should only be undertaken in exigent circumstances. Approaching entangled whales can result in fouling of screws in trailing gear, capsizing of small boats, and severe injury from flukes or flippers. Only personnel with appropriate training should attempt to disentangle large whales. Every effort should be made to have members of the local Disentanglement Network conduct the actual disentanglement. In general, the most appropriate response to large whale entanglements by Coast Guard units is to keep the animal under surveillance until disentanglement personnel arrive on scene and to provide logistical support for disentanglement operations as directed. If possible, units should also document the entanglement with digital pictures.
D.3.c. Disposal of Carcasses	Units that encounter or respond to a report of an animal carcass shall immediately notify the local Stranding Network and NOAA Fisheries or the FWS. Units may be directed by NOAA Fisheries or the FWS to assist in disposal operations. Primary considerations with respect to disposal operations are to protect public health and safety, record biological data and control the harvesting of animal parts. Guidelines for disposal of carcasses are as follows: • The animal should be secured or hauled above the high water mark for examination. If practicable, photographs or videotape should be taken as soon as possible. The color pattern of most cetacean species becomes obscure soon after death. Side views of the whole animal are useful for species identification. A view of the underside of an animal can assist in species identification. Close-ups of the head, dorsal fin, appendages, and the underside of the flukes are important. In some species, these photographs can be used to identify individual animals from catalogs of known animals. Photographs should also be taken of any cuts, lesions, or wounds that may be attributable to human interactions or indicate cause of death. • Dynamiting of dead animals on the beach is prohibited. • It is unlawful for any person to harvest parts from carcasses of animals that are protected under the ESA. Specifically authorized persons (e.g., members of local Stranding Networks) may harvest parts from carcasses of animals that are protected under the MMPA for research and analysis purposes. Under the Letters of Authorization, Coast Guard members are authorized to harvest parts from carcasses, but should only do so when requested by NOAA Fisheries or Stranding Network members. • If a carcass is to be removed by towing it away from shore, it shall be towed to an area where it can safely be disposed of without impeding vessel traffic. • Weapons may be used to sink floating carcasses at the discretion of OPCON.

D.4. Sighting Reports

Units that encounter, or are otherwise informed of, a beached or stranded marine mammal shall contact the local Stranding Network representative immediately and provide a Sighting Report. In areas where there is no Stranding Network, units shall provide a Sighting Report to NOAA Fisheries or the FWS, as appropriate. Sighting Reports shall include the following minimum information:

- Location of the marine mammal (as specific as possible, with information on accessibility), time found, and reporter's name and telephone number.
- Species and number of animals. If the species is unknown, provide detailed identifying characteristics that may aid in species identification.
- Approximate size and physical condition of the animal. If dead, the condition of the carcass (e.g., fresh, rotting, skin, and bones).

Chapter 9
Environmental/Pollution Law Enforcement

Introduction

This chapter provides guidance for U.S. Coast Guard units and personnel conducting operations that may result in enforcement action against persons or companies who violate marine environmental laws. Environmental/pollution law enforcement cases frequently involve marine safety units, afloat units and shore operation units, working together. Because of the cross-programmatic nature of environmental/pollution enforcement actions, this chapter is promulgated as both a chapter in this Manual and the *Marine Safety Manual*, COMDTINST M16000 (series). Units engaged in environmental/pollution enforcement actions should be familiar with both of these publications, and have them readily available, as important amplifying information is contained in both.

This chapter provides a detailed discussion regarding the Coast Guard's maritime environmental/pollution enforcement program.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	9-3
B	Legal Framework	9-4
C	Offenses	9-5
D	Policy and Procedures	9-12

Section A. Introduction

Introduction

This section contains overarching principles or philosophies that apply to the enforcement of maritime environmental/pollution laws addressed in this chapter.

A.1. Responsibilities

The U.S. Coast Guard has two primary responsibilities with respect to protection of the marine environment:

- Ensuring that a timely and effective response is initiated in response to actual pollution incidents.
- Enforcing the applicable marine environmental protection statutes and implementing regulations.

The primary concern when enforcing these laws, after the safety of people, is protection of the marine environment. The *Marine Safety Manual*, *Volume IX, Marine Environmental Protection,* COMDTINST M16000.14 (series), addresses marine environmental response in more detail. Non-marine safety field units must recognize that environmental response activities are inherently dangerous. Field personnel without appropriate training (such as HAZWOPER training) should not attempt an environmental response without first notifying higher authority.

A.2. Law Enforcement

The U.S. Coast Guard is the primary federal agency responsible for the enforcement of environmental laws and treaties of the U.S. on the high seas, in the EEZ, in coastal areas, and in and along the navigable waters of the U.S. Shoreward of the baseline, the Coast Guard shares this responsibility with the Environmental Protection Agency (EPA). There are numerous federal laws that protect the marine environment that the U.S. Coast Guard has a responsibility to enforce. Many of these laws provide for administrative, civil, and criminal sanctions for violations of statutory requirements or implementing regulations. Some of these laws authorize criminal sanctions for negligent conduct, some require knowing or willful misconduct, and some establish strict criminal liability for violations. It is very important that investigations of potential violations of marine environmental laws are performed in a manner that will protect all enforcement options.

U.S. Coast Guard personnel actively enforce marine environmental laws by detecting, investigating, and reporting pollution events and violations of law relating to environmental protection. In general, the role of U.S. Coast Guard field units and personnel is early detection and prompt reporting of potential violations so the cognizant District Commander can, in accordance with 33 CFR 1.07-90, determine whether to pursue a civil penalty action or refer the matter to the DOJ for criminal prosecution. While that determination sometimes needs to be made very quickly, it must nevertheless be based on a reasoned assessment of accurately transmitted facts and recommendations. Potential criminal violations should be reported orally via informal methods such as telephone calls or radio transmission; lengthy written reports unnecessarily delay timely action.

A.3. Interagency Relationships

District staffs and the CGIS will assist with investigative resources, legal expertise, and liaison with federal prosecutors in evaluating each case and advising the District Commander on referring the case for prosecution. Although U.S. attorneys do not need a referral from the U.S. Coast Guard to prosecute a case, the referral process provides a good mechanism for bringing important cases to the attention of the appropriate U.S. Attorney.

The U.S. Coast Guard, working in concert with DOJ and other federal, state, and local agencies, is dedicated to vigorous enforcement of marine environmental laws. The U.S. Coast Guard will cooperate with DOJ and other law enforcement agencies to effectively use resources in support of any criminal prosecution.

Section B. Legal Framework

Introduction

This section contains a discussion regarding the domestic and international legal framework for enforcement of maritime environmental/pollution laws addressed in this chapter.

B.1. International Law and Agreements

International law and agreements are a major source of the pollution prevention standards applicable to the shipping industry. Various international agreements establish a framework for cooperation among nations in responding to significant pollution incidents. Most of the important international agreements were negotiated and adopted and/or administered under the auspices of the International Maritime Organization, a specialized maritime agency of the United Nations. Among the most important treaties for protection of the marine environment are the International Convention for the Prevention of Pollution from Ships (MARPOL), the Intervention on the High Seas Convention, and the London Dumping Convention. Federal law implements these treaties. For MARPOL, the treaty is implemented by the Act to Prevent Pollution from Ships (APPS, 33 USC 1901-1912). The Intervention Convention is implemented by the Intervention on the High Seas Act (33 USC 1471 *et seq*.). See the *Marine Safety Manual*, *Volume IX, Marine Environmental Protection,* COMDTINST M16000.14 (series), for further guidance. The London Convention is implemented by the Ocean Dumping Act (33 USC 1401 *et seq*.).

B.2. Domestic Law and Regulations

U.S. domestic law is also an important source of pollution prevention standards applicable to U.S. vessels and foreign flag vessels or facilities in U.S. waters. Among the most important domestic laws for vessel pollution are the Federal Water Pollution Control Act (FWPCA, also known as the Clean Water Act); 33 USC 1301 et seq, APPS; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC 9603; and the Oil Pollution Act of 1990 (OPA 90), Pub. L. No. 101-380, 104 Stat. 484 (codified as amended in sections of 33 USC and 46 USC). The majority of the environmental violations encountered by the U.S. Coast Guard involve the discharge of oil or hazardous substances from vessels or facilities. The Clean Water Act (CWA) generally prohibits such a discharge. Negligent or knowing discharge of oil or hazardous substances in violation of 33 USC 1319(c) is the most common offense. It may be possible to charge these discharge violations in other ways, such as violations of 33 CFR Part 151, which is enforceable under 33 USC 1908(a) of APPS. However, if U.S. Coast Guard field enforcement personnel collect evidence to prove the elements for the discharge offense under 33 USC 1319(c) and 1321(b)(3), that will suffice until more detailed guidance is received from the District Legal Office or a federal prosecutor.

Section C. Offenses

Introduction

This section contains a list of the criminal and/or civil offenses applicable to the maritime environmental/pollution mission area. Each offense is discussed in terms of its applicability, elements and associated enforcement policy.

C.1. Clean Water Act (33 USC 1319 and 1321)

The purpose of the Clean Water Act (CWA) is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The CWA charges the U.S. Coast Guard and the Administrator of the EPA with enforcing its provisions. Criminal violations of the CWA investigated and documented by the U.S. Coast Guard are prosecuted by DOJ.

C.1.a. Elements

Where the CWA applies, it is unlawful for any:

- *person* – individual or corporation (including employees or agents acting on their behalf);
- *through knowing conduct or negligent act or omission* (that results in a discharge) – simple negligence (as opposed to gross negligence) is all that is required to establish the misdemeanor offense. An act or omission is negligent if it results from a failure to use reasonable care (the care a reasonable person would use under the circumstances);
- *to discharge* – spill, leak, pump, pour, emit, empty or dump into the water or adjoining shoreline. The Government must establish that the defendant's vessel or facility is the source of the pollution via observation, matched samples from the water and source, etc.;
- *oil, hazardous substances, or other non-permitted pollutants* – oil includes both petroleum and non-petroleum oils (mineral/vegetable). Hazardous substances are those listed at 40 CFR Part 116, and generally include dangerous chemicals. See also 33 USC 1319(c)(7). It is also a crime to discharge a "pollutant" into the water except pursuant to a permit. A pollutant is broadly defined to include such materials as dredge spoil, solid waste, rock sand, sewage, agricultural waste, and even heat. However, it does not include sewage legally discharged from an approved marine sanitation device (MSD) on a vessel under 33 CFR Part 159. MSD violations are separately enforced under 33 USC 1322.
- *in a quantity that may be harmful* – according to 40 CFR 110.3, any discharge of oil that produces a visible sheen on the water out to 12 NM "may be harmful." From 3 to 12 NM offshore, MARPOL has a narrow exception permitting discharges of less than 15 parts per million through an oily-water separator with a bilge monitor and alarm, but, generally speaking, this amount of oil will not create a sheen. For discharges outside 12 NM but within the U.S. 200 EEZ, in addition to an oil discharge creating a sheen, the discharge must be in a quantity as may "affect" U.S. natural resources. Evidence of fish or bird kills as a result of a discharge should be collected in the EEZ. Reportable quantities of hazardous substances are listed in tables at 40 CFR 117.

C.1.b. Applicability

The CWA applies out to the limit of the EEZ, and includes activities regulated by the Outer Continental Shelf Lands Act. However, as described above, the elements of offenses vary depending on whether the violation occurs in the navigable waters, the contiguous zone, or the EEZ.

C.1.c. Enforcement Policy

If CWA violations are discovered during a U.S. Coast Guard boarding or patrol, administrative, civil, or criminal sanctions may be initiated by the U.S. Coast Guard.

The CWA authorizes the Coast Guard to impose two types of civil penalties, Class I (up to $27,500 per violation) and Class II (up to $137,500 per violation). Each day of a continuing offense constitutes a separate violation. The CWA includes criminal penalties for knowing discharges (felony) and negligent discharges (misdemeanor). A person acts knowingly if that person performs the acts that constitute the violation intentionally and not as a result of accident or mistake. The Government need not show that the suspected violator knew that the action was unlawful. If a person knows at the time that the act places another person in imminent danger of death or serious bodily injury, an even greater penalty is authorized. To determine whether civil penalty or criminal action is appropriate, see *Section D.4.c* of this chapter.

In cases involving foreign flag vessels, see the SNO matrix in *Appendix D*.

C.1.d. Failure to Report

The CWA (33 USC 1321 (b)(5)) includes a criminal penalty (felony) for failure to report a discharge of oil or a hazardous substance. In order to prove this charge, the Government must show that a person in charge of a vessel or facility from which oil or a hazardous substance is discharged, in a quantity that may be harmful, into U.S. navigable waters, contiguous zone, or adjoining shoreline, fails to immediately notify the appropriate federal agency as soon as that person has knowledge of the discharge.

C.1.e. CERCLA Notification

There is also a reporting requirement under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC 9603) for failure to make emergency notifications of discharges of hazardous substances. CERCLA requires notification when hazardous substances, in an amount equal to or greater than a reportable quantity (reportable quantities are identified in 40 CFR Part 302, Table 302.4), are released into the environment from a facility or vessel without a federal permit and the person in charge of the vessel or facility failed to notify the appropriate agency of the U.S. Government immediately after becoming aware of the release. The list of hazardous substances under CERCLA is more comprehensive than under the CWA. A complete list of substances covered by CERCLA is available at 40 CFR Part 302, Table 302.4. CERCLA includes a criminal penalty provision (felony).

C.1.f. False Statement or Tampering with a Monitoring Device

The CWA (33 USC 1319(c)(4)) includes a criminal penalty (felony) for a false statement in a report or document or tampering with a monitoring device. In order to prove this charge, the Government must show that a person makes a material statement, representation, or certification in any application, record, report, plan, or other document knowing that the statement, etc., is false or show that a person knowingly tampers with or renders inaccurate any monitoring device. Tampering would indicate some act beyond normal operation of the monitoring device (i.e., altering the monitoring device in some way so as to cause an inaccurate reading).

C.1.g. Federal Regulations

Federal Regulations in 33 CFR Parts 151-159 provide stringent requirements concerning the equipment and procedures governing the transfer and storage of oil and hazardous substance on vessels and facilities.

C.2. Act to Prevent Pollution from Ships (33 USC 1901-1912)

The Act to Prevent Pollution from Ships (APPS) implements MARPOL through domestic legislation. APPS charges the U.S. Coast Guard with enforcing its provisions. Criminal violations of APPS investigated and documented by the U.S. Coast Guard are prosecuted by DOJ.

C.2.a. Elements	Where APPS is applicable, a discharge is unlawful in the following situations:
C.2.a.1. Less than 12 NM from Land	Where APPS is applicable, a discharge is unlawful within 12 NM of land by ships other than oil tankers or from machinery space bilges of an oil tanker when a: • Person; • Knowingly–a person acts knowingly if that person performs the act that constitutes the violation intentionally and not a result of accident or mistake. The Government need not show that the suspected violator knew that the action was unlawful (this element is not required for civil penalty action); • Discharges oil or oily mixtures into the sea less than 12 NM from land (oil under APPS is only petroleum-based oil); • From a vessel that is not an oil tanker that is subject to U.S. Coast Guard regulations issued under APPS or from the machinery space bilges of an oil tanker; • And the vessel cannot establish one of the following facts: ➢ The oil or oily mixture did not originate from the cargo room pump bilges; ➢ The oil or oily mixtures were not mixed with oil cargo residues; ➢ The oil content of the effluent was less than 15 parts per million; ➢ The ship had in operation oily-water separating equipment, a bilge monitor, bilge alarm or combination thereof as required by regulations; or ➢ The oily-water separating equipment is equipped with an approved 15 parts per million bilge alarm.
C.2.a.2. More than 12 NM from Land	Where APPS is applicable, a discharge is unlawful more than 12 NM from land by ships other than oil tanker or from machinery space bilges of an oil tanker when a: • Person; • Knowingly; • Discharges oil or oily mixture into the sea more than 12 NM from land; • From a vessel that is not an oil tanker; • And the vessel cannot establish one of the following facts: ➢ The oil or oily mixtures did not originate from cargo room pump bilges. ➢ The oil or oily mixtures were not mixed with oil residues; ➢ The ship is not within a special area (special areas are established at 33 CFR 151.06); ➢ The ship is proceeding enroute; ➢ The oil content of the effluent was less than 100 parts per million; or ➢ The ship had in operation oily-water separating equipment, bilge monitor, bilge alarm, or combination thereof as required by regulations.
C.2.a.3. Tank Vessels	Where APPS is applicable, a discharge is unlawful from a tank vessel when a: • Person; • Knowingly; • Discharges oil or oily mixtures into the sea; • From a cargo tank, slop tank, or cargo pump room bilge – subject to regulations issued under the authority of APPS; • And the vessel cannot establish one of the following facts: ➢ The tanker was more than 50 NM from the nearest land; ➢ The ship was proceeding enroute; ➢ The instantaneous rate of oil content of the discharge does not exceed 30 liters per NM; ➢ If the ship is an "existing vessel" (as defined at 33 CFR 151.05), the total quantity

of oil did not exceed 1/15,000 of total quantity of the cargo of which the discharge formed a part;
- If a "new vessel" (as defined at 33 CFR 151.05), the total quantity of oil discharged into the sea did not exceed 1/30,000 of the total quantity of the cargo of which the discharge formed a part;
- The discharge was done in accordance with the provisions of 33 CFR 157.37(a)(5);
- The vessel has in operation a cargo monitor and control system that meets the requirements of 33 CFR 157.37(a)(6);
- The discharge took place outside a special area (special areas are established at 33 CFR 151.06). There are no designated special areas within 1000 NM of the U.S.

C.2.a.4. Discharge of Garbage

Where APPS is applicable, a discharge of garbage from vessels is unlawful when a:

- Person or company;
- Knowingly (most discharges of garbage are knowing acts);
- Discharges;
- From a vessel;
- Garbage
  - Containing plastic:
    - Prohibited anywhere for U.S. vessels; and
    - Prohibited within the U.S. 200 EEZ for foreign vessels;
  - Containing non-plastic:
    - Within 3 NM – no discharge of any garbage;
    - And must be beyond 25 NM to discharge dunnage and packing materials that float.

C.2.b. Applicability

The discharge requirements contained in APPS (33 USC 1906) apply as described above. The reporting requirements under APPS apply to U.S. flag vessels anywhere and to foreign flag vessels located in the navigable waters of the U.S. (i.e., within 3 NM) or at a port or facility under U.S. jurisdiction.

C.2.c. Enforcement Policy

If APPS violations are discovered during a U.S. Coast Guard boarding, the U.S. Coast Guard may initiate administrative, civil, or criminal sanctions.

APPS allow for civil penalties of up to $25,000 per violation. Each day of a continuing offense is a separate violation. APPS also includes criminal penalties for knowing discharges (felony).

In cases involving foreign flag vessels, see SNO matrix in Appendix D.

C.2.d. Notification

APPS (33 USC 1906) includes a criminal penalty (felony) for failure to notify the U.S. Coast Guard of a discharge incident. In order to prove this charge, the Government must show:

- That a master or other person in charge of a ship;
- That is subject to the reporting requirements in APPS, MARPOL, or U.S. Coast Guard regulations was involved in a discharge of oil or oily mixture (or NLS or garbage); not authorized under MARPOL or U.S. Coast Guard regulations or the probability of a discharge or a discharge permitted because it was for the purpose of securing the safety of the ship or saving life at sea or resulted from damage to the ship or its equipment;
- Knowingly failed to report the particulars of the incident without delay and to the fullest extent possible.

The term "without delay" means that the report was made by radio if possible, or otherwise

by the fastest means available.

In order to report the incident to the "fullest extent possible", the report must include the following:

- Identity of the ship
- The time and date of the incident's occurrence
- The geographic position of the ship when the incident occurred
- The wind and sea condition prevailing at the time of the incident
- Relevant details concerning the condition of the vessel
- An estimate of the quantity of oil or oily mixtures (or garbage) discharged or likely to be discharged.

C.2.e. Ballast from Oil Tankers

There are also requirements for the discharge of "clean ballast" and "segregated ballast" from oil tankers. These requirements are not set out here, but are found at 33 CFR 157.43.

The requirements for oil tankers apply only to oceangoing tank vessels of more than 150 gross tons. While these discharge restrictions apply to all tank vessels, jurisdictional issues would, for the most part, preclude criminal prosecution of discharge violations involving foreign flag tank vessels under APPS.

C.2.f. Fines

APPS includes a provision for, in the discretion of the court, an amount equal to not more than half the amount of any fine awarded to be paid to the person giving information leading to a conviction.

APPS (33 USC 1908(e)) provides that if reasonable cause exists to believe that a ship, its owners, operator, or person in charge may be subject to a fine or civil penalty under APPS, the vessel's customs clearance can be withheld pending the filing of a bond or other security satisfactory to the U.S. Coast Guard.

C.2.g. Waste Management Plan

33 CFR 151.57 requires that vessels 40 feet or more in length and engaged in commerce or equipped with a galley must have a waste management plan. This plan must be in writing and describe procedures for collecting, processing, storing, and discharging garbage. It must also designate the person responsible for carrying out the plan.

C.2.h. Statements

Statements from vessel personnel and/or witnesses are often critical. In questioning crew members it should be established that in performing the acts that led to the discharge they were not acting independently for their own personal benefit, but rather as a member of the crew on behalf of the vessel or their employer. If the individual was acting solely for his/her own personal benefit, completely independent from doing his/her job, the employee may be solely liable for the violation.

C.2.i. Evidence

Items of garbage that have distinctive identifying marks (ship logo, cruise plan of the day, etc.) may link the garbage to the suspect vessels. Matching the type of plastic garbage bags found on a suspect vessel with those recovered from the water may help to build a link.

C.3. Ocean Dumping Act (33 USC 1401 and 1445)

The purpose of Title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, (Ocean Dumping Act), is to implement the London Dumping Convention. The Ocean Dumping Act charges the Administrator of the EPA with enforcing its provisions. The Ocean Dumping Act charges the U.S. Coast Guard with responsibility for surveillance and other enforcement activities to prevent unlawful dumping or transportation of materials for dumping. Criminal violations of the Ocean Dumping Act investigated and documented by the U.S. Coast Guard are prosecuted by DOJ.

C.3.a. Elements

The Ocean Dumping Act prohibits, with certain exceptions, the dumping or transportation for dumping of "materials" into ocean waters without a permit. Material includes almost everything except sewage generated by that particular vessel, and oil that was not brought onboard for purposes of dumping. The dumping into the ocean of all types of materials transported from the U.S. or into U.S. waters is generally prohibited without an EPA permit. Under the Ocean Dumping Act, it is unlawful for a person or company that knowingly transports (proof of actual dumping is not required) from the U.S. on any vessel, or from any location on a U.S. vessel, material (includes almost everything except sewage generated by that particular vessel, and oil that was not brought onboard for purposes of dumping) for the purpose of dumping it (no proof of actual dumping is required, only proof that a person transported material with the intention that it be dumped in the ocean) into the ocean (i.e., waters seaward of the baseline) without a permit (issued by EPA under 40 CFR Parts 220-224). The Ocean Dumping Act (33 USC 1411(b)) also prohibits the actual dumping of material transported from any location outside the U.S. into the waters within 12 NM of the U.S.

C.3.b. Applicability

The Ocean Dumping Act regulates:

- The transportation by any person of material from the U.S. and, in the case of U.S. vessels, aircraft, or agencies, the transportation of material from a location outside the U.S., when in either case, the transportation is for the purpose of dumping the material into the ocean waters.
- The dumping of material transported by any person from a location outside the U.S., if the dumping occurs in the territorial sea or the contiguous zone of the U.S.

C.3.c. Enforcement Policy

If Ocean Dumping Act violations are discovered during a U.S. Coast Guard boarding, administrative, civil, or criminal sanctions may be initiated by the U.S. Coast Guard. The U.S. Coast Guard is currently in the process of developing a uniform enforcement policy in coordination with DOJ and EPA. Prior to taking any enforcement action pursuant to the Ocean Dumping Act, units should contact their servicing Legal Office to obtain the most current policy information.

The Ocean Dumping Act includes criminal penalties for knowing discharges (felony). If civil penalty action is desired, it must be coordinated through EPA. The U.S. Coast Guard does not have independent civil penalty authority.

In cases involving foreign flag vessels, see SNO matrix in *Appendix D*.

C.4. The River and Harbors Act of 1899 (Refuse Act) (33 USC 407 and 411)

The purpose of the Refuse Act is to protect and preserve the navigable waters of the U.S. from pollution and obstructions. The Refuse Act charges the Secretary of the Army with enforcing its provisions. The U.S. Coast Guard has authority to enforce the Refuse Act under 14 USC 2 and 89. Criminal violations of the Refuse Act investigated and documented by the U.S. Coast Guard are prosecuted by DOJ.

C.4.a. Elements

Where the Refuse Act applies, it is unlawful for a person or company that discharges or deposits (or causes, suffers, or procures such) from a vessel (floating craft of any kind), from the shore, or from a manufacturing establishment any refuse matter of any kind or description whatever into or along the bank of the navigable water or tributary without a permit.

C.4.b. Applicability

The Refuse Act includes a criminal penalty against a person or company for any discharge of refuse into the navigable waters of the U.S. regardless of the exercise of due care.

C.4.c. Enforcement Policy

If Refuse Act violations are discovered during a U.S. Coast Guard boarding, administrative, civil, or criminal sanctions may be initiated by the U.S. Coast Guard.

The Refuse Act includes a criminal penalty (misdemeanor) for violations.

The Refuse Act is a public welfare law supporting the overriding social interest in preserving the environment. Its maximum penalty is only a misdemeanor. It has been held to be a strict liability offense where no evidence of intent is required. See policy concerning strict liability in *Section D.4.g* of this chapter.

The Refuse Act gives the court discretion to award up to one-half of the fine to the person giving information leading to conviction.

C.5. Migratory Bird Treaty Act (16 USC 703 et seq.; 50 CFR Parts 10, 12, and 20)

The Migratory Bird Treaty Act is occasionally used in environmental enforcement cases. For detailed guidance on the elements and enforcement policy, see *Chapter 8*. It has been held to be a strict liability offense where no evidence of intent is required. See policy concerning strict liability in *Section D.4.g* of this chapter.

C.6. Other Related Statutes

- 18 USC 1512 – Obstruction of justice – Tampering with a witness, victim, or informant.
- 18 USC 1001 – False representation involving an official matter.

NOTE

This statute is frequently used in environmental criminal prosecutions. As such, Boarding Officers should ensure that environmental records such as oil record books, garbage record books, and other environmental data onboard the vessel are carefully reviewed for consistency.

- 18 USC 11 – Forcibly assaulting, resisting, or impeding a federal officer engaged in or on account of the performance of official duties.
- 18 USC 1503 – Influencing the due administration of justice.
- 18 USC 1505 – Obstruction of agency proceedings.
- 18 USC 1510 – Bribery to obstruct a criminal investigation.
- 18 USC 1511 – Obstruction of state or local law enforcement.
- 18 USC 1513 – Retaliating against a witness, victim, or informant.
- 19 USC 70 – Master of a vessel obstructing an officer of the customs boarding to enforce U.S. revenue or navigation laws. (civil penalty)
- 19 USC 1581(d) – Failure to stop on command of an officer of the customs. (civil penalty)
- 33 USC 1232(b) – Failure to report a hazardous condition. This statute has been implemented through 33 CFR 160.215 and it is often accompanied by 18 USC 100.
- 46 USC 324 – Obstructing an officer enforcing licensing or documentation laws. (civil penalty)

Section D. Policy and Procedures

Introduction

This section contains policy and procedures that apply to the entire maritime environmental/pollution enforcement mission area.

D.1. Initial Response and Reporting Procedures

Non-marine safety units, such as aircrews, boat crews, or station watchstanders, often make the initial sightings of, or receive a report of, a pollution incident, when made by U.S. Coast Guard units. All U.S. Coast Guard personnel observing or receiving a report of pollution should attempt to identify and document the source of pollution and immediately report the matter to the nearest U.S. Coast Guard MSO via the chain of command. Initial reports of the basic facts should be made by the fastest available means, normally orally by telephone or radio. Reports should not be delayed until filing of post flight messages or daily SITREPs. Under the National Contingency Plan (40 CFR 300.300(b)), the U.S. Coast Guard is designated as the agency to receive reports of pollution incidents. Thus, someone is always available to receive reports and initiate further action in appropriate circumstances. Should immediate access to the MSO be unavailable, alternative reporting may be made to the National Response Center at 1-800-424-8802. Assuming the information may be determined safely, this report shall include the following:

- The nature, amount, and location of the pollutant.
- The source of the pollutant and whether that source has been secured.
- The apparent potential impact on public health and welfare or on the environment (environmentally sensitive areas, water intakes, public beaches, etc.).
- The countermeasures which seem necessary to adequately contain, control, or remove the pollutants.
- An assessment of apparent violations to determine whether criminal investigation should be initiated.

D.1.a. Reason for Further Investigation

The following provides examples of activities that may warrant further investigation by U.S. Coast Guard units. Indications that a pollution incident has taken place, or may take place, include:

- Oil in the water, booms, cleanup equipment.
- Comparatively calm areas on water.
- Unusual waterfowl activity.
- Dark streaks down a vessel's hull.
- Unusual activity on the deck of a vessel, on a pier, or on a beach (e.g., hosing down an area in an attempt to remove or disperse oil on the ground or in the water, or dumping of absorbent or dispersant material into the water or on the ground, such as liquid soaps).
- Vapor clouds of any type, or smoke.
- Unusual overboard discharges from a vessel.
- A wrecked, damaged or beached vessel, or one listing or deeper than its loadline.
- Unblanked hoses on a pier or unblanked manifolds.
- Runoff from storm sewers, banks and shoreline after rainfall.
- A vessel circling in one area.
- Persons painting over the side of a vessel or painting on a bridge over the water.
- Any discoloration of the water.
- Observable traces of oil or chemicals (e.g., smell, irritation, persons or animals overcome or dead).
- Obvious damage to a waterfront facility, vehicle, or train.
- Fire.

D.1.b. Preliminary Assessment

Prior to any type of response to a discharge, a preliminary assessment must be made in determining the risk associated with the response and whether on-scene U.S. Coast Guard personnel should respond. Relevant considerations include:

- Can the nature and extent of the discharge be determined safely, and, if so, how and by whom?
- Will removal action cause more damage to the environment than allowing the pollutant to naturally dissipate?
- Can cleanup be initiated before the pollutant disperses or evaporates, making cleanup impractical?
- Can equipment be deployed without excessive risk to the life and health of personnel?

Further detailed guidance is contained in the *Marine Safety Manual*, *Volume IX, Marine Environmental Protection,* COMDTINST M16000.14 (series).

D.1.c. Oil Spill Response

U.S. Coast Guard personnel should attempt to ascertain the source of the oil discharged without endangering their personal safety. Once the source has been located, all attempts should be made to cutoff the flow of discharge of oil into the water. If the source of oil pollution is unknown, as much information as possible should be obtained and any suspect vessels or facilities noted. Personnel should always approach a spill from upwind, being careful not to enter a hazardous environment.

The initial action taken to mitigate an oil spill is of great importance because wind, tide, and current may disperse the oil, remove the evidence, and/or cause greater damage to the environment. All attempts should be made to contain the oil spill to lessen its impact on the environment and facilitate cleanup efforts. Many vessels and waterfront facilities have materials on hand to effect an initial response to an oil spill. U.S. Coast Guard units should encourage responsible parties (i.e., dischargers) to use these, or any other available materials, to mitigate the spill. While the removal/cleanup of oil is the legal responsibility of the party/parties responsible for the discharge, there are times when a federal cleanup is warranted (e.g., source or owner unknown, or owner/operator not sufficiently responsive). Because the discharger remains responsible for the cost of a federal cleanup, all U.S. Coast Guard units shall keep careful records of the time and resources used in responding to an oil spill. Records should be kept on equipment used, time spent on scene, amounts of fuel and other resources expended and any enforcement action taken. Following the incident, this information must be reported to the FOSC, who is normally the CO of the cognizant MSO. Further detailed guidance is contained in the *Marine Safety Manual*, *Volume IX, Marine Environmental Protection,* COMDTINST M16000.14 (series).

D.1.d. Hazardous Substance Response

While response to hazardous substance releases are, in many respects, similar to responses to oil discharges, the nature of the hazards posed by such releases requires a much more cautious approach. In hazardous substance response, the safety of people must be the U.S. Coast Guard's primary concern.

U.S. Coast Guard personnel that are not trained and/or equipped to respond to a hazardous substance discharge shall not enter any spaces or area suspected of hazardous substance contamination. Rather, the NRC, COTP and, if possible, state or local hazardous material response agencies should be notified immediately, providing as much information as possible in a standard format (e.g., identify the substance, weather, location, injuries, damage, access, etc.).

Any further response action to a hazardous substance discharge shall be coordinated with the cognizant COTP prior to being undertaken. Units on scene should relay reports through the chain of command, remain upwind of the scene if possible, and, as necessary, secure public

access. Remote investigation should proceed, while remaining upwind, including photographs. Securing the source, containment/mitigation, and sampling should only be undertaken by properly trained and equipped personnel, under the direction of the FOSC or other competent authority designated by the FOSC. U.S. Coast Guard afloat units will not enter the site of a release of hazardous substances until such time as competent authority has determined it safe to enter.

D.1.e. Risk Assessment

A risk assessment shall be made prior to committing any U.S. Coast Guard units to any response. Personnel involved in hazardous substance response must be properly trained and equipped to carry out the necessary response functions. As with any pollution incident, the FOSC/COTP must quickly determine the nature, amount, and location of the hazardous substance, and the potential impact on public health and welfare, and/or on the environment.

D.2. Command, Control, and Consultation

D.2.a. Captain of the Port (COTP)

The enforcement of marine pollution laws is primarily accomplished by COTP/MSO personnel. The COTP is the principal U.S. Coast Guard official responsible for the enforcement of marine environmental laws and regulations, on behalf of the District Commander. Consequently, the COTP will normally be the officer controlling marine environmental law enforcement operations, particularly in the early stages when pollution response, environmental cleanup, and safety of life are the most important considerations. If there is a conflict between federal agencies on scene, the pre-designated Federal On-Scene Coordinator (FOSC), typically the COTP, shall determine the course of action.

D.2.b. District Commander

The District Marine Safety Division provides subject matter oversight and guidance on all marine safety and environmental protection issues. They are the link with higher U.S. Coast Guard authority on such issues and the supply source for any additional marine safety or environmental protection resources that may be required.

D.2.c. District Legal Office

The District Legal Office is responsible for providing advice for marine environmental law cases with the potential for criminal prosecution, advising the District Commander on all criminal referrals, coordinating the District Commander's referral of criminal cases to DOJ, acting as the designated liaison point with DOJ for all referrals and litigation matters, and prosecuting all Class II civil penalties under the CWA. The legal office will advise on the sufficiency of evidence to meet the standard of proof beyond a reasonable doubt, on the elements of various offenses, and on restrictions on enforcement action under domestic and international law. The Legal Office will also provide guidance on an appropriate security in lieu of withholding customs clearance in all cases with significant potential for criminal referral.

D.2.d. CGIS Agents

CGIS Agents work for the Commandant under the direction of the regional Special Agent in Charge. CGIS Agents are available to investigate criminal violations of environmental laws enforced by the U.S. Coast Guard. The request for an agent's services on a case must be made through a unit's CO. Oral requests should be followed by written confirmation. CGIS should be notified and consulted regarding all cases that may be referred to DOJ for criminal prosecution. CGIS Agents are trained criminal investigators who are familiar with the legal issues associated with the prosecution of a criminal case. Additionally, CGIS Agents regularly work with agents of other federal, state, and local law enforcement agencies and frequently become aware of violations of environmental laws and ongoing criminal investigations through these sources. Frequently, after a case is accepted for prosecution, but before it goes to trial, the DOJ attorney prosecuting the case will require case

investigation assistance in the form of service of grand jury subpoenas, further witness interrogation, or other such follow-up. While it is often difficult for MSO personnel to commit the time necessary to fulfill this need, CGIS Agents can serve as "case agent" for DOJ Attorneys on U.S. Coast Guard investigations and have experience in performing this function. All unit commanders should keep in mind that, once a case is accepted for criminal investigation by CGIS, CGIS Agents are required to follow procedures outlined in the *Coast Guard Investigations Manual*, COMDTINST M5527.1 (series), including procedures on briefing the chain of command on cases being investigated.

D.2.e. Department of Justice (DOJ)

DOJ makes the final decision on whether, and under what conditions, to prosecute violations of the marine environmental laws as criminal cases. Primary responsibility for the approval and prosecution of environmental crimes rests with the U.S. Attorney's office in the judicial District in which the violation is alleged to have occurred. DOJ Environmental Crimes Section in Washington, DC, may also participate in such prosecutions with the agreement of the cognizant U.S. Attorney's office. The effective investigation and successful prosecution of environmental criminal cases often requires early consultation with DOJ. Consequently, it is imperative that all U.S. Coast Guard offices and units coordinate as soon as possible, through the District Legal Office, with the U.S. Attorney's office or the Environmental Crimes Section when initiating an investigation of violations of environmental laws for possible criminal prosecution. Such early consultations ensure coordination during rapidly developing investigations, help to develop consensus regarding the appropriate focus of investigative efforts, and avoid the unproductive use of investigative resources.

D.2.f. Federal/State Agencies

Under 14 USC 141(b), the U.S. Coast Guard is authorized to avail itself of officers, employees, advice, information, and facilities of federal, state, or local government agencies as may be helpful in the performance of its duties. U.S. MLE efforts involve many agencies. Interagency coordination of effort has been established through Memorandums of Understanding, Memorandums of Agreement, and Interagency Agreements, and these documents are contained in the *Marine Safety Manual, Volume IX, Marine Environmental Protection,* COMDTINST M16000.14 (series). Many states have significant environmental criminal enforcement programs and resources that can be utilized as additional sources of expertise and resources in dealing with criminal investigations of environmental law violations. Examples are forensic laboratories, hazardous material (HAZMAT) testing, surveillance equipment, and so on. When state or local government personnel are utilized under the authority of 14 USC 141(b), the U.S. Coast Guard is authorized to make payments for per diem and travel for these persons to the same extent prescribed for federal employees. U.S. Coast Guard investigators should attempt to identify state and local environmental enforcement agencies, services and other resources that could assist in investigation of environmental violations. If there is a conflict in enforcement policy, the federal policy shall take precedence over that of any state or local agency.

D.2.g. Environmental Task Forces

Many U.S. Attorney offices and state law enforcement offices have formed Environmental Crimes Task Forces to address the problems inherent in coordinating enforcement actions by the numerous federal, state, and local law enforcement agencies that have jurisdiction over environmental crimes. The focus and makeup of these task forces differ depending on the individual U.S. Attorney or state agency that established the task force. U.S. Coast Guard participation in these task forces serve as a good means to inform other enforcement agencies of U.S. Coast Guard missions and interests in the environmental area, to establish a means of coordinating enforcement actions among agencies for major environmental cases, to identify resources and capabilities outside of the U.S. Coast Guard that may be useful in accomplishing U.S. Coast Guard missions, and to establish good working relationships among enforcement agencies and prosecuting attorneys involved in the enforcement of environmental laws. Task forces shall not be used as a referral process for U.S. Coast Guard

cases.

D.3. Investigations

The U.S. Coast Guard conducts marine investigations under various legal authorities for a variety of purposes, including detection of administrative, civil, and criminal offenses, determination of causes, and creation of safety alerts and recommendations. These investigations begin with no presumption of criminal or civil misconduct. The results of any U.S. Coast Guard investigation, however, may be used as part of a criminal, civil or other enforcement action where such enforcement action is deemed appropriate and necessary.

D.3.a. Preparation

The vast majority of U.S. Coast Guard pollution investigations do not involve criminal offenses (historically less than 1%). Because the criminal offenses involved may not be readily apparent at the outset, however, it is critical that all U.S. Coast Guard investigative personnel conduct their investigations in a fashion that will preserve the evidence and facts for use in a criminal setting. It is similarly critical that all U.S. Coast Guard investigative personnel be conversant in the few criminal offenses associated with pollution incident.

D.3.b. Assistance

Where an apparent criminal offense is detected during the course of an investigation, the FOSC's marine investigators should seek the advice of their servicing legal office. Further, where 18 USC offenses are detected, the FOSC's marine investigators should seek the involvement of CGIS. Where a pollution investigation detects a pattern of criminal behavior, the FOSC's marine investigators should seek additional investigative resources, including CGIS and interagency task force resources, to fully develop the case.

D.3.c. Preliminary Investigation

In the event of a pollution incident, the first priorities are safety of life and protection of the marine environment. However, U.S. Coast Guard units and personnel should attempt to conduct a preliminary investigation into the cause of the incident.

The vessel responsible should be boarded or the facility involved should be visited, and the master or person in charge identified.

Criminal and administrative investigators who arrive at the scene of a response must first check in with the FOSC or his or her designated representative prior to beginning any investigative activity.

All persons who may be responsible for, or have knowledge of, the incident should be questioned. Whenever possible, statements should be taken, including where, when, and how the spill occurred. Thought should be given to the sequencing of such interviews so as to develop evidence logically and to maximize the effectiveness of later interviews. No representations should be made to a witness concerning whether a civil or criminal referral will result from the investigation or whether that witness (or company) is a potential subject of the investigation. Appropriate procedures should be followed for all witness interviews and a separate report should be prepared to record each interview. Such preliminary efforts should only be undertaken by non-MSO personnel if cognizant MSO personnel have not yet arrived on scene, or if the cognizant MSO personnel otherwise direct non-MSO personnel to do so for them. Non-MSO personnel should always seek direct guidance from cognizant MSO personnel before conducting any witness interviews relating to a marine pollution incident.

D.3.d. Foreign Vessels

International law requires the U.S. Coast Guard to avoid any unnecessary interference with the transit and operations of foreign vessels, particularly with regard to the investigation of environmental offenses. However, in some instances, such action may be warranted, as a vessel discharging oil into the territorial sea is likely no longer in innocent passage. U.S. Coast Guard policy typically permits the boarding of foreign vessels in navigation on the

high seas or in innocent passage through the 12 NM U.S. territorial sea only with a SNO. For further guidance, see *Chapter 2*. Under Article 220 of the United Nations Convention on the Law of the Sea, for pollution incidents occurring in the EEZ but beyond the U.S. territorial sea, the U.S. Coast Guard may require foreign flag vessels to provide information necessary to establish whether a violation occurred. However, detention of foreign flag vessels for boarding and further investigation is not generally justified, unless there are clear grounds for believing that a vessel that will not make a port call in the U.S. has committed a substantial discharge which has caused or threatens significant pollution. When approach questions indicate that a foreign flag vessel is bound for a U.S. port, it is usually preferable to allow the vessel to proceed into port where U.S. investigative and enforcement authority is greatest. In some instances, if the vessel poses a serious continuing threat to the safety of the port, the COTP may bar entry into the U.S. territorial sea.

D.3.e. Seizure

Most U.S. pollution laws do not provide a statutory basis for seizure of vessels involved in pollution incidents. Whenever any action is contemplated involving the arrest or seizure of a vessel, such action should be coordinated with the District Legal Office.

D.3.f. Uncooperative Crewmembers

In the event that a crewmember fails to cooperate with U.S. Coast Guard response personnel and the reluctant crewmember cannot be persuaded to cooperate, U.S. Coast Guard personnel should:

- Attempt to gather information to facilitate the response from other crewmembers or other sources.
- Note the identity and job position of any crewmembers, when practical, who refuse to cooperate or answer questions.
- Note the date and time of the refusal, the questions refused, and any potential witnesses to the refusal, if possible.
- Inform the reluctant crewmember that the voluntary disclosure of information is looked upon favorably by the U.S. Coast Guard and DOJ when making decisions regarding subsequent civil or criminal proceedings.
- Not single out, harass, or badger reluctant crewmembers. Although U.S. Coast Guard personnel may encourage reluctant crewmembers to participate in a response action, this encouragement should not be in the form of a threat of subsequent prosecution or other action. It is improper for U.S. Coast Guard personnel to threaten prosecution of a person who claims to be exercising a right to remain silent or to speak to an attorney.

D.3.g. Use of Attorney

If an individual requests that an attorney be present prior to answering any questions, U.S. Coast Guard personnel should inform the individual that the U.S. Coast Guard's primary concern is protecting the marine environment and that the U.S. Coast Guard is not required to facilitate efforts to speak with counsel.

In the event that an attorney is already onboard when U.S. Coast Guard response personnel arrive on scene, and the attorney has advised his or her client not to speak to the U.S. Coast Guard, personnel should take the following actions:

- Obtain the name of the attorney; ask the attorney the identity of crewmembers, employees, or corporations he or she is representing, if possible. In some instances, a company may dispatch an attorney to the scene who claims to represent the company and the entire crew. Such joint representation may be a conflict of interest. If this situation arises, on-scene personnel should contact their servicing legal office, via the chain of command, for guidance.
- While the U.S. Coast Guard can order the attorney not to interfere with response efforts, the U.S. Coast Guard may not prevent attorneys from advising their client(s) or being present during any interviews with employees or crewmembers. The U.S. Coast Guard

may not remove an attorney from the scene unless he or she is physically impeding the response.

D.3.h. Miranda Warning

A Miranda Warning is normally not required during an environmental response boarding or investigation. Miranda warnings are only required when a suspect is in custody and subject to interrogation. Courts have uniformly held that routine U.S. Coast Guard boardings are not custodial. Your servicing legal office can be contacted for detailed guidance as to when Miranda Warnings are required, and when a custodial situation exists. Further guidance is also contained in *Chapter 3* of this Manual.

D.3.i. Arrest

In the event that it becomes necessary to arrest an individual, U.S. Coast Guard field personnel shall consult the District Legal Office and follow the guidance in *Chapter 3* of this Manual.

D.3.j. Grant of Immunity

Under no circumstances should U.S. Coast Guard personnel "cut a deal" with crewmembers or an attorney to gain their assistance during an environmental response or investigation, or make any representation as to a possible grant of immunity. U.S. Coast Guard personnel should not indicate that their investigation is limited to only civil, administrative, or marine casualty purposes. Only certain DOJ personnel can grant immunity. If U.S. Coast Guard personnel are asked what the nature of the questioning is, they should respond that U.S. Coast Guard investigations are conducted for a variety of purposes, including determination of the cause of the casualty and to determine whether civil, administrative, or criminal enforcement action might be appropriate in a particular case.

D.3.k. Further Guidance

Further guidance concerning sample collections, documentation and photographs, witness interviews, and other investigation techniques and proper evidence handling is contained in the *Marine Safety Manual*, *Volume V, Investigations*, COMDTINST M16000.11 (series), and *Marine Safety Manual, Volume IX, Marine Environmental Protection*, COMDTINST M16000.14 (series).

D.4. Post Investigation Actions

In the past, the U.S. Coast Guard had limited enforcement options under the majority of the environmental laws it enforced. A pollution incident typically resulted in a civil penalty case being sent to a U.S. Coast Guard Hearing Officer. The enactment of the OPA 90 and amendments to APPS increased the number and type of enforcement options available. Other environmental statutes also have civil and criminal sanctions available as enforcement options. Current federal marine pollution laws provide for significant civil penalties and substantial criminal sanctions. While the vast majority of pollution cases will still result in civil penalty action, there are cases in which criminal prosecution is appropriate. The DOJ, EPA, Federal Bureau of Investigation (FBI), and other federal, state, and local agencies are all interested and involved in prosecuting environmental crime. Recent cases have demonstrated the deterrent effect that occurs when all of these agencies work together.

D.4.a. Liability

As a general matter, the owner or operator of a vessel or facility, discharging or threatening to discharge oil or a hazardous substance, is liable for the cost of cleaning up and/or preventing a discharge. They are also liable for any damages, including damage to natural resources, resulting from the discharge. This liability for response costs and damages caused by the pollution is normally imposed regardless of fault. Separate and apart from this strict liability for response costs and damages is a penalty for the discharge itself, which may be civil or criminal. Civil discharge penalties may be assessed against the owner or operator of a discharging vessel or facility regardless of any fault. However, prosecutions seeking criminal sanctions require a showing of either negligent or knowing conduct.

D.4.b. Withholding Clearance

Several, but not all, federal environmental statutes provide authority for the U.S. Coast Guard to request that the U.S. Customs Service withhold the vessel's customs clearance pending the filing with the U.S. Coast Guard of a letter of undertaking, bond, or other surety satisfactory to the U.S. Coast Guard. This action is authorized if the U.S. Coast Guard has reasonable cause to believe that a vessel or its owner, operator, or person in charge, may be subject to a fine or civil penalty for a specified violation. When these provisions apply, all foreign vessels and U.S. commercial vessels departing on foreign voyages may be required to submit a letter of undertaking or post a surety bond to provide security for payment of the maximum penalty that could be imposed for the violation. However, if it appears that criminal prosecution may be warranted, units should consult with the District Legal Office before such action is taken to ensure that all legal issues are considered.

D.4.c. Civil or Criminal Sanctions

When a violation includes both a civil and criminal penalty, the District Commander, in accordance with 33 CFR 1.07-95, is authorized to institute civil penalty proceedings or to initially refer the case to DOJ for criminal prosecution. The regulations state that the District Commander should identify the laws and regulations violated and make specific recommendations about the proceedings to be instituted by DOJ.

The decision to expend U.S. Coast Guard resources to investigate a case for criminal prosecution is within the discretion of the District Commander. The discretion to investigate and refer a case for criminal prosecution is part of the discretion exercised under the U.S. Coast Guard's law enforcement mission and should be exercised within the context of the Commandant's overall enforcement policy for environmental laws. It is important to realize that other federal, state, and local agencies have independent authority to refer maritime pollution cases to DOJ for federal criminal prosecution. Depending on the geographic location where the incident actually takes place, cases may also be referred to state District Attorney offices for criminal prosecution under state law. Therefore, District Commanders should ensure that U.S. Coast Guard investigative and referral procedures are exercised in cooperation with other agencies when appropriate.

D.4.d. Administrative Civil Penalties

There are three types of administrative civil penalties (described below) available for violations under the CWA. Civil penalties for other violations of environmental laws, such as APPS, are assessed by Hearing Officers. Guidance on considerations to be taken into account in determining appropriate civil penalties is provided in *Civil Penalty Procedures and Administration*, COMDTINST 16200.3 (series).

D.4.d.1. Class II

A Class II civil penalty may only be initiated and assessed for CWA violations. It requires a formal hearing before an administrative law judge in accordance with procedures and evidence rules set forth in 33 CFR Part 20. The maximum penalty for a violation case in such proceedings is $137,500, but the penalty may not exceed $11,000 per day for each day during which a particular violation continues.

D.4.d.2. Hearing Officer

The most common method of assessing U.S. Coast Guard civil penalties is by submission of the violation case to a Hearing Officer in accordance with the procedures in 33 CFR 1.07. The procedures for this type of civil penalty are less formal and the Hearing Officer is not bound by strict rules of evidence.

D.4.d.3. Ticket Program	The ticket program under 33 CFR 1.07-11 provides a simplified alternative to Class II or Hearing Officer civil penalty procedures for resolving some U.S. Coast Guard civil penalty cases. The U.S. Coast Guard has published a "Ticket" guide, the *Marine Pollution Notice of Violation "Ticket" User's Guide*, COMDTINST M5582.1 (series), authorizing use of the simplified procedures for oil discharge violations of 100 gallons or less when the discharge involves "no significant gravity or culpability." Currently, "tickets" may only be issued for CWA violations.
D.4.e. Judicial Civil Penalties	Judicial civil penalties are another enforcement option. Such cases must be referred to DOJ for prosecution. Contact your servicing Legal Office if you wish to examine this option for a CWA violation.
D.4.f. Criminal Case Selection/ Referral Process	Criminal prosecution of individuals and corporations that violate environmental laws through the intentional or negligent discharge of pollutants into the marine environment is an appropriate and powerful deterrent to environmental crime. Criminal charges require proof of each element of the violation beyond a reasonable doubt. Criminal cases are referred to the U.S. Attorney for trial in a federal District Court, where strict rules of evidence apply.
D.4.f.1. Basis to Pursue Criminal Sanctions	Setting fixed thresholds (such as the quantity of pollutant discharged, the number of prior offenses, the circumstances of the discharge, and other such objective considerations) as the sole basis guiding exercise of discretion to pursue criminal sanctions would be counterproductive. The determination to investigate for criminal prosecution involves weighing the conduct, analyzing the evidence available, determining U.S. Coast Guard enforcement objectives, and prioritizing the use of available resources.
D.4.f.2. Case Selection Criteria	The case selection criteria outlined below identify misconduct worthy of criminal investigation and prosecution because criminal sanctions would best punish the conduct involved and deter future criminal conduct. The criteria are partly based upon the minimum prosecution guidelines for environmental violations established by DOJ and other enforcement agencies. The U.S. Coast Guard criminal case selection process is based on two general measures, significant environmental harm and culpable conduct. These measures, and the factors used to assess them, are a sliding scale. Thus, a high degree of one measure may tip the balance in favor of prosecution even if the other measure is not present. For example, a case may warrant criminal prosecution when culpability is demonstrated by a long history of misconduct and good evidence that the violation was covered up even if environmental harm is unknown or unknowable. Similarly, criminal prosecution may be appropriate for a negligent discharge when the environmental harm is severe. The factors listed are not rigid requirements. While it is possible that environmental harm or culpable conduct alone may make criminal investigation appropriate, it is also possible that the presence of a combination of any of the factors listed, or even an unlisted consideration, may warrant criminal investigation.
D.4.f.2.a. Significant Environmental Harm	The measure of significant environmental harm should be broadly construed. It includes the presence of actual harm to the environment, or to human health and safety, as well as the threat of significant harm. The following factors serve as indicators that a case may warrant investigation for criminal prosecution: • Factor 1 - Actual harm, as evidenced by an illegal discharge, or category of discharges, of pollutants having an identifiable and significant adverse impact on human health and safety or on the environment. This measure will be generally self-evident at the time of

case selection, e.g., the discharge of pollutants into an environmentally sensitive area or pristine environment or a discharge that causes a significant fish or bird kill.

- Factor 2 - The threat of significant harm to the environment or human health as evidenced by an actual or threatened discharge or release of pollutants. This factor may not be as readily evident as actual harm and, therefore, must be assessed in light of all the facts available at the time of case selection. Ongoing or routine discharges of pollutants that have a cumulative adverse impact on human health and safety may constitute such a threat.
- Factor 3 - Failure to report an actual discharge or release, taking into account considerations under Factors 1 and 2, may be an additional factor favoring criminal investigation. While the failure to report alone may be a criminal violation, U.S. Coast Guard investigative resources should generally be targeted toward those cases in which failure to report is coupled with actual or threatened significant harm.
- Factor 4 - Illegal conduct that appears to represent a trend or common attitude within a regulated community when criminal prosecution may have a significant deterrent effect. While the violations in a single case may have had a relatively insignificant adverse impact on human health or the environment, such violations, if multiplied by the numbers within a regulated community, may result in a large volume of pollution or significant environmental harm. For example, it could become an accepted practice within an identifiable segment of the maritime industry to pump oily-water from bilges directly into waterways or to use detergents to try to conceal minor discharges. A criminal investigation may be warranted to deter the industry from this practice.

D.4.f.2.b. Culpable Conduct

The measure of culpable conduct is not necessarily an assessment of criminal intent, particularly because criminal intent will not always be readily evident at the time of case selection. Culpable conduct, however, may be indicated at the time of case selection by several factors:

- Factor 1 - History of repeated violations. While a history of repeated violations is not a prerequisite to a criminal investigation, a suspect's compliance record should always be carefully examined. When repeated enforcement activities, such as warnings or civil penalty actions, have failed to deter violations, criminal investigation may be warranted.
- Factor 2 - Knowledge of illegality of conduct. Although the environmental statutes do not usually require proof of specific intent to break the law, direct or circumstantial evidence that a suspect knew that the conduct was forbidden is a major factor indicating that a criminal investigation is warranted. For example, the posting of signs on vessels, which state that the discharge of oil and plastic is prohibited, may indicate that a suspect who discharged oil or plastics from that vessel had a specific intent to violate the law.
- Factor 3 - Presence of deliberate misconduct. Evidence that the violation was deliberate, and not a result of accident or mistake, is an important factor to consider in determining whether a case warrants criminal prosecution. Evidence that the discharge could not have occurred without human intervention for example, the turning of a valve, or the use of pumps or hoses - strongly indicates that the violator meant to cause the release and, therefore, acted knowingly.
- Factor 4 - Concealing misconduct, falsifying regulatory documents, tampering with monitoring devices and providing false statements. The U.S. Coast Guard COTP and other government officials must be able to rely on data received from the regulated community. If the data submitted to the U.S. Coast Guard is false or misleading, COTPs cannot carry out their environmental protection mission effectively. Accordingly, evidence that indicates an individual or company is falsifying data, covering-up misconduct or illegal environmental activity, tampering with or disconnecting monitoring devices, or making false statements to U.S. Coast Guard personnel, strongly suggests that criminal investigation is warranted.
- Factor 5 - Other illegal activity/obstruction of justice. Conduct that inhibits an

investigator's ability to perform his duties - for example, witness tampering, destruction of evidence, or bribery of regulatory personnel - are strong indicators of illegal activity. Other illegal activity such as conspiracy to violate the law, mail fraud, threats against regulatory personnel, or narcotics violations - when examined in the context of environmental regulation - also should be considered in determining whether a case warrants criminal prosecution.

D.4.g. Strict Liability Statutes

The application of federal strict liability statutes, such as the Refuse Act or MBTA, in criminal pollution enforcement cases should be viewed as a tool to be used when deemed appropriate by the federal agencies involved. The decision to apply strict liability statutes to marine pollution incidents is not appropriate in every case, and the violation of strict liability statutes alone should not be viewed as sufficient reason to refer a pollution incident for criminal prosecution. Therefore, the U.S. Coast Guard District Commander, after receiving a recommendation from the local COTP, should take the lead in developing a consensus among federal agencies with concurrent jurisdiction as to the appropriateness of referring a particular marine pollution incident for criminal prosecution and in recommending the application of strict liability statutes. The consistent application of established criteria and factors in referring marine pollution cases for criminal prosecution, including the application of strict liability statutes, should not impair coexisting partnership efforts with responsible industry representatives.

NOTE

Strict liability statutes mean that the conduct itself, even if innocently engaged in, results in criminal liability.

D.4.g.1. Criteria

The COTP should consider the following criteria and supporting factors in the decision-making process when recommending the application of strict liability statutes:

- Gross negligence.
- Any case involving a knowing, intentional, or deliberate discharge.
- Cases involving culpable conduct not directly related to a knowing discharge.

Factors to consider in support of these criteria include but are not limited to:

- The presence of negligence on the part of the responsible party.
- Significant environmental harm.
- The actual harm caused.
- The threat of significant harm.
- The total failure to report a pollution event.
- The presence of illegal activity as a common practice within a certain area or industry.
- A history of repeated violations.
- A history of repeated pollution prevention law violations.
- Concealing illegal activity.
- Making false statements.
- Obstruction of justice.
- Aiding and abetting.
- Corporate willful blindness.
- The responsible party failing to conduct a timely or adequate response to a pollution event.

Chapter 10
Maritime Homeland Security Law Enforcement

Introduction

This chapter provides detailed discussion regarding policy for armed Coast Guard law enforcement operations in support of the MHS mission.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Definitions	10-3
B	Introduction	10-6
C	Policy and Procedures	10-7

Section A. Definitions

Introduction

This section contains definitions that have specific meanings unique to this chapter.

A.1. Law Enforcement Ashore Operating Area (LEAOA)

As a matter of policy, the Coast Guard limits the scope of Coast Guard MHS law enforcement operations ashore, not including those activities undertaken in pursuit from waters subject to U.S. jurisdiction, to those *waterfront facilities, facilities,* and *public and commercial structures adjacent* to the *marine environment*. In summary, the LEAOA are Navy installations, areas of land, and public and commercial structures on or adjacent to U.S. waters. While neither physical distance from the water's edge nor fence lines are always dispositive, the outer limits of the LEAOA shall not be extended to extremes. Therefore, armed law enforcement teams shall confine their law enforcement activities to those areas that have some reasonable connection with and are in close proximity to the marine environment. Each of the legal terms is explained further below, however, boarding teams operating in good faith, using common sense, and possessing a functional understanding of the maritime nexus underpinning the Coast Guard law enforcement mission should not require a comprehensive command of the legal definitions of the terms.

A.2. Waterfront Facility

33 CFR 6.01-4 provides that the term "waterfront facility" means "all piers, wharves, docks, or similar structures to which vessels may be secured and naval yards, stations, and installations, including ranges; areas of land, water, or land and water under and in immediate proximity to them; buildings on them or contiguous to them and equipment and materials on or in them." This definition therefore includes:

- Every form of mooring facility and structure to which a vessel may be secured, including private docks.
- DoD owned or operated naval yards, stations, installations, and ranges even if such facilities do not have structures for securing vessels.
- Areas of land and water under the mooring facility or structure or enumerated naval property.
- Defined parcels of land in direct contact with the mooring facility or structure or enumerated naval property.
- Buildings physically located on the mooring facility or structure or the enumerated naval property.
- Buildings located on defined parcels of land that are in direct contact with the mooring facility or structure or enumerated naval property.
- Any equipment and materials on or in the places in the bullets above.

A.3. Public and Commercial Structures Adjacent to the Marine Environment

"Public and commercial structures adjacent to the marine environment" is a formulation employed in the anti-terrorism provision of the Ports and Waterways Safety Act, 33 USC 1226. For purposes of defining the LEAOA and without prejudice to any other use of the formulation in other appropriate contexts:

- Public structure includes any construction, production, or piece of work artificially built up or composed of parts purposefully joined together, including but not limited to buildings, bridges, tunnels, dams, runways, piers, tank farms, and facilities, that is owned or leased, and principally used by a governmental agency for public business or meetings. Public structures do not include private dwellings.
- Commercial structure includes any construction, production, or piece of work artificially built up or composed of parts purposefully joined together, including but not limited to buildings, bridges, tunnels, dams, runways, piers, tank farms, and facilities, that is owned or leased, and principally used for the exchange, buying, manufacturing,

processing, or transporting of commodities. Commercial structures do not include private dwellings.

- "Adjacent" means being in close proximity and includes any contiguous or adjoining property under common ownership or operation. Therefore, a public or commercial structure does not need to be in direct contact with waters subject to the jurisdiction of the United States in order to be "adjacent to the marine environment." For example, a government building located on a parcel of land that contacts waters subject to the jurisdiction of the United States is a public structure that is "adjacent to the marine environment." Similarly, a tank storage area that is under common ownership or operation of the waterfront facility across the street is also "adjacent to the marine environment." However, a marine repair shop that is several blocks away from a facility, separated from the facility by structures or space not commonly owned or operated by the facility, and not independently in close proximity to the water is not "adjacent to the marine environment," even if the facility and repair shop are under common ownership or operation.
- "Marine environment" is defined in *Appendix O* and includes all waters subject to the jurisdiction of the United States.

A.4. Facilities

The Maritime Transportation and Security Act of 2002, 46 USC 70101 (2) provides: "The term 'facility' means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States." This definition is applicable when enforcing 46 USC Chapter 701 (Port Security) and implementing regulations promulgated pursuant to that chapter. The term "facility" is broader than the term "waterfront facility" because it is not limited to Navy installations and property in immediate proximity to mooring facilities. The term "adjacent" is the same in this context as explained in *Section A.3* above. The boundaries of a facility under 46 USC Chapter 701 will be specifically defined in 33 CFR Sub-Chapter H.

A.5. Transportation Security Incident

46 USC 70101 (6) defines "transportation security incident" as a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

A.6. High Interest Vessel (HIV)

A commercial vessel intending to enter a U.S. port that may pose a high relative security risk to the port.

A.7. International Ship and Port Facility Security (ISPS) Code

The ISPS Code, developed to support the new international maritime security requirements in SOLAS Chapter XI-2, was adopted by International Maritime Organization (IMO) diplomatic conference in December 2002. SOLAS XI-2 and the ISPS Code require ships subject to SOLAS, and port facilities that serve such ships, to enhance their security. This primarily includes completing security assessments, developing security plans to address vulnerabilities revealed by the assessments, designation of security personnel, and training and drills. The vessels and port facility security plans must also address access control, designation of restricted areas, security of cargo handling, security of ship stores, security of unaccompanied baggage, and security monitoring. Other changes to SOLAS adopted by the diplomatic conference include installation of ship alert systems, maintenance of a Continuous Synopsis Record (CSR), and accelerating installation of Automatic Identification Systems (AIS). The SOLAS amendments and ISPS Code enter into force on July 1, 2004. At that time, Coast Guard inspectors and Boarding Officers will verify compliance with these requirements, as set forth in 33 CFR Sub-Chapter H. Future guidance will be provided for Port State Control, including rectification of non-compliance and appropriate control and compliance measures.

A.8. Terrorism

The term "terrorism" has several definitions and varies depending on the context in which the term is employed. When using the term in the context of criminal investigations, Coast Guard personnel shall refer to the specific statute to ensure that the conduct under consideration meets the elements of the specific offense.

For purposes of this chapter (and as provided in 6 USC 101(15)), the term "terrorism" means any activity that—

- involves an act that—
  - is dangerous to human life or potentially destructive of critical infrastructure or key resources; and
  - is a violation of the criminal laws of the United States or of any state or other subdivision of the United States; and
- appears to be intended—
  - to intimidate or coerce a civilian population;
  - to influence the policy of a government by intimidation or coercion; or
  - to affect the conduct of a government by mass destruction, assassination, or kidnapping.

A.8.a. State Department Definition

The State Department uses a statutory definition of terrorism: premeditated, politically motivated violence against noncombatant targets by sub-national groups or clandestine agents usually intended to influence an audience. See 22 USC 2656f(d). The term "noncombatant" includes military personnel who at the time of the incident are unarmed or not on duty.

A.8.b. FBI Definition

The FBI has several, slightly different definitions of terrorism. One defines a terrorist incident as a violent act, or an act dangerous to human life, in violation of the criminal laws of the United States, or any state, to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.

Another FBI definition states that terrorism is the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. See 28 CFR 0.85(l).

A.8.c. U.S. Criminal Code Definition

The terrorism chapter of the U.S. Criminal Code (Title 18) also contains additional definitions of terrorism. 18 USC 2332b (g) (5) is limited to specific acts directed against a government while 18 USC 2331 (1) includes acts that appear to be directed at the civilian population.

Section B. Introduction

Introduction

Homeland security is a concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize damage and recover from attacks that do occur. The Coast Guard's MHS law enforcement mission is to protect the U.S. Maritime Domain and the U.S. Marine Transportation System (MTS) and deny their use and exploitation by terrorists as a means for attacks on U.S. territory, population, and critical infrastructure. Additionally, the U.S. Coast Guard law enforcement personnel will conduct or assist in emergency response operations in the event of a terrorist attack.

This section contains overarching principles or philosophies that apply to MHS law enforcement.

B.1. Overarching Requirements

The Coast Guard is required to perform MHS law enforcement duties in support of:

- Section 102 of the Maritime Transportation Safety Act.
- Ports and Waterways Safety Act.
- The Espionage Act of 1917.
- The Magnuson Act of 1950.
- 33 CFR Part 6.
- 33 CFR Sub-Chapter H.
- Presidential Decision Directive 39 (PDD-39).
- Homeland Security Presidential Directive 5 (HSPD-5).
- *The National Security Strategy of the United States of America.*
- *The National Strategy for Homeland Security.*
- *The Coast Guard Maritime Strategy for Homeland Security*.

MHS means more than protecting U.S. borders against terrorist attacks; in addition to terrorism, the maritime region harbors many other threats to national sovereignty, natural resources, the environment, economic prosperity, and social welfare. The Coast Guard operates in concert with other government agencies, the private sector, and the international community to address all of these threats.

B.2. Maritime Law Enforcement Operations

Chapters 1 through 4 contain overarching policy regarding the conduct of MLE operations, including a law and policy framework, policy on the conduct of boarding operations, and rules governing use of force. These chapters apply to the entire ELT program, including MHS law enforcement. This chapter, along with *Chapters 1 through 4* and applicable appendixes, provides the controlling source of Coast Guard policy for the conduct of armed operational law enforcement in support of MHS, including shoreside security and law enforcement activities not governed by the *Physical Security and Force Protection Manual*, COMDTINST M5530.1 (series), or the *Coast Guard Investigations Manual*, COMDTINST M5527.1 (series).

B.3. Port Security Duties

This chapter supplements the *Marine Safety Manual*, *Volume VII, Port Security,* COMDTINST M16000.12 (series), which provides information and guidance to Coast Guard personnel assigned to port security duties. The *Marine Safety Manual, Volume VII, Port Security,* COMDTINST M16000.12 (series), *Chapter 7*, provides port security tactics applicable in MHS law enforcement operations. Any conflict in armed law enforcement policy, including the Coast Guard Use of Force Policy, between the *Marine Safety Manual, Volume VII, Port Security,* COMDTINST M16000.12 (series), and this Manual shall be resolved on scene in favor of this Manual, and thereafter brought to the attention of

Commandant (G-OPL/G-MPP).

B.4. Criminal and/or Civil Offenses

Appendix O contains a summary of criminal and/or civil offenses applicable to MHS law enforcement, which discusses each offense in terms of its elements, applicability, and associated enforcement policy. *Appendix C* contains a statutory field reference of generally applicable federal offenses. *Chapter 12* provides detailed discussion regarding general criminal laws applicable within the maritime realm not otherwise addressed in this Manual.

B.5. Terrorist Threats and Incidents in Marine Environment

Appendix P provides special procedures for command, control, approval, and coordination for actual and suspected credible terrorist threats and incidents in the marine environment. Additional planning guidance is contained in the *National Response Plan, Contingency Preparedness Planning Manual,* COMDTINST M3010 (series); *Coast Guard Incident Management Handbook*, COMDTPUB P3120.17; *Incident Command System*, COMDTINST 3120.14 (series); *Coast Guard Incident Command System Implementation Plan*, COMDTINST M3120.15 (series); *Marine Safety Manual, Volume VI*, *Ports and Waterways Activities*, COMDTINST M16000.11 (series); *Marine Safety Manual, Volume VIII*, COMDTINST M16000 (series); Coast Guard 9900 plan; Coast Guard 1003V plan; and other documents cited within these references.

B.6. Tactical Guidance

In addition to the port security tactics provided in the *Marine Safety Manual*, *Volume VII, Port Security,* COMDTINST M16000.12 (series), the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, also provides generally applicable tactical guidance. Although *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 focuses on the counterdrug and migrant interdiction missions, it covers a wide range of general law enforcement topics that can be applied to the enforcement of laws described in this chapter. These include various patrol tactics, pre-boarding activity, and boarding, inspection, search, seizure, and arrest procedures. Where *Chapters 1 through 4* and appendixes to this Manual specifically refer to the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, units shall adhere to the referenced procedures irrespective of the mission area they are executing.

B.7. Aircraft Use

The use of Coast Guard aircraft for MHS missions is set forth in *Appendix C* to the *Operation New Frontier Procedures Manual*, COMDTINST 3120.2 (series).

Section C. Policy and Procedures

Introduction

This section contains policy and procedures that apply to the entire MHS law enforcement mission area. Specific policy guidance is provided with respect to:

- Guiding principles.
- Security boardings.
- Control measures.
- MHS law enforcement ashore.
- Searches of structures, vehicles, and persons ashore.
- High risk crewmembers and stowaways.

C.1. Guiding Principles

MHS is a federal law enforcement mission carried out by domestic law enforcement authorities, including the Coast Guard, and shall be conducted in accordance with settled law enforcement procedures, this Manual, and other applicable law enforcement policies. DoD personnel may assist non-DoD law enforcement authorities with MHS law enforcement

missions in accordance with federal law (e.g., 10 USC 374) and applicable DoD and Coast Guard regulations and policies. For purposes of this Manual, MHS does not include the physical security of Coast Guard units and property, which shall be conducted in accordance with the *Physical Security and Force Protection Manual*, COMDTINST M5530.1 (series).

C.1.a. National Self-Defense

In the event of a threat or incident requiring the exercise of national self-defense (see *Chapter 4.A.5*), DoD, acting through Northern Command (NORTHCOM) and supported by other agencies, will normally take the lead in carrying out Maritime Homeland Defense (MHD) operations, which involves the protection of U.S. territory, domestic population, and critical infrastructure against military attacks emanating from outside the United States. *Appendix A* to *Enclosure A* of the Standing Rules of Engagement (SROE) designates the authority to exercise national self-defense, which does not currently reside with the U.S. Coast Guard.

The Coast Guard is at all times a federal law enforcement agency, a military service, and a branch of the armed forces of the United States. Consequently, the Coast Guard has the requisite legal authority to conduct both MHS and MHD, as circumstances may require.

C.1.b. Role of Coast Guard

As the federal agency with the most direct role in and responsibility for MHS, the Coast Guard engages in maritime surveillance, reconnaissance, tracking, and interdiction of threats to the security of the United States, as well as responding to the consequences of such threats. In support of this mission, trained, qualified, uniformed, and armed Coast Guard law enforcement personnel enforce or assist in the enforcement of all applicable federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States.

C.1.c. Limited Operations Ashore

Except in exigent circumstances described in *Chapter 3*, armed and uniformed Coast Guard law enforcement operations ashore shall be limited to the LEAOA, and, to the extent necessary to protect life and property, in transit ashore between or to and from the LEAOA. Uniformed Coast Guard personnel carrying firearms or other weapons ashore to conduct MHS law enforcement operations shall at all times operate and be qualified and equipped in accordance with this Manual.

C.1.d. Other Agency Assistance

Subject to *Appendixes D* and *P*, Coast Guard Operational Commanders shall coordinate MHS law enforcement operations afloat and ashore, to the greatest extent possible, with appropriate international, federal, state, and local authorities. If a potential MHS threat or incident appears to exceed the capability of available Coast Guard resources, the Coast Guard shall seek assistance from appropriate services and agencies as described in *Chapter 2* and *Appendixes D* and *P*.

C.1.e. Delegation of Enforcement Authority

Subject to the requirements of this Manual, boarding and law enforcement teams conducting MHS law enforcement operations are authorized to enforce the rules and regulations of 33 CFR Parts 6, 160, and 165, and 33 CFR Sub-Chapter H, under the direction of the COTP or District Commander.

C.1.f. Safety of Personnel

The safety of Coast Guard personnel is imperative. Personnel must be aware of the hazards and proper safety precautions associated with boarding and examining large commercial vessels and their cargo, and with operating at commercial waterfront facilities.

In particular, armed personnel must remain cognizant of situations in which the production of sparks or discharge of weapons is restricted due to hazards. Additionally, law enforcement personnel must remain vigilant with respect to the risks of confined space entry. Hazardous atmospheres include those that are oxygen deficient, explosive, or toxic, and can be generated by flammable or toxic cargos, shipboard materials, marine processes,

or inadequate ventilation. The *Marine Safety Manual*, *Volumes I-X*, COMDTINST M16000 (series), available at http://www.uscg.mil/hq/g-m/nmc/pubs/msm/v1/c10.htm, outlines confined space entry policy and includes a number of safe work practices. *Chapter 3* of this Manual also addresses safe practices.

C.1.g. Protection and Security of Vessels and Facilities

Notwithstanding maritime security operations carried out by the Coast Guard, 33 CFR 6.19-1 provides that masters, owners, operators, and agents of vessels and waterfront facilities have the primary responsibility for the protection and security of such vessels and facilities. Further, 33 CFR 6.16-3 requires masters, owners, operators, and agents of vessels and waterfront facilities to take all necessary precautions to protect their vessels, waterfront facilities, and any cargo from sabotage and other subversive activity.

C.1.h. Force Protection

In all cases, Operational Commanders shall ensure that a law enforcement or DoD platform is readily available and capable of extracting Coast Guard law enforcement personnel from a boarding, and able to provide adequate and appropriate force protection, as necessary. For operations on the Western Rivers and in other locations similarly in close proximity to shore, Operational Commanders may meet this requirement by coordinating contingency plans and establishing communication plans with federal, state, and local law enforcement officials located along the intended route. Aviation platforms may be employed to deliver, extract, and backup boarding teams without the presence of surface platforms, if deemed safe by the Operational Commander.

C.1.i. Contingency Planning

Planning for contingencies is an integral part of MHS law enforcement operations. The Coast Guard must be prepared to act effectively and efficiently when MHS law enforcement operations detect or encounter threats to security such as explosive devices, weapons of mass destruction, vessel hijackers, swimmer attacks, high risk crewmembers, stowaways, criminals, and terrorists. Contingency planning is a multi-faceted undertaking beyond the scope of this Manual; however, before undertaking any MHS law enforcement activities, Operational Commanders shall ensure that procedures, organization, resources, and related capabilities exist to resolve anticipated emergencies associated with MHS law enforcement, including advanced coordination with federal, state, and local authorities. Command, control, coordination, and approval during actual and suspected terrorist threats and incidents shall be in accordance with *Appendix P*.

C.2. Security Boardings

A "security boarding" is an examination by an armed boarding team of a vessel (including the cargo, documentation, and persons onboard) designated by the COTP, arriving or departing at a U.S. port, to deter acts of terrorism and/or transportation security incidents. COTPs may order a security boarding for vessels engaged in domestic operations if intelligence or other law enforcement information warrants. In MARSEC 1, COTPs will not normally designate U.S. fishing vessels, U.S. recreational vessels, or ferries and commuter vessels on regular local routes as candidates for security boardings, but may do so if intelligence or other law enforcement information warrants. Security boardings shall be carried out in accordance with *Chapters 1 through 4* of this Manual subject to the special procedures set forth in this section.

Security boardings are not intended to result in complete vessel inspections, and are not Port State Control boardings (although Port State Control activities may be conducted in conjunction with the security boarding). Instead, the objective of the security boarding is to deter acts of terrorism and/or transportation security incidents through the detection of suspicious activity, equipment, situations, persons, or materiel that may require further investigation or interventions by the Coast Guard, and/or other federal, state, and local agencies. Security boardings include, but are not limited to:

- Verification of the information submitted in the Advance Notice of Arrival (ANOA).

- Ensuring that the ship and crew are operating consistent with the stated purpose of the voyage, industry norms, and federal law and regulations.
- Investigation of any intelligence and/or law enforcement information related to the vessel and crew.
- Collection of information intended to assist the COTP in deciding whether to permit the vessel to enter or leave port.

C.2.a. Trained Personnel

Properly trained and qualified armed Coast Guard personnel conduct security boardings on vessels subject to the jurisdiction of the United States pursuant to authority set forth in the Magnuson Act, 50 USC 191-194, 33 CFR Part 6, 46 USC Chapter 701, and 33 USC 1226 (b)(3). If Coast Guard law enforcement personnel encounter non-compliant persons or vessels, or detect a violation of federal law during the course of a security boarding, they may make inquiries, examinations, inspections, searches, seizures, and arrests, and use reasonable force to compel compliance and defend themselves and others in accordance with 14 USC 89 (a).

C.2.b. COTP Determination

COTPs determine which arriving, departing, and other vessels pose the highest relative risk to U.S. ports and are, therefore, subject to a security boarding.

33 CFR Part 160 requires that most commercial vessels entering a U.S. port must provide ANOA to the COTP. COTPs use ANOA information, intelligence support, and risk management tools to make security boarding determinations.

After the security boarding has been performed at the first U.S. port of entry, further security boardings are optional for vessels making subsequent consecutive port calls in the U.S., provided a review of the crew list, intelligence, cargo manifest, and port of arrival indicates no change to the security risk factors in the applicable risk management tool.

C.2.c. Location of Security Boardings

Security boardings should be conducted to permit sufficient time and sea room to complete the boarding before the vessel enters port. If the COTP determines that the presence of the vessel in an inshore anchorage or at a pier does not pose an unacceptable risk to the port, the security boarding may be conducted while the vessel transits, or after a vessel enters port, anchors, or moors.

C.2.c.1. Internal U.S. Waters and Territorial Sea

Coast Guard law enforcement personnel may conduct security boardings aboard vessels in internal U.S. waters and in the U.S. territorial sea (those waters extending to 12 NM from the baselines of the United States determined in accordance with international law) when directed by the COTP.

C.2.c.2. U.S. Contiguous Zone

In addition to security boardings directed by the COTP in U.S. territorial sea or internal waters, District and Area Commanders may direct Coast Guard law enforcement personnel to conduct security boardings aboard foreign flag HIVs located in the U.S. contiguous zone as defined in Presidential Proclamation 7219 of September 2, 1999, when there is reasonable suspicion that the vessel is:

- In violation of U.S. fiscal, immigration, sanitation, or customs laws.
- Headed to or has departed from the U.S. territorial sea or internal waters.
- Constructively present within the U.S. territorial sea or internal waters as described in *Chapter 2.B.4.j.*

C.2.c.3. Condition of Port Entry

International and domestic law permit security boardings as a condition of port entry for vessels that have indicated intent to call at a port or place subject to the jurisdiction of the United States.

- When such a vessel is located seaward of U.S. territorial sea, and there is no other basis for conducting a non-consensual boarding without flag State consent, the COTP may request that the master consent to a security boarding as a condition of proceeding to its intended port or place in the U.S.
- If the master refuses to provide consent, then the COTP, after consultation with the servicing legal office, may deny the vessel entry into the territorial sea.
- In those situations where Coast Guard law enforcement personnel still desire to board such a vessel seaward of U.S. territorial sea, the Operational Commander shall request a Commandant (G-O) SNO through the PD-27 process contained in *Appendix D*. When making such requests, Operational Commanders shall articulate reasonable grounds to believe that a security boarding is necessary to prevent or deter an act of terrorism or a transportation security incident that would affect the interests of the United States.

C.2.d. Supplemental Policies

Security boardings shall follow the boarding procedures contained in *Chapter 3.C*, subject to the following supplemental policies:

C.2.d.1. Boarding Platforms

Coast Guard law enforcement personnel shall conduct security boardings only from vessels, aircraft, and vehicles:

- Owned and operated by the Coast Guard, including Coast Guard Auxiliary platforms subject to the provisions of *Chapter 2.E.8*.
- Owned and operated by DoD and other federal, state, or local Government agencies.
- Owned and operated by a foreign nation when authorized by international agreement or arrangement.

C.2.d.2. Use of Commercial Vessels as Boarding Platforms

District Commanders may authorize the use of commercial vessels for boarding team transportation, including as a platform for embarkation and debarkation, if the District Commander does not reasonably anticipate the boarding or transit is likely to involve the need for use of force, has determined that an adequate asset (as listed in *Section C.2.d.1* above) is not readily available or, if readily available, is required for other operations, and has determined that the commercial vessel is the safest readily available asset to conduct the transportation. If the conditions herein are met, then Operational Commanders may:

- Contract for the use of the commercial vessel and operator to transport boarding personnel (however any such contract shall be approved by the servicing legal office).
- Request and accept the offer of voluntary services of a commercial vessel and operator pursuant to 33 CFR 6.04-11 and 14 USC 826-827.

Coast Guard law enforcement personnel shall not make representations to commercial or other interests regarding indemnification, insurance, liability, or similar issues. All such inquiries shall be referred to the servicing legal office. All inquires relating to contract administration shall be referred to the cognizant contracting officer.

C.2.e. Boarding Team Qualification, Composition, and Equipage

Security boardings shall be conducted by uniformed and armed Coast Guard boarding teams qualified, composed, and equipped in accordance with this Manual.

- A qualified Coast Guard Boarding Officer shall be in charge of the boarding team at all times.
- As designated by the COTP, a qualified Coast Guard Port State Control Officer (PSCO) may assist the Boarding Officer. The primary responsibility of the PSCO is to oversee the safety of the boarding team as the BISI is conducted and utilize their knowledge and

experience to confirm the vessel's declared intent.

- The Boarding Officer shall heed the advice of the PSCO in matters regarding vessel safety, large vessel operations, Port State Control violations, SOLAS and ISPS compliance, compliance with 46 CFR Sub-Chapter H, confined space entry, and other marine safety and security matters.
- Other federal, state, and local law enforcement agencies may participate in security boardings subject to the requirements for accepting assistance from other agencies set forth in *Chapter 2.A.4* and *Chapter 3.C.1.a.1*.
- Unarmed personnel from other government agencies, as well as unarmed Coast Guard personnel not qualified as Boarding Officers or boarding team members, may also participate in the boarding at the discretion of the COTP. Generally, unarmed personnel should board the vessel only after the armed component of the boarding team has completed a BISI and, if warranted, an extended initial safety inspection (EISI) in accordance with *Chapter 3*.
- In cases where the Boarding Officer determines that it is preferable to have the armed and unarmed components of the boarding party embark at the same time (i.e., where the only derogatory information about the vessel involves a high risk cargo), the armed boarding team shall first board the vessel and conduct a risk assessment to ensure the embarkation point is secure. Thereafter, the unarmed members of the boarding team may board the vessel. At the discretion of the Boarding Officer, unarmed personnel may be required to remain in the secured embarkation area or other secured location until completion of the BISI and, if warranted, EISI.
- At least one armed boarding team member shall always accompany unarmed boarding team personnel while onboard the subject vessel. Accordingly, COTPs authorizing the presence of unarmed personnel on security boardings shall be cognizant of the need for additional armed personnel to provide adequate force protection.
- In all cases, the Boarding Officer may decline to permit unarmed personnel to embark the subject vessel or order unarmed personnel off the subject vessel, if, in his or her opinion, the presence of those unarmed personnel creates an unnecessary or unmanageable risk to the boarding team. Such decisions are final and at the sole discretion of the Boarding Officer.

C.2.f. Pre-Boarding Process

Before boarding the vessel, the Boarding Officer and PSCO (if assigned) shall review all available information concerning the vessel (e.g., message traffic, Ships Arrival Notice System (SANS), the Port Security Vessel Targeting Matrix, and MISLE data). The COTP and/or CO may provide the Boarding Officer and PSCO access to available intelligence information (including classified information if the Boarding Officer and PSCO have the required access and need-to-know) concerning the vessel pursuant to the *Policy for Dissemination and Use of Intelligence Information*, COMDTINST 3820.14 (series). The PSCO shall evaluate the vessel's safety and security history. The Boarding Officer and PSCO shall conduct a pre-boarding brief with all members of the boarding team to discuss safety and security measures, boarding plan, and communications. At a minimum, the pre-boarding brief should include, where applicable:

- Location of the boarding, proximity to hazards and vulnerabilities, other expected traffic and vessel activities during the boarding.
- Last five ports of call.
- Next port of call (NPOC).
- History of compliance with security measures.
- Any known or suspected non-conformities or deficiencies in the vessel security plan.
- Reasons the vessel was designated for boarding.
- Relevant intelligence and/or law enforcement information.
- Composition of the crew, including cultural differences germane to assessing the

security of the vessel.

- Cargo and known safety hazards related to the cargo or to the operation of the vessel.
- Boarding team composition and assigned responsibilities.
- External and internal team communication plans.
- Emergency extraction and egress procedures.
- Boarding plan, including ISI and border search intentions.
- Confined space entry.
- Safety concerns and risk reduction tactics are as follows:
  - The perceived risk from fires/explosions on large merchant vessels is relatively low compared to expected injuries related to persons overboard, noise, physical hazards exposure, and violence and weapons-related injury.
  - Transfer operations to and from an HIV probably present the greatest risk in most security boarding evolutions. COTPs and Boarding Officers shall therefore identify and consider the use of sheltered anchorages and, when feasible, direct HIVs to those anchorages for boarding to reduce the risk to boarding team members associated with environmental conditions during embarkation.
  - Bulk/break bulk cargo vessels are perceived to have more risk than other vessel types. For example, a bulk freighter that comes into a port unballasted would have substantially more freeboard, adding to the risk for personnel transfer to and from the vessel. Accordingly, COTPs and Boarding Officers shall tailor risk management strategies by considering the vessel types on which they will be used. What may be an acceptable control strategy for a container vessel may be less than adequate for a bulk cargo vessel.
  - Boarding Officers shall enforce the consistent use of personal protective equipment.

C.2.g. Relations with Pilots

If possible, security boardings should be conducted before the vessel embarks a pilot. If this is not possible, the boarding team should not interfere with the pilot's embarkation, debarkation, and safe navigation of the vessel. Safe navigation of the vessel during the boarding remains the responsibility of the master.

C.2.g.1. Firearms

While pilots are rarely armed, it is appropriate for the Boarding Officer to inquire discretely as to whether the pilot is carrying a firearm. If the pilot is armed and the jurisdiction requires permits for weapons carriage, the Boarding Officer shall request to see the pilot's permit to carry the weapon.

- If the pilot is able to produce a valid carry permit for the weapon he/she is carrying, the Boarding Officer shall permit the pilot to retain the weapon, however the Boarding Officer should advise the pilot of the potential risks that may ensue from possessing and/or using a weapon during the course of an armed federal law enforcement boarding. If, at any time, there is reasonable suspicion that the armed pilot presents a danger to himself or others, the Boarding Officer shall remove the weapon from the pilot, make the weapon safe, and secure the weapon pending further investigation.
- If the pilot cannot produce a valid carry permit and is required to have one, the Boarding Officer shall remove the weapon from the pilot, make the weapon safe, and secure the weapon pending further investigation of the pilot's right to possess the weapon.

C.2.g.2. Outreach

Operational Commanders shall conduct outreach with pilot associations to ensure that all pilots are aware of Coast Guard policies and procedures with respect to the conduct of security boardings, use of force policies, and the carriage of firearms. Operational Commanders should consult their servicing legal offices regarding federal and state firearms possession and licensing laws and regulations.

C.2.h. Navigation Assistance	When conducting security boardings, boarding team members shall not interfere with the safe navigation of the vessel unless directed by the COTP or in exigent circumstances in which the navigation of the vessel poses an imminent threat of death or serious physical injury to any person. Boarding team members may participate in or provide input on matters involving the navigation of the vessel during an emergency where the licensed pilot and crew are incapacitated and unable to operate the vessel.
C.2.i. Crew Muster	Before boarding the vessel, the Boarding Officer should request that the master direct the off-watch crew and any other personnel onboard (e.g., agent, cargo, surveyor, marine chemist, etc.) to muster in a single location. The Boarding Officer shall consider the intelligence and information regarding the vessel, safe operations of the vessel, and Standards of Training, Certification and Watchkeeping (STCW) limitations, such as crew rest and watchkeeping, when determining the necessity for and duration of the muster. Domestic vessels operating on the Western Rivers, for example, should not normally require crew musters, unless the Boarding Officer has an articulable officer safety concern.
C.2.j. Basic Initial Safety Inspection (BISI)	Upon embarking the vessel, the armed members of the boarding team shall conduct a BISI in accordance with *Chapter 3.C.3*. The scope of the BISI is determined by the circumstances of the boarding, particularly the size, type, and condition of the vessel, the demeanor of the crew (knowledge, skill level and experience), and information available to the boarding team about potential threats or hazards aboard the vessel. The BISI on security boardings of commercial vessels shall normally include the location where the crew has mustered and critical vessel control areas such as the pilothouse, engine room, steering gear compartment(s), weather decks, and pump rooms.
C.2.k. Extended Initial Safety Inspection (EISI)	The Boarding Officer may direct an EISI when reasonable suspicion exists that there is a particular hazard that may threaten the boarding team, including, but not limited to, accounting for missing crew members and suspected stowaways, and any significant safety and security discrepancies.
C.2.l. Confined Space Entry	Cargo pump rooms and other areas associated with cargo tanks and piping (and spaces immediately adjacent to them) are subject to the collection of dangerous cargo vapors. All electrical devices installed, carried (e.g., radios, pagers, cellular phones, cameras, flash attachments), or used in these areas must be intrinsically safe or explosion proof to prevent pockets of vapor from causing a catastrophic explosion. Boarding teams shall be cognizant that weapons discharge in or in the vicinity could also detonate the atmosphere in such spaces. Boarding teams shall not enter cargo pump rooms, chain lockers, water tanks, holds, voids, cofferdams, spaces that have been coated and closed and which have not been ventilated, and other confined spaces during any phase of the boarding unless expressly authorized by the Boarding Officer and PSCO, who shall ensure compliance with Coast Guard current confined space entry policies and procedures. If the inability to enter these spaces results in reasonable doubts regarding the safety or security of the vessel, the Boarding Officer shall immediately notify the COTP. The *Marine Safety Manual*, *Volumes I-X*, COMDTINST M16000 (series), available at http://www.uscg.mil/hq/g-m/nmc/pubs/msm/v1/c10.htm, outlines confined space entry policy and includes a number of safe work practices. *Chapter 3* of this Manual also addresses safe practices.

C.2.m. Verification of Crew and Documentation During BISI

During the BISI, the Boarding Officer and PSCO should normally proceed to the pilothouse to coordinate verification of officer licenses and crew documentation, and the process for accounting for all persons on the crew list.

As part of the BISI, the armed members of the boarding team will muster the crew, if appropriate, to verify that it matches the list provided with the ANOA.

- Verification shall include a check of licenses, documents, and passports.
- The boarding team should also compare the crew list with the Safe Manning Certificate and compare the requirements of the certificate with the licenses and documents of the crew. Additionally, an unusually high number of crewmembers in excess of the safe manning level should be considered in determining whether crewmembers may be attempting to enter the United States illegally by absconding from the vessel in or near port.
- Due to the large number of crewmembers on passenger vessels, boarding teams should verify the navigation crew and randomly verify other crew.
- Crew musters are typically not required for domestic vessels operating on the Western Rivers.
- On cargo vessels certificated to carry 12 or fewer passengers, the boarding team shall compare the passenger list to the passenger's identification.

Boarding teams may provide wristbands to "cleared" crewmembers for accountability purposes.

C.2.n. Verification of Additional Vessel Information after BISI

Once the BISI is completed, the boarding team shall verify additional vessel information and intentions and develop a recommendation regarding the vessel's ability to enter port or remain in port under its present security condition. In order to make such a recommendation, the following examination and review should take place:

- Verify the cargo. This may include an inspection of cargo containers, review of the dangerous cargo manifest, and confirming all CDCs have been declared.
- Examine the Safety Management Certificate, Document of Compliance, and the International Ship Security Certificate to ensure all are within the listed expiration dates.
- Determine previous port calls and compare to those listed on the ANOA.

If the boarding team discovers information that results in the Boarding Officer recommending that the COTP not permit the vessel to enter port, or that recognizes a deficiency in the vessel's security system or vessel-related information, the COTP shall take action to either clear the discrepancy, permit the vessel into port, or remedy the security deficiency.

C.2.o. Border Search

All HIVs entering or departing the United States are subject to border search. Boarding Officers may conduct border searches on such vessels during security boardings without seeking approval from higher authority. Border searches shall otherwise be conducted in accordance with *Chapter 3.C.9.c*. Such border searches should be coordinated with ICE/CBP officials if time and resources permit.

C.2.o.1. Port State Control and ISPS

Security boardings may also include full or partial Port State Control, SOLAS Chapter XI-2, and ISPS Code examinations and inspections, pursuant to 33 CFR Sub-Chapter H. Normally, security boardings are not intended to accomplish complete compliance inspections pursuant to these frameworks; if conducted as part of the security boarding, however, such examinations and inspections shall be carried out under the supervision of the PSCO and at the discretion of the Boarding Officer. Port State Control and ISPS inspections shall not interfere with the BISI, EISI, or any search activity. If Port State Control examination is required, the examination shall occur after the ISI and search activity. Matters related to shipboard hazard identification should not, however be delayed.

C.2.o.2. High-Risk Crewmembers and Stowaways

High-risk crewmembers and stowaways encountered during security boardings shall be managed in accordance with *Chapter 10.C.7*. When intelligence indicates a possible threat from absconders, stowaways, or crewmembers with criminal backgrounds, Operational Commanders shall consult with local/regional CBP and ICE officials, as well as local law enforcement officials, vessel agents, and vessel and facility security personnel to determine appropriate control measures.

C.2.o.3. Reporting

Boarding teams shall report disposition of all security boardings in accordance with guidance provided by the District Commander. If a security boarding yields significant results, the boarding unit shall submit a Field Intelligence Report (FIR) within four hours of completing the boarding. FIRs should follow the format shown in **Figure 10-1**. Units shall also document security boardings in MISLE using current MISLE guidance within 12 hours of completion of the boarding. This requirement is to ensure that the particulars of the boarding are made available to the COTP of any subsequent U. S. port that the vessel may intend to enter. Completion of Form CG-4100, as detailed in *Appendix E,* is not required for security boardings.

C.3. Control Measures

This section applies to all vessels, foreign or domestic, subject to the jurisdiction of the COTP. The COTP may use risk-based decision-making tools to determine that a vessel may enter, depart, or move about the port or waterway only under control measures. The COTP may implement control measures designed to neutralize external threats to the vessel, internal threats to the vessel, or both. Control measures generally involve limiting external access to the vessel, limiting the vessel's proximity to or duration transiting vulnerable or high value areas, and the placement of guards onboard the vessel to deter and respond to internal threats. COTPs evaluate the risks and consequences posed by vessel transits by considering factors such as:

- Intelligence.
- Previous ports of call.
- Cargo hazards.
- Hull design and vulnerability.
- Vessel speed.
- Intended route.
- Other anticipated traffic.
- Shoreline topography.
- Proximity of populated areas and/or critical infrastructure.
- Waterway dimensions.

Control measures shall be documented in MISLE using existing MISLE guidance.

C.3.a. External Threats	Where intelligence or other information indicates a possible threat external to the vessel, COTPs may implement control measures including escorting the vessel with Coast Guard surface and/or air assets, limiting the vessel's transit to certain times (e.g., daylight only transit), establishing safety or security zones around the vessel or critical areas of the port such as natural "choke points," bridges, locks, environmentally sensitive areas, water intakes, population centers, military installations, tourist attractions, and symbolic targets.
C.3.a.1. Escort Assets	Escort assets shall have the capability to both accompany and protect the escorted vessel, while maintaining an adequate force protection posture. Accordingly, except on the Western Rivers, a minimum of two armed assets (surface or air) shall be assigned to escort operations. If the escorted vessel is located on the Western Rivers or armed with crew-served weapons, which are manned and ready, then the Operational Commander may permit a single-asset escort after assessing whether the collective capabilities of the escort vessel, escorted vessel, and other resources in the vicinity can, under the circumstances of the proposed transit, effectively intercept and determine the intent of approaching vessels. Single assets accompanying vessels provide a visible deterrent, counter-surveillance platform, and SAR response, however, the presence of a single asset under circumstances, other than those described above, does not constitute an "escort" for purposes of MHS law enforcement.
C.3.a.2. Armed Vessel Standard	The desired standard for "armed vessels" includes a mounted automatic firing weapon(s) (i.e., .50 caliber machine gun, M-60, M-240, or Lietner Weiss Modified M-16 rifle) in addition to carrying an M-16 rifle or shotgun.
C.3.a.3. Escort Tactics	Escort tactics may be found in the *Marine Safety Manual*, *Volume VII, Port Security,* COMDTINST M16000.12 (series).
C.3.b. Internal Threats	Where intelligence or other information indicates a possible internal threat to the vessel, COTPs may implement positive control measures intended to enhance the internal security of the vessel and to ensure that the vessel remains under the control of appropriate shipboard authorities (i.e., master and pilot), particularly while the vessel transits critical or vulnerable areas of the port. Such measures include security boardings, requiring the vessel to anchor offshore, directing the vessel to employ tugs, and requiring the vessel to embark private security personnel.
C.3.b.1. Armed Security	Positive control measures requiring the employment of armed security to conduct onboard positive control operations may provide a visible deterrent to illicit activity, increase public confidence in the MTS, and may be tactically effective in reducing the risk that the vessel may be used as a weapon against critical infrastructure or other high-value targets.
C.3.b.2. Primary Measures	The primary measure for detecting, deterring, and neutralizing internal threats is the security boarding described in *Section C.2* above. Except in exigent circumstances, armed Coast Guard personnel shall only undertake the onboard positive control measures described in this section concurrent with or upon completion of a security boarding. In all cases, the composition, organization, qualifications, size, and outfitting for teams conducting onboard positive control measures shall be in accordance with *Chapter 3* of this Manual.

C.3.b.3. Boarding Team as Security Guards	Concurrent with or upon completion of a security boarding, armed boarding team members may take up positions aboard the vessel to deter, detect, prevent, and respond to acts of terrorism and/or transportation security incidents. Accordingly, boarding team personnel may provide security for the bridge navigation team, pilot, steering and propulsion equipment, pump room of tank ships, and other areas and persons vital to the positive control of the vessel. Boarding team personnel may also provide a point-defense capability against external threats.
C.3.b.4. Navigation Interference and Assistance	When effecting positive control measures aboard a vessel, boarding team members shall not interfere with the safe navigation of the vessel unless directed by the COTP or in exigent circumstances in which the navigation of the vessel poses an imminent threat of death or serious physical injury to any person. Boarding team members may participate in or provide input on matters involving the navigation of the vessel during an emergency where the licensed pilot and crew are incapacitated and unable to operate the vessel.
C.3.b.5. Security Boarding Limitations	In situations involving positive control measures aboard high-capacity ferries and large cruise ships, the available resources, time constraints, and number of persons onboard the vessel may limit the scope of the security boarding to a BISI, which, in addition to an inspection of critical vessel control areas such as the pilothouse, engine room, steering gear compartment(s), weather decks, and pump rooms, shall include meeting with the vessel's master and/or security officer to discuss known threats, vulnerabilities, and concerns, and verifying the credentials of personnel in the vessel's control spaces (including any crewmembers assigned to respond to aft steering in an emergency). In situations involving positive control measures aboard barges, towboats, and other vessels regularly operating on inland rivers and waterways, the Boarding Officer may limit the scope of the security boarding to an appropriately scaled BISI. Mustering and positively identifying sleeping crewmembers aboard routinely transiting towboats shall be at the discretion of the Boarding Officer.
C.3.b.6. Handling Non-Federal Offenses	While conducting onboard control measure operations, Boarding Officers may make warrantless arrests for federal offenses in accordance with *Chapter 3* and *Appendix D*. In some escort cases, boarding teams may observe conduct that constitutes a crime under state law, but does not constitute an offense under federal law (either because the conduct is not a federal crime or because the conduct has occurred outside the special maritime and territorial jurisdiction of the United States). • If the observed conduct does not constitute a federal offense, boarding teams shall immediately notify the vessel operator and/or security personnel and state or local law enforcement personnel who are embarked and may have jurisdiction. • If officers with jurisdiction are unable to respond immediately, Coast Guard personnel shall not detain persons for violations of state law unless such detention is necessary for the safety of the boarding team or other persons onboard the vessel. In such cases, detention shall be in accordance with *Chapter 3.C.7.a.5*.
C.3.b.7. Ferries	Boarding teams on ferries may encounter suspicious activities involving personal and commercial vehicles. • Boarding teams shall immediately bring any suspicious activity involving a vehicle to the attention of the vessel operator and/or security personnel and embarked state law enforcement officers. Generally, the ferry operator has the contractual right to prevent a vehicle from entering the ferry or to conduct an inspection of the vehicle as a condition to entry or anytime thereafter. • If the ferry operator and/or security personnel are unable to take responsive action and if

there are no state law enforcement officers embarked, then the Coast Guard boarding team may conduct a warrantless search of a vehicle at a waterfront facility or onboard a vessel in waters subject to the jurisdiction of the United States if one or more of the following applies:

- A person who is entitled to control access to the vehicle knowingly and voluntarily consents to the search.
- The vehicle or the vessel upon which it is located is subject to a customs border search and access to the vehicle is reasonable under the circumstances.
- The Boarding Officer has probable cause to believe that the vehicle contains evidence of federal criminal activity or contraband.

- If the Boarding Officer has probable cause to believe that the vehicle contains contraband, the officer can look anywhere in the vehicle, including containers, in which there is probable cause to believe the contraband may be found.
- A Boarding Officer may not search the entire vehicle when a particular container is the object of the search, and the officer has probable cause to believe it is located in a particular area, but he or she can search the container.
- After reasonable attempts have been made to identify and locate the owner or operator of a vehicle, Boarding Officers may search a locked vehicle after it has been opened by the ferry operator, security personnel, or local law enforcement. In exigent circumstances, in order to save life or property, Boarding Officers, with due regard for the safety of others, may access the interior of the vehicle to conduct the search.
- Officers may only search the occupants of a vehicle in accordance with *Chapter 3.C.10*.

C.3.b.8. Private Security Personnel

Before directing onboard Coast Guard presence as a positive control measure, COTPs shall weigh the potential benefits of remaining onboard against the diversion of Coast Guard resources from other tasking. Accordingly, the COTP may also require vessels to embark private security personnel in addition to or in lieu of a Coast Guard presence. Requiring private security personnel is particularly appropriate when managing the risk of known or suspected stowaways or absconders. In such cases, the COTP may require the vessel to embark private security personnel pursuant to vessel security plan and/or as a condition of port entry or entry into waters in which persons might jump overboard and swim ashore.

C.4. MHS Law Enforcement Ashore

The Coast Guard's primary shoreside roles in MHS law enforcement include monitoring and ensuring the adequacy of facility security measures, augmenting facility security forces to man access control points, securing facility perimeters against intrusion, manning fixed weapons emplacements on piers and facilities to protect against waterside attack, and securing waterside access to critical infrastructure. COTPs accomplish these roles using a variety of law enforcement teams, including Marine Safety and Security Teams (MSSTs), LEDETs, boarding teams, and Physical Security and Facility Inspection/Survey Teams.

C.4.a. Role of Armed and Uniformed Personnel

The role of armed and uniformed Coast Guard law enforcement personnel is not to perform shoreside investigative functions properly undertaken by municipal police authorities, port authorities, and private security retained by facility owners. CGIS or Marine Safety Investigating Officers, as appropriate, shall have the lead within the Coast Guard for all federal investigations ashore connected to enforcement of statutes for which the Coast Guard has law enforcement authority.

Because they are not equipped to respond effectively to the full range of contingencies, unarmed Coast Guard personnel deployed ashore shall not exercise federal criminal law enforcement authority. Such deployments are outside the scope of the Coast Guard ELT program.

C.4.b. Law Enforcement Teams

Coast Guard law enforcement teams composed, organized, outfitted, and operating in accordance with the requirements set forth for boarding teams in this Manual may be deployed to perform MHS law enforcement duties ashore in the United States or U.S. territories only in the LEAOA, as defined in *Section A.1* above, and in transit ashore between LEAOAs.

- Except as noted below, law enforcement teams operating in the LEAOA shall be led in all cases by a Boarding Officer who is designated as a Coast Guard Special Deputy U.S. Marshal (HLSDM), who shall be physically present and accompanying the boarding team. In MARSEC 2 and 3 ports, when exigent circumstances exist and no HLSDM is readily available for duty, District Commanders are authorized to deploy law enforcement teams in the LEAOA under the supervision of any qualified Coast Guard Boarding Officer or other federal law enforcement officer with jurisdiction ashore. This authority may not be delegated.
- Non-HLSDM members of the law enforcement team shall be qualified in accordance with *Chapter 3* and may effect arrests and seizures ashore at the direction and under the direct supervision of the HLSDM.
- All members of the law enforcement team shall carry valid military identification cards at all times.

C.4.c. Conducting Patrols in Government Vehicles

Armed Coast Guard law enforcement personnel conducting MHS law enforcement ashore may conduct patrols in government vehicles when the following conditions are met:

- At least two persons on the law enforcement team have valid driver's licenses.
- The Government vehicle must be clearly marked as a Coast Guard patrol vehicle in accordance with the *Coast Guard Motor Vehicle Manual*, M11240.9 (series).
- Deployment of the vehicle has been generally coordinated with state and local law enforcement officials, who may otherwise be unaware of Coast Guard operations ashore.
- The vehicle or law enforcement personnel have at least two means of communication with TACON. Such means may include VHF-radios and government-owned cellular phones. In any case, the law enforcement personnel must be able to maintain a communications schedule with TACON.

C.4.c.1. Emergency Lights and Sirens

Subject to GSA regulations, and state and municipal law, District Commanders may authorize Coast Guard vehicles in their Districts to be equipped with emergency lights and sirens, placed in or on the vehicle, that emit audible and visual signals in order to warn others that emergency law enforcement activities are in progress. District Commanders shall not delegate this authority. Before equipping vehicles with emergency lights and sirens, District Commanders shall consult with their servicing legal office and motor vehicle manager. Operators of Coast Guard managed vehicles equipped with emergency lights and/or sirens shall complete a state-recognized Emergency Vehicle Operators Course (EVOC), and must comply with applicable state and municipal law for operating and maintaining emergency vehicles. Only EVOC qualified operators shall operate Government vehicles equipped with emergency lights and/or sirens.

Equipping vehicles with emergency lights and sirens does not overcome the prohibition against vehicular stops and pursuits in *Section C.4.c.2* below.

C.4.c.2. Use of Vehicle Requirements

Coast Guard law enforcement teams performing MHS law enforcement duties ashore shall:

- Not utilize their vehicle to make an investigative stop of any motor vehicle.
- Not make stops in their vehicles or conduct any business not directly related to the performance of their duties. When feasible, armed Coast Guard law enforcement teams

should refuel vehicles and take meals at Coast Guard units or at waterfront facilities; when not feasible, armed Coast Guard law enforcement teams shall be cognizant of the limitations of their jurisdiction and authority when outside the LEAOA.

- Not conduct vehicular pursuits ashore. A vehicular pursuit is an active attempt by Coast Guard law enforcement personnel, operating in an automobile ashore, to apprehend fleeing suspects who are attempting to avoid apprehension, whether such suspects are in vehicles or on foot. Normally, uniformed Coast Guard personnel are not trained to conduct car stops, vehicular pursuits, and other automobile patrol operations.
- Limit vehicular activity ashore to transit on and between LEAOAs.
- Report immediately any unusual or suspicious activity to TACON for follow-up/back-up by shoreside law enforcement authorities.
- Not conduct clandestine surveillance of personnel. If, based on observations, a law enforcement team member ashore develops reasonable suspicion to believe that a person has committed or is attempting to commit a federal felony, Coast Guard personnel may continue to observe the person overtly from the vehicle.
- Not leave unattended weapons of any type in the vehicle under any circumstances.
- Except in the exigent circumstances described in *Chapter 3.C.7*, not detain any person unless there is reasonable suspicion to believe that the person has committed or is attempting to commit a federal felony. See *Section C.5.f.2* below for policy on investigative detentions and searches incident thereto.
- Not make an arrest without a Flag SNO. Flag SNOs for arrest ashore by uniformed Coast Guard personnel shall be granted only when the arrest is made by a HLSDM within the scope of the deputation. In cases where an HLSDM is not available, a Boarding Officer may detain the subject for a reasonable time while awaiting officers with appropriate authority and jurisdiction.
- Not seize property without express authorization of the COTP. Upon approval of the COTP, any Coast Guard Boarding Officer may seize property on a waterfront facility. Property seizure must be coordinated in real-time with the servicing legal office.

C.4.d. Warrantless Searches

Coast Guard law enforcement teams performing MHS law enforcement duties ashore may conduct warrantless searches in accordance with *Section C.5* below without seeking higher approval. When in doubt as to whether a warrantless search is authorized, Boarding Officers shall contact TACON for guidance.

C.4.e. Arrests and/or Property Seizures

In cases involving arrests and/or property seizures that the Coast Guard knows about in advance and has time for which to plan, CGIS shall have the lead in planning and execution. In cases involving unplanned arrests and detentions by uniformed Coast Guard personnel ashore, Operational Commanders shall establish contingency plans involving Coast Guard and other federal, state, and local law enforcement agencies, and which shall include:

- Contacting the servicing legal office and duty CGIS agent immediately upon being notified that a uniformed Coast Guard person has detained or arrested any person ashore.
- Coordination of decisions to arrest and prosecute with the servicing U.S. Attorney Officer and/or state/local prosecutor.
- Appropriate processing of prisoners.
- Transportation of prisoners
  - Normally, uniformed Coast Guard personnel will not transport prisoners.
  - If logistics require uniformed Coast Guard personnel to transport prisoners on foot or in a vehicle, the Boarding Officer shall ensure that:
    - All such persons have been properly handcuffed with their hands behind their back.
    - The handcuffs have been double-locked.

- The persons have been thoroughly searched incident to arrest.
- The vehicle being used to transport all involved has been thoroughly searched to ensure nothing is present that the prisoner(s) could use as a weapon or as a means of escape.
- A ratio of at least two armed officers to one prisoner is maintained in the vehicle, and that one armed officer sits in the back seat with the prisoner. The prisoner will be seated on the passenger side, with the Boarding Officer/team member behind the driver. Prisoners must be handcuffed with their hands behind their back, be seat belted in, and all vehicle doors must be locked. Prisoners shall not be handcuffed to any part of the vehicle or to a Coast Guard law enforcement officer.

- Plans for disposition of seized property, including the preservation, transport, storage, and chain of custody of:
  - Fruits of a crime such as physical objects, vehicles, and vessels.
  - Instrumentalities of a crime such incendiary devices, dangerous weapons, burglar tools, and other physical objects used to commit crime.
  - Contraband, which are items of property the possession of which is a crime. Contraband may include narcotics, illegal weapons, counterfeit money, and weapons of mass destruction or their component parts.
  - Illegal aliens and migrants (see *Chapter 6* and *Section C* of this chapter.)
- Management of media inquiries.

C.5. Searches of Structures, Vehicles, and Persons Ashore

This section provides supplemental policy applicable to persons, structures, and vehicles located ashore in the LEAOA. *Chapter 3.C.8* explains the basic principles of Fourth Amendment search and seizure law in the maritime context and applies to all searches and seizures of vessels conducted by boarding teams operating ashore. *Chapter 3.C.8* also applies to all searches conducted incident to arrest, whether afloat or ashore. Policy for searching vehicles entering, aboard, or departing ferries is contained in *Section C.3.b.6* above.

C.5.a. Definition

A search is defined as an entry or intrusion conducted, instigated, or participated in by a government agent on a quest for evidence in an area where any individual has a reasonable expectation of privacy. The individual must have had an actual, subjective expectation of privacy in the place searched and the expectation must be one which society recognizes as reasonable.

C.5.b. Fourth Amendment

When all of the elements in *Section C.5.a* above are satisfied, the Fourth Amendment applies, and the individual with an interest in the property being searched receives Fourth Amendment protection.

C.5.c. Probable Cause

Generally, in order to conduct a lawful search or seizure, federal law enforcement officers must have a search/seizure warrant based on **probable cause** particularly describing the areas to be searched and property/evidence to be seized.

Probable cause is the level of suspicion needed to initiate a lawful search. Probable cause exists when the known facts in a case would lead a reasonably prudent person to believe that a crime has been committed and evidence related to that crime would be located in the place to be searched. The determination of whether probable cause exists must be based on facts, not mere opinions or conclusions. Probable cause is less than "proof beyond a reasonable doubt," but more than mere suspicion.

C.5.d. Warrants

If a warrant is needed to conduct the search, the matter shall be referred to CGIS or other shoreside law enforcement for action. Uniformed Coast Guard personnel operating ashore shall not obtain or execute search/seizure warrants. Uniformed Coast Guard personnel operating ashore shall only conduct warrantless searches and seizures as set forth in this section.

C.5.e. Exigent Circumstances

If a Boarding Officer has probable cause to search or seize, no warrant is required if exigent circumstances exist. Under the exigency exception to the warrant requirement, the officer must have both probable cause and exigency in order for the warrantless search to be upheld.

Exigent circumstances exist when:

- There is a compelling need for immediate official action and a risk that the delay inherent in obtaining a warrant will present a substantial threat of imminent danger to life or public safety.
- The time that is necessary to obtain a warrant would result in the destruction of evidence.
- The area to be searched is an operable vehicle or conveyance.

If public safety or officer safety is threatened, Coast Guard law enforcement personnel may enter a building in the LEAOA and conduct whatever search is necessary to quell the threat.

Whether a given factual situation arises to the level of exigency is determined by looking at the totality of the circumstances.

- An exigency cannot be created by law enforcement personnel.
- Once the exigency that led to the warrantless search dissipates, law enforcement personnel must obtain a search warrant or consent.

C.5.f. Searches Requiring No Warrant and No Probable Cause

The following enable the Boarding Officers to conduct searches with no warrant and no probable cause:

- Lawful Consent
- Lawful “Terry Stop”
- Consent to Frisk
- 33 CFR Part 6
- Administrative Inspections

C.5.f.1. Lawful Consent

Boarding Officers may conduct a search and effect a seizure of evidence of any person, place, or thing with lawful consent.

- Consent to a search without a warrant must be given freely and voluntarily.
- Voluntariness is judged pursuant to the totality of the circumstances.
- Key factors in determining voluntariness include the target’s level of education, physical and emotional condition at the time of the consent, and the degree of force.
- Because consent must be free and voluntary, the main issue in a consent-to-search case will be whether consent was coerced.
- Because the credibility of an officer is the main issue in a consent to search case, Coast Guard law enforcement personnel shall have the subject sign a standard consent to search form (**Figure 10-2**) or have a witness back up the fact of voluntariness.
- Informing the subject of lawful alternatives like the fact that the Coast Guard might apply for a warrant, before obtaining consent to search, is not coercive.
- It is not a requirement that an individual be informed that he or she has a right to refuse

consent in order for consent to be voluntary. However, informing the individual of the right to refuse is an important factor that courts will consider in determining voluntariness of consent.

- Consent to search obtained by misrepresentation or deception is not voluntary.
- The scope of the search in the consent search context depends upon what the reasonable person would have believed was understood by the consenting party. The person who consents to the search may place limitations on the scope of the search.
- Consent to search may be obtained from a third party whom the Coast Guard, at the time of entry, reasonably believe to possess common authority over or other relationship to the premises.
- Consent can be revoked at any time, either expressly or impliedly.

C.5.f.2. Lawful "Terry Stop"

Boarding Officers may stop a person in a LEAOA temporarily to investigate if the Boarding Officer has a reasonable suspicion based upon specific and articulable facts which leads him or her to believe that a federal crime has been, is being, or is about to be committed.

C.5.f.2.a. Detention

A permissible investigative detention is limited in scope and duration. The Boarding Officer may ask the person a limited number of questions to confirm or dispel the suspicion that led to the stop. If a detention continues for too long, it becomes an arrest requiring probable cause.

C.5.f.2.b. Frisking

A Boarding Officer may stop and frisk a subject in the LEAOA if a reasonably prudent person in the circumstances would be warranted in the belief that his or her safety or that of others was in danger. The Boarding Officer shall conduct such a frisk in accordance with *Chapter 3.C.10.b.* Some of the factors that a court will consider in determining if the frisk was a reasonable search for weapons for the protection of the officer are:

- The specific training and experience of the officer.
- The fact that the suspect was nervous, edgy, or engaged in other furtive gestures when stopped.
- The observation of a bulge or heavy object in the suspect's clothing.
- Evidence of a prior criminal record, especially one involving violence.
- The suspect's hand is concealed in his or her clothing.
- The suspected crime involves the use of weapons.
- The suspect does not produce satisfactory explanation for suspicious behavior.
- The area the officer is operating in is known to be a high crime area with armed persons.
- The suspect exhibits belligerent behavior after being stopped.
- The officer believes that the suspect was armed on a previous occasion.

C.5.f.2.c. Fleeing

Fleeing without provocation from a boarding or law enforcement team in a properly marked limited or restricted waterfront area or known high crime area can be enough to justify a "stop and frisk."

C.5.f.3. Consent to Frisk

In cases where a Boarding Officer feels the need to frisk a merely suspicious subject, and the officer does not have the requisite reasonable suspicion that the suspect is armed and dangerous, the officer can always ask for a consent to frisk the person.

C.5.f.4. 33 CFR Part 6

For purposes of this chapter and pursuant to 33 CFR Part 6, a COTP may cause a Boarding Officer to inspect and search at any time any vessel, waterfront facility, or security zone, or any person, article, or thing thereon or therein, within the jurisdiction of the United States, and remove therefrom any and all persons, articles, or things not specifically authorized by

him to go or remain thereon or therein.

As a matter of policy, the COTP shall order such a warrantless search only if he or she finds that the search is necessary in order to secure any vessel from damage or injury or to prevent damage or injury to any vessel, or waterfront facility or waters of the United States, or to secure the observances of rights and obligations of the United States.

The "finding of necessity" has never been litigated in the context of a search. As a matter of policy, the COTP shall have at least reasonable suspicion that the search is necessary to prevent damage or injury, or to secure the rights and obligations of the United States.

C.5.f.5. Administrative Inspections

Administrative inspections take the form of routine warrantless inspections of waterfront facilities to determine compliance with various statutes and regulations.

C.5.f.5.a. Criteria

A warrantless inspections at a waterfront facility may be conducted when authorized by the COTP. Before authorizing such an inspection, COTPs shall consult with their servicing legal office to ensure that the specific facility meets the three criteria for a warrantless administrative inspection:

- Highly regulated businesses in which there is a substantial government interest in the regulatory scheme.
- The inspection must be necessary to achieve effective regulation.
- The authorizing statute gives notice to the business and effectively limits the discretion of the authorities conducting the inspection.

C.5.f.5.b. Evidence

If evidence of criminal activity is discovered in plain view during the administrative inspection, it may be seized.

C.5.f.5.c. Search Warrant

Once an administrative inspection is directed toward gathering evidence for criminal prosecution, the COTP shall contact CGIS and the servicing legal office to determine whether a search warrant should be obtained.

C.6. Special Deputation Program

The Coast Guard and United States Marshals Service concluded a Memorandum of Agreement (MOA) to deputize certain uniformed members of the Coast Guard as Special Deputy U.S. Marshals (HLSDM). The MOA requires the Coast Guard to comply with the requirements of deputations stated below.

C.6.a. Prerequisites

Only those armed, uniformed members of the Coast Guard will be specially deputized who possess current qualifications as a Coast Guard Boarding Officer and have:

- Completed the Boarding Officer Course at the Coast Guard's MLE School.
- One year of law enforcement experience – this experience may have been obtained in the Coast Guard or any other federal, state, or local law enforcement agency.
- Qualified with an authorized firearm on the Coast Guard's approved courses of fire.
- Completed Form USM-3R in compliance with USMS Policy Directive 99-13.
- Certified "compliance" with the Coast Guard's Use of Force Policy (including the use of deadly force) as set forth in *Chapter 4* of this Manual.

C.6.b. Expiration

Each deputation is valid for three years and will expire on the date written on the deputation.

C.6.c. Compliance

HLSDM shall comply with the requirements of USMS Policy Directive 99-13, available at http://cgweb.comdt.uscg.mil/G-OPL/G-OPL.htm.

C.6.d. Authority

The deputation authority is only valid when the HLSDM is performing law enforcement duties ashore in the LEAOA and in transit between LEAOAs and in accordance with this chapter. HLSDM can exercise the authority of their special deputation only in connection with their MHS law enforcement duties. Subject to the preceding sentences, HLSDM have the authority:

- To carry a firearm ashore.
- To take necessary law enforcement steps, including the use of deadly force, to protect themselves and other persons.
- To protect property.
- Subject to *Appendix D*, to make arrests without warrants, if there is reasonable grounds to believe that the person to be arrested has committed or is committing a violation of federal law.
- Subject to *Appendix D*, to execute federal search and arrest warrants.

C.6.e. Identification

While in the performance of official Coast Guard law enforcement duties ashore, the HLSDM may identify themselves as a "Federal Officer" or "Federal Law Enforcement Officer" and a member of the Coast Guard. HLSDM shall not identify themselves as "U.S. Marshal," "Deputy U.S. Marshal", or "Federal Agent."

C.6.f. Restrictions

HLSDM are not authorized to seek arrest warrants and search warrants, serve subpoenas and other legal writs, or participate in Title III electronic surveillance (e.g., wiretaps, intercepts) or cultivate informants. Status as a HLSDM does not convey any law enforcement authority outside of the United States and its territories or while traveling on commercial aircraft. Additionally, the deputations do not provide authority for HLSDM to install emergency law enforcement equipment in privately owned vehicles, or to carry a firearm except in the performance of official duties. HLSDM shall not use the deputation to solicit or purchase any goods or services, including firearms, and cannot use the deputation to apply for a license to carry a firearm in any state.

C.6.g. Special Deputation

Units desiring to obtain special deputation for qualified personnel shall complete Form USM-3R, Application for Special Deputation, which is available at http://cgweb.comdt.uscg.mil/G-OPL/G-OPL.htm. When completing the form:

- The "employer" will be the name, address, and telephone number of the unit to which the applicant is assigned at the time of making the application.
- The applicant will note on the form the completion of the Coast Guard MLE Boarding Officer Course and the date of completion.
- Note that the applicant is qualified with the 9mm PDW and the date of most recent recertification (DDMMYY).
- Unit shall complete the "Sponsoring Agency Information" section of the USM-3R as follows:
  - Name of Agency: United States Coast Guard
  - Contact Person: Chief of Law Enforcement (G-OPL)
  - Agency Address & telephone:
    Commandant (G-OPL)
    U.S. Coast Guard
    2100 Second Street, S.W.
    Washington, DC 20593
    Room 3110
    202-267-1774
  - Justification: check "to serve as a prison guard or other (please explain)" and note: "USCG/USMS MOA dated August 2002"

C.6.h. Contact Information

Area Commanders shall apportion HLSDM quotas to Districts under their command. District Law Enforcement Staffs shall submit applications to Commandant (G-OPL) directly. Original signed applications shall be forwarded via FEDEX to:

Commandant (G-OPL-2)
U.S. Coast Guard
2100 Second Street, S.W.
Washington, DC 20593
202-267-1774

C.6.i. Application Process

Commandant (G-OPL) shall process the applications quarterly, unless exigent circumstances require immediate processing, as follows:

Step	Procedure
1	Once the application is approved by the USMS, the USMS sends an authorization to the U.S. Marshal with jurisdiction over the area where the applicant's unit is located.
2	The U.S. Marshal will contact the unit contact person to arrange administration of the oath of office. The U.S. Marshal will provide the Form USM-3, Oath of Office, to the appointee, who shall provide the form to the unit Executive Officer, who shall coordinate data entry by the servicing PERSRU.
3	The servicing unit or servicing PERSRU shall enter the code "HLSDM" in the license/certification field of Direct Access as follows: • License/certif code: HLSDM. • Issue date: Date member signed oath of office as a special deputy marshal (appears on USM-3). • License #: Leave blank. • Issued by: District where the member is currently assigned (will change if member executes a PCS transfer to another District and retains HLSDM status). • Expiration date: Date member is scheduled to be tour complete at current unit. • License verified: Check when unit holds original signed USM-3 Oath of Office. • Renewal in progress: Check when member detaches from one law enforcement billet to another law enforcement billet; clear when receiving command is in possession of original signed USM-3 Oath of Office. • Issued in: USA and State of USMS office where member was sworn (will not change unless the deputation is rescinded and reissued in a different location).
4	The appointee's unit will retain the original USM-3. If the appointee is transferred to a billet involving law enforcement duties, the unit shall forward the USM-3 via registered mail or FEDEX to the receiving command, which shall retain the USM-3 on file. The unit entering Direct Access data for the transferring command shall check the "Renewal in progress" field of Direct Access upon transmitting the USM-3, and the unit entering data for the receiving command shall clear the "Renewal in

	progress" field of Direct Access upon receiving the USM-3.
5	If the appointee is transferred to a billet not involving law enforcement duties or is discharged from the service, the unit shall forward the USM-3 via registered mail or FEDEX to Commandant (G-OPL-2) for further transmission to the USMS. The unit or servicing PERSRU shall ensure an accurate "expiration date" has been recorded and saved in Direct Access.

C.6.j. Required Reporting

Units with HLSDM assigned shall report to Commandant (G-OPL) via priority record message traffic:

- All instances when a HLSDM ceases to be employed by the Coast Guard or to perform MHS law enforcement for the Coast Guard. In both instances, the Unit shall arrange for the return of the original USM-3 as noted above.
- Any allegation that HLSDM violated USMS Policy Directive 99-13, the terms of this section, and/or whenever the HLSDM is under arrest, detention, or law enforcement inquiry, including military justice inquiry.
- Whenever the HLSDM has been convicted for domestic violence as defined in 18 USC 922(g)(9). The USMS will suspend the deputation while the Coast Guard or other law enforcement entity conducts an investigation.

C.7. High-Risk Crewmembers, Deserters, and Stowaways

Crewmember(s) means any person or persons, including passengers, found onboard a foreign flag commercial vessel calling or intending to call on a port or place in the United States.

High-risk detain onboard crewmember (high-risk crewmember) means a crewmember that meets both of the following criteria:

- The crewmember has been denied entry into the United States by the CBP.
- The crewmember meets the security risk criteria established by U.S. immigration authorities.

Absconder means an inadmissible crewmember that gains or attempts to gain illegal entry into the United States.

Deserter means a crewmember that is authorized by the CBP to enter but upon entry remains illegally in the United States.

Stowaway means any person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the ship's owner or the master or any other responsible person and who is detected onboard the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival.

C.7.a. Compliance with the Law

All vessels and persons arriving in the United States are expected to comply with conditions of port entry and applicable laws, including immigration laws and rules applicable to seafarer shore leave.

C.7.c. Determining Entry

CBP is the primary federal agency that makes the determination of which crewmembers are authorized for arrival in the United States. District Commanders, Section Commanders, Group Commanders, and COTPs shall engage CBP Port Directors, and CBP and ICE officials to coordinate enforcement efforts and strategy for preventing high-risk crewmembers and stowaways from absconding. Enforcement strategy should be designed to leverage each agency's authority to take punitive action. District Commanders, Section Commanders, Group Commanders, and COTPs are also encouraged to engage state and

local law enforcement agencies regarding possible enforcement options under state or local law.

C.7.d. Security Plan Requirements

Upon CBP or ICE notification of a high-risk crewmember aboard a vessel enroute to a U.S. port and within the 12-NM territorial sea or the internal waters of the United States, the COTP may issue an order pursuant to 33 CFR Part 6 requiring COTP approval, and carrier compliance with a security plan provided and executed by the carrier. Failure to submit an adequate security plan by the carrier may result in a COTP order denying vessel entry.

C.7.d.1. Submission and Maintenance

Upon CBP or ICE notification of a high-risk crewmember aboard a vessel already in port, the COTP may issue an order requiring submission and maintenance of a security plan provided and executed by the vessel owner, operator, or agent that achieves the performance standard of detaining the high-risk crewmember(s) onboard. Failure to submit an adequate plan in a timely manner or to implement and maintain an approved plan may result in a COTP order expelling the vessel.

The security plan is the responsibility of the vessel owner, operator, or agent and is subject to review by the COTP, CBP, or ICE officials. The security plan may also:

- Be a condition of remaining in, or gaining access to the port.
- Provide for armed guards capable of effectively detaining a high-risk crewmember as well as an immediate notification process in the event the high-risk detain onboard crewmember(s) absconds.

C.7.d.2. Grounds for Vessel Detention

High-risk crewmembers absconding after a COTP order requiring a security plan has been issued constitutes reasonable belief that there has been a violation of law and, therefore, provides adequate grounds to detain the vessel under the PWSA or Magnuson Act to conduct a full investigation into the incident. See *Appendix O* for a discussion of enforcement options for violations of PWSA regulations and COTP authority to control the movements of vessels.

C.7.d.3. Filing Reports and Updates

In addition to reporting the absconder or deserter to CBP, the person responsible for the vessel must also update the vessel's ANOA information to reflect the changed status of its crew. Subsequent reports filed pursuant to port calls in the U.S. must reflect this update otherwise, the reports are inaccurate and in contravention of federal regulations issued pursuant to the PWSA. See *Appendix O* for a discussion of enforcement options for violations of PWSA regulations.

C.7.d.4. Temporary Detention of High-Risk Crewmembers

While not preferred, circumstances may require a Coast Guard boarding team to provide security for the temporary detention of high-risk crewmembers. In such cases, boarding procedures, team composition, equipment carriage, and use of force shall be in accordance with this Manual. When Operational Commanders employ Coast Guard boarding teams as security for more than a brief period, the COTP is encouraged to issue an order directly to the high-risk crewmember, in addition to the order issued to the master and/or agent. Because COTP orders issued to the master, owner, operator, or agent are not necessarily enforceable against individual non-entrant crewmembers, issuing COTP orders to the respective high-risk crewmembers directing them to remain on the subject vessel will allow additional enforcement options through potential individual felony prosecutions for violations of the order. See *Appendix O* for a discussion of enforcement options for violations of a COTP Order.

C.7.e. Further Guidance on Stowaways

For further information on disposition of routine stowaway cases, see *Chapter 6.C.3*.

FM
TO COMDT COGARD WASHINGTON DC//G-OPF/G-OPL/G-MP//
INFO INTELCOORDCEN WASHINGTON DC
COGARD IDB WASHINGTON DC
EPIC EL PASO TX//MARWATCH//
[AREA//M/O/MHS/OLE//]
[DISTRICT//M/O/MHS/OLE//]
[COTP]
UNCLAS FOUO
SUBJ: SECURITY BOARDING RESULTS (VSL NAME)
1. Name and flag of vessel
2. Date/time of boarding
3. Destination port
4. Date/time vessel arrived in port
5. Location of boarding (e.g., offshore, anchorage, dockside, etc)
6. Agencies participating in the boarding
7. Results/security concerns
8. Whether COTP denied vessel denied permission to enter port
9. Current location of vessel (name of facility/dock)
10. Cargo/quantity discharging
11. Cargo/quantity loading
12. Next port of call for vessel
13. Est. Date/time of departure
14. Unit POC/telephone during work hours and after hours
BT

Figure 10-1
Security Boarding FIR

Written Consent to Search

Date: _____

Time: _____

I, _____, hereby authorize _____
(name of Boarding Officer)
to conduct a complete search of my _____,
(premises)(automobile)(person)
described as: _____

located at: _____

The Coast Guard Boarding Officer(s) are authorized by me to take any letters, papers, materials, or other property, which the officers desire and consider pertinent to any violation of law.

The written permission is being given by me to the above named officer(s) freely, voluntarily, and without threats or promises expressed or implied of any kind, and after being advised of my right to refuse to consent to such search.

Signed: _____

Figure 10-2
Standard Consent Form

Chapter 11
Vessel Safety

Introduction

This chapter provides detailed discussion regarding the most common vessel safety laws enforced by the Coast Guard.

In this Chapter

This chapter contains the following sections:

Section	Title	See Page
A	Introduction	11-3
B	Legal Framework	11-3
C	Offenses	11-4
D	Policy and Procedures	11-12

Section A. Introduction

Introduction

This section contains overarching principles or philosophies that apply to the enforcement of the vessel safety laws addressed in this chapter.

By virtue of its broad law enforcement authority and sustained at-sea presence, the Coast Guard is the primary federal agency responsible for at-sea enforcement of vessel safety laws and regulations. Vessel safety law enforcement supports the overall goal of promoting the safety of life and property at sea and protecting the marine environment. In carrying out this mission, the Coast Guard's role primarily consists of ensuring compliance with laws and regulations through enforcement action and educating members of the maritime industry and the boating public.

A.1. Overarching Policy

Chapters 1 through 4 contain overarching policy regarding the conduct of MLE operations, including a law and policy framework, policy on the conduct of boarding operations, and rules governing the use of force. These chapters apply to the entire ELT program, including enforcement of vessel safety laws addressed within this chapter.

A.2. Applicable Documents

Although *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 focuses on the counterdrug and migrant interdiction missions, it covers a wide range of general law enforcement topics that can be applied to the enforcement of laws described in this chapter. These include various legal issues, patrol tactics, pre-boarding activity, and boarding, inspection, search, seizure, and arrest procedures. Where *Chapters 1 through 4* and appendixes specifically refer to the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, units shall adhere to the referenced procedures irrespective of the mission area they are executing.

Section B. Legal Framework

Introduction

This section contains discussion regarding the domestic and international legal framework for enforcement of the vessel safety laws addressed in this chapter.

B.1. Sources of Substantive Law

The U.S. has passed laws and regulations, codified primarily in Titles 33 and 46 of the United States Code, that promote the safe operation of commercial and recreational vessels. Of these laws, the most significant to Coast Guard operational units are discussed in *Section C* of this chapter. *Appendix C* contains a list of other U.S. laws that may be applicable.

Treaties and international law lend additional support for the development of U.S. vessel safety laws and/or application of U.S. laws extraterritorially. The Safety of Life At Sea Convention (SOLAS) and associated Protocols establish international standards for seaworthiness and carriage of life saving equipment. The Convention on Standards for Training and Certification of Watchstanders (STCW) establish requirements for manning and licensing. These and other international legal regimes are reflected in the U.S. statutory framework for this mission area.

B.2. Authority and Jurisdiction

With the exception of those special circumstances described in *Chapter 2.C*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action.

B.2.a. Authority

As discussed in *Chapter 2.A*, the Coast Guard's primary authority to enforce substantive U.S. vessel safety laws is provided in Title 14 of the United States Code.

B.2.b. Jurisdiction

Jurisdiction is comprised of three elements:

- Vessel status/flag
- Location
- Substantive law

Two of the three jurisdictional elements (vessel status/flag and location) are addressed in *Chapter 2*. Jurisdiction over substantive vessel safety laws is addressed in *Section C* of this chapter. Jurisdiction over the substantive law does not preclude the need for units to establish whether jurisdiction over the vessel status/flag and location also exist.

Section C. Offenses

Introduction

This section contains a list of the criminal and/or civil offenses applicable to the vessel safety mission area. Each offense is discussed in terms of its elements, applicability, and associated enforcement policy.

C.1. Titles 33 and 46 USC

Titles 33 and 46 of the United States Code incorporate a number of statutes relating to the promotion of safety of life and property at sea (e.g., Ports and Waterways Safety Act). Pursuant to Titles 33 and 46, numerous vessel safety regulations have been promulgated primarily in Titles 33 and 46 CFR. Although this section addresses statutory provisions governing the equipment, manning, administration, navigation standards and safe operation of vessels, it is beyond the scope of this Manual to describe each of the myriad regulations. Regulations for various classes of vessels are contained in the *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series).

C.1.a. Applicability

Vessel safety regulations promulgated under Titles 33 and 46 apply to U.S. vessels wherever located. However, regulations applicable to a particular vessel vary according to the vessel's type, size, activity and other factors. See the *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series) for detailed applicability guidelines.

Vessel safety regulations promulgated under Titles 33 and 46 also apply to recreational vessels owned by the U.S. government (e.g., morale, welfare and recreation (MWR) boats).

Vessel safety regulations promulgated under Titles 33 and 46 generally do not apply to foreign flag vessels. Foreign flag vessels are instead subject to international conventions and other agreements that may be enforced by the port State. Examples include:

- The Safety of Life at Sea Convention (SOLAS) and associated Protocols for lifesaving equipment and general seaworthiness.
- The Convention on Standards for Training and Certification of Watchstanders (STCW) for manning and licensing standards.
- The International Tonnage Convention (ITC) for measurement of the size of vessels.
- The International Loadline Convention (ILC).
- The International Labor Organization Convention No. 147, concerning Minimum Standards in Merchant Ships for labor/management relations and the obligations of foreign vessel owners to their crews.

C.1.b. Enforcement Policy	Enforcement options against foreign flag vessels by operational units are limited. Units encountering serious safety problems or suspected violations of relevant international law aboard foreign flag vessels shall complete the SOLAS Checklist shown in **Table 11-1**, and contact the cognizant MSO/COTP/Officer-in-Charge, Marine Inspection (OCMI). Enforcement options against foreign flag vessels by these units are broader in scope and the procedures better established. For U.S. vessels, Titles 33 and 46 provide for both civil and criminal penalties. Enforcement options against U.S. vessels are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.1.b.1. Civil Penalty Process	The civil penalty process is the preferred enforcement option for the majority of vessel safety offenses. The civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*.
C.1.b.2. Voyage Termination	Violations of Titles 33 and 46 that create an especially hazardous condition may subject U.S. recreational and uninspected passenger vessels to voyage termination under 33 CFR Part 177. Termination is authorized when one or more specifically defined unsafe conditions exist, they cannot be corrected on the spot, and continued operation of the vessel constitutes an especially hazardous condition. The decision to terminate the voyage of a recreational vessel or uninspected passenger vessel for violations of Titles 33 and 46 may be made by the Boarding Officer and/or CO/OIC. Procedures regarding voyage termination, including authority to terminate the voyage of an uninspected commercial fishing vessel, are discussed in *Section D.1* below.
C.1.b.3. Arrest	For a violation of Titles 33 and 46, arrest is normally reserved for the most egregious and willful violations. In all cases where arrest is contemplated, units shall contact OPCON for guidance regarding disposition of persons.
C.1.b.4. Seizure	For a violation of Titles 33 and 46, seizure is normally not authorized. In all cases where a criminal penalty is contemplated, units shall contact OPCON for guidance regarding disposition of the vessel and property aboard.
C.1.b.5. Case Package Preparation	See *Appendix G* for guidance concerning case package preparation and preservation of evidence.
C.1.c. Other	Procedures for the inspection of vessel documents, papers, and forms are contained in *Appendix F*. For the purpose of this section, an unsafe condition (as it relates to voyage termination) includes operation with: • An insufficient number of lifesaving equipment, i.e., PFDs, immersion suits, or survival craft, onboard. Only lifesaving equipment that is in serviceable condition and is properly serviced and stored should be counted towards a vessel's required equipment • Inadequate fire fighting equipment. • Instability resulting from overloading, improper loading or lack of freeboard. • Failure to display proper navigation lights between sunset and sunrise or during periods of reduced visibility. • Fuel leakage from either the fuel system or engine. • Excessive accumulation of fuel in the bilges. • Inadequate ventilation for fuel and engine compartments as required. • Inadequate backfire flame control as required. • Regulated boating areas.

- Operating under the influence of alcohol or dangerous drugs.

Pursuant to authority contained in 33 CFR 177.04, the District Commander may declare a U.S. recreational or uninspected passenger vessel to be engaged in a Manifestly Unsafe Voyage. This determination may be made only with respect to a specific voyage on a specific body of water and must be made on the basis of:

- Unsuitable design or configuration.
- Improper construction or inadequate material condition.
- Failure to comply with operational or safety equipment requirements as set forth in an order issued by the District Commander according to the provisions of 33 CFR 177.04.

When a violation of Titles 33 and 46 occurs involving a U.S. rental boat, the Hearing Officer will require specific information to determine who is responsible for the violation. As such, the Boarding Officer shall obtain and record the following supplemental information on the Coast Guard Supplemental Report of Boarding (CG-4100S):

- A statement regarding the terms of the rental agreement with respect to responsibility of both parties for compliance with federal laws.
- The period of time for which the vessel was rented.
- Any other facts or statements that may assist the Hearing Officer in determining the responsible party.

C.2. Violations of Navigation Rules and Regulations, 33 USC 1608, 2072

The International Regulations for Prevention of Collisions at Sea (72 COLREGs) and the Inland Navigation Rules have been codified in Title 33 of the United States Code. Pursuant to Title 33, regulations pertaining to interpretive rules and lines of demarcation have been promulgated in Title 33 CFR. These rules and regulations are contained in *Navigation Rules, International – Inland*, COMDTINST M16672.2 (series).

C.2.a. Elements

It is unlawful for any person to operate a vessel in violation of International Navigation Rules and Regulations (33 USC 1608) or in violation of Inland Navigation Rules and Regulations (33 USC 2072).

C.2.b. Applicability

For U.S. vessels, 33 USC 1608 applies seaward of the line of demarcation (promulgated in 33 CFR Part 80), except when in the territorial waters of a foreign state and U.S. law conflicts with the navigation laws of that state. For foreign flag vessels, 33 USC 1608 applies seaward of the line of demarcation when in waters subject to U.S. jurisdiction. 33 USC 2072 applies to all vessels shoreward of the line of demarcation, including U.S. vessels on the Canadian waters of the Great Lakes, except when U.S. law conflicts with Canadian law.

C.2.c. Enforcement Policy

Enforcement options against foreign flag vessels by operational units are limited. Units encountering suspected COLREGs violations by foreign flag vessels shall contact the cognizant MSO/COTP/OCMI. Enforcement options against foreign flag vessels by these units are broader in scope and the procedures better established. For U.S. vessels, 33 USC 1608 and 33 USC 2072 only provide for civil penalties. Enforcement options are described below.

C.2.c.1. Civil Penalty Process

The civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E.*

C.2.c.2. Arrest

For a violation of 33 USC 1608 and 33 USC 2072, arrest is not authorized.

C.2.c.3. Seizure

For a violation of 33 USC 1608 and 33 USC 2072, seizure is not authorized.

C.2.c.4. Case Package Preparation	See *Appendix G* for guidance concerning case package preparation and preservation of evidence.
C.3. Commercial Fishing Industry Vessel Safety Act, 46 USC 4501-4508	The CFIVSA establishes a national program to reduce commercial fishing vessel losses and fatalities. Pursuant to CFIVSA, regulations prescribing equipment and operational requirements for U.S. fishing, fish processing and fish tender vessels have been promulgated in 46 CFR Part 28. It is beyond the scope of this Manual to describe elements and enforcement policy associated with each of these regulations. The most significant regulatory requirements are contained in the *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series).
C.3.a. Applicability	This statute applies as follows: • To uninspected U.S. vessels engaged in fishing for commercial purposes, wherever located. • To uninspected U.S. charter passenger vessels (i.e., "six packs") selling their catch. • To U.S. recreational vessels selling their catch when they are clearly engaged in commercial fisheries operations (e.g., following direct observation of fish being sold, possessing a state or federal permit authorizing sale of the catch). This statute does not apply to vessels carrying passengers for hire when operating under a Certificate of Inspection (e.g., "T" boats, certain charter boats), even though fish that their passengers catch may be sold.
C.3.b. Enforcement Policy	CFIVSA provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.3.b.1. Civil Penalty Process	The civil penalty process is the preferred enforcement option for violations of the CFIVSA. The civil penalty process is initiated by completing the Coast Guard Report of Boarding (Form CG-4100) and the Commercial Fishing Industry Supplemental Boarding Report (Form CG-4100F) in accordance with *Appendix E*.
C.3.b.2. Voyage Termination	Violations of the CFIVSA that create an especially hazardous condition may subject the boarded vessel to voyage termination under 46 CFR Part 28. Termination is authorized when one or more specifically defined unsafe conditions exist, they cannot be corrected on the spot, and continued operation of the vessel constitutes an especially hazardous condition. The decision to terminate a voyage for CFIVSA violations may only be made by the cognizant District Commander. However, District Commanders are authorized to delegate termination authority to COTPs, Group Commanders, and Commanders of Task Units (CTUs). To maintain a consistent enforcement standard, the CFIVSA Coordinator should be consulted prior to termination. Procedures regarding voyage termination are provided in *Section D.1* below.
C.3.b.3. Arrest	For a violation of CFIVSA, arrest is normally reserved for the most egregious and willful violations. In all cases where arrest is contemplated, units shall contact OPCON for guidance regarding disposition of persons.
C.3.b.4. Seizure	For a violation of CFIVSA, seizure is not authorized. In all cases where a criminal penalty is contemplated, units shall contact OPCON for guidance regarding disposition of the vessel and property aboard.
C.3.b.5. Case Package Preparation	See *Appendix G* for guidance concerning case package preparation and preservation of evidence.

C.3.c. Other

For the purpose of this section (as it relates to voyage termination), an unsafe condition includes operation with:

- An insufficient number of lifesaving equipment, i.e., PFDs, immersion suits, survival craft, onboard. Only lifesaving equipment that is in serviceable condition and is properly serviced and stored should be counted towards a vessel's required equipment.
- An inoperable emergency position indicating radio beacon (EPIRB) or radio communication equipment when required by regulation (i.e., there must be one operable means of communicating distress).
- Inadequate fire fighting equipment.
- Excessive volatile fuel (gasoline or solvents) or volatile fuel vapors in bilges.
- Instability resulting from overloading, improper loading or lack of freeboard.
- Inoperable bilge system.
- Intoxication of the master or individual in charge of a commercial fishing vessel (see *Section C.5.c* below for additional guidance).
- A lack of required operable navigation lights during periods of reduced visibility.
- Watertight closures missing or inoperable.
- Flooding or uncontrolled leakage in any space.
- A missing or expired Certificate of Class for a fish processing vessel.

Units may encounter fishing vessels at sea displaying a Voluntary Dockside Examination (VDE) decal. This decal indicates that the vessel has successfully completed a no-fault, voluntary examination designed to promote compliance with many of the CFIVSA regulations. Boarding procedures for vessels displaying this decal are contained in *Chapter 3.C.5.b.*

C.4. Negligent and Grossly Negligent Operations, 46 USC 2302(a)-(b)

46 USC 2302 prohibits negligent and grossly negligent operation of vessels.

C.4.a. Elements

It is unlawful for any person to*:*

- *Operate a vessel;*
  - The term "operate" normally includes vessels underway, at anchor, or pierside. However, with respect to intoxicated operation of a recreational vessel, the term "operate" means actually underway (see *Section C.5.c* below for additional guidance).
- *In a negligent or grossly negligent manner; or*
  - "Negligence" implies the failure to exercise that degree of care a reasonable person under like circumstances would demonstrate. Negligent operation may be the result of an operator's ignorance, inattention, or general carelessness. Gross negligence implies a conscious or voluntary act or omission with reckless disregard of consequences.
- *To interfere with the safe operation of a vessel so as to endanger the life, limb, or property of a person.*

C.4.b. Applicability

This statute applies to any U.S. vessel and to any vessel shoreward of 12 NM from the baseline.

C.4.c. Enforcement Policy

46 USC 2302 provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.

C.4.c.1. Civil Penalty Process	The civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*.
C.4.c.2. Arrest	For a violation of 46 USC 2302, arrest is authorized only when enforcing the standard for grossly negligent operations.
C.4.c.3. Seizure	For a violation of 46 USC 2302, seizure is not authorized.
C.4.c.4. Case Package Preparation	See *Appendix G* for guidance concerning case package preparation and preservation of evidence.
C.4.d. Other	For a commercial vessel, when Coast Guard personnel observe or are informed of what appears to be negligent or grossly negligent operations, the information should be immediately referred to the cognizant MSO/COTP via OPCON for appropriate action.
C.5. BUI, 46 USC 2302(c)	46 USC 2302(c) prohibits the operation of a vessel under the influence of alcohol or dangerous drugs. Pursuant to 46 USC 2302(c), the Coast Guard has promulgated regulations in 33 CFR Part 95 that establish standards for determining if an individual is under the influence.
C.5.a. Elements	It is unlawful for any person to: • *Operate a vessel;* An individual is operating a vessel when: ➢ The individual has an essential role in the operation of a recreational vessel underway, including, but not limited to, navigation of the vessel or control of the vessel's propulsion system; or ➢ The individual is a crewmember (including a licensed individual), pilot, or watchstander not a regular member of the crew of a vessel other than a recreational vessel (i.e., commercial). For a commercial vessel, the term "operate" includes vessels underway, at anchor, and while conducting pierside operations. • *While under the influence of alcohol or a dangerous drug*. An individual is under the influence of alcohol or a dangerous drug when: ➢ The individual is operating a recreational vessel shoreward of 3 NM from the baseline and has a Blood Alcohol Concentration (BAC) in excess of the state statutory standard. ➢ The individual is operating a recreational vessel seaward of 3 NM from the baseline or shoreward of 3 NM when the state has no statutory standard, and has a BAC of 0.08 percent or more, by weight, in their blood. ➢ The individual is operating a vessel other than a recreational vessel (i.e., commercial) and has a BAC of 0.04 percent or more, by weight, in their blood; or ➢ The individual is operating any vessel and the effect of the intoxicant(s) consumed by the individual on the person's manner, disposition, speech, muscular movement, general appearance, or behavior is apparent through observation.
C.5.a. Applicability	This statute applies to any U.S. vessel in international waters and to any vessel shoreward of 12 NM from the baseline.
C.5.b. Enforcement Policy	46 USC 2302(c) provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest.

C.5.b.1. Civil Penalty Process

The civil penalty process is the preferred federal enforcement option for BUI violations. The civil penalty process is initiated by completing the Coast Guard Report of Boarding (Form CG-4100) and the Supplemental Report of Boarding (Form CG-4100S) in accordance with *Appendix E*. All BUI violations shall be documented on the Form CG-4100 and forwarded to the Coast Guard Hearing Officer, even if criminal action is pending (i.e., state or local prosecution). Any pending criminal charges should be noted in the case package forwarded to the Hearing Officer.

C.5.b.2. Voyage Termination

Violations of 46 USC 2302(c) create an especially hazardous condition that may subject the boarded vessel to voyage termination in accordance with 33 CFR Part 177. If the operator of a recreational vessel (other than a foreign recreational vessel temporarily operating on waters subject to the jurisdiction of the U.S. as described in *Section D.4* below is determined to be intoxicated, and no qualified alternate operator is available, the voyage of the vessel may be terminated. The decision to terminate a voyage for violations of 46 USC 2302(c) may be made by the Boarding Officer and/or CO/OIC for recreational vessels. Procedures regarding voyage termination, including authority to terminate the voyage of an uninspected commercial fishing vessel, are discussed in *Section D.1* below.

C.5.b.3. Arrest

For a violation of 46 USC 2303(c), arrest is normally reserved for the most egregious violations. In cases where the operator poses a serious threat to safety, causes an accident resulting in severe injury or death, or is a repeat offender, arrest may be appropriate. In all cases where arrest is contemplated, units shall contact OPCON for guidance regarding disposition of persons.

C.5.b.4. Seizure

For a violation of 46 USC 2303(c), seizure is not authorized. In all cases where a criminal penalty is contemplated, units shall contact OPCON for guidance regarding disposition of the vessel and property aboard.

C.5.b.5. Case Package Preparation

See *Appendix G* for guidance concerning case package preparation and preservation of evidence.

C.5.c. BUI Determination

Before directing that a vessel operator submit to testing to determine whether that individual is under the influence of alcohol or other drugs, the Boarding Officer must be able to articulate either:

- Reasonable cause that the operator is intoxicated.
- That the individual was directly involved in the occurrence of a marine casualty.

Reasonable cause of a BUI violation may be based on erratic vessel operation, the physical appearance and demeanor of the operator, noncompliance of the operator with reasonable commands of the boarding team, the presence of alcoholic beverages or containers, the presence of drug residue or paraphernalia, comments of the operator, crew or passengers, and any other pertinent observations.

C.5.c.1. Field Sobriety and BAC Chemical Tests

Provided that reasonable cause exists, qualified Coast Guard boarding personnel may determine whether an operator is under the influence of alcohol or other drugs by administration of the following tests:

- Field Sobriety Test. A field sobriety test (FST) is a series of prescribed activities performed by the suspected intoxicated operator to facilitate systematic observation by qualified boarding personnel. Qualified Coast Guard boarding personnel shall administer an FST whenever practicable prior to administering a BAC chemical test. The administration and results of the FST shall be recorded on the Field Sobriety Test Performance Report in **Figure 11-1**, which is available at

http://cgweb.tcyorktown.uscg.mil/MLE/downloads.asp#1p. If conditions do not permit safe administration of an FST, boarding personnel shall document the circumstances on Form 4100S and administer the chemical test to determine BAC.

- BAC Chemical Test. After administration of an FST (if practicable), qualified Coast Guard boarding personnel may administer a breath test using an authorized chemical test device. See *Appendix H* for a description of authorized devices. The chemical test equipment shall only be used when an approved device and qualified boarding personnel are available and when conditions permit its safe use.

If administration of an FST or BAC measurement using a chemical test device are not practicable under the circumstances, boarding personnel should document their observations on Form CG-4100S in accordance with *Appendix E* and consult other agencies for possible testing. Boarding personnel shall record the applicable BAC standard on the Form CG-4100S in accordance with *Appendix E*.

C.5.c.2. Probable Cause

Prior to arresting or detaining an operator for a BUI violation and/or terminating a vessel's voyage, Boarding Officers must have probable cause to believe the individual has been operating a vessel while intoxicated. This determination must be based on observation of the vessel being operated underway (for a recreational vessel) and then on application of the behavioral or BAC standards described above. The probable cause standard may be satisfied by:

- Evidence of the effect of intoxicants on the behavior of the operator observed during the administration of FSTs.
- A BAC measurement at or above the applicable standard using an approved chemical test device.

C.5.c.3. BAC Test Refusal

An operator's refusal to submit to a BAC test may give rise to a presumption of intoxication. Reasonable suspicion of intoxication, combined with a refusal to submit to a BAC test, may satisfy the probable cause standard. Operators of U.S. recreational vessels refusing to submit to a BAC test shall be given the following verbal warning: "Your refusal to submit to BAC testing is admissible evidence in any administrative proceeding, and may result in a legal presumption that you are intoxicated; further, your refusal may result in termination of your voyage."

C.5.c.4. Criminal Prosecution

Federal criminal prosecution for BUI violations is comparatively rare. Whenever possible, state or local agency arrest and prosecution should be sought in addition to initiation of the federal civil penalty process. Under some state laws, an intoxicated operator can only be compelled to submit to one chemical test to determine intoxication. In addition, state and local authorities may have to satisfy more stringent evidentiary requirements to prove a BUI violation. Therefore, advance coordination with state or local officials is required to ensure that Coast Guard BAC testing does not limit options for effective state or local prosecution.

C.5.c.5. Detention in Lieu of Arrest

In circumstances where federal, state, or local criminal prosecution is not possible, an arrest should not be made. However, when units observe a BUI violation that would otherwise justify an arrest, the intoxicated operator may be detained in lieu of arrest. Units shall detain an intoxicated operator who may try to drive a vehicle once ashore or attempt to return and operate their vessel. This should be accomplished by informing the individual that they are being detained in lieu of arrest, and that they remain subject to arrest. An intoxicated operator may be detained aboard their own vessel, a Coast Guard vessel, or ashore, but only until the operator is no longer intoxicated in the judgement of Coast Guard law enforcement personnel.

C.5.d. Foreign Recreational Vessel and Commercial Vessel	The voyage of a foreign recreational vessel may be terminated under the authority of 33 CFR 177 unless that vessel is temporarily operating on waters subject to the jurisdiction of U.S. as described in *Section D.4* below. However, the operator of a foreign recreational vessel may be detained in lieu of arrest as described in *Section C.5.c.5* above. When boarding personnel observe intoxicated operation on a commercial vessel, the case should be immediately referred to the cognizant MSO/COTP for appropriate action.
C.5.e. BUI Enforcement	BUI enforcement is to be conducted in conjunction with normal MLE operations. Thus, blockades or other checkpoints designed specifically to detect intoxicated operations shall not be conducted. However, this policy does not preclude increased law enforcement efforts during periods of increased Coast Guard patrol activity (e.g., Memorial Day or Labor Day weekends, special marine events).

Section D. Policy and Procedures

Introduction	This section contains policy and procedures that apply to the entire vessel safety mission area.
D.1. Voyage Termination	As discussed in *Section C* of this chapter, termination may be authorized for violation of certain offenses described in this chapter. Termination of a voyage is an order to the master or operator of a vessel to return to a safe anchorage, mooring or dock until an especially hazardous condition is corrected, or an order to cease specific operations until the especially hazardous condition is corrected. An order to cease specific operations may include not only halting certain activity, but also limiting the operation of the vessel to the specific geographic area for which it has the proper safety equipment.
D.1.a. Goal	The goal of termination is to protect the safety of the persons onboard the vessel and the maritime public. Once the decision to terminate a voyage has been made, Boarding Officers may need to consider additional actions necessary to alleviate the especially hazardous condition (e.g., removing passengers and/or cargo from the vessel, escorting or towing the vessel to port). An intoxicated operator shall not be directed or permitted to operate the vessel.
D.1.b. Reporting	Boarding Officers shall document an order of termination on the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E.* Form CG-4100S should include a description of the specific unsafe conditions, time of termination, rationale for terminating the voyage and any specific instructions given to the operator. When terminating the voyage of a recreational vessel, units shall report the action to the District Commander by the most expeditious means. When terminating the voyage of a commercial vessel, units shall report the action via the chain of command to Commandant (G-MOC) by the most expeditious means.
D.1.c. Refusal to Comply with Order	When a vessel's voyage is terminated for violation of Titles 33 and 46 USC as described in *Section C.1* above, and the operator refuses to comply with the order to terminate, such refusal may constitute a willful violation of the statute(s), thereby subjecting the operator to arrest.

D.1.d. CFIVSA Violation

When a vessel's voyage is terminated for violation of CFIVSA as described in *Section C.3* above, and the vessel is directed to port as a result of termination, the cognizant District Commander shall ensure that a comprehensive CFIVSA inspection (to include all items listed on CG-4100F) is conducted upon the vessel's arrival. This inspection should be conducted in conjunction with the local commercial fishing vessel safety examiner or appropriate marine safety personnel.

When a vessel's voyage is terminated for violation of CFIVSA as described in *Section C.3* above, and the operator refuses to comply with the order to terminate, such refusal may constitute a willful violation of the statute, thereby subjecting the operator to arrest.

D.2. Marine Casualty Reporting

As provided in 46 CFR Part 4, commercial vessel and inspected vessel owners/operators are required to report marine casualties and boating accidents to appropriate authorities.

D.2.a. Typical Casualties

Marine casualties are any casualty or accident involving any vessel other than a public vessel, if it occurs on U.S. navigable waters or in the waters of U.S. territories or possessions, or any casualty or accident anywhere involving a U.S. vessel that is not a public vessel. Typical casualties include, but are not limited to:

- Incidents resulting in personal injury or damage to property afloat.
- Fires.
- Groundings.
- Collisions.
- Strandings.
- Heavy weather damage.
- Failure of gear and equipment which might affect the seaworthiness of a vessel.
- Casualties involving loss of life or injury to any person diving from a vessel while using an underwater breathing apparatus.

D.2.b. Reporting Requirements

Marine casualty reporting requirements apply to:

- All U.S. vessels, except public vessels, wherever located.
- Any foreign vessel involved in a marine casualty on U.S. navigable waters.
- Foreign tankships in waters subject to the U.S. jurisdiction (including the EEZ) for marine casualties resulting in material damage affecting the seaworthiness or efficiency of the vessel or posing significant harm to the environment.

Any information relating to a marine casualty should be forwarded to the cognizant OCMI for review by an Investigating Officer. If evidence indicates violation of U.S. law, the OCMI may initiate criminal action, civil penalty action or suspension or revocation of a mariner's license or document.

D.3. Boating Accident Reporting

As provided in 33 CFR Part 173, recreational vessel and uninspected vessel operators are required to report boating accidents to appropriate authorities under certain circumstances. Generally, reporting is required when the accident involves a death or disappearance, injury requiring medical treatment beyond first aid, property damage totaling more than $2000, or complete loss of the vessel. Many states have lower reporting threshold amounts ranging from $0 to $200. Vessels required to report incidents under 33 CFR Part 173 as boating accidents are exempt from marine casualty reporting requirements in 46 CFR Part 4.

- For units responding to boating accidents, the Boarding Officer shall inform the operator of each vessel involved of the reporting requirements (33 CFR 173.55 and 173.57), and provide the operator of each vessel a copy of the Boating Accident Report form (either CG-3865 or the appropriate state form). The form can be obtained by

calling the Boating Safety Hotline at 1-800-368-5647.

- If there is any indication the accident was caused by a fault in boat construction or design, Commandant (G-OPB-3) should be notified expediently.
- For accidents involving a fatality, the Boarding Officer should report the location and circumstances of the accident to the cognizant District Commander and Commandant (G-OPB) by message.
- Boating accident investigations are normally conducted by state or local agencies. The cognizant OCMI will investigate recreational boating accidents occurring seaward of state jurisdiction.

D.4. Foreign Flag Recreational Vessels

Foreign flag recreational vessels temporarily using waters subject to U.S. jurisdiction will typically be issued a U.S. Customs Cruising Permit, which is valid for up to six months and is renewable without restriction. While operating under this permit, such vessels are generally exempt from complying with U.S. recreational boating safety laws and regulations. However, foreign flag recreational vessels are required to comply with operational requirements, such as the International Navigation Rules (COLREGs) or Inland Rules of the Road. Additionally, such vessels must be documented or numbered in accordance with flag State law. In important cases, questions concerning the requirements for particular nations may be addressed by contacting Commandant (G-OPL) for referral to the flag State via diplomatic channels.

Table 11-1. Safety of Life at Sea (SOLAS) Checklist

Complete this checklist in accordance with *Section C.1* of this chapter for all vessels on international voyages except:

- Ships of war and troopships.
- Cargo vessels of less than 500 tons.
- Ships not propelled by mechanical means.
- Wooden ships of primitive build (e.g., Haitian sailboats, yolas).
- Pleasure yachts not engaged in trade.
- Fishing vessels.

DEFINITIONS	
Passenger Vessel	A ship that carries more than 12 passengers
Cargo Vessel	A ship that is not a passenger vessel
Passenger	Any person other than:
	1. Master
	2. Members of the crew
	3. Persons employed or engaged in the business of the ship
	4. Children under one year of age
NOTE	Ships carrying more than twelve passengers must have SOLAS documents for a passenger vessel even if they are operating as a cargo vessel.

GENERAL			
Unit:	Date:	Time:	Mission:
	Initial Vessel Information		
Course:	Speed:	Lat:	Long:
Type:	Rig:	Hull Color:	SS Color:
Hull Material:		Activity:	
Other:			
Check one:	❒ High Seas	❒ U.S. EEZ	❒ U.S. Terr. Sea
	❒ U.S. Internal	❒ U.S. Contiguous	❒ Foreign Terr. Sea

RIGHT OF APPROACH			
Vessel Name:		Homeport:	
Flag State:		Doc./Reg. Number:	
Flag State Claim Via:	❒ Verbal	❒ Flag	❒ Vessel Markings

Table 11-1. Safety of Life at Sea (SOLAS) Checklist - Continued

BASIC LIFESAVING REQUIREMENTS - ALL VESSELS		
Y/N	Distress Flares - 12 required	SOLAS 74 III/6.3
Y/N	Lifejackets - for 100% of all persons onboard	SOLAS 74 III/7.2.1
Y/N	Lifejackets - additional 10% PFDs or one child PFD for each child onboard, whichever is greater	SOLAS 74 III/7.2.1.1
	Lifebuoys:	
Y/N	At least one on each side of ship with buoyant lifeline, self-activating smoke signal, quick-release mechanism	SOLAS 74 III/7.1.2
Y/N	At least one with self-igniting light	SOLAS 74 III/7.1.2
Y/N	All marked with vessel name and port of registry	SOLAS 74 III/7.1.2

BASIC LIFESAVING REQUIREMENTS - PASSENGER VESSELS		
Y/N	Passenger Ship Safety Certificate including Record of Equipment Form for Passenger Ships	SOLAS 74 I/12
Y/N	Lifeboats - sufficient number to hold 50% of ship's personnel carrying capacity on each side of vessel (100% total)	SOLAS 74 III/20.1.1.1
Y/N	Liferafts - sufficient number with launching apparatus to hold 25% of ship's personnel carrying capacity	SOLAS 74 III/7.2.1.1
Y/N	Rescue Boats - vessels over 500 gross tons require at least two; vessels under 500 gross tons require at least one	SOLAS 74 III/20.2.1 and III/20.2.2
Y/N	Required Lifebuoys (by length of vessel):	SOLAS 74 III/21.1.1
	Less than 60 meters: 8	
	60 - 119 meters: 12	
	120 - 179 meters: 18	
	180 - 239 meters: 24	
	240 meters and over: 30	

BASIC LIFESAVING REQUIREMENTS - CARGO VESSELS		
Y/N	Safety Equipment Certificate including Record of Equipment Form for Cargo Ships	SOLAS 74 I/12
Y/N	Lifeboats - sufficient number to hold 100% of ship's personnel carrying capacity on each side of ship (200% total)	SOLAS 74 III/ 26.1.1.1
Y/N	Liferafts - sufficient number, able to be launched from either side of ship, for 100% of total number of persons onboard	SOLAS 74 III/ 26.1.1.2
Y/N	Rescue Boats - At least one required	SOLAS 74 III/26.2

Table 11-1. Safety of Life at Sea (SOLAS) Checklist - Continued

Y/N	Required Lifebuoys (by length of vessel):	SOLAS 74 III/27.1.1
	Less than 100 meters: 8	
	100 - 149 meters: 12	
	150 - 199 meters: 18	
	200 meters and over: 24	

NOTE Some cargo ships may be allowed to substitute liferafts for the required lifeboat. This exception will be noted on the vessel's Safety Equipment Certificate.

NAVIGATION SAFETY REQUIREMENTS - ALL VESSELS		
Y/N NA	Signaling Lamp – for vessels over 150 gross tons	SOLAS 74 V/11
Y/N NA	Magnetic Compass - for vessels over 150 gross tons	SOLAS 74 V/12(b)(i)
Y/N NA	Compass Deviation Card - for vessels over 150 gross tons	SOLAS 74 V/12(b)(ii)
Y/N NA	Gyro Compass - for vessels over 500 gross tons	SOLAS 74 V/12(d) & (e)
Y/N NA	Radar - required on vessels over 500 gross tons built after 01SEP84 and on all vessels 1600 gross tons and over. Ships 10,000 gross tons and over require two radars.	SOLAS 74 V/12(g) and (h)
Y/N NA	Echo-Sounding Device - required on all vessels 1600 gross tons and over, and on vessels 500 gross tons and over constructed on or after 25MAY80	SOLAS 74 V/12(k)
Y/N NA	Speed and Distance Log - required on vessels 500 gross tons and over constructed on or after 01SEP84	SOLAS 74 V/12(l)
Y/N NA	Rudder Angle Indicator - required on vessels over 500 gross tons built after 01SEP84 and all vessels 1600 gross tons and over	SOLAS 74 V/12(m)
Y/N NA	Radio-Direction Finder - required on all vessels 1600 gross tons and over	SOLAS 74 V/12(p)

Table 11-1. Safety of Life at Sea (SOLAS) Checklist - Continued

BASIC FIRE FIGHTING REQUIREMENTS - ALL VESSELS		
Y/N	Required Fire Pumps:	SOLAS 74 II-2/4.3.1
	Passenger ships of 4000 gross tons and over: 3	
	Passenger ships less than 4000 gross tons: 2	
	Cargo ships of 1000 gross tons and over: 2	
Y/N	Fire Hydrants - sufficient number so that all spaces of ship may be reached by stream of water from at least two fire hoses	SOLAS 74 II-2/4.5.1
Y/N	Fire Hoses - must be made of non-perishable material	SOLAS 74 II-2/4.7.1
Y/N	Fire Hose Nozzles - must be dual spray/jet type	SOLAS 74 II-2/4.8.4

Field Sobriety Test Performance Report

U. S. Department of Transportation
United States Coast Guard

Time:	Date:	Boarding No:	Boarding Officer:

Subjects Name:	Color Eyes:	Age:	Height:	Weight:

Observations

Clothes: Describe: (Type, Color & Condition)

Odor of alcoholic Beverage
- ☐ Faint
- ☐ Moderate
- ☐ Strong
- ☐ None

Speech
- ☐ Mumbled
- ☐ Slurred
- ☐ Confused
- ☐ Stuttered
- ☐ Accent
- ☐ Normal
- ☐ Other

Unusual Actions
- ☐ Hiccupping
- ☐ Belching
- ☐ Vomiting
- ☐ Fighting
- ☐ Crying
- ☐ Laughing
- ☐ None
- ☐ Other

Color of Face
- ☐ Pale
- ☐ Flushed
- ☐ Normal
- ☐ Other

Eyes
- ☐ Bloodshot
- ☐ Watery
- ☐ Normal
- ☐ Other

Attitude
- ☐ Hilarious
- ☐ Talkative
- ☐ Sleepy
- ☐ Profanity
- ☐ Combative
- ☐ Indifferent
- ☐ Insulting
- ☐ Cooperative

Pre Test Questions

Yes	No	
☐	☐	Do you have any physical defects?
☐	☐	Do you have any physical disabilities?
☐	☐	Do you have any defects in your feet, legs, ankles, or hips?
☐	☐	Do you wear glasses, contacts, or have any defects with your eyes?
☐	☐	Are you sick or injured?
☐	☐	Are you under the care of a doctor or dentist?
☐	☐	Are you taking any medication or drugs?
____		How far did you go in school? (last year completed)

Afloat Test Battery

Alphabet Test

1. Recite the alphabet without singing.
2. Do you understand?
3. Begin the test.

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

- ☐ Completed satisfactorily
- ☐ Sang
- ☐ Letter missed
- ☐ Letter repeated
- ☐ Hesitation
- ☐ Refused test

Backwards Count

1. Count backwards from 25 to 1.
2. Do you understand?
3. Begin the test.

25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

- ☐ Completed satisfactorily
- ☐ Numbers missed
- ☐ Hesitation
- ☐ Numbers repeated
- ☐ Refused test

Finger Count

1. Extend your hand like this. **(Demo)**.
2. Do not start until told.
3. Touch each of your fingers with the tip of your thumb. Start with your index finger, like this: **(DEMO)**
4. While doing this, count 1, 2, 3, 4, count back 4, 3, 2, 1. **(DEMO)**
5. Speed up as you go, and do not stop until told.
6. Do you understand?
7. Begin the test. **(OBSERVE 4 SETS)** Stop.

- ☐ Completed satisfactorily
- ☐ Miscounted
- ☐ Sliding of fingers
- ☐ Did not speed up
- ☐ Improper finger touch
- ☐ Improper finger count
- ☐ Refused test

Palm Pat

1. Place your hands palm to palm like this. **(DEMO)**
2. Do not start until told.
3. When I tell you to begin, turn the top hand over and count 1,2,1,2 like this. **(DEMO)**
4. Speed up as you go, and do not stop until told.
5. Do you understand?
6. Begin the test **(OBSERVE 5 SETS)** Stop

- ☐ Completed satisfactorily
- ☐ Did not speed up
- ☐ Unable to complete
- ☐ Sliding of hand
- ☐ Improper count
- ☐ Hesitation
- ☐ Refused test

Comments:

Official use for U.S. Coast Guard Rev. 7/97

Figure 11-1
Field Sobriety Test Performance Report

Finger to Nose

1. Place your hands down to your sides, extend your index fingers out.
2. On my command, touch the tip of your nose with the tip of your index finger and return it to your side, like this. **(DEMO)**
3. Do you understand?
4. Tilt your head back slightly, and close your eyes. Keep your eyes closed during the test.
5. Do you understand?
6. Begin the test: **Right, left, right, left, left, left, right**
7. Open your eyes.

- ☐ Completed satisfactorily
- ☐ Missed nose
- ☐ Searching pattern
- ☐ Opened eyes
- ☐ Not using proper finger
- ☐ Hesitation
- ☐ Refused test

Horizontal Gaze Nystagmus

Instructions to subject:

1. Remove glasses, if worn.
2. Are you wearing contact lenses? **Y N**
3. Keep your head still.
4. Focus on this ____, and follow it with your eyes only.
5. Do you understand?

Test Procedure

1. Position stimulus 12" - 15" from subject's nose.
2. Begin with subjects left eye.
3. Check for equal tracking and equal pupil size.
4. Check for **Lack of Smooth Pursuit**.
5. Check for **Distinct Nystagmus at Maximum Deviation.**
6. Check for **Onset of Nystagmus Prior to 45 Degrees.**
7. Record results.

Lack of Smooth Pursuit	Distinct Nystagmus at Max Deviation	Onset Prior to 45 Degrees	
☐ Left ☐ Right	☐ Left ☐ Right	☐ Left ☐ Right	☐ **Refused Test**

Ashore Test Battery Have subj off vsl for 15 mins. **Time Ashore:_____ Time started:_____**

Walk & Turn

1. Place left foot on the line, then right foot in front on the line in a heel-to-toe stance, like this: **(DEMONSTRATE)**
2. Place your arms down to your sides.
3. Remain in this position and do not start walking until told.
4. Do you understand?
   (DEMONSTRATE steps 5 - 7 as you describe each one, walking perpendicular to the line.)
5. When told, take nine heel-to-toe steps up the line like this:
6. Turn around keeping your front foot on the line using small steps like this:
7. Return back down the line with nine heel-to-toe steps, like this:
8. While walking, watch your feet at all times.
9. Keep your arms at your sides.
10. Count your steps out loud.
11. Don't stop walking until you have completed the test.
12. Do you understand?
13. Begin the test.

During Instructions

- ☐ Cannot keep balance
- ☐ Starts too soon

During Test

- ☐ Stops walking
- ☐ Misses heel-to-toe (>1/2" gap)
- ☐ Steps off line
- ☐ Uses arms to balance (> 6" fm side)
- ☐ Improper Turn **(Describe in comments block below)**
- ☐ Steps actually taken _____
- ☐ Cannot complete safely (8 clues)
- ☐ Refused Test

One Leg Stand

1. Stand with your feet together.
2. Keep your arms at your sides.
3. Remain in this position and do not raise your leg until told.
4. Do you understand?
5. Raise one leg, either leg, approx. 6 inches off the ground, with your foot pointed out, like this: **(DEMONSTRATE)**
6. Keep both legs straight.
7. Keep your eyes on the elevated foot.
8. While holding that position, count out loud like this: **one-thousand-one, one-thousand-two**,and so on, and do not stop until told.
9. Do you understand?
10. Begin the test.

Observe for 30 seconds

- ☐ Swaying
- ☐ Uses arms to balance (> 6" fm side)
- ☐ Hopping
- ☐ Puts foot down
- ☐ Cannot complete safely (4 clues)
- ☐ Refused Test

Chemical Test

Time:	Device Serial#:	Last calibration date:	Test Results: **% BAC**	☐ Refused Test
Signature of BO:		BWI Cert Date:	Signature of Witness:	

Comments:

Figure 11-1
Field Sobriety Test Performance Report - Continued

Chapter 12
General Criminal Law

Introduction

This chapter provides detailed discussion regarding general criminal laws applicable within the maritime realm not addressed in any other chapter of this Manual.

In this Chapter

This chapter contains the following sections

Section	Title	See Page
A	Introduction	12-3
B	Legal Framework	12-3
C	Offenses	12-4
D	Policy and Procedures	12-14

Section A. Introduction

Introduction	By virtue of its broad law enforcement authority and sustained at-sea presence, the Coast Guard is uniquely positioned to enforce a wide variety of general criminal laws applicable in the maritime realm. This section contains overarching principles or philosophies that apply to the enforcement of the general criminal laws addressed in this chapter.
A.1. Overarching Policies	*Chapters 1 through 4* contain overarching policy regarding the conduct of MLE operations, including a law and policy framework, policy on the conduct of boarding operations, and rules governing use of force. These chapters apply to the entire ELT program, including enforcement of general criminal laws addressed within this chapter.
A.2. Applicable Documents	Although *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4 focuses on the counterdrug and migrant interdiction missions, it covers a wide range of general law enforcement topics that can be applied to the enforcement of laws described in this chapter. These include various legal issues, patrol tactics, pre-boarding activity, and boarding, inspection, search, seizure, and arrest procedures. Where *Chapters 1 through 4* and appendixes specifically refer to the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, units shall adhere to the referenced procedures irrespective of the mission area they are executing.

Section B. Legal Framework

Introduction	This section contains discussion regarding the domestic and international legal framework for enforcement of the general criminal laws addressed in this chapter.
B.1. Sources of Substantive Law	The U.S. has passed laws and regulations, codified primarily in Title 18 of the United States Code, that apply within the maritime realm to prohibit certain criminal conduct. Of these laws, those supplemented by significant Coast Guard policy are discussed in this section. *Appendix C* contains a list of other U.S. laws that may be applicable. Treaties and international law lend additional support for the development of U.S. laws and/or application of U.S. laws extraterritorially. Article 100 of UNCLOS calls upon all nations to cooperate in eliminating piracy in international waters. Article 99 prohibits the transportation of slaves. These international legal regimes are reflected in the U.S. statutory framework for this mission area.
B.2. Authority and Jurisdiction	With the exception of those special circumstances described in *Chapter 2.C*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action.
B.2.a. Authority	As discussed in *Chapter 2.A*, the Coast Guard's primary authority to enforce the general criminal laws addressed in this chapter is provided in Title 14 of the United States Code.

B.2.b. Jurisdiction	Jurisdiction is comprised of three elements: • Vessel status/flag • Location • Substantive law Two of the three jurisdictional elements (vessel status/flag and location) are addressed in *Chapter 2*. Jurisdiction over substantive general criminal laws is addressed in this section. Jurisdiction over the substantive law does not obviate the need for units to establish whether jurisdiction over the vessel status/flag and location also exist.

Section C. Offenses

Introduction	This section contains general criminal offenses applicable within the maritime realm not addressed in any other chapter of this Manual. Each offense is discussed in terms of its elements, applicability, and enforcement policy.
C.1. Seizure and Forfeiture of Vessels Outfitted for Smuggling, 19 USC 1703	
C.1.a. Elements	It is unlawful for any vessel to be built, purchased, fitted out in whole or in part, or held for the purpose of smuggling into the U.S. or defrauding the revenue.
C.1.b. Applicability	This statute applies to any U.S. vessel and to any vessel shoreward of 12 NM from the baseline.
C.1.c. Enforcement Policy	19 USC 1703 provides for only civil penalties. The only authorized enforcement option is seizure of the vessel. *Appendix D* contains approval requirements for seizure.
C.1.c.1. Arrest	For a violation of 19 USC 1703, arrest is not authorized.
C.1.c.2. Seizure	For a violation of 19 USC 1703, the vessel and its contents and other evidence are subject to seizure and are normally transferred to ICE/CBP. Units shall contact OPCON for guidance regarding disposition of the vessel and all property aboard.
C.1.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.1.d. Other	The most common circumstance in which vessels are found to be outfitted for smuggling involves hidden compartments designed to conceal contraband. The presence of contraband is not required to seize the vessel. However, most forfeitures under this statute have involved at least residue of contraband.

C.2. Aviation Smuggling, 19 USC 1590	19 USC 1590 prohibits unlawful transfer of merchandise between an aircraft and vessel (e.g., airdrop scenarios).
C.2.a. Elements	It is unlawful for any person to transfer merchandise between an aircraft and vessel with intent to unlawfully introduce such merchandise into the U.S.
C.2.b. Applicability	This statute applies to any vessel in international waters or within the customs waters of the U.S.
C.2.c. Enforcement Policy	19 USC 1590 provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.2.c.1. Civil Penalty Process	For a violation of 19 USC 1590, the civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*.
C.2.c.2. Arrest	For a violation of 19 USC 1590, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency (usually USCS). In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.2.c.3. Seizure	For a violation of 19 USC 1590, the vessel and its contents and other evidence are subject to seizure and are normally transferred to the U.S. Customs Service. Units shall contact OPCON for guidance regarding disposition of the vessel and all property aboard. For a violation of 19 USC 1590, when the vessel is a common carrier, certain exceptions to seizure authority exist. A common carrier vessel is one engaged in the business of public employment for the carriage of goods or passengers for hire (e.g., ferries, head-boats, merchant break-bulk freighters carrying cargoes for many owners). Common carrier vessels are normally not seized unless the owner, master, or person in charge was a consenting party or privy to the discovered violation. While the ultimate burden is upon the ship owner to prove common carrier status, the Boarding Officer should seek guidance from OPCON prior to seizing any vessel that appears to have the distinguishing characteristics of a common carrier.
C.2.c.4. Case Package Preparation	A case package is required for any violation of this statute (civil or statute) and shall be prepared in accordance with *Appendix G*.
C.2.d. Other	Any of the following acts are significant factors in determining whether a violation has occurred: • Aircraft or a vessel operating without lights when required. • Aircraft auxiliary fuel tank not installed in accordance with applicable law. • Failure of aircraft or vessel to identify itself correctly when requested. • False registration numbers, false country of registration or false vessel name externally displayed. • Unmanifested merchandise, whose importation is prohibited or restricted. • Controlled substances unmanifested or not accompanied by permits or licenses required under international treaty. • Fitted out for smuggling. • Failure of a vessel to stop when hailed.

C.3. Theft Within the Special Maritime and Territorial Jurisdiction (SMTJ), 18 USC 661

C.3.a. Elements	It is unlawful for any person to take and carry away with intent to steal the personal property of another.
C.3.b. Applicability	This statute applies within the SMTJ (see *Section D* of this chapter).
C.3.c. Enforcement Policy	18 USC 661 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.3.c.1. Arrest	For a violation of 18 USC 661, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.3.c.2. Seizure	Units shall contact OPCON for guidance regarding disposition of the vessel and all property aboard.
C.3.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.3.d. Other	The Coast Guard is often asked to assist in responding to vessel thefts. However, not all vessel thefts involve a violation of federal law. Most vessel thefts occur within state waters where the theft itself is not a federal crime (unless it occurs on a federal reservation or the waters of the Great Lakes). This statutory limitation on Coast Guard authority is sometimes misunderstood, fostering public dissatisfaction. In cases which do not involve a violation of federal law, the Coast Guard may assist the victim directly by helping to locate the vessel and may provide assistance to state and local law enforcement authorities under 14 USC 141. Even if the original theft was not a federal crime, subsequent acts such as interstate transportation, receipt of stolen property or using false documents may constitute federal crimes. *Appendix C* contains a list of laws that may be applicable. Whether or not a federal crime has been committed, units should accept stolen boat reports and disseminate information to other responsible federal and state agencies. Area and District Commanders should encourage vessel theft prevention programs with the boating industry, private boating groups, and insurance companies. Such programs may include: • Preparing stolen vessel lookout lists for distribution to private boating groups for posting at marinas, retail sales centers, etc. • Establishing a stolen boat “hot line” and posting the number at marinas, retail sales centers, etc. • Promoting awareness by attending boating functions and conferences. • Issuing public advisories suggesting precautionary measures to minimize risk of vessel theft.

C.4. Prohibited Acts Regarding Federally Regulated Firearms, 26 USC 5861	
C.4.a. Elements	It is unlawful for any person to receive or possess a federally regulated firearm (i.e., machine gun, short-barreled shotgun, short-barreled rifle, muffler or silencer, destructive device, or other miscellaneous weapons) not registered under the National Firearms Registration and Transfer Record, to obliterate, remove, change, or alter the serial number or other firearm identification to receive or possess a firearm not identified by serial number, or to receive, possess, or transfer a firearm not registered as required.
C.4.b. Applicability	This statute applies to any U.S. person and to any person shoreward of 12 NM from the baseline. The *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series) contains guidance for determining weapon types and registration requirements.
C.4.c. Enforcement Policy	26 USC 5861 (pursuant to 26 USC 5871) provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure. For violations of 26 USC 5861, concurrence on the part of the local Bureau of Alcohol, Tobacco and Firearms (ATF) office is required.
C.4.c.1. Arrest	For a violation of 26 USC 5861, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.4.c.2. Seizure	For a violation of 26 USC 5861, the firearm and other evidence are subject to seizure. Units shall contact OPCON for guidance regarding disposition of the firearm.
C.4.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.4.d. Other	Any person possessing a federally regulated firearm must be able to produce proper documentation that it is lawfully registered. The ATF Form 4 (5320.4), "Application for Tax Paid Transfer and Registration of Firearm", is required to be with the weapon at all times. Units shall, if practicable, record serial numbers of federally regulated firearms and conduct intelligence database checks using the serial number to verify compliance with federal firearms laws.
C.5. Persons Prohibited From Possessing Any Firearm in Commerce, 18 USC 922(g)	
C.5.a. Elements	It is unlawful for a prohibited person to carry, possess, or transport in interstate or foreign commerce any firearm or ammunition.

C.5.b. Applicability	This statute applies to any U.S. person and to any person shoreward of 12 NM from the baseline that are "prohibited persons". A prohibited person is one who: • Is a convicted felon. • Is a fugitive from justice. • Is an unlawful user of controlled substances. • Has been dishonorably discharged from U.S. military service. • Has been adjudicated as being mentally incompetent. • Having been a U.S. citizen, has renounced U.S. citizenship. • Is an illegal alien. • Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner or child of an intimate partner. • Is convicted of a misdemeanor crime of domestic violence.
C.5.c. Enforcement Policy	18 USC 922(g) provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.5.c.1. Arrest	For a violation of 18 USC 922(g), individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.5.c.2. Seizure	For a violation of 18 USC 922(g), the firearm and other evidence are subject to seizure. Units shall contact OPCON for guidance regarding disposition of the firearm.
C.5.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.6. Hostage Taking, 18 USC 1203	
C.6.a. Elements	It is unlawful for any person to seize or detain and threaten to kill, injure, or continue to detain another person in order to compel a third person or a governmental organization to do, or abstain from doing, any act as a condition for release of the person detained.
C.6.b. Applicability	This statute applies to any U.S. person and to any person shoreward of 12 NM from the baseline and any foreign person (when the hostage is a U.S. national or the governmental organization sought to be compelled is the U.S.).
C.6.c. Enforcement Policy	18 USC 1203 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.6.c.1. Arrest	For a violation of 18 USC 1203, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.6.c.2. Seizure	For a violation of 18 USC 1203, evidence is subject to seizure. Units shall contact OPCON for guidance regarding disposition of the evidence.
C.6.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.

C.6.d. Other

The most critical/dangerous time in a hostage situation is the initial response phase (typically lasting 15 to 45 minutes). During this phase, the hostage taker is often very excited and tends to base actions more on emotion than rational thought. Hostage situations are best handled by specially trained personnel from other agencies. However, Coast Guard personnel may encounter hostage situations at sea where expert assistance is unlikely to be available quickly. Units shall, if practicable, discuss intentions with OPCON before taking any action. Guidance regarding initial response actions is as follows:

- Units shall notify OPCON immediately and request a trained hostage negotiator. This report shall then be relayed to the Coast Guard National Command Center, the FBI and other appropriate law enforcement authorities.
- Units shall document events as they occur. This will facilitate negotiations and provide for accurate reports to OPCON. Units should listen carefully to, and record all communications with, the hostage taker for clues as to that person's emotional state and motivation.
- Units should establish a security perimeter at an appropriate distance from the hostage scene to facilitate observation and control without provoking further confrontation.
- Units should establish and maintain contact with the hostage taker in an effort to deescalate the situation. Units should consistently use the same person to communicate with the hostage taker.
- Coast Guard personnel shall not solicit demands from the captors.
- Coast Guard personnel shall not make promises or agree to any demands or concessions. However, units shall carefully note any demands and inform the hostage taker that those demands have been passed on to higher authority.
- Coast Guard personnel shall not offer to speak face-to-face with the hostage taker or trade hostages. Further, medical personnel shall not normally be sent to treat wounded persons even in exchange for hostages.
- Units shall make no threats and shall reassure the hostage taker that no forceful actions will be taken.
- Coast Guard personnel shall avoid giving orders of any kind to the hostage taker.
- When communicating with the hostage taker, Coast Guard personnel shall refer to those taken hostage by name rather than using the term hostages.

Coast Guard personnel shall not normally attempt to free the hostages or arrest or otherwise incapacitate the hostage takers unless it appears imminent that hostages or other innocent persons are about to be killed or seriously injured and there is no reasonable alternative.

If it appears imminent that hostages or other innocent persons are about to be killed or seriously injured, and there is no reasonable alternative, Coast Guard personnel may take appropriate action to minimize loss of life and/or serious injuries without unreasonably endangering Coast Guard personnel.

When the trained negotiators are on scene or in contact, their instructions should be followed provided they are consistent with applicable Coast Guard policy. If the trained negotiator's instructions are not consistent with Coast Guard policy, the CO/OIC should seek guidance from OPCON.

C.7. Piracy, 18 USC 1651

C.7.a. Elements

It is unlawful for any crew or passenger of any vessel to conduct unlawful acts of violence, detention, or depredation for private ends against another ship.

C.7.b. Applicability	This statute applies to any person in international waters.
C.7.c. Enforcement Policy	18 USC 1651 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.7.c.1. Arrest	For a violation of 18 USC 1651, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.7.c.2. Seizure	For a violation of 18 USC 1651, evidence is subject to seizure. Units shall contact OPCON for guidance regarding disposition of the evidence.
C.7.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
C.7.d. Other	If a unit establishes or reasonably suspects that an act of piracy has been committed by a foreign flag vessel, the vessel is subject to a limited boarding under the doctrine of right of visit as described in *Chapter 2.C.1*. Cases involving right of visit require a Commandant SNO per *Appendix D* prior to boarding. Once aboard, if reasonable suspicion exists that the vessel is engaged in piracy, the unit may detain the vessel pending resolution through diplomatic channels with the vessel's flag State. After boarding a vessel suspected of piracy, it may become apparent that the offense involved is actually some other criminal act (e.g., mutiny, hijacking) or a vessel labor dispute. Right of visit does not apply to such incidents. If a Coast Guard unit exercising right of visit discovers that the suspected conduct does not meet the elements of piracy, the unit must have a separate basis for remaining aboard the vessel (e.g., master's consent or flag State authorization).
C.8. Violence Against Maritime Navigation, 18 USC 2280	
C.8.a. Elements	It is unlawful for any person: • To unlawfully and intentionally seize or exercise control over a ship by force or threat thereof or any other form of intimidation. • To unlawfully and intentionally perform an act of violence against a person onboard a ship if that act is likely to endanger the safe navigation of that ship. • To unlawfully and intentionally destroy a ship or cause damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship. • To unlawfully and intentionally place or cause to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship. • To unlawfully and intentionally destroy or seriously damage maritime navigational facilities or seriously interfere with their operation, if such act is likely to endanger the safe navigation of a ship. • To unlawfully and intentionally communicate information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship.

- To unlawfully and intentionally injure or kill any person in connection with the commission or the attempted commission of any of the offenses set forth in *C.8.a. bullets 1-8* above.
- To unlawfully and intentionally attempt or conspire to do any act prohibited under *C.8.a. bullets 1-7* above.
- To threaten to do any act prohibited under *C.8.a. bullets 2, 3, or 5* above with apparent determination and will to carry the threat into execution, and the threatened act is likely to endanger the safe navigation of the ship in question.

C.8.b. Applicability

This statute applies in the case of any vessel, wherever located, if the offense is committed in an attempt to compel the United States to do or abstain from doing any act.

This statute applies in the case of ships navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the person who committed the offense is later found in the United States.

This statute applies in the case of a ship that is navigating or is scheduled to navigate into, through, or from waters beyond any nation's territorial sea, if:

- The offense is committed against or onboard a ship flying the flag of the United States at the time the offense is committed.
- The offense is committed in the United States.
- The offense is committed by a national of the United States or by a stateless person whose habitual residence is in the United States.
- During the commission of the offense, a national of the United States is seized, threatened, injured, or killed.
- The person who committed the offense is later found in the United States.

C.8.c. Enforcement Policy

18 USC 2280 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrests.

C.8.c.1. Arrest

For a violation of 18 USC 2280, individuals are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In cases involving foreign flag vessels, the Coast Guard may agree to take law enforcement action on behalf of the flag or coastal State and transfer custody of the individuals to the flag or coastal State. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

C.8.c.2. Seizure

For a violation of 18 USC 2280, evidence is subject to seizure. Units shall contact OPCON for guidance regarding disposition of the evidence.

C.8.c.3. Case Package Preparation

A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.

C.8.d. Other

18 USC 2280 provides that:

- Persons may not be prosecuted under 18 USC 2280 for conduct that occurred within the United States if the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the state in which it was committed.
- Status and nationality of the vessel will be critical to establishing U.S. jurisdiction for violations of 18 USC 2280. Permission from a flag or coastal State via diplomatic channels and the SNO/PD-27 process will be required to take law enforcement action onboard a vessel subject to that state's jurisdiction.

- "United States", when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and all territories and possessions of the United States.
- "Ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

C.9. Mutiny, 18 USC 2193

C.9.a. Elements

It is unlawful for:

- Any crewmember of a U.S. vessel
- To unlawfully and with force, or by fraud, or intimidation,
- Usurp the command of such vessel
- From the master or other lawful officer in command thereof; or
- Deprive him of authority and command on board; or
- Resist or prevent him in the free and lawful exercise of command; or
- Transfers such authority and command to another not lawfully entitled thereto.

C.9.b. Applicability

This statute applies in all places.

C.9.c. Enforcement Policy

18 USC 2193 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.

C.9.c.1. Arrest

For a violation of 18 USC 2193, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

C.9.c.2. Seizure

For a violation of 18 USC 2193, evidence is subject to seizure. Units shall contact OPCON for guidance regarding disposition of the evidence.

C.9.c.3. Case Package Preparation

A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.

C.9.d. Other

Actual mutinies are rare aboard modern vessels. Most of the incidents originally reported as, or suspected to be, mutinies are in reality labor disputes. Guidance regarding Coast Guard response to labor disputes is contained in *Appendix J*.

Units receiving a report of mutiny shall immediately notify Commandant (G-O) through the chain of command. Unless it a U.S. vessel where loss of life or serious bodily injury appears imminent, or a foreign flag vessel where such injury to known U.S. persons appears imminent, no attempt should be made to forcibly regain control of the vessel without specific guidance from OPCON. Even when a threat exists to U.S. persons, immediate action may be ill advised under the circumstances (e.g., inadequate training, danger to persons onboard).

As a matter of policy, Coast Guard should not become involved in reported mutinies aboard foreign flag vessels where no threat to U.S. persons or interests is involved. Mutiny aboard a foreign vessel without any other criminal act is not an offense under U.S. law. However, a flag State may request (via diplomatic channels) that the U.S. provide assistance in

responding to a reported mutiny. In such cases, DOS may request Coast Guard assistance. Units shall take no direct law enforcement action without guidance from OPCON.

C.10. Firing or Tampering with a Vessel (Scuttling), 18 USC 2275

C.10.a. Elements

It is unlawful for any person to set fire to any vessel or cargo or place bombs or explosives on such vessel tamper with the motive power or instrumentalities of navigation of such vessel or do any other act to or upon such vessel with intent to injure or endanger safety of the vessel, cargo or persons onboard.

C.10.b. Applicability

This statute applies to any U.S. person and to any person shoreward of 12 NM from the baseline.

C.10.c. Enforcement Policy

18 USC 2275 provides for only criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.

C.10.c.1. Arrest

For a violation of 18 USC 2275, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons

C.10.c.2. Seizure

For a violation of 18 USC 2275, evidence is subject to seizure. Units shall contact OPCON for guidance regarding disposition of the evidence.

C.10.c.3. Case Package Preparation

A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.

C.10.d. Other

The most common scuttling incidents encountered by Coast Guard units are those involving insurance fraud or attempts to dispose of evidence of illicit activity prior to a boarding. In either of these circumstances, units may be in a position to invoke the right to assist a vessel in distress and board the vessel to determine the extent of the damage (see *Chapter 2.C.3*).

Units should normally attempt to salvage the vessel, unless such action unreasonably endangers Coast Guard personnel. If the vessel cannot be salvaged, any evidence of illegal activity should, if feasible, be removed, videotaped or photographed.

When rendering assistance on a foreign flag vessel without consent, Coast Guard personnel shall access only those locations necessary to respond to the distress. If during this process, evidence of illegal activity is discovered in plain view, such evidence should normally be secured and the master/crew denied access until disposition instructions are received.

C.11. Obstructions to Navigation, 33 USC 409

This statute prohibits the obstruction of U.S. navigable waters by floating objects or sunken vessels.

Appendix C contains general guidance regarding obstruction of U.S. navigable waters by fixed objects or structures (33 USC 403).

C.11.a. Elements

It is unlawful for any person to tie up or anchor vessels or other craft, sink or cause to be sunk vessels or other craft or float loose timber or logs in any navigable channel of the U.S. so as to prevent or obstruct the passage of other vessels or craft.

C.11.b. Applicability	This statute applies to any U.S. person and to any person shoreward of 12 NM from the baseline.
C.11.c. Enforcement Policy	33 USC 409 provides for both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
C.11.c.1. Arrest	For a violation of 33 USC 409, individuals involved are subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
C.11.c.2. Seizure	For a violation of 33 USC 409, evidence is subject to seizure. Units shall contact OPCON for guidance regarding disposition of the evidence.
C.11.c.3. Case Package Preparation	A case package is required for any violation of this statute (civil or criminal) and shall be prepared in accordance with *Appendix G*.
C.11.d. Other	The most common incidents involving obstructions to navigation encountered by Coast Guard units involve protests or labor disputes. Where the navigable channel remains passable, units should not normally attempt to remove the obstruction unless there are other bases for taking law enforcement action (e.g., violence toward persons, destruction of property, violation of a federal court order or COTP order). The Coast Guard may issue COTP orders, particularly if the obstruction poses a particular hazard and/or the facility is vital to national security. Where the navigable channel is not passable, units shall contact OPCON for guidance prior to attempting to remove the obstruction. Guidance regarding other situations involving labor disputes is contained in *Appendix J*.

Section D. Policy and Procedures

Introduction	This section contains policy and procedures that apply to enforcement of the general criminal offenses addressed in this chapter.
D.1. Special Maritime and Territorial Jurisdiction (SMTJ)	A number of federal statutes, including some addressed in this chapter, invoke the unique jurisdictional concept known as the Special Maritime and Territorial Jurisdiction (SMTJ) of the U.S., 18 USC 7. This jurisdictional term is a challenge to define clearly and accurately in all circumstances. The following general guidelines are provided with respect to what is included within the SMTJ. The SMTJ applies: • To U.S. vessels outside the jurisdiction of any state (seaward of the U.S. territorial sea), including such vessels located in foreign territorial waters. • To U.S. vessels located on the waters of the Great Lakes or any of the waters connecting them. • To land within exclusive federal jurisdiction on federal reservations, as well as land outside the jurisdiction of any nation (e.g., Antarctica) with respect to an offense by or against a national of the U.S.

- To U.S. aircraft while in flight over waters seaward of state waters, and may also apply with respect to those flying over waters seaward of the high waterline along the coast and seaward of harbor works or narrow promontories (thus bringing in the majority of state waters along the Atlantic, Pacific, Gulf, and Great Lakes coasts).
- To offenses by or against U.S. Nationals committed outside the jurisdiction of any nation.

D.2. Servicing Legal Office

In view of the complexities inherent in SMTJ application, units shall, in any case involving the SMTJ, contact the servicing legal office who will in turn discuss the case with the cognizant Assistant U.S. Attorney.

Appendix A. List of Acronyms

Introduction

This appendix contains a list of acronyms used throughout this Manual.

In this Appendix

This appendix contains the following information:

Topic	See Page
List of Acronyms	A-3

ACRONYM	DEFINITION
ADCON	Administrative Control
ADT	Active Duty for Training
AIRSTA	Air Station
AIS	Automatic Identification System
AMIO	Alien Migrant Interdiction Operations
ANOA	Advance Notice of Arrival
AOR	Area of Responsibility
APPS	The Act to Prevent Pollution from Ships
APSO	Asylum Prescreening Officer
ATF	Bureau of Alcohol, Tobacco and Firearms
BAC	Blood Alcohol Concentration
BCIS	Bureau of Citizenship and Immigration Services
BISI	Basic Initial Safety Inspection
BL&P	Blank, Loaded and Plugged (Ammunition)
BO	Boarding Officer
BOJAK	Boarding Officer Job Aid Kit
BTM	Boarding Team Member
BTS	Directorate of Border and Transportation Security
BUI	Boating Under the Influence
CBP	Bureau of Customs and Border Protection
CCGD	Commander, Coast Guard District
CDA	Contraband Detection Activities
CDC	Center for Disease Control
CF	Customs Form
CFR	Code of Federal Regulations
CFIVSA	Commercial Fishing Industry Vessel Safety Act
CG	United States Coast Guard
CG-XXXX	Coast Guard Form
CGIS	Coast Guard Investigative Service
CHT	Canine Handler Team
CINDI	Compact Integrated Narcotics Detection Instrument
CIPA	Classified Information Procedures Act
CISD	Critical Incident Stress Debriefing

ACRONYM	DEFINITION
CITES	Convention on International Traffic in Endangered Species of Wild Fauna and Flora
CJCSI	Commander, Joint Chiefs of Staff Instruction
CNMI	Commonwealth of the Northern Mariana Islands
CO	Commanding Officer
COD	Certificate of Documentation
COFR	Certificate of Financial Responsibility
COI	Certificate of Inspection
COLREG	International Regulations for Preventing Collisions at Sea
COMDTINST	Commandant Instruction
CON	Certificate of Number
COTP	Captain of the Port
CTU	Commander, Task Unit
CSG	Counterterrorism Security Group
CSR	Continuous Synopsis Record
CWA	Clean Water Act
C2	Command and Control
DD-XXXX	Department of Defense Form
DEA	Drug Enforcement Administration
DHS	Department of Homeland Security
DoD	Department of Defense
DOJ	Department of Justice
DOS	Department of State
EAR	Enforcement Action Report
EEZ	Exclusive Economic Zone
EISI	Extended Initial Safety Inspection
ELT	Enforcement of Laws and Treaties
EMIS	Enforcement Management Information Systems
EPIC	El Paso Intelligence Center
EPIRB	Emergency Position Indicating Radio Beacon
ESA	Endangered Species Act
ETA	Estimated Time of Arrival
FAA	Federal Aviation Administration
FBI	Federal Bureau of Investigation

ACRONYM	DEFINITION
FDIN	Federal Drug Identification Number
FDSS	Federal Drug Seizure System
FEB	Functional Equivalent of the Border
FIR	Field Intelligence Report
FMP	Fishery Management Plan
FOIA	Freedom of Information Act
FON	Freedom of Navigation
FOUO	For Official Use Only
FRP	Fibrous Reinforced Plastic
FSA	Fur Seal Act
FST	Field Sobriety Test
FWCPA	Federal Water Pollution Control Act
FWS	United States Fish and Wildlife Service
G-XXX	Coast Guard Headquarters Staff Symbol
GIFA	Governing International Fisheries Agreement
GMT	Greenwich Mean Time
HAZMAT	Hazardous Material
HE	High Explosive
HHS	Health and Human Services
HIV	High Interest Vessel
HLSDM	Special Deputy U.S. Marshall
HQ	Coast Guard Headquarters
HSDN	High Seas Drift Net
IACP	International Association of Chiefs of Police
ICC	Coast Guard Intelligence Coordination Center
ICE	Bureau of Immigration and Customs Enforcement
IDT	Inactive Duty for Training
ILC	International Loadline Convention
INA	Immigration and Naturalization Act
IOPP	International Oil Pollution Prevention Convention
ISI	Initial Safety Inspection
ISPS	International Ship and Port Facility Security
ITC	International Tonnage Convention

ACRONYM	DEFINITION
IW	Internal Waters
JCS	Joint Chiefs of Staff
JQR	Job Qualification Requirement
JIATF	Joint Interagency Task Force
LE	Law Enforcement
LEAOA	Law Enforcement Ashore Operating Area
LEDET	Law Enforcement Detachment
LETOC	Law Enforcement Training Officer's Council
LMR	Living Marine Resource
LNG	Liquefied Natural Gas
LOS	Law of the Sea
LPG	Liquefied Petroleum Gas
LPOC	Last Port of Call
MARSEC	Maritime Security (Condition/Level)
MBTA	Migratory Bird Treaty Act
MHD	Maritime Homeland Defense
MHS	Maritime Homeland Security
MEDEVAC	Medical Evacuation
MISLE	Marine Information for Safety and Law Enforcement
MLC	Maintenance and Logistics Command
MLE	Maritime Law Enforcement
MLEM	Maritime Law Enforcement Manual
MMPA	Marine Mammal Protection Act
MO	Medical Officer
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
MSIB	Marine Safety Information Broadcast
MSO	Marine Safety Office
MSST	Marine Safety and Security Team
MTS	Maritime Transportation System
MWR	Morale, Welfare and Recreation
NDSA	Naval Defensive Sea Area

ACRONYM	DEFINITION
NVPZ	Naval Vessel Protection Zone
NIJ	National Institute of Justice
NM	Nautical Mile
NMFS	National Marine Fisheries Service
NMSA	National Marine Sanctuaries Act
NOAA	National Oceanic and Atmospheric Administration
NPAFC	North Pacific Anadromous Fish Commission
NPOC	Next Port of Call
NSC	National Security Council
N-VMS	National Vessel Monitoring System
NVPZ	Naval Vessel Protection Zone
NWP	Naval Warfare Publication
NWR	National Wildlife Refuge
OC	Oleoresin Capsicum
OCMI	Officer-in-Charge, Marine Inspection
OIC	Officer-in-Charge
OIR	Offense Investigation Report
OIR-SUP	Offense Investigation Report Supplemental
OJT	On-the-Job Training
OLC	Office of Legal Counsel
OPCEN	Operations Center
OPCON	Operational Control
OTH	Over-the-Horizon
PD-27	Presidential Directive 27
PDD	Presidential Decision Directive
PFD	Personal Flotation Device
PQS	Personal Qualification Standard
PRC	People's Republic of China
PSCO	Port State Control Officer
RA	Restricted Area
RBS	Recreational Boating Safety
RFMC	Regional Fishery Management Council
RFTC	Regional Fisheries Training Center

ACRONYM	DEFINITION
RFTG	Regional Fisheries Training Group
RNA	Regulated Navigation Area
ROV	Right of Visit
RWA	Restricted Waterfront Area
SABR	Sighting and Boarding Report
SAC	Sanctuary Advisory Council
SAC	Special Agent in Charge
SAR	Search and Rescue
SARS	Severe Acute Respiratory Syndrome
SHE	Safety and Environmental Health
SF-XXXX	Standard Form
SIA	Search Incident to Arrest
SITREP	Situation Report
SIV	Special Interest Vessel
SLR	Special Local Regulation
SMTJ	Special Maritime and Territorial Jurisdiction
SNO	Statement of No Objection
SOLAS	Safety of Life at Sea (Convention)
SOP	Standard Operating Procedure
SOV	Special Operations Vessel
SROE	Standing Rules of Engagement
STCW	Standards for Training and Certification of Watchstanders
TACON	Tactical Control
TED	Turtle Excluder Device
TQC	Training Quota Management Center
TS	Territorial Sea
TSS	Traffic Separation Scheme
U.N.	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNHCR	United Nations High Commissioner for Refugees
U.S.	United States (of America)
USBP	United States Border Patrol
USC	United States Code

ACRONYM	DEFINITION
USCG	United States Coast Guard
USCS	United States Customs Service
USN	United States Navy
VDE	Voluntary Dockside Examination
VIP	Very Important Person
VSC	Vessel Safety Check
VT	Variable Timed (Ammunition)
VTS	Vessel Traffic Service
WCA	Whaling Convention Act

Appendix B. Glossary

Introduction

This appendix contains a list of terms used throughout this Manual and their definitions.

In this Appendix

This appendix contains the following information:

Topic	See Page
Glossary	B-1

TERM	DEFINITION
Absconder	An inadmissible **Crewmember** that gains or attempts to gain illegal entry into the United States.
Administrative Control (ADCON)	The direction or exercise of authority over subordinate or other organizations with respect to administration or support including organization of service forces, control of resources and equipment, personnel management, unit logistics, individual and unit training, readiness, mobilization, demobilization and discipline, and other matters not included in the operational missions of the subordinate or other organizations.
Admiralty and Maritime Jurisdiction	Article III of the Constitution provides for federal judicial power extending to "all cases of admiralty and maritime jurisdiction." Admiralty and maritime jurisdiction generally extends to matters occurring on navigable waters involving some aspect of maritime commerce, and contractual matters that directly affect maritime commerce. The term is primarily relevant for MLE in determining the extent of the special maritime and territorial jurisdiction of the U.S.
Alien (also MIGRANT)	Any person not a citizen or national of the U.S. Individual aliens encountered by Coast Guard personnel will likely fall into one of the following categories: Immigrants - those aliens coming to the U.S. to reside permanently. They may be entering for the first time or they may be alien residents of the U.S. who are returning from a temporary absence. Non-immigrants - aliens seeking to enter the U.S. for a temporary period (e.g., business or vacation travel) or any person not a citizen or permanent resident of the U.S. Illegal Entrants - those aliens who have entered the U.S. in such a manner as to avoid inspection. Undocumented Migrants - those aliens attempting to illegally gain entry into a country without the required travel document(s) needed for admission. Also see **Travel Document**.
Anadromous Species	A species of fish that spawns in fresh or estuarine waters and migrates to ocean waters. Included species are: King Salmon (Oncorhychus tshawytscha); Pink Salmon (Oncorhynchus gorbuscha); Chum Salmon (Oncorhynchus keta); Sockeye Salmon (Oncorhychus nerka); Silver Salmon (Oncorhychus kisutch); Steelhead Trout (Salmo gairdnerii); and Atlantic Salmon (Salmo salar).
Arraignment	The process of bringing an arrested person before the court, where the charge is explained and a plea is taken.
Arrest	The seizure and taking into custody of a person, believed to have committed a crime, that occurs by the use of physical force or display of official authority, to which the person submits.
Assault	Any willful attempt or threat to inflict injury upon the person of another, when coupled with an apparent present ability to do so, and any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm. Physical contact is not required for an assault to have occurred (e.g., an individual points a firearm at another or attempts to stab another but misses).

TERM	DEFINITION
Assistance Entry	Under international law, the right of non-interference for a vessel (or aircraft in certain circumstances) to enter a foreign territorial sea to conduct a bona fide rescue of those in danger or distress at sea. Also referred to as **Right of Assistance Entry**.
Asylum	Protection from political persecution afforded by a nation to a refugee.
Authority	The government's legal power to act.
Baseline	The line, drawn in accordance with international law, from which the territorial sea and other maritime jurisdictional zones are measured. It is generally the low waterline along the coast (including the coasts of islands) and special closing lines across the mouths of rivers, bays, inlets, and other similar indentations. Also referred to as **Territorial Sea Baseline**.
Body Cavity Search	A search that involves the visual or physical examination into a person's body cavity. A visual inspection of the mouth, ears, or nose during either a search incident to arrest or strip search is not a body cavity search.
Bribery	The offering, giving, receiving, or soliciting of anything of value to influence a government official's action or discharge of legal or public duty.
Civil Offense	An offense where the statute or regulation provide for civil penalties in lieu of criminal fines or imprisonment.
Civil Penalty Process	The means of reporting, adjudicating, and disposing of a suspected violation of federal law where the statute or regulation provides for a civil penalty (e.g., CG-4100 violation, fisheries violation).
Coastal State	A nation bordering ocean waters which has the authority under international law to exercise various degrees of sovereignty over the immediately adjacent ocean waters.
Coastal State Authorization	Coastal State authorization is permission from the coastal State to board and/or take actions in coastal State waters. Coastal State authorization is obtained through a special arrangement between the U.S. and the coastal State. The specific terms of the authorization determine exactly what action (e.g., entry, pursuit, patrol, boarding, search, detention, arrest, and/or seizure) the Coast Guard may take.
Coast Guard Flag	The cognizant Coast Guard flag officer who exercises operational control over the law enforcement unit.
Coast Guard Flag SNO (CG Flag SNO)	An SNO issued by a Coast Guard flag officer, typically an Area or District Commander, who exercises operational control over the law enforcement unit. A CG Flag SNO defines the limits of the unit commander's authority to act in a particular case.
Code of Federal Regulations (CFR)	The compilation and codification of U.S. administrative law by subject matter arranged in numerical titles. The CFR is published officially by the federal government in volume form.
Combined Operations	Law enforcement or military operations between one or more U.S. forces or law enforcement agencies and the forces or law enforcement agencies of one or more allied nations in pursuit of common objectives.

TERM	DEFINITION
Compliance	Submission, obedience or conformance. An individual's acknowledgment in some fashion, ordinarily by physically obeying a lawful order, of the authority and/or direction of a law enforcement officer.
Concurrent Jurisdiction	Jurisdiction over a location, vessel and/or persons that is shared by more than one sovereign. In U.S. navigable waters that are also within state jurisdiction, the U.S. and its states have concurrent jurisdiction over persons and vessels located therein. Additionally, in areas where the U.S. may exercise coastal State authority over foreign flag vessels, there is concurrent jurisdiction with the vessel's flag State.
Consensual Boarding	A boarding conducted solely with the consent of the master/person in charge of a vessel not subject to the jurisdiction of the U.S. Such boardings are non-jurisdictional in nature; no enforcement action whatever (e.g., seizure, arrest) may be taken while aboard a vessel solely on a consensual basis.
Constructive Presence	Under international law, the right of a coastal State to exercise jurisdiction over a foreign flag vessel (mothership) which remains outside of coastal State jurisdiction, but uses its boat or another ship (contact boat) to commit offenses in violation of coastal State law within a maritime area over which that the coastal State exercises jurisdiction.
Constructive Seizure	The legal seizure of an item without taking it into physical custody at the time of seizure.
Contiguous Zone	For the purpose of determining jurisdiction over location and interpreting international law, the waters within the belt adjacent to and seaward of the territorial sea and extending to 24 NM from the baseline (i.e., between 12 NM and 24 NM), but in no case extending within the territorial seas of another nation. For the purpose of determining the application of substantive law under the Federal Water Pollution Control Act and 19 USC, the waters within the belt 9 NM wide that is adjacent to and seaward of the 3 NM territorial sea (i.e., between 3 NM and 12 NM).
Continental Shelf	The area of seabed and subsoil beyond the territorial sea, which extends up to either: 200 NM from the baseline; or, subject to certain limits, the outer edge of the continental margin (the submerged prolongation of the land mass), or 100 NM from the 2500 meter isobath, whichever is further seaward (but in no case beyond 350 NM from the baseline).
Contraband	Any property which is unlawful to produce or possess. Also, goods exported from or imported into a nation against its laws.
Contraband Detection Activities	The use of organic, mechanical or chemical devices that sample or examine the air or physical surfaces to detect the presence of contraband (e.g., cocaine, heroin, marijuana, explosives, weapons). CDA include, but are not limited to, the use of IONSCAN, CINDI, dogs, chemical reagent sprays, narcotics testing kits, and magnetometers.
Crew Member	Any person or persons serving in a capacity required for normal operation and service onboard a vessel. A high-risk detain onboard **Crewmember** (high-risk CREWMEMBER) is a CREW MEMBER that has been denied admission to the U.S., and meets a specific security risk criteria established by U.S. immigration authorities.
Criminal Offense	An offense where the statute provides for criminal penalties such as fines or imprisonment.

TERM	DEFINITION
Customs Border Search	A special type of search, conducted pursuant to customs authority, of a vessel and persons onboard at the U.S. border (or functional equivalent of the border) to enforce U.S. customs laws.
Customs Waters	For the U.S., generally those waters shoreward of a line drawn 12 NM from the baseline (including territorial sea and internal waters with ready access to the sea). For foreign flag vessels, customs waters of the U.S. may be extended beyond 12 NM by special arrangements (including treaties) between the U.S. and the vessel's flag State.
Deadly Force	Any force that is likely to cause death or serious physical injury.
Deserter	A **Crewmember** that is authorized by the CBP to enter but upon entry remains illegally in the United States.
Detention	The act of keeping back, restraining, or withholding a person or property for a temporary, reasonable period of time for the purpose of inspection, investigation, or search when such act does not amount to an arrest or property seizure.
Disabling Fire	Disabling fire is the firing of ordnance at a vessel with the intent to disable, with minimum injury to personnel or damage to the vessel. Disabling fire as practiced by the Coast Guard does not constitute the use of deadly force. Such fire is a special method of stopping a vessel.
Documented Vessel	A vessel documented under U.S. law (46 USC; 46 CFR, Subpart 67) and issued a Certificate of Documentation by the Coast Guard.
Entry	The passage of a Coast Guard vessel or aircraft into foreign territory, territorial waters, or airspace for any law enforcement purpose (including detection and monitoring as well as apprehension activities).
Exclusive Economic Zone	For the purpose of determining jurisdiction over location and interpreting international law, the zone of waters beyond and adjacent to the territorial sea not extending beyond 200 NM from the baseline. For MSFCMA purposes, the inner boundary of the EEZ is the seaward limit of U.S. states and territory jurisdiction (i.e., 3 NM for most areas; 9 NM for Texas, the Gulf Coast of Florida, and Puerto Rico.)
Evidence	Something that tends to prove or support the prosecution of a suspected offense. Evidence may consist of contraband, fruits of a crime, instrumentalities of a crime, weapons or means of escape.
Executive Order	An order issued by or on behalf of the President, usually intended to direct or instruct the actions of executive agencies or government officials, or to set policies for the executive branch to follow.

TERM	DEFINITION
Federal Law	The body of principles, standards, and rules promulgated by the federal government. Federal law is comprised of five basic sources: • The U.S. Constitution. • Statutes enacted by Congress. • Executive agency regulations and presidential directives. • International treaties and executive agreements. • Court decisions.
Federal Register	A daily publication in which U.S. administrative agencies publish both proposed regulations for public comment and final regulations.
Felony	A criminal offense punishable by death or imprisonment for more than one year.
Fish	Finfish, mollusks, crustaceans, and all other forms of marine animals or plant life, other than marine mammals, and birds.
Fishing	A broad range of activities including, but not limited to the catching, taking, or harvesting of fish; attempting any of the foregoing; any other activity, other than scientific research, which does, is intended to, or reasonably can be expected to result in the catching, taking, or harvesting of fish; or any operation at sea in support of, or in preparation for, any of the foregoing activities (e.g., scouting, fish processing, transferring or transporting, provisioning of fishing vessels, repairing another fishing vessel).
Fishing Vessel	Any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for: fishing, or aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.
Flag State	The vessel claims the nationality of that nation and that nation exercises its jurisdiction and control in administrative, technical, and social matters over the vessel.
Flag State Authorization	Flag State authorization is permission from the flag State of a vessel to board and/or take enforcement actions with respect to that vessel. Flag State authorization is obtained through a special arrangement between the U.S. and the flag State. The specific terms of the authorization determine exactly what enforcement action (e.g., boarding, search, detention, arrest, and/or seizure) the Coast Guard may take with respect to the foreign flag vessel.
Force Majeure	Under international law, the right of protection of a vessel forced into coastal State waters by virtue of distress that normally exempts it from coastal State jurisdiction for a reasonable period of time necessary to remedy such distress.
Foreign Flag Vessel	Foreign flag vessels are all seagoing vessels except U.S. vessels, vessels without nationality, and vessels assimilated to a vessel without nationality.
Frisk Search	The crushing and passing of hands over the outer clothing of a person in search of weapons, when the officer suspects an individual may have a weapon that poses a threat to the boarding team or others.

TERM	DEFINITION
G-C SNO	An SNO issued by the Commandant to define the limits of the Operational Commander's authority.
G-O SNO	An SNO issued by the Assistant Commandant for Operations (G-O) to define the limits of the Operational Commander's authority.
Governing International Fisheries Agreement (GIFA)	An agreement between the U.S. and a foreign nation under *Section 201(c)* of the MSFCMA of 1976, 16 USC 1821 (c).
High-Risk Detain Onboard Crewmember (High-Risk Crewmember)	A **Crewmember** that meets both of the following criteria: • The crewmember has been denied entry into the United States by the CBP. • The crewmember meets the security risk criteria established by U.S. immigration authorities.
High Seas	For the purpose of determining jurisdiction over location and interpreting international law, high seas are all parts of the ocean seaward of the Exclusive Economic Zone; if a coastal State has not proclaimed an Exclusive Economic Zone, the high seas begin at the seaward edge of the territorial sea. For the purpose of determining the applicability of substantive laws related to the special maritime and territorial jurisdiction of the U.S. as defined in 18 USC 7, the Great Lakes and all waters seaward of the baseline. For the purpose of determining the applicability of 33 USC 151 (High Seas Demarcation Lines for COLREGs) and 33 USC 2072 (Inland Navigation Rules), the waters seaward of any lines established pursuant to those statutes, including the lines described in 33 CFR Part 80.
Highly Migratory Species	Marlin, sailfish, swordfish, and the following species of tuna are defined as highly migratory species: Albacore (Thunnus alalunga); Blackfin Tuna (Thunnus atlanticus); Bigeye Tuna (Thunnus obesus); Bluefin Tuna (Thunnus thynnus); Yellowfin Tuna (Thunnus albacores); Black Skipjack (Euthynnus lineatus); Kawakawa (Euthynnus affinis); Little Tunny (Euthynnus alletteratus); and Skipjack Tuna (Euthynnus pelamis).
Hot Pursuit	The pursuit of a foreign vessel on the high seas following a violation of law of the pursuing state committed by the vessel within a maritime area over which the state exercises jurisdiction, provided that the vessel evades boarding within the jurisdiction, and that the pursuit is continuous and uninterrupted. The right of hot pursuit must be exercised by a warship, military aircraft, or other authorized vessel or aircraft in government service of a coastal State. The right of hot pursuit ceases as soon as the pursued vessel enters the territorial seas of another coastal State.
Imminent	An elastic period of time dependent upon the circumstances, rather than a fixed point of time implicit in the concept of "immediate" or "instantaneous".
Incidental Catch	Fish other than the directed fishery species that are caught during a directed fisheries.
Individual Self-Defense	The act of defending oneself or other persons by using force.

TERM	DEFINITION
Initial Safety Inspection (ISI)	A protective sweep of a vessel for the safety of the boarding team. There are two levels of initial safety inspection: (1) basic; and (2) extended.
Innocent Passage	Under international law, the right of non-interference for a vessel transiting inbound, outbound or through a foreign territorial sea, provided the vessel's passage is innocent.
Inspection	An examination of government licensees, heavily regulated businesses or activities for compliance with government regulations.
Internal Waters	For the U.S., the waters shoreward of the baseline, including all waters on the U.S. side of the international boundary of the Great Lakes. For any other nation, the waters shoreward of its baseline as recognized by the U.S.
International Waters	The waters seaward of the outer limit of the territorial sea of any nation, but encompassing the high seas, EEZ, and contiguous zones.
Intrusive Search	A quest for evidence that may require the destruction or permanent alteration of personal property to complete the search.
Joint Operations	A general term applied to law enforcement actions between two or more U.S. law enforcement agencies, or law enforcement actions involving one or more U.S. law enforcement agencies and one or more of the U.S. Armed Services.
Jurisdiction	The government's right to exercise legal authority over its persons, vessels, and territory. Within the context of MLE, jurisdiction is comprised of three elements: substantive law, vessel status/flag, and location.
Law Enforcement	The term describing all Coast Guard functions or actions carried out pursuant to the legal authorities discussed in this Manual.
Law Enforcement Agency	An executive agency chartered and empowered to enforce laws in one of the following jurisdictions: U.S., a state (or political subdivision) of the U.S., a territory or possession (or a political subdivision) of the U.S., or the borders of a foreign nation.
Manifest	A collection of forms required for presentation upon a vessel's arrival or departure in/from the United States. Typically these include, but are not limited to, Form I-418 (Crew List), Form I-92 (Vessel Report), Form I-94 (Arrival/Departure Record), and Form I-95 (Conditional Landing Permit).
Migrant	See **Alien**.
Misdemeanor	Any crime other than a felony.
National Self-Defense	National self-defense is the act of defending the United States, U.S. forces, and/or in certain circumstances, U.S. citizens and their property, U.S. commercial assets, or other non-designated U.S. forces, foreign nationals and their property, from a hostile act or hostile intent.

TERM	DEFINITION
Navigable Waters of the U.S.	For the purpose of the Federal Water Pollution Control Act, those waters shoreward of 3 NM from the baseline, including internal waters and all other waters subject to federal Constitutional authority. For all other purposes, those waters shoreward of 12 NM from the baseline, including internal waters subject to tidal influence and those waters not subject to tidal influence that are or have been used, or susceptible of use, as highways for substantial interstate or foreign commerce, or capable of improvement at a reasonable cost to serve as highways for substantial interstate or foreign commerce. Each Coast Guard District maintains a current list of navigable waters of the U.S. within that District.
Negligence	An act or omission that a reasonable and prudent person, guided by those ordinary considerations that generally regulate human affairs, would not commit.
Non-Compliant Vessel	A vessel subject to examination that refuses to heave to after being legally ordered to do so.
Non-Deadly Force	Any force other than deadly force.
Official Number	The serial number of a U.S. documented vessel as permanently issued on a Certificate of Documentation by the Coast Guard. Certain other vessels, which are not required by law to be numbered, have been marked with "unofficial identification numbers" (e.g., public vessels owned by the Maritime Administration have their number preceded by the letters MC, inspected inland tank barges have a six digit number issued by the Coast Guard and preceded by the letters "CG").
Operational Control (OPCON)	The authority to perform those functions of command over subordinate forces involving organizing and employing commands and forces, assigning tasks, designating objectives and giving authoritative direction over all aspects of law enforcement or military operations and joint training necessary to accomplish assigned missions. OPCON may be exercised at any echelon at or below the level of Area Commander, or combatant command for joint operations, and can be delegated or transferred. OPCON, in and of itself, does not include authoritative direction for logistics, administration, discipline, internal organization, or training.
Passenger	Any person arriving in the United States onboard a vessel who is not a **Crew Member** or a **Stowaway**.
Passport	Any travel document issued by competent authority showing the bearer's origin, identity, and nationality, if any, which is valid for the admission of the bearer into a foreign country. The use of this implies it is not expired, is unaltered and is presented by the rightful holder.
Plain View	The rule permitting a law enforcement officer, who is otherwise lawfully present in an area, to seize an item that is readily apparent as evidence.
Presidential Directive 27	Presidential Directive/NSC-27 (PD-27) imposes procedures on federal agencies for dealing with various types of non-military incidents that could have an adverse impact upon the conduct of the foreign relations of the U.S.

TERM	DEFINITION
Probable Cause	The level of suspicion that would cause a reasonable and prudent person, given the overall circumstances, to believe a crime has been committed. Probable cause is a judgment call made by a law enforcement officer based on the totality of the circumstances, including the officer's training, experience, and analysis of the situation.
Prohibited Species	Those species of fish over which the U.S. exercises exclusive fishery management authority and which are not authorized to be retained or possessed, except for the length of time required to dispose of them in accordance with applicable regulations.
Reasonable Suspicion	The belief by a reasonable and prudent person based on articulable facts, that something has happened (e.g., criminal activity is afoot or a particular condition exists). This is a comparatively low standard short of the probable cause threshold, but rising above the level of mere suspicion.
Refugee	An individual that has been determined by competent authority to be fleeing persecution or have a well-founded fear of persecution in their own country because of race, religion, nationality, membership in a particular social group or political opinion. This does not include individuals being protected while their asylum request is being reviewed.
Registration Number	The serial number of a U.S. undocumented vessel as issued on a Certificate of Number.
Regulated Species	With respect to any foreign fishing vessel, all species of fish over which the U.S. exercises exclusive fishery management authority, except prohibited species.
Regulation	A rule or order issued by a U.S. administrative agency, normally acting pursuant to authority granted by statute.
Right of Assistance Entry	See **Assistance Entry**.
Right of Approach	Under international law, the right of warships and other duly authorized vessels or military aircraft in international waters to approach any vessel in international waters and to verify its nationality through questioning. The Right of Approach is closely linked to the Right of Visit.
Right of Visit	Under international law, the right of warships and other duly authorized vessels or military aircraft in international waters to board a vessel of unknown nationality in order to determine its nationality, or to board any vessel suspected of engaging in piracy, slave trade or unauthorized broadcasting.
Search	An entry or intrusion by a government agent (including any person acting in a governmental capacity) on a quest for evidence into an area where an individual has a reasonable expectation of privacy.
Search Incident to Arrest	A detailed "crush and feel" search of an arrested individual's person and thorough search of outer clothing.
Seizure	The taking into custody of property, including a vessel, evidentiary items, and/or contraband.

TERM	DEFINITION
Self-Defense	See **Individual Self-Defense**, **National Self-Defense**, or **Unit Self-Defense**.
Serious Physical Injury	Actual physical injury to the body that results in: (a) unconsciousness; (b) protracted and obvious disfigurement; or (c) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
Sovereign Immunity	Pursuant to international law, certain government vessels, aircraft, and personnel have sovereign immune status which effectively places them beyond the reach of any other government's authority to exercise jurisdiction over them.
Special Interest Vessel (SIV)	Certain vessels registered in nations with whom the U.S. does not enjoy friendly and/or normal diplomatic relations that are subject to special restrictions relating to their entry into and/or activities in U.S. waters.
Special Operations Vessel (SOV)	A vessel involved in either a controlled delivery or other undercover law enforcement operation, or a non-law enforcement mission for a U.S. agency.
Standing Rules of Engagement (SROE)	Guidance on the use of force for the accomplishment of non-law enforcement missions, unit self-defense, and national self-defense. SROE also establish fundamental policies and procedures governing action to be taken by U.S. force commanders during military operations and contingencies.
State	"State" as used herein has one of two meanings: a nation (as in flag or coastal State) or one of any of the fifty states of the U.S. This manual employs the term "State" to denote nations and "state" to indicate one of the fifty United States. Some statutes, such as the MSFCMA, define "state" to include certain U.S. territories or other possessions.
Stateless Vessel	See **Vessel without Nationality**.
Statement of No Objection	The means by which a Coast Guard flag officer informs a subordinate commander that the flag officer does not object to the proposed use of the subordinate commander's lawful discretion and authority.
Statute	A law passed by the U.S. Congress and signed by the President.
Stowaway	Stowaway means any person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the ship's owner or the master or any other responsible person and who is detected onboard the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival. Also defined as an alien coming to the U.S. surreptitiously on an airplane or vessel without legal status for admission.
Strip Search	A search that involves the intrusive removal of clothing and may be as extensive as a visual examination of the nude body.
Substantive Law	A law that prohibits certain action or requires affirmative conduct.

TERM	DEFINITION
Tactical Control (TACON)	Command authority over assigned forces or commands, or military capability or forces made available for tasking, that is limited to the detailed and usually local direction and control of movements and maneuvers necessary to accomplish assigned missions or tasks. TACON may be exercised by commanders at any echelon below the Area Commander level, or by combatant command for joint operations. TACON does not provide organizational authority or authoritative direction for administrative and logistics support; the parent unit continues to exercise those responsibilities unless otherwise directed.
Territorial Sea (Foreign)	The waters within the belt that is adjacent to the foreign nation's coast and whose breadth and baseline are recognized by the U.S.
Territorial Sea (U.S.)	The waters within the belt, 12 NM wide, that is adjacent to the coast of the U.S. and seaward of the baseline, for the following purposes: • Determining jurisdiction over location. • Interpreting international law. • Determining the applicability of substantive laws within Subtitle II, 46 USC and the Ports and Waterways Safety Act, 33 USC 1221, and any regulations issued under the authority of these statutes. • Determining the applicability of substantive laws within 18 USC. • Determining the applicability of substantive laws related to the special maritime and territorial jurisdiction of the U.S. as defined in 18 USC 7. For the purpose of determining the applicability of substantive U.S. domestic laws not mentioned above, the territorial sea means the waters within the belt, 3 NM wide, that is adjacent to the coast of the U.S. and seaward of the baseline.
Territorial Sea Baseline	See **Baseline**.
Terrorism	Any activity that involves an act that is dangerous to human life or potentially destructive of critical infrastructure or key resources; and is a violation of the criminal laws of the United States or of any state or other subdivision of the United States or that would be a criminal violation if committed within the jurisdiction of the United States or of any state or subdivision of the United States; and appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping.
Transit Passage	Under international law, the right of non-interference for a vessel or aircraft transiting through a foreign territorial sea that comprises an international strait used for navigation between areas of international waters.
Travel Document	Any document or collection of documents issued by competent authority required for the admission of the bearer into a country. Typically includes, but is not limited to a passport, seamen's book, or visa. The use of the terms "Documents" or "Travel Documents" implies that the documents are not expired, are unaltered and are presented by the rightful holder.
Unit Self-Defense	The act of defending a particular unit of U.S. forces, and other U.S. forces in the vicinity, against a hostile act or hostile intent.

TERM	DEFINITION
United States Code (USC)	The compilation and codification of U.S. statutory law by subject matter arranged in numerical titles. The Code is published officially by the federal government in volume form and kept current between publishing by annual supplements.
Universal Crimes	Under international law, crimes (i.e., piracy, slavery, and unauthorized broadcasting) subject to the jurisdiction of any nation.
Use of Force Continuum	A model for determining when and what types of force should be used in individual self-defense and law enforcement situations, except those involving action to compel a vessel to stop
U.S. Vessel	A vessel that: • Is documented under 46 USC 12101-12124 (Certificate of Documentation). • Is numbered as provided by 46 USC 12301-12309 (Certificate of Number). • Is owned in whole or part by a U.S. citizen or national and not registered in another country. • Was once documented under U.S. law and, without approval of the U.S. Maritime Administration, had either been sold to a non-U.S. citizen or placed under foreign registry or flag.
Vessel	Includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation in water.
Vessel without Nationality	Also referred to as a "stateless vessel", a vessel which is not registered in one single nation. They are not entitled to fly the flag of any nation and, because they are not entitled to the protection of any nation, are subject to the jurisdiction of all nations. Nationality is evidenced by the following, all of which are considered affirmative claims under international law: • Oral claim of nationality by the master or other person in charge of the vessel. • Vessel documents issued by the flag State. • National flag or ensign flown.
Vessel Assimilated to Statelessness	See **Vessel Assimilated to a Vessel without Nationality**.
Vessel Assimilated to a Vessel without Nationality	Also referred to as a "vessel assimilated to statelessness", a vessel regarded as a vessel without nationality typically because of one or more of the following factors: • No claim of nationality. • Multiple claims of nationality (e.g., sailing under multiple flags). • Contradictory claims or inconsistent indicators of nationality (i.e., master's claim differs from vessel's papers; homeport does not match nationality of flag). • Changing flags during a voyage. • Removable signboards showing different vessel names and/or homeports. • Absence of anyone admitting to be the master. • Vessel displaying no name, flag or other identifying characteristics.
Vessel Inspection	A systematic process used to ensure compliance with governmental regulations (e.g., vessel safety inspection, fisheries regulatory inspection, marine safety inspection).

TERM	DEFINITION
Warning Shot	A signal to a vessel to stop by firing ordnance; not a use of force.
Warship	A warship is a vessel belonging to the armed forces of a nation and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline. A ship need not be armed to be considered a warship. Coast Guard cutters under the command of a commissioned officer are warships. Other Coast Guard cutters and vessels are considered auxiliaries (government-owned vessels on non-commercial service).

Appendix C. Statutory Reference

Introduction

This appendix contains a matrix of statutory references applicable to maritime law enforcement.

In this Appendix

This appendix contains the following information:

Topic	See Page
Assault	C-3
Citizenship Requirements	C-5
Destruction of Property or Vessels	C-6
Drug Law Enforcement	C-8
Firearms	C-9
Fiscal	C-9
Homicide	C-10
Living Marine Resources	C-11
Migrant Smuggling	C-12
Miscellaneous	C-12
Obstruction of Law Enforcement	C-15
Theft	C-17
Terrorism	C-18
Vessel Safety	C-21

CAUTION ! This matrix is intended solely as a field reference and is not intended to be used as a substitute for the actual statutes or consultation with the cognizant legal office, when appropriate. Throughout the matrix, statutory elements and applicability provisions have been summarized for ease of use. Accordingly, the matrix may not capture every detail or legal nuance of each statute contained therein. Further, the law continually evolves through the process of judicial interpretation. Consequently, the possibility exists that in any specific case, application of the law may involve elements or applicability provisions not described in the matrix. Of particular significance to the Coast Guard, is that based on the facts of any specific case, judicial interpretation may allow for extraterritorial application of U.S. domestic law not otherwise reflected in the matrix.

NOTE With the exception of those special circumstances described in *Chapter 2.C*, the Coast Guard must have both authority and jurisdiction before taking law enforcement action. Jurisdiction is comprised of three elements: vessel status/flag, location, and substantive law. Two of the three jurisdictional elements (vessel status/flag and location) are addressed in *Chapter 2*. The applicability column in the table below describes jurisdiction with respect to the substantive law. Jurisdiction over the substantive law does not preclude the need for units to establish whether jurisdiction over the vessel status/flag and location also exist.

Assault				
16 USC 1857(1)(E) Forcible Assault on an Authorized Fisheries Officer	Any person; Forcibly; Assaults, resists, opposes, impedes, intimidates, or interferes with; Any authorized fisheries officer; When such officer is enforcing the MSFCMA.	Within the U.S. EEZ and special interest areas of the high seas (see *Chapter 7.D.1.a*).	Criminal	The term "forcibly" implies that overt physical action has been taken (i.e., more than passive resistance). The term "assault" means to apply force, attempt to apply force, or offer to apply force with the apparent ability to do so.
16 USC 1857(1)(L) Forcible Assault on a Fisheries Observer	Any person; Forcibly; Assaults, resists, opposes, impedes, intimidates, sexually harasses, bribes, or interferes with; Any authorized fisheries observer performing official duties.	Within the U.S. EEZ and special interest areas of the high seas (see *Chapter 7.D.1.a).*	Criminal	The term "forcibly" implies that overt physical action has been taken (i.e., more than passive resistance). The term "assault" means to apply force, attempt to apply force, or offer to apply force with the apparent ability to do so.
18 USC 111 Assault on a Federal Officer	Any person; Forcibly; Assaults, resists, opposes, impedes, intimidates, or interferes with; An officer or employee of the U.S.; When such officer is engaged in, or on account of, the performance of official duties.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	The term "forcibly" implies that overt physical action has been taken (i.e., more than passive resistance). The term "assault" means to apply force, attempt to apply force, or offer to apply force with the apparent ability to do so.

Assault - Continued				
18 USC 113 Assault within the SMTJ	Any person; Unlawfully assaults another person.	SMTJ	Criminal	The term "assault" means to apply force, attempt to apply force, or offer to apply force with the apparent ability to do so. See *Chapter 12.D.1* for discussion regarding SMTJ.
18 USC 2231 Forcible Assault of a Person Authorized to Conduct Searches or Seizures	Any person; Forcibly; Assaults, resists, opposes, prevents, impedes, intimidates, or interferes with; Any person authorized to make searches and seizures; When such person is engaged in, or on account of, the performance of official duties.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	The term "forcibly" implies that overt physical action has been taken (i.e., more than passive resistance). The term "assault" means to apply force, attempt to apply force, or offer to apply force with the apparent ability to do so.
18 USC 2241 Aggravated Sexual Abuse within the SMTJ	Any person; Knowingly; Causes another person to engage in a sexual act; By using force, threatening, or placing the other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping.	SMTJ	Criminal	See *Chapter 12.D.1* for discussion regarding SMTJ.

Citizenship Requirements				
46 USC 8103(a) Citizenship Requirements for Service as Officer on Documented Vessels	Any person; Employs a person not a citizen of the U.S.; As master, chief engineer, radio officer, or Officer-in-Charge of a deck watch or engineering watch on a U.S. documented vessel.	In all places.	Civil	If the vessel is deprived of the services of an officer when on a foreign voyage, a non-U.S. citizen may serve in the vacant position (except as the master or radio officer) until the vessel's expeditious return to port.
46 USC 8103(b-d) Citizenship Requirements for Service as Unlicensed Crew on Documented Vessels	Any person; Employs lawful resident aliens or non-U.S. citizens on a U.S. documented vessel as unlicensed seamen; or Employs lawful resident aliens on a U.S. documented vessel as more than 25% of the total number of unlicensed seamen.	In all places.	Civil	This statute does not apply to U.S. fishing vessels fishing outside the U.S. EEZ. If the vessel is deprived of the services of an individual when on a foreign voyage, a non-U.S. citizen may serve in the vacant position until the vessel's expeditious return to port. Pursuant to regulations in Title 46 CFR, waivers from the provisions of this statute may be granted by Commandant.
46 USC 8103(i) Citizenship Requirements for Service as Unlicensed Crew on Fishing Vessels	Any person; Employs on a vessel engaged in fishing, persons as unlicensed seamen who are not: (1) U.S. citizens, (2) lawful resident aliens, (3) aliens allowed to be employed under the Immigration and Nationality Act (INA), or (4) aliens allowed to be employed under the law of the Commonwealth of Northern Mariana Islands (CNMI) if the vessel is permanently stationed at a port within the CNMI; or Employs on vessel engaged in fishing, aliens allowed to be employed under the INA as more than 25% of the unlicensed seamen.	Within the U.S. EEZ; and Shoreward of 12 NM from the baseline.	Civil	This statute does not apply to a fishing vessel fishing exclusively for highly migratory species under the MSFCMA. The master shall be counted along with other members of the crew in determining whether the vessel is in compliance with this statute. The phrase "allowed to be employed under the…INA" means non-resident aliens with H2B visas permitting employment in the U.S. in any capacity.

Destruction of Property or Vessels				
14 USC 84 Interference with Aids to Navigation	Any person or public body; Removes, changes the location of, obstructs, willfully damages, makes fast to, or interferes with; Any aid to navigation lawfully maintained under the Coast Guard's authority.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	U.S. armed forces are excluded from the provisions of this statute.
18 USC 81 Arson within the SMTJ	Any person; Willfully and maliciously; Sets fire to or burns, or attempts to set fire or burn; Any building, structure, military supplies, or vessel.	SMTJ	Criminal	See *Chapter 12.D.1* for discussion regarding SMTJ.
18 USC 970 Neutrality Act Protection of Property Occupied by Foreign Governments	Any person; Willfully injures, damages, destroys; Any real or personal property located within the U.S.; Belonging to or used by a foreign government, international organization, foreign official, or official guest.	Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 1115 Misconduct or Neglect of Ship's Officers	Any captain, engineer, pilot, or other person employed on a vessel; By whose misconduct, negligence, or inattention to duties on such vessel; Causes the life of any person to be destroyed.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 1361 Willful Injury to Property of U.S.	Any person; Willfully; Injures or commits any depredation; Against any property of the U.S.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	

Destruction of Property or Vessels - Continued				
18 USC 1363 Willful and Malicious Destruction of Property Within the SMTJ	Any person; Willfully and maliciously; Destroys or injures; Any structure, conveyance, or other real or personal property.	SMTJ	Criminal	
18 USC 2232 Destruction/ Removal of Property to Prevent Seizure	Any person; Before, during or after an authorized seizure of property; In order to prevent seizure of such property; Staves, breaks, throws overboard, destroys, or removes such property.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	This statute may be applied in cases involving jettisoning of contraband.
18 USC 2271 Conspiracy to Destroy Vessels	Any person; Willfully and corruptly; Conspires; With any other person; To cast away or destroy any vessel; With intent to injure any person who may have underwritten or insured the vessel or goods onboard.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 2272 Destruction of Vessel By Owner	Any person; Willfully and corruptly; Casts away or destroys any vessel of which he is the owner or part-owner; With intent to injure any person who may have underwritten or insured the vessel or goods onboard.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 2273 Destruction of Vessel By Non-Owner	Any person (other than the owner); Willfully and corruptly; Casts away, destroys, or attempts to destroy any vessel to which he belongs.	Any person aboard a U.S. vessel.	Criminal	

Destruction of Property or Vessels - Continued				
18 USC 2275 Firing or Tampering with a Vessel (Scuttling)	See *Chapter 12* for additional information and guidance.			
18 USC 2276 Breaking and Entering a Vessel	Any person; Breaks or enters any vessel; With intent to commit any felony; or Tampers with any vessel's anchor or moorings.	SMTJ	Criminal	This statute contains additional provisions that prohibit destruction of moorings, mooring lines and ground tackle.
18 USC 2280 Violence Against Maritime Navigation	See *Chapter 12* for additional information and guidance.			

Drug Law Enforcement	
19 USC 1590 Aviation Smuggling	See *Chapter 12.C.2* for additional information and guidance.
19 USC 1703 Seizure and Forfeiture of Vessel	See *Chapter 12.C.1* for additional information and guidance.
21 USC 844 Possession of Controlled Substances	See *Chapter 5.C.5* for additional information and guidance.
21 USC 955 Import/Export of Controlled Substances	See *Chapter 5.C.2* for additional information and guidance.
46 US App. 1903 Maritime Drug Law Enforcement Act	See *Chapter 5.C.1* for additional information and guidance.

Firearms	
18 USC 922(g) Persons Prohibited from Possessing Firearms	See *Chapter 12.C.5* for additional information and guidance.
26 USC 5861 Prohibited Acts Regarding Federally Regulated Firearms	See *Chapter 12.C.4* for additional information and guidance.

Fiscal				
31 USC 5316 Reports on Export/ Import of Monetary Instruments	Any person; Knowingly; Transports monetary instruments of more than $10,000 at one time; Into or out of the U.S.; Without declaring with U.S. Customs.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Civil and Criminal	Proof of declaration to U.S. Customs is not required to be in owner's possession. When entering U.S., the person normally has 24 hours to declare with customs. "Monetary instruments" include coin or currency of the U.S. or any other country, traveler's checks, securities, or stock in bearer form, or stock certificates.

Homicide				
18 USC 1111 Murder within the SMTJ	Any person; Unlawfully kills a human being; With malice aforethought.	SMTJ	Criminal	See *Chapter 12.D.1* for discussion regarding SMTJ.
18 USC 1112 Manslaughter within the SMTJ	Any person; Unlawfully kills a human being; Without malice aforethought.	SMTJ	Criminal	See *Chapter 12.D.1* for discussion regarding SMTJ.
18 USC 1113 Attempted Murder or Manslaughter within the SMTJ	Any person; Attempts to commit murder or manslaughter.	SMTJ	Criminal	See *Chapter 12.D.1* for discussion regarding SMTJ.
18 USC 2332 Homicide & Physical Violence	Any person who unlawfully kills a national of the U.S. with malice aforethought, while such national is outside the U.S.; Any person who attempts or conspires to unlawfully kill a national of the U.S., while such national is outside the U.S.; Any person who unlawfully kills a national of the U.S. without malice aforethought, while such national is outside the U.S.; Whoever outside the U.S. engages in physical violence with intent to cause serious bodily injury to a national of the U.S.; or Whoever outside the U.S. engages in physical violence with the result that serious bodily injury is caused to a national of the U.S.	Any person seaward of 12 NM from the baseline.	Criminal	No prosecution under 18 USC 2332 may be undertaken by the U.S. except on written certification of the Attorney General that such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

Living Marine Resources				
16 USC 668dd National Wildlife Refuge (NWR) System	See *Chapter 8.C.5* for additional information and guidance.			
16 USC 703 Migratory Bird Treaty Act (MBTA)	See *Chapter 8.C.4* for additional information and guidance.			
16 USC 916 Whaling Convention Act (WCA)	Any person; Engages in whaling in violation of the Act; Ships, transports, sells, offers to sell, possesses, imports, exports, or has in possession any whale or whale products taken or processed in violation of the Act; Refuses to permit any authorized officer to enforce the prohibitions; or Fails to keep, make, submit, or furnish any report required by the Act.	Any U.S. person or vessel; and Any person or vessel shoreward of 3 NM from the baseline.	Civil and Criminal	While the WCA does not apply to foreign flag vessels seaward of the U.S. territorial sea, enforcement action may be pursued by seeking flag State authorization through diplomatic channels. However, in such cases enforcement should be limited to egregious violations, such as intentional taking and retention or acts involving true harm to the species.
16 USC 1151-1175 Fur Seal Act (FSA)	Any person; Takes any fur seal; or Transports, imports, offers for sale, or possesses fur seals or parts thereof.	North Pacific Ocean north of 30 degrees north latitude; and Shoreward of 12 NM from the baseline.	Criminal	This statute does not apply to any Indian, Aleut, or Eskimo who dwell on the coast of the North Pacific Ocean and take fur seals for subsistence.
16 USC 1361-1407 Marine Mammal Protection Act (MMPA)	See *Chapter 8.C.2* for additional information and guidance.			

Living Marine Resources - Continued	
16 USC 1431-1445 National Marine Sanctuaries Act (NMSA)	See *Chapter 8.C.3* for additional information and guidance.
16 USC 1531-1544 Endangered Species Act (ESA)	See *Chapter 8.C.1* for additional information and guidance.
16 USC 1801-1883 Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)	See *Chapter 7.D.1* for additional information and guidance.
16 USC 3371-3378 Lacey Act	See *Chapter 7.D.2* for additional information and guidance.

Migrant Smuggling	
8 USC 1324(a)(2) Alien Smuggling	See *Chapter 6.C.2* for additional information and guidance.
18 USC 2199 Stowaways	See *Chapter 6.C.3* for additional information and guidance.

Miscellaneous				
18 USC 960 Neutrality Act Expedition Against Friendly Nation	Any person; Within the U.S.; Knowingly begins, provides, prepares for, or furnishes money for; Any military or naval expedition to be carried out from the U.S. against a foreign nation with whom the U.S. is at peace.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	

Miscellaneous - Continued				
18 USC 1201 Kidnapping	Any person; Unlawfully seizes, confines, kidnaps, abducts or carries away and holds for ransom any person; and Willfully transports such person in interstate or foreign commerce.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	When the person being kidnapped is an employee of the U.S., foreign official, or internationally protected person, the element pertaining to transportation in interstate or foreign commerce does not apply.
18 USC 1203 Hostage Taking	See *Chapter 12.C.6* for additional information and guidance.			
18 USC 1585 Slavery	Any citizen or resident of the U.S., any crewmember of a foreign vessel, or any crew of a vessel of the U.S.; Forcibly brings, carries, receives, confines, detains, or transports any person as a slave aboard such vessel; Offers or attempts to sell any such person as a slave; Transfers or delivers to any other vessel such person with intent to make such person a slave; or Delivers onshore from such vessel any person with intent to sell, or having previously sold, such person as a slave.	In all places.	Criminal	Alien smuggling does not normally constitute slavery. *18 USC 1582-1584* and *1586-1588* prohibit other acts related to slavery (e.g., service on vessel engaged in slave trade).
18 USC 1651 Piracy	See *Chapter 11.C.7* for additional information and guidance.			
18 USC 2193 Mutiny	See *Chapter 11.C.9* for additional information and guidance.			

Miscellaneous - Continued				
33 USC 403 Obstruction of Navigable Waters	Any person; Builds, or commences to build, any wharf, pier, dolphin, boom, weir, breakwater, jetty, or other structure; or Excavates or fills; In any navigable water of the U.S.; Unless authorized by permit.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Civil and Criminal	The Army Corps of Engineers has primary jurisdiction over management of fixed obstructions in navigable waters. Units shall report suspected violations to OPCON to coordinate enforcement action.
33 USC 409 Obstruction of Navigable Waters by Vessels	See *Chapter 11* for additional information and guidance.			
47 USC 301 Unauthorized Broadcasting	Any person; Uses or operates any apparatus for communications or signals by radio; Without a license.	Any person aboard a U.S. vessel; and Any vessel shoreward of 3 NM from the baseline.	Criminal	The U.S. may act against foreign vessels engaged in unauthorized broadcasting seaward of 3 NM from the baseline under *47 USC 401* to enforce the International Telecommunications Convention of 1959.

Obstruction of Law Enforcement				
14 USC 88(c) False Distress	Any person; Knowingly and willfully; Communicates a false distress message to the Coast Guard; or Causes the Coast Guard to attempt to save lives and property when no help is needed.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Civil and Criminal	
18 USC 201 Bribery of Public Officials	Any person; Directly or indirectly; Gives, offers or promises anything of value; To any public official; With intent to influence any official act.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 1001 False Official Statements/ Documents	Any person; Knowingly and willfully; Falsifies, conceals, or covers up by any trick, scheme or device a material fact; Makes any materially false, fictitious, or fraudulent statement or representation; or Makes or uses any false writing or document knowing the same to contain any materially false statement or entry.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 1073 Interstate Flight to Avoid Prosecution	Any person; Moves in interstate or foreign commerce; With the intent to avoid prosecution, custody, or confinement after conviction of a felony in the place from which he flees; or With intent to avoid giving testimony in any criminal proceedings in such place in which a felony is charged.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	

Obstruction of Law Enforcement - Continued				
19 USC 70 Obstructing a Boarding	Master of any vessel; Obstructs, hinders, or intentionally causes an obstruction or hindrance to; Any law enforcement officer enforcing revenue or navigation laws.	Shoreward of 12 NM from the baseline.	Civil	
46 USC 324 Obstructing Officers	Any person Assaults, resists, obstructs, or hinders; Any officer enforcing licensing and documentation laws.	Any U.S. person; and Any foreign person on a vessel subject to the shipping laws of Title 46 USC.	Civil	The term “assault” means to apply force, attempt to apply force, or offer to apply force with the apparent ability to do so.
19 USC 1581(d) Failure to Stop	Any person; Fails to comply with an order or signal to stop; Issued by any officer of the customs or by any vessel employed in the services of the customs (and is displaying the proper insignia).	Shoreward of 12 NM from the baseline.	Civil	

Theft				
18 USC 661 Theft within the SMTJ	See *Chapter 12.D.1* for additional information and guidance.			
18 USC 662 Receipt of Stolen Property	Any person; Buys, receives, or conceals any personal property of another; Which has been taken, stolen, or embezzled from any other person; Knowing such personal property to have been taken, stolen, or embezzled.	SMTJ	Criminal	See *Chapter 12.D.1* for discussion regarding SMTJ.
18 USC 1656 Conversion or Surrender of Vessel	Any captain, officer, or mariner of a vessel; Unlawfully runs away with such vessel or any goods or merchandise thereof; or Yields up such vessel voluntarily to any pirate.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	
18 USC 2314 National Stolen Property Act	Any person; Transports in interstate or foreign commerce; Goods, wares, merchandise, or securities having a value of at least $5,000; Knowing the same to be stolen.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	

Terrorism				
18 USC 2280 Violence Against Maritime Navigation	See *Chapter 12.C.8* for additional information and guidance.			
18 USC 2332 Homicide & Physical Violence	Any person who unlawfully kills a national of the U.S. with malice aforethought, while such national is outside the U.S.; Any person who attempts or conspires to unlawfully kill a national of the U.S., while such national is outside the U.S.; Any person who unlawfully kills a national of the U.S. without malice aforethought, while such national is outside the U.S.; Whoever outside the U.S. engages in physical violence with intent to cause serious bodily injury to a national of the U.S.; or Whoever outside the U.S. engages in physical violence with the result that serious bodily injury is caused to a national of the U.S.	Any person seaward of 12 NM from the baseline.	Criminal	No prosecution under 18 USC 2332 may be undertaken by the U.S. except on written certification of the Attorney General that such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.
18 USC 2332a Use of Certain Weapons of Mass Destruction	Any U.S. national who, without authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction, other than a chemical weapon, outside the U.S.; or A person who, without lawful authority, uses, threatens, or attempts or conspires to use, a weapon of mass destruction: Against a U.S. national who is outside of the U.S.; Against any person within the U.S., and the results of such use affects interstate or foreign commerce; or	In all places.	Criminal	

Terrorism - Continued				
	Against any property that is owned, leased, or used by the U.S. or by any U.S. department or agency, whether the property is within or outside the U.S.			
18 USC 2332b Acts of Terrorism Transcending National Boundaries	Whoever, involving conduct transcending national boundaries: Kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the U.S.; or Creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the U.S. or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the U.S.	The mail or any facility of interstate or foreign commerce is used in furtherance of the offense; The offense obstructs, delays, or affects interstate or foreign commerce; The victim, or intended victim, is the U.S. Govt, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the U.S.; The structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the U.S., or any U.S. department or agency; The offense is committed shoreward of 12 NM from the baseline; or SMTJ.	Criminal	Conduct transcending national boundaries means conduct occurring outside of the U.S. in addition to the conduct occurring in the U.S. Statute applies extraterritorially.

Terrorism - Continued				
18 USC 2339 Harboring or Concealing Terrorists	Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under: 18 USC 32 (destruction of aircraft or aircraft facilities); 18 USC 175 (biological weapons) 18 USC 229 (chemical weapons); 18 USC 831 (nuclear materials); 18 USC 844(f)(2) or (3) (arson and bombing of government property risking or causing injury or death); 18 USC 1366(a) (destruction of an energy facility); 18 USC 2280 (violence against maritime navigation); 18 USC 2332a (weapons of mass destruction); or 18 USC 2332b (acts of terrorism transcending national boundaries).	Any person shoreward of 12 NM from the baseline.	Criminal	

Vessel Safety				
18 USC 2197 Misuse of Federal Certificate, License or Document	Any person; Not being lawfully entitled thereto; Uses, exhibits or attempts to use, or receives or possesses with intent to unlawfully use; Any license, certificate or document issued to vessels, officers or seamen.	Any U.S. person; and Any person shoreward of 12 NM from the baseline.	Criminal	This statute contains additional provisions that prohibit other forms of misuse of federal documents.
33 USC 1608, 2072 International Regulations for Prevention of Collisions at Sea (72 COLREGs) and Inland Navigation Rules	See *Chapter 11* for additional information and guidance.			
46 USC 2302(a)-(b) Negligent and Grossly Negligent Operations	See *Chapter 11.C.4* for additional information and guidance.			
46 USC 4504 Commercial Fishing Industry Vessel Safety Act (CFIVSA)	See *Chapter 11.C.3* for additional information and guidance.			

Appendix E. Law Enforcement Reports

Introduction This appendix provides policy and procedures regarding law enforcement reports and forms.

In this Appendix This appendix contains the following information

Topic	See Page
Reports	E-3
Forms	E-7
Other	E-22

Reports

Introduction

This section sets forth the purpose, submission requirements and format for law enforcement reports.

E.1. Law Enforcement SITREP

Except as modified by this appendix, law enforcement SITREPs shall comply with format, content, and submission requirements set forth in *Situation Reports (SITREPS)*, COMDTINST 16125.1 (series), and Area/District guidance.

E.1.a. Purpose

Law enforcement SITREPs provide:

- Information required by Commandant (G-OPL/OPF) to monitor Coast Guard law enforcement activity and, if necessary, coordinate interagency action.
- Information for Operational Commanders and others in the chain of command to assist in the decision making process, if necessary.
- Information required by Commandant to respond to government or media inquiries.
- Information and data required by Headquarters offices to effectively manage Coast Guard policy.

E.1.b. Submission Requirements

Units shall submit law enforcement SITREPs:

- For incidents requiring interagency coordination (e.g., PD-27).
- For any arrest or vessel seizure, including assistance to other agencies/governments making the arrest or seizure.
- For interdiction of illegal migrants.
- For discovery of contraband where its source is not determined (i.e., floating bales)
- For all significant fisheries violations, which result in one or more of the following conditions:
  - Significant damage/impact to the resource or fisheries management plan.
  - Significant monetary advantage to the violator over his or her competitor.
  - High regional interest due to emotional or political nature or as further stipulated by OPCON.
- For any other law enforcement case or activity of potential interest to Commandant (G-OPL).

E.1.c. Format

- All law enforcement SITREPs shall include COMDT COGARD WASHINGTON DC//G-OPL/G-OPF// as an action addressee.
- All law enforcement SITREPs shall include COGARD INTELCOORDCEN WASHINGTON DC, COGARD LO EPIC EL PASO TX, and the American Embassy of the flag State claimed by the subject vessel as information addressees.
- In addition to all participating units and units in the chain of command, SITREPs should also include information addressees as follows:
  - In cases where an arrestee is the holder of a merchant mariner's license, include COMDT COGARD WASHINGTON DC//G-MOA/G-MOC//, as well as the applicable District marine safety staff.
  - For drug cases, include DEA HQS WASHINGTON DC. Include U.S. CUSTOMS SERVICE WASHINGTON DC for all cases where the USCS will handle disposition of the seized vessel.
  - For all migrant interdiction cases, include HQ INS WASHINGTON DC//HQICC//.
  - For all fisheries cases, include National Marine Fisheries Service (NMFS) WASHINGTON DC. Regional offices of applicable agencies should be added as

appropriate.
  - For cases where a non-resident foreign national has been arrested or detained, include the American Embassy located in the applicable country.
- Law enforcement SITREPs shall be marked "FOUO".
- The subject line of the SITREP shall include the type of case, vessel type, vessel or person name, nationality of vessel or person, and the FDIN, if applicable (e.g., SUBJ: LAW ENFORCEMENT SITREP ONE – DRUGS – F/V ALIAS (CO) – FDIN 01222221).
  - If the vessel's registry claim is suspect, put a question mark after the country abbreviation. For a vessel without nationality or assimilated to a vessel without nationality, use the abbreviation "XX" in lieu of a country abbreviation.
  - Additional guidance regarding FDINs is contained in *Chapter 5.D.2*.
- Law enforcement SITREPs shall include numbered paragraphs as follows:
  - The SITUATION paragraph should thoroughly describe the situation, documenting facts regarding the illegal activity. The initial SITREP shall include all information contained in Part I of the Law Enforcement Case Package Checklist (see *Appendix G*). For drug cases, the initial SITREP shall also include the estimated amount and basis for the estimate of each type of contraband, including amounts jettisoned or destroyed by the suspects.
  - The ACTION paragraph shall provide a chronology of significant actions and events since the last SITREP.
  - The FUTURE PLANS paragraph shall provide plans and recommendations regarding the case. Recommended courses of action, especially those requiring interagency coordination, shall be supported by information contained in the SITREP.
- The final SITREP for each case shall include a DISPOSITION paragraph that describes final disposition of any seized vessels or other property, arrested or detained persons, and contraband (including fish, other animals or plants). Significant changes to this information, subsequent to the final SITREP, require another SITREP providing updated information. The DISPOSITION paragraph shall include information as follows:
  - If applicable, include a VESSEL sub-paragraph that provides the vessel's current location. If custody is transferred to another agency, also specify the receiving agency and the date of transfer. Example: SALTY MARINA, 1 KEEPEM AFLOAT WAY, SEASIDE, FL; USCS 01/13/99.
  - If applicable, include a CONTRABAND sub-paragraph listing each type of contraband interdicted, followed by the final amount. The final amount shall include all contraband interdicted, including amounts jettisoned or destroyed by the suspects. Indicate whether this amount is an estimate (and the basis for the estimate) or an actual count or weight. If custody is transferred to another agency, also specify the receiving agency and the date of transfer. Example: MJ - 15,975 LBS EST DEA BASED ON 213 BALES, 75 LBS PER BALE; 85 LBS ACTUAL TURNED OVER TO DEA AS EVIDENCE 01/13/99.
  - If applicable, include a PEOPLE sub-paragraph listing the names, nationalities and personal identifiers (e.g., date of birth, passport number) of all persons onboard. If custody is transferred to another agency, specify the receiving agency and the date of transfer. Example: Maria G. Santos (CO), DOB 05/13/48, U.S. PASSPORT G980356, TURNED OVER TO DEA 01/13/99.
- In all cases, include a PARTICIPATION sub-paragraph listing all units and agencies involved in the case and their respective roles. Indicate the unit or agency primarily responsible for the interdiction. Example: USCCG ATTU, PRIMARY – DETECTION, BOARDING, SEIZE, ARREST.

E.1.d. Other

If a law enforcement SITREP includes intelligence information, a separate INTELLIGENCE paragraph shall be provided. In lieu of an INTELLIGENCE paragraph, intelligence information shall be expeditiously reported in a Field Intelligence Report (FIR) or Intelligence Information Report (IIR) in accordance with *Coast Guard Intelligence Collection and Reporting*, COMDTINST C3821.5 (series), and applicable Area/District directives).

E.2. Use of Force Reports

The template for the Use of Force Report is shown in **Figure E-1**.

E.2.a. Purpose

In addition to being federally mandated, Use of Force Reports serve the following purposes:

- They provide a mechanism for program-level tracking and evaluation of the levels of force used by law enforcement personnel.
- They are used to evaluate the adequacy of policy, equipment, and training and qualification programs.
- They provide information required by Commandant to respond to government or media inquiries

E.2.b. Submission Requirements

Use of Force Reports shall be submitted within 30 days of any of the following incidents:

- Whenever any technique or action higher than Level 2 of the Use of Force Continuum, as described in *Chapter 4.C*, is used; except that the application of restraint devices alone need not be reported.
- Whenever any tactic higher than Step II, as described in *Chapter 4.D*, is used against a non-compliant vessel.
- Whenever any other incident involving the use or potential use of force is deemed noteworthy by the CO/OIC.

E.2.c. Format

- Use of Force Reports shall be sent via message in the format depicted in **Figure E-1** and in accordance with the following guidance:
  - SUBJ line, after USE OF FORCE - Enter (PERSON/VESSEL/AIRBORNE) based on type of force used.
  - *Paragraph 1*, INCIDENT SUMMARY - Include a synopsis of the circumstances leading up to the incident, sequence of events surrounding the use of force, and a description of the actions/reactions of those involved.
  - *Paragraph 2*, LOCATION/POSITION - Indicate in general terms where the use of force took place (e.g., ashore, internal waters, territorial sea, high seas) and latitude/longitude.
  - *Paragraph 3*, VESSEL INFO - Provide description of subject vessel.
  - *Paragraph 4*, USE OF FORCE INFO - List **levels** of force used when force is employed within the use of force continuum. List **steps** used when force is employed against a non-compliant vessel. List **platform** force was used from or platform boarding team was using (41FT UTB, 47FT MLB , 210FT WMEC, HH65).
  - *Paragraph 5*, INFO ON MEMBERS - List training information for each member using force.
  - *Paragraph 6*, LE ACTION - Indicate final disposition of subject and/or vessel (e.g., subject arrested, subject turned over to other agency, vessel seized).

R
FM
TO COMDT COGARD WASHINGTON DC//G-OPL/G-OCU//
INFO COGARD R AND DC GROTON CT
COGARD TRACEN YORKTOWN VA//TMLE//
[unit chain of command including applicable group, district, area staff elements]
BT
UNCLAS FOUO//N16243//
SUBJ: USE OF FORCE REPORT-(PERSON/VESSEL/AIRBORNE)
A. *MARITIME LAW ENFORCEMENT MANUAL*, COMDTINST M16247.1 (SERIES)
1. INCIDENT SUMMARY.
2. INCIDENT DETAILS.
   A. DATE AND LOCAL TIME OF INCIDENT:
   B. LOCATION/ POSITION:
   C. DISTRICT AOR:
   D. UNIT MISSION:
3. VSL INFO.
   A. NAME/NUMBER:
   B. TYPE VSL/DESCRIPTION:
   C. NATIONALITY:
4. USE OF FORCE INFO.
   A. LEVELS OF FORCE USED:
   B. PLATFORM (AIRBORNE, SMALL BOAT, CUTTER OR SHIP):
   C. WEAPON/TOOL/TACTIC USED:
   D. REASON FOR USE OF FORCE:
   E. BOARDING PHASE:
5. INFORMATION ON EACH MEMBER USING FORCE.
   A. RATE/RANK:
   B. ROLE DURING BOARDING:
   C. MOST RECENT MLE QUAL AND DATE RECEIVED or MOST RECENT AVIATION GUNNER QUAL AND DATE:
   D. LAST FORMAL TRAINING AND DATE RECEIVED:
6. LAW ENFORCEMENT ACTION.
   A. LE ACTION TAKEN AGAINST VESSEL OR SUBJECTS:
   B. FOLLOW-ON ACTION:
   C. SUBJECT INTOXICATED OR SUSPECTED OF BEING INTOXICATED: [yes/no]
7. CO'S COMMENTS:
BT

Figure E-1
Use of Force Report Template

E.2.d. Other	• Reports for incidents related to firearms training and accidental discharges shall be submitted in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series) and other appropriate directives. • Use of force reporting requirements for CGIS agents are contained in the *Coast Guard Investigations Manual*, COMDTINST M5527.1 (series).
E.3. Living Marine Resource (LMR) Enforcement Summary Report	The template for the LMR Enforcement Summary Report is shown in **Figure E-2.**
E.3.a. Purpose	The LMR Enforcement Summary Report is used by Commandant (G-OPL) to identify significant LMR enforcement events for further reporting to the Commandant and Secretary of Homeland Security. It is also used to obtain information necessary for program oversight.
E.3.b. Submission Requirements	Area Commanders shall submit consolidated monthly LMR Enforcement Summary Reports that provide information and data for all subordinate Districts. The report shall be submitted via message to Commandant (G-OPL) not later than 5 days after the end of each month.
E.3.c. Format	LMR Enforcement Summary Reports shall be submitted in the format depicted in **Figure E-2**.

Forms

Introduction	This section sets forth the purpose, submission requirements and preparation instructions for law enforcement forms. All forms described in this appendix shall be completed with a ball point pen.
E.4. Report of Boarding (CG-4100)	A sample Form CG-4100 is shown in **Figure E-3**.
E.4.a. Purpose	Form CG-4100 documents the results of all Coast Guard boardings and serves four purposes: • It captures information required to maintain vessel information and intelligence databases. • It provides the Coast Guard Hearing Officer with facts and evidence regarding written warnings and violations. It serves a similar purpose in criminal cases by providing vital information to U.S. attorneys. • It serves as a job aid for boarding personnel. • It provides the mariner with documentation of the boarding and a description of the mariner's rights and responsibilities regarding the Coast Guard's civil penalty process.
E.4.b. Submission Requirements	Form CG-4100 shall be completed for every boarding.

R
FM COM____AREA COGARD _____
TO COMDT COGARD WASHINGTON DC//G-OPL//
INFO NOAA NMFS WASHINGTON DC//ENF//
NMFS NE REGION GLOUCESTER MA (For LANTAREA)
NMFS SE REGION ST PETERSBURG FL (For LANTAREA)
NMFS AK REGION JUNEAU AK (For PACAREA)
NMFS NW REGION SEATTLE WA (For PACAREA)
NMFS SW REGION LONG BEACH CA (For PACAREA)
BT
UNCLAS FOUO//N16203//
SUBJ: ___AREA LMR ENFORCEMENT SUMMARY FOR (MONTH)
1. HIGH THREAT EEZ ENFORCEMENT:
   A. EFFORT MBL SJDF/SJI
      FFV INCURSIONS DETECTED:
      FFV INTERCEPTED (ASSET O/S):
      FFV INTERDICTED (END GAME):
      CUTTER HRS:
      ACFT HRS:
   B. EEZ ENFORCEMENT SUMMARY
      CCGD##:
      CCGD##:
2. DOMESTIC ENFORCEMENT - SIGNIFICANT VIOLATION SUMMARY:
      CCGD##:
      CCGD##:
3. INTERNATIONAL AGREEMENT ENFORCEMENT:
   A. EFFORT HSDN MHLC DONUT HALIBUT TUNA SALMON
      CUTTER HRS:
      AIRCRAFT HOURS:
      FFV BOARDINGS:
      FFV VIOLATIONS:
   B. INTL AGREEMENT ENFORCEMENT SUMMARY
      CCGD##:
      CCGD##:
4. MARINE PROTECTED SPECIES/PROTECTED MARINE RESOURCES EFFORTS
      CCGD##:
      CCGD##:
5. OPERATIONS/FISHERIES ACTIVITIES
   A. RECENT/UPCOMING CG LMR OPERATIONS
      CCGD##:
      CCGD##:
   B. DEVELOPING SIGNFICANT FISHERIES MANAGEMENT ISSUES
      CCGD##:
      CCGD##:
   C. NEW REGS REQUIRING ADDL AT-SEA ENFORCEMENT
      CCGD##:
      CCGD##:
6. AREA POC:
BT

Figure E-2
Living Marine Resource Enforcement Summary Report Template

BOARDING REPORT

DATE MO DY YR | BOARDING TIME (24 HR) | CASE IDENTIFICATION NUMBER

VESSEL

VESSEL NUMBER | VESSEL NAME | HULL IDENTIFICATION NUMBER

MAKE | POB | PFDS

MODEL | YEAR | Adult | Adult

NET TONS | FEET | INCHES | Horsepower | Child | Child

USE 1 Commercial 2 Pleasure 3 Passenger

TYPE OF BOAT	1 Open M/B	3 Sail	5 Canoe/Kay.	7 Inflatable
	2 Cabin M/B	4 Rowboat	6 Houseboat	8 Other (Spec.)
PROPULSION	1 Outboard	3 Inbrd Diesel	5 Jet Drive	7 Manual
	2 Inbrd Gas	4 Inbrd/Outbrd	6 Sail only	8 Other (Spec.)
MATERIAL	1 Wood	3 Steel	5 Rubber	7 Other (Spec.)
	2 Aluminum	4 Fiberglass	6 Cement	8 Unknown
FLAG	ENGINE CMPRTMNT	1 Open	2 Closed (Fuel/Electrical & Ventilation reg.)	
	FUEL CMPRTMNT	1 Open	2 Closed (Fuel/Electrical & Ventilation reg.)	
	CONSTRUCTION	1 Open	2 Closed (Fuel/Electrical reg.)	

OWNER

OWNER NAME (LAST, FIRST, MIDDLE INIT.) 1 MR. 2 MS.

ADDRESS

CITY | STATE | ZIP +4

SSN | DRIVER'S LICENSE NO. | STATE | BIRTH DATE MO DY YR

1 OWNER WAS OPERATOR
2 OWNER ON BOARD NOT OPERATOR
3 OWNER NOT ON BOARD
4 RENTAL BOAT

TELEPHONE NO.

OPERATOR

OPERATOR NAME (LAST, FIRST, MIDDLE INIT.) 1 MR. 2 MS.

ADDRESS

CITY | STATE | ZIP +4

SSN | DRIVER'S LICENSE NO. | STATE | BIRTH DATE MO DY YR

OPERATOR COURSES

0	NONE	4	RED CROSS
1	CG	5	PUBLIC SCHOOL
2	CGAUX	6	STATE/COUNTY
3	USPS	7	OTHER

TELEPHONE NO.

OPERATOR AGE, IF UNDER 18

OBSERVED IN USE | BODY OF WATER | ACTIVITY | 1 INLAND RULES | 2 COLREGS

CITY | STATE | DETAILED LOCATION | LAT: | LONG:

VIOLATION (See Procedures reverse side, para. 1)		CITATION	VIOLATION (See Procedures reverse side, para. 1)		CITATION
101	Numbering	33 CFR 173	120	Intoxicated Operation	46 USC 2302(c)
102	Certificate	33 CFR 173	121	Failure To Terminate	33 CFR 177.05
103	Document/Official Number	46 CFR 67.45	122	Other (Specify)	
104	Personal Flotation Device	33 CFR 175/ 46 CFR 25.25	123	Other (Specify)	
105	Sound Producing Device	33 USC 2033/COLREGS 33	124	Other (Specify)	
106	Bell	33 USC 2033/COLREGS 33	125	Other (Specify)	
107	Fire Extinguisher	46 CFR 25.30	UNSAFE CONDITION		CITATION
108	Backfire Flame Control	46 CFR 25.35	126	Unsafe conditions creating especially hazardous conditions. Terminated use.	46 USC 4308 33 CFR 177.01
109	Ventilation	46 CFR 25.40/33 CFR 175.201			
110	Marine Sanitation Devices	33 CFR 159.7	127	Corrected on the spot	
111	Installed Toilet &No MSD Installed	33 CFR 151.57	128	Overloaded	
112	Pollution Placard Not Posted	33 CFR 155.450	129	Manifestly Unsafe Voyage	
113	Garbage Placard Not Posted	33 CFR 151.59	130	Accumulation of Fuel in Bilges	
114	Waste Mgmnt Plan, Vsls ≥ 40 ft.	33 CFR 151.57	131	Fuel Leak - Engine or Fuel Syst	
115	FCC SSL Not Posted/Available	47 CFR 80.405	132	Hazardous Bars (CCGD13 only)	
116	Operation w/o FCC SSL	47 CFR 80.405	133	No Violation	
117	Nav./Anchor Lts. SUNRISE/SET (24 HR)	33 USC 2020/COLREGS 20	134	Warning Issued (see reverse)	
118	Visual Distress Signals	33 CFR 175.110	135	USCGAUX CME DECAL	YES NO YR
119	Negligent/Gross Negligent Operation	46 USC 2302(a)/(b)	136	Law Enforcement Action Taken	

DIST | UNIT | TELEPHONE NO. | BOARDING OFFICER'S NAME (Print) | RANK/RATE

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD
CG-4100 (Rev. 1-91)

Form CG -4100S Prepared Y N

BOARDING OFFICER'S SIGNATURE

Previous edition is obsolete

BOATING SAFETY HOTLINE (800) 368-5647

Page 1
SN7530-01-GF2-5080

Figure E-3
Report of Boarding (CG-4100)

E.5. Supplemental Boarding Report (CG-4100S)

A sample Form CG-4100S is shown in **Figure E-4**.

E.5.a. Purpose

Form CG-4100S provides the hearing officer a detailed explanation of conditions found during the vessel boarding. It must be used to provide amplifying information for any warning or violation noted on Forms CG-4100 or CG-4100F. It may also be used to record intelligence information, reports of accidents or other significant information. However, while a copy of the form is not normally provided to the operator, the owner and/or operator will receive a copy of the form during the civil penalty process. Therefore, boarding personnel should carefully consider the potential consequences of recording intelligence data on the form. The CG-4100S need not be completed during the boarding, but shall be completed as soon as possible after the boarding.

E.5.b. Submission Requirements

Form CG-4100S shall be used to:

- Describe vessel types other than those listed in the table on the inside cover of the CG-4100 pad.
- Explain omissions of required Form CG-4100 or CG-4100F information.
- Describe a vessel's normal use when that use is different from observed use.
- Provide amplifying information regarding warnings or violations noted on the Form CG-4100 or CG-4100F.

E.6. Commercial Fishing Industry Supplemental Boarding Report (CG-4100F)

A sample Form CG-4100F is shown in **Figure E-5**.

E.6.a. Purpose

Form CG-4100F documents the results of a Coast Guard CFIVSA inspection and serves the following purposes:

- It provides the Coast Guard Hearing Officer with facts and evidence regarding written warnings and violations. It serves a similar purpose in criminal cases by providing vital information to U.S. attorneys.
- It serves as a job aid for boarding personnel.
- It provides the mariner with documentation of the boarding.

E.6.b. Submission Requirements

Form CG-4100F shall be completed for every boarding of vessels subject to the provisions of the CFIVSA as described in *Chapter 11.C.3*.

SUPPLEMENTAL BOARDING REPORT	DATE MO DY YR	BOARDING TIME (24 HR)	CASE IDENTIFICATION NUMBER
VESSEL NUMBER	VESSEL NAME	HULL IDENTIFICATION NUMBER	

DESCRIPTION OF EVIDENCE OF VIOLATIONS AND ADDITIONAL INFORMATION

DIST	UNIT	TELEPHONE NO.	BOARDING OFFICER'S NAME (Print)	RANK/RATE
DEPARTMENT OF TRANSPORTATION UNITED STATES COAST GUARD CG-4100S (1-91)			BOARDING OFFICER'S SIGNATURE	

Page 1
SN7530-01-GF3-2500

Figure E-4
Supplemental Boarding Report (CG-4100S)

COMMERCIAL FISHING VESSEL BOARDING REPORT	BOARDING DATE (MM/DD/YY) / /	BOARDING TIME (24-HOUR)	ACTIVITY NUMBER

VESSEL TYPE: ☐ Fishing ☐ Fish Tender ☐ Fish Processing Vessel | VESSEL TYPE CODE:

VESSEL NUMBER | VESSEL NAME

HULL IDENTIFICATION NUMBER | VESSEL MAKE

VESSEL MODEL | YEAR | PROP. TYPE ☐ Outboard ☐ Inboard Gas ☐ Manual ☐ Inboard Diesel ☐ Inboard/Outboard ☐ Other (specify)

LENGTH Ft. In. | NET TONS | HP | HULL TYPE ☐ Aluminum ☐ Fiberglass ☐ Steel ☐ Wood ☐ Other (specify)

CFVS DECAL # | DATE ISSUED (MM/YY): / | FLAG | ENGINE COMPARTMENT: ☐ Open ☐ Closed | FUEL COMPARTMENT: ☐ Open ☐ Closed | CONSTRUCTION: ☐ Open ☐ Closed | POBs | PFDs

OWNER'S NAME (Last, First & MI) ☐ Mr. ☐ Ms. | ☐ Owner was Operator ☐ Owner on Board, Not Operator ☐ Owner Not On Board

STREET ADDRESS/MAILING | TELEPHONE (with area code) ( )

CITY, STATE & ZIP CODE | FEDERAL FISH PERMIT #

DRIVER'S LICENSE NUMBER & STATE | SOCIAL SECURITY NUMBER - - | BIRTH DATE (MM/DD/YY) / /

OPERATOR'S NAME (Last, First & MI) ☐ Mr. ☐ Ms. | TELEPHONE (with area code) ( )

STREET ADDRESS/MAILING | OPERATOR PERMIT #

CITY, STATE & ZIP CODE | FISHERY PLAN CODE:

DRIVER'S LICENSE NUMBER & STATE | SOCIAL SECURITY NUMBER - - | BIRTH DATE (MM/DD/YY) / /

OBSERVED IN USE: ☐ Inside Boundary Line ☐ Outside Boundary Line ☐ Inland Nav. Rules Apply ☐ COLREGS Apply | LATITUDE:

BODY OF WATER: | LOCATION: | ACTIVITY: | LONGITUDE:

REQUIREMENTS FOR ALL VESSELS (Fishing Vessels with a current CFVS Decal: Check items in blue)

140	**Life Preservers & Other PFDs**	**46 CFR 25 & 28.110**	**141**	**Ring Life Buoys**	**46 CFR 28.115**
142	**Survival Craft**	**46 CFR 28.120**	**143**	**Stowage of Survival Craft**	**46 CFR 28.125**
144	**Survival Craft Equipment**	**46 CFR 28.130**	**147**	**Distress Signals**	**46 CFR 28.145**
148	**Emergency Position Indicating Radio Beacons (EPIRBs)**	**46 CFR 25.26 & 28.150, 47 CFR 80**	**149**	**Fire Extinguishing Equipment**	**46 CFR 25.30 46 CFR 28.155 & .160**
176	**Materiel condition ☐ SAT ☐ UNSAT MSO Follow-up recommended**		**177**	**Stability/Stability Instructions**	**46 CFR 28.530 & 46 CFR 28.65 (b) (5)**
105	Sound Producing Device	33 USC 2033, Rule 33	138	Backfire Flame Control	46 CFR 25.35
139	Ventilation	46 CFR 25.40-1	145	Lifesaving Equipment Markings	46 CFR 25 & 28.135
146	Maint/Insp of Lifesaving Equipment	46 CFR 28.140	150	Injury Placard	46 CFR 28.165
151	Waste Mgmt Plan (oceangoing vessels>40ft)	33 CFR 151.55 & .57	152	Marine Sanitation Devices	33 CFR 159.7
153	Copy of Nav Rules (inland waters only)	33 CFR 88.05 46 CFR 28.225	154	Navigation/Anchor Lights Sunset/Sunrise (24-Hour):	33 USC 2020 & 2026 Rules 20 & 26
155	Oil Pollution Placard (vessels ≥ 26 ft)	33 CFR 155.450	156	Garbage Placard (vessels ≥26 ft)	33 CFR 151.59
157	FCC SSL	47 CFR 80.405	158	Load Line Certificate	46 USC 51
159	Vessel Numbering & Registration	33 CFR 173 46 CFR 67.121 & .123	173	Document/Official Number	46 CFR 67
199	Other				

REQUIREMENTS FOR DOCUMENTED VESSELS OPERATING BEYOND THE BOUNDARY LINE OR W/ MORE THAN 16 POBs

168	**High Water Alarms**	**46 CFR 28.250**	**171**	**Instructions, Drills & Safety Orientation**	**46 CFR 28.270**
160	Fireman's Outfit & SCBA	46 CFR 28.205	161	First Aid Training & Equipment	46 CFR 28.210
162	Guards for Exposed Hazards	46 CFR 28.215	163	Navigational Information	46 CFR 28.225
164	Compasses & Deviation Tables	46 CFR 28.230	165	Anchors & Radar Reflectors	46 CFR 28.235
166	General Alarm System	46 CFR 28.240	167	Communication Equipment	46 CFR 28.245 & .375 33 CFR 26.03
169	Bilge Pumps, Piping & Dewatering Systems	46 CFR 28.255	170	Electronic Position Fixing Devices	46 CFR 28.260
172	Emergency Instructions	46 CFR 28.265	199	Other	
178	Coaming Height	46 CFR 28.560 (b)	179	Deadlight Covers	46 CFR 28.560 (f)
180	Non US Master Violation	46 USC 12110 (d)	181	75/25 Crewing Standards	46 USC 8103
119	Negligent/Gross Negligent Operation	46 USC 2302	120	Intoxicated Operations	46 USC 2302 (c)
174	Fisheries Violation(s)		175	Unsafe Conditions -- Terminated Use	46 USC 4505
182	No Violation		183	Law Enforcement Action Taken	

DIST.	UNIT	PHONE NUMBER	BOARDING OFFICER'S NAME (Print)	RANK/RATE

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD
CG-4100F *(Revised 10/02)*

BOARDING OFFICER'S SIGNATURE

NOTE: See reverse side of this page for instructions on processing violations. **BOATING SAFETY HOTLINE (800) 368-5647**

ALL PREVIOUS EDITIONS ARE OBSOLETE

OPERATOR COPY **PAGE 1**

Figure E-5
Commercial Fishing Vessel Boarding Report (CG-4100F)

E.6.c. Preparation

Ensure all portions of Form CG-4100 are completed with the exception of the "Violation" section and prepare Form CG-4100F as described below. Blocks not listed are self-explanatory.

- CASE IDENTIFICATION NUMBER - Leave blank. This block is completed by the cognizant District.
- VIOLATION - Place an "X" in the blank space before each requirement that is inspected. Circle the number associated with each requirement where discrepancies were noted. Amplifying information regarding these discrepancies and associated warnings and/or violations shall be included on Form CG-4100S.

E.7. Offense Investigation Report (CG-5202)

A sample Offense Investigation Report (OIR) is shown in **Figure E-6**. In some fisheries regions, the NOAA General Counsel has authorized use of another form equivalent in purpose to the OIR.

E.7.a. Purpose

The OIR provides information required by the NOAA General Counsel to properly administer the civil penalty process and satisfy data collection needs for the U.S. Coast Guard/NOAA Enforcement Management Information Systems (EMIS).

E.7.b. Submission Requirements

The OIR, or a suitable substitute deemed equivalent by NOAA General Counsel, shall be completed when a living marine resource infraction is detected warranting the issuance of a violation and/or written warning. The OIR is not required for violations relating to the CFIVSA.

E.7.c. Preparation

The OIR shall be prepared as described below. Blocks not listed are self-explanatory.

- Block 2, DATE OF REPORT - The date the report is initiated (e.g., 01JAN99).
- Block 3, EAR NUMBER - The pre-printed number of the applicable EAR.
- Block 5, DATE OF BIRTH - The subject's date of birth (e.g., 01JAN99).
- Block 6, PHONE - The master's home and business phone numbers.
- Block 11, BUSINESS ADDRESS - If same as subject's address, write "same". Otherwise, write business name, address, and telephone number.
- Block 14, VESSEL/VEHICLE TYPE - The Vessel Type Code as depicted on the inside cover of the OIR pad.
- Block 15, VESSEL CALL SIGN/LICENSE NUMBER - The international call sign or fisheries permit number. Underline documentation used.
- Block 18, HAILING PORT - The name of port in which vessel normally does business, or the port listed on the transom.
- Blocks 19-21, VESSEL OWNER/ADDRESS/PHONE - If the same as the subject, write "same". Otherwise, name, address and phone number of vessel owner.
- Block 22, SEIZED PROPERTY - If no items were seized, write "none". If items were seized, list the following information separated by commas:
  - Description of item seized.
  - The Seized Items Code as depicted on the inside cover of the OIR pad (only for Marine Mammal/Endangered Species violations; otherwise, skip this item).
  - Receipt number or seizure tag number (must match seized property receipt number on EAR).
  - Quantity of items seized (if not certain of quantity, estimate).
  - Unit Value of item seized (if not certain of value, estimate).
- Block 23, VIOLATION(S) SUMMARY
  - COUNT NO. - The number of violations/citations/actions numbered sequentially starting with "01". These numbers should correspond with the count numbers on the EAR.

- TYPE CODES - The Investigation Action Code as depicted on the inside cover of the OIR. This should correspond with the code listed on the EAR.
- DATE AND TIME OF VIOLATION - The date and Greenwich Mean Time (GMT) of the violation (e.g., 99JAN01).
- REGULATION NUMBER - The specific regulation violated.
- PLACE OF VIOLATION - The latitude/longitude for each violation.
- FISH PLAN OR VIOLATION CODE - If violated act is MSFCMA, enter the Fisheries Plan Code as depicted on the inside cover of the OIR. If the violated act is endangered species/marine mammals, enter the Violations Code as depicted on the inside cover of the OIR.
- ILLEGAL CATCH CODE - Leave blank.

- BLOCK 23, STATEMENT - Include statement immediately following the last citation or violation listed. Use the OIR-SUP if additional space is needed. Sign/date bottom of each page.
- Block 24, AUTHORIZED OFFICER - The Boarding Officer's name.
- Block 25, ID NUMBER - The last four digits of the Boarding Officer's social security number.
- Block 28, SOURCE CODE - The Source Code as depicted on the inside cover of the OIR pad.

E.7.d. Action

Copies of the OIR shall be distributed as follows:

- The white CASE FILE COPY shall be included in the fisheries case package and forwarded to OPCON for review prior to submittal to the cognizant NMFS Regional, NOAA General Counsel.
- The yellow DATA PROCESSING COPY shall be sent as soon as possible to the nearest NMFS regional office, or as instructed by OPCON, for entry into an electronic database.
- The blue SUPERVISOR'S COPY shall be included in the fisheries case package and forwarded to OPCON.
- The pink DUTY STATION/VESSEL COPY shall be retained onboard the unit.

E.8. Offense Investigation Report Supplemental (CG-5202A)

A sample Offense Investigation Report Supplemental (OIR-SUP) is shown in **Figure E-7**.

E.8.a. Purpose

The OIR-SUP serves the following purposes:

- To provide additional space to complete the OIR including space needed for the Boarding Officer's statement.
- As a statement form for other members of the boarding team or a Coast Guard witness.
- As an addendum to the record to further supplement the case package after it has been completed and submitted for administrative proceedings.

E.8.b. Submission Requirements

The OIR-SUP shall be completed as necessary for the purposes described above.

OFFENSE INVESTIGATION REPORT

1. COMPUTER CONTROL NUMBER (NMFS ONLY)
2. DATE OF REPORT
3. ENFORCEMENT ACTION REPORT NO.

4. NAME OF SUBJECT *(Last, First, Middle)*	5. DATE OF BIRTH	6. PHONE NUMBER
7. HOME ADDRESS *(Number and Street)*	8. CITY	9. STATE / 10. ZIP CODE
11. BUSINESS ADDRESS *(Number and Street)*		12. RELATED CCN NUMBERS (NMFS ONLY)
CITY	STATE / ZIP CODE	

VESSEL INFORMATION

13. VESSEL NAME	14. VESSEL/VEHICLE TYPE	15. VESSEL CALL SIGN OR LICENSE NO.
16. HOME PORT	17. COUNTRY OF REGISTRY	18. HAILING PORT
19. VESSEL OWNER OR BUSINESS	20. OWNER'S ADDRESS	21. PHONE NUMBER

22. SEIZED PROPERTY *(List for each item: Description, Code, Receipt No., Quantity, Unit Value)*

23. **VIOLATION(S) SUMMARY:** (Give a complete statement of facts following the listing of all violations.)

COUNT NO. (a)	TYPE CODE (b)	DATE AND TIME OF VIOLATION (c)	REGULATION OR STATUTE NO. (d)	PLACE OF VIOLATION (e)	FISH. PLAN OR VIOL. CODE (f)	ILLEGAL CATCH CODE(S) (g)	QUANTITY *(Ea., Lb., Kg., MT. or ST.)* (h)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

_____ *(Signature)* Executed on: _____ *(Date)*

24. OFFICER'S NAME *(Print)*	25. I.D. NUMBER	
26. DUTY STATION/VESSEL	27. STATUS: (NMFS ONLY) ☐ OPEN ☐ SUSPENDED ☐ CLOSED _____	28. SOURCE CODE

CASE FILE COPY Page 1 of ____ pages

Figure E-6
Offense Investigation Report (CG-5202)

(✓) Appropriate Box	OFFENSE INVESTIGATION REPORT (SUPPLEMENT)	COMPUTER CONTROL NUMBER (NMFS ONLY)
Continuation Report		DATE OF REPORT
Supplemental Report		ENFORCEMENT ACTION REPORT NO.

NAME OF SUBJECT *(Last, First, Middle)*	VESSEL NAME

COUNT NO. (a)	TYPE CODE (b)	DATE AND TIME OF VIOLATION (c)	REGULATION OR STATUTE NO. (d)	PLACE OF VIOLATION (e)	FISH. PLAN OR VIOL. CODE (f)	ILLEGAL CATCH CODE(S) (g)	QUANTITY *(Ea., Lb., Kg., MT. or ST.)* (h)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

_____ *(Signature)* Executed on: _____ *(Date)*

OFFICER'S NAME *(Print)*	I.D. NUMBER	DUTY STATION/ VESSEL

Page____of____pages

CASE FILE COPY

Figure E-7
Offense Investigation Report Supplemental (CG-5202A)

E.8.c. Preparation

The OIR-SUP shall be prepared as described below. Blocks not listed are self-explanatory. If an item on the report does not apply or cannot be obtained, note it in the appropriate block rather than leaving that space blank.

- TYPE OF REPORT - Check the "Continuation Report" block if the form is being used by the Boarding Officer to provide amplifying information regarding the original OIR or to make a statement. Check the "Supplemental Report" block if the form is being used by anyone other than the Boarding Officer to make a statement. Check the "Supplemental Report" block if the form is being used to append the case package after it has forwarded to the review and action authorities.
- DATE OF REPORT - The date the report is initiated (e.g., 99/JAN/01).
- ENFORCEMENT ACTION REPORT NO. - The pre-printed number of the applicable EAR.
- ID NUMBER - The last four digits of the officer's social security number.

E.8.d. Action

- Each page of the OIR-SUP shall be signed and dated.
- Copies of the OIR-SUP shall be distributed as follows:
  - The white CASE FILE COPY shall be included in the fisheries case package and forwarded to OPCON for review prior to submittal to the cognizant NMFS Regional Office or NOAA General Counsel, as appropriate.
  - The yellow DATA PROCESSING COPY shall be sent as soon as possible to the nearest NMFS regional office, or as instructed by OPCON, for entry into an electronic database.
  - The blue SUPERVISOR'S COPY shall be included in the fisheries case package and forwarded to OPCON.
- The pink DUTY STATION/VESSEL COPY shall be retained onboard the unit.

E.9. Enforcement Action Report (EAR) (CG-5201)

A sample EAR is shown in **Figure E-8**.

E.9.a. Purpose

The EAR provides the respondent documentation of the boarding as well as rights and responsibilities regarding the Coast Guard's civil penalty process.

E.9.b. Submission Requirements

The EAR shall be used when a living marine resource infraction is detected warranting the issuance of a violation and/or written warning. The EAR is not required for violations relating to the Commercial Fishing Industry Vessel Act (46 USC 4501-4508).

E.9.c. Preparation

The EAR shall be prepared as described below. Blocks not listed are self-explanatory.

- DATE OF BIRTH - Master's date of birth (e.g., 58APR04).
- ADDRESS OF SUBJECT - Home address of master.
- INTERNATIONAL RADIO CALL SIGN/DOCUMENTATION NUMBER - If a foreign vessel, the radio call sign. If a U.S. vessel, the official or state registration number.
- LATITUDE/LONGITUDE/PLACE OF VIOLATION - The vessel's latitude and longitude, based on Coast Guard navigation equipment, at the time of violation.
- SEIZED PROPERTY RECEIPTS - Check the appropriate box. If "yes", list seizure tag number(s) on the blank line.
- COUNT - The number of violations/citations/actions numbered sequentially starting with "01".
- TYPE OF ACTION - The enforcement code as depicted on the inside cover of the OIR (CG-5202) pad.

- REGULATION/STATUTE VIOLATED - The violation described in layman's terms. After each description, enter the act or statute associated with the violation (e.g., MSFCMA, Lacey Act). **Do not list CFR number**.
- AUTHORIZED OFFICER - The name and **signature** of the Boarding Officer.
- OFFICER ID - The last four digits of the Boarding Officer's social security number.
- DATE/TIME - The date and local time (e.g., 89MAR15, 7:30pm).
- TYPE - A plain-language description of the vessel that describes the type of type of fishing it was designed to conduct (e.g., longliner, eastern rig scalloper).
- LICENSE NUMBER - Enter the NMFS or state fisheries permit number.
- COLOR - Primary colors of vessel hull and superstructure.
- HAILING PORT - The documented hailing port (or port in which the vessel normally does business) of the vessel (e.g., Boston MA/New Bedford MA).
- REGISTERED OWNER'S NAME AND ADDRESS - If the same as the subject (master/operator), write "same". Otherwise, the name and address of the individual or corporation owning the vessel.
- ADDITIONAL INFORMATION - Enter phone numbers of subject and owner as well as any other information deemed pertinent and noteworthy.

E.9.d. Action

- Contrary to what is stated on the form, the reverse side of the Case File Copy (pink) is not optional. However, the Boarding Officer is required to provide the subject with a copy of the Privacy Act statement (**Figure E-11**) prior to requesting the pertinent information. The Privacy Act statement ensures the subject is informed of his rights under the law and the requirements that mandate disclosure of the information.
- Copies of the EAR shall be distributed as follows:
  - The white CASE FILE COPY shall be included in the law enforcement case package.
  - The pink UNIT COPY shall be retained onboard the unit.
  - The yellow SUBJECT COPY shall be provided to the subject.

E.10. Summons to Appear (CF-358)

An example of CF-358 is shown in **Figure E-9**.

E.10.a. Purpose

CF-358 is used to effect a constructive seizure of a vessel in lieu of actual seizure.

E.10.b. Submission Requirements

CF-358 is used primarily in cases involving personal use quantities of controlled substances. Specifically, it is used in accordance with *Chapter 5* when enforcing 21 USC 955 and 21 USC 844.

E.10.c. Preparation

CF-358 shall be prepared as described below. Blocks not listed are self-explanatory.

- Block 1 - The vessel name, master's name and state registration or federal/foreign documentation number.
- Block 2 - The specific location of the cognizant Bureau of Customs and Border Protection Office. If unknown, obtain from OPCON.
- Block 3 - The last permissible date on which the master can appear before customs. The Boarding Officer should recommend a date for OPCON's approval, based on the circumstances at hand, allowing a reasonable amount of time for the master to appear (no greater than 20 days).
- Block 4 - Signature of master.

Page 1 of Pages

ENFORCEMENT ACTION REPORT	CCN: *(Regional Office use only)*
NAME OF SUBJECT (Last - First - Middle)	DATE OF BIRTH
ADDRESS OF SUBJECT	
NAME OF VESSEL	NATIONALITY
INTL. RADIO CALL SIGN/DOCUMENTATION NO.	DATE OF VIO.
LATITUDE/LONGITUDE/PLACE OF VIOLATION	
SEIZED PROPERTY RECEIPTS Yes ☐ # _____ No ☐	

COUNT	TYPE OF ACTION	REGULATION/STATUTE VIOLATED

AUTHORIZED OFFICER	OFFICER'S ID NO.
DUTY STATION/VESSEL	
DATE AND TIME OF REPORT	E.A.R. NO. M100558

CASE FILE COPY

OPTIONAL INFORMATION

PHYSICAL DESCRIPTION OF VIOLATOR			
HEIGHT	WEIGHT	COLOR OF HAIR	COLOR OF EYES
SEX	RACE	CITIZENSHIP	

ADDITIONAL VESSEL INFORMATION	
TYPE	LICENSE NO.
L.O.A.	G.T.
COLOR	HOME PORT/HAILING PORT
REGISTERED OWNER'S NAME AND ADDRESS	
ADDITIONAL INFORMATION OR REMARKS	

Figure E-8
Enforcement Action Report (CG-5201)

It is further understood that the vessel may not be sold, mortgaged, used as collateral, loaned, or otherwise encumbered or disposed of in any way unless and until it is officially released by the United States Customs Service, and that all insurance coverage shall be maintained on the subject vessel.

In the event the described vessel fails to appear upon the date set forth herein, or to comply with the terms of this summons, the vessel may be seized or a warrant may be issued for its arrest, and any person who prevents or impedes such compliance with this Summons to Appear may be subject to criminal prosecution under the laws of the United States.

Customs Form 358 (111688) (Back)

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

SUMMONS TO APPEAR
(Vessel)

19 U.S.C. 1605

No. 10931

1. TO (Name of Vessel):

2. YOU ARE HEREBY SUMMONED TO APPEAR AT
(Location of District Director of Customs):

3. LATEST
PERMISSABLE
REPORTING DATE:

The United States Customs Service has issued this summons to appear in lieu of physical seizure of the vessel identified above because Customs has reason to believe that the vessel was used in violation of United States laws involving the possession or transportation of a controlled substance.

If the above-described vessel is not a commercial fishing industry vessel as defined in section 2101(11a)(11b)(11c) of Title 46, United States Code, it is required to report immediately to the District Director of Customs at the location shown above. If it is a commercial fishing industry vessel, the vessel must report immediately upon conclusion of this fishing operation, but in no case later than the date in item 3.

Although the above-described vessel is deemed by Customs to be under seizure, pursuant to section 1605 of title 19, United States Code, actual custody of the vessel has been temporarily turned over to the undersigned individual in charge of the vessel.

I hereby acknowledge the fact that the above-referenced vessel is summoned to appear on the date above and by affixing my signature, do promise to comply with this summons for the vessel to appear as ordered. The conditions on the back of this document are part of this summons.

4. SIGNATURE
X

5. DATE SIGNED

PRESENTED BY

6. OFFICER'S NAME

7. AGENCY

8. UNIT

9. TELEPHONE NUMBER

PART 1—VIOLATOR

Customs Form 358 (111688)

Figure E-9
Summons to Appear (CF-358)

E.10.d. Action	• If the master refuses to sign the CF-358, notify OPCON and request arrest and vessel seizure authorization. • Copies of CF-358 shall be distributed as follows: ➢ The white PART 1 copy shall be provided to the master. ➢ The pink PART 2 copy shall be included in the law enforcement case package. ➢ The green PART 3 copy shall be retained onboard the unit. • CF-364 pads may be obtained from any Bureau of Customs and Border Protection office.
E.11. Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances and Notice of Expedited Judicial Forfeiture Procedures (CF-364)	An example of CF-364 is shown in **Figure E-10** and **Figure E-11**.
E.11.a. Purpose	Customs Form 364 is a two-sided form containing a "Notice of Seizure" and "Notice of Expedited Judicial Forfeiture Procedures". The "Notice of Seizure" provides the master with written notice of seizure and procedures for obtaining release of the vessel. The "Notice of Expedited Judicial Forfeiture Procedures" provides the master with instructions on how to petition for an expedited decision regarding release of the vessel
E.11.b. Submission Requirements	Both sides of CF-364 are used in cases involving personal use quantities of controlled substances. The "Notice of Expedited Judicial Procedures" is also used in all cases involving seizure of vessels for drug related offenses including a violation of 46 USC App. 1903 (see *Chapter 5*).
E.11.c. Preparation	• The "Notice of Seizure" is completed by checking the appropriate box related to type of vessel and entering the address of the Customs Service District (or Area) Director in the space provided. • The "Notice of Expedited Judicial Forfeiture Proceedings" is completed by entering the address of the cognizant CBP office in the space provided
E.11.d. Action	• If personal use quantities are not involved, only the "Notice of Expedited Judicial Forfeiture Procedures" applies. Therefore an "X" must be drawn through the entire side of the form "Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances". • In all cases, the CF-364 is given to the person in charge of the vessel. • CF-364 pads may be obtained from any Bureau of Customs and Border Protection office.

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
19 CFR 171.55; 21 CFR 1316.99

NOTICE OF SEIZURE OF A CONVEYANCE FOR PERSONAL USE QUANTITIES OF CONTROLLED SUBSTANCES

This written notice is provided under the provisions of section 6079 of the Anti-Drug Abuse Act of 1988 (P.L.100-690) to you, as the person in charge of a vessel, vehicle or aircraft seized pursuant to 19 U.S.C. 1595a, 21 U.S.C. 881, and/or 49 U.S.C.App. 781/782, for a violation involving the possession of personal use quantities of a controlled substance.

A separate notice will be mailed to the owner and other known parties in interest (including lienholders) explaining the legal and factual basis of the seizure as well as their rights.

Under the law and implementing regulations, the owner, or other parties with an interest in the seized property may petition the **U.S. Customs Service** for an expedited decision with respect to a conveyance seized for drug-related violations involving personal use quantities.

☐ If the vessel **is a commercial fishing industry vessel,** which is proceeding to or from a fishing area or intermediate port of call, or which is actively engaged in fishing operations and a **SUMMONS** was issued in lieu of physical seizure, the petition must be filed with the **District Director of Customs** to whom the fishing vessel must report, as specified in the summons, and must be received by Customs within 20 days of the reporting date.

☐ If the conveyance is **not** a commercial fishing industry vessel, the petition must be addressed to the **District Director of Customs** whose name and address are shown below and be received by the U.S. Customs Service within 20 days of the mailing of the notice of seizure.

In either case, the petition must be under oath (notarized) and establish:

(1) the petitioner has a valid, good faith interest in the seized property as owner or otherwise;
(2) the petitioner acted in a normal and customary manner to ascertain how the property would be used; and
(3) the petitioner did not know of, or consent to the illegal use of the property, or have reason to believe that the property would be illegally used; or in the event that the petitioner knew or should have known of the illegal use, the petitioner did what reasonably could be expected to prevent the violation.

Upon receipt of the petition, the U.S. Customs Service will try to make a final administrative determination on the merits within 21 days of the date of seizure and either return the property or notify interested parties that administrative forfeiture proceedings will be commenced. If no final determination can be made within 21 days of seizure, then Customs, within 20 days of receipt of the petition, will determine whether the petition has established the factors listed above and if it does, Customs will terminate the proceedings and return the property, except where it is evidence of a violation of law. If a petitioner fails to establish the factors listed above, Customs will, depending on the facts and circumstances, either commence administrative forfeiture proceedings,or remit the forfeiture upon the payment of a mitigated penalty according to its guidelines.

While Customs is considering the case, the owner may obtain release of the seized conveyance in accordance with 19 U.S.C. 1614 (at any time after the seizure) by substituting the property's appraised value in cash, an irrevocable letter of credit, travellers checks, certified check, or a money order made payable to the **U.S. Customs Service.** Customs will proceed against the cash or other substituted property instead of the conveyance.

If Customs decides to administratively forfeit the seized conveyance or property substituted therefor, it will notify interested parties and begin publication, as required by 19 U.S.C. 1607. After publication for three consecutive weeks, the Government will have title to the conveyance (from the date of the violation). If you wish to contest the forfeiture and have judicial (court) proceedings, instead of an administrative forfeiture, you will have 20 days from the date of first publication to file a claim and cost bond in the amount of $5,000, or 10 per cent of the value of the seized conveyance, whichever is lower, but not less than $250, as provided in 19 U.S.C. 1608. The case will then be referred to the appropriate U.S. Attorney for disposition. The **NOTICE OF EXPEDITED JUDICIAL FORFEITURE PROCEDURES** on the reverse side of this form reviews the procedures that apply to your property if you choose that option.

If you have any questions concerning the reasons for, or the circumstances surrounding the seizure, or the procedures to be followed in connection with this matter, or if you require additional information, you may request an informal conference with the District (or Area) Director or one of his employees.

District (or Area) Director

Customs Form 364 (092189)

Figure E-10
Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances (CF-364)

NOTE: Although the following notice is required to be given in all cases involving the seizure of conveyances for drug related offenses, the procedures set forth below only apply to cases where the government decides to proceed to forfeiture and the owner or other interested party (including a lienholder) decides to contest the forfeiture in court.

NOTICE OF EXPEDITED JUDICIAL FORFEITURE PROCEDURES

This notice is being provided in accordance with section 6080 of Public Law 100-690 to the person in possession of a conveyance (vessel, vehicle or aircraft) which was seized for a drug related offense. A separate notice will be mailed to the owner and other known parties in interest (including lienholders) explaining the legal and factual basis of the seizure as well as their rights.

You were in possession of a vessel, vehicle or aircraft which was seized for a drug related offense. The Government may seek forfeiture of the property.

If the government wishes to forfeit the property, it may do so in an administrative proceeding by publishing a notice for three consecutive weeks, after which title to the conveyance (from the date of the violation) will vest in the United States. This proceeding is not subject to court review. However, you may obtain court review, by filing a claim with the U.S. Customs Service and by posting a cost bond in the amount of $5,000, or 10 per cent of the value of the seized conveyance, whichever is lower, but not less than $250. The claim and cost bond must be filed with the U.S. Customs Service within 20 days of the date of first publication.

If you file a claim and post a cost bond, the matter will be referred to the appropriate U.S. Attorney to institute judicial (court) forfeiture proceedings. You may petition the Attorney General for an expedited decision on whether the forfeiture action will proceed and for a determination of any rights or defenses you may have. If the Attorney General does not grant or deny your petition within 20 days after it is filed, the conveyance will be returned to you pending further forfeiture proceedings.

The Attorney General may:
(A) deny the petition and retain possession of the conveyance;
(B) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release the conveyance to the owner;
(C) advise the petitioner that there is not adequate information available to determine the petition and promptly release the conveyance to the owner.

The Attorney General must file a complaint for forfeiture within 60 days of your filing a claim and posting a cost bond, unless the period is extended by the court. If the Attorney General does not file the complaint within the time allowed, the court shall order return of the conveyance and the forfeiture may not proceed.

An owner of a conveyance may obtain release of the conveyance by providing security in the form of a bond equal to the value of the conveyance unless the conveyance is contraband, needed as evidence of a violation of law or because it is particularly suited to use in illegal activities by reason of its design or characteristics.

District (or Area) Director

Customs Form 364 (092189) (Back)

*U.S. Government Printing Office: 1989-262-001/02785

Figure E-11
Notice of Expedited Judicial Forfeiture Procedures (CF-364)

Title	Location
Summons to Appear	Appendix E.10
Notice of Seizure of a Conveyance for Personal Use Quantities of Controlled Substances and Notice of Expedited Judicial Forfeiture Procedures	Appendix E.11
Certificate of Inspection	Appendix F.8
Certificate of Documentation	Appendix F.5
Certificate of Financial Responsibility	Appendix F.11
Merchant Mariner's License	Appendix F.9
Boating Accident Report	Chapter 11.D.3
Coast Guard Boarding Report	Appendix E.4
Commercial Fishing Industry Supplemental Coast Guard Boarding Report	Appendix E.6
Supplemental Coast Guard Boarding Report	Appendix E.5
Seizure Tag	Appendix G.4
Enforcement Action Report	Appendix E.9
Offense Investigation Report	Appendix E.7
Offense Investigation Report Supplemental	Appendix E.8
Field Sobriety Test (http://cgweb.tcyorktown.uscg.mil/MLE/downloads.asp#1p)	Chapter 11.C.5.c

Figure E-12
Coast Guard Form Index

Form	Title	Location
I-418	Crew List	Appendix F.12
I-94	Passenger List	Appendix F.13, K.8, & K.9
I-92	Vessel Report	Appendix B (under Manifest)
I-95	Conditional Landing Permit	Appendix B (under Manifest)
I-97	U.S. Citizenship Identification Card	Appendix K.2
SF-95	Standard Form	Appendix M.5
USM-3R	Application for Special Deputation	Chapter 10.C.6.g
DD-1149	Alternate Seizure Tag	Appendix G.4

Figure E-13
Non-Coast Guard Form Index

CHINESE NATIONAL QUESTIONNAIRE

中 国 国 民 调 查 表

Number: _____

Date: _____

1. Full name:

全名

2. Male _____ Female _____

男 女

3. Date of birth: Year _____ Month _____ Day _____

出生日期 年 月 日

4. Place of birth:

出生地点

5. Exact address (street, city, village or township, county, and province)

确切的地址 （ 包括街名及门牌号码， 市， 村或城镇， 县及省 ）

6. Marital status: Married _____ Single _____ Divorced _____

婚姻状况 已婚 未婚 离婚

Figure E-14
Chinese National Questionnaire (page 1 of 2)

CHINESE NATIONAL QUESTIONNAIRE - Continued

Note: the information provided in response to the following questions will not be shared with any official of the government of the People's Republic of China.

注意: 在回答下列各问题中所提供的消息,
任何中华人民共和国官员都不会得知

7. Why did you leave your country?

你为何要离开你的国家?

8. Where did you intend to go?

你企图到何处去?

9. What did you intend to do there?

你企图在该处做什么?

10. What have you been doing in China for the last two years?

你两年前至今在中国做过什么?

Figure E-14
Chinese National Questionnaire (page 2 of 2)

Other

Introduction

This section sets forth the purpose, submission requirements and format for other administrative law enforcement tools.

E.12. Statement of No Objection (SNO) Requests

SNO requests to take specific law enforcement action shall be sent by the most rapid means available. The originator shall follow up all such requests with record message traffic. The key to receiving a quick response to an SNO request is to provide as much pertinent information as possible in the request. The following information shall be included in each SNO request:

- Subject vessel's name and description (e.g., vessel type, length, hull and superstructure color).
- Official number (indicate if displayed on vessel or verbal claim).
- Flag/nationality of vessel (indicate if actual flag flying, displayed on vessel, and/or verbal claim).
- Homeport (indicate if displayed or verbal claim).
- Last port of call (LPOC)/NPOC and dates.
- Initial position of vessel (latitude/longitude and a geographic reference to nearest major land mass).
- Time of initial sighting (specify time zone).
- Course/speed of vessel at initial sighting and at time of request.
- Indicate if a consensual boarding was requested and the master's response.
- Number of crew.
- Name, nationality, date of birth and identification number of the master.
- Names, nationality and dates of birth of crew.
- Offense of which the vessel is suspected and basis of the suspicion (include results of EPIC check, any intelligence, on-scene information).
- Specific request for proposed law enforcement action (e.g., verify registry, board and search, take appropriate law enforcement action if illegal activity is discovered, enter foreign territorial waters/airspace).

Appendix F. Vessel Documents, Papers, and Forms

Introduction

This appendix provides information regarding certain documents and papers carried by vessels in order to facilitate document examination by the boarding team.

In this Appendix

This appendix contains the following information:

Topic	See Page
Documentation Examination Policy	F-3
Carriage of Vessel Documents, Papers, and Forms	F-3
Description of Vessel Documents, Papers, and Forms	F-4

Documentation Examination Policy

Introduction

Vessels are required by domestic and international law to carry numerous documents and papers for a variety of reasons, depending on the vessel's size, category, and activity. Because the complete list of required documentation for a given vessel is often extensive, and examination of all required documentation requires special expertise, such examinations are normally carried out by MSO/COTP/OCMI personnel.

This section sets forth the policy for conducting examination of vessel documents and papers during a boarding.

F.1. Procedures

Boarding teams shall, as far as practicable, examine the following documents as part of each boarding:

- Certificate of Documentation (for U.S. vessels, if documented).
- Certificate of Number (for U.S. vessels, if registered).
- Certificate of Registry (for foreign flag vessels).

F.2. Further Guidance

Boarding teams are encouraged to examine the other primary documents listed in this appendix. Such examinations will ensure compliance with applicable U.S. laws and provide the boarding team with useful information about the vessel, its voyage and crew. Significant discrepancies in documentation or questions concerning vessel documentation should be referred to the cognizant MSO/COTP/OCMI.

Carriage of Vessel Documents, Papers, and Forms

Introduction

This section lists the principal documents, papers, and forms carried by vessels.

F.3. U.S. Vessels

U.S. vessels normally carry the following documents, papers, and forms:

- Certificate of Document (if federally documented).
- Certificate of Number (if state registered).
- Certificate of Inspection (if subject to inspection under 46 USC 3301).
- Merchant Mariner's License (for commercial vessels).
- Load Line Certificate (if required).
- Certificate of Financial Responsibility (COFR) (if required).
- Crew List (for commercial vessels engaged in foreign voyage).
- Passenger List (for commercial vessels engaged in foreign voyage).
- Manifest (for commercial vessels carrying cargo).
- Log Book (for commercial vessels).
- Shipping Articles (for commercial vessels).

F.4. Foreign Flag Vessels and U.S. Commercial Vessels on Foreign Voyages

Foreign flag vessels and U.S. vessels on foreign voyages normally carry the following documents, papers, and forms:

- Certificate of Registry.
- Officer's License (for commercial vessels).
- Load Line Certificate (if required).
- COFR (if required).

- Crew List (for commercial vessels).
- Passenger List (for commercial vessels).
- Manifest (for commercial vessels carrying cargo).
- Log Book (for commercial vessels).
- Safe Manning Document (if required).
- International Oil Pollution Prevention Convention (IOPP) Certificate (if required).
- Safety of Life at Sea (SOLAS) Certificates (if required).
- U.S. documents and papers issued to foreign commercial vessels (if operating in U.S. waters).
- Customs Forms (if entering the U.S.).

Description of Vessel Documents, Papers, and Forms

Introduction

This section provides a description, carriage/display requirements, and examination procedures of principal documents, papers, and forms carried by vessels.

F.5. Certificate of Documentation

A Certificate of Documentation (COD) is issued by the Coast Guard to a particular U.S. vessel to document vessel nationality and qualification for operation of the vessel in certain trades. All CODs are signed, sealed and issued on Form CG-1270 and are subject to renewal on an annual basis. Regulatory requirements regarding the COD and display of the official number are contained in the *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series).

F.5.a. Description

There are two valid versions of Form CG-1270. The new version (rev. 10-87) differs from the old in that it does not include information blocks for length, breadth, depth and mortgage endorsements. A sample COD is shown in **Figure F-1**.

F.5.a.1. Information Blocks

Information blocks on Form CG-1270 are as follows:

- NAME BLOCK - The name under which the vessel is documented.
- OFFICIAL NUMBER BLOCK - The unique six or seven digit number assigned to the vessel.
- TONNAGE BLOCK - The gross and net tonnage of the vessel in whole numbers. The old form also contains the length, breadth and depth of the vessel in feet and tenths of feet.
- HOME PORT BLOCK - The home port of the vessel at the time the COD was issued.
- BUILD BLOCK - The city and state and, if other than the U.S., the country where the vessel was built. If built in more than one place, more than one location will be listed. Also contains the year built. If either build location or year of build are unknown, the appropriate portion of the block will contain the word “unknown”.
- OWNER BLOCK - The names of all owners of the vessel and the terms of ownership.
- MANAGING OWNER - A vessel owner who represents all of the owners for documentation purposes.
- RESTRICTION BLOCK - The endorsement(s) that the vessel may **not** obtain.
- ENTITLEMENTS BLOCK - The special entitlements the vessel has acquired. Allowable notations include, but are not limited to: (1) Coastwise and Fishery - wrecked vessel; (2) Coastwise and Fishery - prize of war; (3) Coastwise and Fishery - forfeited vessel; (4) Coastwise - special legislation; (5) Fishery - special legislation; or (6) None.

- PORT OF ISSUANCE BLOCK - The Coast Guard documentation office that issued the COD.
- DATE OF ISSUANCE BLOCK - The date the COD was issued.
- SIGNATURE AND SEAL BLOCK - The name and signature of the documentation officer who issued the COD, and the impressed or stamped Coast Guard Seal.
- RENEWAL DECAL BLOCK - A 1- x 1½-inch decal (Form CG-1280-A) of a specified color. The decal contains the month and year in which the document must be renewed.
- PROPULSION BLOCK - The propulsion status of the vessel. The block will be marked "NO" if non-self-propelled.
- HULL MATERIAL BLOCK - The primary material of which the vessel is built. Allowable notations are:
  - Wood
  - Steel
  - Aluminum
  - Fibrous Reinforced Plastic (FRP) (FRP is acceptable; a vessel built as a composite of wood and fibrous reinforced plastic will be shown as FRP)
  - Other
- TRADE ENDORSEMENT BLOCK - The trades for which the vessel is presently licensed. There should be no contradiction between the information in this block and the restrictions. Allowable notations are: (1) Coastwise; (2) Coastwise - Bowater Only; (3) Great Lakes; (4) Fishery; (5) Registry; or (6) Recreational or Pleasure. When a vessel possesses a COD bearing more than one endorsement, the actual use of the vessel determines the endorsement under which it is operating.

F.5.b. Definitions	Definitions of the trade endorsements are as follows:
F.5.b.1. Registry	A registry endorsement entitles a vessel to employment in foreign trade, trade with Guam, American Samoa, Wake, Midway, or Kingman Reef, and other employment for which a coastwise license or Great Lakes license or fisheries license is not required.
F.5.b.2. Coastwise	A coastwise endorsement entitles a vessel to employment in unrestricted coastwise trade and any other employment for which a registry, fishery, or Great Lakes endorsement is not required.
F.5.b.3. Coastwise - Bowater	46 USC 883-1 allows certain vessels that are owned by corporations who have qualified under the Act to engage in coastwise trade, but only to the extent permitted by the Act. The trade endorsement for such vessels is "Coastwise - Bowater." The conditions under which this trade endorsement have been permitted are complex. As such, 46 CFR 68 and/or a documentation officer should be consulted when questions arise.
F.5.b.4. Great Lakes	A Great Lakes endorsement entitles a vessel to employment in Great Lakes trade and any other employment for which a registry, fishery, or coastwise endorsement is not required.
F.5.b.5. Fishery	A fishery endorsement entitles a vessel to employment in the "fisheries" trade and in any other employment for which a registry, coastwise, or Great Lakes endorsement is not required. A fishery endorsement entitles a vessel to land its catch, wherever caught, in the U.S. Fisheries includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shell fish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the U.S. or in the EEZ.

F.5.b.6. Recreational/ Pleasure

A recreational endorsement entitles a vessel to pleasure use only.

F.5.c. Requirements

In general, any U.S. vessel five net tons or greater is eligible to be federally documented.

- A vessel must be federally documented if it is:
  - Owned in whole or in part by a U.S. citizen or corporation.
  - Five net tons or greater.
  - Is engaged in fisheries, Great Lakes or Coastwise trade.
- The person in command of a documented vessel must have onboard that vessel, and must produce on demand of the Boarding Officer, the COD. This requirement does not apply in three conditions:
  - Non-self-propelled vessels not engaged in foreign trade.
  - When the COD is being submitted to a documentation officer for the purpose of surrender or replacement.
  - When the vessel is in storage or out of the water.
- Documented vessels must be under the command of a U.S. citizen (46 USC 8103(a) and 46 CFR 67.45). This requirement remains in effect even when a foreign citizen lawfully bareboat charters a documented vessel in accordance with 46 CFR 221.7.

F.5.d. Examination

The Boarding Officer should examine the COD to ensure the name of the vessel, official number, and description information match that of the vessel, and that the COD has not expired. The master should be questioned to ensure that none of the facts contained on the COD have changed, that no changes or alterations on the document have been made by any person other than a documentation officer and that the master is a U.S. citizen. The Boarding Officer should also ensure that the official number of the vessel is permanently marked on some clearly visible interior part of the hull.

F.6. Certificate of Number

Federal law requires certain undocumented vessels to be state registered with a Certificate of Number (CON). A CON is issued by the Coast Guard or a state, which has enacted a numbering system in accordance with 46 USC 12302. Regulatory requirements regarding the CON and display of the registration number are contained in the *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series).

F.6.a. Description

CONs vary in size, shape, format, and content from state to state.

F.6.b. Requirements

Vessels required to have a CON include those required by state law (and 33 CFR 173.15) to have a registration number and every vessel equipped with propulsion machinery used on waters subject to U.S. jurisdiction and on the high seas for vessels owned in the U.S., except:

- Foreign vessels temporarily using waters subject to U.S. jurisdiction.
- Military or public vessels of the U.S. (except recreational public vessels).
- Vessel owned by a state, county or city used principally for governmental purposes and clearly identifiable as such.
- Ships' lifeboats.
- Tenders used only for transportation between a numbered vessel and shore.
- Racing vessels.
- Documented vessels.

A state may require vessels in addition to those listed above to have a state CON. A state may also require a vessel to be registered even though it is federally documented.

The CON is required to be available for inspection at all times when the vessel is in use. In the case of livery boats (boats for rent), less than 26 feet in length rented for noncommercial use for less than 7 days, the operator may produce, in lieu of the CON, a signed copy of the rental or lease agreement which contains the vessel number that appears on the CON and the period of time for which the boat is rented.

F.6.c. Examination

The Boarding Officer should examine the CON to ensure the name of the vessel, official number and descriptive information match that of the vessel, and that the CON has not expired. The master should be questioned to ensure that none of the facts contained on the CON have changed and that no changes or alterations on the document have been made by any person other than an authorized official.

F.7. Certificate of Registry

A certificate of registry provides evidence that a vessel claiming a specific nationality is registered in that nation. For U.S. vessels, a COD or CON serves as the certificate of registry for international voyages.

F.7.a. Description

Certificates of registry vary in form, depending on the laws of the flag State, but will normally provide the following information:

- Vessel owner's name and address.
- Vessel name.
- Flag State.
- Nation of registry.
- Where and when the vessel was built.
- Vessel call sign.
- Description of the vessel, including length, gross tonnage, type of propulsion and horsepower.

F.7.b. Requirements

All foreign flag vessels are required to have onboard the vessel a valid certificate of registry in accordance with the laws of the nation in which they are registered.

F.7.c. Examination

The Boarding Officer should examine the certificate of registry to ensure the vessel name, official number, description and owner name match that of the vessel.

F.8. Certificate of Inspection (COI)

The COI indicates that a vessel is subject to inspection under 46 USC 3301, has been inspected and passed, meeting minimum Coast Guard requirements.

F.8.a. Description

The COI is issued on CG-841 and lists personnel and principal items of equipment required for the proper operation of the vessel in the service indicated, together with the maximum number of passengers, route, and other conditions of operation. A sample Certificate of Inspection is provided in **Figure F-2**.

F.8.b. Requirements

The COI is normally required to be posted under glass on the bridge of the vessel. However, the practice on barges is to store the Certificate of Inspection in a capped tube instead of under glass, as authorized by 46 CFR 31.05-5 and 46 CFR 91.01-5.

The following types of U.S. vessels are required to hold COIs:

- Freight Vessels. Motor vessels over 15 gross tons carrying freight for hire.
- Nautical School Vessels. Vessels operated by or in connection with a nautical school or educational institution.
- Offshore Supply Vessels. Motor vessels over 15 gross tons, but less than 500 gross tons, that regularly carry goods, supplies or equipment in support of exploration or

production of offshore mineral or energy resources.

- Passenger Vessels. Vessels of at least 100 gross tons carrying at least one passenger for hire.
- Sailing School Vessels. Vessels less than 500 gross tons principally propelled by sail, carrying at least 6 individuals who are sailing school instructors or students.
- Seagoing Barges. Non self-propelled vessels of at least 100 gross tons making voyages beyond the Boundary line.
- Seagoing Motor Vessels. Motor vessels of at least 300 gross tons making voyages beyond the Boundary line.
- Small Passenger Vessels. Vessels less than 100 gross tons carrying more than 6 passengers.
- Steam Vessels. Vessels propelled whole or in part by steam, except a recreational vessel of not more than 40 feet in length.
- Tank Vessels. Vessels that carry oil or hazardous material in bulk as cargo.
- Fish Processing Vessels. Vessels of at least 5,000 gross tons that commercially prepare fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.
- Fish Tender Vessels. Vessels of at least 500 gross tons that commercially supply, store, refrigerate, or transport fish, fish products, or materials directly related to fish or the preparation of fish to or from fishing, fish processing, fish tender vessel, or fish processing facility.

F.8.c. Examination

The Boarding Officer should examine the COI to ensure the name of the vessel, official number and descriptive information match that of the vessel, and that the COI has not expired. The master should be questioned to ensure that none of the facts contained on the COI have changed and that no changes or alterations on the document have been made by any person other than an authorized official.

F.9. Merchant Mariner's License

The Coast Guard issues licenses as deck officer, engineer, pilot, radio operator, or operator of an uninspected vessel (i.e., passenger, towing, commercial fishing or offshore supply) to U.S. mariners who pass qualification requirements contained in 46 CFR Part 10. Sample merchant mariner licenses are shown in **Figure F-3**, **Figure F-4**, **Figure F-5**, and **Figure F-6**.

- Merchant mariner licenses are issued on Form CG-3750. Deck licenses are issued by grade (Master, Chief Mate, Second Mate, Third Mate, Mate), route (Inland, Great Lakes, Near Coastal or Oceans), means of propulsion (Steam, Motor, Sail or Auxiliary Sail) and by vessel tonnage (50, 100, 150, 200, 500, 1600 gross tons and unlimited). Engineer licenses are issued by grade (Chief Engineer, First Assistant Engineer, Second Assistant Engineer, Assistant Engineer and Designated Duty Engineer), route, means of propulsion and horsepower. Operator licenses for uninspected vessels are issued by vessel type. Licenses are issued for a five-year period to persons of good character after physical and professional examination.
- All U.S. documented vessels operated for commercial purposes must have a licensed merchant mariner as master or operator. Additionally, for U.S. inspected vessels all required crewmembers must be licensed, depending on the size and type of vessel. Licensed mariners must have their license in their possession at all times when operating a vessel for hire.
- The Boarding Officer should, if practicable, examine the merchant mariner's license of each person required to be licensed onboard the vessel. The Boarding Officer should check each license to ensure the person listed thereon is the valid holder of the license. Each license should be examined to ensure that no changes or alterations on the document have been made by other than an authorized official.

F.10. Load Line Certificate

Load Line Certificates are issued by recognized classification societies to certain commercial vessels on behalf of the U.S. The American Bureau of Shipping is the primary issuing agency for U.S. vessels. Foreign classification societies issue Load Line Certificates for foreign flag vessels. A sample Load Line Certificate is shown in **Figure F-7**.

- The Load Line Certificate is issued on an American Bureau of Shipping form and lists the vessel name, official number, port of registry, length, freeboard and load line location.
- All U.S. vessels and all foreign flag vessels operating in U.S. navigable waters, 79' in length or greater, other than recreational vessels, warships, and certain commercial fishing industry vessels, are required to have a Load Line Certificate if they operate in ocean-going or coastwise (including Great Lakes) trade.
- The following vessels are also exempt from this requirement:
  - U.S. vessels on domestic voyages which were built prior to 1 January 1986, and are less than 150 gross tons.
  - U.S. and Canadian vessels navigating on the sheltered waters of Puget Sound and the contiguous west coast waters of the U.S. and Canada.
- The Load Line Certificate is valid for five years from the date of issue subject to satisfactory completion of annual inspections, which are attested to by endorsement upon the back of the certificate. The Load Line Certificate is required only to be onboard the vessel, and need not be posted. The laws and regulations pertaining to load lines are found in 46 USC Chapter 51 and 46 CFR Parts 42-47.

F.11. Certificate of Financial Responsibility

The COFR is issued to vessels required to demonstrate financial ability to respond to a pollution incident waters subject to U.S. jurisdiction. The COFR is issued on Form CG-3000 and lists the vessel name, official number and classification society. Generally, all vessels greater than 300 gross tons operating shoreward of 3 NM from the U.S. baseline are required to have a COFR onboard. The Boarding Officer should examine the COFR to ensure the vessel name and official number match that on the COD or registry.

F.12. Crew List

The Crew List, Form I-418, records the names, nationality, birthplace or passport number, and the descriptions of the vessel crew and is required for vessels arriving from foreign ports (except at U.S. Great Lakes ports from Canadian Great Lakes ports), seagoing vessels in the coastwise trade and passenger vessels making voyages of more than 300 miles on the Great Lakes between U.S. ports. It establishes responsibility for a definite number of persons in a crew status and prevents irregularities and violations of immigration and other laws.

F.13. Passenger List

The Passenger List, Form I-94, records the names, nationality, birthplace or passport number, and description of persons carried as passengers aboard the vessel and is required for vessels arriving from foreign ports (except at U.S. Great Lakes ports from Canadian Great Lakes ports), seagoing vessels in the coastwise trade and passenger vessels making voyages of more than 300 miles on the Great Lakes between U.S. ports. It establishes responsibility for a definite number of persons in a crew status and prevents irregularities and violations of immigration and other laws.

F.14. Manifest

Cargoes carried by vessels are generally documented on a manifest, shipping papers, cargo record books and/or stowage plans. These documents identify and describe the type and location of cargo for inspection and identify potential hazards which may be encountered during an inspection. Additionally, cargoes must be properly placarded and labeled for shipping and stowed in accordance with federal regulations. Due to the complexity of cargo labeling and stowage requirements, and the particular hazards associated with hazardous materials, cargo inspections should generally be done by qualified MSO/COTP/OCMI personnel.

F.15. Log Book

The Log Book is an official record of navigational data and ship events such as injuries, births, deaths, accidents, punishments, collisions and groundings. It is required of every U.S. vessel engaged in foreign trade, or any U.S. vessel of 100 tons or more engaged in trade between the Atlantic and Pacific coasts of the U.S., except vessels engaged in trade with Canada.

F.16. Shipping Articles

The Shipping Articles is a form which evidences the written agreement between the master of the vessel and the crew as to duration of voyage, wages, wage allotments, provisions and capacity in which the seamen are employed. It is required of U.S. vessels in foreign trade except with Canada, the West Indies, and Mexico and is also required of vessels 75 tons and upward in trade between the Atlantic and Pacific coasts of the U.S.

F.17. Officer's License

As with U.S. merchant mariners, foreign mariners operating aboard foreign flag commercial vessels are also required to be licensed in accordance with the laws of the flag State and international law.

F.18. Safe Manning Document

Cargo ships 500 gross tons and greater are required to carry a Safe Manning Document that indicates the flag State's determination of the minimum safe manning requirements for the vessel. The Safe Manning Document lists vessel's identifying information and lists the number and grades of personnel required to be carried aboard the vessel.

F.19. International Oil Pollution Prevention Convention (IOPP) Certificate

The IOPP Certificate is issued to certify a vessel's compliance with international law related to the prevention of pollution from ships (MARPOL 73/78). The IOPP Certificate is required on oil tankers 150 gross tons and greater and any ships 400 gross tons and greater.

F.20. Safety of Life at Sea Certificates

If a nation is signatory to the Safety of Life at Sea (SOLAS) Convention, vessels registered in that nation are required to have SOLAS certificates and to remain in compliance with their certificate. SOLAS certificates indicate that a vessel has met international standards related to communications, safety equipment and construction. Unless a specific SOLAS exemption certificate has been issued, the following SOLAS certificates are required:

- Safety Radio Certificate for cargo ships 300 gross tons and greater.
- Safety Equipment Certificate for cargo ships 500 gross tons and greater.
- Safety Construction Certificate for cargo ships 500 gross tons and greater.

F.21. U.S. Documents and Papers Issued to Foreign Flag Commercial Vessels

All foreign flag commercial vessels operating out of U.S. ports (except Canadian vessels operating on the Great Lakes) are examined by the MSO/COTP/OCMI for compliance with various international treaties. If the foreign vessels are found in compliance, they are issued Coast Guard certificates, in addition to their international certificates, for operation out of U.S. ports as follows:

- Tank vessels carrying oil: Tank Vessel Exam Letter.
- Tank vessels carrying chemicals or liquefied natural gas (LNG)/liquefied petroleum gas (LPG): Letter of Compliance.
- Passenger vessels (over 12 passengers): Control Verification Certificate.
- Passenger vessels (12 or less passengers): Certificate of Inspection.
- Freight ship: Freight Ship Exam Letter.

F.22. Customs Forms

Vessels entering the U.S. from a foreign voyage are required to present customs forms declaring certain cargoes that are subject to U.S. inspection at the border. Boarding Officers should coordinate the examination and enforcement of regulations related to customs forms with the cognizant U.S. Customs Office.

OMB No. 2115 – 0110

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Certificate of Documentation

VESSEL NAME	OFFICIAL NUMBER	HOMEPORT

GROSS	NET	LENGTH	BREADTH	DEPTH	HULL MATERIAL	SELF PROPELLED

PLACE BUILT	YEAR BUILT

OWNER	THIS VESSEL IS PRESENTLY DOCUMENTED FOR
COMPLETE RECORDS ON FILE AT HOMEPORT	

MANAGING OWNER

RESTRICTIONS

ENTITLEMENTS

REMARKS

ISSUED AT	SIGNATURE AND SEAL
ISSUE DATE THIS CERTIFICATE EXPIRES ON THE LAST DAY OF UNLESS RENEWED BY DECAL ON REVERSE.	DOCUMENTATION OFFICER

DEPT. OF TRANSP., USCG, CG-1270 (Rev. 10-87)
PREVIOUS EDITIONS ARE OBSOLETE

SN 7530-01-GF2-8870

Figure F-1
Certificate of Documentation (CG-1270)

OMB No. 2115-0517

CERTIFICATION DATE :

EXPIRATION DATE :

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Certificate of Inspection

VESSEL NAME	OFFICIAL NUMBER	CALL SIGN	SERVICE
HOME PORT	HULL MATERIAL	HORSEPOWER	PROPULSION

PLACE BUILT	DATE BUILT	GROSS TONS	NET TONS	DWT	LENGTH

OWNER	OPERATOR

THIS VESSEL MUST BE MANNED WITH THE FOLLOWING LICENSED AND UNLICENSED PERSONNEL, INCLUDED IN WHICH THERE MUST BE _____ CERTIFICATED LIFEBOATMEN AND _____ CERTIFICATED TANKERMAN.

___ MASTER	___ MASTER & 1ST CLASS PILOT	___ ABLE SEAMEN	___ CHIEF ENGINEER	___ FIREMEN-WATERTENDERS
___ CHIEFMATE	___ _____ CLASS PILOT	___ ORDINARY SEAMEN	___ 1ST ASST. ENGINEER	___ OILERS
___ 2ND MATE	___ RADIO OFFICER(S)	___ DECKHANDS	___ 2ND ASST. ENGINEER	___ _____
___ _____ MATES	___ _____ OPERATOR(S)	___ _____	___ _____ ENG'RS.	___ _____

IN ADDITION, THIS VESSEL MAY CARRY _____ PASSENGERS, _____ OTHER PERSONS IN CREW, _____ PERSONS IN ADDITION TO CREW, AND _____. TOTAL PERSONS ALLOWED: _____

ROUTE PERMITTED AND CONDITIONS OF OPERATION:

WITH THIS INSPECTION HAVING BEEN COMPLETED AT ON , THIS VESSEL IS CERTIFIED BY THE OFFICER IN CHARGE, MARINE INSPECTION, , TO BE IN ALL RESPECTS IN CONFORMITY WITH THE APPLICABLE VESSEL INSPECTION LAWS AND THE RULES AND REGULATIONS PRESCRIBED THEREUNDER.

PERIODIC REINSPECTIONS		
DATE	ZONE	SIGNATURE

THIS CERTIFICATE ISSUED BY:

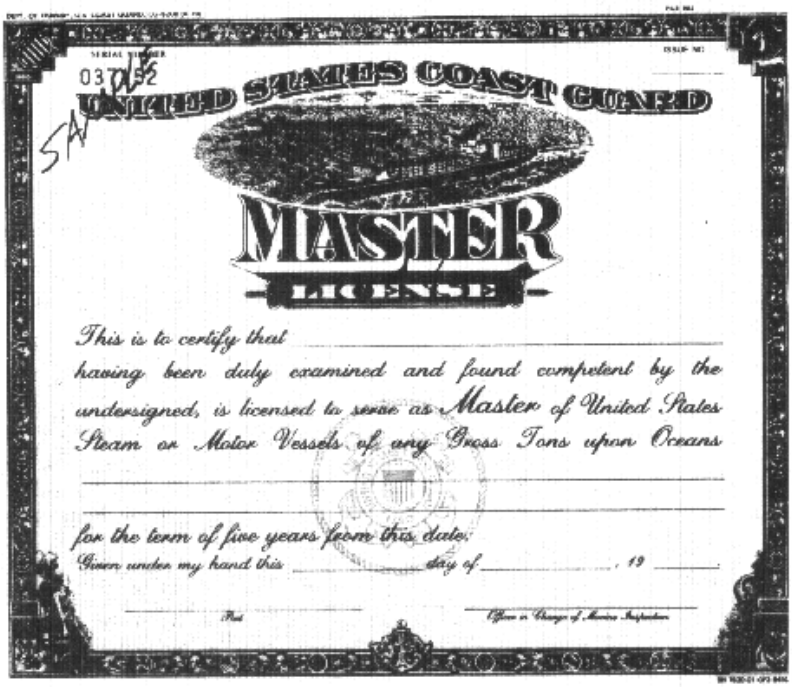
_____
OFFICER IN CHARGE, MARINE INSPECTION

_____
INSPECTION ZONE

DEPT. OF TRANSP., USCG, CG-841 (Rev. 3-85)
PREVIOUS EDITIONS ARE OBSOLETE

SN 7530-00-FO1-0370

Figure F-2
Certificate of Inspection (CG-841)


UNITED STATES COAST GUARD

MASTER

LICENSE

This is to certify that _____ having been duly examined and found competent by the undersigned, is licensed to serve as Master of United States Steam or Motor Vessels of any Gross Tons upon Oceans _____ for the term of five years from this date.

Given under my hand this _____ day of _____, 19 _____

_____ Port

_____ Officer in Charge of Marine Inspection

Figure F-3
Master License

UNITED STATES COAST GUARD

LICENSE

TO OPERATE OR NAVIGATE PASSENGER CARRYING VESSELS

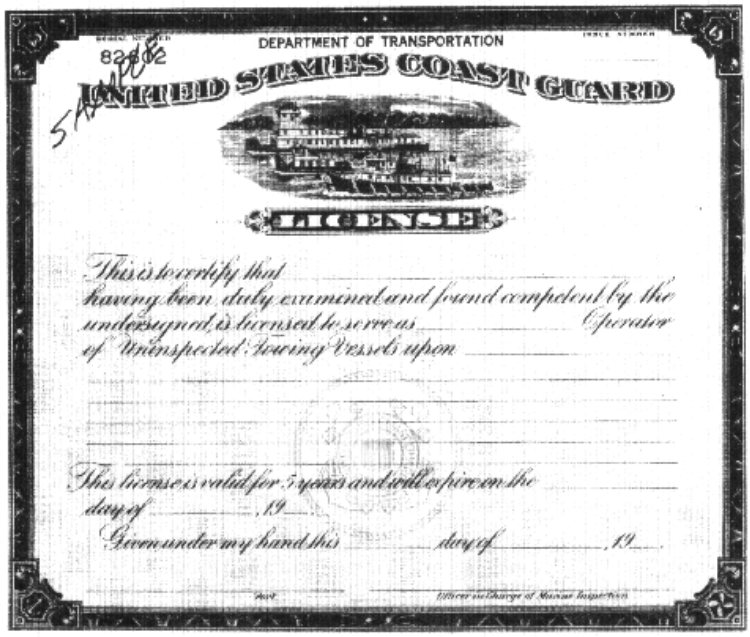
This is to certify that _____ has given satisfactory evidence to the undersigned that he can safely be entrusted with the duties and responsibilities of Operator of _____ propelled passenger carrying vessels as defined in the Act of May 10, 1956, of not more than _____ gross tons upon _____ and is hereby licensed as such for a term of five years from this date.

Given under my hand this _____ day of _____, 19 _____

_____ Port

_____ Officer in Charge, Marine Inspection

Figure F-4
License to Operate or Navigate Passenger-Carrying Vessels



DEPARTMENT OF TRANSPORTATION

UNITED STATES COAST GUARD

LICENSE

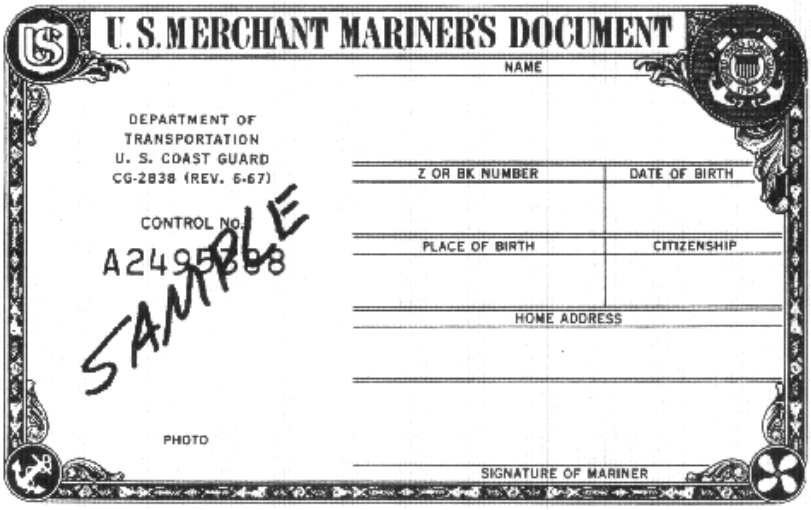
This is to certify that _____ having been duly examined and found competent by the undersigned, is licensed to serve as _____ Operator of Uninspected Towing Vessels upon _____

This license is valid for 5 years and will expire on the _____ day of _____, 19__

Given under my hand this _____ day of _____, 19__

Port _____ Officer in Charge of Marine Inspection

Figure F-5
License to Operate Uninspected Towing Vessels



U.S. MERCHANT MARINER'S DOCUMENT

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2838 (REV. 6-67)

CONTROL NO.
A2495368

SAMPLE

PHOTO

NAME

Z OR BK NUMBER | DATE OF BIRTH

PLACE OF BIRTH | CITIZENSHIP

HOME ADDRESS

SIGNATURE OF MARINER

Figure F-6
U.S. Merchant Mariner's Document

COASTWISE LOAD LINE CERTIFICATE

Issued under the authority of the Commandant, U. S. Coast Guard, under the provisions of the Coastwise Load Line Act, 1935, as amended (46 U.S.C. 88-88g), and The Load Line Regulations in 46 CFR Part 42,

by the American Bureau of Shipping

duly authorized for assigning purposes under the provisions of this law for vessels engaging in coastwise and/or intercoastal voyages.

Certificate No.

Name of Ship	Official number or Distinctive Letters	Port of Registry	Length (L) as defined in 46 CFR 42.13-15

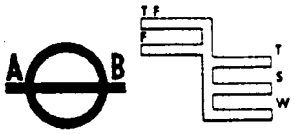
Freeboard assigned as: Type of Ship and Freeboard:

Freeboard from deck line			*Load Line*
Tropical	feet	inches (T)	inches above (S)
Summer	feet	inches (S)	Upper edge of line through center of ring
Winter	feet	inches (W)	inches below (S)

Allowance for fresh water for all freeboards inches.

Note: All measurements are to upper edge of the respective horizontal lines. Freeboards and Load Lines which are not applicable need not be entered on the certificate.

The upper edge of the deck line from which these freeboards are measured is deck at side.



Date of initial or periodical survey

The following is a record of the restrictions applicable to the above named ship:

THIS IS TO CERTIFY that this ship has been surveyed and that the freeboards have been assigned and load lines shown above have been marked in accordance with the Commandant, U. S. Coast Guard, Coastwise Load Line Regulations in 46 CFR Part 42 and Parts 44 to 46, inclusive, as applicable.

This Certificate is valid until *, subject to annual surveys in accordance with applicable Load Line Regulations, and endorsement thereof on the reverse side of the Certificate.

* At the expiration of this certificate, applicable reissuance should be obtained in accordance with the Load Line Regulations.

Issued at

The undersigned declares that he is duly authorized by the said Government to issue this Certificate.

American Bureau of Shipping

Figure F-7
Load Line Certificate

Appendix G. Law Enforcement Case Package Preparation and Trial Support

Introduction

This appendix provides policy and procedures regarding law enforcement (LE) case package preparation and trial support.

In this Appendix

This appendix contains the following information:

Topic	See Page
Law Enforcement (LE) Case Package Preparation	G-3
Trial Support	G-8

Law Enforcement (LE) Case Package Preparation

Introduction

A thorough LE case package provides the groundwork for U.S. attorneys or foreign officials to successfully prosecute offenders for violations of U.S. and foreign law. A well-developed case package is the crucial link between the unit's law enforcement efforts and a successful prosecution. The importance of assembling an accurate, thorough, and well-developed case package cannot be overstated.

This section provides policy regarding LE case package content and completion of the LE Case Package Checklist.

G.1. Criteria for Preparing LE Case Package

Units shall prepare an LE case package any time a civil or criminal case could go to court (vice a Coast Guard Hearing Officer), either in the U.S. or a foreign country. This includes cases that result in:

- Seizure of a vessel, evidence or contraband.
- Arrest of a person(s).
- Detention of a person(s) for further transfer to another law enforcement agency (local, state, federal or foreign).
- Recovery of jettisoned contraband when apprehension of the vessel and/or crew is likely, or known to have occurred.

G.1.a. Need for Case Package

Many law enforcement cases result from detection and enforcement actions conducted by multiple units. Multi-unit cases may even result from significant participation, and/or a decision to prosecute, by foreign authorities. In all cases, the need for a timely and thorough case package is of paramount importance and will require close coordination by all units involved.

G.1.b. Documenting Evidence

Duplication of effort is neither required nor desired. Each unit that meaningfully participates in a case as described in *Section G.1* above is responsible for documenting evidence gathered only through their participation in the case and shall assist in the preparation of a case package, as appropriate. For example, a unit that initially detects a vessel that is subsequently seized by another unit shall complete appropriate witness statements (e.g., lookout, radar operator) and applicable portions of the LE Case Package Checklist. Other evidence (e.g., videotapes, photographs, voice recordings) shall also be provided along with proper chain of custody documents. Responsibility for compilation of all evidence and preparation of a complete case package rests with the seizing and/or arresting unit.

G.1.c. Witnesses and Witness Statements

Units should continue to minimize the number of personnel involved in key law enforcement actions to lessen the impact on unit readiness if personnel are needed to testify before a court, especially in cases turned over to foreign tribunals.

G.2. LE Case Package Checklist

Part I of the LE Case Package Checklist documents right of approach and pre-boarding questions. Part I should be completed for every Coast Guard boarding. Part II of the LE Case Package Checklist documents other information required by prosecutorial authorities. Parts I and II of the LE Case Package Checklist shall be completed, and included in every law enforcement case package that results in apprehension, the seizure of a vessel, recovered jettisoned contraband, or arrest of the crew, even if seizure and arrest is made by foreign authorities. (Refer to the end of this appendix for a hardcopy of this checklist.) In jettison cases, because the ultimate apprehension of the vessel and crew if often unclear, units should

still prepare an evidence package in anticipation of a turnover to foreign authorities.

G.2.a. Supplemental Information

Area and District Commanders may require supplemental information to be included in case packages, however, the case package model contained in this package shall be completed in all cases.

G.2.b. Electronic Copy

An electronic copy of the LE Case Package Checklist is available at http://cgweb.comdt.uscg.mil/g-opl/General/CasePack/LECasePack.doc.

G.3. LE Case Package Content

Items and information to include in each LE case package are described below, and in the *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4.

G.3.a. Classified Information

One of the primary reasons for classifying information is to protect sources and information gathering techniques from disclosure. The government's interest in protecting classified information from disclosure is sometimes at odds with a defendant's right to a fair trial. The disclosure and protection of information pertinent to criminal prosecutions in federal courts are subject to the limitations, restrictions and interpretations of the Constitution, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Jencks Act and the Classified Information Procedures Act (CIPA). Consult your servicing legal officer for guidance in classifying, marking, using, and disseminating case packages.

G.3.b. Alpha Report

Alpha Report, or initial sighting report, or right of approach query sheet, an unclassified or sanitized version should be prepared. Ensure the locations, dates, and times are thoroughly documented for all critical events.

G.3.c. Audiovisual

Units should make all efforts to obtain usable audio and/or imagery to capture key events, such as initial spotting, communications with subject vessel, crew activities on deck and connection with cargo (i.e., cargo jettisoning), failure to heave to, and boarding. The date/time stamp of video cameras, if equipped, should always be turned on. Appropriate labeling and an accompanying statement of the contents of the tapes / discs / rolls of film is very helpful in determining what is being portrayed. Linking what is portrayed on a tape with such key information as location (Lat / Long), date, and time is highly desired. Videotapes should be in a common format (VHS, 8mm). Developed film and printouts from digital cameras and/or diskettes are preferred over undeveloped film for turnover to foreign authorities. Polaroid photography may only be used to supplement, and not as replacement for digital or print film.

NOTE Do not cut print film negatives or delete photos from diskettes, missing photographs may be deemed as improperly withheld evidence.

G.3.d. Digital Images

Digital images are electronically produced evidence. Digital imaging technology uses special equipment to record images directly to a computer disk. Digital images are very clear and provide greater flexibility in their use, however, digital are easier to manipulate and alter than standard photographs and negatives. Although admission of digitally imaged reproductions may require more foundational evidence than is required for other duplicates, these images are admissible in federal court under existing evidentiary rules.

G.3.d.1. Image Documentation and Proof	Because of the possibility of distortion and alteration, units collecting digital evidence shall establish procedures to document and prove that: • The sensor operator was qualified to collect the imagery. • The operator recorded a certain activity. • The operator used certain equipment to record the activity. • The equipment was in good working order. • The operator used proper procedures to record the activity. • The operator accounts for custody of the digital media and any duplicates. • The operator recognizes the digital data as the sensor data he or she recorded. • The digital media is a true and accurate representation of the activity.
G.3.d.2. Image Validity	If the Government alters or manipulates the digital imagery to aid in extracting or presenting information from an image, then the court will likely treat the alteration technology as scientific evidence. Likewise, if the image depicts radar or other sensor displays then the underlying scientific accuracy and reliability of the sensor is subject to challenge. In other words, before reaching the question of the admissibility of the image, the judge will rule on the empirical validity of the underlying scientific principles of the sensor. Operational Commanders and their servicing legal offices should be prepared to assist federal prosecutors in understanding and proving the proper working order of sensor instrumentation, the Coast Guard followed proper procedures, and employed properly qualified personnel using the technique and interpreting the results.
G.3.d.3. Multiple Image Collection	Digital photographers should take multiple shots of a particular subject or area at varying angles and distances. This process makes it very difficult for anyone bent on altering an image to get a variety of shots and alter them all in a self-consistent manner. Thus, if a litigant accuses the Government of improperly altering a digital image, the Government has an array of supporting images upon which it may rely.
G.3.d.4. Original Image Preservation	In all cases, units shall make a duplicate image for use as the "working image". Units shall preserve and maintain the original image in an unaltered state on high quality media that is durable, permanent, and reliable. All images shall be stored on non-rewritable, numbered disks.
G.3.d.5. Chain of Custody	The chain of custody for digital images shall document the identity of individuals who had custody or control of the digital image file from the point of capture to archiving. Thereafter, the chain of custody shall document the identity of individuals who had custody and control of the archived image.
G.3.d.6. Image Processing Documentation	Units shall document any techniques used to increase the visibility of specific details in an image at the expense of other details. The documentation should be sufficiently detailed to allow repetition and reconstruction of the process, such that an expert repeating the documented steps will obtain the same result.
G.3.d.7. Quality Assurance	Units should regularly check imaging technology equipment and software for proper performance and calibration. Likewise, units should document the findings of these inspections. If the manufacturer identifies post-installation software errors, units should ensure that it takes and documents any recommended corrective action. After taking corrective actions, Coast Guard personnel should undertake a complete systems check before using the system for law enforcement operations.

G.3.e. Suspect Identification

Suspect identification is critical. In at least one nation, merely misspelling an individual's name is fatal to prosecution. In addition, defense lawyers have successfully argued that their clients were not onboard seized vessels. In cases when suspect names are in doubt, reference the source of identity and document any concerns about the accuracy of the information. Units should videotape and/or photograph all suspects; more is better. Capturing identifying information such as a nameboard held by the suspect while being photographed is very beneficial; as is a witness statement citing the nameboard was filled out by the subject himself or based upon documentation. Also, photograph or photocopy other identifying information (e.g., passport, driver's license, work permit, "cédula number" (Colombian citizenship ID number) card, etc.).

G.3.f. Fisheries Violations

LE case packages for fisheries violations often require evidence and information not described in this appendix. Further, these requirements may vary according to region and the fishery involved. District Commanders shall ensure units operating within their area of responsibility are provided sufficient guidance to prepare a thorough fisheries case package that supports the cognizant prosecutorial authority.

G.3.g. Drug Cases

LE case packages for illegal drug cases should include, as appropriate:

G.3.g.1. IONSCAN

Documentation of this evidence is especially important in jettison cases to connect suspects with the jettisoned drugs. Units should provide as part of the evidence package applicable printouts of plasmagrams (positive and negative) as well as statements from the personnel taking the swipes and operating the IONSCAN. The IONSCAN operator's statement should include information on his/her training, certification, and the procedures followed, as well as identifying the machine (make, model, serial number). The listing of samples taken and results should also be included. Used swipes need not be included.

NOTE Two major illegal drug seizures did not have one positive IONSCAN response.

G.3.g.2. Field Tests of Narcotics

Field tests of narcotics should be thoroughly documented through statements form properly qualified personnel and should, if possible, be videotaped and/or photographed. The expended field test kit should be photographed then properly disposed of and is not to be included in the evidence package.

G.4. Transfer of Case Package to Foreign Authorities

An increasing number of drug smuggling cases in which U.S. counterdrug forces are participants are being prosecuted before foreign courts. Some of these cases involve a physical turnover of the vessel and crew after having been stopped by U.S. forces. Others involve only detection and monitoring by U.S. forces or retrieval of jettisoned contraband while the vessel stop is conducted by foreign forces.

G.4.a. Cover Letter

The cover letter shown in **Figure G-1** shall be included for all case packages turned over to foreign authorities for prosecution.

G.4.b. Chain of Custody

The officer seizing any fungible item shall maintain a strict chain of custody. The chain of custody provides the custodial history of the property, from the time it was seized until it is presented at court, accounting for each and every change in custody. Fungible items (e.g., contraband drugs, fish) are those that are easily replaced with a similar item because they lack unique identifying characteristics. Form CG-5117 (seizure tag) is the primary document used to establish a chain of custody. While not required, it may be prudent to establish a chain of custody for certain non-fungible items (e.g., highly pilferable items, high value items). Form CG-4832 (Evidence Tag) or DD-1149 (Requisition and

Invoice/Snipping Document) may be used for this purpose. Further guidance regarding chain of custody is contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4. Witness statements should reflect the unbroken chain of custody. For face-to-face on-scene handoffs, the name, rank, title of the foreign officer, agency, and/or name of government vessel taking custody of the evidentiary materials should be noted via SITREP.

G.4.c. Representative Samples

For cases involving the exercise of U.S. jurisdiction over a non-U.S. vessel upon which narcotics are discovered, or if the U.S. has recovered narcotics after jettisoning or vessel scuttling, only a representative sample of the narcotics will normally be turned over to the foreign authorities. Standard representative sample sizes are as follows:

- Cocaine: Ten (10) kilograms.
- Heroin: Two (2) kilograms.
- Marijuana: One (1) bale or similar discrete unit of packaging.
- Other drugs: As directed by the cognizant District legal office.

For cases involving the exercise of flag or coastal State jurisdiction (e.g., flag or coastal State enforcement action, U.S. action pursuant to flag or coastal State authorization) over a non-U.S. vessel upon which narcotics are discovered, the U.S. will first offer (and strongly advocate) a representative sample to the prosecuting state. However, if the flag or coastal State intends to take law enforcement action against the vessel and crew, and requests the total quantity of narcotics, the U.S. government will normally turn over all of the narcotics found aboard the vessel. Such determinations will be made pursuant to the SNO (with PD-27) process.

G.4.d. Evidence Package Handling and Coordination

In order to ensure that complete case packages are delivered in a timely manner to foreign authorities, the following responsibilities are assigned:

G.4.d.1. Units Under JIATF South TACON

For Units remaining under JIATF South TACON during the event, the subject ship or aircraft has primary responsibility for preserving and documenting evidence and coordinating with OTC to arrange for expeditious transfer of evidence packages to foreign authorities. The JIATF legal advisor will coordinate with the appropriate U.S. country team/embassy legal attaché, monitor the turnover process, and act as POC for prosecution support.

G.4.d.2. Units Under U.S. Coast Guard TACON

For Units under U.S. Coast Guard TACON during the event, the subject ship or aircraft has primary responsibility for preserving and documenting evidence and coordinating with OTC to arrange for expeditious transfer of evidence packages to foreign authorities. The relevant District legal officer shall coordinate with the appropriate U.S. country team / embassy legal attaché, monitor the turnover process, and act as POC for prosecution support. In addition, District legal officers shall ensure that the verification of vessel registry and special arrangements ser forth above is expeditiously provided to foreign authorities. These responsibilities extend to area units under District TACON.

G.4.d.3. U.S. Coast Guard and JIATF Units

For events involving both U.S. Coast Guard and JIATF units, the relevant District legal officer and JIATF legal advisor will retain responsibility for their individual units while coordinating their actions across services and with the appropriate U.S. country team / embassy legal attaché.

G.4.d.4. Timelines of Evidence Gathering

Time is often of the essence in preparing and transferring evidence packages because of the need in many foreign systems to quickly provide evidence of wrongdoing before judicial officials or risk the release of the suspect(s). The inherent logistical difficulties associated with rapidly transferring these packages from far-flung units are manifest and will require immediate attention and effective action from all concerned parties. Because many incidents will involve multiple inputs from scattered units, personnel charged with coordination and liaison responsibilities shall ensure that foreign authorities are kept abreast of the types and status of evidence gathered for turnover.

G.4.d.5. Message Traffic

Any affected American embassy shall be included on all message traffic concerning LE interactions with the applicable foreign country(s).

NOTE

G-OPL and G-LMI are aggressively working to reduce the need for live witness testimony in foreign courts. Complete, detailed and accurate signed witness statements can often eliminate the need for live testimony in many foreign courts. Determinations of witness availability and witness travel funding will be IAW existing policy and directives for domestic witness travel.

Trial Support

Introduction

This section provides policy regarding chain of custody issues, witness travel, and other topics related to trial support.

G.5. Funding

Commandant (G-LPD) will fund orders for out-of-District Coast Guard personnel to appear in ELT-sponsored court and administrative proceedings. District Commanders are responsible for funding intra-District witness travel. Requests for orders for witnesses from other Districts shall be sent by message in accordance with **Figure G-2**.

G.6. Witnesses

Participation in foreign prosecutions requires coordination with the Departments of State and Justice. Accordingly, all requests for Coast Guard witnesses and evidence made by foreign governments or attorneys representing clients in prosecutions in foreign territory shall be referred to Commandant (G-OPL-L).

U.S. Department of Homeland Security
United States Coast Guard

Commanding Officer
USCGC SAMPLE (WMEC 631)

1313 Mockingbird Lane
Sweetwater, GA 55555
Phone: (999) 965-7654
FAX: (999) 543-9876

16247

{Fill in name of appropriate Government}

Greetings:

The United States Coast Guard has completed the enclosed Law Enforcement Case Package Checklist in support of the law enforcement case of *{fill in vessel name, date, location, identifying information, and brief description of the case}*. The Checklist is an official record of the Government of the United States of America and is being transferred to your Government, along with supporting evidence, to assist in the prosecution of this case. Any additional relevant evidence will be provided to your Government as soon as possible.

The information contained in the Checklist is true and correct to the best of my knowledge.

We respectfully request that an individual assigned by your Government to prosecute this case contact appropriate officials at the U.S. Embassy. A Coast Guard Case Coordinator has been assigned to this case and is available to answer questions regarding the enclosed evidence package, availability of other evidence, and to answer other questions to support your Government's prosecution of this case.

We look forward to continuing our cooperation on this important matter.

Sincerely,

//s//
(CO/OIC/LEDET OIC)

Encl: (1) Law Enforcement Case Package Checklist

Copy: Appropriate AMEMBASSY
(For units under D7 TACON) CCGDSEVEN (ole, dl)
(For units under D11 TACON) CCGDELEVEN (ole, dl)
(For units under PACAREA TACON) MLC PACIFIC (po, lj)

Figure G-1
LE Case Package Cover Letter Template (Foreign Turnover)

FM CCGD_____
TO COMDT COGARD WASHINGTON DC//G-L/G-LPD/G-OPL//
INFO [witness' unit]
BT
UNCLAS FOUO//N01320//
SUBJ: REQUEST FOR ELT WITNESSES
A. *MARITIME LAW ENFORCEMENT MANUAL*, COMDTINST M16247.1 (SERIES)
1. THE FOLLOWING IS PROVIDED PER REF A:
   A. NAME OF CASE: (e.g., U.S. v. Jones)
   B. TYPE OF INCIDENT: (e.g., seizure M/V OUTLAW [U.S.])
   C. DATE OF SEIZURE/ARREST:
   D. TYPE OF CASE: (e.g., drug seizure, fisheries enforcement)
   E. WITNESS: [include name, unit and telephone number]
   F. DEPARTURE DATE:
   G. REPORTING DATE/TIME:
   H. DATE OF RETURN:
   I. ESTIMATED COST: [itemized to include round trip airfare, per diem, etc.]
   J. DESTINATION: (e.g., Joseph Ruddy, Asst. U.S. Attorney, Old Courthouse Building, Tampa, FL, Phone [000-000-0000])
   K. COGNIZANT U.S. ATTORNEY OR CASE AGENT: [include phone number]
   L. PURPOSE OF TRAVEL: (e.g., interview, deposition, motion hearing, trial, administrative hearing)
2. REMARKS: [include other information as appropriate]
BT

Figure G-2
Witness Travel Funding Message Template

LAW ENFORCEMENT CASE PACKAGE CHECKLIST

PART I

GENERAL			
Unit:	Date:	Time:	Language:
Questioner:		Interpreter:	
	Initial Vessel Information		
Course:	Speed:	Lat:	Long:
Type:	Rig:	Hull Color:	SS Color:
Hull Material:		Activity:	
Other:			
Check one:	❒ High Seas	❒ U.S. EEZ	❒ U.S. Terr. Sea
	❒ U.S. Internal	❒ U.S. Contiguous	❒ Foreign Terr. Sea

RIGHT OF APPROACH			
Vessel Name:		Homeport:	
Flag State:		Doc./Reg. Number:	
Flag State Claim Via:	❒ Verbal	❒ Flag	❒ Vessel Markings

PRE-BOARDING QUESTIONS			
Master Name:		Nationality:	DOB:
Vessel Owner:		Vessel Length:	
Number Crew:	Nationality:		
Check one:	❒ Cargo	❒ Passenger	❒ Fish
	❒ Other:		
Purpose of Voyage:			
LPOC:		Date Departed:	
NPOC:		Date of Arrival:	

MISCELLANEOUS			
Weapons Aboard:	❒ Yes	❒ No	❒ Don't know
HAZMAT Aboard:	❒ Yes	❒ No	❒ Don't know
HAZMAT type:			
LE Database Check:	Source:	❒ Negative	❒ Positive
Amplify when positive:			

LAW ENFORCEMENT CASE PACKAGE CHECKLIST

PART II

VESSEL INFORMATION		
Time of Initial Acquisition:	Method of Initial Acquisition:	
Distance and Direction from Prominent Point of Land:		
Time Visually Acquired:	Course:	Speed:
Vessel Response:		
Name on Hull:	Hailing Port on Hull:	
Other Indications of Vessel Name/Identity:		
Numbers on Hull:	Flag Flown:	
Other Indications of Vessel Nationality:		
Vessel Activity:	How is Vessel Riding in Water:	
Obvious violations of U.S. law and/or suspicious activity:		

BASIS OF BOARDING (Check all that apply)
❒ Special Circumstances
❒ Consensual Boarding
❒ Right of Visit
❒ Rendering Assistance to Persons/Property
❒ Flag or Coastal State Authorization
❒ Special Arrangement (PD-27/SNO)
❒ Bilateral/Multilateral Agreement
❒ Shiprider Provision
❒ Ship Boarding Provision
❒ Other International Agreement (e.g., fisheries)
❒ U.S. Vessel

❒ Foreign Flag Vessel Subject to U.S. Jurisdiction
❒ In U.S. Internal Waters
❒ In U.S. Territorial Sea
❒ In U.S. Contiguous Zone
❒ In U.S. EEZ
❒ Hot Pursuit
❒ Constructive Presence
❒ Vessel Without Nationality
❒ Vessel Assimilated to Vessel Without Nationality

BOARDING TEAM INFORMATION		
Name	**Position**	
Time Small Boat Launched:	Distance to Contact Vessel:	
Position of Cutter at Small Boat Launch:	Lat:	Long:
Time Arrived on Contact Vessel:		

CREW AND PASSENGER INFORMATION			
Name	**Nationality**	**Position**	**Nation of Residence**

VESSEL DOCUMENTS AND PAPERS (Check all that apply)			
❒ Certificate of Number:		Number:	State:
❒ Certificate of Document:		Number:	Date:
Endorsements:	❒ Registry	❒ Coastwise	❒ Coastwise-Bo.
	❒ Great Lakes	❒ Fishery	❒ Recreational
❒ Foreign Document:		Number:	Issued by:
❒ Certificate of Inspection:		Number:	Date:
❒ Certificate of Financial Responsibility:		Number:	Date:
❒ Load Line Certificate:		Number:	Date:
❒ Int'l Oil Pollution Prevention Certificate:		Number:	Date:
❒ Ship's Log:			
❒ Operator's License:			

❒ Cargo Manifest or Bill of Lading:	Date:	
❒ Foreign Fishing Permit:	Number:	Date:
❒ FCC Station License:	Number:	Date:
❒ SOLAS Safety Equipment Certificate:	Number:	Date:
❒ SOLAS Construction Certificate:	Number:	Date:
❒ Customs Clearance Papers:		
❒ Immigration Documents:		
❒ Zarpe:		

NOTE The Zarpe is an official document issued by most Latin American countries to a vessel when it leaves port. It will often include an attached crew list. The Zarpe can be a powerful piece of evidence in that it establishes a place of departure, identity of crewmembers at the time of departure and is often used by the crew to disguise the true place of departure.

PURPOSE OF VOYAGE			
❒ Cargo	❒ Fishing	❒ Passenger	❒ Recreation
❒ Other:			
Usual Trade and Route:			
Type, Amount, and Location Aboard of Cargo/Fish:			
When and Where Cargo Loaded/Fish Caught:			

MASTER/OWNER/OPERATOR INFORMATION		
Owner Aboard:	❒ Yes	❒ No
Owner Name:	Owner Nationality:	
Owner Address:		
Master Aboard:	❒ Yes	❒ No
Master Name:	Master Nationality:	
Master Address:		

If Master is Not Aboard:		
Master's Name on Vessel Documents:	❒ Yes	❒ No
Date Master Departed:		
Vessel Location When Master Departed:		
How Master Departed:		
Reason Master Departed:		
Owner/Agents Aware Master is not Aboard:	❒ Yes	❒ No
Name and Address of Person in Charge:		

SEIZURE AND ARREST		
Vessel Seized:	❒ Yes	❒ No
Date of Seizure:	Time of Seizure:	
Basis for Seizure (i.e., statutory cite):		
Arrestee/Detainee Information		
1. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
2. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No

Rights Waived:	❒ Yes	❒ No
3. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
4. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
5. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
6. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
7. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No

Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
8. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No
9. Name:	Date of Birth:	Nationality:
Check one:	❒ Arrested	❒ Detained
Date:	Time:	
Basis for Arrest or Seizure:		
Questioned After Arrest/Detention:	❒ Yes	❒ No
Rights Given Prior to Questioning:	❒ Yes	❒ No
Rights Waived:	❒ Yes	❒ No

POTENTIAL WITNESSES (Other than boarding team members)		
Name	**Unit**	**Position**

CUSTODY CREW		
Name	**Position**	**Time(s) Aboard Vessel**

CHAIN OF CUSTODY			
Vessel			
Seizure Tag:	❒ Yes ❒ No	Number:	
Description:			
Turnover:	Date:	Time:	Posit:
Official Accepting Turnover:			Org:
Contraband/Evidence			
Seizure/Evidence Tag:	❒ Yes ❒ No	Number:	
Description:			
Seizure/Evidence Tag:	❒ Yes ❒ No	Number:	
Description:			
Seizure/Evidence Tag:	❒ Yes ❒ No	Number:	
Description:			
Seizure/Evidence Tag:	❒ Yes ❒ No	Number:	
Description:			
Seizure/Evidence Tag:	❒ Yes ❒ No	Number:	
Description:			

VIDEO AND PHOTOGRAPHIC EVIDENCE			
Videotape Taken:	❒ Yes ❒ No	❒ Digital ❒ Tape	Number:

Photos Taken:	❒ Yes ❒ No	❒ Digital ❒ Film	Number:
Photo/Video Log Attached: ❒ Yes ❒ No			

NOTE Ensure the name and unit of photographer and videographer is included in the photo/video log. Photo/Video logs should be listed as an enclosure to the completed seizure package. Ensure a proper chain of custody is maintained on all videotapes and film to be used as evidence.

DRUG DETECTION AND IDENTIFICATION EVIDENCE			
Drug Detection Device Used:		❒ Yes ❒ No	
Check all that apply:	❒ IONSCAN	❒ CINDI	❒ Canine
	❒ Buster	❒ Other:	
Personnel Conducting Drug Detection			
Name:	Device:	Date/Time:	
Name:	Device:	Date/Time:	
Name:	Device:	Date/Time:	
Name:	Device:	Date/Time:	
Drug Detection Documentation or Other Evidence Attached: ❒ Yes ❒ No			
Describe:			
Drug Identification Device Used:		❒ Yes ❒ No	
Check all that apply:	❒ NIK/ODV	❒ Other:	
Personnel Conducting Drug Identification			
Name:	Device:	Date/Time:	
Name:	Device:	Date/Time:	
Name:	Device:	Date/Time:	
Name:	Device:	Date/Time:	
Drug Detection Documentation or Other Evidence Attached: ❒ Yes ❒ No			
Describe:			

EVIDENCE OF DRUG QUANTITY AND DESTRUCTION			
Type of Narcotics:	❒ Cocaine	Quantity:	
	❒ Marijuana	Quantity:	
	❒ Heroin	Quantity:	
	❒ Hashish	Quantity:	
	❒ Other:		Quantity:

Weighing Method and Sampling Method (if used):		
Scale Used:		
Personnel Conducting Weighing		
Name:	Role:	Date/Time:
Name:	Role:	Date/Time:
Name:	Role:	Date/Time:
Name:	Role:	Date/Time:
Drug Packaging (describe each distinct type):		
Authority for Destruction:		
Date/Time of Destruction:	Quantity Destroyed:	
Method of Destruction:		
Location of Destruction:		
Personnel Conducting Destruction		
Name:	Role:	
Name:	Role:	
Name:	Role:	
Name:	Role:	

ATTACHMENT CHECKLIST	
❒ Witness Statements	❒ Video Log
❒ Unit Smooth Log (copy)	❒ Photo Log
❒ Message Traffic	❒ Prisoner Log
❒ Radiotelephone Log	❒ Drug Detection/Identification Evidence
❒ Chain of Custody Documents	❒ Evidence of Drug Quantity/Destruction
❒ Diagram of Seized Vessel Layout	❒ Sample Drug Packaging
❒ Representative Drug Sample	

Appendix H. Outfitting and Equipping Law Enforcement Personnel

Introduction

This appendix provides policy and procedures regarding outfitting and equipping law enforcement personnel.

In this Appendix

This appendix contains the following information:

Topic	See Page
Boarding Team Uniform	H-3
Personal Protective Equipment (PPE)	H-4
Law Enforcement Belt and Equipment	H-7
Use of Force Tools and Equipment	H-8
Miscellaneous Tools and Equipment	H-11
Identification Cards, Badges, Credentials, and Patches	H-14

Boarding Team Uniform

Introduction	This section sets forth the requirements for the boarding team uniform including name tags and name tapes, insignia, and outer garments, headgear and footwear.
H.1. Boarding Team Clothing	Unit boarding team members shall wear the same Coast Guard uniform. Except as authorized below, the standard boarding uniform is Coast Guard working blue or ODU.
H.1.a. Dark Blue Coveralls	Where conditions aboard the vessel being boarded are likely to soil or damage the uniform, the CO/OIC may authorize the boarding team to wear dark blue coveralls.
H.1.b. Formal Boarding Uniform	In high visibility situations (e.g., regattas, VIP escort), the CO/OIC may authorize the boarding team to wear a more formal boarding uniform (i.e., tropical blue long).
H.1.c. Tropical Boarding Uniform	In hot, humid or tropical environments, the CO/OIC may authorize the boarding team to wear a "tropical boarding uniform". However, use of the tropical boarding uniform aboard commercial fishing vessels, merchant vessels and known AMIO cases is prohibited. The tropical boarding uniform shall consist of: • Dark blue utility shorts. • Working blue or undress blue shirt. • White crew socks (with no striping or logo). • Other prescribed clothing as described in this section (i.e., insignia, outer garments, headgear, footwear, body armor, personal flotation device (PFD), law enforcement belt). Shorts shall be of the same fabric, color, and cut as the working blue pants. The shorts shall be hemmed between 4 to 6 inches above the knee and shall not expose the fabric of the pockets during normal activity. No tee shirts of any type shall be worn as outer garments with this uniform.
H.2. Name Tags and Name Tapes	Name tags or cloth name tapes may be worn on the uniform shirt as an optional item by boarding team personnel, provided all members wear the same type. If worn, name tags and name tapes shall be displayed and constructed as specified in the *Uniform Regulations*, COMDTINST M1020.6 (series). Also optional is the wearing of name tapes on Type III PFDs, anti-exposure coveralls, or float coats. Name tapes worn on Type III PFDs, anti-exposure coveralls, or float coats shall be displayed on the right breast pocket flap, centered directly above the Coast Guard ensign. Units are authorized to procure name tags and name tapes for permanent issue to boarding team members.
H.3. Insignia	Only those insignia specifically authorized by the *Uniform Regulations*, COMDTINST M1020.6 (series) and this section may be worn. Wearing non-standard insignia (e.g., law enforcement patches) is prohibited.
H.4. Outer Garments	When standard uniform outer garments provide inadequate protection due to inclement weather or climatic conditions, units shall procure and provide appropriate protective outer garments as organizational clothing, as authorized by the *Uniform Regulations*, COMDTINST M1020.6 (series).

H.5. Headgear

Except as authorized below, the standard headgear is a dark blue baseball-style ball cap with adjusting tab at the back and the words "U.S. COAST GUARD" embroidered across the peak of the cap or on a patch attached to the cap. In the latter case, stitching attaching the patch and the background color of the patch shall be the same dark blue material as the cap. Unit insignia, logos or other art work on the ball cap are not permitted. Officers shall wear the metal or embroidered miniature cap device appropriate to their rank. Chief petty officers, petty officers, and non-rated personnel shall wear the metal or embroidered collar insignia appropriate to their rank. For cold weather operations, a black knit watch cap may be worn in lieu of the ball cap. The wearing of combination caps, garrison caps, or other headgear not specifically authorized is prohibited. Units are authorized to procure ball caps for permanent issue to boarding team members.

H.6. Footwear

Unit boarding team members shall wear the same color and type of footwear.

- Footwear must be free of paint, salt, or other stains.
- The standard footwear when boarding yachts, recreational vessels, and sailboats is dark brown "boat shoes" (with non-marking, non-skid soles).
- Rubber, all-weather outer boots are authorized for cold or heavy weather boardings or when boarding fishing vessels.
- Units are authorized to procure footwear for permanent issue to boarding team members.

Personal Protective Equipment (PPE)

Introduction

This section sets forth carriage requirements and equipment specifications for body armor; personal flotation devices; head, feet, ear, eye, and hand protection; gas and radiation monitoring equipment; respiratory protection gear; and other protective clothing or equipment.

H.7. Body Armor

Body armor shall be worn as described below. Deviations from these requirements may be authorized by the District/Area Commander in special circumstances.

H.7.a. Wear Requirements

Body armor shall be worn:

- By all personnel engaged or assisting in the performance of law enforcement or security activities.
- By all personnel when carrying or transporting firearms.
- By boat crew personnel when en route to or from, and during boarding operations.

Body armor may be worn either under the uniform shirt or, when supplied with a dark blue cover, over the uniform shirt and under a PFD. However, if it is anticipated that the PFD will be taken off at any time during the boarding, the body armor shall be worn under the uniform shirt.

H.7.b. Specifications

Body armor shall meet the following minimum specifications, regardless of the manufacturer. Deviation from these requirements is prohibited.

- Full front, side, and back protection between the base of the neck and the belt line.
- Neutral or positive buoyancy.
- Level IIa (International Association of Chiefs of Police (IACP), National Institute of Justice (NIJ)-STD-O1O1.03) or greater protection, both wet and dry, against penetration and deformation.

	• Certified by the NIJ.
H.7.c. Body Armor Trauma Plate	Wearing of the trauma plate shall be at CO's discretion.
H.8. Personal Flotation Devices and Survival Vest	Boarding team personnel shall wear PFDs and survival vest at all times when embarking or disembarking small boats, or being transported by boat to or from the vessel being boarded. During a boarding, boarding team personnel may remove their PFDs and survival vest when necessary (such as to go below decks or into a confined space). PFDs and survival vest must be clean and free of stains or blemishes.
H.8.a. Standards	The standard PFD for boarding operations is an international orange, Type III vest. In lieu of a PFD in cold or heavy weather operations, the boarding team is authorized to wear standard issue, international orange anti-exposure coveralls (mustang suits), or float coats as described in the *Rescue and Survival Systems Manual*, COMDTINST M10470.10 (series).
H.8.b. Automatic Inflatable PFDs	Automatic inflatable PFDs are authorized and may be worn as authorized by the *Rescue and Survival Systems Manual*, COMDTINST M10470.10 (series).
H.8.c. Marking Garment	PFDs, anti-exposure coveralls, and float coats worn during law enforcement operations shall be free of manufacturer's emblems on the outside of the garment and marked as follows: • On the left breast, with a Coast Guard emblem as described in Title 33, Code of Federal Regulations, Subpart 23. The emblem shall have a diameter of three inches, plus or minus ¼ inch. • On the right breast, with a Coast Guard ensign as described in Title 33, Code of Federal Regulations, Subpart 23. The ensign shall measure 2 ½ inches in height and 3 ½ inches in width, plus or minus ¼ inch. • In the center of the back, with the words "U.S. COAST GUARD" in block letters measuring 2 ½ inches plus or minus ½ inch. Lettering shall be solid black or white in color against the international orange background. • Identification markings should be applied using a silk screen process or embroidered patch. Silk screened markings are available from manufacturers or distributors as described in the Rescue and Survival Systems Manual. The embroidered patch may be procured locally and sewn or attached to the garment using adhesive.
H.8.d. Boat Crew Survival Vest	Excerpt from *Rescue and Survival Systems Manual*, COMDTINST M10470.10 (series): The boat crew survival vest is used to store survival components required during operational missions. The vest is worn by all coxswains, crewmembers, Boarding Officers and boarding team members over a Type I or Type III Coast Guard-approved PFD, anti-exposure coverall, or float coat on all missions. The components of the boat crew survival vest shall not be removed to other devices.
H.9. Head, Feet, Ear, Hand, and Eye Protection	Based upon a hazard assessment of unit boarding operations by cognizant safety and environmental health (SEH) staff, appropriate PPE may be prescribed to control the hazards present. Some examples would include: • While conducting small boat operations from a cutter and when other overhead hazards exist, i.e., objects falling from other boarding team members while ascending a pilot ladder, a standard Coast Guard "hard-hat" of other head protection meeting ANSI Z89.1-1985 shall be worn. Upon arrival aboard the vessel, teams can remove the hard hat for tactical reasons. • If greater tactical "presence" is required than what is provided by a standard hard-hat, alternative protective headgear, i.e., a "tactical" helmet, may be used. If an SEH review

indicates that such headgear provides adequate protection from impact and penetration risks, while meeting the needed tactical requirements, then they would not necessarily need to meet the ANSI Z89.1 standard.

- When foot injury potential exists, i.e., for most boardings of merchant vessels or fishing boats, protective footwear meeting ANSI Z41-1992 shall be worn. These can be the Coast Guard-issue black, steel-toed working boots or any other safety shoes with black canvas or leather uppers; black non-marking, non-skid soles; and no visible product labels or striping.
- Boarding personnel who encounter noise sources above 85 dB (loud enough to require shouting between persons two feet apart in order to communicate) shall wear hearing protection that attenuates that noise to 85 dB or less while in close proximity to such noise sources. Transits to and from boardings aboard small boats and transits through machinery spaces while conducting ISIs are examples of times in which this hearing protection should be used. Foam earplugs on an elastic neck-band are a good choice as they allow quick insertion with a single hand. Inter-team communication equipment that provides the required attenuation would also be a good selection for this hazard.
- When conducting LE and inspection activities aboard foreign vessels, AMIO operations, or any other situation in which biohazards may be present or where there is potential contact with chemicals, i.e., oils, corrosives, etc., nitrile or other chemical-resistant gloves shall be worn. Upon completion of operations, the gloves shall be disposed of and proper hygiene used.

H.10. Gas and Radiation Monitoring Equipment

All boarding team members shall carry the Coast Guard-standard disposable oxygen monitor during any boarding in which they may enter enclosed spaces. If entry is necessary to spaces where specific atmospheric hazards may exist—ammonia, hydrogen sulfide, carbon monoxide, or flammable gases—there must be a competent person available to the boarding team with the necessary gas detection equipment to certify that the spaces are safe for entry as per confined space entry guidance. Boarding teams shall carry the Coast Guard standard personnel radiation detector and shall have more sophisticated radiation location and characterization equipment available in accordance with the *Marine Safety Manual*, COMDTINST M16000 (series).

H.11. Respiratory Protection

Each boarding team member shall carry the Coast Guard standard emergency escape respirator during boardings in which they may enter enclosed spaces or for working in spaces certified safe for entry by a marine chemist or competent person. For boardings in which the cargo or onboard activities could pose an atmospheric hazard but where team members would not enter enclosed space, the emergency escape devices shall be readily available, e.g. in the boarding kit. Boarding teams shall have available N95/N100 disposable respirators during boardings in which there are suspected respiratory biohazards, e.g., tuberculosis, Severe Acute Respiratory Syndrome (SARS). These shall be worn by boarding members if pre-boarding information indicates a confirmed or suspected case of a crewmember with an infectious disease.

H.12. Other Protective Clothing or Equipment

Based upon the hazard assessment of the boarding operations by cognizant SEH staff, other appropriate PPE may be prescribed to control any hazards present.

Law Enforcement Belt and Equipment

Introduction

This section sets forth carriage requirements and equipment specifications for the law enforcement belt, including holsters, keepers, storage pouches and flashlights.

H.13. Law Enforcement Belt

The law enforcement belt, holster, keepers, and storage pouches shall be made of either black ballistic nylon or black leather.

H.13.a. Wear Requirements

Boarding team personnel shall wear the law enforcement belt at all times when conducting law enforcement operations. The following equipment shall be carried on the law enforcement belt:

- Coast Guard M-9 pistol.
- Expandable baton.
- Canister of OC pepper spray.
- Minimum of two 15-round magazines, with one magazine loaded in the weapon and a second carried on the belt.
- Handcuffs and key.
- Flashlight; mission requirements may expose personnel to hazardous environments. Intrinsically safe flashlights shall be employed when there is the risk of exposure to hazardous environments or the potential to encounter explosive or combustible substances. Flashlights carried on the law enforcement belt shall be no larger than those designed to hold three C-cell or two D-cell batteries.
- Other gear including keepers, magazine pouch, holster, chemical irritant pouch, flashlight ring, handcuff case, and impact weapon holder.

H.13.b. Equipment Arrangement

Boarding team personnel may arrange equipment on law enforcement belts at their discretion, except that the holster and M-9 pistol shall be placed on the strong side of the individual.

NOTE

Magazine pouches shall be worn in the upright position.

H.13.c. Additional Items

Boarding team personnel may carry additional items of equipment on the law enforcement belt (e.g., folding knives, handcuff key holders) with command approval. To the extent possible, the color, finish, and material of such items shall match that of the law enforcement belt. Carriage of straight-bladed (non-folding) knives is prohibited.

H.13.d. PFD

An authorized and properly donned PFD will keep a person afloat while wearing the full law enforcement belt . If because of sea state or other conditions the member feels that the PFD is not providing the proper buoyancy, they may discard the law enforcement belt. If the personnel defense weapon and ammunition is lost, the Unit shall follow the reporting of loss of small arms in the *Ordnance Manual*, COMDTINST M8000.2 (series), adding Commandant (G-OPL) to the message PLAD. If the personal defense weapon is lost in shallow waters, all attempts should be made to recover it using certified divers.

H.14. Holsters

All boarding team members shall wear the same type of holster.

H.14.a. Standard Ride	The holster for carrying the M-9 pistol shall be a "standard ride," "thumb break" type. Standard ride is defined as any belt-mounted holster that, when properly fastened to the belt and with the pistol snapped in position, holds the pistol's grip no lower than 4 inches below the belt. Thumb break is defined as a holster with a retaining strap that passes over the back of the de-cocked pistol's hammer and with a metal snap that requires thumb pressure toward the body to release the strap.
H.14.b. Weapon Retention	The holster may include those styles designed specifically to enhance weapon retention. If the holster requires any action to remove the pistol other than a straight upward pull by the operator, then the unit will be responsible to provide training for personnel on the holster being used by the unit, and to ensure range training is conducted utilizing the holster carried by the unit.
H.14.c. Prohibitions	Shoulder-, leg-, or thigh-strapped holsters are prohibited.

Use of Force Tools and Equipment

Introduction	Coast Guard personnel authorized to use Coast Guard use of force tools and equipment shall adhere to the following carriage requirements, equipment specifications, supplemental policy, and qualification requirements: This section sets forth carriage requirements, equipment specifications, supplemental policy, and qualification requirements for restraint devices, chemical irritants, expandable baton, and standard service weapons.
H.15. Restraint Devices	Handcuffs are the preferred restraint device when dealing with a small number of subjects. Handcuffs shall be of steel, chain-linked construction, capable of being double-locked, with a nickel, blued, or stainless steel finish.
H.15.a. Flexible Handcuffs	The use of flexible handcuffs for the temporary restraint of subjects is also authorized. Since they do not require a key and are relatively easy to apply, flexible handcuffs are particularly useful and appropriate when dealing with large numbers of subjects (e.g., migrants).
H.15.b. Leg Irons	Leg irons are authorized restraint devices and may be the preferred option for restraining subjects for extended periods of time.
H.15.c. Migrant Restraint Harness	Migrant restraint harnesses are authorized for use when dealing with large numbers of subjects.
H.15.d. Restraint to Fixed Object	Restraint devices may be used alone or in combination with one another. Restraining persons to a fixed object (e.g., stanchion or span wire) is authorized. The CO shall ensure that appropriate measures (e.g., keys or cutting devices are readily available) are taken to ensure the safety of the restrained persons in the event of a shipboard emergency.
H.15.e. Other Reasonable Measures	When authorized restraint devices are not available, other reasonable measures may be used for the temporary restraint of subjects.

H.15.f. Qualification	Personnel are not authorized to use restraint devices unless they are qualified to carry or use handcuffs in accordance with the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series).
H.16. Chemical Irritants	Only chemical irritants containing the active ingredient OC are authorized for carriage or use by Coast Guard personnel.
H.16.a. Requirements	The aerosol must contain no greater than 10% and no less than 5% OC concentration. OC spray shall not exceed 500,000 Scoville Heat Units (SHU's), or exceed 18% capsacinoids. It shall have a water-based carrier, be non-flammable, non-toxic, and produce a straight stream delivery (not fog). The OC pepper spray canister shall be approximately 3 oz. net weight, with thumb activation and a safety mechanism.
H.16.b. Qualification	Unless specifically waivered by Commandant (G-OPL), personnel are not authorized to carry OC or other chemical irritants unless they have completed the applicable sections of *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series).
H.17. Expandable Baton	The expandable baton is the only intermediate weapon authorized to be carried on the equipment belt by Coast Guard personnel.
H.17.a. Requirements	The expandable baton shall have a steel shaft that is silver in color and corrosion resistant (e.g., chrome, nickel, stainless steel) and have no knurling or sharp edges. It shall have a foam, or similar, non-slip grip. It shall be rigid when deployed and must be no less than 15 inches and no greater than 22 inches in length when expanded. Spring-loaded or other trigger-style batons are not authorized.
H.17.b. Qualification	Personnel are not authorized to carry or use the expandable baton unless they are qualified in accordance with the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series).
H.18. Standard Service Weapons	
H.18.a. Coast Guard M-9 Pistol	Coast Guard law enforcement personnel armed with the M-9 pistol shall carry it on the strong arm side of the law enforcement belt with a 15-round magazine inserted, a round chambered and the de-cocking lever up, and at least one additional 15-round magazine. Carriage of the M-9 pistol in a concealed manner is prohibited. Weapon specifications and qualification requirements for the M-9 pistol are referenced in the *Ordnance Manual*, COMDTINST M8000.2 (series).
H.18.b. Riot Shotgun	When there is an articulable suspicion that there is an increased threat to the boarding team's safety, one or more boarding team members may carry a riot shotgun and the equipment necessary to support its use. Due to the difficulty in ensuring sidearm retention when carrying the shotgun, only one or the other will normally be carried. If circumstances warrant, the CO/OIC may specifically authorize carriage of both the shotgun and sidearm simultaneously.

When carried, the riot shotgun shall be loaded with four rounds of ammunition, with no rounds chambered.

Weapon specifications and qualification requirements for the riot shotgun are referenced in the *Ordnance Manual*, COMDTINST M8000.2 (series).

H.18.c. Modified 12-Gauge Remington 870 Shotgun

Weapon specifications for the modified Remington 870 shotgun are referenced in the *Ordnance Manual*, COMDTINST M8000.2 (series).

H.18.c.1. Sting Ball Rounds

Sting ball rounds authorized for use contain approximately twenty-three .31-caliber rubber balls and are designed to travel at a rate of approximately 900 feet per second. 12-gauge sting ball munitions shall only be used when between 5 to 15 yards from the intended target. At ranges closer than 5 yards, use of the sting ball round may constitute deadly force. At ranges greater than 15 yards, use of the sting ball round is likely to be inaccurate and/or ineffective. The sting ball round shall not be aimed at the head or neck area of the intended target. A yellow "stock sock" shall be used whenever the modified 12-gauge Remington 870 shotgun is loaded with sting ball munitions. This removable nylon sleeve is used to identify the weapon as a non-lethal delivery system.

H.18.c.2. Rubber Fin-Stabilized Rounds

Rubber fin-stabilized rounds authorized for use shall be approximately 3 inches in length and designed to travel at a rate of approximately 600 feet per second. 12-gauge rubber fin-stabilized munitions shall only be used when between 15 to 30 yards from the intended target. At ranges closer than 15 yards, use of rubber fin-stabilized rounds may constitute deadly force. At ranges greater 30 yards, use of rubber fin-stabilized rounds is likely to be inaccurate and/or ineffective. The rubber fin-stabilized round shall not be aimed at the head or neck area of the intended target. A yellow "stock sock" shall be used whenever the modified 12-gauge Remington 870 shotgun is loaded with rubber fin-stabilized munitions. This removable nylon sleeve is used to identify the weapon as a non-lethal delivery system.

H.18.c.3. Copper Sabot Slug

Copper sabot slugs authorized for use are 12-gauge Remington premier copper solid sabot slugs. They consist of a 1-oz. slug, contained in a 3-inch shell and have a muzzle velocity of 1550 ft/sec. 12-gauge copper sabot slugs shall only be used when between 10 to 40 yards from the intended target. The 12-gauge copper sabot slugs shall only be aimed at the outboard engine (s) or exposed engine compartment(s) of the intended target. The use of the copper sabot slug may constitute deadly force when directed at personnel, rather than machinery. A yellow "stock sock" shall <u>not</u> be used when the modified 12-gauge Remington 870 shotgun is loaded with copper sabot slug munitions.

H.18.c.4. Qualification

Coast Guard personnel are not authorized to carry or use any 12-gauge munitions unless they:

- Are thoroughly familiar with the Coast Guard Use of Force Policy.
- Have successfully completed the Riot Shotgun (RSG) PQS as set forth in *Chapter 17*, *Section D* of the *Ordnance Manual*, COMDTINST M8000.2 (series).
- Have successfully completed the Practical Riot Shotgun Course.
- Are determined by the CO/OIC to possess the temperament, maturity and judgment to make reasonable and correct use of force decisions under pressure. Such determinations must be certified in writing.

Coast Guard personnel are not authorized to carry or use the sting ball or rubber fin-stabilized munitions unless they have met the qualifications in *Section H.18.b* above and

have successfully completed the Tactical Riot Shotgun Course (TRSC) using the sting ball and rubber fin-stabilized munitions.

H.18.c.5. Requalification

Personnel authorized to employ 12-gauge non-lethal munitions must requalify level II (semi-annually) by successfully completing both the RSG course and, where appropriate the TRSG course, in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series).

H.18.c.6. Ammunition

The *Ordnance Manual*, COMDTINST M8000.2 (series) contains policy regarding the stowage and use of non-lethal munitions.

H.18.d. M-16 Rifle

At the discretion of the CO, boarding team personnel may carry the M-16 rifle on to a boarded platform when conducting a security boarding pursuant to *Chapter 10* or in other boardings where there is reason to believe the vessel or persons onboard pose a substantial risk to the boarding team. During security boardings, the M-16 is intended to provide a point-defense capability. Boarding team personnel carrying the M-16 rifle on a boarding shall meet all training requirements for level II qualifications in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series), be trained on the Coast Guard Use of Force Policy, and have successfully completed the Judgmental Pistol Course. Carriage shall be in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series). A round may be chambered when firing the weapon is contemplated. Boarding team members carrying the M-16 rifle during a boarding shall be mindful of the ricochet, spark, and other risks of using semi-automatic and automatic fire in confined spaces.

Weapon specifications for the M-16 rifle are referenced in the *Ordnance Manual*, COMDTINST M8000.2 (series).

H.18.e. Qualifications

Coast Guard personnel are not authorized to carry or use a standard service weapon unless they:

- Have been trained in the use of the weapon (proficiency) in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series), and qualified in the judgmental pistol course of fire in accordance with current directives.
- Have been trained and equipped to use non-deadly force in accordance with this Manual and other current directives.
- Are thoroughly familiar with the Coast Guard Use of Force Policy.
- Are determined by the CO/OIC to possess the temperament, maturity and judgment to make reasonable and correct use of force decisions under pressure. Such determinations must be certified in writing.

Miscellaneous Tools and Equipment

Introduction

This section sets forth policy regarding boarding kits, access kits, job aids, confined space equipment, breathalyzers, document identification, and other specialized tools and equipment.

H.19. Boarding Kits

The boarding team shall carry with it on every boarding, a kit containing the minimum basic supplies and equipment specified in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, **Figure 5-1**. Additional equipment necessary to properly complete the boarding may be carried. For example, on fisheries-specific boardings the boarding kit should include a calculator with decimal/memory functions, scales, species measuring tools, tools for measuring fishing gear,

appropriate reference publications and required fisheries enforcement forms. The boarding kit should be waterproof and structurally strong enough to withstand the stresses during boardings.

H.20. Access Kit

Tools are often needed to access or inspect tanks, sealed compartments and other inaccessible areas of the boarded vessel. Units shall maintain an access kit containing appropriate tools (e.g., portable battery-powered drill, crowbar, screwdrivers, wrenches, hammers). Access kits should be kept aboard the boarding platform until needed by the boarding team.

H.21. Job Aids

H.21.a. Boarding Officer Job Aid Kit

The *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series), shall be carried on every Coast Guard boarding. It is recommended that it be carried in the boarding kit.

H.21.b. Authority Cards

Authority cards contain statutory excerpts describing the basis for Coast Guard law enforcement authority and the authority vested in Boarding Officers as federal law enforcement officials. They do not contain identifying information pertaining to the carrier and do not provide the carrier with any additional law enforcement authority or status, whatsoever.

- Authority cards are authorized optional items that may be carried by boarding team personnel.
- Authority cards may be ordered through the Federal Stock System using stock number SN-7530-01-GF2-8580.
- Text contained on the authority cards is also reprinted in the *Boarding Officer Job Aid Kit (BOJAK)*, COMDTINST M16247.6 (series), *Section K*.

H.21.c. Advice to Suspects Cards

Advice to Suspect cards contain rights warnings applicable to both military and civilian suspects and are authorized optional items that may be carried by boarding team personnel.

- Advice to Suspect cards may be ordered through the Federal Stock System using stock number SN-7530-01-GF2-8590.
- Text contained on the Advice to Suspect cards is also reprinted in the *Boarding Officer Job Aid Kit (BOJAK),* COMDTINST M16247.6 (series), *Section K*.

H.22. Confined Space Equipment

As per applicable confined space standards and guidance (*Safety and Environmental Health Manual*, COMDTINST M5100.47 (series); *Naval Engineering Manual*, COMDTINST M9000.6 (series); NSTM 074, 29 CFR 1915; and *NFPA 306*), boarding personnel shall not enter any confined or enclosed spaces that are likely to have atmospheric hazards-oxygen depletion, flammable gases, toxic contaminants--until they have been certified safe for entry by a competent person. If any type of hot work-burning, grinding, welding--is required in such spaces, an additional certification must be provided by the competent person.

Likely locations during boarding that could contain atmospheric hazards include cargo and fuel tanks, ballast tanks, voids, double bottoms, cofferdams, chain lockers, fish holds, and pump rooms.

Equipment needed by a competent person to certify such spaces include properly calibrated oxygen, flammable gas, and toxic gas meters. A combination four-gas (O2, LEL, CO, and H2S) with the necessary pumps and probes should be the minimum and inclusion of multi-chemical sensors like a Photo-Ionization Detector (PID) is recommended. These should be available during the boarding to the designated competent person and may be carried in the boarding kit or special confined space kit.

H.23. Breathalyzer

Coast Guard units shall only use the Alco-Sensor III or IV breath alcohol tester manufactured by Intoximeters, Inc., for evidential BAC testing when conducting BUI enforcement for federal enforcement purposes. District Commanders are encouraged to develop MOAs/MOUs with state and local agencies for BUI enforcement, and may authorize units to procure and use other evidential BAC testing equipment for this purpose.

Personnel are not authorized to administer a breath alcohol test for evidential testing unless they are qualified in accordance with the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series).

Units shall ensure adherence to the equipment calibration requirements contained in the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series).

H.24. Document Examination Tools

The following are authorized optional items which may be carried in the boarding kit for examining personal identification and travel documents to determine if they are genuine, altered, or counterfeit documents:

- An optical lens (loupe) - small magnifying glass
- Ultraviolet light (black light)

H.25. Other Specialized Tools and Equipment

Based upon the hazard assessment of the boarding operations by cognizant SEH staff, other appropriate hazard detection, evaluation, and control tools and equipment may be recommended. These may include detection devices and PPE for Weapons of Mass Destruction / Chemical, Biological, Radiological, and Nuclear (WMD/ CBRN) agents.

Identification Cards, Badges, Credentials, and Patches

Introduction

This section sets forth policy and carriage requirements for identification cards, law enforcement badges and credentials.

H.26. Identification Cards

All boarding team personnel shall carry their Armed Forces Identification Card during boardings in the event formal identification of the member is requested and display of it is deemed appropriate by the Boarding Officer.

H.27. Law Enforcement Badges and Credentials

A law enforcement badge or credential is defined as any organizationally controlled/assigned identifying document or device intended to give the bearer special status as a law enforcement officer. The only law enforcement badges authorized for use in the Coast Guard are the U.S. Coast Guard Special Agent Badges issued in accordance with the *Coast Guard Investigations Manual*, COMDTINST M5527.1 (series), and the Coast Guard Security Police Badge issued in accordance with the *Physical Security and Force Protection Program*, COMDTINST M5530.1 (series). The use of these or any other badges or credentials by boarding team personnel is prohibited.

H.28. K-9 Patches

For security and safety reasons, personnel who are assigned to a Coast Guard Canine Handler Team (CHT) are required to wear a K-9 patch to identify themselves, and to alert citizens and any other personnel of the canine's presence. The patch shall be worn on both the right and left sleeves. Alignment of patches shall be the same as for the rate designator on the Service Dress Bravo Jacket in accordance with the *Uniform Regulations*, COMDTINST M1020.6 (series). Commandant (G-OPL-2) will be the source for initial issue and replacement issues.

Appendix I. Weapons Carriage Abroad and Aboard Aircraft

Introduction

This appendix contains requirements for carriage of weapons abroad and aboard Coast Guard and commercial aircraft.

In this Appendix

This appendix contains the following information:

Topic	See Page
Carrying Weapons Abroad	I-3
Weapons Aboard Coast Guard Aircraft	I-4
Weapons Carried Aboard Commercial Aircraft	I-4

Carrying Weapons Abroad

Introduction	Coast Guard personnel may be required to carry weapons while abroad for personal protection, law enforcement support of a host nation, or in a military role, such as a peacekeeping operation.
I.1. Conformance with U.S. Ambassador Policies	Coast Guard personnel who are temporarily or permanently stationed abroad will conform to the weapons policy prescribed by the U.S. Ambassador in-country. Whenever possible, this policy will be included as part of an interagency MOU.
I.2. Threat Level	In anticipation of an international visit, Coast Guard personnel shall inquire about the threat level from the cognizant U.S. Embassy. If the Embassy advises that weapons will be required for personal protection while in-country, Coast Guard personnel shall seek authorization to carry weapons from their Flag-level program director, via the chain of command, prior to departing.
I.3. Ambassador Direction	When in-country, if the ambassador directs Coast Guard personnel to carry a weapon, they shall comply and advise their Flag-level program director via the chain of command. When in-country, if the ambassador recommends or approves the discretionary carrying of weapons by Coast Guard personnel, such personnel shall seek approval, except in exigent circumstances, to carry weapons from their Flag-level program director prior to carrying a weapon. If Coast Guard personnel carry weapons in exigent circumstances without prior approval, such personnel shall notify their Flag-level program director at the earliest opportunity.
I.4. Qualification	Except in exigent circumstances, Coast Guard personnel must be weapons qualified in accordance with current directives before carrying a weapon. A statement of current qualification should be included in any request for Flag-level program director weapons approval.
I.5. Weapons	Coast Guard personnel authorized to carry a weapon will normally carry an M-9 pistol. Permission to carry non-standard weapons must be explicitly granted by the Flag-level program director. Weapons may only be carried in a concealed manner if authorized by the policies of the cognizant U.S. Embassy.
I.6. Host Nation Boarding Operations	Coast Guard personnel must have specific permission from their Flag-level program director to participate as armed observers or participants in host nation boarding operations. This policy does not affect boarding procedures from Coast Guard cutters, U.S. naval vessels or boardings conducted from foreign vessels pursuant to international agreements.
I.7. Cognizant Program Manager	Cognizant program managers shall maintain a list of personnel temporarily or permanently stationed abroad who are authorized to carry a weapon. The cognizant program manager shall also keep records of weapon qualifications and weapons issued to these personnel

Weapons Aboard Coast Guard Aircraft

I.8. Responsibility of CO/OICs and Pilots in Command

The CO/OIC and Pilot in Command shall ensure that this weapons policy is followed. In cases not specifically covered in this Manual or other directives, the Pilot in Command shall be final authority as to the carriage, condition, and use of weapons aboard Coast Guard vessels and aircraft.

I.9. Weapons Carried by Coast Guard Aircrew Personnel

Except as provided by the *Operation New Frontier Procedures Manual*, COMDTINST M3120.2 (series), Coast Guard aircrew personnel normally do not carry weapons aboard Coast Guard aircraft. However, if weapons are necessary, aircrew personnel carrying weapons shall be qualified in accordance with the *Ordnance Manual*, COMDTINST M8000.2 (series). Only standard service weapons and ammunition shall be used; the use of personal or privately-owned weapons is prohibited. Weapons shall be carried or stowed aboard the aircraft in accordance with the *Coast Guard Air Operations Manual*, COMDTINST M3710.1 (series), and *Ordnance Manual*, COMDTINST M8000.2 (series).

I.10. Weapons Carried by Non-Aircrew Personnel

Subject to the Air Station CO and Pilot in Command's approval, non-aircrew personnel performing official duties may be allowed to carry weapons while being transported aboard Coast Guard aircraft. *Appendix C* to the *Operation New Frontier Procedures Manual*, COMDTINST M3120.2 (series), addresses the carriage of weapons for MHS mission accomplishment by non-aircrew personnel performing official duties:

- On missions requiring transportation for logistics purposes only, and where there is no conflict between the following rule and the policy of any other agency involved, weapons may be loaded, but will not have a round in the chamber; non-aircrew personnel shall clear their weapons in a safe area away from the aircraft and public areas prior to boarding.
- The policy applicable to Coast Guard aircrew personnel carrying weapons shall govern on missions where:
  - Transportation is required for logistics only, but a conflict in weapons policy exists.
  - Transportation of non-aircrew personnel is essential to Coast Guard support of another agency's mission (e.g., dignitary protection).
  - Coast Guard personnel, as well as other agency personnel, are armed as part of an operation being undertaken jointly.
- The weapons that other agencies carry may differ from Coast Guard weapons; the Pilot in Command should always ascertain what type of weapons is being carried by any non-aircrew personnel and provide an overview of applicable Coast Guard policy prior to the flight.

Weapons Carried Aboard Commercial Aircraft

I.11. Rules and Regulations

Coast Guard personnel who are required to carry firearms, ammunition, OC pepper spray, and/or pyrotechnics on their person in the performance of their duties while onboard commercial aircraft, or who are required to transport these items aboard commercial aircraft, must do so in accordance with Federal Aviation Administration (FAA) rules and regulations. General information on these rules and regulations can be found in *Chapter 13* of the *Ordnance Manual*, COMDTINST M8000.2 (series).

I.12. OC Pepper Spray

Coast Guard personnel required to transport OC pepper spray onboard commercial aircraft shall ensure that OC pepper spray is carried in checked baggage only. Only one canister of OC pepper spray, not to exceed four fluid ounces (118 ml) may be carried in each checked bag. By following these guidelines, FAA regulations do not require that Coast Guard personnel declare the OC canisters.

Appendix J. Special Incident Procedures

Introduction

This appendix provides policy and procedures for responding to certain special incidents that may require immediate action before units are able to consult with higher authority. Once the urgency has passed, units should seek additional guidance from higher authority, particularly with respect to appropriate law enforcement action. Specific procedures for dealing with maritime terrorist incidents are found in *Appendix G* to this Manual. MHS law enforcement policy is found in *Chapter 10* of this Manual. Detailed background and tactical information pertaining to preventing and responding the maritime terrorism is found in the *Marine Safety Manual*, *Volume VII, Port Security,* COMDTINST M16000.12 (series), C*hapter 6*, and the *Physical Security and Force Protection Program*, COMDTINST M5530.1 (series).

In this Appendix

This appendix contains the following information:

Topic	See Page
Bomb Threat	J-3
Ramming	J-3
Labor Disputes	J-4
Special Operations Vessel	J-4
Suicidal Persons	J-5
Public Health Alerts and Quarantine	J-6
Post-Shooting Procedures	J-8

Bomb Threat

Introduction

For a bomb threat or discovery of a suspected bomb onboard a Coast Guard unit, refer to *Physical Security and Force Protection Program*, COMDTINST M5530.1 (series), *Chapter 12*. In the case of a bomb threat or discovery of a suspected bomb aboard a vessel being boarded, unless special circumstances dictate otherwise, the boarding team should depart the vessel, maintain surveillance, and notify OPCON.

This section sets forth policy and initial response actions regarding a bomb threat or discovery of a suspected bomb on a boarded vessel

J.1. Search Techniques

If the CO/OIC determines that special circumstances require that Coast Guard personnel must search for, approach, or move a suspected bomb prior to the arrival of explosive disposal personnel, the guidance provided below applies. Search techniques are contained in the *Physical Security and Force Protection Program*, COMDTINST M5530.1 (series), *Chapter 12*.

- If practicable, the CO/OIC shall consult with OPCON prior to initiating the search.
- The CO/OIC shall consider removing from the vessel all persons not involved in the search for the suspected bomb.
- The persons searching for and/or approaching the suspected bomb should wear as much protective clothing as is readily available (e.g., flak vest, body armor, battle helmet, protective gloves, protective footwear, protective eyewear).
- The use of a radio or other electronic device in the proximity of a bomb could trigger detonation. Therefore, any signal-emitting electronic device should be secured when in the vicinity of a suspected bomb.

J.2. Explosion on a Boarding Vessel

If an explosion takes place on a vessel being boarded by Coast Guard personnel, rescue and assistance efforts may be required. If practicable, the vessel should be salvaged for evidentiary purposes. Persons removed from the vessel should normally be treated as potential suspects and detained pending instruction from OPCON.

Ramming

Introduction

This section sets forth policy and initial response actions regarding ramming situations.

J.3. Self-Defense

Responding to a ramming or attempted ramming of a Coast Guard or DoD vessel, or vessels under Coast Guard TACON, is considered an act of unit self-defense. In such situations, the SROE apply and specific procedural guidance is contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4, *paragraph 7.15*.

J.4. Response Procedures

Responding to a ramming or attempted ramming of a vessel other than those described above is usually considered a law enforcement action. In such cases, units shall adhere to the Coast Guard Use of Force Policy governing individual self-defense. Specific procedural guidance follows:

- In addition to other use of force options, the CO/OIC should consider maneuvering to fend off the vessel attempting the ramming and/or to minimize the effect of a ramming

on the third vessel. Any decision to place a Coast Guard unit between the two vessels should only be made after weighing all available courses of action, particularly with respect to the safety of Coast Guard personnel and all other persons on-scene.

- Once the situation is under control, the unit should provide assistance to the crew of the rammed vessel if necessary (even if such assistance delays or prevents law enforcement action against the ramming vessel).
- The unit should conduct a boarding of the ramming vessel to conduct a criminal investigation.

Labor Disputes

Introduction

Many incidents originally reported as, or suspected to be, mutinies are in reality labor disputes. A labor dispute typically does not involve criminal activity. Guidance regarding Coast Guard response in labor disputes is contained in the *Marine Safety Manual*, *Volume VII, Port Security,* COMDTINST M16000.12 (series), *Chapter 6.E*.

This section sets forth policy and initial response actions regarding labor disputes.

J.5. Calming Influence

Coast Guard units should not attempt to settle or mediate labor disputes. Operational Commanders may dispatch units to the scene of a reported labor dispute to ensure there is no criminal activity involved and/or to have Coast Guard presence serve as a calming influence.

J.6. Affect on U.S. Ports and Waterways

During maritime labor disputes affecting U.S. ports and waterways, Captains of the Port may provide for the safe transit of vessels without interfering with the rights of unions and others to demonstrate. Judicious employment and enforcement of security and safety zones may limit the impact of labor disputes on the navigability of the waterway, without interfering with a visible forum for those in the dispute to exercise their freedoms of speech and assembly. To ensure the safety and security of the port, the COTP may impose requirements on vessels, require permission be given by the COTP before moving a vessel, establish one-way or limited vessel traffic patterns, and other measures deemed necessary to in order to secure vessels, waterfront facilities, or waters of the United States from damage or injury, or to secure the observance of the rights and obligations of the United States.

J.7. Disputes Aboard Foreign Vessels

In the case of labor disputes aboard foreign flag vessels, the U.S. generally refrains from taking any action unless the master or the flag State request assistance or the vessel is in U.S. internal waters and the activity aboard the vessel disturbs the peace of the port (see *Chapter 2.B.3.c*).

J.8. Further Guidance

See *Chapter 12* for guidance regarding obstructions to navigation involving labor disputes.

Special Operations Vessel

Introduction

A Special Operations Vessel (SOV) is one involved in a controlled delivery, an undercover law enforcement operation or a non-law enforcement mission for another U.S. agency, and normally should not be boarded.

This section sets forth policy and initial response actions regarding SOVs.

J.9. Boarding Termination

If, during the boarding of a vessel, the unit receives information from OPCON that the vessel is involved in either a covert operation or a controlled delivery, the CO/OIC should notify the Boarding Officer to terminate the boarding without arousing suspicion.

J.10. Boarding Suspension

If the unit is notified by OPCON that the vessel is engaged in a covert operation or controlled delivery after the boarding team has discovered evidence of illegal activity, the boarding team should suspend the boarding pending instruction from OPCON.

J.11. Procedures

During a boarding, the boarding team may be approached by a person aboard the vessel claiming that the vessel is involved in either a covert operation or a controlled delivery.

- The boarding team should suspend boarding activity in a manner that doesn't arouse suspicion.
- The CO/OIC should immediately inform OPCON and request confirmation of the claim.
- If OPCON confirms the claim, the unit will likely be directed to terminate the boarding. If the claim is not confirmed, the boarding should normally be continued. If, upon completion of the boarding, no evidence of illegal activity is found, the unit should submit an intelligence report per *Appendix E* detailing the events of the boarding along with complete descriptions of the vessel and crew. If evidence of illegal activity is found, units should take appropriate law enforcement action.

Suicidal Persons

Introduction

This section sets forth policy and initial response actions regarding suicidal persons.

J.12. Initial Response Actions

In cases involving persons who attempt or threaten to kill or injure themselves, units shall notify OPCON immediately and request trained suicide response personnel, if practicable. If expert assistance is not immediately available, guidance regarding initial response actions is as follows:

- Units should consider removing other persons from the vicinity of the suicidal individual.
- Units shall document events as they occur. This will facilitate negotiations and provide for accurate reports to OPCON. Units should listen carefully to the suicidal person for clues as to that person's emotional state and motivation.
- Units should establish and maintain contact with the suicidal person in an effort to deescalate the situation. Units should consistently use the same person to communicate with the suicidal person.
- If it appears that suicide is imminent and there is no reasonable alternative, Coast Guard personnel may take appropriate action to incapacitate the person through use of force, provided it does not unreasonably endanger Coast Guard personnel.

J.13. Crime Scene Preservation

Boarding teams arriving first on-scene following a suicide should take appropriate measures to preserve the crime scene. If an individual commits suicide in conjunction with a vessel boarding, the unit shall complete a case package in accordance with *Appendix G*. Boarding teams normally will not be assigned investigative duties following a suicide. Such investigations are normally conducted by CGIS, marine safety personnel, or local law

enforcement.

Public Health Alerts and Quarantine

Introduction	This section sets forth policy and initial response actions regarding domestic public health alerts and quarantine situations.
J.14. Definitions	Isolation and quarantine are public health strategies that aim to protect the public by preventing exposure to infected or potentially infected individuals.
J.14.a. Isolation	In general, isolation refers to the separation of an infected person from healthy people and the restriction of their infected person's movement to stop the spread of the disease. Isolation is a standard hospital procedure for patients with tuberculosis and certain other infectious diseases.
J.14.b. Quarantine	Quarantine, in contrast, generally refers to the separation and restriction of movement of persons who are not yet ill, but who have been exposed to an infectious agent and are therefore potentially infectious. Both isolation and quarantine may be conducted on a voluntary basis or compelled on a mandatory basis through legal authority.
J.15. Legal Authority	The Secretary of Health and Human Services (HHS) has statutory responsibility for preventing the introduction, transmission, and spread of communicable diseases from foreign countries into the United States, e.g., at international ports of arrival, and from one state or possession into another. See 42 USC 264 – 272. HHS has promulgated regulations at 42 CFR Part 71 intended to prevent the introduction, transmission, and spread of communicable disease from foreign countries into the states or possessions of the United States. Regulations pertaining to preventing the interstate spread of communicable diseases are contained in 21 CFR parts 1240 and 1250. 42 CFR 71.21 requires the master of a ship destined for a U.S. port to report immediately to the quarantine station at or nearest the port at which the ship will arrive, the occurrence, onboard, of any death or any ill person among passengers or crew (including those who have disembarked or have been removed) during the 15-day period preceding the date of expected arrival or during the period since departure from a U.S. port (whichever period of time is shorter). Additionally, the master of a ship carrying 13 or more passengers must report by radio 24 hours before arrival the number of cases (including zero) of diarrhea in passengers and crew recorded in the ship's medical log during the current cruise. All cases of diarrhea that occur after the 24-hour report must also be reported not less than 4 hours before arrival. In addition to reporting requirement, 42 USC 267 provides HHS with the authority to detain at a quarantine anchorage or other appropriate location any vessel with individuals onboard who are suspected of having a communicable disease. The purpose of this detention is to allow the Centers for Disease Control (CDC) Division of Global Migration and Quarantine (DQ) to send a response team to investigate and contain the potential spread of a disease.

J.15.a. Communicable Diseases	The communicable diseases for which federal isolation and quarantine are authorized are set forth through executive order of the President and include: • Cholera • Diphtheria • Infectious tuberculosis • Plague • Severe Acute Respiratory Syndrome (SARS) • Smallpox • Yellow fever • Viral hemorrhagic fevers
J.15.b. Enforcement of Rules and Regulations	Pursuant to 42 USC 268, U.S. Customs and Coast Guard officers are required to aid in the enforcement of quarantine rules and regulations. Violation of federal quarantine rules and regulations constitutes a criminal misdemeanor, punishable by fine and/or imprisonment.
J.15.c. Conditional Release	Federal quarantine authority includes the authority to conditionally release individuals from quarantine, e.g., release from quarantine on the condition that they comply with medical monitoring and surveillance.
J.15.d. Federal, State, and Local Jurisdiction	States and local jurisdictions have primary responsibility for isolation and quarantine within their borders. The federal government has residual authority under the Commerce Clause to the U.S. Constitution to prevent the interstate spread of disease. The federal government has primary responsibility for preventing the introduction of communicable diseases from foreign countries into the United States. It is possible for federal, state, and local health authorities simultaneously to have separate but concurrent legal quarantine power in a particular situation (e.g., an arriving aircraft at a large city airport).
J.15.e. Assistance	By statute, the Secretary of Health and Human Services may accept state and local assistance in the enforcement of federal quarantine regulations and may assist states and local officials in the control of communicable diseases. Because isolation and quarantine are "police power" functions, public health officials at the federal, state, and local level may occasionally seek the assistance of their respective law enforcement counterparts to enforce a public health order.
J.16. Procedures	• Vessel arrival information should be scrutinized for information regarding potential infectious diseases, including ports of call that may be subject to World Health Organization (WHO), U.S. Department of State, CDC, and/or U.S. Coast Guard alerts regarding infectious disease. Vessels that may be candidates for quarantine shall be reported to the cognizant quarantine station having jurisdiction over that port or to CDC via the National Command Center. • Coast Guard Operational Commanders should assist DQ in obtaining the information with which to make an informed decision regarding quarantine and detention of vessels and their crew and passengers to prevent the spread of communicable diseases by utilizing the Coast Guard's extensive network of maritime contacts and the issuance of Marine Safety Information Broadcasts (MSIBs). These MSIBs will contain lists of questions that are prepared by Commandant (G-WKH), in coordination with WHO and CDC, that must be answered by vessel masters in connection with their required radio

reports of illness. Positive responses indicating a suspect communicable disease will immediately be brought to the attention of the cognizant quarantine station having jurisdiction over that port.

- Consistent with federal law, Operational Commanders shall make Coast Guard resources available to DQ for quarantine enforcement and assistance when such use and availability does not conflict with higher priority operations (e.g., emergent SAR, MARSEC 2/3 ops).
- The Coast Guard may assist DQ by enforcing DQ's quarantine orders as to vessels (and, if necessary and appropriate, by detaining and individual crew members and passengers subject to quarantine orders) while those vessels and individuals are on the navigable waters of the U.S., including the territorial sea (out to 12 NM), the contiguous zone (out to 24 NM), and while on waterfront facilities adjacent thereto. The Coast Guard Use of Force Policy applies to all use of force during the enforcement of quarantine laws, regulations, and orders.
- Coast Guard personnel may assist DQ by escorting individuals subject to quarantine orders along with DQ personnel from the vessel to shoreside where the detained individuals will be turned over to appropriate shoreside federal, state, or local law enforcement personnel.
- Boarding teams embarking vessels suspected of carrying contagious diseases shall consult with the cognizant U.S. Coast Guard Medical Officer (MO) before boarding. Boarding teams shall follow the MO's guidance, including but not limited to, strict infection control measures such as fit-tested respirators, gloves, hand hygiene, eye protection, and disposable gowns. The MO shall be notified that boardings involving the risk of exposure to infectious diseases, have taken place so that post-boarding medical monitoring can occur, if necessary.

Post-Shooting Procedures

Introduction

The procedures below should be adhered to following an MLE incident in which a Coast Guard member intentionally discharges a firearm in the line of duty that results in death or injury to another person. The *Ordnance Manual*, COMDTINST M8000.2 (series), contains procedures to follow after an unintentional discharge of a firearm or other firearms MISHAP.

This section sets forth policy and procedures regarding an intentional discharge of a firearm in the line of duty that results in the death or injury to another person.

J.17. Responsibilities of Persons Involved

- Call for medical assistance. Provide emergency medical care as necessary for any persons injured in the incident. Do not move injured persons unless essential due to circumstances that may endanger either the injured person or other people on scene.
- Handcuff injured persons who have been taken into custody, unless medically inadvisable.
- Injured persons taken into Coast Guard custody may be released to competent medical authority only under Coast Guard escort or after being turned over to another appropriate law enforcement agency.
- Secure the scene pending the arrival of investigating officials without moving evidence, unless it is absolutely necessary to do so.
- Coast Guard personnel involved in, or witness to such incidents, should not provide a statement, oral or written, to any person other than federal officials investigating the incident. State and/or local investigators inquiring about the incident should be advised

that information may be furnished only after consultation with a Coast Guard law specialist. **Coast Guard personnel involved need not make a statement if it might cause them to incriminate themselves.**

- The firearm involved in the incident should be surrendered to federal investigators (if requested) and a receipt obtained. If the federal investigator does not request the weapon, the weapon (and any spent cartridges) should be treated as evidence and retained by the unit pending completion of the investigation.

J.18. Unit Responsibilities

- Notify the proper authorities. Immediately notify the District or Area commander via the chain of command, and the servicing CGIS office by the most expedient means possible. As soon as practicable, follow up with a SITREP to the District/Area Commander. Submit a Use of Force Report in accordance with *Appendix E*.
- Protect the physical and mental well-being of all persons involved to the maximum extent possible. Provide emergency medical care as necessary for any persons injured in the incident.
- An investigation of the incident is mandatory. Coordinate with OPCON to determine the appropriate investigating authority.
- Refer any inquiries by the media to the appropriate Coast Guard Public Affairs Officer. Do not disclose the names of any individuals involved in the incident.
- Permit and encourage the member(s) involved in the incident to immediately contact their spouse/family.
- Temporarily relieve the member(s) involved from any duty requiring carriage of a weapon or likely to involve the necessity to use force. This relief from duty shall last until the investigation and any necessary follow-on action is completed. As the investigation and ongoing operations allow, the member should be granted leave or liberty to the extent possible. Inform the member that the temporary relief from duty is a routine administrative procedure, not a punitive measure.
- Schedule the member(s) involved for a Critical Incident Stress Debriefing (CISD) through the cognizant District or Area Work/Life Staff.

J.19. District/Area Responsibilities

- Notify the servicing CGIS office, the Legal Officer and the Public Affairs Officer.
- If appropriate, the Legal Officer should notify the U.S. Attorney's shooting response team in the judicial District in which the incident took place.
- Immediately notify the Coast Guard National Command Center and Commandant (G-OPL and G-WKS) via the most expedient means.
- Notify Commandant (G-O) by immediate message as soon as possible after the incident has occurred.

Appendix K. Immigration Documents

Introduction

This appendix provides guidance for reviewing citizenship and immigration documents to determine compliance with U.S. immigration law. Additional guidance may be found in Publication M-396, *A Guide to Selected U.S. Travel/Identity Documents for Law Enforcement Officers,* which is available from the Bureau of Immigration and Customs Enforcement (ICE).

In this Appendix

This appendix contains the following information:

Topic	See Page
U.S. Citizenship Documents	K-3
U.S. Immigration Documents	K-3
Documents Presented by Passengers and Crew	K-6

U.S. Citizenship Documents

Introduction

Enforcement of several U.S. laws (see *Appendix C* regarding violations of 46 USC 8103) may require that boarding personnel validate claims of U.S. citizenship. Although U.S. law does not require a citizen to present documentary evidence of citizenship, DOS regulations require U.S. citizens to have valid U.S. passports for travel in or through Cuba (not including U.S. Naval Station Guantanamo Bay) or any other country not located in the Western Hemisphere. U.S. merchant seamen may present identification cards, commonly called "Z" cards, in lieu of a passport.

This section provides information regarding citizenship documents. Examples of citizenship documents are contained in **Figure K-1**, **Figure K-2**, and **Figure K-3**.

K.1. Legitimacy of Documents

A non-U.S. citizen may present a false document or an authentic document belonging to someone else for the purpose of gaining illegal entry into the U.S. or concealing illegal employment. While Coast Guard personnel are not expected to have the expertise to independently determine the legitimacy of these documents, boarding teams should become familiar with the citizenship documents described below to facilitate verification of citizenship claims. Any doubt as to the validity of a U.S. citizenship claim should be referred to the cognizant ICE or CBP office.

K.2. Valid Citizenship Documents

The following documents are commonly relied on as indicators of a valid U.S. citizenship claim:

- Citizenship Certificate (N-560).
- Birth Certificates.
- Naturalization Certificates (N-550 and N-570).
- U.S. Passports (valid or expired).
- Licenses and Permits issued by Governmental Agencies only to U.S. Citizens. (e.g., pilot's license).
- Voter Registration Cards.
- Merchant Mariner Documents.
- U.S. Citizen Identification Card (Form I-197) (no longer issued but valid indefinitely).
- DOS Certificate of Identity and Registration.

K.3. Unreliable Indicators

Social Security Cards and state driver's licenses may be legally obtained by resident aliens and are also relatively easy to forge. As such, these documents are not reliable indicators of U.S. citizenship.

U.S. Immigration Documents

Introduction

Enforcement of U.S. immigration laws may require that boarding personnel validate the immigration status of aliens.

This section provides information regarding immigration documents. Examples of immigration documents are contained in **Figure K-4**, **Figure K-5**, **Figure K-6**, **Figure K-7**, and **Figure K-8**.

K.4. Procedures

An alien in an illegal status may present a false or altered document or an authentic document belonging to someone else.

- The first step in determining the status of a suspected alien is to assess the validity of their documentation.
- The next step is to verify the conditions of their admission on the documentation.

While Coast Guard personnel are not expected to have the expertise to independently determine the legitimacy of these documents, boarding teams should become familiar with the immigration documents described below to facilitate verification of immigration status. Any doubt as to the validity of immigration documents should be referred to the cognizant ICE or CBP office.

K.5. Terms

An alien is any person not a citizen or national of the United States. Aliens are classified into four general categories.

K.5.a. Immigrants

Immigrants are those aliens coming to the U.S. to reside permanently. They may be entering for the first time or they may be alien residents of the U.S. who are returning from a temporary absence.

K.5.b. Non-Immigrants

Non-immigrants are those aliens seeking to enter the U.S. for a temporary period (e.g., business or vacation travel purposes).

K.5.c. Illegal Entrants

Illegal entrants are those aliens who were not admitted to the U.S. for either temporary or permanent stay, but entered in such a manner or place as to avoid inspection. All such aliens are subject to deportation.

K.5.d. Undocumented Migrants

Undocumented migrants are those aliens attempting to illegally gain entry into the U.S. Guidance regarding the suspension on entry of such aliens is contained in *Chapter 6*.

K.6. U.S. Immigrant Documents

The following documents are indicators that an alien is a lawful immigrant:

- Immigrant Visa issued by an American Consul on Optional Form 155.
- Reentry Permit (I-327).
- Refugee Travel Document (I-571).
- Alien Registration Receipt Card (I-151/I-551).
- Employment Authorization Card (I-688A).
- Temporary Resident Card (I-688).

U.S. Non-Immigration Documents

Introduction

This section provides information regarding non-immigrant documents. Examples of non-immigrant documents are contained in **Figure K-9**.

K.7. Temporary Visas

Temporary visas may be issued to non-immigrants by the DOS at diplomatic offices in foreign nations. A visa is a stamp placed on a passport page (usually issued in the nation of the alien's nationality). The visa may be of limited or indefinite validity. Possession of a visa does not give the bearer the right to be in or remain in the U.S. It is merely a permit to proceed to a U.S. port of entry to apply to the Bureau of Customs and Border Protection (CBP) for admission into the U.S. The conditions and period of admission are decided by

the Immigration Officer at the port of entry after the alien has been interviewed.

K.8. Validity

To be valid, a visa must be current when the alien applies at the port of entry. However, the remaining period of the visa's validity has no bearing on the period of authorized admission granted. If the bearer of a temporary visa has been admitted into the U.S., he/she should also have in possession evidence of admission and the terms of such admission. This evidence will usually consist of a Form I-94.

K.9. Non-Immigrant Classes

There are nineteen classes of non-immigrants identified by BCIS and the State Department. Individuals in any of these classes are generally required to carry a Form I-94 showing their status. The Form I-94 will bear one of the following letters (A through S) indicating immigration class or status. Some of these letter designators will be followed by a number (e.g., B-2, H-3, etc.), giving further specifications within each class. The various classes are:

- A - foreign government officials (and their families and servants) on official business.
- B - visitors for business (does not include seeking or accepting employment in the U.S.) or pleasure.
- C - aliens in travel status while traveling directly through the U.S.
- D - alien crewmen who may be given shore leave while their ship is in port, or given permission to seek a berth on another vessel (in no event may the time limit exceed 29 days).
- E - treaty traders and investors and their families.
- F - alien students admitted to attend specified academic institutions.
- G - representatives (and their families and servants) of international organizations.
- H - temporary workers, including agricultural laborers.
- I - members (and their families) of foreign press, radio, film or other information media.
- J - exchange visitors in the U.S. under programs approved by the DOS for study, teaching, research or training.
- K - fiancés and fiancées (and their children) of U.S. citizens.
- L - intra-company transferees (and their families).
- M - vocational or nonacademic student (and family).
- N - parent of child accorded immigrant status.
- O - aliens (and family) with extraordinary ability.
- P - internationally recognized athletes, entertainers, artists, etc.
- Q - aliens participating in international cultural exchange programs.
- R - member of a nonprofit religious organization in the U.S.
- S - alien informant.

K.10. Employments

Except for those aliens admitted specifically to work (e.g., agricultural laborers), non-immigrants normally may not accept employment in the U.S. Students and exchange visitors may, with written permission, accept certain employment.

K.11. Deportation

A non-immigrant is subject to deportation by ICE/CBP if the alien violates the terms of admission, abandons status, overstays the period of admission, engages in criminal, narcotic or subversive activity, or accepts unauthorized employment.

K.12. Extension of Stay

With a few exceptions, non-immigrants are admitted only for the period of time reasonably necessary to accomplish their purpose in coming to the U.S. Any non-immigrant desiring to prolong their stay beyond the period of initial admission must apply to BCIS for an extension of stay.

Documents Presented by Passengers and Crew

Introduction

Boarding teams should examine all documents presented by passengers and crew members (e.g., passports, visas, permanent resident cards, drivers licenses, merchant mariner cards, etc.) in order to determine the identity, nationality, and immigration status of the individual presenting the document.

K.13. Doubt of Ownership

If the boarding team is uncertain if an individual presenting a document is the true bearer, questions concerning the data in the document (e.g., date of birth, place of birth, profession, astrological sign, etc.) as well as how the individual acquired the document may be asked.

K.14. Document Status

A document is either genuine, altered, or counterfeit.

- A genuine document is one that has been issued by a competent recognized authority such as a government or organization.
- Any changes made to a genuine document by someone other than a competent recognized authority is considered an altered document.
- A counterfeit document is a replica of a genuine document that is not issued by a competent recognized authority.

K.15. General Document Examination

- Attention to detail is essential to identifying fraudulent documents.
- Compare the photograph to the individual presenting the document. Closely examine the physical characteristics such as the ears, shape and color of the eyes, shape and width of the nose, shape of the mouth, lips for their location in respect to one another. The overall shape of the face is paramount.
- Alterations may include photo substitutions in passports and visas; changes made to biographical data in passports and visas, document expirations, etc.
  - Alterations may be difficult to identify on documents from third world countries with few security features. Alterations are generally easier to identify on documents from first world countries which have numerous security features. Security features include high quality detailed background designs, dry seals, wet seals, watermarks, printed images only visible under ultraviolet light, holograms, punched numbers, micro printing, etc.
  - Altered documents will usually have disturbances to the security features which are sometimes identified with an ultraviolet light or under magnification. Counterfeit documents at times are produced using poor quality printing devices on low quality paper. The aforementioned security features assist in deterring counterfeiters from altering documents. However, with high tech equipment accessible to the public, counterfeiters have the ability to produce high quality altered documents, as well as counterfeit documents.

K.16. Checking for Photo Substitutions

- Numerous methods are used to secure a photograph on the biographical page of a passport, such as photo integration, laminate, wet seals and dry seals.
- When examining the document, look for disturbances to the laminate, paper fibers, ultra violet images, etc, around the photograph.
- Verify if the passport has a double laminate which may indicate a photo substitution. If a wet seal, dry seal, or a signature were placed partially over the photograph and the page, verify that they line up with one another where the photograph and page meet. Some laminates have security seals, ribbons, or a guilloche which extend from the page over the photograph. Verify if the lines within these images line up where the photograph and page meet.

K.17. Checking for Data Alterations

- Eraser marks, changes in ink color, font type, and tears in the paper may be a good indication of text alteration.
- Look for altered page numbers and missing pages.
- Page substitutions are sometimes used to add false data or eliminate incriminating data.

K.18. Fictitious Passports

There are two fictitious types of passports that individuals may try to present when applying for inspection:

- "Fantasy" documents are those issued by private individuals or organizations that are not recognized as a competent issuing authority. They purport to be from a fictitious country, authority, or self-appointed political group (i.e., the "World Service Authority"). These passports are not acceptable for U.S. visa issuance purposes or for entry into the United States.
- "Camouflage" passports are usually issued by private organizations that are purported to be from a country or government that formerly existed.

K.19. Examination Tools

The following tools may be carried in a unit boarding bag for conducting a detailed document examination:

- Optical lenses (loupes) which are small magnifying glasses (8x), (as available in most photography shops) - useful for examining documents for data alterations.
- Hand held ultraviolet lights (black lights) used to check the ultraviolet security features found in almost all documents.

K.20. Training

ICE/CBP provides their personnel with training in fraudulent documents. Based on training and the frequency at which these documents are encountered, immigration officers become experienced in identifying altered and counterfeit documents. Coast Guard Unit Training Officers or Training Petty Officers are encouraged to contact their local BCIS field offices to establish a liaison and request fraudulent document training.

K.21. Security Features

Many documents have security features that are built into the document in order to deter fraud and prevent counterfeiting. Boarding team personnel should attempt to become aware of these features; however, this information should be considered highly sensitive and is to be shared only with other U.S. law enforcement officers on a need to know basis.

K.22. Misrepresentation

It is unlawful for a person to obtain any genuine travel document from a competent recognized authority by misrepresenting themselves with false information and then presenting that travel document when applying to enter the United States. This type of fraud is extremely difficult to detect.

THE UNITED STATES OF AMERICA

No. AA448185

CERTIFICATE OF CITIZENSHIP

Application No.

·ORIGINAL·

Personal description of holder as of date of issuance of this certificate: Sex Female date of birth October 18, 1964 country of birth Mexico complexion Fair color of eyes Brown color of hair Brown height 5 feet 5 inches weight 130 pounds visible distinctive marks None marital status Single

I certify that the description above given is true, and that the photograph affixed hereto is a likeness of me.

(Complete and true signature of holder)

Be it known that

now residing at Matamoros, Tamps., Mexico

having applied to the Commissioner of Immigration and Naturalization for a certificate of citizenship pursuant to Section 338 of the Immigration and Nationality Act, and having proved to the satisfaction of the Commissioner that he is now a citizen of the United States of America, became a citizen thereof on October 18, 1964 and is now in the United States.

Now Therefore, in pursuance of the authority contained in Section 338 of the Immigration and Nationality Act, this certificate of citizenship is issued this 20th day of December in the year of our Lord nineteen hundred and Seventy-eight and the seal of the Department of Justice affixed pursuant to statute.

Seal

157763

Leonard F. Chapman

COMMISSIONER OF IMMIGRATION AND NATURALIZATION

IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE.

DEPARTMENT OF JUSTICE

FORM N-567 (2-1-69)

Figure K-1
Citizenship Certificate

(Actual Size Approx. 8.5" x 11")

THE UNITED STATES OF AMERICA

No. 00000000

CERTIFICATE OF NATURALIZATION

Personal description of holder as of date of naturalization:

Date of birth:

Sex:

Height: feet inches

Marital status:

Country of former nationality:

(SECURELY AND PERMANENTLY AFFIX PHOTOGRAPH HERE)

(A SEAL WILL BE IMPRESSED SO AS TO COVER A PORTION OF THE LOWER EDGE OF THE PHOTOGRAPH)

INS Registration No.

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

(Complete and true signature of holder)

Be it known that, pursuant to an application filed with the Attorney General at:

The Attorney General having found that:

SPECIMEN

then residing in the United States, intends to reside in the United States when so required by the Naturalization Laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the

at: on:

that such person is admitted as a citizen of the United States of America.

IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.

Commissioner of Immigration and Naturalization

DEPARTMENT OF JUSTICE

FORM N-550 REV. 8-91

Figure K-2
Naturalization Certificate

(Actual Size Approx. 8.5" x 11")

Figure K-3
U.S. Passport

(Actual Size Approx. 4" x 6")

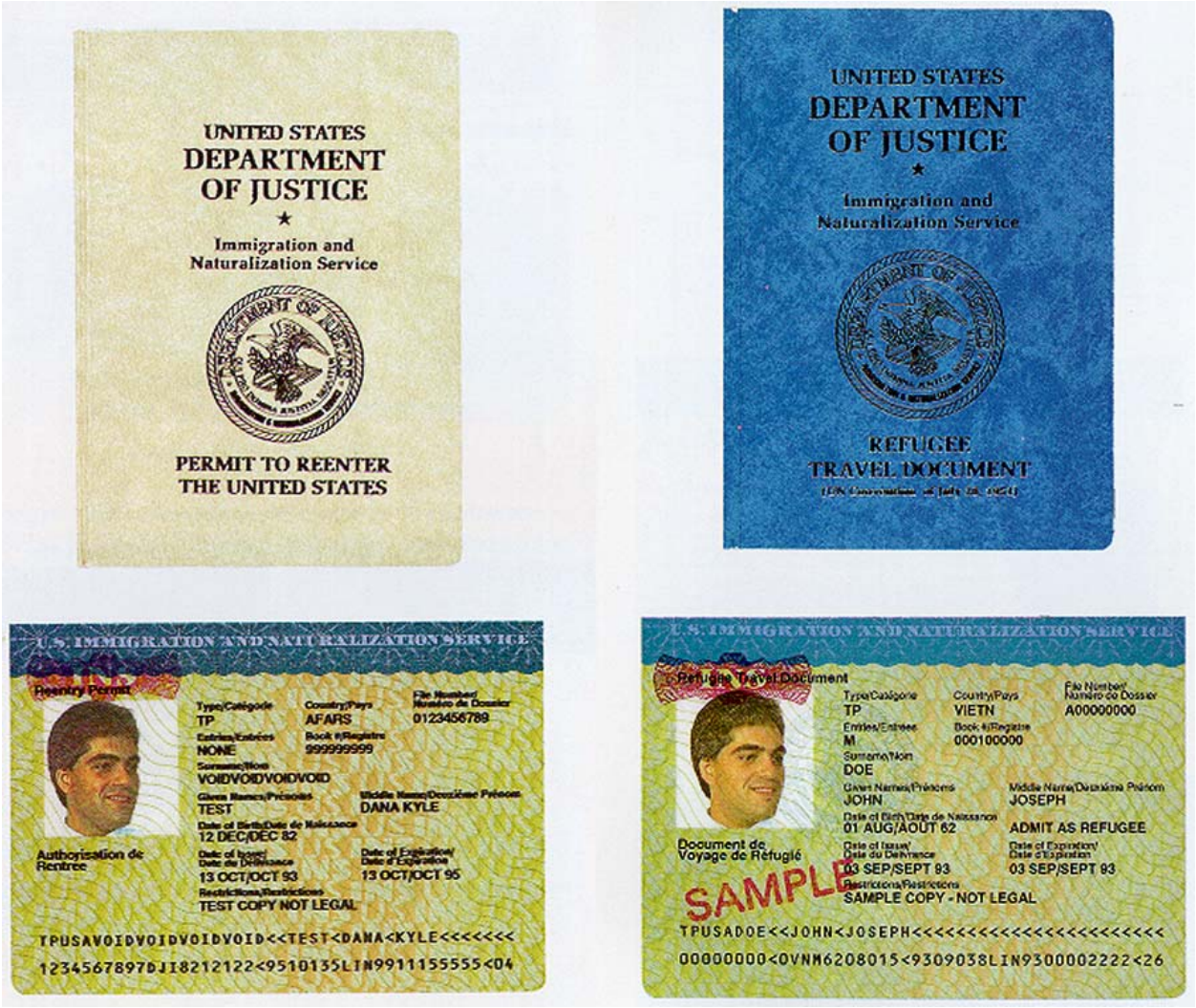


Figure K-4
Reentry Permit and Refugee Travel Document

(Actual Size Approx. 4" x 6")

Figure K-5
Alien Registration Receipt Card (I-551)

(Issued from 1997 to present)

(Actual Size Approx 2" x 3")

Figure K-6
Alien Registration Receipt Card (I-551)

(Similar Versions Issued from 1977 to 1996)

(Actual Size Approx. 2" x 3")

Figure K-7
Alien Registration Receipt Card (I-551)

(Similar Versions Issued from 1946 to 1976)

(Actual Size Approx. 2" x 3")

Figure K-8
Employment Authorization and Temporary Resident Cards

(Actual Size Approx. 2" x 3")

Figure K-9
Visas and Form I-94

(Various Sizes)

Appendix L. Requests Made by Foreign Nationals for Protection from Persecution or Torture

Introduction

This appendix provides policy for handling requests made by foreign nationals for protection from persecution and torture.

In this Appendix

This appendix contains the following information:

Topic	See Page
Introduction	L-3
Policy	L-3
Procedures	L-4

Introduction

Introduction	This section provides general guidance and describes the circumstances in which this appendix applies.
L.1. Objective	An objective of the U.S. refugee policy is to promote human rights and humanitarian principles by considering requests by foreign nationals for protection from persecution and torture. Such requests are accepted and relayed to the BCIS and/or DOS for determination on appropriate action. Coast Guard personnel who receive such a request from a foreign national, other than an interdicted migrant, shall follow the policy set forth in this appendix. See *Chapter 6.C.1.c* for responding to requests for protection from persecution or torture made by interdicted migrants.

Policy

Introduction	Foreign nationals who request protection from the U.S. due to fear of persecution or torture should be given full opportunity to have their request considered. Coast Guard personnel shall not discount or arbitrarily refuse the request of a person for protection from persecution or torture. Because of the wide variety of circumstances involved, each request must be dealt with on an individual basis, taking into account humanitarian principles, applicable laws, and other factors. When requests are made within foreign jurisdiction, the ability of the U.S. to give assistance will vary with location and circumstances of the request. In many cases, it may be appropriate for DOS to refer the case to the Office of the United Nations High Commissioner for Refugees (UNHCR). This section describes responsibilities for handling requests made by foreign nationals for protection from persecution and torture and defines relevant terms.
L.2. Refugee Convention Obligations	The cornerstone of U.S. refugee policy is the 1967 Protocol Relating to the Status of Refugees, to which the United States is a party (the protocol incorporates substantive provisions of the 1951 Convention Relating to the Status of Refugees). Under the Refugee Protocol and Convention, a refugee is someone who is outside their country of nationality (or last country of residence if they have no nationality) and has a well-founded fear of persecution in that country on account of their race, religion, nationality, membership in a particular social group, or political opinion. The principle of non-refoulement (i.e., that a refugee should not be returned to persecution) is fundamental to these agreements and to the U.S. refugee policy.
L.3. Torture Convention Obligations	Article 3 of the Torture Convention establishes a similar principle of non-refoulement for persons who may be at risk of suffering torture. The U.S. became a party to the Convention Against Torture in 1994, and has subsequently sought to implement the requirements of Article 3. The U.S. is committed to ensuring that persons, wherever encountered by U.S. officials, are not returned to countries where they would suffer torture. The U.S. defines torture (8 CFR 208.18) as generally encompassing those acts not lawfully authorized as punishment by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or with the consent of a person acting in an official capacity.

L.4. Asylum

Asylum is a specific legal status granted by appropriate authorities to persons requesting protection from persecution or torture who meet the definition of a refugee under U.S. law. Persons may apply for asylum only if they are physically present in the U.S. or at a port of entry. Coast Guard units or personnel are not authorized to grant or promise asylum.

Procedures

Introduction

This section provides procedures for notification, granting temporary refuge and handling requests for information.

L.5. Notification

Coast Guard personnel who receive a request for protection from persecution or torture shall immediately notify OPCON, the District Commander, and the Coast Guard National Command Center as well as the cognizant U.S. Embassy, U.S. Consular Office and/or BCIS officials. The initial report shall be sent via immediate message and include the following information:

- Name and nationality of the individual claiming to be a refugee or seeking asylum or protection from persecution or torture.
- Date and place of birth, and occupation of the claimant.
- Description of any identification or citizenship documentation in their possession.
- Which foreign authorities/entities are aware of the request and any inquiries that have been made by non-U.S. officials about the request.
- Circumstances surrounding the request, including any safety concerns for the claimant or unit.
- Claimant's exact location. If aboard vessel or aircraft, estimated time of arrival (ETA) at next intended port or airport. If a vessel is making a port call, the expected date and time of departure from port.
- Basis for the request.
- Description of any criminal charges known or alleged to be pending against the individual making the request. Indicate also any piracy, air piracy, or hijacking background.
- Description of any government office now held or previously occupied by the claimant, or affiliation with any political party or movement.
- Any media interest concerning the request.

L.6. Temporary Refuge

Temporary refuge is the physical protection and reasonable care of a claimant by Coast Guard personnel, either onboard a Coast Guard unit or elsewhere. CO/OICs are authorized to grant temporary refuge to a person seeking protection from persecution or torture subject to the following conditions:

- Temporary refuge to a person seeking protection from persecution or torture may be granted only in extreme circumstances (i.e., when the person is in imminent danger of death or serious physical injury).
- In deciding whether to grant temporary refuge, the CO/OIC shall not place the unit or Coast Guard personnel at undue risk.
- Temporary refuge shall not be granted aboard a Coast Guard aircraft, in a private home/apartment, Coast Guard leased housing or Coast Guard base housing.
- The mere presence of Coast Guard personnel during a boarding may have the effect of temporary refuge by preventing harm to the person requesting protection. For requests for protection that occur during a boarding of a foreign-flag vessel, Coast Guard personnel should, if practicable, remain aboard and provide physical protection for the

claimant until instructions are received from Commandant (G-OPL) and/or the Coast Guard National Command Center.

- Once undertaken, temporary refuge shall not be terminated without Commandant approval unless the CO/OIC determines the risk to the unit or Coast Guard personnel has become unacceptable or the claimant voluntarily departs the unit.
- In cases where the claimant is not in imminent danger, the unit should attempt to maintain contact with the claimant during the time that it takes to process the request for protection and/or receive guidance from Commandant. During this time, the unit may provide humanitarian assistance, such as food and water.

L.7. Disposition

Pending disposition instructions received from Commandant (G-OPL) and/or the Coast Guard National Command Center, units shall not transport the claimant to any location ashore unless exigent circumstances exist. The receiving agency (DOS, ICE/CBP) is responsible for making security and transportation arrangements ashore.

L.8. Requests for Information

Asylum requests or requests for protection from persecution or torture are sensitive and shall be treated as FOUO. Coast Guard personnel shall not release information concerning such requests to media or foreign officials. Refer all media inquiries to the local BCIS or U.S. Embassy. If foreign authorities are already aware of a request, the CO/OIC may respond to inquiries directed to the unit by stating that the unit is not authorized to make final asylum determinations and the case has been referred to higher authority for resolution.

Appendix M. Claims Procedures

Introduction

This appendix provides policy for handling claims for compensation from the U.S. government.

In this Appendix

This appendix contains the following information:

Topic	See Page
Introduction	M-3
Unit Responsibility	M-3

Introduction

Introduction	Coast Guard law enforcement activities that result in damage to private property or injury to private persons may result in a claim for compensation from the U.S. government. Coast Guard policy is to promptly pay all legitimate claims for damage or injury resulting from such activities in accordance with 33 CFR Part 25 and the *Coast Guard Claims and Litigation Manual*, COMDTINST M5890.9 (series). This section provides general policy for handling claims for compensation including those arising from joint operations and claims against Coast Guard law enforcement personnel.
M.1. Claims Arising from Joint Operations	Personnel from another agency may, during the course of a Coast Guard boarding, cause injury or damage that gives rise to a claim. Units shall handle such potential claims in accordance with the procedures set forth in *Section M.6* of this appendix.
M.2. Claims Against Coast Guard Personnel	A private person may bring suit directly against a Coast Guard member. Coast Guard personnel who are sued due to acts that arise out of the performance of their official duties should promptly notify the cognizant maintenance and logistics command (MLC) or District legal office. See *Chapter 18* of the *Coast Guard Claims and Litigation Manual*, COMDTINST M5890.9 (series), for specific guidance.

Unit Responsibility

Introduction	When non-government persons are injured or private property is damaged as a result of MLE activity, the unit conducting the activity shall take the following actions. This section sets forth unit responsibilities and provides procedures to take in the event of a claim for compensation
M.3. Injuries	Coast Guard personnel shall render first aid to injured persons as soon as possible and arrange a medical evacuation (MEDEVAC) or emergency medical service response, if necessary.
M.4. Property Damage	Coast Guard personnel engaged in actions that will likely result in damage to private property should take reasonable steps to minimize such damage. If damage to private property occurs, Coast Guard personnel should attempt to make temporary repairs on scene, if possible. If able to make temporary repairs, the unit shall caution the master to make permanent repairs at the first opportunity. When damage occurs to a vessel that makes it unseaworthy or incapable of navigation, and Coast Guard personnel cannot effect adequate repairs, the unit shall take appropriate measures to ensure the vessel reaches the nearest available port (e.g., escort, arrange for tow).

M.5. Forms, Instructions, and Information

Any person inquiring about claims for damage or injury, or whose property sustains damage during boardings, should be provided with a Standard Form 95 (SF-95). Copies of this form should be carried in boarding kits. Coast Guard personnel should neither encourage nor discourage claims against the U.S. The potential claimant should be instructed to send the completed form and supporting documentation to the Claims Branch of the cognizant MLC Legal Division, which will process the claim. Instructions for completing the SF-95 and requirements for supporting documentation are listed on the back of the form and in 33 CFR Part 25. Coast Guard personnel shall avoid making any statements that indicate fault or could be construed as a promise that the claim will be paid. If there are further questions regarding claim procedures, the potential claimant should be directed to contact the cognizant MLC Legal Claims Branch.

Commander (lc) MLC Pacific Coast Guard Island, Bldg 54-C Alameda, CA 94501-5100 (510) 437-3330	Commander (lc) MLC Atlantic 300 East Main Street, Suite 400 Norfolk, VA 23510-9100 (757) 628-4192

M.6. Claims

The unit conducting the MLE activity when the damage occurs is responsible for conducting a claims investigation. *Chapter 2* of the *Coast Guard Claims and Litigation Manual*, COMDTINST M5890.9 (series), provides specific guidance and should be consulted prior to starting the investigation. The *Administrative Investigations Manual*, COMDTINST M5830.l (series), contains additional information on investigations.

- Whenever injury or property damage occurs (regardless of whether the master intends to file a claim), the Boarding Officer shall, if practicable, obtain the following information prior to the completion of the boarding and record such information on Form CG-4100S:
  - Time and location of personal injury or property damage.
  - Name of injured person(s) and description of injury.
  - Description, photographs and measurements indicating the nature and extent of property damage.
  - Apparent cause of personal injury or property damage.
  - Whether any acts or omissions by the master or crew may have contributed to the personal injury or property damage.
  - Preexisting condition of the person injured or property damaged.
  - Names of potential witnesses.
- The Form CG-4100S is for Coast Guard use and shall not be provided to the vessel owner or operator.
- Boarding personnel shall not offer or record opinions regarding the apparent cause or fault of the injury or damage.
- The unit shall assign a claims investigating officer to promptly conduct a claims investigation (normally within 14 days of the incident) in accordance with *Chapter 2* of the *Coast Guard Claims and Litigation Manual*, COMDTINST M5890.9 (series). Completed investigations shall be sent to the Claims Branch of the cognizant MLC Legal Division via the chain of command. Units unable to complete and submit a claims investigation in a timely manner shall submit a brief status report by message to the District/Area and MLC.

Appendix N. Maritime Law Enforcement (MLE) Training

Introduction This appendix provides policy regarding MLE training.

In this Appendix This appendix contains the following information:

Topic	See Page
Overview of Courses	N-3
Unit MLE Training Program	N-7
Additional Guidance	N-8

Overview of Courses

Introduction	This section describes MLE training sources and responsibilities for administering the MLE training system.
N.1. Training Sources	The training and qualification requirements set forth in this Manual are established by Commandant (G-OPL) to ensure the readiness of unit law enforcement personnel to complete assigned MLE missions and duties. Training sources and programs available to assist units in the execution of their unit MLE training program are as follows:
N.1.a. Boarding Officer Course	The MLE School hosts a 32-day resident training course offered regularly throughout the year at TRACEN Yorktown, VA. Students receive training in criminal law, defensive tactics, vessel safety, use of force and other topics listed in *Boarding Officer /Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series). Graduates of the Boarding Officer Course possess the skills and knowledge necessary to lead a Coast Guard boarding team in the enforcement of U.S. laws and regulations in a safe and professional manner. Further, graduates may be designated by CO/OICs as MLE PQS instructors, serving as cornerstones of the unit MLE training program.
N.1.a.1. Prerequisites	The prerequisites listed below are required for attendance to the Boarding Officer Course. Students reporting to school who have not completed course prerequisites will be disenrolled. • Member is within maximum allowable weight in accordance with *Allowable Weight Standards for Coast Guard Military Personnel*, COMDTINST M1020.8 (series). • Member has satisfactorily completed Task 1-01 (annual physical fitness standards) of the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series). • Member has satisfactorily completed Task 1-02 (semi-annual M9 weapons qualifications including the Judgmental Pistol Course) of the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series). • Member has either 18 months remaining at current unit or has orders to a unit with the expectation that the member will be serving in a law enforcement capacity. • Member possesses, in the opinion of the CO/OIC, the requisite judgment, maturity, attitude, and aptitude to serve as a Boarding Officer.
N.1.a.2. Physical Fitness Test	Students will be administered a physical fitness test on the first day of class convening, with a retest (if necessary) within the following two days. Students failing the retest will be disenrolled from the course.
N.1.a.3. Further Guidance	The *Cutter Training and Qualification Manual*, COMDTINST M3502.4 (series), prescribes training requirements for this course for shipboard personnel. The *U.S. Coast Guard Boat Operations and Training (BOAT) Manual*, *Volume I*, COMDTINST M16114.32 (series), documents course requirements for Coast Guard station personnel. Procedures to obtain quotas for this course are contained in the *Training and Education Manual*, COMDTINST M1500.10 (series).

N.1.b. Boarding Team Member Course

The Boarding Team Member School hosts a 12-day resident training course offered regularly throughout the year at Petaluma, CA. Students receive training in authority and jurisdiction, defensive tactics, search procedures, use of force and other topics listed in *Section 1* of the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series). Graduates of the Boarding Team Member Course possess the skills and knowledge necessary to assist a Boarding Officer in the enforcement of U.S. laws and regulations in a safe and professional manner.

N.1.b.1. Prerequisites

Prerequisites for attendance to the Boarding Team Member Course are

- Member is within maximum allowable weight in accordance with *Allowable Weight Standards for the Health and Well-Being of Coast Guard Military Personnel*, COMDTINST M1020.8 (series).
- Member has satisfactorily completed Task 1-01 (annual physical fitness standards) of the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series).
- Member has either 18 months remaining at current unit or has orders to a unit with the expectation that the member will be serving in a law enforcement capacity.
- Member possesses, in the opinion of the CO/OIC, the requisite judgment, maturity, attitude and aptitude to serve as a Boarding Officer.

N.1.b.2. Physical Fitness Test

Students will be administered a physical fitness test on the first day of class convening, with a retest (if necessary) within the following two days. Students failing the retest will be disenrolled from the course.

N.1.b.3. Further Guidance

The *Cutter Training and Qualification Manual*, COMDTINST M3502.4 (series), documents training requirements for this course for shipboard personnel. The *U.S. Coast Guard Boat Operations and Training (BOAT) Manual*, *Volume I*, COMDTINST M16114.32 (series), documents training requirements for this course for Coast Guard station personnel.

Procedures to obtain quotas for this course are contained in the *Training and Education Manual*, COMDTINST M1500.10 (series).

N.1.c. Area and District Training Teams

Both Atlantic and Pacific Area Commanders have established exportable training teams that provide MLE refresher training on a periodic basis. The training is provided on location at each unit, is tailored to meet that unit's specific training needs, and typically lasts five days. The primary focus of the training is the completion of boat officer (BO)/boarding team member (BTM) PQS by crewmembers and recertification in required areas. District units may request training from their appropriate District representative who will contact the training teams on their behalf. Major cutters may contact Aoft/Poft directly to request training.

N.1.d. Regional Fisheries Training Centers

Five Regional Fisheries Training Centers (RFTC) host a variety of resident and non-resident training courses offered regularly throughout the year in their respective locations. The RFTCs have multiple course options training students in complex regional fisheries issues, fish identification, case package development and other topics. RFTC training is normally scheduled through direct contact with the training center. The five training centers are:

- Northeast Regional Fisheries Training Center (NRFTC), Air Station (AIRSTA) Cape Cod, MA.
- Southeast Regional Fisheries Training Center (SRFTC), North Charleston, SC.
- Gulf of Mexico Regional Fisheries Training Center (GRFTC), New Orleans, LA.
- PACAREA Training Team, Fisheries Training Group, Alameda, CA.
- North Pacific Regional Fisheries Training Center (NPRFTC), Kodiak, AK.

N.1.e. TACLETs/LEDETs

TACLETs are comprised of deployable LEDETs whose primary mission is to conduct counterdrug operations from U.S. Navy ships. However, when operational schedules allow, they may be available to provide law enforcement training to other Coast Guard units. Training subjects include IONSCAN operations, defensive tactics, boarding procedures and other BO/BTM PQS topics. TACLET training may be scheduled through direct contact with the respective TACLET. The three TACLETs are:

- TACLET North, TRACEN Yorktown, VA.
- TACLET South, AIRSTA Opa Locka, Miami, FL.
- Pacific Area TACLET, Marine Corps Recruit Depot, San Diego, CA.

N.1.f. Other Law Enforcement Training Sources

Units are authorized to train with and receive training from other law enforcement agencies and law enforcement training sources. Any training received from non-Coast Guard sources shall be approved by the District Law Enforcement Staff (or Area Law Enforcement Staff for Area units). Approving staff elements shall ensure that the training curriculum is consistent with Coast Guard policy. Questions regarding consistency may be referred to Commandant (G-OPL-2). Any cost incurred for non-Coast Guard training will be funded by the field and comply with applicable training procurement policies. Units are not authorized to modify any law enforcement equipment (i.e., Simunitions® for personal defense weapons, dye impregnated OC) in order to accomplish or participate in non-Coast Guard training.

N.2. Responsibilities

N.2.a. Commandant (G-WTT)

Commandant (G-WTT) is responsible for the functions listed below regarding MLE training. Additional responsibilities are contained in the *Cutter Training and Qualification Manual*, COMDTINST M3502.4 (series), the *U.S. Coast Guard Boat Operations and Training (BOAT) Manual*, *Volume I*, COMDTINST M16114.32 (series), and other directives.

- Serve as the Coast Guard's Training Manager.
- Manage AFC-56 budget and training quota control systems for Commandant mandated MLE training.
- Provide training policies and procedures needed to manage MLE training.
- In conjunction with Commandant (G-OPL), serve as final approving authority for curricula developed for Boarding Officer and Boarding Team Member Courses.
- Assist Commandant (G-OPL) in identifying appropriate training solutions to meet program objectives.

N.2.b. Commandant (G-OPL)	Commandant (G-OPL) is responsible for the functions listed below regarding MLE training. • Establish MLE training requirements. • Manage Boarding Officer and Boarding Team Member Courses. • In conjunction with Commandant (G-WTT), serve as final approving authority for curricula developed for Boarding Officer and Boarding Team Member Courses. • Establish Personnel Qualification Standards. • Serve as Program Manager for the Law Enforcement Training Officer's Council (LETOC).
N.2.c. Maritime Law Enforcement (MLE) School	MLE School is responsible for the functions listed below regarding MLE training. • Develop course curriculum for the Boarding Officer Course. • Develop standard lesson plans for MLE training conducted at all organizational levels. • Conduct periodic (at least annually) review of curricula to ensure content is consistent with current MLE directives and publications. • Serve as Chair for the LETOC.
N.2.d. Boarding Team Member School	The Boarding Team Member School is responsible for the functions listed below regarding MLE training. • Develop course curriculum for the Boarding Team Member Course. • Conduct periodic (at least annually) review of curricula to ensure content is consistent with current MLE directives and publications. • Designate LETOC member(s) in accordance with LETOC Charter.
N.2.e. Area Commanders	Area Commanders are responsible for the functions listed below regarding MLE training. • Ensure a unit MLE training program is established and functioning for all Area units with a law enforcement mission. • Manage Area and TACLET/LEDET training teams. • Ensure Area and TACLET/LEDET training teams and Regional Fisheries Training Groups (RFTG) employ standardized curricula based on lesson plans developed by MLE School for the Boarding Officer Course. • Conduct periodic review of curricula employed by Area and TACLET/LEDET training teams and RFTGs to ensure content is consistent with current MLE directives and publications. • Designate LETOC member(s) in accordance with LETOC Charter.
N.2.f. District Commanders	District Commanders are responsible for the functions listed below regarding MLE training. • Ensure a unit MLE training program is established and functioning for all District units with a law enforcement mission. • Manage District training teams and Regional Fisheries Training Centers (RFTC) within their area of responsibility. • Ensure District training teams and RFTCs employ standardized curricula based on lesson plans developed by MLE School for the Boarding Officer Course. • Conduct periodic review of curricula employed by District training teams and RFTCs to ensure content is consistent with current MLE directives and publications. • Designate LETOC member(s) in accordance with LETOC Charter.

N.2.g.Training Quota Management Center (TQC)

TQC is responsible for the functions listed below regarding MLE training. Additional responsibilities are contained in the *Cutter Training and Qualification Manual*, COMDTINST M3502.4 (series), the *U.S. Coast Guard Boat Operations and Training (BOAT) Manual*, *Volume I*, COMDTINST M16114.32 (series), and other directives.

- Administer quota allocations for Boarding Officer and Boarding Team Member Courses in accordance with Course Manager priorities and Master Training Lists established in the *Cutter Training and Qualification Manual*, COMDTINST M3502.4 (series).
- Verify that prospective students for Boarding Officer and Boarding Team Member Courses meet course prerequisites.

N.2.h. Law Enforcement Training Officers Council

In addition to other functions contained in its Charter, the LETOC shall:

- Convene not less than once per year.
- Provide a forum for curricula standardization, resolution of training policy conflicts and evaluation of new training proposals.

N.2.i. COs/OICs

COs/OICs are responsible for the functions listed below regarding MLE training.

- Ensure unit law enforcement personnel are properly trained and qualified in accordance with this Manual and the *Boarding Officer/Boarding Team Member Personal Qualification Standard (PQS)*, COMDTINST M16247.3 (series), and that competency codes for Boarding Officers and boarding team members are assigned in CGHRMS.
- Establish and maintain a comprehensive unit MLE training program.
- Ensure unit personnel selected to attend Boarding Officer or Boarding Team Member Courses meet course prerequisites.
- Ensure unit law enforcement personnel have received a minimum of awareness-level training in emergency response in accordance with *Safety & Health Training for Emergency Response Operations*, COMDTINST 6260.31 (series).

Unit MLE Training Program

Introduction

The unit MLE training program is the single most important element of the MLE training system to ensure law enforcement personnel possess the requisite skills, knowledge, and demeanor to safely, effectively, and professionally carry out the law enforcement mission. All other elements of the system are designed to support or build upon training conducted at the unit level. All units with a law enforcement mission shall establish and maintain a unit MLE training program.

This section provides guidance for the administration and execution of the unit MLE training program.

N.3. Administration

Depending on unit type, requirements for administration of a Training Board, unit training instruction, Unit Training Plan, Indoctrination Program, training records, and watch station certification boards are set forth in the *Cutter Training and Qualification Manual*, COMDTINST M3502.4 (series); or the *U.S. Coast Guard Boat Operations and Training (BOAT) Manual*, *Volume I*, COMDTINST M16114.32 (series). With respect to MLE training, any conflict between those directives and policy established by Commandant (G-OPL) shall be resolved in favor of the following manuals:

- *Maritime Law Enforcement Manual (MLEM)*, COMDTINST M16247.1 (series).
- *Boarding Officer/Boarding Team Member Personal Qualification Standards (PQS)*,

COMDTINST M16247.3 (series).

N.4. Personnel Qualification Standards

The minimum requirements for certification and recertification of Boarding Officers and boarding team members are set forth in the *Boarding Officer/Boarding Team Member Personal Qualification Standards (PQS)*, COMDTINST M16247.3 (series). It is not necessary to have completed a resident training course to qualify as a Boarding Officer or boarding team member, nor does completion of a resident training course qualify a member as a Boarding Officer or Boarding Team Member. In all cases, successful completion of the appropriate PQS and CO/OIC designation determines final qualification.

N.5. Unit MLE Training Syllabus

An effective unit MLE training syllabus should incorporate lesson plans that focus on PQS requirements. Topics should be presented in a cyclical fashion where, at a minimum, all items required for PQS recertification are covered within the time frames established in the *Boarding Officer/Boarding Team Member Personal Qualification Standards (PQS)*, COMDTINST M16247.3 (series). Irrespective of recertification requirements, units should strive to incorporate defensive tactics training on at least a monthly basis to ensure proficiency. All unit MLE training shall employ standardized lesson plans developed by MLE school. Standardized lesson plans and a recommended unit MLE training syllabus are available at http://rtcs10net.rtc.uscg.mil/rtcweb/mle/downloads.htm (MLE school's intranet site).

Additional Guidance

Introduction

This section provides additional policy regarding MLE training.

N.6. Boarding Debriefs

To the extent practicable, boarding team and boat crew personnel shall conduct a debrief after every boarding to identify procedures that worked well and any areas requiring improvement. Boarding debriefs provide an invaluable mechanism to improve boarding team safety and performance as well as to identify training needs. Additional guidance regarding boarding debriefs is contained in *Maritime Counter Drug and Alien Migrant Interdiction Operations*, COMDTINST M16247.4 (series)/NWP 3-07.4.

N.7. Organizational Clothing for MLE Instructors

When MLE instructors are conducting MLE training, they shall be authorized to wear organizational clothing as follows:

- Trousers. Operational Duty Uniform (ODU) trousers or shorts similar in style and material to that authorized as part of the boarding uniform prescribed in *Appendix H*. The prescribed uniform belt or law enforcement belt shall be worn with the trousers.
- Shirt. A solid red T-shirt, polo shirt or sweatshirt.
- Socks. Any socks authorized as part of the boarding uniform prescribed in *Appendix H*.
- Cloth Name Tapes. Cloth name tapes may be worn on the shirt and/or outer garment as an optional item. If worn, name tapes shall be displayed and constructed as specified in the *Uniform Regulations*, COMDTINST M1020.6 (series).
- Insignia. Authorized unit training insignia is authorized on the left breast. This applies only to the Boarding Officer and boarding team member schools, and Area training teams. Unit level insignia of any type are not authorized.
- Outer Garments. A solid "windbreaker style" red jacket. An insignia, as described above, may be added.
- Headgear. Headgear is optional. If worn, headgear shall be consistent with that authorized as part of the boarding uniform prescribed in *Appendix H*.
- Footwear. Any footwear authorized as part of the boarding uniform prescribed in *Appendix H* or solid black athletic shoes.

Appendix O. Maritime Safety and Security Offenses

Introduction

This appendix provides an overview of maritime safety and security offenses applicable to maritime and port security law enforcement, and a quick reference chart. See the *Marine Safety Manual*, *Volume VII, Port Security,* COMDTINST M16000.12 (series), for comprehensive discussion of the application and rationale underlying these offenses.

In this Appendix

This appendix contains the following information:

Topic	See Page
Definitions	O-3
Offenses	O-4

Definitions

O.1. Marine Environment

The navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf (OCS) of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources. Considering all the maritime zones cited in the definition, the U.S. marine environment consists of all navigable internal waters, and all waters up to 200 NM seaward of the baseline from which the territorial sea is measured, and further to the edge of the OCS where the shelf extends further than 200 NM. There are three maritime zones that fall within the definition of marine environment.

O.2. Navigable Waters

All internal waters subject to tidal influence; internal waters not subject to tidal influence for which the Coast Guard has made a finding of navigability pursuant to 33 CFR 2.05-25; and waters of the territorial sea extending to 12 NM from the baselines of the United States determined in accordance with international law. Accordingly, some statutes referring to "navigable waters of the United States" are applicable only in waters extending to 3 NM from the baseline. Unless otherwise specified in this Manual or appendixes, the term "navigable waters of the United States," with respect to the territorial sea, extends to 12 NM from the baseline from which the territorial sea of the United States is measured. For offenses not discussed in this Manual or when otherwise in doubt, enforcement personnel shall consult their servicing legal office regarding the applicable breadth of the territorial sea.

NOTE

Although Presidential Proclamation No. 5928 of December 27, 1988 extended the territorial sea to 12 nautical miles for international law purposes, the Proclamation explicitly stated that it did not extend or alter "existing federal or state law or any jurisdiction, rights, legal interests, or obligations derived therefrom."

O.3. Exclusive Economic Zone (EEZ)

Those waters where the United States asserts exclusive fishery management authority. The EEZ extends 200 NM from the baseline from which the territorial sea is measured, and the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

O.4. Outer Continental Shelf (OCS)

Includes all submerged lands lying seaward and outside of the area of lands beneath navigable waters, and of which subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. Generally, the outer limit of the OCS shall not exceed 350 NM from the baselines from which the breadth of the territorial sea is measured.

Offenses

O.5. Violations of COTP Orders Issued Under the PWSA	The Ports and Waterways Safety Act (PWSA) authorizes the supervision of vessel and port operations to ensure navigation and vessel safety, protection of the marine environment, and safety and security of United States ports and waterways. PWSA COTP orders are issued by the District Commander or the COTP under the authority of the PWSA, 33 USC 1224, and 33 CFR Part 160, subpart B. PWSA COTP orders are directed to a specific vessel, facility, or individual in order to: restrict or stop vessel operations; require specific actions to be taken; deny a vessel further entry to port until a deficiency is corrected; or detain a vessel in port.
O.5.a. Elements	PWSA COTP orders must be in writing and signed by either the COTP or the Acting COTP. The term "Alternate COTP" designates a billet position and signing as such is not legally enforceable. COTP orders are for temporary situations only and cannot be issued in lieu of a security zone, safety zone or regulated navigation area. The order's contents shall include: the vessel, facility, or individual to whom it is issued, the underlying legal authority, the order's basis and purpose, and the required actions expected of the person to whom the order is directed. In general, a COTP order violation requires: • The individual who is specifically directed to take action under the order must have actual notice of the order and its requirements; and • The individual must fail to meet the actions required of him or her in the order.
O.5.b. Applicability	Generally, PWSA COTP orders may be issued to a specific vessel (including the owner or operator), facility, or individual in a port subject to the jurisdiction of the United States or within the navigable waters of the United States. PWSA COTP orders may not be issued to vessels on the Saint Lawrence Seaway, nor may they be issued to foreign flagged vessels engaged in innocent passage, transit passage or otherwise not bound for or departing a U.S. port.
O.5.c. Enforcement Policy	Any enforcement action should be coordinated between the COTP and District Commander. *Appendix D* contains approval requirements for arrest and seizure.
O.5.c.1. Civil Penalty Process	Any person who is found, after notice and an opportunity for a hearing, to have violated the PWSA or a regulation or order issued there under, shall be liable to the United States for a civil penalty, not to exceed $27,500 for each violation. Each day of a continuing violation shall constitute a separate violation. In determining the amount of such penalty, the Hearing Officer shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. For a PWSA violation, the civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*.

O.5.c.2. Arrest and Criminal Proceedings	Any person who willfully and knowingly violates a COTP order commits a class D felony. Any person who, in the willful and knowing violation of the PWSA or a regulation or order issued there under, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this PWSA or the regulations issued there under, commits a class C felony. For a violation of the PWSA, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. Guidelines governing arrest or detention of persons will vary with each safety zone and are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
O.5.c.3. Seizure	Seizure of the vessel is not authorized for a violation of a PWSA.
O.5.c.4. Case Package Preparation	Case package preparation requirements will likely be different for each PWSA enforcement action. A case package is required for any PWSA violation and shall be prepared in accordance with guidance provided by the District Commander.
O.5.c.5. Denial of Entry	A COTP may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with a properly issued COTP Order.
O.5.c.6. Withholding of Clearance	If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under the PWSA, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under the PWSA, the Secretary of the Department of Homeland Security may with respect to such vessel refuse or revoke any clearance required by 46 App. USC 91. Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety.
O.5.d. Notice to Subject of COTP Order	Policy regarding COTP orders is contained in the *Marine Safety Manual*, *Volume I, Administration and Management,* COMDTINST M16000.6 (series). COTP orders may only be enforced against individuals specifically directed to take action under the order, and who have actual notice of the order and its requirements. Actual notice is best accomplished by obtaining written acknowledgement from the persons or persons to whom the order is directed.
O.6. Violations of COTP Orders Issued Under the Magnuson Act	Magnuson Act COTP orders are issued by the Commandant, Area Commander, District Commander, or COTP under the authority of the Magnuson Act, 50 USC 191 (*2nd paragraph*) and 33 CFR Part 6. Magnuson Act COTP orders are authorized when the COTP finds the order necessary to prevent damage or injury to a vessel, waterfront facility, or waters of the United States, or to secure the rights and obligations of the United States. Magnuson Act COTP orders are directed to a specific vessel, waterfront facility, or individual when necessary in order to: supervise and control the movement of any vessel, restrict or stop vessel operations; require specific actions to be taken; or prevent access of persons, articles or things to vessels or waterfront facilities.

O.6.a. Elements	Magnuson Act COTP orders must be in writing and signed by the COTP or the Acting COTP. The term "Alternate COTP" designates a billet position and signing as such is not legally enforceable. COTP orders are for temporary situations only and cannot be issued in lieu of a security zone or other regulation. The order's contents must include: the vessel, facility, or individual to whom it is issued, the underlying legal authority, the order's basis and purpose, and the required actions expected of the person to whom the order is directed. In general, a COTP order violation requires: • The individual who is specifically directed to take action under the order must have actual notice of the order and its requirements. • The individual must fail to meet the actions required of him or her in the order.
O.6.b. Applicability	Generally, Magnuson Act COTP orders may be issued to a: specific vessel (including the owner and operator), waterfront facility, or individual onboard or attempting to gain access to a vessel or waterfront facility, in all territory and waters, continental or insular, subject to the jurisdiction of the U.S. seaward to 12 NM from the baseline.
O.6.c. Enforcement Policy	Any enforcement action should be coordinated between the COTP and District Commander. Violations of Magnuson Act COTP orders may be enforced through criminal and civil penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
O.6.c.1. Civil Penalty	A person violating the Magnuson Act, or a regulation or order prescribed under the Act, shall be liable to the United States Government for a civil penalty of not more than $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.
O.6.c.2. Arrest and Criminal Proceedings	Any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel who fails to comply with any regulation or rule issued or order given under the Magnuson Act, or obstructs or interferes with the exercise of any power conferred by the Magnuson Act, may be arrested and punished by imprisonment for not more than ten years and may in the discretion of the court, be fined not more than $10,000. If any other person knowingly fails to comply with any regulation or rule issued or order given under the Magnuson Act, or knowingly obstructs or interferes with the exercise of any power conferred by the Magnuson Act, that person may be arrested and punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than $10,000. Accordingly, for a violation of a Magnuson Act COTP order, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
O.6.c.3. Seizure	For a violation of a Magnuson Act COTP order, the vessel, together with her tackle, apparel, furniture, and equipment, may be subject to seizure. Guidelines governing seizure of vessels are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON prior to any seizure and for guidance regarding disposition of the vessel and evidence.
O.6.c.4. Case Package Preparation	Case package preparation requirements will likely be different for each COTP order. A case package is required for any COTP order violation and shall be prepared in accordance with guidance provided by the District Commander.

O.6.d. Notice to Subject of COTP Order	Policy regarding COTP orders is contained in the *Marine Safety Manual*, *Volume I, Administration and Management,* COMDTINST M16000.6 (series). COTP orders may only be enforced against individuals specifically directed to take action under the order, and who have actual notice of the order and its requirements. Actual notice is best accomplished by obtaining written acknowledgement from the persons or persons to whom the order is directed.
O.7. Security Zone Violations	Security zones are generally established by the COTP, District Commander, Area Commander, or Commandant under the authority of the Magnuson Act, 50 USC 191 and 33 CFR Part 6. Security zones are designated areas of land, water, or land and water established for such time as the COTP deems necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States, or to secure the observance of the rights and obligations of the United States. The underlying rationale articulated by the COTP for establishing the security zone is called a "finding of necessity."
O.7.a. Elements	The elements of a security zone violations are a person or vessel without permission of the COTP enters a security zone or places or takes any article or thing onboard any vessel or any waterfront facility in a security zone.
O.7.b. Applicability	Security zones may be established in internal waters subject to the jurisdiction of the United States, and in U.S. territorial sea from the baseline seaward to 12 NM. Security zones may also be established in any area of land, water, or land and water upon a finding of necessity by the COTP. Security zones may also apply to bridges over the water and to land adjoining the water, but do not apply to the airspace above the security zone. Only the FAA is authorized to secure airspace above a security zone. Because of limitations of Coast Guard law enforcement authority ashore, COTPs should consult with their servicing legal office before establishing a security zone on areas of land not qualifying as a waterfront facility under the definition of 33 CFR 6.01-4.
O.7.c. Enforcement Policy	Within a security zone, the COTP may cause any vessel, waterfront facility, person, article, or thing to be inspected and searched at any time. The COTP may also place guards upon a vessel in a security zone and may remove from any vessel all persons, articles, or things not specifically authorized by him to go or remain thereon or therein. All persons and vessels within the security zone are required to obey any lawful directive or order issued by the COTP or his/her authorized representative. Violations of security zone provisions may be enforced through criminal and civil penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
O.7.c.1. Civil Penalty	A person violating the Magnuson Act, or a regulation or order prescribed under the Act, shall be liable to the United States Government for a civil penalty of not more than $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.
O.7.c.2. Arrest and Criminal Proceedings	Any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel who fails to comply with any regulation or rule issued or order given under the Magnuson Act, or obstructs or interferes with the exercise of any power conferred by the Magnuson Act, may be arrested and punished by imprisonment for not more than ten years and may in the discretion of the court, be fined not more than $10,000. If any other person knowingly fails to comply with any regulation or rule issued or order given under the Magnuson Act, or knowingly obstructs or interferes with the exercise of any power conferred by the Magnuson Act, that person may be arrested and punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than $10,000. Accordingly, for a violation of security zone provisions, individuals involved may

be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. Guidelines governing arrest or detention of persons will vary with each security zone and are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

O.7.c.3. Seizure

For a violation of a Magnuson Act security zone, a vessel, together with her tackle, apparel, furniture, and equipment, may be subject to seizure. Guidelines governing seizure of vessels are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON for guidance regarding disposition of the vessel and evidence.

O.7.c.4. Case Package Preparation

Case package preparation requirements will likely be different for each security zone. A case package is required for any violation of this statute and shall be prepared in accordance with guidance provided by the District Commander.

O.7.d. Notice to the Public

In order to enforce a security zone, the offending vessel (or person) must be on notice that the zone exists. This may be accomplished by either constructive notice (through publication in the Federal Register) or actual notice. In practice, enforcement units will be directed to warn an offending vessel out of a zone while simultaneously providing them actual notice of the zone (usually with a written description of the zone). If the offending vessel then leaves the zone and does not return, additional enforcement action is normally not required.

O.7.e. Other

Security zones may also be established under 33 USC 1226 to prevent or respond to acts of terrorism against a person, vessel, or structure that is: 1) subject to the jurisdiction of the U.S. and located within or adjacent to the marine environment, or 2) a vessel of the U.S. or an individual onboard that vessel. Thus, the U.S. has jurisdiction to act under 33 USC 1226 if the person, vessel, or structure is otherwise subject to the jurisdiction of the U.S. and is within the marine environment. If such zones are established in internal waters or the U.S. territorial sea, then both PWSA and Magnuson Act authority may be cited, and enforcement options may then be chosen from either statutory framework. When enforcing security zones promulgated pursuant solely to 33 USC 1226, units shall follow the enforcement policy contained in *Section O.8* of this appendix, which is the enforcement policy for PWSA safety zone violations. Establishing and enforcing security zones outside the navigable waters of the United States raises various legal and policy issues, therefore, Operational Commanders desiring to establish such zones shall consult their servicing legal office prior to the establishment of a safety or security zone that may extend outside the navigable waters of the U.S.

Security zones may also be established pursuant to the Espionage Act, 50 USC 191, 1st paragraph. With the exception of the "Security Zone: Internal Waters and Territorial Seas Adjacent to the Florida Peninsula," 33 CFR 165.T07-013, this authority has not been invoked. In order to create an Espionage Act Security Zone, the President must issue a proclamation or Executive Order declaring a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States. Alternatively, the Secretary of the Department of Homeland Security may make a determination that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate federal response. In either case, the Secretary of the Department of Homeland Security may make, subject to the approval and consent of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States (seaward from the baseline to 12 NM). Pursuant to such regulations, the Coast Guard may inspect vessels at any time, place guards thereon, and, if necessary in order to secure such vessels from damage or

injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take full possession and control of such vessels and remove the officers and crew thereof and all other persons not specially authorized by the Coast Guard to go or remain onboard.

O.8. Safety Zone Violations

Safety zones are established by the COTP or District Commander under the authority of PWSA, 33 USC 1225, as implemented by 33 CFR 165.20. A safety zone is a water area, shore area, or water and shore area to which, for safety or environmental purposes, access is limited to authorized persons, vehicles, or vessels. It may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion.

O.8.a. Elements

The elements of a safety zone violation are a person without authorization of the COTP or District Commander enters or remains in a safety zone without authorization of the COTP or District Commander or brings, causes to be brought into, or allows to remain in a safety zone any vehicle, vessel or object.

O.8.b. Applicability

Safety zones may be established in navigable waters of the U.S. Safety zones may also apply to bridges over the water and to land adjoining the water, but do not apply to the airspace above the safety zone. Only the FAA is authorized to secure airspace above a safety zone. Foreign flag vessels are not exempt from the provisions of a safety zone unless they are engaged in innocent passage, transit passage or otherwise not bound for or departing a U.S. port.

O.8.c. Enforcement Policy

Within a safety zone, the Coast Guard may direct who and what may operate within the zone and may direct the manner in which operations will be conducted within the zone. All persons and vessels within the safety zone are required to obey any lawful order issued by the COTP, District Commander, or their authorized representative. In general, when enforcing safety zones, units will be required to ensure that no person, without permission of the COTP.

O.8.d. Civil and Criminal Penalties

Violations of safety zones shall be enforced in accordance with the PWSA enforcement scheme as described in *Section O.5.C.1-4* of this appendix.

O.8.e. Notice to the Public

In order to enforce a safety zone, the offending vessel (or person) must be on notice that the zone exists. This may be accomplished by either constructive notice (through publication in the Federal Register) or actual notice. In practice, enforcement units will be directed to warn an offending vessel out of a zone while simultaneously providing them actual notice of the zone (usually with a written description of the zone). If the offending vessel then leaves the zone and does not return, additional enforcement action is normally not required.

O.8.f. Other

Safety zones may also be established for deepwater ports or on the continental shelf around offshore platforms pursuant to the Deepwater Ports Act, 33 USC 1501-1524, and the Outer Continental Shelf Lands Act, 43 USC 1333. See *Section O.9* of this appendix for guidance concerning violations of safety zones around OCS facilities.

O.9. Safety Zone Violations Around OCS Facilities

Safety zones around OCS facilities are established by the District Commander under the authority of 43 USC 1333 and 33 CFR Part 147. OCS safety zones may be established around OCS facilities being constructed, maintained, or operated on the OCS to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones.

O.9.a. Elements	Specific OCS safety zones are listed in 33 CFR Part 147. An OCS safety zone may extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge or from its construction site, but may not interfere with the use of recognized sea lanes essential to navigation. The following vessels are authorized to enter and remain in an OCS safety zone: vessels owned or operated by the OCS facility, vessels under 100 feet in length overall not engaged in towing, and vessels authorized by the cognizant District Commander. In general, when enforcing OCS safety zones, units will be required to ensure that no unauthorized vessel enters or remains in the safety zone. If assigned to OCS safety zone enforcement, consult the specific regulation at 33 CFR Part 147 to ascertain the exact elements of the offense.
O.9.b. Applicability	OCS Safety zones may be established within 500 meters of an OCS facility. The OCS is generally considered to end where the depth of water reaches 100 fathoms or 600 feet. Foreign flag vessels are not exempt from the provisions of an OCS safety zone.
O.9.c. Enforcement Policy	Violations of OCS safety zone provisions may be enforced through both civil and criminal penalties under the authority of 43 USC 1350. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
O.9.c.1. Civil Penalty Process	For a violation of OCS safety zone provisions, the civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*. Any person failing to comply with a OCS safety zone regulation, after notice of such failure and expiration of any reasonable period allowed for corrective action and opportunity for a hearing, shall be liable for a civil penalty of not more than $20,000 for each day of the continuance of such failure. If a failure to comply with the safety zone regulation constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.
O.9.c.2. Arrest and Criminal Penalties	Any person who knowingly and willfully violates a OCS safety zone shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day of a safety zone violation shall constitute a separate violation. Accordingly, for a violation of OCS safety zone provisions, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. Guidelines governing arrest or detention of persons will vary with each safety zone and are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
O.9.c.3. Seizure	For a violation of OCS safety zone provisions, seizure of the vessel is not authorized.
O.9.c.4. Case Package Preparation	Case package preparation requirements will likely be different for each OCS safety zone. A case package is required for any violation of this statute (civil or criminal) and shall be prepared in accordance with guidance provided by the District Commander.

O.9.d. Notice to the Public	Because OCS safety zones are published in 33 CFR Part 147, offending vessels and persons have constructive notice of the zone's existence. Therefore, there is no legal requirement to provide actual notice of the OCS safety zone before enforcing its provisions. In practice, enforcement units will be directed to warn an offending vessel out of a zone while simultaneously providing them actual notice of the zone (usually with a written description of the zone). If the offending vessel then leaves the zone and does not return, additional enforcement action is normally not required.
O.10. Naval Vessel Protection Zone (NVPZ) Violations	Regulations for the protection of naval vessels were established by the Atlantic and Pacific Area Commanders under the authority of 14 USC 91. The authority to issue NVPZ regulations and orders has been delegated from the Commandant to the Area Commanders. The authority to issue NVPZ orders has been delegated from the Commandant to District Commanders and COTPs. NVPZ regulations are found in 33 CFR Part 165, Subpart G. An NVPZ is a 500-yard regulated area of water surrounding large U.S. naval vessels that is necessary to provide for the safety or security of the U.S. naval vessels. An NVPZ exists around large U.S. naval vessels at all times in the navigable waters of the U.S., whether the large U.S. naval vessel is underway, anchored, moored, or within a floating drydock, except when the large naval vessel is moored or anchored within a restricted area or within a naval defensive sea area. When within an NVPZ, all vessels shall operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. When within an NVPZ, no vessel or person is allowed within 100 yards of a large U.S. naval vessel unless authorized by the Coast Guard, the senior naval officer present in command, or official patrol.
O.10.a. Elements	The elements of an NVPZ violation are a vessel or person within the NVPZ fails to operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules or approaches within 100 yards of a large U.S. naval vessel without authorization by the Coast Guard, the senior naval officer present in command, or official patrol. "Naval vessel" means any vessel owned, operated, chartered, or leased by the U.S. Navy, any pre-commissioned vessel under construction for the U.S. Navy, and any vessel under the operational control of the U.S. Navy or a Combatant Command. The term "naval vessel" also includes floating drydocks and U.S. naval vessels in commercial drydocks within the navigable waters of the U.S., as long as all other definitional requirements are met. However, the term naval vessel does not currently include Coast Guard vessels. "Large U.S. naval vessel" means any naval vessel greater than 100 feet in length overall.
O.10.b. Applicability	NVPZs exist around applicable large U.S. naval vessels in the navigable waters of the U.S. seaward to 3 NM from the baseline from which the territorial sea is measured.
O.10.c. Enforcement Policy	When immediate enforcement action is required and Coast Guard units are not present or are not present in sufficient force to exercise effective control in the vicinity of large U.S. naval vessels, the senior naval officer present in command is responsible for the enforcement of the NVPZ provisions. In meeting this responsibility, the senior naval officer present in command may directly assist any Coast Guard enforcement personnel who are present.
O.10.c.1. Civil and Criminal Penalties	Violations of NVPZs shall be enforced in accordance with the PWSA enforcement scheme as outlined in *Section O.5.c* of this appendix.
O.10.d. Notice to the Public	Because NVPZs are published in 33 CFR Part 165, offending vessels and persons have constructive notice of the NVPZ's existence. Therefore, there is no legal requirement to provide actual notice of the NVPZ before enforcing its provisions. In practice, however, enforcement units may be directed to warn an offending vessel out of a zone while

simultaneously providing them actual notice of the zone (usually with a written description of the zone). If the offending vessel then leaves the zone and does not return, additional enforcement action is normally not required.

O.11. Regulated Navigation Area (RNA) Violations

RNAs are established by the District Commander under the authority of the PWSA, 33 USC 1231 and pursuant to implementing regulations found at 33 CFR 165 Subpart B. RNAs are defined as a water area within a defined boundary for which regulations for vessels navigating within the area have been established. RNAs are designed to define an area that requires specific control of vessel operations to preserve the safety of the adjacent waterfront structures, to ensure safe transit of vessels, or to protect the marine environment. RNAs are designed to permit permanent passive vessel traffic management. Examples of RNAs include placing a draft restriction on an area known to have excessive, undocumented silting; establishing a maximum speed limitation in an area known to be overly congested; and creating a no-passing or overtaking zone in an area known to have a narrow channel. A RNA is established by regulation, is considered rulemaking, and can only be issued by the District Commander. Whenever possible, the normal rulemaking process of notice and comment should be followed. However, RNAs may be established as emergency measures to respond to unanticipated events. Permanent RNAs are usually marked on nautical charts.

O.11.a. Elements

Vessels may be required to comply with specific operating criteria to gain access into or transit through the RNA. Enforcement units shall consult the specific regulations to ascertain the applicable operating criteria. Generally, the elements of a RNA violation are:

- Master of a vessel or other person.
- In a RNA.
- Fails to operate in accordance with the RNA regulation, or causes or authorizes the operation of a vessel contrary to the RNA regulation.

O.11.b. Applicability

RNAs may be established in navigable waters of the U.S. Foreign flag vessels are not exempt from the provisions of an RNA unless they are engaged in innocent passage, transit passage or otherwise not bound for or departing a U.S. port.

O.11.c. Enforcement Policy

Violations of RNAs shall be enforced in accordance with the PWSA enforcement scheme as outlined in *Section O.5.c* of this appendix.

O.12. Special Local Regulation (SLR) Violations

SLRs are established by the District Commander under the authority of the 33 USC 1233, and 33 CFR Part 100. SLRs may only be promulgated by the District Commander and are used to promote safety immediately before, during, and immediately after a regatta or marine parade, defined in 33 CFR 100.05 as an organized water event of limited duration which is conducted according to a prearranged schedule. SLRs are required by 33 CFR 100.15 for events, which by their nature, circumstances, or location will introduce extra or unusual hazards to the safety of life on the navigable waters of the United States. Accordingly, SLRs shall not be used to respond to immediate threats; they are designed to afford notice and protection for recurring or pre-scheduled marine events. Examples of appropriate SLR situations include inherently hazardous competitions, customary presence of marine traffic in the area of the event, and obstruction of a navigable channel that is expected to result in the accumulation of spectator craft. Existing SLRs for specific events are listed in 33 CFR Part 100.

O.12.a. Elements

SLRs may include restrictions upon, or control of, the movement of vessels through a specified area immediately before, during, and immediately after a regatta or marine parade. In general, the offending individual must have notice of the SLR and its requirements; and must fail to meet the actions required of him or her by the SLR.

O.12.b. Applicability	SLRs may be established in navigable waters of the U.S. seaward to 12 NM from the baseline. Foreign flag vessels are not exempt from SLR provisions unless they are engaged in innocent passage, transit passage or otherwise not bound for or departing a U.S. port.
O.12.c. Enforcement Policy	For SLR violations, the civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*. Violations of SLRs may be enforced only through the following civil penalties; arrest and seizure for SLR violations are not authorized:
O.12.c.1. Civil Penalty Process	Violations of SLRs may be enforced only through civil penalties as outlined in 33 USC 1236. Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of $5,000. The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually onboard shall be liable to a penalty of $5,000, unless the violation of regulations shall have occurred without his knowledge. Any other person shall be liable to a penalty of $2,500. *Civil Penalty Procedures and Administration*, COMDTINST 16200.3 (series), provides detailed guidance on civil penalty recommendations. Additionally, licensed officers shall be liable to suspension or revocation of license in the manner prescribed by law for incompetency or misconduct. Any enforcement action for a SLR violation by an individual who has a Coast Guard- issued Merchant Mariners License should be coordinated between the COTP and District Commander.
O.12.c.2. Arrest and Criminal Proceedings	Arrest and seizure for SLR violations are not authorized.
O.12.c.3. Case Package Preparation	A case package may be required by District Commanders for certain SLR violations.
O.12.d. Notice to the Public	In order to enforce a SLR, the offending vessel or person must be on notice that the SLR exists. This may be accomplished by either constructive notice (through publication in the Federal Register) or actual notice. In practice, enforcement units will be directed to warn an offending vessel of the SLR while simultaneously providing them actual notice of the SLR (usually with a written description of the SLRs). If the offending vessel complies with on-scene directions, additional enforcement action is normally not required.
O.13. Restricted Waterfront Area (RWA) Violations	RWAs are established by the Commandant under the authority of the Magnuson Act, 50 USC 191, as implemented in 33 CFR 125.15. RWAs are areas or vessels where access is limited to persons possessing identification credentials suitable to the Commandant. Credentials that are recognized and would permit the holder access to an RWA are identified in 33 CFR 6.10 and 33 CFR 125.09. RWAs are designed primarily to protect piers, wharves, docks and moored vessels from shoreside trespassers.
O.13.a. Elements	The elements of a violation of a RWA are a person who does not possess one of the identification credentials set forth 33 CFR 6.10 or 22 CFR 125.09 enters or remains in the RWA, including vessels and harbor craft therein.
O.13.b. Applicability	RWAs may be established at waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, in the navigable waters of the United States areas where any of the following shipping activities are conducted: • Those vital to the Military Defense Assistance Program. • Those pertaining to the support of U.S. military operations.

- Those pertaining to loading and unloading explosives and other dangerous cargo.
- Those essential to the interests of national security and defense, to prevent loss, damage or injury, or to insure the observance of rights and obligations of the United States.

O.13.c. Enforcement Policy

In general, when enforcing RWAs, units will be required to ensure that no person, without proper credentials, enters or remains in the RWA. Violations of RWA provisions may be enforced through criminal penalties and civil penalties. *Appendix D* contains approval requirements for arrest and seizure.

O.13.c.1. Civil Penalty

A person violating the Magnuson Act, or a regulation or order prescribed under the Act, shall be liable to the United States Government for a civil penalty of not more than $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

O.13.c.2. Arrest

Any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel who fails to comply with any regulation or rule issued or order given under the Magnuson Act, or obstructs or interferes with the exercise of any power conferred by the Magnuson Act, may be arrested and punished by imprisonment for not more than ten years and may in the discretion of the court, be fined not more than $10,000. If any other person knowingly fails to comply with any regulation or rule issued or order given under the Magnuson Act, or knowingly obstructs or interferes with the exercise of any power conferred by the Magnuson Act, that person may be arrested and punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than $10,000. Accordingly, for a violation of a RWA, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. Guidelines governing arrest or detention of persons will vary with each RWA and are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON for guidance regarding disposition of persons.

O.13.c.3. Seizure

For a violation of a Magnuson Act security zone, a vessel, together with her tackle, apparel, furniture, and equipment, may be subject to seizure. Guidelines governing seizure of vessels are normally promulgated in an operation order or COTP order. In all cases, units shall contact OPCON for guidance regarding disposition of the vessel and evidence.

O.13.c.4. Case Package Preparation

Case package preparation requirements will likely be different for each RWA. A case package is required for any violation of this statute and shall be prepared in accordance with guidance provided by the District Commander.

O.13.d. Other

In accordance with regulations in 33 CFR 6.10-5 and 33 CFR 125.15, the Commandant initiates the action to establish an RWA. However, the Commandant has issued a general directive authorizing each COTP to establish RWAs for anchorages, vessels, and commercial waterfront facilities where activities pertaining to the handling, loading or discharging of Class A explosives are being conducted.

O.14. Naval Defensive Sea Area (NDSA) Violations

NDSAs are established by the President under the authority of 18 USC 2152 and specific NDSAs are promulgated at 32 CFR Part 761. NDSAs are areas of water around U.S. naval installations designated for the purpose of national defense and are established by various Executive Orders. Vessels and persons must remain outside NDSAs unless the cognizant authority (usually a DoD entity) allows access. In general, when enforcing NDSAs, units will be required to ensure that no person or vessel enters the NDSA without permission of the cognizant authority.

O.14.a. Elements	The elements of an NDSA violation are a person knowingly, willfully, or wantonly, violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purposes of national defense, may from time to time establish by executive order.
O.14.b. Applicability	Some NDSAs are active and enforceable while others remain inactive and unenforceable until activated by the cognizant authority.
O.14.c. Enforcement Policy	Violations of an NDSA provisions may be enforced through criminal penalties. *Appendix D* contains approval requirements for arrest and seizure.
O.14.c.1. Arrest and Fine	For a violation of NDSA provisions, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. A person who violates an NDSA may be fined or imprisoned not more than five years, or both. Guidelines governing arrest or detention of persons will vary with each NDSA and are normally promulgated in an operation order by the cognizant authority. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
O.14.c.2. Seizure	Units shall contact OPCON for guidance regarding disposition of the vessel and evidence.
O.14.c.3. Case Package Preparation	A case package is required for any violation of this statute and shall be prepared in accordance with *Appendix G*.
O.14.d. Other	Primary enforcement responsibility for NDSAs rests with the cognizant installation commander.
O.15. Restricted Area (RA) Violations	RAs are established by the Army Corps of Engineers around U.S. installations under the authority of 33 USC 1. Specific RAs are listed in 33 CFR Part 334. A RA is a defined water area for the purpose of prohibiting or limiting public access to the area. RAs generally provide security for Government property and/or protection to the public from the risks of damage or injury arising from the Government's use of that area. RA regulations provide for public access to the area to the maximum extent practicable. Violations of RAs are prosecuted under 33 USC 413.
O.15.a. Elements	The elements of a RA violation vary and are contained in the specific regulations found at 33 CFR Part 334.
O.15.b. Applicability	Restricted areas may be established in the navigable waters of the United States seaward to 3 NM from the baseline. Restricted areas may be closed to the public on a full-time or intermittent basis, as stated in the regulations.
O.15.c. Enforcement Policy	Violations of restricted area provisions may be enforced as misdemeanors. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
O.15.c.1. Arrest	For a violation of restricted area provisions, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. Guidelines governing arrest or detention of persons will vary with each restricted area and are normally promulgated in an operation order by the cognizant authority. In all cases, units shall contact OPCON for guidance prior to making an arrest for a restricted area violation.

O.15.c.2. Seizure	For a violation of restricted area provisions, seizure of the vessel is not authorized.
O.15.c.3. Case Package Preparation	A case package is required for any violation of restricted area provisions and shall be prepared in accordance with *Appendix G*.
O.15.d. Other	Primary enforcement responsibility for Restricted Areas rests with the installation commander; however, the Coast Guard has authority to enforce these regulations under 14 USC 89. In most instances, Navy/DoD units will enforce these zones with support from U.S. Marshals and DOJ to process and prosecute violators. Restricted Areas around private facilities can be patrolled and monitored by the facility's security force, state police, or the local Sheriff's department and may also be enforced by any federal agency with law enforcement authority, such as the Coast Guard. Any agency enforcing a Restricted Area is subject to, and limited by, their organization's organic authority.
O.16. Danger Zone Violations	Danger zones are established by the Army Corps of Engineers around ranges under the authority of 33 USC 3. A danger zone is a defined water area (or areas) used for target practice, bombing, rocket firing, or other especially hazardous operations, normally for the armed forces. Danger zone regulations provide for public access to the area to the maximum extent practicable. The regulations for specific danger zones are listed in 33 CFR Part 334.
O.16.a. Elements	The elements of a Danger Zone violation vary and are contained in the specific regulations found at 33 CFR Part 334.
O.16.b. Applicability	Danger zones may be established may be established in the navigable waters of the United States seaward to 3 NM from the baseline. The danger zones may be closed to the public on a full-time or intermittent basis, as stated in the regulations.
O.16.c. Enforcement Policy	Violations of danger zone provisions may be enforced through both civil and criminal penalties. Enforcement options are described below. *Appendix D* contains approval requirements for arrest and seizure.
O.16.c.1. Civil Penalty Process	For danger zone violations, the civil penalty process is initiated by completing the Coast Guard Report of Boarding (CG-4100) in accordance with *Appendix E*.
O.16.c.2. Arrest	For a violation of danger zone provisions, individuals involved may be subject to arrest or, in lieu of arrest, may be detained for further transfer to another law enforcement agency. Guidelines governing arrest or detention of persons will vary with each restricted area and are normally promulgated in an operation order by the cognizant authority. In all cases, units shall contact OPCON for guidance regarding disposition of persons.
O.16.c.3. Seizure	For a violation of danger zone provisions, seizure of the vessel is not authorized.
O.16.c.4. Case Package Preparation	A case package is required for any violation of danger zone provisions and shall be prepared in accordance with *Appendix G*.
O.16.d. Other	Primary responsibility for the enforcement of danger zone provisions lies with the cognizant installation commander.

Table N-1. Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits			
WHAT	**WHY USED**	**WHERE**	**AUTHORITY**
1) Captain of the Port (COTP) Orders pursuant to PWSA	Directed to a specific vessel, facility, or individual in order to: restrict or stop vessel operations; require specific actions to be taken; deny a vessel further entry to port until a deficiency is corrected; or detain a vessel in port.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law.	33 USC 1221 et seq; 33 CFR 160, Subpart B; *Marine Safety Manual, Volume VI, Ports and Waterways Activities,* COMDTINST M16000.11 (series)
2) Safety Zones pursuant to PWSA (Waterfront Safety)	Established for the protection of vessels, structures, waterways, and shore areas; established for general safety and environmental protection purposes. It may be described by fixed limits, or it may be a zone around a vessel in motion.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law.	33 USC 1225; 33 CFR 160.5; 33 CFR 165 Subpart C; *Marine Safety Manual, Volume VI, Ports and Waterways Activities,* COMDTINST M16000.11 (series)
3) Security Zones pursuant to PWSA (Antiterrorism)	To prevent or respond to an act of terrorism against an individual, vessel or structure.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law. Within the EEZ (200 NM from the baseline) and on the OCS if the vessel or structure is subject to the jurisdiction of the United States; ***however, enforcement action against non-U.S. vessels requires a Commandant (G-O) SNO.***	33 USC 1226
4) Special Local Regulations (SLRs)	To promote safety of life immediately before, during, or immediately after a regatta or marine parade.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law.	33 USC 1233; 33 CFR 100; *Marine Safety Manual, Volume VI, Ports and Waterways Activities,* COMDTINST M16000.11 (series)

Table N-1. Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits - Continued

WHAT	WHY USED	WHERE	AUTHORITY
5) Regulated Navigation Areas (RNAs) pursuant to PWSA	To regulate navigation in a specific area where hazardous conditions exist which may make routine navigation unsafe. RNAs generally impose operating conditions/restrictions on vessels to ensure safe navigation, e.g., speed restriction, draft limitation, etc.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law.	33 USC 1231; 33 CFR 165 Subpart B; *Marine Safety Manual, Volume VI, Ports and Waterways Activities,* COMDTINST M16000.11 (series)
6) Security Zones pursuant to the Espionage Act	Used only after the President declares a national emergency by reason of disturbance or threatened disturbance of the international relations of the United States; or if AG makes a determination that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate federal response.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law.	50 USC 191 (First paragraph) 33 CFR 165.T07-013 Presidential Proclamation No. 6867 and continuations thereof
7) Security Zones pursuant to the Magnuson Act	To safeguard vessels, harbors, ports, and waterfront facilities from sabotage or other subversive acts, accidents or other causes of a similar nature, or to secure the observance of the rights and obligations of the United States.	Within the navigable waters of the United States seaward to 12 NM from the baseline as determined in accordance with international law.	50 USC 191 (second paragraph and its sub-paragraphs; amended by PL 107-295), 33 CFR 160.5; 33 CFR 165 Subpart D; 33 CFR 6.01-5; 33 CFR 6.04-6; 33 CFR 6.01-7; *Marine Safety Manual, Volume VI, Ports and Waterways Activities,* COMDTINST M16000.11 (series) E.O. 13273 (8/21/2002)

Table N-1. Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits - Continued			
WHAT	**WHY USED**	**WHERE**	**AUTHORITY**
8) Safety Zones for Outer Continental Shelf Facilities	To promote the safety of life and property on the facilities, attending vessels, and adjacent waters within the safety zone.	Within a radius of 500 meters from an Outer Continental Shelf facility. Outer Continental Shelf is generally considered to end where the depth of water reaches 100 fathoms or 600 feet.	43 USC 1333, 33 CFR 147
9) Naval Vessel Protection Zones and Naval Vessel Protection Orders	To ensure the safety or security of U.S. naval vessels.	Within the navigable waters of the United States seaward to 3 NM from the baseline as determined in accordance with international law. The protection zone is the area within 500 yards of a protected naval vessel. Vessels within the zone are not allowed within 100 yards of the naval vessel without permission.	14 USC 91; authority to issue or modify regulations rests with Commandant and Area Commanders; order authority delegated to Area and District Commanders and COTPs. 33 CFR Part 165 Subpart G at 67 FR 31958 (final rule effective 15 Jun. 2002).
10) Restricted Waterfront Areas	Protect piers, wharves, docks, similar structures, and vessels moored to such from unauthorized people.	Created by the COTP for areas involved in Class 1 explosive handling and by COMDT for all other national security reasons.	• 50 USC 191 • 33 CFR 6 • 33 CFR 125
11) Other Agency Authorities of Note • Restricted Areas – 33 CFR 334 • Danger Zones – 33 CFR 334 • Naval Defensive Sea Areas – 32 CFR 761	• Provide security for property/protect public • Protect public from hazardous operations of the armed forces • Protect military installations.	• Created by the ACOE around U.S. installations (application to private and/or municipal facilities such as nuclear power plants and bridges still unclear) • Created by the ACOE around weapons ranges • Created by Executive orders, listed in 32 CFR 761, around islands under Navy jurisdiction.	• 33 USC 1 • 33 USC 3 • Various Executive Orders (see 32 CFR 761)

NOTE 33 CFR Subpart 2.05 is being updated to reflect amendments to *PWSA*--accordingly, seek legal assistance for orders to vessels in the range of 3-12 NM from the baseline. The NPRM to change the jurisdictional definition of navigable waters was issued on 14 Aug 2002 (67FR157). The comment period closed on 12 Nov 2002 and the final rule pends.

Index

A

absconder, 10-28, 10-29, B-3
acceptable risk, 3-5
access kit, H-11, H-12
accommodating mariners, 3-3
act to prevent pollution from ships, 9-4, 9-6, A-3
ADCON, A-3, B-3
administrative control, A-3, B-3
admiralty and maritime jurisdiction, B-3
ADT, 3-8, A-3
advice to suspects cards, H-12
aggressive response techniques, 4-8
aircrew personnel, I-4
AIRSTA, A-3, N-5
AIS, 10-4, A-3
alien, 1-5, 2-24, 2-26, 3-3, 3-4, 3-6, 3-7, 3-8, 3-11, 3-13, 3-17, 3-25, 3-27, 3-28, 3-29, 3-30, 3-31, 4-8, 4-10, 4-11, 4-17, 5-3, 5-5, 6-3, 6-4, 6-4, 6-6, 6-8, 6-9, 6-10, 6-16, 6-16, 6-17, 7-4, 8-4, 10-7, 11-3, 12-3, 12-8, A-3, B-3, B-9, B-12, C-12, C-13, G-4, G-7, H-11, J-3, K-4, K-5, K-12, K-13, K-14, N-8
allied navy support, 3-15, 3-17
ambassador direction, I-3
AMIO, 1-5, 6-4, 6-8, A-3, H-3, H-6
ammunition, 3-8, 4-12, 12-7, A-3, A-9, H-7, H-10, H-11, I-4
anadromous species, 7-6, B-3
ANOA, 10-9, 10-10, 10-15, 10-29, A-3
AOR, A-3, E-6, P-6
APPS, 9-4, 9-6, 9-7, 9-8, 9-9, 9-18, 9-19, A-3
APSO, 6-7, 6-14, 6-15, A-3
arraignment, B-3
arrest, 2-3, 2-4, 2-9, 2-13, 2-15, 2-19, 2-24, 3-17, 3-18, 3-19, 3-23, 3-24, 3-25, 3-26, 3-27, 3-28, 3-30, 4-5, 5-3, 5-4, 5-5, 5-6, 5-8, 5-10, 6-3, 6-10, 6-11, 6-16, 7-4, 7-5, 7-6, 7-7, 7-9, 8-4, 8-6, 8-8, 8-10, 8-11, 8-12, 9-17, 9-18, 10-7, 10-21, 10-21, 10-22, 10-22, 10-24, 10-26, 10-28, 11-3, 11-5, 11-6, 11-7, 11-8, 11-9, 11-10, 11-11, 11-12, 11-13, 12-3, 12-4, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12, 12-13, 12-14, B-3, B-4, B-5, B-6, B-7, D-7, E-3, E-21, G-3, G-17, G-18, G-19, O-4, O-5, O-6, O-7, O-8, O-10, O-13, O-14, O-15, O-16
assault, 7-11, B-3, C-1, C-3, C-4, C-16, C-19
assistance entry, 2-10, 2-12, B-4, B-11
asylum, 6-3, 6-5, 6-7, 6-12, 6-15, 6-16, A-3, B-4, B-11, L-4, L-5
ATF, 12-7, A-3
attorney, 2-8, 2-20, 5-13, 5-14, 6-10, 6-16, 7-6, 7-9, 8-4, 8-6, 8-8, 9-4, 9-14, 9-15, 9-17, 9-18, 9-19, 9-20, 10-21, 12-15, C-10, C-18, G-10, J-9, P-4
authority and jurisdiction, 2-1, 2-15, 2-17, 2-19, 3-4, 5-4, 6-7, 7-5, 8-5, 10-21, 11-3, 12-3, N-4
authority card, H-12
auxiliarists, 2-24, 3-8
auxiliary, 2-8, 2-24, 3-15, 3-17, 5-6, 10-11, 12-5, 12-12, F-8

B

BAC, 11-9, 11-10, 11-11, 11-11, A-3, H-13
BAC chemical test, 11-10, 11-11
ballast, 9-9, H-13
baseline, 2-12, 2-27, 5-8, 5-9, 5-10, 5-15, 6-10, 8-6, 8-8, 8-10, 9-3, 9-10, 11-8, 11-9, 12-4, 12-7, 12-8, 12-13, 12-14, B-4, B-5, B-6, B-8, B-9, B-10, B-13, C-3, C-4, C-5, C-6, C-7, C-9, C-10, C-11, C-12, C-13, C-14, C-15, C-16, C-17, C-18, C-19, C-20, C-21, F-9, O-3, O-6, O-7, O-8, O-11, O-13, O-15, O-16, O-17, O-18, O-19
basic ISI, 3-11, 3-24
BCIS, 6-3, 6-7, 6-12, 6-13, 6-14, 6-15, 6-16, A-3, K-5, K-7, L-3, L-4, L-5
BISI, 2-16, 2-17, 3-7, 3-11, 10-11, 10-12, 10-14, 10-15, 10-16, 10-18, A-3
BL&P, 4-12, A-3
BO, A-3, N-4, N-5
boarding, 1-4, 1-5, 2-5, 2-7, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 2-15, 2-16, 2-17, 2-17, 2-18, 2-19, 2-20, 2-21, 2-23, 2-24, 3-1, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 3-11, 3-12, 3-13, 3-14, 3-15, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, 3-24, 3-25, 3-26, 3-28, 3-31, 4-4, 4-8, 4-14, 4-17, 4-18, 5-3, 5-6, 5-7, 5-9, 5-11, 5-12, 5-13, 5-14, 5-16, 6-4, 6-10, 6-17, 7-4, 7-11, 8-4, 8-9, 9-6, 9-8, 9-10, 9-11, 9-16, 9-18, 10-3, 10-4, 10-7, 10-8, 10-9, 10-10, 10-11, 10-12, 10-12, 10-13, 10-13, 10-14, 10-15, 10-16, 10-17, 10-18, 10-19, 10-19, 10-20, 10-21, 10-21, 10-22, 10-22, 10-23, 10-24, 10-25, 10-26, 10-29, 10-30, 10-31, 11-3, 11-4, 11-5, 11-6, 11-7, 11-8, 11-10, 11-11, 11-11, 11-12, 11-13, 11-14, 12-3, 12-5, 12-7, 12-10, 12-13, A-3, A-8, B-4, B-5, B-7, B-8, B-9, C-16, D-4, D-5, D-6, D-7, E-5, E-7, E-

10, E-11, E-12, E-14, E-14, E-17, E-18, E-18, E-24, F-1, F-3, F-4, F-6, F-7, F-8, F-9, F-11, G-3, G-4, G-13, G-19, H-1, H-3, H-4, H-5, H-6, H-6, H-7, H-9, H-11, H-12, H-13, H-14, I-3, I-4, J-3, J-4, J-5, J-8, K-3, K-4, K-6, K-7, L-4, M-3, M-4, N-3, N-4, N-5, N-6, N-7, N-8, N-9, P-8
boarding kit, H-6, H-11, H-12, H-13, M-4
boarding officer, 2-5, 2-17, 2-19, 2-20, 2-23, 2-24, 3-7, 3-8, 3-10, 3-10, 3-11, 3-12, 3-13, 3-15, 3-16, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, 3-24, 3-26, 4-8, 5-6, 5-7, 5-9, 6-10, 7-11, 10-4, 10-11, 10-12, 10-12, 10-13, 10-13, 10-14, 10-15, 10-16, 10-18, 10-19, 10-20, 10-21, 10-21, 10-22, 10-23, 10-24, 10-25, 10-26, 10-31, 11-4, 11-5, 11-6, 11-7, 11-10, 11-11, 11-12, 11-13, 11-14, 12-5, 12-7, A-3, E-14, E-14, E-17, E-18, E-18, F-4, F-6, F-7, F-8, F-9, F-11, H-5, H-9, H-12, H-13, H-14, J-5, M-4, N-3, N-4, N-5, N-6, N-7, N-8, N-9
boarding officer job aid kit, 3-26, 11-4, 11-7, 12-7, A-3, F-4, F-6, H-12
boarding process, 1-4
boarding team, 2-16, 2-17, 2-19, 2-20, 2-21, 2-23, 3-3, 3-4, 3-5, 3-7, 3-8, 3-9, 3-10, 3-11, 3-12, 3-13, 3-14, 3-16, 3-17, 3-18, 3-19, 3-20, 3-22, 3-24, 3-25, 3-28, 3-31, 4-8, 4-18, 5-14, 5-16, 6-17, 7-11, 10-3, 10-9, 10-11, 10-12, 10-12, 10-13, 10-13, 10-14, 10-15, 10-16, 10-18, 10-19, 10-19, 10-20, 10-22, 10-29, 11-10, A-3, B-7, B-9, D-4, E-5, E-14, F-1, F-3, G-19, H-1, H-3, H-4, H-5, H-6, H-7, H-9, H-11, H-12, H-13, H-14, J-3, J-5, J-8, K-3, K-4, K-6, K-7, N-3, N-4, N-5, N-6, N-7, N-8, N-9
boarding team uniform, H-1, H-3
boating accident reporting, 11-13
boating public, 3-6, 3-15, 11-3
body armor, 3-7, 3-9, 4-18, H-3, H-4, H-5, J-3
body cavity search, 3-31, B-4
BOJAK, 3-26, 11-4, 11-7, 12-7, A-3, F-4, F-6, H-12
bomb threat, J-1, J-3
border search, 2-4, 3-10, 3-19, 3-20, 3-21, 3-22, 3-22, 3-23, 3-23, 3-24, 10-13, 10-15, 10-19, B-6
breathalyzer, H-13
bribery, 9-11, 9-22, B-4, C-15
BTM, A-3, N-4, N-5
BTS, 6-3, A-3
BUI, 1-4, 11-9, 11-10, 11-11, 11-12, A-3, H-13
bureau of citizenship and immigration services, 6-3, A-3
bureau of customs and border protection, 6-3, A-3, E-18, E-21, K-4
bureau of immigration and customs enforcement, 6-3, A-5, K-1

C

C2, 2-21, A-4, P-6, P-7, P-8
captain of the port, 2-5, 9-14, A-4, O-17
carcass, 8-14, 8-15
case package preparation, 5-7, 5-9, 5-10, 5-14, 6-10, 6-11, 7-8, 7-9, 8-7, 8-9, 8-10, 8-11, 8-12, 11-5, 11-7, 11-9, 11-10, 12-4, 12-5, 12-6, 12-7, 12-8, 12-10, 12-11, 12-12, 12-13, 12-14, G-1, G-3, O-5, O-6, O-8, O-10, O-13, O-14, O-15, O-16
case preparation, 3-26, 3-31
CAT, P-4, P-5, P-7, P-8
CBP, 2-4, 3-20, 6-3, 6-4, 6-10, 6-11, 6-13, 6-15, 6-16, 6-17, 6-18, 10-15, 10-16, 10-28, 10-29, 12-4, A-3, B-6, B-8, E-21, K-3, K-4, K-5, K-7, L-5
CCGD, A-3, E-8, G-10
CDA, 3-23, 3-24, A-3, B-5
CERCLA notification, 9-6
certificate of documentation, A-4, B-6, B-10, B-14, E-24, F-3, F-4, F-12
certificate of financial responsibility, A-4, E-24, F-3, F-9, G-15
certificate of inspection, 11-7, A-4, E-24, F-3, F-7, F-11, F-13, G-15
certificate of number, A-4, B-11, B-14, F-3, F-6, G-15
certificate of registry, F-3, F-7
cetacean, 8-13, 8-14
CF, 5-7, 5-9, A-3, E-18, E-20, E-21, E-22, E-23
CFIVSA, 3-10, 3-13, 3-14, 11-7, 11-8, 11-13, A-3, C-21, E-10, E-13
CGIS, 2-3, 2-8, 2-20, 4-4, 9-4, 9-14, 9-16, 10-19, 10-21, 10-23, 10-25, A-3, E-7, J-5, J-9
CGIS agents, 9-14, E-7
CGIS special agents, 2-8, 4-4
chain of custody, 3-29, 10-22, G-3, G-5, G-6, G-8, G-22
chemical irritants, 4-8, H-8, H-9
CINDI, 3-23, 3-24, A-3, B-5, G-21
CIPA, A-3, G-4
CISD, A-3, J-9
CITES, 8-4, A-4
citizenship document, K-1, K-3, L-4
citizenship requirement, C-1, C-5
civil offense, 5-5, 6-8, 7-6, 8-5, 9-5, 10-7, 11-4
civil penalty, 7-7, 7-8, 9-6, 9-8, 9-14, 9-18, 9-19, 9-20, 11-6, 12-4, B-4, O-6, O-7, O-13, O-14
civil penalty process, 3-26, 7-6, 7-9, 8-6, 8-8, 8-10, 11-5, 11-6, 11-7, 11-9, 11-10, 11-11, 12-5, B-4, E-7, E-10, E-13, E-17, O-4, O-10, O-13, O-16
CJCSI, 4-16, A-4
claim, 2-9, 2-11, 2-14, 2-15, 2-16, 2-17, 3-6, 3-15, 3-19, 5-7, 5-8, 7-12, 11-15, B-14, D-4, E-4, E-27, G-11, J-5, K-3, M-3, M-4

claim for damages, 3-19
clandestine collection, 2-21
class II, 9-6, 9-14, 9-19, 9-20
classified information, 10-12, A-3, G-4, P-9
clean water act, 9-4, 9-5, A-4
CNMI, A-4, C-5
coast guard flag, 4-8, 4-11, B-4, B-12, D-3
coast guard flag SNO, 4-8, 4-11, B-4
coastal state, 2-9, 2-11, 2-12, 2-12, 2-14, 2-21, 2-22, 2-23, 3-12, 3-13, 3-18, 3-19, 3-23, 3-24, 3-28, 5-6, 5-8, 5-11, 5-12, 5-12, 5-13, 6-4, 6-14, 12-11, B-4, B-5, B-7, B-8, B-12, D-5, D-6, D-7, G-7, G-13, O-3, P-5, P-8
coastal state authorization, 3-12, 3-13, 3-18, 3-19, 3-23, 3-24, 3-28, B-4, D-5, D-6, G-7, G-13, P-8
coastwise, F-4, F-5, F-6, F-9, G-15
COD, A-4, F-4, F-5, F-6, F-7, F-9
COFR, A-4, F-3, F-9
COI, A-4, F-7, F-8
COLREG, A-4
combined operations, 2-21
command and control matrix, D-1, D-4, D-5, D-6, D-7
command presence, 4-10, 4-17
commercial fishing industry supplemental boarding report, 11-7, E-10
commercial fishing industry vessel safety act, 3-10, 7-13, 11-7, A-3, C-21
commercial fishing vessel, 3-10, 3-13, 7-6, 7-8, 7-11, 7-13, 11-5, 11-7, 11-8, 11-10, 11-13, E-12, H-3
common carrier vessels, 5-6, 5-9, 5-10, 6-10, 12-5
CON, A-4, F-6, F-7, F-7
concurrent jurisdiction, 2-23, 5-8, 5-10, 7-4, 9-22, B-5
conduct of boarding operations, 3-1, 6-4, 7-4, 8-4, 10-6, 11-3, 12-3
consensual boarding, 2-1, 2-3, 2-8, 2-17, 3-9, 3-12, 3-13, 3-28, 5-12, 10-11, B-5, D-4, D-7, E-27, G-13
constructive presence, 2-10, 2-14, B-5, D-5, D-7, G-14
constructive seizure, 3-29, 5-8, 5-9, 5-10, B-5, E-18
contiguous zone, 2-10, 2-12, 2-13, 2-14, 2-27, 4-14, 5-5, 5-14, 6-4, 6-5, 6-9, 6-16, 9-5, 9-6, 9-10, 10-10, B-5, B-9, D-5, D-6, G-14, J-8, P-6, P-8
continental shelf, 2-14, B-5, O-9
contingency planning, 10-9
contraband, 2-7, 3-4, 3-11, 3-12, 3-12, 3-14, 3-16, 3-22, 3-23, 3-24, 3-28, 3-29, 5-6, 5-7, 5-8, 5-9, 5-10, 5-12, 5-13, 5-14, 5-15, 5-16, 10-19, 10-22, 12-4, A-3, B-5, B-6, B-11, C-7, E-3, E-4, G-3, G-6, G-20
contraband detection activities, 3-11, 3-12, 3-23, A-3, B-5
contraband disposition, 5-9, 5-10
contraband recovery, 5-13
control techniques, 4-8
copper sabot slug, 4-13, H-10
counterterrorism, A-4, P-3, P-5, P-8
crew list, 10-10, 10-15, B-9, E-24, F-3, F-4, F-9
crew muster, 10-14, 10-15
criminal activity, 1-4, 2-26, 3-8, 3-12, 3-13, 3-14, 3-17, 3-19, 3-20, 3-21, 3-24, 4-14, 6-11, 6-18, 10-19, 10-25, B-11, J-4
criminal code, 10-5
criminal offense, 3-15, 6-8, 9-16, 12-4, 12-14, B-5, B-7
crisis action team, P-4, P-5
critical habitats, 8-7
CSG, A-4, P-3, P-7, P-8
CSR, 10-4, A-4
CTU, A-4
culpable conduct, 9-20, 9-21, 9-22
custody, 3-16, 3-26, 3-27, 3-28, 3-29, 3-30, 4-5, 5-6, 5-13, 5-15, 5-16, 6-4, 6-6, 6-11, 6-13, 9-18, 12-11, B-3, B-5, B-11, C-15, E-4, G-5, G-6, J-8
custody transfer package, 5-16
customs authority, 2-4, 3-20, 5-6, B-6
customs form, 5-7, 5-9, A-3, E-21, F-4, F-11
customs form 364, 5-7, 5-9, E-21
customs waters, 2-13, 5-9, 12-5, B-6
CWA, 9-4, 9-5, 9-6, 9-14, 9-19, 9-20, A-4

D

D&M, 3-15
damage control team, 3-16
danger zones violation, O-16
DEA, 3-29, A-4, E-3, E-4
deadly force, 4-4, 4-5, 4-6, 4-7, 4-9, 4-12, 10-25, 10-26, B-6, B-10, H-10
deadly weapons, 4-6
defense of life or unit, 4-6
deportation, 6-3, 6-8, K-4, K-5
deputation, 2-20, 10-21, 10-25, 10-26, 10-27, 10-28, E-24
deserter, 10-28, 10-29, B-6
destruction, 2-5, 2-14, 2-22, 3-6, 3-19, 3-23, 3-29, 4-5, 4-6, 5-10, 5-13, 7-12, 9-22, 10-5, 10-9, 10-22, 10-23, 12-14, B-9, B-13, C-1, C-6, C-7, C-8, C-18, C-20, G-22, H-13, P-5, P-8
detection and monitoring, 3-15, B-6, G-6
detention, 2-13, 2-20, 2-22, 3-17, 3-18, 3-21, 3-27, 6-6, 6-9, 6-11, 9-17, 10-18, 10-24, 10-28, 10-29, 11-11, 12-9, B-4, B-6, B-7, G-3, G-17, G-18, G-19, J-6, J-7, O-5, O-8, O-10, O-14, O-15, O-16
DHS, A-4, P-4, P-5, P-7, P-8
disabling fire, 3-16, 3-17, 4-9, 4-10, 4-11, 4-12, 4-13, 4-14, 4-15, 4-18, 4-19, 5-11, B-6

disclosure of information, 3-10, 9-17
discretion, 1-5, 3-4, 3-7, 3-9, 3-10, 3-15, 3-26, 3-29, 5-6, 5-8, 5-10, 6-6, 6-11, 8-14, 9-9, 9-11, 9-19, 9-20, 10-12, 10-16, 10-18, 10-25, B-12, D-3, H-5, H-7, H-11, O-6, O-7, O-14
disease, H-6, J-6, J-7, J-8
disentanglement network, 8-13, 8-14
dissemination, 1-5, 1-6, 2-7, 10-12, D-4
distress at sea, 2-12, 6-14, B-4
district legal office, 3-27, 5-8, 5-10, 6-10, 9-4, 9-14, 9-15, 9-17, 9-18, 9-19, G-7, M-3
documented vessel, 6-4, 6-18, B-6, B-10, C-5, F-6, F-8
DoD support, 3-16, 6-4, 6-6, 6-11, 6-17
domestic law, 2-25, 5-3, 9-4, 10-7, 10-11, B-13
domestic legal framework, 6-4, 6-5
DOS certification, 5-7, 5-8

E

EAR, 7-6, 7-9, 8-6, 8-8, 8-10, A-4, E-13, E-14, E-17, E-18
EEZ, 2-9, 2-10, 2-12, 2-13, 2-14, 2-23, 2-27, 3-9, 4-14, 7-3, 7-5, 7-6, 7-7, 7-8, 7-12, 8-3, 8-9, 9-3, 9-5, 9-8, 9-17, 11-13, 11-15, A-4, B-6, B-9, C-3, C-5, D-6, D-7, E-8, F-5, G-11, G-14, O-3, O-17
EISI, 10-12, 10-14, 10-16, A-4
el paso intelligence center, 5-13, 5-15, A-4
ELT, 1-1, 1-3, 1-4, 1-5, 2-1, 2-8, 2-15, 2-18, 2-19, 2-21, 2-22, 3-5, 5-3, 6-4, 6-9, 7-4, 8-4, 10-6, 10-19, 11-3, 12-3, A-4, G-8, G-10
emergency light, 10-20
EMIS, A-4, E-13
endangered species act, 8-5, A-4, C-12
enforcement action report, 3-26, 7-6, A-4, E-17, E-19, E-24
enforcement authority, 2-3, 2-4, 2-5, 2-6, 2-8, 2-19, 2-20, 2-24, 3-3, 3-8, 3-20, 7-10, 9-17, 10-8, 10-19, 10-26, 11-3, 12-3, H-12, O-7, O-16
enforcement of laws and treaties, 1-1, A-4
entangled animals, 8-14
environmental task force, 9-15
EPIC, 5-13, 5-14, 5-15, 10-30, A-4, E-3, E-27
EPIRB, 11-8, A-4
ESA, 8-5, 8-6, 8-7, 8-9, 8-10, 8-12, 8-13, 8-14, A-4, C-12
escort, 3-8, 5-6, 6-6, 6-19, 7-8, 10-17, 10-18, H-3, J-8, M-3
ETA, A-4, L-4
evidence, 2-7, 2-14, 2-16, 2-17, 2-18, 2-22, 3-3, 3-5, 3-6, 3-11, 3-12, 3-12, 3-13, 3-14, 3-16, 3-18, 3-19, 3-22, 3-24, 3-25, 3-25, 3-26, 3-28, 3-29, 3-30, 3-31, 4-12, 4-14, 5-6, 5-7, 5-9, 5-10, 5-13, 5-14, 6-4, 6-8, 6-12, 6-12, 6-15, 6-17, 7-7, 7-7, 7-8, 7-8, 7-9, 7-12, 8-6, 8-8, 8-10, 8-11, 8-12, 9-4, 9-5, 9-9, 9-11, 9-13, 9-14, 9-16, 9-18, 9-19, 9-20, 9-21, 9-22, 10-19, 10-22, 10-23, 10-24, 10-25, 11-5, 11-7, 11-9, 11-10, 11-11, 11-13, 12-4, 12-5, 12-7, 12-8, 12-10, 12-11, 12-12, 12-13, 12-14, B-6, B-9, B-10, B-11, E-7, E-10, F-7, G-3, G-4, G-4, G-5, G-6, G-7, G-8, G-9, G-20, G-21, G-22, J-5, J-8, J-9, K-3, K-5, O-6, O-8, O-14, O-15
evidence collection, 3-26, 3-31
evidence package, 3-25, 3-26, 3-28, 3-29, 3-31, 4-14, G-4, G-6, G-7, G-8, G-9
exclusive economic zone, 2-9, 2-12, 2-27, A-4, B-6, B-8, O-3
executive order, 2-5, 6-6, 6-7, 6-8, 8-11, B-6, J-7, O-8, O-14, O-15, O-19
executive order 12807, 6-6, 6-7, 6-8
executive order 13276, 6-6
extended ISI, 3-11, 3-24
external threat, 10-16, 10-17, 10-18

F

FAA, A-4, I-4, I-5, O-7, O-9
facility, 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-12, 2-20, 2-21, 2-23, 2-24, 2-25, 3-21, 4-4, 5-3, 5-12, 5-13, 6-6, 8-14, 9-4, 9-5, 9-6, 9-8, 9-13, 9-15, 9-16, 9-18, 10-3, 10-4, 10-4, 10-8, 10-9, 10-16, 10-19, 10-21, 10-25, 10-30, 12-10, 12-14, C-19, C-20, F-8, J-4, J-8, O-4, O-5, O-6, O-9, O-10, O-13, O-14, O-16, O-17, O-18, O-19
FBI, 9-18, 10-5, 12-9, A-4, P-4, P-6, P-7, P-8
FDIN, 5-15, 5-16, A-5, E-4
FDSS, 5-15, A-5
FEB, 3-20, 3-21, A-5
federal drug identification number, 5-15, A-5
federal drug seizure system, 5-15, A-5
federal law, 1-3, 1-4, 1-4, 2-6, 2-7, 2-23, 3-5, 3-15, 3-16, 3-27, 5-13, 5-15, 7-6, 8-3, 9-3, 9-4, 10-7, 10-8, 10-10, 10-10, 10-13, 10-18, 10-20, 10-22, 10-26, 11-6, 12-6, B-4, B-7, F-6, H-12, J-8, P-6
federal magistrate, 3-27
federal register, B-7, O-8, O-9, O-13
felony, 2-4, 2-8, 2-19, 2-20, 3-26, 4-5, 4-13, 4-14, 7-9, 9-6, 9-8, 9-10, 10-21, 10-29, 12-11, B-7, B-9, C-8, C-15, O-5
field sobriety test, 11-10, 11-19, 11-20, A-5, E-24
field tests of narcotics, G-6
FIR, 10-16, 10-30, A-5, E-5
firearm, 2-4, 10-13, 10-25, 10-26, 12-7, 12-8, B-3, J-8, J-9
fisheries boarding, 3-13
fisheries cases, 4-13, 4-14, 7-6, E-3
fisheries enforcement, 2-9, 2-20, 3-15, 3-26, 7-4, 7-9, 8-6, 8-8, 8-9, D-7, G-10, H-12
fisheries law enforcement authority ashore, 7-10

fisheries observer program, 7-11
fishery, 3-14, 7-3, 7-6, 7-7, 7-10, A-5, B-8, B-11, F-4, F-5, G-6, G-15, O-3
fishing vessel, 2-9, 2-24, 3-4, 3-9, 3-17, 3-29, 4-14, 7-3, 7-6, 7-7, 7-8, 7-11, 7-12, 10-9, 11-8, 11-15, B-7, B-11, C-5, H-4
fixed gear, 7-12
flag state, 2-9, 2-10, 2-11, 2-13, 2-14, 2-15, 2-16, 2-17, 2-17, 2-18, 2-23, 3-13, 3-27, 4-14, 5-7, 5-8, 5-11, 5-12, 5-13, 5-14, 6-6, 6-13, 6-14, 7-7, 7-9, 7-10, 8-7, 8-9, 8-11, 10-11, 11-14, 11-15, 12-10, 12-12, B-5, B-6, B-7, B-14, C-11, D-5, D-6, E-3, F-7, F-10, G-11, J-4
flag state authorization, 2-11, 2-13, 2-14, 2-15, 2-16, 2-17, 5-13, 8-7, 8-9, 8-11, 12-10, B-7, C-11
flexible handcuffs, H-8
FMP, 7-3, 7-11, A-5
FOIA, 1-6, A-5
FON, 2-9, A-5
force majeure, 2-10, 2-11, B-7, D-6
foreign flag, 2-10, 2-11, 2-12, 2-13, 2-14, 2-15, 2-18, 2-23, 3-12, 3-13, 3-18, 3-23, 3-24, 5-6, 5-11, 5-14, 6-9, 6-16, 7-6, 7-7, 7-8, 7-9, 8-7, 8-9, 8-11, 9-4, 9-6, 9-8, 9-9, 9-10, 9-17, 10-10, 10-28, 11-4, 11-5, 11-6, 11-14, 12-10, 12-11, 12-12, 12-13, B-5, B-6, B-7, C-11, D-4, D-5, D-6, F-3, F-7, F-9, F-10, F-11, G-14, J-4, O-4, O-9, O-10, O-12, O-13, P-4, P-8
foreign governments, 1-6, 2-7, 2-22, 6-13, 7-10, C-6, G-8
foreign law enforcement, 2-21, 2-21, 2-22, 2-23, 3-24, 4-4, 5-4, 5-11, 6-13, 6-17
foreign soil, 2-19, 2-20, 2-21
FOUO, 1-6, 6-16, 10-30, A-5, E-4, E-6, E-8, G-10, L-5
fourth amendment protection, 3-12
frisk search, 2-20, 3-22, 3-25, 3-30, B-7
FRP, A-5, F-5
FSA, A-5, C-11
FST, 11-10, 11-11, A-5
FWCPA, A-5
FWS, 8-3, 8-6, 8-8, 8-9, 8-11, 8-12, 8-13, 8-14, 8-15, A-5

G

gear conflict, 7-12
GIFA, A-5, B-8
GMT, A-5, E-14
governing international fisheries agreement, 4-14, A-5, B-8
great lakes, 6-13, 6-14, 6-15, 11-6, 12-6, 12-14, 12-15, B-8, B-9, F-5, F-6, F-8, F-9, F-11, G-15

H

hazardous materials, 4-6, F-10
hazardous substance, 9-4, 9-5, 9-6, 9-13, 9-14, 9-18
HAZMAT, 9-15, A-5, G-12
HE, 4-12, A-5
hearing officer, 3-26, 9-18, 9-19, 9-20, 11-6, 11-10, E-7, E-10, G-3, O-4
high interest vessel, 10-4, A-5
high seas, 1-3, 2-3, 2-13, 2-15, 2-27, 3-21, 6-19, 7-5, 7-6, 7-10, 8-5, 9-3, 9-4, 9-17, 10-8, 11-15, A-5, B-8, B-9, C-3, D-7, E-5, F-6, G-11
higher-level tactics, 4-11, 4-17
highly migratory species, B-8, C-5
high-risk detain onboard crewmember, 10-28, 10-29, B-8
history, 1-3, 4-14, 6-7, 7-4, 9-20, 9-21, 9-22, 10-12, G-6, O-4
HIV, 10-4, 10-13, A-5, P-8
HLSDM, 10-20, 10-21, 10-25, 10-26, 10-27, 10-28, A-5
holster, 4-7, H-7, H-8
homeland security coordination group, P-4, P-5
homicide, C-1, C-10, C-18
host nation, 3-17, 5-12, 6-4, 6-6, I-3
hostage, 12-8, 12-9, C-13
hot pursuit, 2-10, 2-14, 2-23, 4-14, 5-4, B-8, D-5, D-7, G-14
HQ, A-5, E-3
HSCG, P-4, P-5, P-7
HSDN, A-5, E-8
human rights, 6-5, 6-7, L-3
humpback whale, 8-6, 8-7

I

IACP, A-5, H-4
ICC, 3-6, A-5
ICE, 2-4, 3-20, 6-3, 6-7, 6-10, 6-13, 6-16, 6-17, 6-18, 10-15, 10-16, 10-28, 10-29, 12-4, A-5, K-1, K-3, K-4, K-5, K-7, L-5
identification card, 3-23, 10-20, E-24, H-1, H-14, K-3
IDT, 3-8, A-5
ILC, 11-4, A-5
illegal drug case, G-6
IMIS, 5-11, 5-12
immigrant, 6-7, 6-18, K-4, K-5
immigrant classes, K-5
immigration, 2-4, 2-9, 2-10, 2-11, 2-12, 2-12, 2-13, 2-14, 3-3, 6-1, 6-3, 6-4, 6-5, 6-6, 6-7, 6-8, 6-8, 6-11, 6-12, 6-13, 6-15, 6-16, 6-17, 6-18, 10-10, 10-28, A-5, B-5, B-8, C-5, D-6, F-9, G-16, K-1, K-3, K-4, K-5, K-5, K-6, K-7

immigration document, 6-11, 6-16, 6-17, 6-18, G-16, K-1, K-3, K-4
imminent, 3-23, 3-28, 4-5, 4-6, 9-6, 10-14, 10-18, 10-23, 12-9, 12-12, B-8, J-5, L-4, L-5, O-5
immunity, 2-9, 9-18, B-12
INA, 6-5, 6-6, 6-7, 6-9, 6-11, 6-14, A-5, C-5
incidental catch, 7-7, B-8
individual self-defense, 4-3, 4-4, 4-5, B-8, B-12, B-14, J-3
information sensitivity, 6-15
initial safety inspection, 2-16, 3-11, 10-12, 10-14, A-3, A-4, A-5, B-9
innocent passage, 2-10, 2-11, 2-12, 9-16, B-9, D-4, D-6, D-7, O-4, O-9, O-12, O-13
inspection, 1-5, 2-3, 3-12, 3-13, 3-14, 3-15, 3-22, 3-31, 5-3, 6-3, 6-5, 7-4, 7-12, 8-4, 8-9, 10-7, 10-15, 10-18, 10-19, 10-25, 11-3, 11-5, 11-13, 12-3, A-7, B-3, B-4, B-6, B-9, B-14, E-10, F-3, F-7, F-7, F-10, F-11, H-6, K-4, K-7
intelligence database check, 3-4, 3-6, 3-10, 12-7
intelligence team, 3-16
interagency cooperation, 2-23, 7-4, 8-3
interagency relationships, 5-3, 7-4, 8-3, 9-4
intermediate weapons, 4-8, 4-9
internal threat, 10-16, 10-17
internal waters, 2-9, 2-10, 2-11, 2-13, 2-20, 4-14, 5-4, 5-5, 6-7, 6-8, 6-12, 6-15, 6-19, 10-10, 10-29, 12-11, A-6, B-6, B-9, B-10, D-5, D-6, E-5, G-14, J-4, O-3, O-7, O-8
international law, 1-5, 2-1, 2-8, 2-9, 2-11, 2-12, 2-14, 2-15, 2-17, 2-17, 2-22, 2-27, 3-4, 3-13, 5-4, 5-7, 6-4, 6-5, 6-6, 6-9, 6-14, 7-5, 8-4, 9-4, 9-14, 9-16, 10-10, 11-3, 11-5, 12-3, B-4, B-5, B-6, B-7, B-8, B-9, B-11, B-12, B-13, B-14, D-6, F-3, F-10, O-3, O-5, O-17, O-18, O-19
international maritime interdiction support, 5-11, 5-12
international ship and port facility security, 10-4, A-5
international waters, 2-9, 2-10, 2-11, 2-13, 2-17, 2-18, 2-22, 2-24, 2-27, 3-4, 5-4, 5-11, 5-14, 6-19, 11-9, 12-3, 12-5, 12-10, B-9, B-11, B-13, D-5, P-4
intoxicated operators, 3-17
intrusive search, 3-19, 3-25, 5-12, B-9
investigation, 2-25, 2-26, 3-12, 3-14, 3-17, 3-18, 3-19, 3-23, 3-24, 5-14, 9-11, 9-12, 9-14, 9-15, 9-15, 9-16, 9-18, 9-20, 9-21, 9-21, 10-9, 10-10, 10-13, 10-28, 10-29, A-4, B-6, E-14, J-4, J-9, J-9, M-4, P-4
IONSCAN, 3-23, 3-24, B-5, G-6, G-21, N-5
IOPP, A-5, F-4, F-10
ISI, 3-11, 3-12, 3-12, 3-18, 10-13, 10-16, A-5, B-9
ISPS, 10-4, 10-12, 10-16, A-5
ITC, 11-4, A-5
IW, A-6, D-5, D-7

J

JCS, 6-17, A-6
JIATF, 5-13, 5-14, A-6, G-7
joint operations, 2-23, 7-4, B-9, B-10, B-13, M-3
JQR, 3-23, A-6
jurisdiction, 1-3, 2-1, 2-3, 2-5, 2-8, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 2-15, 2-18, 2-19, 2-22, 2-23, 3-4, 3-12, 3-13, 3-19, 3-23, 3-24, 3-26, 4-12, 4-14, 5-4, 5-5, 5-7, 5-11, 5-12, 5-13, 6-8, 6-13, 7-5, 7-12, 8-5, 9-8, 9-15, 10-3, 10-4, 10-4, 10-8, 10-10, 10-11, 10-13, 10-16, 10-18, 10-19, 10-20, 10-21, 10-24, 10-27, 11-4, 11-6, 11-10, 11-12, 11-13, 11-14, 11-14, 12-4, 12-11, 12-14, 12-15, B-3, B-5, B-6, B-7, B-8, B-9, B-12, B-13, B-14, C-14, D-6, F-6, F-9, G-7, G-14, J-7, J-8, L-3, O-3, O-4, O-5, O-6, O-7, O-8, O-17, O-19, P-4, P-5, P-6

K

k-9 patch, H-14

L

labor dispute, 12-10, 12-11, 12-12, 12-14, J-1, J-4
lacey act, 7-5, 7-8, 7-9, C-12, E-18
law enforcement ashore operating area, 2-20, 10-3, A-6
law enforcement badge, H-14
law enforcement case package, E-4, E-18, E-21, G-1, G-3, G-4, G-6, G-9
law enforcement detachment program, 2-24
law enforcement SITREP, E-3, E-4, E-5
lawful consent, 10-23
lawful presence, 3-23
lawful rights and human dignity, 3-3
LE, A-6, E-5, E-6, G-1, G-3, G-4, G-6, G-8, G-9, G-12, H-6
lead federal agency, P-4, P-5
LEAOA, 2-20, 10-3, 10-8, 10-20, 10-21, 10-22, 10-23, 10-24, 10-26, A-6
LEDET, 2-24, 3-15, 3-16, 3-17, 4-3, 5-15, A-6, G-9, N-6
leg irons, H-8
LETOC, A-6, N-6, N-7
LFA, P-4, P-5, P-6, P-7
liability, 9-3, 9-4, 9-6, 9-11, 9-18, 9-22, 10-11
license, 3-10, 8-10, 10-26, 10-27, 11-13, C-14, C-21, F-3, F-5, F-8, F-10, F-14, F-15, G-6, G-15, G-16, K-3, O-13
living marine resource, 7-3, 7-5, 7-7, 7-13, 8-3, 8-4, 8-5, A-6, C-1, C-11, C-12, E-7, E-8, E-13, E-17
living marine resources enforcement summary report, 7-13
LMR, A-6, E-7, E-8

LNG, A-6, F-11
load line certificate, F-3, F-9, F-16, G-15
log book, F-3, F-4, F-10
LOS, 2-12, A-6
low-level tactics, 4-11, 4-17
LPG, A-6, F-11
LPOC, A-6, E-27, G-11

M

M-16 rifle, 3-9, 4-9, 4-12, 4-13, 10-17, H-11
M-9 pistol, 3-8, 4-9, H-7, H-8, H-9, I-3
magnuson act, 2-4, 2-5, 2-20, 10-6, 10-10, 10-29, O-5, O-6, O-7, O-8, O-13, O-14, O-18
magnuson-stevens fishery conservation and management act, 2-8, 7-3, 7-6, A-6, C-12
manifest, 5-8, 10-10, 10-15, B-9, E-24, F-3, F-4, F-10, G-8, G-16
mansfield amendment, 2-8, 2-11, 2-21, 2-21, 5-4
marine casualty reporting, 11-13
marine environment, 1-5, 2-5, 2-20, 2-24, 8-9, 9-1, 9-3, 9-4, 9-13, 9-14, 9-15, 9-16, 9-17, 9-18, 9-20, 10-3, 10-4, 10-7, 11-3, D-5, O-3, O-4, O-8, O-12, P-1, P-4, P-5, P-6, P-8
marine mammal assistance program, 8-12
marine mammal protection act, 8-7, A-6, C-11
maritime commerce, 3-6, B-3
maritime drug law enforcement act, 5-5, C-8
maritime homeland security, 1-4, 2-9, 10-1, A-6
maritime navigation, 12-10, C-8, C-18, C-20
MARSEC, 4-13, 10-9, 10-20, A-6, J-8, P-8
MBTA, 8-10, 8-11, 8-11, 9-22, A-6, C-11
MDLEA, 5-5, 5-6
MEDEVAC, 6-13, A-6, M-3
medical officer, A-6, J-8
memorandum of agreement, 10-25, A-6
memorandum of understanding, 2-25, A-6
merchant mariner's license, E-3, E-24, F-3, F-8
MHD, 10-8, A-6
MHS, 1-4, 1-5, 2-6, 2-20, 3-3, 4-15, 10-1, 10-3, 10-6, 10-7, 10-8, 10-9, 10-17, 10-19, 10-20, 10-21, 10-26, 10-28, 10-30, A-6, D-7, I-4, J-1
migrant, 1-5, 2-24, 2-26, 3-3, 3-4, 3-6, 3-7, 3-8, 3-11, 3-13, 3-17, 3-25, 3-27, 3-28, 3-29, 3-30, 3-31, 4-8, 4-10, 4-11, 4-13, 4-14, 4-17, 5-3, 6-3, 6-4, 6-5, 6-6, 6-9, 6-11, 6-12, 6-12, 6-13, 6-15, 6-16, 6-16, 6-17, 6-18, 7-4, 8-4, 10-7, 11-3, 12-3, A-3, B-9, C-1, C-12, D-7, E-3, G-4, G-7, H-8, H-11, J-3, L-3, N-8
migrant cases, 4-13, 4-14, 6-3, 6-9
migrant interdiction mission, 6-3, 6-5, 6-9, 7-4, 8-4, 10-7, 11-3, 12-3
migrant vessels, 6-15, 6-16
migrants, 1-4, 2-18, 3-4, 3-14, 3-24, 3-25, 4-13, 6-1, 6-3, 6-4, 6-5, 6-7, 6-7, 6-8, 6-9, 6-10, 6-11, 6-12, 6-12, 6-13, 6-14, 6-14, 6-15, 6-16, 6-19, 10-22, B-3, E-3, H-8, K-4, L-3
migratory bird treaty act, 8-10, 9-11, A-6, C-11
miranda warning, 5-13, 9-18
misdemeanor, 3-26, 9-5, 9-6, 9-11, 12-8, B-9, J-7
MISLE, 3-4, 3-10, 3-23, 10-12, 10-16, A-6
misrepresentation, 10-24, K-7
MLC, A-6, G-9, M-3, M-4
MMPA, 8-7, 8-8, 8-8, 8-9, 8-13, 8-14, A-6, C-11
MO, A-6, J-8
MOA, 2-7, 3-16, 10-25, 10-26, A-6, E-3
monitoring device, 3-9, 9-6, 9-21
MOU, 2-7, 2-25, 3-16, 3-17, 6-17, 7-4, A-6, I-3
MSFCMA, 7-3, 7-4, 7-5, 7-6, 7-7, 7-8, 7-10, 7-11, 7-12, 8-10, 8-12, A-6, B-6, B-8, B-12, C-3, C-5, C-12, D-7, E-14, E-18
MSO, 3-9, 9-12, 9-13, 9-14, 9-15, 9-16, 11-5, 11-6, 11-9, 11-12, A-6, F-3, F-10, F-11
MSST, A-6
MTS, 10-6, 10-17, A-6
multilateral counterdrug agreements, 5-11
multilateral fisheries agreement, 7-10
multilateral law, 2-1, 2-18
munitions, 4-6, 4-7, 4-8, 4-9, 4-11, 4-12, 4-17, D-5, D-7, H-10, H-11
mutiny, 12-10, 12-12, C-13
MWR, 11-4, A-6

N

national marine sanctuaries act, 8-9, A-7, C-12
national self-defense, 4-3, 4-6, 4-15, 10-8, B-9, B-12
national vessel monitoring system, 7-12, A-7
nationality, 2-9, 2-10, 2-13, 2-14, 2-15, 2-16, 2-17, 2-18, 2-26, 3-4, 3-10, 3-27, 5-4, 5-7, 5-7, 5-8, 6-5, 6-13, 6-14, 6-15, 6-19, 12-11, B-7, B-10, B-11, B-14, B-15, C-5, D-4, D-5, D-6, E-4, E-27, F-4, F-7, F-9, G-11, G-13, G-14, G-16, G-17, G-18, G-19, K-4, K-6, L-3, L-4
navigable waters of the U.S., 9-3, 9-8, 9-10, B-10, F-5, J-8, O-8, O-9, O-11, O-12, O-13
navy unit operational support, 3-15
NDSA, A-6, O-14, O-15
negligence, 9-5, 9-22, 11-8, B-10, C-6
negligent and grossly negligent operations, 11-8, C-21
NIJ, A-7, H-4, H-5
NM, 2-12, 2-27, 3-20, 4-15, 5-8, 5-9, 5-10, 5-15, 6-10, 8-6, 8-7, 8-8, 8-10, 9-5, 9-7, 9-8, 9-8, 9-10, 9-17, 10-10, 10-29, 11-8, 11-9, 12-4, 12-7, 12-8, 12-13, 12-14, A-7, B-5, B-6, B-10, B-13, C-3, C-4, C-5, C-6, C-7, C-9, C-10, C-11, C-12, C-13, C-14, C-15, C-16, C-17, C-18, C-19, C-20, C-21, F-9, J-8,

O-3, O-6, O-7, O-8, O-11, O-13, O-15, O-16, O-17, O-18, O-19
NMFS, A-7, E-3, E-8, E-14, E-17, E-18
NMSA, 8-9, 8-10, A-7, C-12
NOAA, 7-3, 7-4, 7-4, 7-6, 7-7, 7-8, 7-9, 7-10, 7-11, 7-12, 7-12, 8-3, 8-4, 8-6, 8-7, 8-8, 8-9, 8-10, 8-12, 8-13, 8-14, 8-15, A-7, E-8, E-13, E-14, E-17
non-coast guard personnel, 3-7
non-compliant vessel, 3-6, 4-1, 4-3, 4-5, 4-6, 4-8, 4-9, 4-10, 4-11, 4-12, 4-13, 4-15, 4-17, 4-18, 4-19, B-10, D-5, E-5
non-deadly force, 3-17, 3-25, 4-5, H-11
non-immigration document, K-4
non-innocent passage, 2-11
north atlantic right whale, 8-7, 8-9
notice of violation, 3-26, 8-4, 9-20
NPAFC, A-7, D-7
NPOC, 10-12, A-7, E-27, G-11
NSC, A-7, B-10, D-3, P-3, P-5
N-VMS, 7-12, A-7
NVPZ, A-7, O-11
NWP, 1-5, 2-24, 3-3, 3-4, 3-6, 3-7, 3-8, 3-11, 3-13, 3-17, 3-25, 3-27, 3-28, 3-28, 3-29, 3-30, 3-31, 4-8, 4-10, 4-11, 4-17, 5-3, 6-4, 6-16, 7-4, 8-4, 10-7, 11-3, 12-3, A-7, G-4, G-7, H-11, J-3, N-8
NWR, 8-11, 8-12, A-7, C-11

O

obstructions to navigation, 12-13, 12-14, J-4
OC, 3-9, 4-8, A-7, H-7, H-9, I-4, I-5, N-5
ocean dumping act, 9-4, 9-9, 9-10
ocean guardian, 7-9
OCMI, 11-5, 11-6, 11-13, 11-14, A-7, F-3, F-10, F-11
OCS, O-3, O-9, O-10, O-11, O-17
offense investigation report, 3-26, 7-6, 7-9, 7-11, A-7, E-13, E-14, E-15, E-16, E-24
offense investigation report supplemental, A-7, E-14, E-16, E-24
officer presence, 4-7, 4-13
oil spill, 9-13
OIR, 7-6, 7-9, 7-11, A-7, E-13, E-14, E-14, E-17
OIR-SUP, A-7, E-14, E-14, E-17
OJT, A-7
OLC, 6-6, 6-8, A-7
ONF, 4-15
OPCEN, 5-15, A-7
OPCOM, P-5, P-6, P-7, P-8
OPCON, 2-17, 2-19, 2-20, 2-21, 3-14, 3-17, 3-19, 3-21, 3-22, 3-23, 3-23, 3-24, 3-29, 4-3, 4-8, 4-15, 4-18, 5-4, 5-6, 6-10, 6-11, 6-17, 7-7, 7-7, 7-9, 7-10, 7-11, 8-6, 8-8, 8-10, 8-11, 8-12, 8-14, 11-5, 11-7, 11-9, 11-10, 12-4, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12, 12-13, 12-13, 12-14, A-7, B-10, C-14, D-7, E-3, E-14, E-17, E-18, E-21, J-3, J-5, J-9, L-4, O-5, O-6, O-8, O-8, O-10, O-14, O-15, O-16
operation new frontier, 4-15, 10-7, I-4
order to land, 5-11, 5-12
OTH, A-7
outer continental shelf, 9-5, O-3, O-9, O-19
outfitting requirement, 3-9, 3-10
overflight, 5-11, 5-12
overt collection, 2-21

P

passenger, 10-15, 10-22, 11-5, 11-6, 11-7, 11-15, 11-16, 11-18, 12-9, B-10, E-24, F-3, F-4, F-8, F-8, F-9, F-11, F-14, G-11, G-16
passenger list, 10-15, E-24, F-3, F-4, F-9
passport, B-10, B-13, E-4, F-9, G-6, K-3, K-4, K-6, K-10
patdown search, 3-22
patrol, 2-21, 2-24, 2-25, 3-3, 4-4, 5-3, 6-3, 6-4, 7-4, 7-6, 8-4, 8-5, 9-6, 10-7, 10-20, 10-21, 11-3, 11-12, 12-3, A-8, B-4, O-11
PD-27, 2-10, 2-12, 2-13, 2-14, 2-15, 2-18, 2-22, 2-23, 4-14, 6-12, 10-11, 12-11, A-7, B-10, D-3, D-4, D-5, D-6, D-7, E-3, G-7, G-13
PDD, 2-12, 6-6, 6-7, 6-8, 10-6, A-7, P-3, P-7
PDD-9, 6-6, 6-7, 6-8
peace of the port, 2-10, 2-11, J-4
pepper spray, 3-9, 4-8, H-7, H-9, I-4, I-5
peril from the sea, 6-13
personal weapon, 3-8
PFD, 3-10, 3-14, 11-16, A-7, H-3, H-4, H-5, H-7
physical fitness test, N-3, N-4
pinniped, 8-13
piracy, 2-14, 2-15, 2-16, 2-17, 12-3, 12-9, 12-10, B-11, B-14, C-13, L-4
ports and waterways safety act, 2-4, 2-5, 10-3, 10-6, 11-4, B-13, O-4
posse comitatus act, 5-3
post-arrest search, 3-26, 3-30
post-seizure analysis, 3-24
post-shooting procedure, J-1, J-8
potential rewards, 8-7, 8-9
PQS, 3-8, 3-23, 4-8, 8-4, A-7, H-9, H-10, H-13, N-3, N-4, N-5, N-7, N-8
PRC, 6-13, 6-14, 6-15, A-7
pre-arrest search, 3-24, 3-25
pre-boarding, 2-16, 3-1, 3-4, 3-10, 3-12, 3-16, 7-4, 8-4, 10-7, 10-12, 11-3, 12-3, G-3, H-6
preparedness, 3-3, 10-7, P-3, P-5
presidential directive 27, A-7, B-10
presidential proclamation, 2-13, 2-27, 8-11, 10-10, O-18
prevention of escape, 4-5

probable cause, 2-8, 2-19, 3-11, 3-15, 3-17, 3-18, 3-19, 3-20, 3-22, 3-23, 3-23, 3-24, 3-25, 3-26, 3-28, 3-29, 4-5, 4-14, 10-19, 10-22, 10-23, 10-24, 11-11, B-11
professionalism, 1-4, 3-3
prohibited species, 7-7, 7-10, B-11
property seizure, 3-26, 10-21, 10-21, B-6
protection and security, 2-3, 2-4, 2-7, 10-9
protection of property, 4-6, C-6
PSCO, 10-11, 10-12, 10-12, 10-14, 10-15, 10-16, A-7
public affairs, 6-3, 8-4, J-9
pursuit and entry to investigate, 5-11
pursuit ashore, 2-19, 2-21
PWSA, 2-4, 2-5, 2-20, 10-29, O-4, O-5, O-8, O-9, O-11, O-12, O-17, O-18

Q

quarantine, 2-13, J-1, J-6, J-7, J-8

R

RA, A-7, O-15
radiation monitoring equipment, H-4, H-6
ramming, 4-3, J-1, J-3, J-4
RBS, A-7
reasonable ground, 2-4, 2-15, 2-16, 2-17, 2-17, 5-12, 10-11, 10-26, C-20, D-4
reasonable suspicion, 2-13, 2-15, 2-17, 2-17, 2-20, 3-11, 3-17, 3-18, 3-19, 3-20, 3-21, 3-24, 3-25, 3-25, 3-30, 3-31, 5-12, 6-11, 10-10, 10-13, 10-14, 10-21, 10-24, 10-25, 11-11, 12-10, B-11
recreational vessel, 3-13, 5-3, 10-9, 11-3, 11-4, 11-5, 11-7, 11-8, 11-9, 11-10, 11-11, 11-12, 11-13, 11-14, F-8, F-9, H-4
refugee, 6-3, 6-6, 6-7, 6-8, 6-16, 6-17, B-4, B-11, K-4, K-11, L-3, L-4
refugee convention, 6-6, L-3
refuse act, 9-10, 9-11, 9-22
regional fisheries training center, 3-15, A-7, N-5, N-6
regional fishery management council, 7-3, 7-10, A-7
registration number, 5-7, 12-5, B-11, E-17, F-6
registry, 2-9, 2-13, 2-14, 2-16, 2-17, 3-27, 5-7, 5-8, 11-16, B-14, E-4, E-27, F-5, F-7, F-9, G-7, G-15
regulated navigation areas violation, O-18
regulated species, B-11
remington 870 shotgun, H-10
report of boarding, 11-5, 11-6, 11-7, 11-9, 11-10, 11-12, 12-5, E-7, E-9, O-4, O-10, O-13, O-16
reservists, 3-8
respiratory protection, 3-9, H-4, H-6
restraint device, 4-8, E-5, H-8, H-9
restricted area violation, O-15
retreat, 4-4
RFMC, 7-3, 7-9, 7-10, A-7
RFTC, A-7, N-5, N-6
RFTG, A-8, N-6
RHIB, 3-16, 3-17
right of approach, 3-4, B-11, G-3, G-4
right of assistance entry, B-4, B-11
right of visit, 2-3, 2-8, 2-10, 2-15, 12-10, A-8, B-11, D-5, G-13
rights advice, 3-26, 3-27, 3-28
rigid hull inflatable boat, 3-16
riot shotgun, 3-9, 4-7, 4-9, H-9, H-10, H-10, H-11
risk/benefit assessment, 3-4, 3-5
river and harbors act, 9-10
RNA, A-8, O-12
ROV, 2-15, 2-16, 2-17, A-8, D-5, D-7
rules and regulations, 2-3, 2-4, 2-5, 10-8, 11-6, I-4, J-7, O-8
RWA, A-8, O-13, O-14

S

SABR, A-8
SAC, 7-12, 8-10, A-8
safe manning document, F-4, F-10
safeguarding sensitive information, 3-3
safety, 1-4, 2-5, 2-6, 2-9, 2-11, 2-16, 2-17, 2-19, 2-20, 2-22, 2-23, 2-24, 3-3, 3-4, 3-5, 3-9, 3-10, 3-11, 3-12, 3-13, 3-14, 3-15, 3-17, 3-18, 3-23, 3-24, 3-28, 3-29, 4-5, 4-8, 4-12, 4-13, 4-18, 5-5, 5-12, 5-13, 6-3, 6-5, 6-8, 6-12, 6-13, 7-11, 7-13, 8-14, 9-1, 9-3, 9-4, 9-8, 9-12, 9-13, 9-14, 9-15, 9-16, 9-17, 9-18, 9-20, 9-21, 10-6, 10-7, 10-8, 10-9, 10-11, 10-12, 10-12, 10-13, 10-14, 10-15, 10-17, 10-18, 10-19, 10-19, 10-23, 10-24, 11-1, 11-3, 11-4, 11-5, 11-6, 11-10, 11-12, 11-13, 11-14, 11-14, 11-15, 11-16, 11-17, 11-18, 12-13, A-6, A-7, A-8, B-9, B-14, C-1, C-21, E-3, F-4, F-10, G-16, H-5, H-6, H-6, H-8, H-9, H-13, H-14, J-1, J-4, J-4, J-5, J-7, L-4, N-3, N-7, N-8, O-1, O-4, O-5, O-7, O-8, O-9, O-10, O-11, O-12, O-17, O-18, O-19, P-3, P-4
safety of life, 3-5, 4-13, 6-3, 6-13, 9-14, 9-16, 11-3, 11-4, 11-15, 11-16, 11-17, 11-18, A-8, F-4, F-10, O-9, O-12, O-17, O-19
safety of life at sea certificates, F-10
safety of personnel, 10-8
safety zone violation, O-8, O-9, O-10
SAR, 3-5, 3-15, 3-24, 3-27, 5-13, 6-3, 6-9, 10-17, A-8, J-8
SAR boarding, 3-15
scuttling, 3-24, 12-13, C-8, G-7
sea turtles, 8-3, 8-7
search incident to arrest, 3-30, A-8, B-4, B-11

security boarding, 3-9, 3-20, 10-7, 10-9, 10-10, 10-11, 10-12, 10-13, 10-13, 10-14, 10-15, 10-16, 10-17, 10-18, 10-30, H-11
security zone violation, O-7
seizure, 2-4, 2-9, 2-13, 2-15, 3-16, 3-18, 3-19, 3-21, 3-22, 3-23, 3-24, 3-28, 3-29, 4-12, 5-3, 5-6, 5-7, 5-8, 5-9, 5-10, 5-15, 6-10, 6-15, 7-4, 7-6, 7-7, 7-8, 7-9, 8-4, 8-6, 8-8, 8-9, 8-10, 8-11, 8-12, 9-17, 10-7, 10-22, 10-23, 11-3, 11-5, 11-6, 11-7, 11-8, 11-9, 11-10, 12-3, 12-4, 12-5, 12-6, 12-7, 12-8, 12-10, 12-11, 12-12, 12-13, 12-14, B-3, B-4, B-5, B-7, B-11, C-7, C-8, D-5, D-7, E-3, E-13, E-17, E-18, E-21, E-22, E-24, G-3, G-6, G-10, G-17, G-18, G-19, G-20, O-4, O-5, O-6, O-7, O-8, O-10, O-13, O-14, O-15, O-16
serious physical injury, 2-20, 2-21, 4-5, 4-6, 4-8, 4-9, 4-11, 4-12, 4-18, 10-14, 10-18, B-6, B-12, L-4
shipping articles, F-3, F-10
shiprider, 2-21, 5-11, 5-12, G-13
SIA, 3-30, 3-31, A-8
significant environmental harm, 9-20, 9-21, 9-22
SIV, 2-25, A-8, B-12
SLR, A-8, O-12, O-13
SMTJ, 12-6, 12-14, 12-15, A-8, C-4, C-6, C-7, C-8, C-10, C-17, C-19
smuggling, 1-3, 3-4, 3-14, 4-13, 5-6, 5-7, 6-3, 6-4, 6-5, 6-6, 6-8, 6-9, 6-17, 6-18, 12-4, 12-5, C-1, C-8, C-12, C-13, G-6
social security number, 3-10, E-14, E-17, E-18
SOLAS, 3-13, 6-8, 10-4, 10-12, 10-16, 11-3, 11-4, 11-5, 11-15, 11-16, 11-17, 11-18, A-8, F-4, F-10, G-16
SOP, 2-15, 7-10, A-8
SOV, 3-6, A-8, B-12, J-4
sovereignty, 2-11, 10-6, B-4, D-5, D-6, D-7
special interest vessel, 2-25, A-8, B-12
special maritime and territorial jurisdiction, 10-18, 12-6, 12-14, A-8, B-3, B-8, B-13
special operations vessel, 3-6, A-8, B-12, J-1, J-4
SROE, 2-23, 4-3, 4-4, 4-6, 4-15, 4-16, 10-8, A-8, B-12, J-3
SSN, 3-10
standing rules of engagement, 2-23, 2-24, 4-1, 4-15, 4-16, 10-8, A-8, B-12
stateless vessel, 4-14, 5-14, 5-14, 6-13, B-12, B-14, P-4, P-8
statement of no objection, 2-10, A-8, B-12, D-3, E-27
statute, 2-5, 2-8, 3-29, 5-5, 5-7, 5-8, 5-9, 5-10, 6-9, 6-10, 6-11, 7-8, 7-9, 8-7, 8-9, 8-10, 8-11, 8-12, 9-11, 10-5, 10-25, 11-7, 11-8, 11-9, 11-12, 11-13, 12-4, 12-5, 12-6, 12-7, 12-8, 12-10, 12-11, 12-12, 12-13, 12-14, B-4, B-5, B-11, B-12, C-5, C-6, C-7, C-8, C-11, C-19, C-21, E-18, J-7, O-8, O-10, O-14, O-15
statutory basis, 1-3, 2-3, 9-17
STCW, 10-14, 11-3, 11-4, A-8
sting ball, 4-8, 4-9, 4-17, H-10
stowaway, 6-10, 6-11, 10-28, 10-30, B-10, B-12
stranding network, 8-8, 8-13, 8-14, 8-15
strict liability statute, 9-22
strip search, 3-30, 3-31, B-4, B-12
substantive law, 2-8, 2-9, 3-29, 5-4, 6-8, 7-5, 8-4, 8-5, 11-3, 11-4, 12-3, 12-4, B-5, B-8, B-9, B-12, B-13
suicidal person, J-1, J-5
suitability assessment, 4-10, 4-11
summons to appear, 3-27, 5-9, E-18, E-20, E-24
supplemental report of boarding, 11-6, 11-10
survival vest, 3-10, H-5

T

TACLET, N-5, N-6
TACON, 2-24, 3-4, 3-15, 3-16, 3-17, 3-24, 3-25, 4-3, 4-4, 4-8, 4-15, 5-6, 5-9, 5-10, 5-12, 5-13, 5-14, 6-17, 10-20, 10-21, 10-21, A-8, B-13, G-7, G-9, J-3
tactical control, A-8, B-13, P-6, P-8
TED, 8-5, 8-7, A-8
temporary visa, K-4, K-5
territorial sea, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 2-16, 2-20, 2-27, 3-21, 4-12, 4-14, 4-15, 5-4, 5-5, 5-8, 5-11, 5-12, 5-13, 6-4, 6-6, 6-7, 6-8, 6-9, 6-12, 6-19, 7-8, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 9-10, 9-16, 10-10, 10-11, 10-29, 12-11, 12-14, A-8, B-4, B-5, B-6, B-8, B-9, B-13, C-11, D-5, D-6, E-5, G-14, J-8, O-3, O-7, O-8, O-11, P-6, P-8
territorial sea baseline, B-4, B-13
terrorism, 2-5, 10-3, 10-5, 10-6, 10-9, 10-11, 10-18, B-13, C-1, C-18, C-19, C-20, J-1, O-8, O-17, P-3, P-4, P-5, P-6, P-8
terrorist threats, 10-7, 10-9, D-5, D-7, P-1, P-4, P-8
terry stop, 10-23, 10-24
theft, 4-5, 4-6, 12-6, C-1, C-17
threat level, I-3
ticket program, 9-20
torture convention, L-3
TQC, A-8, N-7
transit passage, 2-10, 2-11, B-13, O-4, O-9, O-12, O-13
transportation security incident, 2-5, 10-4, 10-9, 10-11, 10-18
travel document, 6-17, B-3, B-10, B-13, H-13, K-4, K-7, K-11
TS, A-8, D-5, D-7
TSS, A-8

U

UNCLOS, 5-4, 6-5, 7-5, 7-7, 7-9, 8-4, 12-3, A-8

undocumented alien, 4-13, 6-4, 6-6, 6-8, 6-11, 6-14, 6-17
UNHCR, A-8, L-3
unit MLE training program, N-1, N-3, N-6, N-7
universal crimes, 2-10, 2-14, B-14
unlawful conduct, 3-6
USBP, 6-3, A-8
USC, 1-3, 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-11, 2-13, 2-20, 2-21, 2-21, 2-23, 2-27, 3-13, 3-20, 3-22, 3-23, 3-26, 4-14, 5-3, 5-4, 5-5, 5-6, 5-7, 5-8, 5-9, 5-10, 6-5, 6-9, 6-10, 6-11, 6-15, 6-16, 6-18, 7-5, 7-6, 7-8, 8-5, 8-6, 8-6, 8-7, 8-9, 8-10, 8-11, 9-4, 9-5, 9-6, 9-8, 9-9, 9-10, 9-11, 9-15, 9-16, 10-3, 10-4, 10-5, 10-8, 10-10, 10-11, 10-28, 11-4, 11-6, 11-7, 11-8, 11-9, 11-10, 11-12, 12-4, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12, 12-13, 12-14, A-8, B-5, B-6, B-8, B-13, B-14, C-3, C-4, C-5, C-6, C-7, C-8, C-9, C-10, C-11, C-12, C-13, C-14, C-15, C-16, C-17, C-18, C-19, C-20, C-21, E-17, E-18, E-21, F-3, F-5, F-6, F-7, F-9, J-6, J-7, K-3, O-4, O-5, O-7, O-8, O-9, O-10, O-11, O-12, O-13, O-14, O-15, O-16, O-17, O-18, O-19
use of force continuum, 4-1, 4-5, 4-7, 4-8, B-14, E-5
use of force policy, 2-20, 2-21, 2-23, 2-24, 2-25, 3-7, 3-9, 3-16, 3-17, 3-25, 4-1, 4-3, 4-4, 4-7, 4-15, 10-6, 10-25, H-10, H-11, J-3, J-8
use of force report, 4-1, 4-16, E-5, E-6, E-7, J-9
USN, A-9

V

VDE, 3-14, 11-8, A-9
venue decisions, 5-14
verbal commands, 4-8
vessel assimilated to a vessel without nationality, B-14
vessel assimilated to statelessness, B-14
vessel inspection, 3-11, 3-12, 3-12, 3-13, 3-18, 3-19, 3-24, 3-28, 10-9, B-14
vessel safety check, 2-24, 3-13, 3-15, A-9
vessel without nationality, 2-9, 2-10, 2-14, 4-14, B-7, B-12, B-14, D-4, D-5, D-6, E-4
violations of navigation rules and regulations, 11-6
VIP, A-9, H-3
voluntary dockside examination, 3-14, 11-8, A-9
VSC, 3-13, 3-15, A-9
VT, 4-12, A-9
VTS, A-9

W

waiver of rights, 3-28
warning shots, 3-16, 3-17, 4-5, 4-6, 4-9, 4-11, 4-12, 4-13, 4-14, 4-15, 4-18, 5-11
warrantless search, 2-20, 10-19, 10-21, 10-23, 10-25
warship, 2-15, 2-16, 3-4, 12-12, B-8, B-15
waste management, 9-9
waterfront facility, 2-5, 9-12, 10-3, 10-4, 10-4, 10-19, 10-21, 10-24, 10-25, 10-25, O-5, O-6, O-7
WCA, A-9, C-11
weapon serial number, 3-10
withholding clearance, 9-19
witness, 2-25, 3-24, 3-31, 5-14, 9-11, 9-15, 9-16, 9-18, 9-22, 10-23, E-14, G-3, G-6, G-7, G-8, G-10, G-22, J-8
written advisement, 3-28
written warning, 3-26, 7-7, E-7, E-10, E-13, E-17