Navigation Regulations

(1) This chapter contains extracts from **Code of Federal Regulations (CFR)** that are of importance to mariners in the area covered by this Coast Pilot. Sections of little value to the mariner are sometimes omitted. Omitted sections are signified by the following [...]

(2) Extracts from the following titles are contained in this chapter.

Title 33 (33 CFR): Navigation and Navigable Waters

Part 26	Vessel Bridge-to-Bridge Radiotelephone Regulations
Part 67	Aids to Navigation on Artificial Islands and Fixed Structures (in part)
Part 80	COLREGS Demarcation Lines
Part 110	Anchorage Regulations
Part 157	Rules for the Protection of the Marine Environment relating to Tank Vessels Carrying Oil in Bulk
Part 160	Ports and Waterways Safety-General
Part 161	Vessel Traffic Management
Part 162	Inland Waterways Navigation Regulations
Part 164	Navigation Safety Regulations (in part)
Part 165	Regulated Navigation Areas and Limited Access Areas
Part 334	Danger Zones and Restricted Area Regulations

Title 36 (36 CFR): Parks, Forests, and Public Property

Part 13	National Park System Units in Alaska

Title 50 (50 CFR): Wildlife and Fisheries

Part 224	Endangered Marine and Anadromous species

Note

(3) These regulations can only be amended by the enforcing agency or other authority cited in the regulations. Accordingly, requests for changes to these regulations should be directed to the appropriate agency for action. In those regulations where the enforcing agency is not cited or is unclear, recommendations for changes should be directed to the following Federal agencies for action:

(4) **U.S. Coast Guard:** (33 CFR 26, 67, 80, 110, 157, 160, 161, 162, 164, 165 and 334.

(5) **National Park Service, Department of the Interior:** (36 CFR 13);

(6) **National Marine Fisheries Service, National Ocean and Atmospheric Administration:** (50 CFR 224).

Part 26–Vessel Bridge-to-Bridge Radiotelephone Regulations

§26.01 Purpose.

(7) (a) The purpose of this part is to implement the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act. This part–

(8) (1) Requires the use of the vessel bridge-to-bridge radiotelephone;

(9) (2) Provides the Coast Guard's interpretation of the meaning of important terms in the Act;

(10) (3) Prescribes the procedures for applying for an exemption from the Act and the regulations issued under the Act and a listing of exemptions.

(11) (b) Nothing in this part relieves any person from the obligation of complying with the rules of the road and the applicable pilot rules.

§26.02 Definitions.

(12) For the purpose of this part and interpreting the Act–

(13) *Secretary* means the Secretary of the Department in which the Coast Guard is operating;

(14) *Act* means the "Vessel Bridge-to-Bridge Radiotelephone Act," 33 U.S.C. sections 1201–1208;

(15) *Length* is measured from end to end over the deck excluding sheer;

(16) *Power-driven vessel* means any vessel propelled by machinery; and

(17) *Towing vessel* means any commercial vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

(18) *Vessel Traffic Services (VTS)* means a service implemented under Part 161 of this chapter by the United States Coast Guard designed to improve the safety and

efficiency of vessel traffic and to protect the environment. The VTS has the capability to interact with marine traffic and respond to traffic situations developing in the VTS area.

(19) *Vessel Traffic Service Area or VTS Area* means the geographical area encompassing a specific VTS Area of service as described in Part 161 of this chapter. This area of service may be subdivided into sectors for the purpose of allocating responsibility to individual Vessel Traffic Centers or to identify different operating requirements.

(20) **Note:** Although regulatory jurisdiction is limited to the navigable waters of the United States, certain vessels will be encouraged or may be required, as a condition of port entry to report beyond this area to facilitate traffic management within the VTS area.

§26.03 Radiotelephone required.

(21) (a) unless an exemption is granted under §26.09 and except as provided in paragraph (a)(4) of this section, this part applies to:

(22) (1) Every power-driven vessel of 20 meters or over in length while navigating;

(23) (2) Every vessel of 100 gross tons and upward carrying one or more passengers for hire while navigating;

(24) (3) Every towing vessel of 26 feet or over in length while navigating; and

(25) (4) Every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels except for an unmanned or intermittently manned floating plant under the control of a dredge.

(26) (b) Every vessel, dredge, or floating plant described in paragraph (a) of this section must have a radiotelephone on board capable of operation from its navigational bridge, or in the case of a dredge, from its main control station, and capable of transmitting and receiving on the frequency or frequencies within the 156-162 MHz band using the classes of emissions designated by the Federal Communications Commission for the exchange of navigational information.

(27) (c) The radiotelephone required by paragraph (b) of this section must be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States.

(28) (d) The Radiotelephone required by paragraph (b) of this section must be capable of transmitting and receiving on VHF- FM channel 22A (157.1 MHz).

(29) (e) While transiting any of the following waters, each vessel described in paragraph (a) of this section also must have on board a radiotelephone capable of transmitting and receiving on VHF-FM channel 67 (156.375 MHz):

(30) (1) The lower Mississippi River from the territorial sea boundary, and within either the Southwest Pass safety fairway or the South Pass safety fairway specified in 33 CFR 166.200, to mile 242.4 AHP (Above Head of Passes) near Baton Rouge;

(31) (2) The Mississippi River-Gulf Outlet from the territorial sea boundary, and within the Mississippi River-Gulf outlet Safety Fairway specified in 33 CFR 166.200, to that channel's junction with the Inner Harbor Navigation Canal; and

(32) (3) The full length of the Inner Harbor Navigation Canal from its junction with the Mississippi River to that canal's entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

(33) (f) In addition to the radiotelephone required by paragraph (b) of this section each vessel described in paragraph (a) of this section while transiting any waters within a Vessel Traffic Service Area, must have on board a radiotelephone capable of transmitting and receiving on the VTS designated frequency in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).

(34) **Note:** A single VHF-FM radio capable of scanning or sequential monitoring (often referred to as "dual watch" capability) will not meet the requirement for two radios.

§26.04 Use of the designated frequency.

(35) (a) No person may use the frequency designated by the Federal Communications Commission under section 8 of the Act, 33 U.S.C. 1207(a), to transmit any information other than information necessary for the safe navigation of vessels or necessary tests.

(36) (b) Each person who is required to maintain a listening watch under section 5 of the Act shall, when necessary, transmit and confirm, on the designated frequency, the intentions of his vessel and any other information necessary for the safe navigation of vessels.

(37) (c) Nothing in these regulations may be construed as prohibiting the use of the designated frequency to communicate with shore stations to obtain or furnish information necessary for the safe navigation of vessels.

(38) (d) On the navigable waters of the United States, channel 13 (156.65 MHz) is an additional designated frequency required to be monitored in accordance with §26.05(a) except that in the area prescribed in §26.03(e), channel 67 (156.375 MHz) is the designated frequency.

(39) (e) On those navigable waters of the United States within a VTS area, the designated VTS frequency is an additional designated frequency required to be monitored in accordance with §26.05.

§26.05 Use of radiotelephone.

(40) Section 5 of the Act states that the radiotelephone required by this Act is for the exclusive use of the master or person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel, who shall maintain a listening watch on the designated frequency. Nothing herein shall be interpreted as precluding the use of portable radiotelephone equipment to satisfy the requirements of this act.

§26.06 Maintenance of radiotelephone; failure of radiotelephone.

(41) Section 6 of the Act states–

(42) (a) Whenever radiotelephone capability is required by this Act, a vessel's radiotelephone equipment shall be maintained in effective operating condition. If the radiotelephone equipment carried aboard a vessel ceases to operate, the master shall exercise due diligence to restore it or cause it to be restored to effective operating condition at the earliest practicable time. The failure of a vessel's radiotelephone equipment shall not, in itself, constitute a violation of this Act, nor shall it obligate the master of any vessel to moor or anchor his vessel; however, the loss of radiotelephone capability shall be given consideration in the navigation of the vessel.

§26.07 Communications.

(43) No person may use the service of, and no person may serve as, a person required to maintain a listening watch under section 5 of the Act, 33 U.S.C., 1204, unless the person can communicate in the English language.

§26.08 Exemption procedures.

(44) (a) The Commandant has redelegated to the Assistant Commandant for Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, with the reservation that this authority shall not be further redelegated, the authority to grant exemptions from provisions of the Vessel Bridge-to-Bridge Radiotelephone Act and this part.

(45) (b) Any person may petition for an exemption from any provision of the Act or this part;

(46) (c) Each petition must be submitted in writing to U.S. Coast Guard, Marine Safety, Security and Environmental Protection, 2100 Second Street SW., Washington, DC 20593-0001, and must state:

(47) (1) The provisions of the Act or this part from which an exemption is requested; and

(48) (2) The reasons why marine navigation will not be adversely affected if the exemption is granted and if the exemption relates to a local communication system how that system would fully comply with the intent of the concept of the Act but would not conform in detail if the exemption is granted.

§26.09 List of exemptions.

(49) (a) All vessels navigating on those waters governed by the navigation rules for Great Lakes and their connecting and tributary waters (33 U.S.C. 241 et seq.) are exempt from the requirements of the Vessel Bridge-to-Bridge Radiotelephone Act and this part until May 6, 1975.

(50) (b) Each vessel navigating on the Great Lakes as defined in the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) and to which the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201-1208) applies is exempt from the requirements in 33 U.S.C. 1203, 1204, and 1205 and the regulations under §§26.03, 26.04, 26.05, 26.06, and 26.07. Each of these vessels and each person to whom 33 U.S.C. 1208(a) applies must comply with Articles VII, X, XI, XII, XIII, XV, and XVI and Technical Regulations 1–9 of "The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973."

Part 67–Aids to Navigation on Artificial Islands and Fixed Structures (in part)

Subpart 67.01–General Requirements

§67.01–1 Scope.

(51) (a) The regulations in this part prescribe the obstruction lights and fog signals to be operated as privately maintained maritime aids to navigation on the artificial islands and structures which are erected on or over the seabed and subsoil of the Outer Continental Shelf and in the waters under the jurisdiction of the United States, for the purpose of exploring for, developing, removing and transporting resources therefrom.

(52) (b) Subpart 66.01 in Part 66 of this subchapter shall be applicable to all private aids to navigation erected on or over the Outer Continental Shelf in the same manner and to the same extent as they are applicable to private aids to navigation established, erected, or maintained in the waters under the jurisdiction of the United States.

§67.01–5 Definitions.

(53) (a) *Structures*. The term "structures" as used in this part shall include all fixed structures, temporary or permanent, for which a Corps of Engineers' permit is issued. It shall include, but is not necessarily limited

to, all drilling platforms, production platforms, quarters platforms, pipe line riser platforms, manifold platforms, loading platforms, boat landings, caissons, well protective structures, tank battery barges submerged on station, drilling barges submerged on location, breakwater barges submerged on location, artificial islands and all other piles, pile clusters, pipes, or structures erected in the waters.

(54) (b) *Class "A", "B", or "C" structures*. The term "Class A, B, or C structures" refers to the classification assigned to structures erected in areas in which corresponding requirements for marking are prescribed.

(55) (c) *Line of demarcation*. The term "line of demarcation" means the dividing line used administratively to distinguish between the areas in which structures shall conform to Class "A" and Class "B" or "C" requirements.

(56) (d) *Outer Continental Shelf*. The term "Outer Continental Shelf" means all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in the Submerged Lands Act (sec. 2, 67 Stat. 29, 43 U. S. C. 1301), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(57) (e) *Reliable operation*. The term "reliable" as used in this part shall mean that dependability which will insure to the highest degree reasonably possible the uninterrupted operation of lights and fog signals as private aids to navigation for safety of marine commerce.

(58) (f) *Fog signal*. The term "fog signal" as used in this part shall mean the audible sound signal, authorized as a private aid to navigation, to mark a structure for the safety of marine commerce whenever the visibility has been reduced by fog, mist, rain, falling snow, smoke, dust, or other phenomena.

§67.01–10 Authority to regulate and delegation of functions.

(59) *Delegation of functions*. The Coast Guard District Commander is hereby delegated responsibility for performing, or having performed the inspections, enforcement, and administration of such regulations, which are or may be required. He may redelegate this authority as necessary to any person from the civilian or military branch of the Coast Guard.

§67.01–15 Classification of structures.

(60) (a) The varied depths of water and marine commerce traffic routes which exist in the waters over the Outer Continental Shelf, and in other waters, permit the classification of structures according to their location in such waters. Those structures in the area seaward of the line of demarcation, prescribed by the regulations in this part, are designated as Class "A" structures. All structures shoreward of the line of demarcation, prescribed by the regulations in this part, are designated as either Class "B" or Class "C" structures.

(61) (b) In the event a line of demarcation is not prescribed, the District Commander shall designate a structure "A", "B", or "C" as he deems appropriate.

§67.01–20 Prescribing lines of demarcation.

(62) In those areas where lines of demarcation are not prescribed, or where they have been prescribed and require modification, the District Commander shall submit his recommendations thereon to the Commandant for establishment or changes as required. When approved by the Commandant, and upon publication in the Federal Register, such additions or changes in lines of demarcation shall be effective for the purposes of this part.

§67.01–30 Equivalents.

(63) The use of alternate equipment, apparatus, or installation arrangements specified in this part may be permitted by the District Commander to such extent and under such conditions as will result in achieving a degree of safety or compliance with these regulations equivalent to or above the minimum requirements set forth in this part.

Subpart 67.05–General Requirements for Lights

§67.05–1 Arrangement of obstruction lights.

(64) (a) Structures having a maximum horizontal dimension of 30 feet or less on any one side, or in diameter, shall be required to have one obstruction light visible for 360°.

(65) (b) Structures having a maximum horizontal dimension of over 30 feet, but not in excess of 50 feet, on any one side, or in diameter, shall be required to have two obstruction lights installed on diagonally opposite corners, 180° apart, or as prescribed by the District Commander, each light to have a 360° lens.

(66) (c) Structures having a horizontal dimension of over 50 feet on any one side, or in diameter, shall be required to have an obstruction light on each corner, or 90° apart in the case of circular structures, or as prescribed by the District Commander, each light to have a 360° lens.

(67) (d) Where the overall dimensions of a structure require the installation of two or more obstruction lights, the lights shall all be mounted on the same horizontal

plane within the limitations of height specified in §67.20–5, §67.25–5, or §67.30–5, as applicable.

(68) (e) Lesser structures and piles, pile clusters or flare templates, etc., will not normally be required to be marked by obstruction lights, when they are located within 100 yards of a Class "A", "B" or "C" structure marked by established obstruction lights, but they shall be marked with red or white retro-reflective material, installed as prescribed by the District Commander.

(69) (f) All obstruction lights shall be installed in a manner which will permit at least one of them to be carried in sight of the mariner, regardless of the angle of approach, until he is within 50 feet of the structure, visibility permitting.

§67.05–5 Multiple obstruction lights.

(70) When more than one obstruction light is required by this part to mark a structure, all such lights shall be operated to flash in unison.

§67.05–10 Characteristics of obstruction lights.

(71) All obstruction lights required by this part shall be powered from a reliable power source, including auxiliary power sources as necessary. They shall display a quick-flash characteristic of approximately 60 flashes per minute, unless prescribed otherwise in the permit issued by the District Commander. Their color shall be white when marking Class "A" and "B" structures, and either white or red, as prescribed by the District Commander, when marking Class "C" structures. In determining whether white or red lights shall be authorized, the District Commander shall take into consideration matters concerning, but not necessarily limited to, the dimensions of the structure and the depth of water in which it is located; the proximity of the structure to vessel routes; the nature and amount of vessel traffic; and the effect of background lighting.

§67.05–15 Operating periods of obstruction lights.

(72) Obstruction lights shall be displayed at all times between the hours of sunset and sunrise, local time, commencing at the time the construction of a structure is begun. During construction and until such time as a platform capable of supporting the obstruction lights is completed, the fixed lights on an attending vessel shall be used. In addition, when lights are in use for general illumination to facilitate the construction or operation of a structure, and can be seen from any angle of approach at a distance equal to that prescribed for the obstruction lights for the class of structure, the actual operation of obstruction lights also will not be required.

§67.05–20 Minimum lighting requirements.

(73) The obstruction lighting requirements prescribed in this part are the minimum requirements only and shall not preclude the maintainer from making application for authorization to establish more lights, or lights of greater intensity than required to be visible at the distances prescribed: provided, that the prescribed characteristics of color and flash duration are adhered to.

§67.05–25 Special lighting requirements.

(74) Whenever a structure is erected in a position on or adjacent to the edges of navigable channels and fairways, or lines of demarcation, the District Commander is authorized to require the structure to be marked by the lights which in his judgment are necessary for the safety of marine commerce, and without regard to the fact that the structure may be located in an area in which either Class "B" or Class "C" requirements are otherwise applicable. The requirements for the lights in any of these cases, shall not exceed those established for structures in the Class "A" areas.

Subpart 67.10–General Requirements for Fog Signals

§67.10–1 Apparatus requirements.

(75) The fog signal required by §§67.20–10, 67.25–10, and 67.30–10 must:

(76) (a) Have its maximum intensity at a frequency between 100 and 1,100 Hertz;

(77) (b) Sound a 2–second blast every 20 seconds (2 seconds sound, 18 seconds silence) unless otherwise authorized by the District Commander;

(78) (c) Have the range required by §67.20–10, §67.25–10, or §67.30–10;

(79) (d) Have a height not exceeding 25 feet;

(80) (e) Have not more than eight sound sources;

(81) (f) Be approved by the Coast Guard under §67.10–15; and

(82) (g) Be permanently marked with:

(83) (1) The date of Coast Guard approval;

(84) (2) The manufacturer and date of manufacture;

(85) (3) A model designation;

(86) (4) The approved range; and

(87) (5) The power necessary to comply with the provisions of paragraph (c) of this section.

§67.10–5 Location requirements.

(88) The fog signal required by §§67.20–10, 67.25–10, and 67.30–10 must:

(89) (a) Be located on the structure so that the sound signal produced is audible over 360° in a horizontal

plane at all ranges up to and including the required range; and

(90) (b) Be located at least 10 feet but not more than 150 feet above mean high water.

§67.10–10 Operating requirements.

(91) (a) Fog signals required by §§67.20–10, 67.25–10 and 67.30–10 must be operated continuously, regardless of visibility, unless the fog signal is controlled:

(92) (1) By an attendant on the structure;

(93) (2) Remotely by an attendant on a nearby structure; or

(94) (3) By a fog detection device capable of activating the fog signal when the visibility in any direction is reduced to the range at which fog signal operation is required by this part.

(95) (b) During construction and until such time as a fog signal is installed and operating on a platform, the whistle of an attending vessel moored alongside the platform may be used to sound the signal required for the structure by this part.

§67.10–15 Approval of fog signals.

(96) (a) The Coast Guard approves a fog signal if:

(97) (1) It meets the requirements for fog signals in §67.10–1 (a), (b), (c), (d), and (e) when tested under §67.10–20; or

(98) (2) It is similar to a fog signal which was tested and approved under the provisions of this section and the Coast Guard has approved all variations in design, construction, production, and manufacture from the fog signal tested.

(99) (b) A fog signal that is an identical production model of a fog signal which has been approved under paragraph (a) of this section is a Coast Guard approved fog signal.

Part 80–COLREGS Demarcation Lines

§80.01 General basis and purpose of demarcation lines.

(100) (a) The regulations in this part establish the lines of demarcation delineating those waters upon which mariners shall comply with the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and those waters upon which mariners shall comply with the Inland Navigation Rules.

(101) (b) The waters inside of the lines are Inland Rules waters. The waters outside the lines are COLREGS waters.

(102) (c) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

§80.1705 Alaska.

(103) The 72 COLREGS shall apply on all the sounds, bays, harbors, and inlets of Alaska.

Part 110–Anchorage Regulations

§110.1 General.

(104) (a) The areas described in subpart A of this part are designated as special anchorage areas for purposes of 33 U.S.C. §§2030(g) and 2035(j). Vessels of less than 20 meters in length, and barges, canal boats, scows, or other nondescript craft, are not required to sound signals required by rule 35 of the Inland Navigation Rules (33 U.S.C. 2035). Vessels of less than 20 meters are not required to exhibit anchor lights or shapes required by rule 30 of the inland Navigation Rules (33 U.S.C. 2030).

(105) (b) The anchorage grounds for vessels described in Subpart B of this part are established, and the rules and regulations in relation thereto adopted, pursuant to the authority contained in section 7 of the act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(106) (c) All bearings in the part are referred to true meridian.

(107) (d) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

Subpart A–Special Anchorage Areas

(None applicable to this Coast Pilot.)

Subpart B–Anchorage Grounds

§110.232 Southeast Alaska.

(108) (a) *The anchorage grounds*–(1) Hassler Harbor–explosives anchorage. The waters of Hassler Harbor within

a circular area with a radius of 1,500 yards, having its center at latitude 55°12'52"N., longitude 131°25'52"W.

(109) (b) *The regulations*. (1) Except in an emergency, only a vessel that is transporting, loading or discharging explosives may anchor, moor, or remain within the Hassler Harbor explosives anchorage.

(110) (2) A master or person in charge of a vessel shall obtain a written permit from the Captain of the Port, Southeast Alaska, to anchor, moor, or remain within the explosives anchorage. The vessel shall anchor in the position specified by the permit.

(111) (3) The net weight of the explosives laden aboard all vessels anchored, moored, or remaining within the anchorage shall not exceed 800,000 pounds.

(112) (4) The Captain of the Port, Southeast Alaska, may require a nonself-propelled vessel to be attended by a tug while moored, anchored, or remaining within the explosives anchorage.

(113) (5) A wooden vessel must–

(114) (i) Be fitted with a radar reflector screen of metal of sufficient size to permit target indication on the radar screen of commercial type radar; or

(115) (ii) Have steel bulwarks; or

(116) (iii) Have metallic cases or cargo aboard.

(117) (6) Each vessel moored, anchored, or remaining within the explosives anchorage and carrying, loading, or discharging explosives from sunrise to sunset shall display–

(118) (i) A red flag from the mast; or

(119) (ii) A sign posted on each side of the vessel reading "Explosives–Keep Clear–No Smoking or Open Flame" in letters that are 3 inches or larger and have sufficient contrast with the background to be seen from a distance of 200 feet.

(120) (7) Each vessel moored, anchored, or remaining within the anchorage during the night shall display–

(121) (i) Anchor lights; and

(122) (ii) A 32 point red light located from the mast or highest part of the vessel to be visible all around the horizon for a distance of 2 miles.

Part 157–Rules for the Protection of the Marine Environment relating to Tank Vessels Carrying Oil in Bulk.

Subpart A–General

§157.01 Applicability.

(123) (a) Unless otherwise indicated, this part applies to each vessel that carries oil in bulk as cargo and that is:

(124) (1) Documented under the laws of the United States (a U.S. vessel); or

(125) (2) Any other vessel that enters or operates in the navigable waters of the United States, or that operates, conducts lightering under 46 U.S.C. 3715, or receives cargo from or transfers cargo to a deepwater port under 33 U.S.C. 1501 et seq., in the United States Exclusive Economic Zone, as defined in 33 U.S.C. 2701(8).

(126) (b) This part does not apply to a vessel exempted under 46 U.S.C. 2109 or 46 U.S.C. 3702.

§157.02 Incorporation by reference.

(127) (a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in Paragraph (b) of this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards (G-MSO), 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in Paragraph (b) of this section.

(128) (b) The material approved for incorporation by reference in this part and the sections affected are as follows:

§157.03 Definitions.

(129) Except as otherwise stated in a subpart:

(130) *Amidships* means the middle of the length.

(131) *Animal fat* means a non-petroleum oil, fat, or grease derived from animals and not specifically identified elsewhere in this part.

(132) *Ballast voyage* means the voyage that a tank vessel engages in after it leaves the port of final cargo discharge.

(133) *Breadth or B* means the maximum molded breadth of a vessel in meters.

(134) *Cargo tank length* means the length from the forward bulkhead of the forwardmost cargo tanks, to the after bulkhead of the aftermost cargo tanks.

(135) *Center tank* means any tank inboard of a longitudinal bulkhead.

(136) *Clean ballast* means ballast which:

(137) (1) If discharged from a vessel that is stationary into clean, calm water on a clear day, would not—

(138) (i) Produce visible traces of oil on the surface of the water or on adjoining shore lines; or

(139) (ii) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shore lines; or

(140) (2) If verified by an approved cargo monitor and control system, has an oil content that does not exceed 15 p.m.

(141) *Combination carrier* means a vessel designed to carry oil or solid cargoes in bulk.

(142) *Crude oil* means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(143) *Deadweight or DWT* means the difference in metric tons between the lightweight displacement and the total displacement of a vessel measured in water of specific gravity 1.025 at the load waterline corresponding to the assigned summer freeboard.

(144) *Dedicated clean ballast tank* means a cargo tank that is allocated solely for the carriage of clean ballast.

(145) *Domestic trade* means trade between ports or places within the United States, its territories and possessions, either directly or via a foreign port including trade on the navigable rivers, lakes, and inland waters.

(146) *Double bottom* means watertight protective spaces that do not carry any oil and which separate the bottom of tanks that hold any oil within the cargo tank length from the outer skin of the vessel.

(147) *Double hull* means watertight protective spaces that do not carry any oil and which separate the sides, bottom, forward end, and aft end of tanks that hold any oil within the cargo tank length from the outer skin of the vessel as prescribed in §157.10d.

(148) *Doubles sides* means watertight protective spaces that do not carry any oil and which separate the sides of tanks that hold any oil within the cargo tank length from the outer skin of the vessel.

(149) *Existing vessel* means any vessel that is not a new vessel.

(150) *Fleeting or assist towing vessel* means any commercial vessel engaged in towing astern, alongside, or pushing ahead, used solely within a limited geographic area, such as a particular barge fleeting area or commercial facility, and used solely for restricted service, such as making up or breaking up larger tows.

(151) *Foreign trade* means any trade that is not domestic trade.

(152) *From the nearest land* means from the baseline from which the territorial sea of the United States is established in accordance with international law.

(153) *Fuel oil* means any oil used as fuel for machinery in the vessel in which it is carried.

(154) *Inland vessel* means a vessel that is not oceangoing and that does not operate on the Great Lakes.

(155) *Instantaneous rate of discharge of oil content* means the rate of discharge of oil in liters per hour at any instant, divided by the speed of the vessel in knots at the same instant.

(156) *Integrated tug barge* means a tug and a tank barge with a mechanical system that allows the connection of the propulsion unit (the tug) to the stern of the cargo carrying unit (the tank barge) so that the two vessels function as a single self-propelled vessel.

(157) Large primary structural member includes any of the following:

(158) (1) Web frames.

(159) (2) Girders.

(160) (3) Webs.

(161) (4) Main brackets.

(162) (5) Transverses.

(163) (6) Stringers.

(164) (7) Struts in transverse web frames when there are 3 or more struts and the depth of each is more than 1/15 of the total depth of the tank.

(165) *Length or L* means the distance in meters from the fore side of the stem to the axis of the rudder stock on a waterline at 85 percent of the least molded depth measured from the molded baseline, or 96 percent of the total length on that waterline, whichever is greater. In vessels designed with drag, the waterline is measured parallel to the designed waterline.

(166) *Lightweight* means the displacement of a vessel in metric tons without cargo, fuel oil, lubricating oil, ballast water, fresh water, and feedwater in tanks, consumable stores, and any persons and their effects.

(167) *Major conversion* means a conversion of an existing vessel that:

(168) (1) Substantially alters the dimensions or carrying capacity of the vessel, except a conversion that includes only the installation of segregated ballast tanks, dedicated clean ballast tanks, a crude oil washing system, double sides, a double bottom, or a double hull;

(169) (2) Changes the type of vessel;

(170) (3) Substantially prolongs the vessel's service life; or

(171) (4) Otherwise so changes the vessel that it is essentially a new vessel, as determined by the Commandant (G-MOC).

(172) *MARPOL 73/78* means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention. A copy of MARPOL 73/78 is available from the International Maritime Organization, 4 Albert Embankment, London, SE1, 7SR, England.

(173) *New vessel* means:

(174) (1) A U.S. vessel in domestic trade that:

(175) (i) Is constructed under a contract awarded after December 31, 1974;

(176) (ii) In the absence of a building contract, has the keel laid or is at a similar stage of construction after June 30, 1975;

(177) (iii) Is delivered after December 31, 1977; or

(178) (iv) Has undergone a major conversion for which:

(179) (A) The contract is awarded after December 31, 1974;

(180) (B) In the absence of a contract, conversion is begun after June 30, 1975; or

(181) (C) Conversion is completed after December 31, 1977; and

(182) (2) A foreign vessel or a U.S. vessel in foreign trade that;

(183) (i) Is constructed under a contract awarded after December 31, 1975;

(184) (ii) In the absence of a building contract, has the keel laid or is at a similar stage of construction after June 30, 1976;

(185) (iii) Is delivered after December 31, 1979; or

(186) (iv) Has undergone a major conversion for which:

(187) (A) The contract is awarded after December 31, 1975;

(188) (B) In the absence of a contract, conversion is begun after June 30, 1976; or

(189) (C) Conversion is completed after December 31, 1979.

(190) *Non-petroleum oil* means oil of any kind that is not petroleum-based. It includes, but is not limited to, animal fat and vegetable oil.

(191) *Oceangoing* has the same meaning as defined in §151.05 of this chapter.

(192) *Officer in charge of a navigational watch* means any officer employed or engaged to be responsible for navigating or maneuvering the vessel and for maintaining a continuous vigilant watch during his or her periods of duty and following guidance set out by the master, international or national regulations, and company policies.

(193) *Oil* means oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. This includes liquid hydrocarbons as well as animal and vegetable oils.

(194) *Oil cargo residue* means any residue of oil cargo whether in solid, semi-solid, emulsified, or liquid form from cargo tanks and cargo pump room bilges, including but not limited to, drainages, leakages, exhausted oil, muck, clingage, sludge, bottoms, paraffin (wax), and any constituent component of oil. The term "oil cargo residue" is also known as "cargo oil residue."

(195) *Oily mixture* means a mixture, in any form, with any oil content. "Oily mixture" includes, but is not limited to–

(196) (1) Slops from bilges;

(197) (2) Slops from oil cargoes (such as cargo tank washings, oily waste, and oily refuse);

(198) (3) Oil residue; and

(199) (4) Oily ballast water from cargo or fuel oil tanks, including any oil cargo residue.

(200) *Oil residue* means–

(201) (1) Oil cargo residue; and

(202) (2) Other residue of oil whether in solid, semi-solid, emulsified, or liquid form resulting from drainages, leakages, exhausted oil and other similar occurrences from machinery spaces.

(203) *Oil spill response vessel* means a vessel that is exclusively dedicated to operations to prevent or mitigate environmental damage due to an actual or impending accidental oil spill. This includes a vessel that performs routine service as an escort for a tank vessel, but excludes a vessel that engages in any other commercial activity, such as the carriage of any type of cargo.

(204) *Oil tanker* means a vessel that is constructed or adapted primarily to carry crude oil or products in bulk as cargo. This includes a tank barge, a tankship, and a combination carrier, as well as a vessel that is constructed or adapted primarily to carry noxious liquid substances in bulk as cargo and which also carries crude oil or products in bulk as cargo.

(205) *Other non-petroleum oil* means an oil of any kind that is not petroleum oil, an animal fat, or a vegetable oil.

(206) *Permeability of a space* means the ratio of volume within a space that is assumed to be occupied by water to the total volume of that space.

(207) *Petroleum oil* means petroleum in any form, including but not limited to, crude oil, fuel oil, sludge, oil residue, and refined products.

(208) *Primary towing vessel* means any vessel engaged in towing astern, alongside, or pushing ahead and includes the tug in an integrated tug barge. It does not include fleeting or assist towing vessels.

(209) *Product* means any liquid hydrocarbon mixture in any form, except crude oil, petrochemicals, and liquefied gases.

(210) *Segregated ballast* means the ballast water introduced into a tank that is completely separated from the cargo oil and fuel oil system and that is permanently allocated to the carriage of ballast.

(211) *Slop tank* means a tank specifically designated for the collection of cargo drainings, washings, and other oily mixtures.

(212) *Tank* means an enclosed space that is formed by the permanent structure of a vessel, and designed for the carriage of liquid in bulk.

(213) *Tank barge* means a tank vessel not equipped with a means of self-propulsion.

(214) *Tank vessel* means a vessel that is constructed or adapted primarily to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(215) (1) Is a vessel of the United States;

(216) (2) Operates on the navigable waters of the United States; or

(217) (3) Transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States. This does not include an offshore supply vessel, or a fishing vessel or fish tender vessel of not more than 750 gross tons when engaged only in the fishing industry.

(218) *Tankship* means a tank vessel propelled by mechanical power or sail.

(219) *Vegetable oil* means a non-petroleum oil or fat not specifically identified elsewhere in this part that is derived from plant seeds, nuts, kernels, or fruits.

(220) *Wing tank* means a tank that is located adjacent to the side shell plating.

§157.04 Authorization of classification societies.

(221) (a) The Coast Guard may authorize any classification society (CS) to perform certain plan reviews, certifications, and inspections required by this part on vessels classed by that CS except that only U.S. classification societies may be authorized to perform those plan reviews, inspections, and certifications for U.S. vessels.

(222) (b) If a CS desires authorization to perform the plan reviews, certifications, and inspections required under this part, it must submit to the Commandant (G-MOC), U.S. Coast Guard, Washington, DC 20593-0001, evidence from the governments concerned showing that they have authorized the CS to inspect and certify vessels on their behalf under the MARPOL 73/78.

(223) (c) The Coast Guard notifies the CS in writing whether or not it is accepted as an authorized CS. If authorization is refused, reasons for the refusal are included.

(224) (d) Acceptance as an authorized CS terminates unless the following are met:

(225) (1) The authorized CS must have each Coast Guard regulation that is applicable to foreign vessels on the navigable waters of the United States.

(226) (2) Each issue concerning equivalents to the regulations in this part must be referred to the Coast Guard for determination.

(227) (3) Copies of any plans, calculations, records of inspections, or other documents relating to any plan review, inspection, or certification performed to meet this part must be made available to the Coast Guard.

(228) (4) Each document certified under §§157.116(a)(2), 157.118(b)(1)(ii), and 157.216(b)(1)(11) must be marked with the name or seal of the authorized CS.

(229) (5) A copy of the final documentation that is issued to each vessel that is certified under this part must be referred to the Commandant (G-MOC), U.S. Coast Guard, Washington, D.C. 20593-0001.

Subpart B–Design, Equipment, and Installation

§157.08 Applicability of Subpart B.

(230) NOTE: An "oil tanker" as defined in §157.03 includes barges as well as self-propelled vessels.

(231) (a) Sections 157.10d and 157.11(g) apply to each vessel to which this part applies.

(232) (b) Sections 157.11 (a) through (f), 157.12, 157.15, 157.19(b)(3), 157.33, and 157.37 apply to each vessel to which this part applies that carries 200 cubic meters or more of crude oil or products in bulk as cargo, as well as to each oceangoing oil tanker to which this part applies of 150 gross tons or more. These sections do not apply to a foreign vessel which remains beyond the navigable waters of the United States and does not transfer oil cargo at a port or place subject to the jurisdiction of the United States.

(233) (c) Section 157.21 applies to each oil tanker to which this part applies of 150 gross tons or more that is oceangoing or that operates on the Great Lakes. This section does not apply to a foreign vessel which remains beyond the navigable waters of the United States and does not transfer oil cargo at a port or place subject to the jurisdiction of the United States.

(234) (d) Sections in subpart B of 33 CFR part 157 that are not specified in paragraphs (a) through (c) of this section apply to each oceangoing oil tanker to which this part applies of 150 gross tons or more, unless otherwise indicated in paragraphs (e) through (m) of this section. These sections do not apply to a foreign vessel which remains beyond the navigable waters of the United States and does not transfer oil cargo at a port or place subject to the jurisdiction of the United States.

(235) (e) Sections 157.11 (a) through (f), 157.12, and 157.15 do not apply to a vessel, except an oil tanker, that carries less than 1,000 cubic meters of crude oil or products in bulk as cargo and which retains oil mixtures on board and discharges them to a reception facility.

(236) (f) Sections 157.11 (a) through (f), 157.12, 157.13, and 157.15 do not apply to a tank vessel that carries only asphalt, carbon black feedstock, or other products with similar physical properties, such as specific gravity and cohesive and adhesive characteristics, that inhibit effective product/water separation and monitoring.

(237) (g) Sections 157.11 (a) through (f), 157.12, 157.13, 157.15, and 157.23 do not apply to a tank barge that

cannot ballast cargo tanks or wash cargo tanks while underway.

(238) (h) Sections 157.19 and 157.21 do not apply to a tank barge that is certificated by the Coast Guard for limited short protected coastwise routes if the barge is otherwise constructed and certificated for service exclusively on inland routes.

(239) (i) Section 157.09(d) does not apply to any:

(240) (1) U.S. vessel in domestic trade that is constructed under a contract awarded before January 8, 1976;

(241) (2) U.S. vessel in foreign trade that is constructed under a contract awarded before April 1, 1977; or

(242) (3) Foreign vessel that is constructed under a contract awarded before April 1, 1977.

(243) (j) Sections 157.09 and 157.10a do not apply to a new vessel that:

(244) (1) Is constructed under a building contract awarded after June 1, 1979;

(245) (2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(246) (3) Is delivered after June 1, 1982; or

(247) (4) Has undergone a major conversion for which:

(248) (i) The contract is awarded after June 1, 1979;

(249) (ii) In the absence of a contract, conversion is begun after January 1, 1980; or

(250) (iii) Conversion is completed after June 1, 1982.

(251) (k) Sections 157.09(b)(3), 157.10(c)(3), 157.10a(d)(3), and 157.10b(b)(3) do not apply to tank barges.

(252) (1) Section 157.10b does not apply to tank barges if they do not carry ballast while they are engaged in trade involving the transfer of crude oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States.

(253) (m) Section 157.12 does not apply to a U.S. vessel that:

(254) (1) Is granted an exemption under Subpart F of this part; or

(255) (2) Is engaged solely in voyages that are:

(256) (i) Between ports or places within the United States, its territories or possessions;

(257) (ii) Of less than 72 hours in length; and

(258) (iii) At all times within 50 nautical miles of the nearest land.

(259) (n) Section 157.10d does not apply to:

(260) (1) A vessel that operates exclusively beyond the navigable waters of the United States and the United States Exclusive Economic Zone, as defined in 33 U.S.C. 2701(8);

(261) (2) An oil spill response vessel;

(262) (3) Before January 1, 2015–

(263) (i) A vessel unloading oil in bulk as cargo at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(264) (ii) A delivering vessel that is offloading oil in bulk as cargo in lightering activities–

(265) (A) Within a lightering zone established under 46 U.S.C. 3715(b)(5); and

(266) (B) More than 60 miles from the territorial sea base line, as defined in 33 CFR 2.05-10.

(267) (4) A vessel documented under 46 U.S.C., Chapter 121, that was equipped with a double hull before August 12, 1992;

(268) (5) A barge of less than 1,500 gross tons as measured under 46 U.S.C., Chapter 145, carrying refined petroleum in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

(269) (6) A vessel in the National Defense Reserve Fleet pursuant to 50 App. U.S.C. 1744.

§157.10d Double hulls on tank vessels.

(270) (a) With the exceptions stated in §157.08(n), this section applies to a tank vessel—

(271) (1) For which the building contract is awarded after June 30, 1990; or

(272) (2) That is delivered after December 31, 1993;

(273) (3) That undergoes a major conversion for which;

(274) (i) The contract is awarded after June 30, 1990; or

(275) (ii) Conversion is completed after December 31, 1993; or

(276) (4) That is otherwise required to have a double hull by 46 U.S.C. 3703a(c).

(277) NOTE: 46 U.S.C. 3703a(c) is shown in appendix G to this part.

(278) (b) Each vessel to which this section applies must be fitted with:

(279) (1) A double hull in accordance with this section; and

(280) (2) If §157.10 applies, segregated ballast tanks and a crude oil washing system in accordance with that section.

(281) (c) Except on a vessel to which §157.10d(d) applies, tanks within the cargo tank length that carry any oil must be protected by double sides and a double bottom as follows:

(282) (1) Double sides must extend for the full depth of the vessel's side or from the uppermost deck, disregarding a rounded gunwale where fitted, to the top of the double bottom. At any cross section, the molded width of the double side, measured at right angles to the side shell plating, from the side of tanks containing oil to the side shell plating, must not be less than the distance w, as shown in Figure 157.10d(c) and specified as follows:

(283) (i) For a vessel of 5,000 DWT and above: w=[0.5+(DWT/20,000)] meters; or, w=2.0 meters (79 in.), whichever is less, but in no case less than 1.0 meter (39 in.).

(284) (ii) For a vessel of less than 5,000 DWT: w=[0.4+(2.4)(DWT/20,000)] meters, but in no case less than 0.76 meter (30 in.).

(285) (iii) For a vessel to which Paragraph (a)(4) of this section applies: w=0.76 meter (30 in.), provided that the double side was fitted under a construction or conversion contract awarded prior to June 30, 1990.

(286) (2) At any cross section, the molded depth of the double bottom, measured at right angles to the bottom shell plating, from the bottom of tanks containing oil to the bottom shell plating, must not be less than the distance h, as shown in Figure 157.10d(c) and specified as follows:

(287) (i) For a vessel of 5,000 DWT and above: h=B/15; or, h=2.0 meters (79 in.), whichever is less, but in no case less than 1.0 meter (39 in.).

(288) (ii) For a vessel of less than 5,000 DWT: h=B/15, but in no case less than 0.76 meter (30 in.).

(289) (iii) For a vessel to which Paragraph (a)(4) of this section applies: h=B/15; or, h=2.0 meters (79 in.), whichever is the lesser, but in no case less than 0.76 meter (30 in.), provided that the double bottom was fitted under a construction or conversion contract awarded prior to June 30, 1990.

(290) (3) For a vessel built under a contract awarded after September 11, 1992, within the turn of the bilge or at cross sections where the turn of the bilge is not clearly defined, tanks containing oil must be located inboard of the outer shell—

(291) (i) For a vessel of 5,000 DWT and above: At levels up to 1.5h above the base line, not less than the distance h, as shown in Figure 157.10d(c) and specified in Paragraph (c)(2) of this section. At levels greater than 1.5h above the base line, not less than the distance w, as shown in Figure 157.10d(c) and specified in Paragraph (c)(1) of this section.

(292) (ii) For a vessel of less than 5,000 DWT: Not less the distance h above the line of the mid-ship flat bottom, as shown in Figure 157.10d(c)(3)(ii) and specified in Paragraph (c)(2) of this section. At levels greater than h above the line of the mid-ship flat bottom, not less than the distance w, as shown in Figure 157.10d(c)(3)(ii) and specified in Paragraph (c)(1) of this section.

(293) (4) For a vessel to which §157.10(b) applies that is built under a contract awarded after September 11, 1992.

(294) (i) The aggregate volume of the double sides, double bottom, forepeak tanks, and afterpeak tanks must not be less than the capacity of segregated ballast tanks required under §157.10(b). Segregated ballast tanks that may be provided in addition to those required under §157.10(b) may be located anywhere within the vessel.

(295) (ii) Double side and double bottom tanks used to meet the requirements of §157.10(b) must be located as uniformly as practicable along the cargo tank length. Large inboard extensions of individual double side and double bottom tanks, which result in a reduction of overall side or bottom protection, must be avoided.

(296) (d) A vessel of less than 10,000 DWT that is constructed and certificated for service exclusively on inland or limited short protected coastwise routes must be fitted with double sides and a double bottom as follows:

(297) (1) A minimum of 61 cm. (2 ft.) from the inboard side of the side shell plate, extending the full depth of the side or from the main deck to the top of the double bottom, measured at right angles to the side shell; and

(298) (2) A minimum of 61 cm. (2 ft.) from the top of the bottom shell plating, along the full breadth of the vessel's bottom, measured at right angles to the bottom shell.

(299) (3) For a vessel to which Paragraph (a)(4) of this section applies, the width of the double sides and the depth of the double bottom may be 38 cm. (15 in.), in

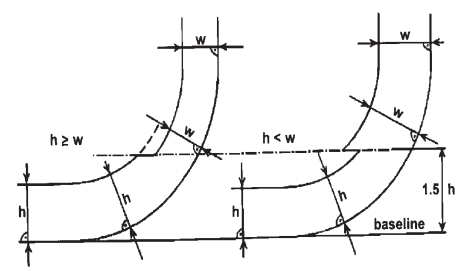
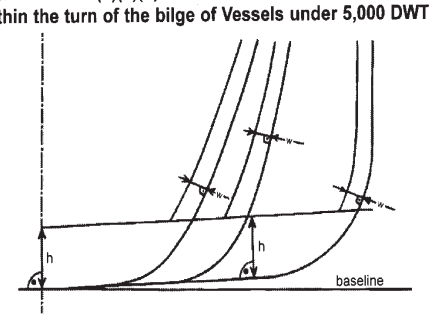


Figure 157.10d(c) Minimum Double Hull Dimensions

Figure 157.10d(c)(3)(ii) - Minimum Double Hull Dimensions Within the turn of the bilge of Vessels under 5,000 DWT



lieu of the dimensions specified in paragraphs (d)(1) and (d)(2) of this section, provided that the double side and double bottom tanks were fitted under a construction or conversion contract awarded prior to June 30, 1990.

(300) (4) For a vessel built under a contract awarded after September 11, 1992, a minimum 46 cm. (18 in.) clearance for passage between framing must be maintained throughout the double sides and double bottom.

(301) (e) Except as provided in Paragraph (e)(3) of this section, a vessel must not carry any oil in any tank extending forward of:

(302) (1) The collision bulkhead; or

(303) (2) In the absence of a collision bulk-head, the transverse plane perpendicular to the centerline through a point located:

(304) (i) The lesser of 10 meters (32.8 ft.) or 5 percent of the vessel length, but in no case less than 1 meter (39 in.), aft of the forwarded perpendicular;

(305) (ii) On a vessel of less than 10,000 DWT tons that is constructed and certificated for service exclusively on inland or limited short protected coastwise routes, the lesser of 7.62 meters (25 ft.) or 5 percent of the vessel length, but in no case less than 61 cm. (2 ft.), aft of the headlog or stem at the freeboard deck; or

(306) (iii) On each vessel which operates exclusively as a box or trail barge, 61 cm. (2 ft.) aft of the headlog.

(307) (3) This Paragraph does not apply to independent fuel oil tanks that must be located on or above the main deck within the areas described in paragraphs (e)(1) and (e)(2) of this section to serve adjacent deck equipment that cannot be located further aft. Such tanks must be as small and as far aft as is practicable.

(308) (f) On each vessel, the cargo tank length must not extend aft to any point closer to the stern than the distance equal to the required width of the double side, as prescribed in §157.10d(c)(1) or §157.10d(d)(1).

Subpart G–Interim Measures for Certain Tank Vessels Without Double Hulls Carrying Petroleum Oils

§157.400 Purpose and applicability.

(309) (a) The purpose of this subpart is to establish mandatory safety and operational requirements to reduce environmental damage resulting from petroleum oil spills.

(310) (b) This subpart applies to each tank vessels specified in §157.01 of this part that—

(311) (1) Is 5,000 gross tons or more;

(312) (2) Carries petroleum oil in bulk as cargo or oil cargo residue; and

(313) (3) Is not equipped with a double hull meeting §157.10d of this part, or an equivalent to the requirements of §157.10d, but required to be equipped with a double hull at a date set forth in 46 U.S.C. 3703a (b)(3) and (c)(3).

§157.445 Maneuvering performance capability.

(314) (a) A tankship owner or operator shall ensure that maneuvering tests in accordance with IMO Resolution A.751(18), sections 1.2, 2.3-2.4, 3-4.2, and 5 (with Explanatory Notes in MSC/Circ. 644) have been conducted by July 29, 1997. Completion of maneuvering performance tests must be shown by—

(315) (1) For a foreign flag tankship, a letter from the flag administration or an authorized classification society, as described in §157.04 of this part, stating the requirements in Paragraph (a) of this section have been met; or

(316) (2) For a U.S. flag tankship, results from the vessel owner confirming the completion of the tests or a letter from an authorized classification society, as described in §157.04 of this part, stating the requirements in Paragraph (a) of this section have been met.

(317) (b) If a tankship undergoes a major conversion or alteration affecting the control systems, control surfaces, propulsion system, or other areas which may be expected to alter maneuvering performance, the tankship owner or operator shall ensure that new maneuvering tests are conducted as required by Paragraph (a) of this section.

(318) (c) If a tankship is one of a class of vessels with identical propulsion, steering, hydrodynamic, and other relevant design characteristics, maneuvering performance test results for any tankship in the class may be used to satisfy the requirements of Paragraph (a) of this section.

(319) (d) The tankship owner or operator shall ensure that the performance test results, recorded in the format of Appendix 6 of the Explanatory Notes in MSC/Circ. 644., are prominently displayed in the wheelhouse.

(320) (e) Prior to entering the port or place of destination and prior to getting underway, the tankship master shall discuss the results of the performance tests with the pilot while reviewing the anticipated transit and the possible impact of the tankship's maneuvering capability on the transit.

Part 160–Ports and Waterways Safety-General

Subpart A–General

§160.1 Purpose.

(321) Part 160 contains regulations implementing the Ports and Waterways Safety Act (33 U.S.C. 1221) and related statutes.

§160.3 Definitions.

(322) For the purposes of this subchapter:

(323) *Bulk material* in any quantity that is shipped, stored, or handled without the benefit of package, label, mark or count and carried in integral or fixed independent tanks.

(324) *Captain of the Port* means the Coast Guard officer designated by the Commandant to command a Captain of the Port Zone as described in part 3 of this chapter.

(325) *Commandant* means the Commandant of the United States Coast Guard.

(326) *Commanding Officer, Vessel Traffic Services* means the Coast Guard officer designated by the Commandant to command a Vessel Traffic Service (VTS) as described in part 161 of this chapter.

(327) *Deviation* means any departure from any rule in this subchapter.

(328) *District Commander* means the Coast Guard officer designated by the Commandant to command a Coast Guard District as described in part 3 of this chapter.

(329) *ETA* means estimated time of arrival.

(330) *Length of Tow* means, when towing with a hawser, the length in feet from the stern of the towing vessel to the stern of the last vessel in tow. When pushing ahead or towing alongside, length of tow means the tandem length in feet of the vessels in tow excluding the length of the towing vessel.

(331) *Person* means an individual, firm, corporation, association, partnership, or governmental entity.

(332) *State* means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas Islands, and any other commonwealth, territory, or possession of the United States.

(333) *Tanker* means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

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

(335) *Vehicle* means every type of conveyance capable of being used as a means transportation on land.

(336) *Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(337) *Vessel Traffic Services (VTS)* means a service implemented under Part 161 of this chapter by the United States Coast Guard designed to improve the safety and efficiency of vessel traffic and to protect the environment. The VTS has the capability to interact with marine traffic and respond to traffic situations developing in the VTS area.

(338) *Vessel Traffic Service Area or VTS Area* means the geographical area encompassing a specific VTS area of service as described in Part 161 of this chapter. This area of service may be subdivided into sectors for the purpose of allocating responsibility to individual Vessel Traffic Centers or to identify different operating requirements.

(339) **Note:** Although regulatory jurisdiction is limited to the navigable waters of the United States, certain vessels will be encouraged or may be required, as a condition of port entry, to report beyond this area to facilitate traffic management within the VTS area.

(340) *VTS Special Area* means a waterway within a VTS area in which special operating requirements apply.

§160.5 Delegations.

(341) (a) District Commanders and Captains of the Ports are delegated the authority to establish safety zones.

(342) (b) Under the provisions of 33 CFR 6.04-1 and 6.04-6, District Commanders and Captains of the Ports have been delegated authority to establish security zones.

(343) (c) Under the provisions 33 CFR §1.05-1, District Commanders have been delegated authority to establish regulated navigation areas.

(344) (d) Subject to the supervision of the cognizant Captain of the Port and District Commander, Commanding Officers, Vessel Traffic Services are delegated authority under 33 CFR 1.01-30 to discharge the duties of the Captain of the Port that involve directing the operation, movement and anchorage of vessels within a Vessel Traffic Service area including management of vessel traffic within anchorages, regulated navigation areas and safety zones, and to enforce Vessel Traffic Service and ports and waterways safety regulations. This authority may be exercised by Vessel Traffic Center personnel. The Vessel Traffic Center may, within the Vessel Traffic Service area, provide information, make recommendations, or to a vessel required under Part 161 of this chapter to participate in a Vessel Traffic Service, issue an order, including an order to operate or anchor as directed; require the vessel to comply with orders

issued; specify times of entry, movement or departure; restrict operations as necessary for safe operation under the circumstances; or take other action necessary for control of the vessel and the safety of the port or of the marine environment.

§160.7 Appeals.

(345) (a) Any person directly affected by a safety zone or an order or direction issued under this subchapter (33 CFR Subchapter P) may request reconsideration by the official who issued it or in whose name it was issued. This request may be made orally or in writing, and the decision of the official receiving the request may be rendered orally or in writing.

(346) (b) Any person directly affected by the establishment of a safety zone or by an order or direction issued by, or on behalf of, a Captain of the Port may appeal to the District Commander through the Captain of the Port. The appeal must be in writing, except as allowed under paragraph (d) of this section, and shall contain complete supporting documentation and evidence which the appellant wishes to have considered. Upon receipt of the appeal, the District Commander may direct a representative to gather and submit documentation or other evidence which would be necessary or helpful to a resolution of the appeal. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials. Following submission of all materials, the District Commander issues a ruling, in writing, on the appeal. Prior to issuing the ruling, the District Commander may, as a matter of discretion, allow oral presentation on the issues.

(347) (c) Any person directly affected by the establishment of a safety zone or by an order or direction issued by a District Commander, or who receives an unfavorable ruling on an appeal taken under paragraph (b) of this section, may appeal through the District Commander to the Assistant Commandant for Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard, Washington, D.C. 20593. The appeal must be in writing, except as allowed under paragraph (d) of this section. The District Commander forwards the appeal, all the documents and evidence which formed the record upon which the order or direction was issued or the ruling under paragraph (b) of this section was made, and comments which might be relevant, to the Assistant Commandant for Office of Marine Safety, Security and Environmental Protection. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials to the Assistant Commandant for Office of Marine Safety, Security and Environmental Protection. The decision of the Assistant Commandant for Office of Marine Safety, Security and Environmental Protection is based upon the materials submitted, without oral argument or presentation. The decision of the Assistant Commandant for Office of Marine Safety Security and Environmental Protection is issued in writing and constitutes final agency action.

(348) (d) If the delay in presenting a written appeal would have significant adverse impact on the appellant, the appeal under paragraphs (b) and (c) of this section may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the Coast Guard official to whom the presentation was made. The written appeal must contain, at a minimum, the basis for the appeal and a summary of the material presented orally. If requested, the official to whom the appeal is directed may stay the effect of the action while the ruling is being appealed.

Subpart B–Control of Vessel and Facility Operations

§160.101 Purpose.

(349) This subpart describes the authority exercised by District Commanders and Captains of the Ports to insure the safety of vessels and waterfront facilities, and the protection of the navigable waters and the resources therein. The controls described in this subpart are directed to specific situations and hazards.

§160.103 Applicability.

(350) (a) This subpart applies to any–

(351) (1) Vessel on the navigable waters of the United States, except as provided in paragraphs (b) and (c) of this section;

(352) (2) Bridge or other structure on or in the navigable waters of the United States; and

(353) (3) Land structure or shore area immediately adjacent to the navigable waters of the United States.

(354) (b) This subpart does not apply to any vessel on the Saint Lawrence Seaway.

(355) (c) Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this subpart does not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in–

(356) (1) Innocent passage through the territorial sea of the United States;

(357) (2) Transit through the navigable waters of the United States which form a part of an international strait.

§160.105 Compliance with orders.

(358) Each person who has notice of the terms of an order issued under this subpart must comply with that order.

§160.107 Denial of entry.

(359) Each District Commander or Captain of the Port, subject to recognized principles of international law, may deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States, and within the district or zone of that District Commander or Captain of the Port, to any vessel not in compliance with the provisions of the Port and Tanker Safety Act (33 U.S.C. 1221-1232) or the regulations issued thereunder.

§160.109 Waterfront facility safety.

(360) (a) To prevent damage to, or destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those waters, and to protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss, each District Commander or Captain of the Port may–

(361) (1) Direct the handling, loading, unloading, storage, stowage, and movement (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances including oil or hazardous material as those terms are defined in 46 U.S.C. 2101 on any structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those waters; and

(362) (2) Conduct examinations to assure compliance with the safety equipment requirements for structures.

§160.111 Special orders applying to vessel operations.

(363) Each District Commander or Captain of the Port may order a vessel to operate or anchor in the manner directed when–

(364) (a) The District Commander or Captain of the Port has reasonable cause to believe that the vessel is not in compliance with any regulation, law or treaty;

(365) (b) The District Commander or Captain of the Port determines that the vessel does not satisfy the conditions for vessel operation and cargo transfers specified in §160.113; or

(366) (c) The District Commander or Captain of the Port has determined that such order is justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, other temporary hazardous circumstances, or the condition of the vessel.

§160.113 Prohibition of vessel operation and cargo transfers.

(367) (a) Each District Commander or Captain of the Port may prohibit any vessel, subject to the provisions of chapter 37 of Title 46, U.S. Code, from operating in the navigable waters of the United States, or from transferring cargo or residue in any port or place under the jurisdiction of the United States, and within the district or zone of that District Commander or Captain of the Port, if the District Commander or the Captain of the Port determines that the vessel's history of accidents, pollution incidents, or serious repair problems creates reason to believe that the vessel may be unsafe or pose a threat to the marine environment.

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

(369) (1) Fails to comply with any applicable regulation;

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

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

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

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

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

§160.115 Withholding of clearance.

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

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

§160.201 General.

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

(377) (a) Applicability and exemptions from requirements in this subpart;

(378) (b) Required information in an NOA;

(379) (c) Required changes to an NOA;

(380) (d) Methods and times for submission of an NOA and changes to an NOA;

(381) (e) How to obtain a waiver; and

(382) (f) Requirements for submission of the Notice of Hazardous Conditions.

§160.202 Applicability.

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

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

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

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

§160.203 Exemptions.

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

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

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

(390) (3) Vessels operating upon the following waters:

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

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

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

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

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

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

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

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

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

(400) (5) Public vessels.

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

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

(403) (d) [Suspended]

(404) (e) [Suspended]

§160.204 Definitions.

(405) As used in this subpart:

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

(407) *Barge* means a non-self propelled vessel engaged in commerce.

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

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

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

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

(412) (3) Division 2.3 "poisonous gas", as listed in 49 CFR 172.101 that is also a "material poisonous by inhalation"

as defined in 49 CFR 171.8, and that is in a quantity in excess of 1 metric ton per vessel.

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

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

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

(416) (7) Bulk liquefied chlorine gas and Bulk liquefied gas cargo that is flammable and/or toxic and carried under 46 CFR 154.7.

(417) (8) The following bulk liquids:

(418) (i) Acetone cyanohydrin,

(419) (ii) Allyl alcohol,

(420) (iii) Chlorosulfonic acid,

(421) (iv) Crotonaldehyde,

(422) (v) Ethylene chlorohydrin,

(423) (vi) Ethylene dibromide,

(424) (vii) Methacrylonitrile, and

(425) (viii) Oleum (fuming sulfuric acid).

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

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

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

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

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

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

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

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

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

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

(436) *Public vessel* means a vessel that is owned or demise-(bareboat) chartered by the government of the United States, by a State or local government, or by the government of a foreign country and that is not engaged in commercial service.

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

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

§160.206 Information required in an NOA.

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

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

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

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

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

§160.208 Changes to a submitted NOA.

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

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

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

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

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

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

§160.210 Methods for submitting an NOA.

(449) (a) *Submission to the National Vessel Movement Center (NVMC)*. Except as provided in paragraphs (b) and (c) of this section, all vessels required to submit NOA information in §160.206 (entries 1-7 to Table 160.206) to the NVMC, United States Coast Guard, 408 Coast Guard Drive, Kearneysville, WV, 25430, shall do so by:

(450) (1) Telephone at 1-800-708-9823 or 304-264-2502;

(451) (2) Fax at 1-800-547-8724 or 304-264-2684; or

(452) (3) E-mail at SANS@NVMC.USCG.gov.

(453) **Note to paragraph (a):** Information about the National Vessel Movement Center is available on its Web site at http://www.nvmc.uscg.gov/. You may submit the notice using any electronic format available on the NVMC website.

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

(455) (c) *Seventh Coast Guard District*. Those foreign vessels 300 or less gross tons operating in the Seventh Coast Guard District must submit an NOA to the cognizant Captain of the Port (COTP).

(456) (d) [Suspended]

§160.212 When to submit an NOA.

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

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

(459) (3) Times for submitting NOAs areas follows:

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

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

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

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

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

(463) (c) [Suspended]

§160.214 Waivers.

(464) The Captain of the Port may waive, within that Captain of the Port's designated zone, any of the requirements of this subpart for any vessel or class of vessels upon finding that the vessel, route area of operations, conditions of the voyage, or other circumstances are

TABLE 160.206—NOA INFORMATION

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

TABLE 160.206—NOA INFORMATION

Required information	Vessels not carrying CDC	Vessels carrying CDC	
		Vessels	Towing vessels controlling vessels carrying CDC
(v) Where the person embarked (list port or place and country)	x	x	x
(6) *Operational condition of equipment required by §164.35 of this chapter* . . .	x	x	x
(7) *International Safety Management (ISM) Code Notice:*			
(i) The date of issuance for the company's Document of Compliance certificate that covers the vessel;	x	x	x
(ii) The date of issuance for the vessel's Safety Management Certificate; and . . .	x	x	x
(iii) The name of the Flag Administration, or the recognized organization(s) representing the vessel flag administration, that issued those certificates	x	x	x
(8) [Suspended]			

such that application of this subpart is unnecessary or impractical for purposes of safety, environmental protection, or national security.

§160.215 Notice of hazardous conditions.

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

Part 161–Vessel Traffic Management

Subpart A–Vessel Traffic Services

General Rules

§161.1 Purpose and Intent.

(466) (a) The purpose of this part is to promulgate regulations implementing and enforcing certain sections of the Ports and Waterways Safety Act (PWSA) setting up a national system of Vessel Traffic Services that will enhance navigation, vessel safety, and marine environmental protection and promote safe vessel movement by reducing the potential for collisions, rammings, and groundings, and the loss of lives and property associated with these incidents within VTS areas established hereunder.

(467) (b) Vessel Traffic Services provide the mariner with information related to the safe navigation of a waterway. This information, coupled with the mariner's compliance with the provisions set forth in this part, enhances the safe routing of vessels through congested waterways or waterways of particular hazard. Under certain circumstances, a VTS may issue directions to control the movement of vessels in order to minimize the risk of collision between vessels, or damage to property or the environment.

(468) (c) The owner, operator, charterer, master, or person directing the movement of a vessel remains at all times responsible for the manner in which the vessel is operated and maneuvered, and is responsible for the safe navigation of the vessel under all circumstances. Compliance with these rules or with a direction of the VTS is at all times contingent upon the exigencies of safe navigation.

(469) (d) Nothing in this part is intended to relieve any vessel, owner, operator, charterer, master, or person directing the movement of a vessel from the consequences of any neglect to comply with this part or any other applicable law or regulations (e.g., the International Regulations for Prevention of Collisions at Sea, 1972 (72 COLREGS) or the Inland Navigation Rules) or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

§161.2 Definitions.

(470) For the purposes of this part:

(471) *Cooperative Vessel Traffic Services (CVTS)* means the system of vessel traffic management established and jointly operated by the United States and Canada within adjoining waters. In addition, CVTS facilitates traffic movement and anchorages, avoids jurisdictional disputes, and renders assistance in emergencies in adjoining United States and Canadian waters.

(472) *Hazardous Vessel Operating Condition* means any condition related to a vessel's ability to safely navigate or maneuver, and includes, but is not limited to:

(473) (1) The absence or malfunction of vessel operating equipment, such as propulsion machinery, steering gear, radar system, gyrocompass, depth sounding device, automatic radar plotting aid (ARPA), radiotelephone, Automatic Identification System equipment, navigational lighting, sound signaling devices or similar equipment.

(474) (2) Any condition on board the vessel likely to impair navigation, such as lack of current nautical charts and publications, personnel shortage, or similar condition.

(475) (3) Vessel characteristics that affect or restrict maneuverability, such as cargo arrangement, trim, loaded condition, underkeel clearance, speed, or similar characteristics.

(476) *Precautionary Area* means a routing measure comprising an area within defined limits where vessels must navigate with particular caution and within which the direction of traffic may be recommended.

(477) *Navigable waters* means all navigable waters of the United States including the territorial sea of the United States, extending to 12 nautical miles from United States baselines, as described in Presidential Proclamation No. 5928 of December 27, 1988.

(478) *Towing Vessel* means any commercial vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

(479) *Vessel Movement Center (VMC)* means the shore-based facility that operates the vessel tracking system for a Vessel Movement Reporting System (VMRS) area or sector within such an area. The VMC does not necessarily have the capability or qualified personnel to interact with marine traffic, nor does it necessarily respond to traffic situations developing in the area, as does a Vessel Traffic Service (VTS).

(480) *Vessel Movement Reporting System (VMRS)* means a mandatory reporting system used to monitor and track vessel movements. This is accomplished by a vessel providing information under established procedures as set forth in this part in the areas defined in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).

(481) *Vessel Movement Reporting System (VMRS) User* means a vessel, or an owner, operator, charterer, Master, or person directing the movement of a vessel that is required to participate in a VMRS.

(482) *Vessel Traffic Center (VTC)* means the shore-based facility that operates the vessel traffic service for the Vessel Traffic Service area or sector within such an area.

(483) *Vessel Traffic Services (VTS)* means a service implemented by the United States Coast Guard designed to improve the safety and efficiency of vessel traffic and to protect the environment. The VTS has the capability to interact with marine traffic and respond to traffic situations developing in the VTS area.

(484) *Vessel Traffic Service Area or VTS Area* means the geographical area encompassing a specific VTS area of service. This area of service may be subdivided into sectors for the purpose of allocating responsibility to individual Vessel Traffic Centers or to identify different operating requirements.

(485) **Note:** Although regulatory jurisdiction is limited to the navigable waters of the United States, certain vessels will be encouraged or may be required, as a condition of port entry, to report beyond this area to facilitate traffic management within the VTS area.

(486) *VTS Special Area* means a waterway within a VTS area in which special operating requirements apply.

(487) *VTS User* means a vessel, or an owner, operator, charterer, master, or person directing the movement of a vessel, that is:

(488) (a) Subject to the Vessel Bridge-to-Bridge Radiotelephone Act; or

(489) (b) Required to participate in a VMRS within a VTS area (VMRS User).

(490) *VTS User's Manual* means the manual established and distributed by the VTS to provide the mariner with a description of the services offered and rules in force for that VTS. Additionally, the manual may include chartlets showing the area and sector boundaries, general navigational information about the area, and procedures, radio frequencies, reporting provisions and other information which may assist the mariner while in the VTS area.

§161.3 Applicability.

(491) The provisions of this subpart shall apply to each VTS User and may also apply to any vessel while underway or at anchor on the navigable waters of the United States within a VTS area, to the extent the VTS considers necessary.

§161.4 Requirement to carry the rules.

(492) Each VTS User shall carry on board and maintain for ready reference a copy of these rules.

(493) **Note:** These rules are contained in the applicable U.S. Coast Pilot, the VTS User's Manual which may be obtained by contacting the appropriate VTS, and periodically published in the Local Notice to Mariners. The VTS User's Manual and the World VTS Guide, an International Maritime Organization (IMO) recognized publication, contain additional information which may

assist the prudent mariner while in the appropriate VTS area.

§161.5 Deviations from the rules.

(494) (a) Requests to deviate from any provision in this part, either for an extended period of time or if anticipated before the start of a transit, must be submitted in writing to the appropriate District Commander. Upon receipt of the written request, the District Commander may authorize a deviation if it is determined that such a deviation provides a level of safety equivalent to that provided by the required measure or is a maneuver considered necessary for safe navigation under the circumstances. An application for an authorized deviation must state the need and fully describe the proposed alternative to the required measure.

(495) (b) Requests to deviate from any provision in this part due to circumstances that develop during a transit or immediately preceding a transit, may be made verbally to the appropriate VTS Commanding Officer. Requests to deviate shall be made as far in advance as practicable. Upon receipt of the request, the VTS Commanding Officer may authorize a deviation if it is determined that, based on vessel handling characteristics, traffic density, radar contacts, environmental conditions and other relevant information, such a deviation provides a level of safety equivalent to that provided by the required measure or is a maneuver considered necessary for safe navigation under the circumstances.

Services, VTS Measures, and Operating Requirements

§161.10 Services.

(496) To enhance navigation and vessel safety, and to protect the marine environment, a VTS may issue advisories, or respond to vessel requests for information, on reported conditions within the VTS area, such as:

(497) (a) Hazardous conditions or circumstances;

(498) (b) Vessel congestion;

(499) (c) Traffic density;

(500) (d) Environmental conditions;

(501) (e) Aids to navigation status;

(502) (f) Anticipated vessel encounters;

(503) (g) Another vessel's name, type, position, hazardous vessel operating conditions, if applicable, and intended navigation movements, as reported;

(504) (h) Temporary measures in effect;

(505) (i) A description of local harbor operations and conditions, such as ferry routes, dredging, and so forth;

(506) (j) Anchorage availability; or

(507) (k) Other information or special circumstances.

§161.11 VTS measures.

(508) (a) A VTS may issue measures or directions to enhance navigation and vessel safety and to protect the marine environment, such as, but not limited to:

(509) (1) Designating temporary reporting points and procedures;

(510) (2) Imposing vessel operating requirements; or

(511) (3) Establishing vessel traffic routing schemes.

(512) (b) During conditions of vessel congestion, restricted visibility, adverse weather, or other hazardous circumstances, a VTS may control, supervise, or otherwise manage traffic, by specifying times of entry, movement, or departure to, from, or within a VTS area.

§161.12 Vessel operating requirements.

(513) (a) Subject to the exigencies of safe navigation, a VTS User shall comply with all measures established or directions issued by a VTS.

(514) (b) If, in a specific circumstance, a VTS User is unable to safely comply with a measure or direction issued by the VTS, the VTS User may deviate only to the extent necessary to avoid endangering persons, property or the environment. The deviation shall be reported to the VTS as soon as is practicable.

(515) (c) When not exchanging voice communications, a VTS User must maintain a listening watch as required by §26.04(e) of this chapter on the VTS frequency designated in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas). In addition, the VTS User must respond promptly when hailed and communicated in the English language.

(516) **Note to §161.12(c):** As stated in 47 CFR 80.148(b), a very high frequency watch on Channel 16 (156.800 MHz) is not required on vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Service (VTS) system when the watch is maintained on both the vessel bridge-to-bridge frequency and a designated VTS frequency.

(517) (d) As soon as practicable a VTS User shall notify the VTS of any of the following:

(518) (1) A marine casualty as defined in 46 CFR 4.05-1;

(519) (2) Involvement in the ramming of a fixed or floating object;

(520) (3) A pollution incident as defined in §151.15 of this chapter:

(521) (4) A defect or discrepancy in an aid to navigation;

(522) (5) A hazardous condition as defined in §160.203 of this chapter;

(523) (6) Improper operation of vessel equipment required by Part 164 of this chapter;

(524) (7) A situation involving hazardous materials for which a report is required by 49 CFR 176.48; and

(525) (8) A hazardous vessel operating condition as defined in §161.2.

§161.13 VTS Special Area Operating Requirements.

(526) The following operating requirements apply within a VTS Special Area:

(527) (a) A VTS User shall, if towing astern, do so with as short a hawser as safety and good seamanship permits.

(528) (b) A VMRS User shall: (1) Not enter or get underway in the area without prior approval of the VTS;

(529) (2) Not enter a VTS Special Area if a hazardous vessel operating condition or circumstance exists;

(530) (3) Not meet, cross, or overtake any other VMRS User in the area without prior approval of the VTS; and

(531) (4) Before meeting, crossing, or overtaking any other VMRS User in the area, communicate on the designated vessel bridge-to-bridge radiotelephone frequency, intended navigation movements, and any other information necessary in order to make safe passing arrangements. This requirement does not relieve a vessel of any duty prescribed by the International Regulations for Prevention of Collisions at Sea, 1972 (72 COLREGS) or the Inland Navigation Rules.

Subpart B–Vessel Movement Reporting System

§161.15 Purpose and Intent.

(532) (a) A Vessel Movement Reporting System (VMRS) is a system used to monitor and track vessel movements within a VTS or VMRS area. This is accomplished by requiring that vessels provide information under established procedures as set forth in this part, or as directed by the Center.

(533) (b) To avoid imposing an undue reporting burden or unduly congesting radiotelephone frequencies, reports shall be limited to information which is essential to achieve the objectives of the VMRS. These reports are consolidated into three reports (sailing plan, position, and final).

§161.16 Applicability.

(534) Unless otherwise stated, the provisions of this subpart apply to the following vessels and VMRS Users:

(535) (a) Every power-driven vessel of 40 meters (approximately 131 feet) or more in length, while navigating;

(536) (b) Every towing vessel of 8 meters (approximately 26 feet) or more in length, while navigating; or

(537) (c) Every vessel certificated to carry 50 or more passengers for hire, when engaged in trade.

§161.17 Definitions.

(538) As used in the subpart:

(539) *Center* means a Vessel Traffic Center or Vessel Movement Center.

(540) *Published* means available in a widely-distributed and publicly available medium (e.g., VTS User's Manual, ferry schedule, Notice to Mariners).

§161.18 Reporting requirements.

(541) (a) A Center may: (1) Direct a vessel to provide any of the information set forth in Table 161.18(a) (IMO Standard Ship Reporting System);

(542) (2) Establish other means of reporting for those vessels unable to report on the designated frequency; or

(543) (3) Require reports from a vessel in sufficient time to allow advance vessel traffic planning.

(544) (b) All reports required by this part shall be made as soon as is practicable on the frequency designated in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).

(545) (c) When not exchanging communications, a VMRS User must maintain a listening watch as described in §26.04(e) of this chapter on the frequency designated in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas). In addition, the VMRS User must respond promptly when hailed and communicate in the English language.

(546) **Note:** As stated in 47 CFR 80.148(b), a VHF watch on Channel 16 (156.800 MHz) is not required on vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Service (VTS) system when the watch is maintained on both the vessel bridge-to-bridge frequency and a designated VTS frequency.

(547) (d) A vessel must report:

(548) (1) Any significant deviation from its Sailing Plan, as defined in §161.19, or from previously reported information; or

(549) (2) Any intention to deviate from a VTS issued measure or vessel traffic routing system.

(550) (e) When reports required by this part include time information, such information shall be given using the local time zone in effect and the 24-hour military clock system.

§161.19 Sailing Plan (SP).

(551) Unless otherwise stated, at least 15 minutes before navigating a VTS area, a vessel must report the:

(552) (a) Vessel name and type;

(553) (b) Position;

(554) (c) Destination and ETA;

(555) (d) Intended route;

TABLE 161.12(C).—VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas

Center MMSI[1] Call Sign	Designated frequency (Channel designation)—purpose[2]	Monitoring area[3] [4]
Berwick Bay—003669950 Berwick Traffic	156.550 MHz (Ch. 11)	The waters south of 29º45'N., west of 91º10'W., north of 29º37'N., and east of 91º18'W.
Houston-Galveston— 003669954	. . . . .	The navigable waters north of 29ºN., west of 94º20'W., south of 29º49'N., and east of 95º20'W.
Houston Traffic	156.550 MHz (Ch. 11) . . . . . . 156.250 MHz (Ch. 5A) —For Sailing Plans only	The navigable waters north of a line extending due west from the southern most end of Exxon Dock #1 (20º43.37'N., 95º01.27'W.
Houston Traffic	156.600 MHz (Ch. 12) . . . . . . 156.250 MHz (Ch. 5A) —For Sailing Plans only	The navigable waters south of a line extending due west from the southern most end of Exxon Dock #1 (20º43.37'N., 95º01.27'W.)
Los Angeles/Long Beach: MMSI/To be determined *San Pedro Traffic*	156.700 MHz (Ch. 14)	*Vessel Movement Reporting System Area*: The navigable waters within a 25 nautical mile radius of Point Fermin Light (33º42.3'N., 118º17.6'W.)
Louisville: Not applicable *Louisville Traffic*	156.650 MHz (Ch. 13)	The waters of the Ohio River between McAlpine Locks (Mile 606) and Twelve Mile Island (Mile 593), only when the McAlpine upper pool gauge is at approximately 13.0 feet or above.
Lower Mississippi River[5]— 0036699952		
New Orleans Traffic	156.700 MHz (Ch. 14)	The navigable waters of the Lower Mississippi River below 30º38.7'N., 91º17.5'W. (Port Hudson Light at 255 miles Above Head of Passes (AHP)), the Southwest Pass, and, within a 12 nautical miles radius around 28º54.3'N., 89º25.7'W. (Southwest Pass Entrance Light at 19.9 miles Below Head of Passes)
New Orleans Traffic	156.600 MHz (Ch. 12)	*New Orleans Sector*. The navigable waters of the Lower Mississippi River bounded on the north by a line drawn perpendicular at 29º56.4'N., 90º08.36'W. and on the south by a line drawn perpendicularly at 29º56.24'N., 89º59.86'W. (88 and 106 miles AHP).
New York —003669951 *New York Traffic*	156.550 MHz (Ch.11) . . . . . . —For Sailing Plans Only 156.600 MHz (Ch. 12) —For vessels at anchor	The area consists of the navigable waters of the Lower New York Bay bounded on the east by a line drawn from Norton Point to Breezy Point; on the south by a line connecting the entrance buoys at the Ambrose Channel, Swash Channel, and Sandy Hook Channel to Sandy Hook Point; and on the southeast including the waters of Sandy Hook Bay south to a line drawn at latitude 40º25'N.; then west in the Raritan Bay to the Raritan River Railroad Bridge, then north into waters of the Arthur Kill and Newark Bay to the Lehigh Valley Draw Bridge at latitude 40º41.9'N.; and then east including the waters of the Kill Van Kull and the Upper New York Bay north to a line drawn east-west from the Holland Tunnel ventilator shaft at latitude 40º43.7'N., longitude 74º01.6'W., in the Hudson River; and then continuing east including the waters of the East River to the Throgs Neck Bridge, excluding the Harlem River.

TABLE 161.12(C).—VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas

Center MMSI[1] Call Sign	Designated frequency (Channel designation)—purpose[2]	Monitoring area[3] [4]
New York Traffic	156.700 MHz (Ch. 14)	The navigable waters of the Lower New York Bay west of a line drawn from Norton Point to Breezy Point; and north of a line connecting the entrance buoys of Ambrose Channel, Swash Channel, and Sandy Hook Channel, to Sandy Hook Point; on the southeast including the waters of the Sandy Hook Bay south to a line drawn at latitude 40º25'N.; then west into the waters of Raritan Bay East Reach to a line drawn from Great Kills Light south through Raritan Bay East Reach LGB #14 to Comfort PT, NJ; then north including the waters of the Upper New York Bay south of 40º42.40'N. (Brooklyn Bridge) and 40º43.70'N. (Holland Tunnel Ventilator Shaft); west through the KVK into the Arthur Kill north of 40º38.25'N. (Arthur Kill Railroad Bridge); then north into the waters of the Newark Bay, south of 40º41.95'N. (Lehigh Valley Draw Bridge).
New York Traffic	156.600 MHz (Ch. 12) , , , , , , ,	The navigable waters of the Raritan Bay south to a line drawn at latitude 40º26'N.; then west of a line drawn from Great Kills Light south through the Raritan Bay East Reach LGB #14 to Point Comfort, NJ; then west to the Raritan River Railroad Bridge; and north including the waters of the Arthur Kill to 40º28.25'N. (Arthur Kill Railroad Bridge); including the waters of the East River north of 40º42.40'N. (Brooklyn Bridge) to the Throgs Neck Bridge, excluding the Harlem River.
Port Arthur[5]—003669955 *Sabine Traffic*	To be determined	The navigable waters south of 30º10'N., east of 94º20'W., west of 93º22'W. and, north of 29º10'N.
Prince William Sound—003669958 *Valdez Traffic*	156.650 MHz (Ch. 13)	The navigable waters south of 61º05'N., east of 147º20'W., north of 60ºN., and west of 146º30'W.; and, all navigable waters in Port Valdez.
Puget Sound[6] *Seattle Traffic*—003669957	156.700 MHz (Ch. 14)	The waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Marrowstone Point and Lagoon Point in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Seattle Traffic—003669957	156.250 MHz (Ch. 5A)	The waters of the Strait of Juan de Fuca east of 124º40'W. excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks; the navigable waters of the Strait of Georgia east of 122º52'W.; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Marrowstone Point and Lagoon Point and all waters east of Whidbey Island North of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline
Tofino Traffic—003160012	156.725 MHz (Ch. 74)	The waters west of 124º40'W. within 50 nautical miles of the coast of Vancouver Island including the waters north of 48ºN., and east of 127ºW.
Victoria Traffic—003160010 . . .	156.550 MHz (Ch. 11)	The waters of the Strait of Georgia west of 122º52'W., the navigable waters of the central Strait of Juan de Fuca north and east of Race Rocks, including the Gulf Island Archipelago, Boundary Pass and Haro Strait.

TABLE 161.12(C).—VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas

Center MMSI[1] Call Sign	Designated frequency (Channel designation)—purpose[2]	Monitoring area[3] [4]
San Francisco—003669956 *San Francisco Traffic*	156.700 MHz (Ch. 14)	The navigable waters of the San Francisco Offshore Precautionary Area, the navigable waters shoreward of the San Francisco Offshore Precautionary Area east of 122°42.0'W. and north of 37°40.0'N. extending eastward through the Golden Gate, and the navigable waters of San Francisco Bay and as far east as the port of Stockton on the San Joaquin River, as far north as the port of Sacramento on the Sacramento River.
San Francisco Traffic	156.600 MHz (Ch. 12)	The navigable waters within a 38 nautical mile radius of Mount Tamalpais (37°55.8'N., 122°34.6'W.) west of 122°42.0'W. and south of 37°40.0'N. and excluding the San Francisco Offshore Precautionary Area.
St. Marys River —003669953 *Soo Traffic*	156.600 MHz (Ch. 12)	The waters of the St. Marys River between 45°57'N. (De Tour Reef Light) and 46°38.7'N. (Ile Parisienne Light), except the St. Marys Falls Canal and those navigable waters east of a line from 46°04.16'N. and 46°01.57'N. (La Pointe to Sims Point in Potagannissing Bay and Worsley Bay).

Notes:

[1]Maritime Mobile Service Identifier (MMSI) is a unique nine-digit number assigned that identifies ship stations, ship earth stations, coast stations, coast earth stations, and group calls for use by a digital selective calling (DSC) radio, an INMARSAT ship earth station or AIS. AIS requirements are set forth in §§161.21 and 164.46 of this subchapter. "The requirements set forth in §§161.21 and 164.46 of this subchapter apply in those areas denoted with a MMSI number."

[2]In the event of a communication failure, difficulties or other safety factors, the Center may direct or permit a user to monitor and report on any other designated monitoring frequency or the bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13) or 156.375 MHz (Ch. 67), to the extent that doing so provides a level of safety beyond that provided by other means. The bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is used in certain monitoring areas where the level of reporting does not warrant a designated frequency.

[3]All geographic coordinates (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).

[4]Some monitoring areas extend beyond navigable waters. Although not required, users are strongly encouraged to maintain a listening watch on the designated monitoring frequency in these areas. Otherwise, they are required to maintain watch as stated in 47 CFR 80.148.

[5]Until rules regarding VTS Lower Mississippi River and VTS Port Arthur are published, vessels are exempted of all VTS and VMRS requirements set forth in 33 CFR part 161, except those set forth in §§161.21 and 161.46 of this subchapter.

[6]A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate Center administers the rules issued by both nations; however, enforces only its own set of rules within its jurisdiction. Note, the bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is not so designated in Canadian waters, therefore users are encouraged and permitted to make passing arrangements on the designated monitoring frequencies.

TABLE 161.18(a).–THE IMO STANDARD SHIP REPORTING SYSTEM

A	ALPHA	Ship	Name, call sign or ship station identity, and flag.
B	BRAVO	Dates and time of events	A 6 digit group giving day of month (first two digits), hours and minutes (last four digits). If other than UTC state time zone used.
C	CHARLIE	Position	A 4 digit group giving latitude in degrees and minutes suffixed with N (north) or S (south) and a 5 digit group giving longitude in degrees and minutes suffixed with E (east) or W (west); or,
D	DELTA	Position	True bearing (first 3 digits) and distance (state distance) in nautical miles from a clearly identified landmark (state landmark).
E	ECHO	True course	A 3 digit group.
F	FOXTROT	Speed in knots and tenths of knots	A 3 digit group.
G	GOLF	Port of Departure	Name of last port of call.
H	HOTEL	Date, time and point of entry system.	Entry time expressed as in (B) and into the entry position expressed as in (C) or (D).
I	INDIA	Destination and expected time of arrival.	Name of port and date time group expressed as in (B).
J	JULIET	Pilot	State whether a deep sea or local pilot is on board.
K	KILO	Date, time and point of exit from system.	Exit time expressed as in (B) and exit position expressed as in (C) or (D).
L	LIMA	Route information	Intended track.
M	MIKE	Radio	State in full names of communications stations/frequencies guarded.
N	NOVEMBER	Time of next report	Date time group expressed as in (B).
O	OSCAR	Maximum present static draught in meters.	4 digit group giving meters and centimeters.
P	PAPA	Cargo on board	Cargo and brief details of any dangerous cargoes as well as harmful substances and gases that could endanger persons or the environment.
Q	QUEBEC	Defects, damage, deficiencies or limitations.	Brief detail of defects, damage, deficiencies or other limitations.
R	ROMEO	Description of pollution or dangerous goods lost.	Brief details of type of pollution (oil, chemicals, etc) or dangerous goods lost overboard; position expressed as in (C) or (D).
S	SIERRA	Weather conditions	Brief details of weather and sea conditions prevailing.
T	TANGO	Ship's representative and/or owner.	Details of name and particulars of ship's representative and/or owner for provision of information.
U	UNIFORM	Ship size and type	Details of length, breadth, tonnage, and type, etc., as required.
V	VICTOR	Medical personnel	Doctor, physician's assistant, nurse, no medic.
W	WHISKEY	Total number of persons on board.	State number.
X	XRAY	Miscellaneous	Any other information as appropriate. [i.e., a detailed description of a planned operation, which may include: its duration; effective area; any restrictions to navigation; notification procedures for approaching vessels; in addition, for a towing operation; configuration, length of the tow, available horsepower, etc.; for a dredge or floating plant: configuration of pipeline, mooring configuration, number of assist vessels, etc.].

(556) (e) Time and point of entry; and

(557) (f) Dangerous cargo on board or in its tow, as defined in §160.203 of this chapter, and other required information as set out in §160.211 and §160.213 of this chapter, if applicable.

§161.20 Position Report (PR).

(558) A vessel must report its name and position:

(559) (a) Upon point of entry into a VMRS area;

(560) (b) At designated points as set forth in Subpart C; or

(561) (c) When directed by the Center.

§161.21 Automated reporting.

(562) (a) Unless otherwise directed, vessels equipped with an Automatic Identification System (AIS) are required to make continuous, all stations, AIS broadcasts, in lieu of voice Position Reports, to those Centers denoted in Table 161.12(c) of this part.

(563) (b) Should an AIS become non-operational, while or prior to navigating a VMRS area, it should be restored to operating condition as soon as possible, and, until restored a vessel must:

(564) (1) Notify the Center;

(565) (2) Make voice radio Position Reports at designated reporting points as required by §161.20(b) of this part; and

(566) (3) Make any other reports as directed by the Center.

§161.22 Final Report (FR).

(567) A vessel must report its name and position:

(568) (a) On arrival at its destination; or

(569) (b) When leaving a VTS area.

§161.23 Reporting exemptions.

(570) (a) Unless otherwise directed, the following vessels are exempted from providing Position and Final Reports due to the nature of their operation:

(571) (1) Vessels on a published schedule and route;

(572) (2) Vessels operating within an area of a radius of three nautical miles or less; or

(573) (3) Vessels escorting another vessel or assisting another vessel in maneuvering procedures.

(574) (b) A vessels described in paragraph (a) of this section must:

(575) (1) Provide a Sailing Plan at least 5 minutes but not more than 15 minutes before navigating within the VMRS area; and

(576) (2) If it departs from its promulgated schedule by more than 15 minutes or changes its limited operating area, make the established VMRS reports, or report as directed.

Subpart C–Vessel Traffic Service and Vessel Movement Reporting System Areas and Reporting Points

(577) **Note:** All geographic coordinates contained in part 161 (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).

§161.50 Vessel Traffic Service San Francisco.

(578) (a) The VTS area consists of all the navigable waters of San Francisco Bay Region south of the Mare Island Causeway Bridge and the Petaluma River Entrance Channel Daybeacon 19 and the Petaluma River Entrance Channel Light 20 and north of the Dumbarton Bridge; its seaward approaches within a 38 nautical mile radius of Mount Tamalpais (37°55.8'N., 122°34.6'W.); and its navigable tributaries as far east as the port of Stockton on the San Joaquin River, as far north as the port of Sacramento on the Sacramento River.

§161.55 Vessel Traffic Service Puget Sound and the Cooperative Vessel Traffic Service for the Juan de Fuca Region.

(579) The Vessel Traffic Service Puget Sound area consists of the navigable waters of the United States bounded by a line drawn from the Washington State coastline at 48°23'08"N., 124°43'37"W. on Cape Flattery to the Cape Flattery Light at 48°23'30"N., 124°44'12"W. on Tatoosh Island, due west to the U.S. Territorial Sea Boundary; thence northward along the U.S. Territorial Sea Boundary to its intersection with the U.S./Canada International Boundary; thence east along the U.S./Canada International Boundary through the waters known as the Strait of Juan de Fuca, Haro Strait, Boundary Pass, and the Strait of Georgia to the Washington State coastline at 49°00'06"N., 122°45'18"W. (International Boundary Range C Rear Light). This area includes; Puget Sound, Hood Canal, Possession Sound, the San Juan Island Archipelago, Rosario Strait, Guemes Channel, Bellingham Bay, the U.S. waters of the Strait of Juan de Fuca and the Strait of Georgia, and all waters adjacent to the above.

(580) (a) Vessel Traffic Service Puget Sound participates in a U.S./Canadian Cooperative Vessel Traffic Service (CVTS) to jointly manage vessel traffic in the Juan de Fuca Region. The CVTS for the Juan de Fuca Region consists of all waters of the Strait of Juan de Fuca and its offshore approaches, southern Georgia Strait, the Gulf and San Juan Archipelagos, Rosario Strait, Boundary Pass and Haro Strait, bounded on the northwest by 48°35'45"N.; and on the southwest by 48°23'30"N.; and on the west by the rhumb line joining 48°35'45"N., 124°47'30"W. with 48°23'30"N., 124°48'37"W.; and on the northeast in the Strait of Georgia, by a line drawn

along 49°N. from Vancouver Island to Semiahmoo Bay; and on the southeast, by a line drawn from McCurdy Point on the Quimper Peninsula to Point Partridge on Whidbey Island. Canadian and United States Vessel Traffic Centers (Tofino, B.C., Canada, Vancouver, BC, Canada and Seattle, WA) manage traffic within the CVTS area irrespective of the International Boundary.

(581) (b) VTS Special Areas. (1) The Rosario Strait VTS Special Area consists of those waters bounded to the south by the center of Precautionary Area "RB" (a circular area of 2,500 yards radius centered at 48°26'24"N., 122°45'12"W.), and to the north by the center of Precautionary Area "C" (a circular area of 2,500 yards radius centered at 48°40'34"N., 122°42'44"W.; Lighted Buoy "C"); and

(582) **Note:** The center of precautionary area "RB" is not marked by a buoy. All precautionary areas are depicted on National Oceanic and Atmospheric Administration (NOAA) nautical charts.

(583) (2) The Guemes Channel VTS Special Area consists of those waters bounded to the west by Shannon Point on Fidalgo Island and to the east by Southeast Point on Guemes Island.

(584) (c) Additional VTS Special Area Operating Requirements. The following additional requirements are applicable in the Rosario Strait and Guemes Channel VTS Special Areas:

(585) (1) A vessel engaged in towing shall not impede the passage of a vessel of 40,000 dead weight tons or more.

(586) (2) A vessel of less than 40,000 dead weight tons is exempt from the provision set forth in §161.13(b)(1) of this part.

(587) (3) A vessel of less than 100 meters in length is exempt from the provisions set forth in §161.13(b)(3) of this part. Approval will not be granted for:

(588) (i) A vessel of 100 meters or more in length to meet or overtake; or cross or operate within 2,000 yards (except when crossing astern) of a vessel of 40,000 dead weight tons or more; or

(589) (ii) A vessel of 40,000 dead weight tons or more to meet or overtake; or cross or operate within 2,000 yards (except when crossing astern) of a vessel of 100 meters or more in length.

(590) (d) Reporting Point. Inbound vessels in the Strait of Juan de Fuca upon crossing 124°W.

§161.60 Vessel Traffic Service Prince William Sound.

(591) (a) The VTS area consists of the navigable waters of the United States north of a line drawn from Cape Hinchinbrook Light to Schooner Rock Light, comprising that portion of Prince William Sound between 146°30'W. and 147°20'W. and includes Valdez Arm, Valdez Narrows and Port Valdez.

(592) (b) The Valdez Arm VTS Special Area consists of the waters of the Valdez Arm Traffic Separation Scheme (described in §167.1703 of this chapter); the waters northeast of a line drawn from shoreline to shoreline through the points 60°58.04'N., 146°46'52'W. and 60°58.93'N., 146°48.86'W.; and southwest of a line bearing 307° True from Tongue Point at 61°02.10'N., 146°40.00"W.

(593) (c) The Valdez Narrows VTS Special Area consists of those waters of Valdez Arm, Valdez Narrows, and Port Valdez northeast of a line bearing 307° True from Tongue Point at 61°02'06"N., 146°40'W.; and southwest of a line bearing 307° True from Entrance Island Light at 61°05'06"N., 146°36'42"W.

(594) (d) Additional VTS Special Area Operating Requirements. The following additional requirements are applicable in the Valdez Narrows VTS Special Area:

(595) (1) No VMRS User shall proceed north of 61°N. without prior approval of the VTS.

(596) (2) For a vessel listed in paragraph (d)(3) of this section–

(597) (i) Approval to enter this area will not be granted to a vessel when a tank vessel of more than 20,000 deadweight tons is navigating therein;

(598) (ii) A northbound vessel shall remain south of 61°N. until the VTS has granted permission to proceed; and

(599) (iii) A southbound vessel shall remain in Port Valdez east of 146°35'W. and north of 61°06'N. until the VTS has granted permission to proceed.

(600) (3) Paragraph (d)(2) of this section applies to–

(601) (i) A vessel of 1600 gross tons or more; and

(602) (ii) A towing vessel of 8 meters or more in length, except for a vessel performing duties as an escort vessel as defined in 33 CFR Part 168.

(603) (e) Reporting Points.

Part 162–Inland Waterways Navigation Regulations

§162.1 General.

(604) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

TABLE 161.60(e)–VTS PRINCE WILLIAM SOUND REPORTING POINTS

Designator	Geographic name	Geographic description	Latitude/ Longitude	Notes
1A	Cape Hinchinbrook	Cape Hinchinbrook	60°16'18"N 146°45'30"W	Northbound Only.
1B	Schnooer Rock	Schnooer Rock	60°18'42"N 146°51'36"W	Southbound Only.
2A	Naked Island	Naked Island	60°40'00"N 147°01'24"W	Northbound Only.
2B	Naked Island	Naked Island	60°40'00"N 147°05'00"W	Southbound Only.
3A	Bligh Reef	Bligh Reef Light (Pilot Embark)	60°50'36"N 146°57'30"W	Northbound Only.
3B	Bligh Reef	Bligh Reef Light (Pilot Disembark)	60°51'00"N 147°01'24"W	Southbound Only.
4A	Rocky Point	Rocky Point	60°57'48"N 146°47'30"W	Northbound Only.
4B	Rocky Point	Rocky Point	60°57'48"N 146°50'00"W	Southbound Only.
5	Entrance Island	Entrance Island Light	61°05'24"N 146°37'30"W	

§162.240 Tongass Narrows, Alaska; navigation.

(605) (a) *Definitions*. The term "Tongass Narrows" includes the body of water lying between Revillagigedo Channel and Guard Islands in Clarence Strait.

(606) (b) No vessel shall exceed a speed of seven knots between Idaho Rock and Charcoal Point.

(607) (c) No vessel shall while moored or at anchor, or by slow passage or otherwise while underway, unreasonably obstruct the free passage and progress of other vessels.

(608) (d) No vessel shall moor or anchor to any structure of the United States other than mooring piers, wharves, and floats without the consent of the Captain of the Port, Southeast Alaska. The office of the Commanding Officer, Marine Safety Office, Juneau, Alaska is located in Juneau, Alaska.

§162.245 Kenai River, Kenai, Alaska; use, administration, and navigation.

(609) (a) *The area*. The main channel area of the river, having a width of 150 feet, beginning at a point directly offshore from the centerline of the city dock and extending about 2,200 feet upstream to a point 200 feet upstream from the Inlet Co. Dock.

(610) (b) *The regulations*. (1) Vessels may navigate, anchor, or moor within the area until such time as notification is received or observation is made of intended passage to or from the docking areas.

(611) (2) Notice of anticipate passage of towboats and barges shall be indicated 24 hours in advance by display of a red flag by the Inlet Co. from its warehouse.

§162.250 Port Alexander, Alaska; speed of vessels.

(612) (a) *Definition*. The term "Port Alexander" includes the entire inlet from its head to its entrance from Chatham Strait.

(613) (b) *Speed*. The speed of all vessels of 5 tons or more gross, ships register, shall not exceed 3 miles per hour either in entering, leaving, or navigating within Port Alexander, Alaska.

§162.255 Wrangell Narrows, Alaska; use, administration, and navigation.

(614) (a) *Definitions*. (1) The term "Wrangell Narrows" includes the entire body of water between Wrangell Narrows North Entrance Lighted Bell Buoy 63 and Midway Rock Light.

(615) (2) The term "raft section" refers to a standard raft of logs or piling securely fastened together for long towing in Alaska inland waters in the manner customary with the local logging interests, i.e. with booms, swifters, and tail sticks. It normally contains 30,000 to 70,000 feet board measure of logs or piling and has a width of 45 to 60 feet and a length of 75 to 100 feet.

(616) (b) *Speed restrictions*. No vessel shall exceed a speed of seven (7) knots in the vicinity of Petersburg,

between Wrangell Narrows Channel Light 58 and Wrangell Narrows Lighted Buoy 60.

(617) (c) *Tow channel*. The following route shall be taken by all tows passing through Wrangell Narrows when the towboat has a draft of 9 feet or less (northbound, read down; southbound, read up):

(618) East of Battery Islets:

(619) East of Tow Channel Buoy 1 TC.

(620) East of Tow Channel Buoy 3 TC.

(621) West of Tow Channel Buoy 4 TC.

(622) East of Colorado Reef:

(623) East of Wrangell Narrows Channel Light 21.

(624) West of Wrangell Narrows Channel Lighted Buoy 25.

(625) East of Tow Channel Buoy 5 TC.

(626) East of Tow Channel Buoy 7 TC.

(627) West of Petersburg:

(628) East of Wrangell Narrows Channel Light 54 FR.

(629) East of Wrangell Narrows Channel Light 56 Qk FR.

(630) East of Wrangell Narrows Channel Light 58 FR, thence proceeding to West side of channel and leaving Wrangell Narrows by making passage between Wrangell Narrows Channel Daybeacon 61 and Wrangell Narrows North Entrance Lighted Bell Buoy 63 F.

(631) (d) *Size of tows*. The maximum tows permitted shall be one pile driver, or three units of other towable equipment or seven raft sections.

(632) (e) *Arrangement of tows*. (1) No towline or aggregate of towlines between towboat and separated pieces shall exceed 150 feet in length.

(633) (2) Raft and barge tows of more than one unit shall not exceed 65 feet in width overall. Single barge tows shall not exceed 100 feet in width overall.

(634) (3) Tows other than rafts shall be taken alongside the towboat whenever possible.

(635) (f) *Anchorage*. Vessels may anchor in the anchorage basin in the vicinity of Anchor Point. No craft or tow shall be anchored in Wrangell Narrows in either the main ship channel or the towing channel, nor shall any craft or tow be anchored so that it can swing into either of these channels.

(636) (g) *Disabled craft*. Disabled craft in a condition of absolute necessity are exempt from the regulations in this section.

Part 164–Navigation Safety Regulations (in part).

For a complete description of this part see 33 CFR 164.

§164.01 Applicability.

(637) (a) This part (except as specifically limited by this section) applies to each self-propelled vessel of 1600 or more gross tons (except as provided in paragraphs (c) and (d) of this section, or for foreign vessels described in §164.02) when it is operating in the navigable waters of the United States except the St. Lawrence Seaway.

(638) (b) Sections 164.70 through 164.82 of this part apply to each towing vessel of 12 meters (39.4 feet) or more in length operating in the navigable waters of the United States other than the St. Lawrence Seaway; except that a towing vessel is exempt from the requirements of §164.72 if it is–

(639) (1) Used solely within a limited geographic area, such as a fleeting-area for barges or a commercial facility, and used solely for restricted service, such as making up or breaking up larger tows;

(640) (2) Used solely for assistance towing as defined by 46 CFR 10.103;

(641) (3) Used solely for pollution response; or

(642) (4) Any other vessel exempted by the Captain of the Port (COTP). The COTP, upon written request, may, in writing, exempt a vessel from §164.72 for a specified route if he or she decides that exempting it would not allow its unsafe navigation under anticipated conditions.

(643) (c) Provisions of §§164.11(a)(2) and (c), 164.30, 164.33, and 164.46 do not apply to warships or other vessels owned, leased, or operated by the United States Government and used only in government non commercial service when these vessels are equipped with electronic navigation systems that have met the applicable agency regulations regarding navigation safety.

(644) (d) Provisions of §164.46 apply to some self-propelled vessels of less 1600 gross tonnage.

§164.02 Applicability exception for foreign vessels.

(645) (a) Except as provided in §164.46(a)(2) of this part, including §§164.38 and 164.39, this part does not apply to vessels that:

(646) (1) Are not destined for, or departing from, a port or place subject to the jurisdiction of the United States; and

(647) (2) Are in:

(648) (i) Innocent passage through the territorial sea of the United States; or

(649) (ii) Transit through navigable waters of the United States which form a part of an international strait.

§164.03 Incorporation by reference.

(650) (a) Certain material is incorporated by reference into this part with the approval of the Director of the **Federal Register** under 5 U.S.C. 522(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of the section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. All approved material is on file at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, and at the Office of Vessel Traffic Management (G-MWV), Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001 and is available from the sources indicated in paragraph (b) of this section.

(651) (b) The materials approved for incorporation by reference in this part and the sections affected are as follows:

(652) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005

(653) API Specifications 9A, Specification for Wire Rope, Section 3, Properties and Tests for Wire and Wire Rope, May 28, 1984. . . . . **164.74**

(654) *American Society for Testing and Materials (ASTM)*, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(655) ASTM D4268-93, Standard Test Method for Testing Fiber Ropes **164.74**

(656) *Cordage Institute*, 350 Lincoln Street, Hingham, MA 02043

(657) CIA-3, Standard Test Methods for Fiber Rope Including Standard Terminations, Revised, June 1980 . . . . . **164.74**

(658) **International Electrotechnical Commission (IEC)**

(659) 3, rue de Varemb, Geneva, Switzerland.

(660) IEC 61993–2, Maritime navigation and radiocommunication equipment and systems—

(661) Automatic identification systems (AIS)—part 2: Class A shipborne equipment of the universal automatic identification system (AIS)—Operational and performance requirements, methods of test and required test results First edition, 2001–12 . . . .**164.46**

(662) **International Maritime Organization (IMO)**, 4 Albert Embankment, London SE1 7SR, U.K.

(663) IMO Resolution A342(IX), Recommendation on Performance Standards for Automatic Pilots, adopted November 12, 1975 · **164.13**

(664) Resolution MSC.74(69), Annex 3, Recommendation on Performance Standards for a Universal Shipborne Automatic Identification System (AIS), adopted May 12, 1998 · · · · · · · · · · · · · · · · · · **164.46**

(665) SN/Circ.227, Guidelines for the Installation of a Shipborne Automatic Identification System (AIS), dated January 6, 2003 · · · · · · · · · · · · · · · · · · **164.46**

(666) SOLAS, International Convention for Safety of Life at Sea, 1974, and 1988 Protocol relating thereto, 2000 Amendments, effective January and July 2002, (SOLAS 2000 Amendments) · **164.46**

(667) Conference resolution 1, Adoption of amendments to the Annex to the International Convention for the Safety of Life at Sea, 1974, and amendments to Chapter V of SOLAS 1974, adopted December 12, 2002 . .**164.46**

(668) *International Telecommunication Union Radio communication Bureau (ITU-R)*, Place de Nations CH-1211 Geneva 20 Switzerland

(669) (1) ITU-R Recommendation M.821, Optional Expansion of the Digital Selective-Calling System for Use in the Maritime Mobile Service, 1992 . . . . . **164.43**

(670) (2) ITU-R Recommendation M.825, Characteristics of a Transponder System Using Digital Selective-Calling Techniques for Use with Vessel Traffic Services and Ship-to-Ship Identification, 1992. . . . . **164.43**

(671) ITU–R Recommendation M.1371–1, Technical characteristics for a universal shipborne automatic identification system using time division multiple access in the VHF maritime mobile band, 1998-2001 . . . . . .**164.46**

(672) *Radio Technical Commission for Maritime Services*, 655 Fifteenth Street, NW., Suite 300, Washington, DC 20005

(673) (1) RTCM Paper 12-78/DO-100, Minimum Performance Standards, Loran C Receiving Equipment, 1977 . . . . . **164.41**

(674) (2) RTCM Paper 194-93/SC104-STD, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1, 1994 . . . . . **164.43**

(675) (3) RTCM Paper 71-95/SC112-STD, RTCM Recommended Standards for Marine Radar Equipment Installed on Ships of Less Than 300 Tons Gross Tonnage, Version 1.1, October 10, 1995 . . . . . **164.72**

(676) (4) RTCM Paper 191-93/SC112-X, RTCM Recommended Standards for Maritime Radar Equipment Installed on Ships of 300 Tons Gross Tonnage and Upwards, Version 1.2, December 20, 1993 . . **164.72**

§164.11 Navigation underway: General.

(677) The owner, master, or person in charge of each vessel underway shall ensure that:

(678) (a) The wheelhouse is constantly manned by persons who–

(679) (1) Direct and control the movement of the vessel; and

(680) (2) Fix the vessel's position;

(681) (b) Each person performing a duty described in paragraph (a) of this section is competent to perform that duty;

(682) (c) The position of the vessel at each fix is plotted on a chart of the area and the person directing the movement of the vessel is informed of the vessel's position;

(683) (d) Electronic and other navigational equipment, external fixed aids to navigation, geographic reference points, and hydrographic contours are used when fixing the vessel's position;

(684) (e) Buoys alone are not used to fix the vessel's position;

(685) **Note:** Buoys are aids to navigation placed in approximate positions to alert the mariner to hazards to navigation or to indicate the orientation of a channel. Buoys may not maintain an exact position because strong or varying currents, heavy seas, ice, and collisions with vessels can move or sink them or set them adrift. Although buoys may corroborate a position fixed by other means, buoys cannot be used to fix a position: however, if no other aids are available, buoys alone may be used to establish an estimated position.

(686) (f) The danger of each closing visual or each closing radar contact is evaluated and the person directing the movement of the vessel knows the evaluation;

(687) (g) Rudder orders are executed as given;

(688) (h) Engine speed and direction orders are executed as given;

(689) (i) Magnetic variation and deviation and gyrocompass errors are known and correctly applied by the person directing the movement of the vessel;

(690) (j) A person whom he has determined is competent to steer the vessel is in the wheelhouse at all times.

(691) (k) If a pilot other than a member of the vessel's crew is employed, the pilot is informed of the draft, maneuvering characteristics, and peculiarities of the vessel and of any abnormal circumstances on the vessel that may affect its safe navigation.

(692) (1) Current velocity and direction for the area to be transited are known by the person directing the movement of the vessel;

(693) (m) Predicted set and drift are known by the person directing movement of the vessel;

(694) (n) Tidal state for the area to be transited is known by the person directing movement of the vessel;

(695) (o) The vessel's anchors are ready for letting go;

(696) (p) The person directing the movement of the vessel sets the vessel's speed with consideration for–

(697) (1) The prevailing visibility and weather conditions;

(698) (2) The proximity of the vessel to fixed shore and marine structures;

(699) (3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;

(700) (4) The comparative proportions of the vessel and the channel;

(701) (5) The density of marine traffic;

(702) (6) The damage that might be caused by the vessel's wake;

(703) (7) The strength and direction of the current; and

(704) (8) Any local vessel speed limit;

(705) (q) The tests required by §164.25 are made and recorded in the vessel's log; and

(706) (r) The equipment required by this part is maintained in operable condition.

(707) (s) Upon entering U.S. waters, the steering wheel or lever on the navigating bridge is operated to determine if the steering equipment is operating properly under manual control, unless the vessel has been steered under manual control from the navigating bridge within the preceding 2 hours, except when operating on the Great Lakes and their connecting and tributary waters.

(708) (t) At least two of the steering-gear power units on the vessel are in operation when such units are capable of simultaneous operation, except when the vessel is sailing on the Great Lakes and their connecting and tributary waters, and except as required by paragraph (u) of this section.

(709) (u) On each passenger vessel meeting the requirements of the International Convention for the Safety of Life at Sea, 1960 (SOLAS 60) and on each cargo vessel meeting the requirements of SOLAS 74 as amended in 1981, the number of steering-gear power units necessary to move the rudder from 35° on either side to 30° on the other in not more than 28 seconds must be in simultaneous operation.

§164.13 Navigation underway: tankers.

(710) (a) As used in this section, "tanker" means a self-propelled tank vessel, including integrated tug barge combinations, constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces and inspected and certificated as a tanker.

(711) (b) Each tanker must have an engineering watch capable of monitoring the propulsion system, communicating with the bridge, and implementing manual control measures immediately when necessary. The watch must be physically present in the machinery spaces or in the main control space and must consist of at least a licensed engineer.

(712) (c) Each tanker must navigate with at least two licensed deck officers on watch on the bridge, one of whom may be a pilot. In waters where a pilot is required, the second officer, must be an individual licensed and assigned to the vessel as master, mate, or

officer in charge of a navigational watch, who is separate and distinct from the pilot.

(713) (d) Except as specified in paragraph (e) of this section, a tanker may operate with an auto pilot engaged only if all of the following conditions exist:

(714) (1) The operation and performance of the automatic pilot conforms with the standards recommended by the International Maritime Organization in IMO Resolution A.342(IX).

(715) (2) A qualified helmsman is present at the helm and prepared at all times to assume manual control.

(716) (3) The tanker is not operating in any of the following areas:

(717) (i) The areas of the traffic separation schemes specified in subchapter P of the chapter.

(718) (ii) The portions of a shipping safety fairway specified in part 166 of this chapter.

(719) (iii) An anchorage ground specified in part 110 of this chapter.

(720) (iv) An area within one-half nautical mile of any U.S. shore.

(721) (e) A tanker equipped with an intergrated navigation system, and complying with paragraph (d)(2) of this section, may use the system with auto pilot engaged while in the areas described in paragraphs (d)(3)(i) and (ii) of this section. The master shall provide, upon request, documentation showing that the integrated navigation system–

(722) (1) Can maintain a predetermined trackline with a cross track error of less than 10 meters 95 percent of the time;

(723) (2) Provides continuous position data accurate to within 20 meters 95 percent of the time; and (3) Has an immediate override control.

§164.15 Navigation bridge visibility.

(724) (a) The arrangement of cargo, cargo gear, and trim of all vessels entering or departing from U.S. ports must be such that the field of vision from the navigation bridge conforms as closely as possible to the following requirements:

(725) (1) From the conning position, the view of the sea surface must not be obscured by more than the lesser of two ship lengths or 500 meters (1640 feet) from dead ahead to 10 degrees on either side of the vessel. Within this arc of visibility any blind sector caused by cargo, cargo gear, or other permanent obstruction must not exceed 5 degrees.

(726) (2) From the conning position, the horizontal field of vision must extend over an arc from at least 22.5 degrees abaft the beam on one side of the vessel, through dead ahead, to at least 22.5 degrees abaft the beam on the other side of the vessel. Blind sectors forward of the beam caused by cargo, cargo gear, or other permanent obstruction must not exceed 10 degrees each, nor total more than 20 degrees, including any blind sector within the arc of visibility described in paragraph (a)(1) of this section.

(727) (3) From each bridge wing, the field of vision must extend over an arc from at least 45 degrees on the opposite bow, through dead ahead, to at least dead astern.

(728) (4) From the main steering position, the field of vision must extend over an arc from dead ahead to at least 60 degrees on either side of the vessel.

(729) (b) A clear view must be provided through at least two front windows at all times regardless of weather condition.

§164.19 Requirements for vessels at anchor.

(730) The master or person in charge of each vessel that is anchored shall ensure that–

(731) (a) A proper anchor watch is maintained;

(732) (b) Procedures are followed to detect a dragging anchor; and

(733) (c) Whenever weather, tide, or current conditions are likely to cause the vessel's anchor to drag, action is taken to ensure the safety of the vessel, structures, and other vessels, such as being ready to veer chain, let go a second anchor, or get underway using the vessel's own propulsion or tug assistance.

§164.25 Tests before entering or getting underway.

(734) (a) Except as provided in paragraphs (b) and (c) of this section no person may cause a vessel to enter into or get underway on the navigable waters of the United States unless no more than 12 hours before entering or getting underway, the following equipment has been tested:

(735) (1) Primary and secondary steering gear. The test procedure includes a visual inspection of the steering gear and its connecting linkage, and, where applicable, the operation of the following:

(736) (i) Each remote steering gear control system.

(737) (ii) Each steering position located on the navigating bridge.

(738) (iii) The main steering gear from the alternative power supply, if installed.

(739) (iv) Each rudder angle indicator in relation to the actual position of the rudder.

(740) (v) Each remote steering gear control system power failure alarm.

(741) (vi) Each remote steering gear power unit failure alarm.

(742) (vii) The full movement of the rudder to the required capabilities of the steering gear.

(743) (2) All internal vessel control communications and vessel control alarms.

(744) (3) Standby or emergency generator, for as long as necessary to show proper functioning, including steady state temperature and pressure readings.

(745) (4) Storage batteries for emergency lighting and power systems in vessel control and propulsion machinery spaces.

(746) (5) Main propulsion machinery, ahead and astern.

(747) (b) Vessels navigating on the Great Lakes and their connecting and tributary waters, having once completed the test requirements of this sub-part, are considered to remain in compliance until arriving at the next port of call on the Great Lakes.

(748) (c) Vessels entering the Great Lakes from the St. Lawrence Seaway are considered to be in compliance with this sub-part if the required tests are conducted preparatory to or during the passage of the St. Lawrence Seaway or within one hour of passing Wolfe Island.

(749) (d) No vessel may enter, or be operated on the navigable waters of the United States unless the emergency steering drill described below has been conducted within 48 hours prior to entry and logged in the vessel logbook, unless the drill is conducted and logged on a regular basis at least once every three months. This drill must include at a minimum the following:

(750) (1) Operation of the main steering gear from within the steering gear compartment.

(751) (2) Operation of the means of communications between the navigating bridge and the steering compartment.

(752) (3) Operation of the alternative power supply for the steering gear if the vessel is so equipped.

§164.30 Charts, publications, and equipment: General.

(753) No person may operate or cause the operation of a vessel unless the vessel has the marine charts, publications, and equipment as required by §§164.33 through 164.41 of this part.

§164.33 Charts and publications.

(754) (a) Each vessel must have the following:

(755) (1) Marine charts of the area to be transited, published by the National Ocean Service, U.S. Army Corps of Engineers, or a river authority that–

(756) (i) Are of a large enough scale and have enough detail to make safe navigation of the area possible; and

(757) (ii) Are currently corrected.

(758) (2) For the area to be transited, a currently corrected copy of, or applicable currently corrected extract from, each of the following publications:

(759) (i) U.S. Coast Pilot.

(760) (ii) Coast Guard Light List.

(761) (3) For the area to be transited, the current edition of, or applicable current extract from:

(762) (i) Tide Tables published by private entities using data provided by the National Ocean Service.

(763) (ii) Tidal Current Tables published by private entities using data provided by the National Ocean Service, or river current publication issued by the U.S. Army Corps of Engineers, or a river authority.

(764) (b) As an alternative to the requirements for paragraph (a) of this section, a marine chart or publication, or applicable extract, published by a foreign government may be substituted for a U.S. chart and publication required by this section. The chart must be of large enough scale and have enough detail to make safe navigation of the area possible, and must be currently corrected. The publication, or applicable extract, must singly or in combination contain similar information to the U.S. Government publication to make safe navigation of the area possible. The publication, or applicable extract must be currently corrected, with the exceptions of tide and tidal current tables, which must be the current editions.

(765) (c) As used in this section, "currently corrected" means corrected with changes contained in all Notices to Mariners published by the National Geospatial-Intelligence Agency, or an equivalent foreign government publication, reasonably available to the vessel, and that is applicable to the vessel's transit.

§164.35 Equipment: All vessels.

(766) Each vessel must have the following:

(767) (a) A marine radar system for surface navigation.

(768) (b) An illuminated magnetic steering compass, mounted in a binnacle, that can be read at the vessel's main steering stand.

(769) (c) A current magnetic compass deviation table or graph or compass comparison record for the steering compass, in the wheelhouse.

(770) (d) A gyrocompass.

(771) (e) An illuminated repeater for the gyrocompass required by paragraph (d) of this section that is at the main steering stand, unless that gyrocompass is illuminated and is at the main steering stand.

(772) (f) An illuminated rudder angle indicator in the wheelhouse.

(773) (g) The following maneuvering information prominently displayed on a fact sheet in the wheelhouse:

(774) (1) A turning circle diagram to port and starboard that shows the time and distance and advance and transfer required to alter course 90 degrees with maximum rudder angle and constant power settings, for either full and half speeds, or for full and slow speeds. For vessels whose turning circles are essentially the same for both directions, a diagram showing a turning circle

in one direction, with a note on the diagram stating that turns to port and starboard are essentially the same, may be substituted.

(775) (2) The time and distance to stop the vessel from either full and half speeds, or from full and slow speeds, while maintaining approximately the initial heading with minimum application of rudder.

(776) (3) For each vessel with a fixed propeller, a table of shaft revolutions per minute for a representative range of speeds.

(777) (4) For each vessel with a controllable pitch propeller, a table of control settings for a representative range of speeds.

(778) (5) For each vessel that is fitted with an auxiliary device to assist in maneuvering, such as a bow thruster, a table of vessel speeds at which the auxiliary device is effective in maneuvering the vessel.

(779) (6) The maneuvering information for the normal load and normal ballast condition for–

(780) (i) Calm weather-wind 10 knots or less, calm sea;

(781) (ii) No current;

(782) (iii) Deep water conditions-water depth twice the vessel's draft or greater; and

(783) (iv) Clean hull.

(784) (7) At the bottom of the fact sheet, the following statement:

(785) **Warning.**

(786) The response of the (name of the vessel) may be different from that listed above if any of the following conditions, upon which the maneuvering information is based, are varied:

(787) (1) Calm weather-wind 10 knots or less, calm sea;

(788) (2) No current;

(789) (3) Water depth twice the vessel's draft or greater;

(790) (4) Clean hull; and

(791) (5) Intermediate drafts or unusual trim.

(792) (h) An echo depth sounding device.

(793) (i) A device that can continuously record the depth readings of the vessel's echo depth sounding device, except when operating on the Great Lakes and their connecting and tributary waters.

(794) (j) Equipment on the bridge for plotting relative motion.

(795) (k) Simple operating instructions with a block diagram, showing the changeover procedures for remote steering gear control systems and steering gear power units, permanently displayed on the navigating bridge and in the steering gear compartment.

(796) (l) An indicator readable from the centerline conning position showing the rate of revolution of each propeller, except when operating on the Great Lakes and their connecting and tributary waters.

(797) (m) If fitted with controllable pitch propellers, an indicator readable from the centerline conning position showing the pitch and operational mode of such propellers, except when operating on the Great Lakes and their connecting and tributary waters.

(798) (n) If fitted with lateral thrust propellers, an indicator readable from the centerline conning position showing the direction and amount of thrust of such propellers, except when operating on the Great Lakes and their connecting and tributary waters.

(799) (o) A telephone or other means of communication for relaying headings to the emergency steering station. Also, each vessel of 500 gross tons and over and constructed on or after June 9, 1995 must be provided with arrangements for supplying visual compass-readings to the emergency steering station.

§164.37 Equipment: Vessels of 10,000 gross tons or more.

(800) (a) Each vessel of 10,000 gross tons or more must have, in addition to the radar system under §164.35(a), a second marine radar system that operates independently of the first.

(801) **Note:** Independent operation means two completely separate systems, from separate branch power supply circuits or distribution panels to antennas, so that failure of any component of one system will not render the other system inoperative.

(802) (b) On each tanker of 10,000 gross tons or more that is subject to 46 U.S.C. 3708, the dual radar system required by this part must have a short range capability and a long range capability; and each radar must have true north features consisting of a display that is stabilized in azimuth.

§164.38 Automatic radar plotting aids (ARPA). (See 33 CFR 164.)

§164.39 Steering gear: Foreign tankers.

(803) (a) This section applies to each foreign tanker of 10,000 gross tons or more, except a public vessel, that–

(804) (1) Transfers oil at a port or place subject to the jurisdiction of the United States; or

(805) (2) Otherwise enters or operates in the navigable waters of the United States, except a vessel described by §164.02 of this part.

(806) (b) *Definitions*. The terms used in this section are as follows:

(807) *Constructed* means the same as in Chapter II-1, Regulations 1.1.2 and 1.1.3.1, of SOLAS 74.

(808) *Existing tanker* means a tanker–

(809) (1) For which the building contract is placed on or after June 1, 1979;

(810) (2) In the absence of a building contract, the keel of which is laid or which is at a similar stage of construction on or after January 1, 1980;

(811) (3) The delivery of which occurs on or after June 1, 1982; or

(812) (4) That has undergone a major conversion contracted for on or after June 1, 1979; or construction of which was begun on or after January 1, 1980, or completed on or after June 1, 1982.

(813) *Public vessel, oil, hazardous materials, and foreign vessel* mean the same as in 46 U.S.C. 2101.

(814) *SOLAS 74* means the International Convention for the Safety of Life at Sea, 1974, as amended.

(815) *Tanker* means a self-propelled vessel defined as a tanker by 46 U.S.C. 2101(38) or as a tank vessel by 46 U.S.C. 2101(39).

(816) (c) Each tanker constructed on or after September 1, 1984, must meet the applicable requirements of Chapter II-1, Regulations 29 and 30, of SOLAS 74.

(817) (d) Each tanker constructed before September 1, 1984, must meet the requirements of Chapter II-1, Regulation 29.19, of SOLAS 74.

(818) (e) Each tanker of 40,000 gross tons or more, constructed before September 1, 1984, that does not meet the single-failure criterion of Chapter II-1, Regulation 29.16, of SOLAS 74, must meet the requirements of Chapter II-1, Regulation 29.20, of SOLAS 74.

(819) (f) Each tanker constructed before September 1, 1984, must meet the applicable requirements of Chapter II-1, Regulations 29.14 and 29.15, of SOLAS 74.

§164.40 Devices to indicate speed and distance.

(820) (a) Each vessel required to be fitted with an Automatic Radar Plotting Aid (ARPA) under §164.38 of this part must be fitted with a device to indicate speed and distance of the vessel either through the water, or over the ground.

(821) (b) The device must meet the following specifications:

(822) (1) The display must be easily readable on the bridge by day or night.

(823) (2) Errors in the indicated speed, when the vessel is operating free from shallow water effect, and from the effects of wind, current, and tide, should not exceed 5 percent of the speed of the vessel, or 0.5 knot, whichever is greater.

(824) (3) Errors in the indicated distance run, when the vessel is operating free from shallow water effect, and from the effects of wind, current, and tide, should not exceed 5 percent of the distance run of the vessel in one hour or 0.5 nautical mile in each hour, whichever is greater.

§164.41 Electronic position fixing devices.

(825) (a) Each vessel calling at a port in the continental United States, including Alaska south of Cape Prince of Wales, except each vessel owned or bareboat chartered and operated by the United States, or by a state or its political subdivision, or by a foreign nation, and not engaged in commerce, must have one of the following:

(826) (1) A Type I or II LORAN C receiver as defined in Section 1.2(e), meeting Part 2 (Minimum Performance Standards) of the Radio Technical Commission for Marine Services (RTCM) Paper 12-78/DO-100 dated December 20, 1977, entitled "Minimum Performance Standards (MPS) Marine Loran-C Receiving Equipment". Each receiver installed must be labeled with the information required under paragraph (b) of this section.

(827) (2) A satellite navigation receiver with:

(828) (i) Automatic acquisition of satellite signals after initial operator settings have been entered; and

(829) (ii) Position updates derived from satellite information during each usable satellite pass.

(830) (3) A system that is found by the Commandant to meet the intent of the statements of availability, coverage, and accuracy for the U.S. Coastal Confluence Zone (CCZ) contained in the U.S. "Federal Radionavigation Plan" (Report No. DOD-NO 4650.4-P, I or No. DOT-TSC-RSPA-80-16, I). A person desiring a finding by the Commandant under this subparagraph must submit a written application describing the device to the Assistant Commandant for Operations, 2100 Second Street, SW, Washington, DC 20593-0001. After reviewing the application, the Commandant may request additional information to establish whether or not the device meets the intent of the Federal Radionavigation Plan.

Note

(831) The Federal Radionavigation Plan is available from the National Technical Information Service, Springfield, Va. 22161, with the following Government Accession Numbers:

(832) Vol 1, ADA 116468

(833) Vol 2, ADA 116469

(834) Vol 3, ADA 116470

(835) Vol 4, ADA 116471

(836) (b) Each label required under paragraph (a)(1) of this section must show the following:

(837) (1) The name and address of the manufacturer.

(838) (2) The following statement by the manufacturer:

(839) This receiver was designed and manufactured to meet Part 2 (Minimum Performance Standards) of the RTCM MPS for Marine Loran-C Receiving Equipment.

§164.42 Rate of turn indicator.

(840) Each vessel of 100,000 gross tons or more constructed on or after September 1, 1984, shall be fitted with a rate of turn indicator.

§164.43 Automatic Identification System Shipborne Equipment –Prince William Sound.

(841) (a) Until December 31, 2004, each vessel required to provide automated position reports to a Vessel Traffic Service (VTS) under §165.1704 of this subchapter must do so by an installed Automatic Identification System Shipborne Equipment (AISSE) system consisting of a:

(842) (1) Twelve-channel all-in-view Differential Global Positioning System (dGPS) receiver;

(843) (2) Marine band Non-Directional Beacon receiver capable of receiving dGPS error correction messages;

(844) (3) VHF-FM transceiver capable of Digital Selective Calling (DSC) on the designated DSC frequency; and

(845) (4) Control unit.

(846) (b) An AISSE must have the following capabilities:

(847) (1) Use dGPS to sense the position of the vessel and determine the time of the position using Universal Coordinated Time (UTC);

(848) (2) Fully use the broadcast type 1, 2, 3, 5, 6, 7, 9, and 16 messages, as specified in RTCM Recommended Standards for Differential NAVSTAR GPS Service in determining the required information;

(849) (3) Achieve a position error which is less than ten meters (32.8 feet) 2 distance root mean square (2 drms) from the true North American Datum of 1983 (NAD 83) in the position information transmitted to a VTS;

(850) (4) Achieve a course error of less than 0.5 degrees from true course over ground in the course information transmitted to a VTS;

(851) (5) Achieve a speed error of less than 0.05 knots from true speed over ground in the speed information transmitted to a VTS;

(852) (6) Receive and comply with commands broadcast from a VTS as DSC messages on the designated DSC frequency;

(853) (7) Receive and comply with RTCM message broadcast as minimum shift keying modulated medium frequency signals in the marine radiobeacon band, and supply the message to the dGPS receiver;

(854) (8) Transmit the vessel's position, tagged with the UTC position solution, course over ground, speed over ground, and Lloyd's identification number to a VTS;

(855) (9) Display a visual alarm to indicate to shipboard personnel when a failure to receive or utilize the RTCM messages occurs;

(856) (10) Display a separate visual alarm which is triggered by a VTS utilizing a DSC message to indicate to shipboard personnel that the U.S. Coast Guard dGPS system cannot provide the required error correction messages; and

(857) (11) Display two RTCM type 16 messages, one of which must display the position error in the position error broadcast.

(858) (c) An AISSE is considered non-operational if it fails to meet the requirements of paragraph (b) of this section.

(859) **Note:** Vessel traffic Service (VTS) areas and operating procedures are set forth in Part 161 of this chapter.

§164.46 Automatic Identification System (AIS).

(860) (a) The following vessels must have a properly installed, operational, type approved AIS as of the date specified:

(861) (1) Self-propelled vessels of 65 feet or more in length, other than passenger and fishing vessels, in commercial service and on an international voyage, not later than December 31, 2004.

(862) (2) Nothwithstanding paragraph (a)(1) of this section, the following, self-propelled vessels, that are on an international voyage must also comply with SOLAS, as amended, Chapter V, regulation 19.2.1.6, 19.2.4, and 19.2.3.5 or 19.2.5.1 as appropriate (Incorporated by reference, see §164.03):

(863) (i) Passenger vessels, of 150 gross tonnage or more, not later than July 1, 2003;

(864) (ii) Tankers, regardless of tonnage, not later than the first safety survey for safety equipment on or after July 1, 2003;

(865) (iii) Vessels, other than passenger vessels or tankers, of 50,000 gross tonnage or more, not later than July 1, 2004; and

(866) (iv) Vessels, other than passenger vessels or tankers, of 300 gross tonnage or more than 50,000 gross tonnage, not later than the first safety survey for safety equipment on or after July 1, 2004, but no later than December 31, 2004.

(867) (3) Notwithstanding paragraphs (a)(1) and (a)(2) of this section, the following vessels, when navigating an area denoted in table 161.12(c) of §161.12 of this chapter, not later than December 31, 2004:

(868) (i) Self-propelled vessels of 65 feet or more in length, other than fishing vessel and passenger vessels certificated to carry less than 151 passengers-for-hire, in commercial service;

(869) (ii) Towing vessels of 26 feet or more in length and more than 600 horsepower, in commercial service;

(870) (iii) Passenger vessels certificated to carry more than 150 passengers-for-hire.

(871) **Note to §164.46(a):** "Properly installed" refers to an installation using the guidelines set forth in IMO SN/Circ. 227 (incorporated by reference, see §164.03). Not all AIS units are able to broadcast position, course, and speed without the input of an external positioning device (e.g. dGPS); the use of other external devices (e.g. transmitting heading device, gyro, rate of turn indicator) is highly recommended, however, not required except as stated in §164.46(a)(2). "Type approved"

refers to an approval by an IMO recognized Administration as to comply with IMO Resolution MSC.74(69), ITU–R Recommendation M.1371–1, and IEC 61993-2 (Incorporated by reference, see §164.03). "Length" refers to "registered length" as defined in 46 CFR part 69. "Gross tonnage" refers to tonnage as defined under the International Convention on Tonnage Measurement of Ships, 1969.

(872) (b) The requirements for Vessel Bridge-to-Bridge radiotelephones in §§26.04(a) and (c), 26.05, 26.06 and 26.07 of this chapter, also apply to AIS. The term "effective operating condition" used in §26.06 of this chapter includes accurate input and upkeep of AIS data fields.

(873) (c) The use of a portable AIS is permissible only to the extent that electromagnetic interference does not affect the proper function of existing navigation and communication equipment on board and such that only one AIS unit may be in operation at any one time.

(874) (d) The AIS Pilot Plug, on each vessel over 1,600 gross tons, on an international voyage, must be available for pilot use, easily accessible from the primary conning position of the vessel, and near a 120 Volt, AC power, 3-prong receptacle.

§164.51 Deviations from rules: Emergency.

(875) Except for the requirements of §164.53(b), in an emergency, any person may deviate from any rule in this part to the extent necessary to avoid endangering persons, property, or the environment.

§164.53 Deviations from rules and reporting: Non-operating equipment.

(876) (a) If during a voyage any equipment required by this part stops operating properly, the person directing the movement of the vessel may continue to the next port of call, subject to the directions of the District Commander or the Captain of the Port, as provided by 33 CFR 160.

(877) (b) If the vessel's radar, radio navigation receivers, gyrocompass, echo depth sounding device, or primary steering gear stops operating properly, the person directing the movement of the vessel must report or cause to be reported that it is not operating properly to the nearest Captain of the Port, District Commander, or, if participating in a Vessel Traffic Service, to the Vessel Traffic Center, as soon as possible.

§164.55 Deviations from rules: Continuing operation or period of time.

(878) The Captain of the Port, upon written application, may authorize a deviation from any rule in this part if he determines that the deviation does not impair the safe navigation of the vessel under anticipated conditions and will not result in a violation of the rules for preventing collisions at sea. The authorization may be issued for vessels operating in the waters under the jurisdiction of the Captain of the Port for any continuing operation or period of time the Captain of the Port specifies.

§164.61 Marine casualty reporting and record retention.

(879) When a vessel is involved in a marine casualty as defined in 46 CFR 4.03-1, the master or person in charge of the vessel shall–

(880) (a) Ensure compliance with 46 CFR 4.05, "Notice of Marine Casualty and Voyage Records," and

(881) (b) Ensure that the voyage records required by 46 CFR 4.05-15 are retained for–

(882) (1) 30 days after the casualty if the vessel remains in the navigable waters of the United States; or

(883) (2) 30 days after the return of the vessel to a United States port if the vessel departs the navigable waters of the United States within 30 days after the marine casualty.

§164.70 Definitions.

(884) For purposes of §§164.72 through 164.82, the term–

(885) *Current edition* means the most recent published version of a publication, chart, or map required by §164.72.

(886) *Currently corrected edition* means a current or previous edition of a publication required by §164.72, corrected with changes that come from Notice to Mariners (NTMs) or Notices to Navigation reasonably available and that apply to the vessel's transit. Hand-annotated river maps from U.S. Army Corps of Engineers (ACOE) are currently corrected editions if issued within the previous 5 years.

(887) *Great Lakes* means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between miles 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between miles 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock.

(888) *Towing vessel* means a commercial vessel engaged in or intending to engage in pulling, pushing or hauling alongside, or any combination of pulling, pushing, or hauling alongside.

(889) *Western Rivers* means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational-demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternative Route, and that part of the Atchafalaya River above

its junction with the Port Allen-Morgan City Alternative Route including the Old River and the Red River and those waters specified by §§89.25 and 89.27 of this chapter, and such other, similar waters as are designated by the COTP.

§164.72 Navigational-safety equipment, charts or maps, and publications required on towing vessels.

(890) (a) Except as provided by §164.01(b), each towing vessel must be equipped with the following navigational-safety equipment:

(891) (1) *Marine Radar*. By August 2, 1997, a marine radar that meets the following applicable requirements:

(892) (i) For a vessel of less than 300 tons gross tonnage that engages in towing on navigable waters of the U.S., including Western Rivers, the radar must meet–

(893) (A) The requirements of the Federal Communications Commission (FCC) specified by 47 CFR part 80; and

(894) (B) RTCM Standard for Marine Radar Equipment Installed on Ships of Less Than 300 Tons Gross Tonnage, RTCM Paper-71-95/SC112-STD, Version 1.1, display Category II and stabilization Category Bravo.

(895) (ii) For a vessel of less than 300 tons gross tonnage that engages in towing seaward of navigable waters of the U.S. or more than three nautical miles from shore on the Great Lakes, the radar must meet–

(896) (A) The requirements of the FCC specified by 47 CFR part 80; and

(897) (B) RTCM Standard for Marine Radar Equipment Installed on Ships of Less Than 300 Tons Gross Tonnage, RTCM Paper 71-95/SC112-STD, Version 1.1, display Category I and stabilization Category Alpha.

(898) (iii) For a vessel of 300 tons gross tonnage or more that engages in towing on navigable waters of the U.S., including Western rivers, the radar must meet–

(899) (A) The requirements of the Federal Communications Commission (FCC) specified by 47 CFR part 80; and

(900) (B) RTCM Recommended Standards for Marine Radar Equipment Installed on Ships of 300 Tons Gross Tonnage and Upwards, RTCM Paper 191-93/SC112-X, Version 1.2 except the requirements for azimuth stabilization in paragraph 3.10.

(901) (iv) For a vessel of 300 tons gross tonnage or more that engages in towing seaward of navigable waters of the U.S. or more than three nautical miles from shore on the Great Lakes, the radar must meet–

(902) (A) The requirements of the FCC specified by 47 CFR part 80; and

(903) (B) RTCM Recommended Standards for Marine Radar Equipment Installed on Ships of 300 Tons Gross Tonnage and Upwards, RTCM Paper 191-93/SC112-X, Version 1.2.

(904) (v) A towing vessel with an existing radar must meet the applicable requirements of paragraphs (a)(1)(i) through (iv) of this section by August 2, 1998; except that a towing vessel with an existing radar must meet the display and stabilization requirements of paragraph (a)(1)(ii)(B) of this section by August 2, 2001.

(905) (2) *Searchlight*. A searchlight, directable from the vessel's main steering station and capable of illuminating objects at a distance of at least two times the length of the tow.

(906) (3) *VHF-FM Radio*. An installation or multiple installations of VHF-FM radios as prescribed by part 26 of this chapter and 47 CFR part 80, to maintain a continuous listening watch on the designated calling channel, VHF-FM Channel 13 (except on portions of the Lower Mississippi River, where VHF-FM Channel 67 is the designated calling channel), and to separately monitor the International Distress and Calling Channel, VHF-FM Channel 16, except when transmitting or receiving traffic on other VHF-FM channels or when participating in a Vessel Traffic Service (VTS) or monitoring a channel of a VTS. (Each U.S. towing vessel of 26 feet (about 8 meters) or more in length, except a public vessel, must hold a ship-radio-station license for radio transmitters (including radar and EPIRBs), and each operator must hold a restricted operator's license or higher. To get an application for either license, call (800) 418-FORM or (202) 418-FORM, or write to the FCC; Wireless Bureau, Licensing Division; 1270 Fairfield Road; Gettysburg, PA 17325-7245.)

(907) (4) *Magnetic Compass*. Either–

(908) (i) An illuminated swing-meter or an illuminated car-type magnetic steering compass readable from the vessel's main steering station, if the vessel engages in towing exclusively on Western Rivers; or

(909) (ii) An illuminated card-type magnetic steering compass readable from the vessel's main steering station.

(910) (5) *Echo Depth-Sounding Device*. By August 2, 2001, an echo depth-sounding device readable from the vessel's main steering station, unless the vessel engages in towing exclusively on Western Rivers.

(911) (6) *Electronic Position-Fixing Device*. An electronic position-fixing device, either a LORAN-C receiver or a satellite navigational system such as the Global Positioning System (GPS) as required by §164.41, if the vessel engages in towing seaward of navigable waters of the U.S. or more than three nautical miles from shore on the Great Lakes.

(912) (b) Each towing vessel must carry on board and maintain the following:

(913) (1) *Charts or maps*. Marine charts or maps of the areas to be transited, published by the National Ocean Service (NOS), the ACOE, or a river authority that satisfy the following requirements.

(914) (i) The charts or maps must be of a large enough scale and have enough detail to make safe navigation of the areas possible.

(915) (ii) The charts or maps must be either–

(916) (A) Current editions or currently corrected editions, if the vessel engages in towing exclusively on navigable waters of the U.S., including Western Rivers; or

(917) (B) Currently corrected editions, if the vessel engages in towing seaward of navigable waters of the U.S. or more than three nautical miles from shore on the Great Lakes.

(918) (iii) The charts or maps may be, instead of charts or maps required by paragraphs (b)(1) (i) and (ii) of this section, currently corrected marine charts or maps, or applicable extracts, published by a foreign government. These charts or maps, or applicable extracts, must contain information similar to that on the charts or maps required by paragraphs (b)(1) (i) and (ii) of the section, be of large enough scale, and have enough detail to make safe navigation of the areas possible, and must be currently corrected.

(919) (3) *General publications*. A currently corrected edition of, or an applicable currently corrected extract from, each of the following publications for the area to be transited:

(920) (i) If the vessel is engaged in towing exclusively on Western Rivers–

(921) (A) U.S. Coast Guard Light List;

(922) (B) Applicable Notices to Navigation published by the ACOE, or Local Notices to Marines (LNMs) published by the Coast Guard, for the area to be transited, when available; and

(923) (C) River-current tables published by the ACOE or a river authority, if available.

(924) (ii) if the vessel is engaged other than in towing exclusively on Western Rivers–

(925) (A) Coast Guard Light List;

(926) (B) Notices to Mariners published by the National Geospatial-Intelligence Agency, or LNMs published by the Coast Guard;

(927) (C) Tidal-Current tables published by the NOS, or river-current tables published by the ACOE or a river authority:

(928) (D) Tide tables published by the NOS; and

(929) (E) U.S. Coast Pilot.

(930) (c) Table 164.72, following, summarizes the navigational-safety equipment, charts or maps, and publications required for towing vessels of 12 meters or more in length:

§164.74 Towline and terminal gear for towing astern.

(931) (a) *Towline*. The owner, master, or operator of each vessel towing astern shall ensure that the strength of each towline is adequate for its intended service, considering at least the following factors:

(932) (1) The size and material of each towline must be–

(933) (i) Appropriate for the horsepower or bollard pull of the vessel;

(934) (ii) Appropriate for the static loads and dynamic loads expected during the intended service;

(935) (iii) Appropriate for the sea conditions expected during the intended service;

(936) (iv) Appropriate for exposure to the marine environment and to any chemicals used or carried on board the vessel;

(937) (v) Appropriate for the temperatures of normal stowage and service on board the vessel;

(938) (vi) Compatible with associated navigational-safety equipment; and

(939) (vii) Appropriate for the likelihood of mechanical damage.

(940) (2) Each towline as rigged must be–

(941) (i) Free of knots;

(942) (ii) Spliced with a thimble, or have a poured socket at its end; and

(943) (iii) Free of wire clips except for temporary repair, for which the towline must have a thimble and either five wire clips or as many wire clips as the manufacturer specifies for the nominal diameter and construction of the towline, whichever is more.

(944) (3) The condition of each towline must be monitored through the–

(945) (i) Keeping on board the towing vessel or in company files of a record of the towline's initial minimum breaking strength as determined by the manufacturer, by a classification ("class") society authorized in §157.04 of this chapter, or by a tensile test that meets API Specifications 9A, Specification for Wire Rope, Section 3; ASTM D 4268 (incorporated by reference, see §164.03), Standard Test Method for Testing Fiber Ropes; or Cordage Institute CIA 3, Standard Test Methods for Fiber Rope Including Standard Terminations;

(946) (ii) If the towline is purchased from another owner, master, or operator of a vessel with the intent to use it as a towline or if it is retested for any reason, keeping on board the towing vessel or in company files of a record of each retest of the towline's minimum breaking strength as determined by a class society authorized in §157.04 of this chapter or by a tensile test that meets API Specification 9A, Section 3; ASTM D 4268 (incorporated by reference, see §164.03); or Cordage Institute CIA 3, Standard Test Methods;

TABLE 164.72—EQUIPMENT, CHARTS OR MAPS, AND PUBLICATIONS OF TOWING VESSELS FOR 12 METERS OR MORE IN LENGTH

	Western rivers	U.S. navigable waters other than Western rivers	Waters seaward of navigable waters and 3 NM or more from shore on the Great Lakes
Marine Radar:			
Towing vessels of less than 300 GT.	RTCM Paper 71-95/SC112-STD Version 1.1, Display Category 11[1] Stabilization Category BRAVO.	RTCM Paper 71-95/SC112-STD Version 1.1, Display Category 11[1] Stabilization Category BRAVO.	RTCM Paper 71-95/SC112-STD Version 1.1, Display Category 1[2] Stabilization Category ALPHA.
Towing vessels of 300 GT or more.	RTCM Paper 191-93/SC112-X Version 1.2 (except the Azmuth stabilization requirement in Paragraph 3.10).[1]	RTCM Paper 191-93/SC112-X Version 1.2 (except the Azmuth stabilization requirement in Paragraph 3.10).[1]	RTCM Paper 191-93/SC112-X Version 1.2.[1]
Searchlight	X	X	X.
VHF-FM radio	X	X	X.
Magnetic compass	X[3]	X	X.
Swing-meter	X[3]		
Echo depth-sounding device.		X	X.
Electronic position-fixing device.			X.
Charts or maps	(1) Large enough scale	(1) Large enough scale	(1) Large enough scale.
	(2) Current edition or currently corrected edition.	(2) Current edition or currently corrected edition.	(2) Currently corrected edition.
General publications.	(1) U.S. Coast Guard Light List	(1) U.S. Coast Guard Light List	(1) U.S. Coast Guard Light List.
	(2) Notices to Navigation or Local Notice to Mariners.	(2) Local Notices to Mariners	(2) Local Notice to Mariners.
	(3) River-current Tables	(3) Tidal-current Tables	(3) Tidal-current Tables.
		(4) Tide Tables	(4) Tide Tables.
		(5) U.S. Coast Pilot	(5) U.S. Coast Pilot.

Notes:

[1]Towing vessels with existing radar must meet this requirement by August 2, 1998.

[2]Towing vessels with existing radar must meet this requirement by August 2, 1998, but do not need to meet the display and stabilization requirement until August 2, 2001.

[3]A towing vessel may carry either a swing-meter or a magnetic compass.

(947) (iii) Conducting visual inspections of the towline in accordance with the manufacturer's recommendations, or at least monthly, and whenever the serviceability of the towline is in doubt (the inspections being conducted by the owner, master, or operator, or by a person on whom the owner, master, or operator confers the responsibility to take corrective measures appropriate for the use of the towline);

(948) (iv) Evaluating the serviceability of the whole towline or any part of the towline, and removing the whole or part from service either as recommended by the manufacturer or a class society authorized in §157.04 of this chapter or in accordance with a replacement schedule developed by the owner, master, or operator that accounts for at least the–

(949) (A) Nautical miles on, or time in service of, the towline;

(950) (B) Operating conditions experienced by the towline;

(951) (C) History of loading of the towline;

(952) (D) Surface condition, including corrosion and discoloration, of the towline;

(953) (E) Amount of visible damage to the towline;

(954) (F) Amount of material deterioration indicated by measurements of diameter and, if applicable, measurements of lay extension of the towline; and

(955) (G) Point at which a tensile test proves the minimum breaking strength of the towline inadequate by the standards of paragraph (a)(1) of this section, if necessary; and

(956) (v) Keeping on board the towing vessel or in company files of a record of the material condition of the towline when inspected under paragraphs (a)(3)(iii) and (iv) of this section. Once this record lapses for three months or more, except when a vessel is laid up or out of service or has not deployed its towline, the owner, master, or operator shall retest the towline or remove it from service.

(957) (b) *Terminal gear*. The owner, master, or operator of each vessel towing astern shall ensure that the gear used to control, protect, and connect each towline meets the following criteria:

(958) (1) The material and size of the terminal gear are appropriate for the strength and anticipated loading of the towline and for the environment;

(959) (2) Each connection is secured by at least one nut with at least one cotter pin or other means of preventing its failure;

(960) (3) The lead of the towline is appropriate to prevent sharp bends in the towline from fairlead blocks, chocks, or tackle;

(961) (4) There is provided a method, whether mechanical or non-mechanical, that does not endanger operating personnel but that easily releases the towline;

(962) (5) The towline is protected from abrasion or chafing by chafing gear, lagging, or other means;

(963) (6) Except on board a vessel towing in ice on Western Rivers or one using a towline of synthetic or natural fiber, there is fitted a winch that evenly spools and tightly winds the towline; and

(964) (7) If a winch is fitted, there is attached to the main drum a brake that has holding power appropriate for the horsepower or bollard pull of the vessel and can be operated without power to the winch.

§164.76 Towline and terminal gear for towing alongside and pushing ahead.

(965) The owner, master, or operator of each vessel towing alongside or pushing ahead shall ensure the face wires, spring lines, and push gear used–

(966) (a) Are appropriate for the vessel's horsepower;

(967) (b) Are appropriate for the arrangement of the tow;

(968) (c) Are frequently inspected; and

(969) (d) Remain serviceable.

§164.78 Navigation under way: Towing vessels.

(970) (a) The owner, master, or operator of each vessel towing shall ensure that each person directing and controlling the movement of the vessel–

(971) (1) Understands the arrangement of the tow and the effects of maneuvering on the vessel towing and on the vessel, barge, or object being towed;

(972) (2) Can fix the position of the vessel using installed navigational equipment, aids to navigation, geographic reference-points, and hydrographic contours;

(973) (3) Does not fix the position of the vessel using buoys alone (Buoys are aids to navigation placed in approximate positions either to alert mariners to hazards to navigation or to indicate the orientation of a channel. They may not maintain exact charted positions, because strong or varying currents, heavy seas, ice and collisions with vessels can move or sink them or set them adrift. Although they may corroborate a position fixed by other means, they cannot fix a position; however, if no other aids are available, buoys alone may establish an estimated position.);

(974) (4) Evaluates the danger of each closing visual or radar contact;

(975) (5) Knows and applies the variation and deviation, where a magnetic compass is fitted and where charts or maps have enough detail to enable this type of correction;

(976) (6) Knows the speed and direction of the current, set, drift, and tidal state for the area to be transited;

(977) (7) Proceeds at a safe speed taking into account the weather, visibility, density of traffic, draft of tow, possibility of wake damage, speed and direction of the current, and local speed-limits; and

(978) (8) Monitors the voyage plan required by §164.80.

(979) (b) The owner, master, or operator of each vessel towing shall ensure that the tests and inspections required by §164.80 are conducted and that the results are entered in the log or other record carried on board.

§164.80 Tests, inspections, and voyage planning.

(980) (a) The owner, master, or operator of each towing vessel of less than 1,600 GT shall ensure that the following tests and inspections of gear occur before the vessel embarks on a voyage of more than 24 hours or when each new master or operator assumes command:

(981) (1) *Steering-systems*. A test of the steering-gear-control system; a test of the main steering gear from the alternative power supply, if installed; a verification of the rudder-angle indicator relative to the actual position of the rudder; and a visual inspection of the steering gear and its linkage.

(982) (2) *Navigational equipment*. A test of all installed navigational equipment.

(983) (3) *Communications*. Operation of all internal vessel control communications and vessel-control alarms, if installed.

(984) (4) *Lights*. Operation of all navigational lights and all searchlights.

(985) (5) *Terminal gear*. Visual inspection of tackle; of connections of bridle and towing pendant, if applicable; of chafing gear; and the winch brake, if installed.

(986) (6) *Propulsion systems*. Visual inspection of the spaces for main propulsion machinery, of machinery, and of devices for monitoring machinery.

(987) (b) The owner, master, or operator of each towing vessel of 1,600 GT or more shall ensure that the following tests of equipment occur at the frequency required by §164.25 and that the following inspections of gear occur before the vessel embarks on a voyage of more than 24 hours or when each new master or operator assumes command:

(988) (1) *Navigational equipment*. Tests of onboard equipment as required by §164.25.

(989) (2) *Terminal gear*. Visual inspection of tackle; of connections of bridle and towing pendant, if applicable; of chafing gear; and of the winch brake, if installed.

(990) (c) Towing vessels described in paragraphs (b) (1) through (4) of §164.01 are exempt from the voyage-planning requirements outlined in this section. If any part of a towing vessel's intended voyage is seaward of the baseline (i.e., the shoreward boundary) of the territorial sea of the U.S., then the owner, master, or operator of the vessel, employed to tow a barge or barges, must ensure that the voyage with the barge or barges is planned, taking into account all pertinent information before the vessel embarks on the voyage. The master must check the planned route for proximity to hazards before the voyage begins. During a voyage, if a decision is made to deviate substantially from the planned route, then the master or mate must plan the new route before deviating from the planned route. The voyage plan must follow company policy and consider the following (related requirements noted in parentheses);

(991) (1) Applicable information from nautical charts and publications (also see paragraph (b) of §164.72), including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the port of departure, all ports of call, and the destination;

(992) (2) Current and forecast weather, including visibility, wind, and sea state for the port of departure, all ports of call, and the destination (also see paragraphs (a)(7) of §164.78 and (b) of §164.82);

(993) (3) Data on tides and currents for the port of departure, all ports of call, and the destination, and the river stages and forecast, if appropriate;

(994) (4) Forward and after drafts of the barge or barges and under-keel and vertical clearances (air-gaps) for all bridges, ports, and berthing areas;

(995) (5) Pre-departure checklists;

(996) (6) Calculated speed and estimated time of arrival at proposed waypoints;

(997) (7) Communication contacts at any Vessel Traffic Services, bridges, and facilities, and any port-specific requirements for VHF radio;

(998) (8) Any master's or operator's standing orders detailing closest points of approach, special conditions, and critical maneuvers; and

(999) (9) Whether the towing vessel has sufficient power to control the tow under all foreseeable circumstances.

§164.82 Maintenance, failure, and reporting.

(1000) (a) Maintenance. The owner, master, or operator or each towing vessel shall maintain operative the navigational-safety equipment required by §164.72.

(1001) (b) *Failure*. If any of the navigational-safety equipment required by §164.72 fails during a voyage, the owner, master, or operator of the towing vessel shall exercise due diligence to repair it at the earliest practicable time. He or she shall enter its failure in the log or other record carried on board. The failure of equipment, in itself, does not constitute a violation of this rule; nor does it constitute unseaworthiness; nor does it obligate an owner, master, or operator to moor or anchor the vessel. However, the owner, master, or operator shall consider the state of the equipment-along with such factors as weather, visibility, traffic, and the dictates of good seamanship-in deciding whether it is safe for the vessel to proceed.

(1002) (c) *Reporting*. The owner, master, or operator of each towing vessel whose equipment is inoperative or

otherwise impaired while the vessel is operating within a Vessel Traffic Service (VTS) Area shall report the fact as required by 33 CFR 161.124. (33 CFR 161.124 requires that each user of a VTS report to the Vessel Traffic Center as soon as practicable:

(1003) (1) Any absence or malfunction of vessel-operating equipment for navigational safety, such as propulsion machinery, steering gear, radar, gyrocompass, echo depth-sounding or other sounding device, automatic dependent surveillance equipment, or navigational lighting;

(1004) (2) Any condition on board the vessel likely to impair navigation, such as shortage of personnel or lack of current nautical charts or maps, or publications; and

(1005) (3) Any characteristics of the vessel that affect or restrict the maneuverability of the vessel, such as arrangement of cargo, trim, loaded condition, under-keel clearance, and speed.)

(1006) (d) *Deviation and authorization*. The owner, master, or operator of each towing vessel unable to repair within 96 hours an inoperative marine radar required by §164.72(a) shall so notify the Captain of the Port (COTP) and shall seek from the COTP both a deviation from the requirements of this section and an authorization for continued operation in the area to be transited. Failure of redundant navigational-safety equipment, including but not limited to failure of one of two installed radars, where each satisfies §164.72(a), does not necessitate either a deviation or an authorization.

(1007) (1) The initial notice and request for a deviation and an authorization may be spoken, but the request must also be written. The written request must explain why immediate repair is impracticable, and state when and by whom the repair will be made.

(1008) (2) The COTP, upon receiving even a spoken request, may grant a deviation and an authorization from any of the provisions of §§164.70 through 164.82 for a specified time if he or she decides that they would not impair the safe navigation of the vessel under anticipated conditions.

Part 165–Regulated Navigation Areas and Limited Access Areas

Subpart A–General

§165.1 Purpose of part.

(1009) The purpose of this part is to–

(1010) (a) Prescribe procedures for establishing different types of limited or controlled access areas and regulated navigation areas;

(1011) (b) Prescribe general regulations for different types of limited or controlled access areas and regulated navigation areas;

(1012) (c) Prescribe specific requirements for established areas; and

(1013) (d) List specific areas and their boundaries.

§165.5 Establishment procedures.

(1014) (a) A safety zone, security zone, or regulated navigation area may be established on the initiative of any authorized Coast Guard official.

(1015) (b) Any person may request that a safety zone, security zone, or regulated navigation area be established. Except as provided in paragraph (c) of this section, each request must be submitted in writing to either the Captain of the Port or District Commander having jurisdiction over the location as described in 33 CFR 3, and include the following:

(1016) (1) The name of the person submitting the request;

(1017) (2) The location and boundaries of the safety zone, security zone, or regulated navigation area;

(1018) (3) The date, time, and duration that the safety zone, security zone, or regulated navigation area should be established;

(1019) (4) A description of the activities planned for the safety zone, security zone, or regulated navigation area;

(1020) (5) The nature of the restrictions or conditions desired; and

(1021) (6) The reason why the safety zone, security zone, or regulated navigation area is necessary.

(1022) (Requests for safety zones, security zones, and regulated navigation areas are approved by the Office of Management and Budget under control numbers 2115-0076, 2115-0219, and 2115-0087.)

(1023) (c) Safety Zones and Security Zones. If, for good cause, the request for a safety zone or security zone is made less than 5 working days before the zone is to be established, the request may be made orally, but it must be followed by a written request within 24 hours.

§165.7 Notification.

(1024) (a) The establishment of these limited access areas and regulated navigation areas is considered rulemaking. The procedures used to notify persons of the establishment of these areas vary depending upon the circumstances and emergency conditions. Notification may be made by marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, and on-scene oral notice, as well as publication in the Federal Register.

(1025) (b) Notification normally contains the physical boundaries of the area, the reasons for the rule, its estimated duration, and the method of obtaining

authorization to enter the area, if applicable, and special navigational rules, if applicable.

(1026) (c) Notification of the termination of the rule is usually made in the same form as the notification of its establishment.

§165.8 Geographic coordinates.

(1027) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

§165.9 Geographic application of limited and controlled access areas and regulated navigation areas.

(1028) (a) *General*. The geographic application of the limited and controlled access areas and regulated navigation areas in this part are determined based on the statutory authority under which each is created.

(1029) (b) *Safety zones and regulated navigation areas*. These zones and areas are created under the authority of the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232. Safety zones established under 33 U.S.C. 1226 and regulated navigation areas may be established in waters subject to the jurisdiction of the United States as defined in §2.38 of this chapter, including the territorial sea to a seaward limit of 12 nautical miles from the baseline.

(1030) (c) *Security zones*. These zones have two sources of authority—the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232, and the Act of June 15, 1917, as emended by both the Magnuson Act of August 9, 1950 ("Magnuson Act"), 50 U.S.C. 191–195, and sec. 104 the Maritime Transportation Security Act of 2002 (Pub. L. 107-295, 116 Stat. 2064). Security zones established under either 33 U.S.C. 1226 or 50 U.S.C. 191 may be established in waters subject to the jurisdiction of the United States as defined in §2.38 of this chapter, including the territorial sea to a seaward limit of 12 nautical miles from the baseline.

(1031) (d) *Naval vessel protection zones*. These zones are issued under the authority of 14 U.S.C. 91 and 633 and may be established in waters subject to the jurisdiction of the United States as defined in §2.38 of this chapter, including the territorial sea to a seaward limit of 3 nautical miles from the baseline.

Subpart B–Regulated Navigation Areas

§165.10 Regulated navigation area.

(1032) A regulated navigation area is a water area within a defined boundary for which regulations for vessels navigating within the area have been established under this part.

§165.11 Vessel operating requirements (regulations).

(1033) Each District Commander may control vessel traffic in an area which is determined to have hazardous conditions, by issuing regulations–

(1034) (a) Specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(1035) (b) Establishing vessel size, speed, draft limitations, and operating conditions; and

(1036) (c) Restricting vessel operation, in a hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which are considered necessary for safe operation under the circumstances.

§165.13 General regulations.

(1037) (a) The master of a vessel in a regulated navigation area shall operate the vessel in accordance with the regulations contained in Subpart F.

(1038) (b) No person may cause or authorize the operation of a vessel in a regulated navigation area contrary to the regulations in this Part.

Subpart C–Safety Zones

§165.20 Safety zones.

(1039) 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.

§165.23 General regulations.

(1040) Unless otherwise provided in this part–

(1041) (a) No person may enter a safety zone unless authorized by the COTP or the District Commander;

(1042) (b) No person may bring or cause to be brought into a safety zone any vehicle, vessel, or object unless authorized by the COTP or the District Commander;

(1043) (c) No person may remain in a safety zone or allow any vehicle, vessel, or object to remain in a safety zone unless authorized by the COTP or the District Commander; and

(1044) (d) Each person in a safety zone who has notice of a lawful order or direction shall obey the order or direction of the COTP or District Commander issued to carry out the purposes of this subpart.

Subpart D–Security Zones

§165.30 Security zones.

(1045) (a) A security zone is an area of land, water, or land and water which is so designated by the Captain of the Port or District Commander for such time as is 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.

(1046) (b) The purpose of a security zone is to safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature–

(1047) (1) Vessels,

(1048) (2) Harbors,

(1049) (3) Ports and

(1050) (4) Waterfront facilities–in the United States and all territory and water, continental or insular, that is subject to the jurisdiction of the United States.

§165.33 General regulations.

(1051) Unless otherwise provided in the special regulations in Subpart F of this part–

(1052) (a) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(1053) (b) Each person and vessel in a security zone shall obey any direction or order of the Captain of the Port;

(1054) (c) The Captain of the Port may take possession and control of any vessel in the security zone;

(1055) (d) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(1056) (e) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(1057) (f) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

Subpart E–Restricted Waterfront Areas

§165.40 Restricted Waterfront Areas.

(1058) The Commandant may direct the COTP to prevent access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein. This section may apply to persons who do not possess the credentials outlined in 33 CFR 125.09 when certain shipping activities are conducted that are outlined in 33 CFR 125.15.

Subpart F–Specific Regulated Navigation Areas and Limited Access Areas

§165.1702 Gastineau Channel, Juneau, Alaska-safety zone.

(1059) (a) The waters within the following boundaries are a safety zone: A line beginning at the Standard Oil Company Pier West Light (LLNR 3217), located at position 58°17.9'N., 134°24.8'W., in the direction of 140° True to Rock Dump Lighted Buoy 2A (LNNR 3213) at position 58°17.2'N., 134°23.8'W.; thence in the direction of 003° True to a point at position 58°17.4'N., 134°23.7'W., on the north shore of Gastineau Channel; thence northwesterly along the north shore of Gastineau Channel to the point of origin.

(1060) (b) Special Regulations:

(1061) (1) All vessels may transit or navigate within the safety zone.

(1062) (2) No vessels, other than a large passenger (including cruise ships and ferries) may anchor within the safety zone without the express consent from the Captain of the Port, Southeast Alaska.

Subpart G-Protection of Naval Vessels

§165.2010 Purpose.

(1063) This subpart establishes the geographic parameters of naval vessel protection zones surrounding U.S. naval vessels in the navigable waters of the United States. This subpart also establishes when the U.S. Navy will take enforcement action in accordance with the statutory guideline of 14 U.S.C. 91. Nothing in the rules and regulations contained in this subpart shall relieve any vessel, including U.S. naval vessels, from the observance of the Navigation Rules. The rules and regulations contained in this subpart supplement, but do not replace or supercede, any other regulation pertaining to the safety or security of U.S. naval vessels.

§165.2015 Definitions.

(1064) The following definitions apply to this subpart:

(1065) *Atlantic Area* means that area described in 33 CFR 3.04–1 Atlantic Area.

(1066) *Large U.S. naval vessel* means any U.S. naval vessel greater than 100 feet in length overall.

(1067) *Naval defensive sea area* means those areas described in 32 CFR part 761.

(1068) *Naval vessel protection zone* 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 these U.S. naval vessels.

(1069) *Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

(1070) *Navigation rules* means the Navigation Rules, International-Inland.

(1071) *Official patrol* means those personnel designated and supervised by a senior naval officer present in command and tasked to monitor a naval vessel protection zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the U.S. Navy.

(1072) *Pacific Area* means that area described in 33 CFR 3.04–3 Pacific Area.

(1073) *Restricted area* means those areas established by the Army Corps of Engineers and set out in 33 CFR part 334.

(1074) *Senior naval officer present in command is*, unless otherwise designated by competent authority, the senior line officer of the U.S. Navy on active duty, eligible for command at sea, who is present and in command of any part of the Department of Navy in the area.

(1075) *U.S. 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, once launched into the water; and any vessel under the operational control of the U.S. Navy or a Combatant Command.

(1076) *Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

§165.2020 Enforcement authority.

(1077) (a) *Coast Guard*. Any Coast Guard commissioned, warrant or petty officer may enforce the rules and regulations contained in this subpart.

(1078) (b) *Senior naval officer present in command*. In the navigable waters of the United States, when immediate action is required and representatives of the Coast Guard are not present or 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 rules and regulations contained in this subpart to ensure the safety and security of all large naval vessels present. In meeting this responsibility, the senior naval officer present in command may directly assist any Coast Guard enforcement personnel who are present.

§165.2030 Pacific Area.

(1079) (a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Pacific Area, which includes the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts.

(1080) **Note to paragraph (a):** The boundaries of the U.S. Coast Guard Pacific Area and the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(1081) (b) A naval vessel protection zone exists around U.S. naval vessels greater than 100 feet in length overall at all times in the navigable waters of the United States, whether the large U.S. naval vessel is underway, anchored, moored, or within a floating dry dock, except when the large naval vessel is moored or anchored within a restricted area or within a naval defensive sea area.

(1082) (c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(1083) (d) When within a naval vessel protection zone, 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 a naval vessel protection zone, 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.

(1084) (e) To request authorization to operate within 100 yards of a large U.S. naval vessel, contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF-FM channel 16.

(1085) (f) When conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should:

(1086) (1) Give advance notice on VHF-FM channel 16 of all large U.S. naval vessel movements;

(1087) (2) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(1088) (3) Permit commercial vessels anchored in a designated anchorage area to remain at anchor when within 100 yards of passing large U.S. naval vessels; and

(1089) (4) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored large U.S. naval vessel with minimal delay consistent with security.

(1090) **Note to paragraph (f):** The listed actions are discretionary and do not create any additional right to appeal or otherwise dispute a decision of the Coast Guard, the

senior naval officer present in command, or the official patrol.

Part 334–Danger Zones and Restricted Area Regulations

§334.1 Purpose.

(1091) The purpose of this part is to:

(1092) (a) Prescribe procedures for establishing, amending and disestablishing danger zones and restricted area;

(1093) (b) List the specific danger zones and restricted areas and their boundaries; and

(1094) (c) Prescribe specific requirements, access limitations and controlled activities within the danger zones and restricted areas.

§334.2 Definitions.

(1095) (a) *Danger zone*. A defined water area (or areas) used for target practice, bombing, rocket firing or other especially hazardous operations, normally for the armed forces. The danger zones may be closed to the public on a full-time or intermittent basis, as stated in the regulations.

(1096) (b) *Restricted area*. A defined water area for the purpose of prohibiting or limiting public access to the area. Restricted areas 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.

§334.3 Special policies.

(1097) (a) *General*. The general regulatory policies stated in 33 CFR part 320 will be followed as appropriate. In addition, danger zone and restricted area regulations shall provide for public access to the area to the maximum extent practicable.

(1098) (b) *Food fishing industry*. The authority to prescribe danger zone and restricted area regulations must be exercised so as not to unreasonably interfere with or restrict the food fishing industry. Whenever the proposed establishment of a danger zone or restricted area may affect fishing operations, the District Engineer will consult with the Regional Director, U.S. Fish and Wildlife Service, Department of the Interior and the Regional Director, National Marine Fisheries Service, National Oceanic & Atmospheric Administration (NOAA),

(1099) (c) *Temporary, occasional or intermittent use*. If the use of the water area is desired for a short period of time, not exceed thirty days in duration, and that planned operations can be conducted safely without imposing unreasonable restrictions on navigation, and without promulgating restricted area regulations in accordance with the regulations in this section, applicants may be informed that formal regulations are not required. Activities of this type shall not reoccur more often than biennially (every other year), unless danger zone/restricted area rules are promulgated under this Part. Proper notices for mariners requesting that vessels avoid the area will be issued by the Agency requesting such use of the water area, or if appropriate, by the District Engineer, to all known interested persons. Copies will also be sent to appropriate State agencies, the Commandant, U.S. Coast Guard, Washington, DC 20590, and Director, National Geospatial-Intelligence Agency, Hydrographic Center, Washington, DC 20390, ATTN: Code NS 12. Notification to all parties and Agencies shall be made at least two weeks prior to the planned event, or earlier, if required for distribution of Local Notice to Mariners by the Coast Guard.

§334.4 Establishment and amendment procedures.

(1100) (a) *Application*. Any request for the establishment, amendment or revocation of a danger zone or restricted area must contain sufficient information for the District Engineer to issue a public notice, and as a minimum must contain the following:

(1101) (1) Name, address and telephone number of requestor including the identity of the command and DoD facility and the identity of a point of contact with phone number.

(1102) (2) Name of waterway and if a small tributary, the name of a larger connecting waterbody.

(1103) (3) Name of closest city or town, county/parish and state.

(1104) (4) Location of proposed or existing danger zone or restricted area with a map showing the location, if possible.

(1105) (5) A brief statement of the need for the area, its intended use and detailed description of the times, dates and extent of restriction.

(1106) (b) *Public notice*. (1) The Corps will normally publish public notices and **Federal Register** documents concurrently. Upon receipt of a request for the establishment, amendment or revocation of a danger zone or restricted area, the District Engineer should forward a copy of the request with his/her recommendation, a copy of the draft public notice and a draft **Federal Register** document to the Office of the Chief of Engineers, ATTN: CECW-OR. The Chief of Engineers will publish the proposal in the **Federal Register** concurrent with the public notice issued by the District Engineer.

(1107) (2) *Content*. The public notice and **Federal Register** documents must include sufficient information to

give a clear understanding of the proposed action and should include the following items of information:

(1108) (i) Applicable statutory authority or authorities; (40 Stat. 266; 33 U.S.C. 1) and (40 Stat. 892; 33 U.S.C. 3).

(1109) (ii) *A reasonable comment period*. The public notice should fix a limiting date within which comments will be received, normally a period not less than 30 days after publication of the notice.

(1110) (iii) The address of the District Engineer as the recipient of any comments received.

(1111) (iv) The identity of the applicant/proponent.

(1112) (v) The name or title, address and telephone number of the Corps employee from whom additional information concerning the proposal may be obtained.

(1113) (vi) The location of the proposed activity accompanied by a map of sufficient detail to show the boundaries of the area(s) and its relationship to the surrounding area.

(1114) (3) *Distribution*. Public notice will be distributed in accordance with 33 CFR 325.3(d)(1). In addition to this general distribution, public notices will be sent to the following Agencies:

(1115) (i) The Federal Aviation Administration (FAA) where the use of airspace is involved.

(1116) (ii) The Commander, Service Force, U.S. Atlantic Fleet, if a proposed action involves a danger zone off the U.S. Atlantic coast.

(1117) (iii) Proposed danger zones on the U.S. Pacific coast must be coordinated with the applicable commands as follows:

(1118) Alaska, Oregon and Washington:

(1119) Commander, Naval Base, Seattle

(1120) California:

(1121) Commander, Naval Base, San Diego

(1122) Hawaii and Trust Territories:

(1123) Commander, Naval Base, Pearl Harbor

(1124) (c) *Public hearing*. The District Engineer may conduct a public hearing in accordance with 33 CFR part 327.

(1125) (d) *Environmental documentation*. The District Engineer shall prepare environmental documentation in accordance with appendix B to 33 CFR part 325.

(1126) (e) *District Engineer's recommendation*. After closure of the comment period, and upon completion of the District Engineer's review he/she shall forward the case through channels to the Office of the Chief of Engineers, ATTN: CECW-OR with a recommendation of whether or not the danger zone or restricted area regulation should be promulgated. The District Engineer shall include a copy of environmental documentation prepared in accordance with appendix B to 33 CFR part 325, the record of any public hearings, if held, a summary of any comments received and a response thereto, and a draft of the regulation as it is to appear in the **Federal Register**.

(1127) (f) *Final decision*. The Chief of Engineers will notify the District Engineer of the final decision to either approve or disapprove the regulations. The District Engineer will notify the applicant/proponent and publish a public notice of the final decision. Concurrent with issuance of the public notice the Office of the Chief of Engineers will publish the final decision in the **Federal Register** and either withdraw the proposed regulation or issue the final regulation as appropriate. The final rule shall become effective no sooner than 30 days after publication in the **Federal Register** unless the Chief of Engineers finds that sufficient cause exists and publishes that rationale with the regulations.

§334.5 Disestablishment of a danger zone.

(1128) (a) Upon receipt of a request from any agency for the disestablishment of a danger zone, the District Engineer shall notify that agency of its responsibility for returning the area to a condition suitable for use by the public. The agency must either certify that it has not used the area for a purpose that requires cleanup or that it has removed all hazardous materials and munitions, before the Corps will disestablish the area. The agency will remain responsible for the enforcement of the danger zone regulations to prevent unauthorized entry into the area until the area is deemed safe for use by the public and the area is disestablished by the Corps.

(1129) (b) Upon receipt of the certification required in paragraph (a) of this section, the District shall forward the request for disestablishment of the danger zone through channels to CECW-OR, with its recommendations. Notice of proposed rulemaking and public procedures as outlined in §334.4 are not normally required before publication of the final rule revoking a restricted area or danger zone regulation. The disestablishment/revocation of the danger zone or restricted area regulation removes a restriction on a waterway.

§334.6 Datum.

(1130) (a) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

(1131) (b) For further information on NAD 83 and National Service nautical charts please contact:

(1132) Director, Coast Survey (N/CG2)
(1133) National Ocean Service, NOAA
(1134) 1315 East-West Highway, Station 6147
(1135) Silver Spring, MD 20910-3282.

§334.1275 West Arm Behm Canal, Ketchikan, Alaska, restricted areas.

(1136) (a) *The areas–Area No.1*. The waters of Behm Canal bounded by a circle 2,000 yards in diameter, centered on 55°36'N., 131°49.2'W.

(1137) (2) *Area No. 2*. The waters of Behm Canal bounded by a circle 2,000 yards in diameter, centered at 55°34'N.,131°48'W.

(1138) (3) *Area No. 3*. The waters of Behm Canal excluding those areas designated as areas Nos. 1 and 2 above, bounded by an irregular polygon beginning at the shoreline on Back Island near

(1139) 55°32.63'N., 131°45.18'W., thence bearing about 350° to

(1140) 55°38.06'N., 131°46.75'W., thence bearing about 300° to

(1141) 55°38.52'N., 131°48.15'W., thence bearing about 203° to

(1142) 55°33.59'N., 131°51.54'W., thence bearing about 112° to the intersection of the shoreline at Back Island near 55°32.53'N., 131°45.77'W., thence NE along the shoreline to the point of beginning.

(1143) (4) *Area No. 4*. The waters of Clover Passage bounded by an irregular polygon beginning at the shoreline on Back Island near

(1144) 55°32.63'N., 131°45.18'W., thence bearing 150° to the intersection of the shoreline on Revillagigedo Island near

(1145) 55°30.64'N., 131°43.64'W., thence SW along the shoreline to near

(1146) 55°30.51'N, 131°43.88'W., thence bearing 330° to the intersection of the shoreline on Back Island near

(1147) 55°32.16'N., 131°45.20'W., and from there NE along the shoreline to the point of beginning.

(1148) (5) *Area No. 5*. The waters of Behm Canal bounded to the north by a line starting from Point Francis on the Cleveland Peninsula to Escape Point on Revillagigedo Island then S along the shoreline to Indian Point, thence S to the Grant Island Light at 55°33.3'N., 131°43.62'W., thence bearing 218°T to the S end of Black Island and continuing to the intersection of the shoreline on Betton Island at about 55°31.52'N., 131°45.98'W., thence N along the shoreline of Betton Island to the western side below Betton Head at about 55°30.83'N, 131°50'W., thence bearing 283° across Behm Canal to the intersection of shoreline near the point which forms the SE entrance of Bond Bay at about 55°31.60'N., 131°56.58'W., thence NE to Helm Point on the Cleveland Peninsula, thence NE along the shoreline to the point of beginning at Point Francis.

(1149) (b) *The regulations*-(1) *Area No. 1*. Vessels are allowed to transit the area at any time. No vessel may anchor within the restricted area or tow a drag of any kind, deploy a net or dump any material within the area.

(1150) (2) *Area No. 2*. Vessels are allowed to transit the area at any time. No vessel may anchor within the restricted area or tow a drag of any kind, deploy a net or dump any material within the area. Vessels are also prohibited from mooring or tying up to, loitering alongside or in the immediate vicinity of naval equipment and barges in the restricted area.

(1151) (3) *Area No. 3*. Vessels are allowed to transit the area at any time. Due to the presence of underwater cables and instrumentation, anchoring is prohibited and the towing of a drag or any object within 100 feet of the bottom is also prohibited. Anchoring is allowed within 100 yards of the shore of Back Island except within 100 yards of each side of the area where electrical and other cables are brought ashore. The termination location of the cables on the land is marked with a warning sign that is visible from the water.

(1152) (4) *Area No. 4*. Due to the presence of communication and power cables crossing from Revillagigedo Island to Back Island no anchoring or towing of a drag is allowed. Anchoring is allowed within 100 yards of the shore of Back Island except within 100 yards of each side of the area where the cables are brought ashore. The termination location of the cables on the land is marked with a warning sign that is visible from the water.

(1153) (5) *Area No. 5*. (i) The area will be open unless the Navy is actually conducting operations. To ensure safe and timely passage through the restricted area vessel operators are required to notify the Range Operations Officer of their expected time of arrival, speed and intentions. For vessels not equipped with radio equipment, the Navy shall signal with flashing beacon lights whether passage is prohibited and when it is safe to pass through the area. A flashing green beacon indicates that vessels may proceed through the area. A flashing red beacon means that the area is closed to all vessels and to await a green clear signal. Each closure of the area by the Navy will normally not exceed 20 minutes.

(1154) (ii) Small craft may operate within 500 yards of the shoreline at speeds no greater than 5 knots in accordance with the restrictions in effect in area No. 3.

(1155) (iii) During the period May 1 through September 15 annually, the Navy will only conduct acoustic measurement tests which will result in transitory restrictions in Area #5 for a total of no more than 15 days.

(1156) (iv) Transitory restrictions in Area #5 will not be enforced during daylight hours when Navy testing coincides with pre- scheduled special events in Behm Canal. Special events are defined as summer holidays or celebrations, competitions, or economic endeavors scheduled by an agency or organization, and typically occurring every year for the utilization of natural resources of Behm Canal. Special events include commercial emergency seine fishery openings from July 25 through September 15, historic salmon derbies lasting eight days or less, Memorial Day, Labor Day, Independence Day or any nationally recognized three day weekend to celebrate these holidays.

(1157) (v) Public notification that the Navy will be conducting operations in Behm Canal will be given at least 72 hours in advance to the following Ketchikan contacts: U.S. Coast Guard, Ketchikan Gateway Borough Planning Department, Harbor Master, Alaska Department of Fish and Game, KRBD Radio, KTKN Radio, and the Ketchikan Daily News.

(1158) (c) Vessels will be allowed to transit Restricted Area #5 within 20 minutes of marine radio or telephone notification to the Navy Range Operations Officer.

(1159) (d) Enforcement. The regulations in this section shall be enforced by the Commander, David Taylor Research Center and such agencies he/she may designate.

§334.1310 Lutak Inlet, Alaska; restricted areas.

(1160) (a) *The areas–(1) Army POL dock restricted area*.

(1161) (i) the waters of Lutak Inlet bounded as follows: Beginning at the water's edge 900 feet northwest of the centerline of the landward end of the POL dock; thence 800 feet, 50° true; thence, 1400 feet, 113° true; thence 450 feet, 211° true to the water's edge at a point approximately 720 feet from the most southwest corner of the seaward end of the POL dock; thence along the water's edge to the point of beginning.

(1162) (ii) The area will be marked at points approximately 200 feet apart along the shore by white signs containing the word "Warning." The signs will not be lighted.

(1163) (2) *Dry Cargo dock mooring area*. (i) The waters within 60 feet off the face of the dock.

(1164) (b) *The regulations*. (1) No person, vessel or other watercraft shall enter or remain in the Army POL dock restricted area when tankers are engaged in discharging oil at the dock.

(1165) (2) The dropping and dragging of anchors, weights, or other ground tackle within the Dry Cargo dock mooring area is prohibited.

(1166) (3) The regulations in this section shall be enforced by the District Engineer, U.S. Army Engineer District, Anchorage, Alaska, and such agencies as he may designate.

TITLE 36–PARKS, FORESTS, AND PUBLIC PROPERTY

Part 13–National Park System Units in Alaska

Subpart A–Public Use and Recreation

§13.1 Definitions.

(1167) The following definitions shall apply to all regulations contained in this part:

(1168) (a) The term "adequate and feasible access" means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

(1169) (b) The term "aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including, but not limited to airplanes, helicopters and gliders.

(1170) (c) The term "ANILCA" means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96-487 (December 2, 1980)).

(1171) (d) The term "carry" means to wear, bear or carry on or about the person and additionally, in the case of firearms, within or upon a device or animal used for transportation.

(1172) (e) The term "downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(1173) (f) The term "firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designated to or may readily be converted to expel a projectile by the action of expanded gases, except that it does not include a pistol or rifle powered by compressed gas. The term "firearm" also includes irritant gas devises.

(1174) (g) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, produce, egg, or offspring thereof, or the dead body or part thereof.

(1175) (h) The term "fossil" means any remains, impression, or trace of any animal or plant of past geological ages that has been preserved, by natural processes, in the earth's crust.

(1176) (i) The term "gemstone" means a silica or igneous mineral including, but not limited to (1) geodes, (2) petrified wood, and (3) jade, agate, opal, garnet, or other mineral that when cut and polished is customarily used as jewelry or other ornament.

(1177) (j) The term *motorboat* refers to motorized vessel other than a personal watercraft.

(1178) (k) The term "National Preserve" shall include the following areas of the National Park System:

(1179) Alagnak National Wild and Scenic River, Aniakchak National Preserve, Bering Land Bridge National Preserve, Denali National Preserve, Gates of the Arctic National Preserve, Glacier Bay National Preserve, Katmai National Preserve, Lake Clark National Preserve, Noatak National Preserve, Wrangell-St. Elias National Preserve, and Yukon-Charley National Preserve.

(1180) (l) The term "net" means a seine, weir, net wire, fish trap, or other implement designed to entrap fish, except a landing net.

(1181) (m) The term "off-road vehicle" means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmachines or snowmobiles as defined in this chapter.

(1182) (n) The term "park areas" means land and waters administered by the National Park Service within the State of Alaska.

(1183) (o) The term "person" means any individual, firm, corporation, society, association, partnership, or any private or public body.

(1184) (p) The term "possession" means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

(1185) (q) The term "public lands" means lands situated in Alaska which are federally owned lands, except–

(1186) (1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(1187) (2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(1188) (3) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(1189) (r) The term "snowmachine" or "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis on contact with the snow.

(1190) (s) The term "take" or "taking" as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(1191) (t) The term "temporary" means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

(1192) (u) The term "trap" means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

(1193) (v) The term "unload" means there is no unexpended shell or cartridge in the chamber or magazine of a firearm; bows, crossbows and spearguns are stored in such a manner as to prevent their ready use; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile into the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

(1194) (w) The term "weapon" means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, crossbow, blow gun, speargun, hand thrown spear, slingshot, explosive device, or any other implement designed to discharge missiles into the air or under the water.

§13.2 Applicability and scope.

(1195) (a) The regulations contained in this Part 13 are prescribed for the proper use and management of park areas in Alaska and supplement the general regulations of this chapter. The general regulations contained in this chapter are applicable except as modified by this Part 13.

(1196) (b) Subpart A of this Part 13 contains regulations applicable to park areas. Such regulations amend in part the general regulations contained in this chapter. The regulations in Subpart A govern use and management, including subsistence activities, within the park areas, except as modified by Subparts B or C.

(1197) (c) Subpart B of this part 13 contains regulations applicable to subsistence uses. Such regulations apply on federally owned lands and interests therein within park areas where subsistence is authorized. Subsistence uses are not allowed in Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park. The regulations in subpart B amend in part the general regulations contained in this chapter and the regulations contained in subpart A of this part 13.

(1198) (d) Subpart C of this Part 13 contains special regulations for specific park areas. Such regulations amend

in part the general regulations contained in this chapter and the regulations contained in Subparts A and B of this Part 13.

(1199) (e) Subpart D of this part 13 contains regulations applicable to authorized visitor service providers operating within certain park areas. The regulations in subpart D of this part amend in part the general regulations contained in this chapter.

(1200) (f) For purposes of this chapter, "federally owned lands" does not include those land interests:

(1201) (1) Tentatively approved to the State of Alaska; or

(1202) (2) Conveyed by an interim conveyance to a Native corporation.

§13.3 (Reserved)

§13.4 Information collection.

(1203) The information collection requirements contained in §§13.13, 13.14, 13.15, 13.16, 13.17, 13.31, 13.44, 13.45, 13.49, and 13.51 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024-0015. The information is being collected to solicit information necessary for the Superintendent to issue permits and other benefits. This information will be used to grant statutory or administrative benefits. In all sections except 13.13, the obligation to respond is required to obtain a benefit. In §13.13, the obligation to respond is mandatory.

§13.10 (Reserved)

§13.11 (Reserved)

§13.15 (Reserved)

§13.16 (Reserved)

§13.17 Cabins and other structures.

(1204) (a) Purpose and policy. The policy of the National Park Service is to manage the use, occupancy and disposition of cabins and other structures in park areas in accordance with the language and intent of ANILCA, the National Park Service Organic Act (16 U.S.C. 1 et seq.) and other applicable law. Except as Congress has directly and specifically provided to the contrary, the use, occupancy and disposition of cabins and other structures in park areas shall be managed in a manner that is compatible with the values and purposes for which the National Park System and these park areas have been established. In accordance with this policy, this section governs the following authorized uses of cabins and other structures in park areas:

(1205) (1) Use and/or occupancy pursuant to a valid existing lease or permit;

(1206) (2) Use and occupancy of a cabin not under valid existing lease or permit;

(1207) (3) Use for authorized commercial fishing activities;

(1208) (4) Use of cabins for subsistence purposes;

(1209) (5) General public use cabins;

(1210) (6) Cabins in wilderness areas;

(1211) (7) Use of temporary facilities related to the taking of fish and wildlife; and

(1212) (8) New cabins and other structures otherwise authorized by law.

(1213) (b) Applicability. Unless otherwise specified, this section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park.

(1214) (c) Definitions. The following definitions apply to this section:

(1215) "Cabin" means of a small, usually one-story dwelling of simple construction, completely enclosed, with a roof and walls which may have windows and door(s).

(1216) "Claimant" means a person who has occupied and used a cabin or other structure as a primary, permanent residence for a substantial portion of the time, and who, when absent, has the intention of returning to it as his/her primary, permanent residence. Factors demonstrating a person's primary, permanent residence include, but are not limited to documentary evidence, e.g. the permanent address indicated on licenses issued by the State of Alaska and tax returns and the location where the person is registered to vote.

(1217) "Immediate family member" means a claimant's spouse, or a grandparent, parent, brother, sister, child or adopted child of a claimant or of the claimant's spouse.

(1218) "Possessory interest" means the partial or total ownership of a cabin or structure.

(1219) "Right of occupancy" means a valid claim to use or reside in a cabin or other structure.

(1220) "Shelter" means a structure designed to provide temporary relief from the elements and is characterized as a lean-to having one side open.

(1221) "Substantial portion of the time" means at least 50 percent of the time since beginning occupancy and at least 4 (four) consecutive months of continuous occupancy in every calendar year after 1986.

(1222) "Temporary campsite" means a natural, undeveloped area suitable for the purpose of overnight occupancy without modification.

(1223) "Temporary facility" means a structure or other manmade improvement that can be readily and completely dismantled and/or removed from the site when

the authorized use terminates. The term does not include a cabin.

(1224) "Tent platform" means a structure, usually made of manufactured timber products, constructed to provide a solid, level floor for a tent, with or without partial walls not exceeding three feet in height above the floor, and having only the tent fabric, the ridge pole and its support poles extending higher than three feet above the floor.

(1225) (d) Administration-(1) Permit application procedures. Except as otherwise specified in this section, the procedures set forth in §13.31(a) of this chapter govern application for any permit authorized pursuant to this section.

(1226) (2) Notice and comment on proposed permit. Before a permit for the use and occupancy of a cabin or other structure is issued pursuant to this section, the Superintendent shall publish notice of the proposed issuance in the local media and provide a public comment period of at least sixty days, subject to the following exceptions: Prior notice and comment are not required for a permit authorizing use and occupancy for 14 days or less of a public use cabin or use and occupancy of a temporary facility for the taking of fish or wildlife for sport or subsistence purposes.

(1227) (3) Permit revocation. (i) The superintendent may revoke a permit or lease issued pursuant to this section when the superintendent determines that the use under the permit or lease is causing or may cause significant detriment to the principal purposes for which the park area was established. Provided, however, that if a permittee submits a written request for a hearing concerning the revocation, based on the cause listed above, of a permit or lease issued pursuant to paragraph (e)(1), (e)(2), (e)(4) or (e)(8) of this section, the matter shall be assigned to an administrative law judge who, after notice and hearing and based on substantial evidence in the administrative record as a whole, shall render a recommended decision for the superintendent's review. The superintendent shall then accept, reject or modify the administrative law judge's recommended decision in whole or in part and issue a final decision in writing.

(1228) (ii) The superintendent may revoke or modify any permit or lease issued pursuant to this section when the permittee violates a term of the permit or lease.

(1229) (4) Appeal procedures. The procedures set forth in §13.31(b) of this chapter govern appeals of a permit denial, a denial of a permit renewal, a permit revocation and a superintendent's final decision on a permit revocation issued pursuant to paragraph (d)(3)(i) of this section.

(1230) (5) Permittee's interest. (i) A permittee shall not accrue a compensable interest in a cabin or other structure in a park area unless specifically authorized by Federal statutory law.

(1231) (ii) A cabin or other structure in a park area may not be sold, bartered, exchanged, assigned or included as a portion of any sale or exchange of other property by a permittee unless specifically authorized by Federal statutory law.

(1232) (iii) The Superintendent shall determine the extent and nature of a permittee's possessory interest at the time a permit is issued or denied.

(1233) (6) Cabin Site Compatibility. The Superintendent shall establish permit conditions that require a permittee-

(1234) (i) When constructing, maintaining or repairing a cabin or other structure authorized under this section, to use materials and methods that blend with and are compatible with the immediate and surrounding landscape; and

(1235) (ii) When terminating an activity that involves a structure authorized under this section, to dismantle and remove the structure and all personal property from the park area within a reasonable period of time and in a manner consistent with the protection of the park area.

(1236) (7) Access. (i) A permittee under this section who holds a permit for use and occupancy of a cabin or other structure located on public lands in a park area, not under valid existing lease or permit in effect on December 2, 1980, does not have a "valid property or occupancy interest" purposes of ANILCA section 1110(b) and its implementing regulations.

(1237) (ii) When issuing a permit under this section, the Superintendent shall provide for reasonable access which is appropriate and consistent with the values and purposes for which the park area was established.

(1238) (iii) All impacts of the access to a cabin or other structure are deemed to be a part of, and shall be considered in any evaluation of, the effects of a use authorized by a permit issued under this section.

(1239) (8) Abandonment. (i) An existing cabin or other structure not under valid lease or permit, and its contents, are abandoned:

(1240) (A) When no permit application has been received for its use and occupancy before October 20, 1987, one year after the effective date of this section; or

(1241) (B) One year after a permit application for its use and occupancy has been denied or a permit for its use and occupancy has been revoked, denied or has expired.

(1242) (ii) A claimant or applicant whose application for a permit has been denied or whose permit has expired may remove all or a portion of a cabin or other structure and its contents from a park area, to the extent of his or her possessory interest and under conditions

established by the Superintendent, until the date the cabin or structure is considered abandoned.

(1243) (iii) The contents of a cabin or other structure are considered abandoned when the cabin or other structure is considered abandoned.

(1244) (iv) A person whose permit for the use and occupancy of a cabin or other structure is revoked may remove his or her personal property from a park area under conditions established by the Superintendent until one year after the date of the permit's revocation.

(1245) (v) The Superintendent shall dispose of abandoned property in accordance with §§2.22 and 13.22 of this chapter. No property shall be removed from a cabin until such property has been declared abandoned or determined to constitute a direct threat to the safety of park visitors or area resources.

(1246) (9) Emergency use. During an emergency involving the safety of human life, a person may use any cabin designated by the Superintendent for official government business, general public use or shared subsistence use. The person shall report such use to the superintendent as soon as is practicable.

(1247) (e) Authorized cabin use and occupancy. Use or occupancy of a cabin or structure in a park area is prohibited, except pursuant to the terms of a permit issued by the superintendent under this section or as otherwise authorized by provisions of this chapter.

(1248) (1) Use and/or occupancy pursuant to a valid existing lease or permit. A person who holds a valid lease or permit in effect on December 2, 1980, for a cabin, homesite or similar structure not subject to the provisions of paragraph (e)(2) of this section, on Federal lands in a park area, may continue the use authorized by that lease or permit, subject to the following conditions:

(1249) (i) Renewal. The superintendent shall renew a valid lease or permit upon its expiration in accordance with the provisions of the original lease or permit, subject to any modifications or new conditions that the superintendent finds necessary for the protection of the values and purposes of the park area.

(1250) (ii) Denial of renewal. The superintendent may deny the renewal or continuation of a valid lease or permit only after issuing specific findings, following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation constitutes a direct threat to, or a significant impairment of, the purposes for which the park area was established.

(1251) (iii) Transfer. Subject to any prohibitions or restrictions that apply to transfer in the existing lease or permit, the Superintendent may transfer a valid existing lease or permit to another person at the election or death of the original permittee or leaseholder, only if the Superintendent determines that:

(1252) (A) The continued use is appropriate and compatible with the values and purposes of the park area;

(1253) (B) The continued use is non-recreational in nature;

(1254) (C) There is no demonstrated over-riding need for public use; and

(1255) (D) The continued use and occupancy will not adversely impact soils, vegetation, water or wildlife resources.

(1256) (2) Use and occupancy of a cabin not under valid existing lease or permit as of December 1, 1978. (i) A cabin or other residential structure in existence and occupied by a claimant, both prior to December 18, 1973, with the claimant's occupancy continuing for a substantial portion of the time, may continue to be used and occupied by the claimant pursuant to a renewable, nontransferable five-year permit. Upon the request of the claimant or a successor who is an immediate family member and residing in the cabin or structure, the Superintendent shall renew this permit every five years until the death of the last immediate family member of the claimant who was residing with the claimant in the structure under permit at the time of issuance of the original permit.

(1257) (ii) A cabin or other residential structure in existence prior to December 1, 1978, with occupancy commenced by a claimant between December 18, 1973 and December 1, 1978, which a claimant has continued to occupy or use for a substantial portion of the time, may continue to be used and occupied by the claimant pursuant to a non-transferable permit. The Superintendent may issue and extend such permit for a term not to exceed December 1, 1999 for such reasons as are deemed by the Superintendent to be equitable and just. The Superintendent shall review the permit at least every two years and modify the permit as necessary to protect park resources and values.

(1258) (iii) Permit application. In order to obtain, renew or extend a permit, a claimant shall submit a written application. In the case of an application to renew or extend a permit issued pursuant to this paragraph, if no circumstance relating to the permittee's occupancy and use of the cabin or structure has changed in the interim, applicable material submitted by the permittee to satisfy the original application requirements is considered sufficient and need not be resubmitted. The following information is required to be included in a permit application:

(1259) (A) Reasonable proof of possessory interest or right of occupancy in the cabin or structure, demonstrated by affidavit, bill of sale, or other documentation. In order for a claimant to qualify for a permit described in

paragraph (e)(2)(i) of this section, the claimant's possessory interest or right of occupancy must have been acquired prior to December 18, 1973. In order for a claimant to qualify for a permit described in paragraph (e)(2)(ii) of this section, the claimant's possessory interest or right of occupancy must have been acquired prior to December 1, 1978;

(1260) (B) A sketch or photograph that accurately depicts the cabin or structure;

(1261) (C) A map that shows the geographic location of the cabin or structure;

(1262) (D) The claimant's agreement to vacate and remove all personal property from the cabin or structure upon expiration of the permit;

(1263) (E) The claimant's acknowledgment that he or she has no legal interest in the real property on which the cabin or structure is located;

(1264) (F) Reasonable proof that the claimant has lived in the cabin or structure during a substantial portion of the time and continues to use the cabin or other structure as a primary, permanent residence; and

(1265) (G) A list of all immediate family members residing with the claimant within the cabin or structure for which the application is being submitted. Such list need only include those immediate family members who will be eligible to continue to use and occupy the cabin or other structure upon the death or departure of the original claimant.

(1266) (iv) Permit application deadline. The deadline for receipt of a permit application for the occupancy and use of an existing cabin or other structure of an existing cabin or other structure described in paragraph (e)(2)(i) or (ii) of this section is October 20, 1987, one year after the effective date of this section. The Superintendent may extend this deadline for a reasonable period of time only when a permit applicant demonstrates that extraordinary circumstance prevented timely application.

(1267) (3) Use for authorized commercial fishing activities. The use of a campsite, cabin or other structure in conjunction with commercial fishing activities authorized by section 205 of ANILCA in Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-Saint Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve is authorized pursuant to the provisions of §13.21(c) of this chapter and the terms of a permit issued by the Superintendent.

(1268) (4) Use of cabins for subsistence purposes. (i) A local rural resident who is an eligible subsistence user may use an existing cabin or other structure or temporary facility or construct a new cabin or other structure, including temporary facilities, in a portion of a park area where subsistence use is allowed, pursuant to the applicable provisions of Subparts B and C of this Part and the terms of a permit issued by the Superintendent. However, the Superintendent may designate existing cabins or other structures that may be shared by local rural residents for authorized subsistence uses without a permit.

(1269) (ii) For purposes of paragraph (e)(4) of this section, the term "local rural resident", with respect to national parks, monuments, and preserves is defined in §13.42 of this chapter.

(1270) (iii) Permit application. In order to obtain or renew a permit, a person shall submit an application. In the case of an application to renew a permit issued pursuant to this paragraph, if no circumstance relating to the permittee's occupancy and use of the cabin or structure has changed in the interim, applicable material submitted by the permittee to satisfy the original application requirements is considered sufficient and need not be resubmitted. The following information is required to be included in a permit application:

(1271) (A) An explanation of the applicant's need for the cabin or structure;

(1272) (B) A description of an applicant's past, present and anticipated future subsistence uses relevant to his or her need for the cabin or structure;

(1273) (C) A blueprint, sketch or photograph of the cabin or structure;

(1274) (D) A map that shows the geographic location of this cabin or structure; and

(1275) (E) A description of the types of occupancy and schedule for use of the cabin or structure.

(1276) All information may be provided orally except the cabin blueprint, sketch or photograph and the map.

(1277) (iv) Permit issuance. (A) In making a decision on a permit application, the Superintendent shall consider whether the use by local rural residents of a cabin or other structure for subsistence purposes is customary and traditional in that park area and shall determine whether the use and occupancy of a new or existing cabin or structure is "necessary to reasonably accommodate" the applicant's subsistence uses. In making this determination, the Superintendent shall examine the applicant's particular circumstances, including but not limited to his or her past patterns of subsistence uses and his or her future subsistence use plans, reasonable subsistence use alternatives, the specific nature of the subsistence uses to be accommodated by the cabin or structure, the impacts of the cabin or structure on other local rural resident who depend on subsistence uses and the impacts of the proposed structure and activities on the values and purposes for which the park area was established.

(1278) (B) The Superintendent may permit the construction of a new cabin or other new structure for subsistence

purposes only if a tent or other temporary facility would not adequately and reasonably accommodate the applicant's subsistence uses without significant's hardship and the use of no other type of cabin or other structure provided for in this section can adequately and reasonably accommodate the applicant's subsistence uses with a lesser impact on the values and purposes for which the park area was established.

(1279) (v) Permit terms. The Superintendent shall, among other conditions, establish terms of a permit that:

(1280) (A) Allow for use and occupancy during the harvest or gathering of subsistence resources, at such times as may be reasonably necessary to prepare for a harvest season (e.g., opening or closing a cabin or structure at the beginning or end of a period of use), and at other times reasonably necessary to accommodate the permittee's specified subsistence uses;

(1281) (B) Prohibit residential use in conjunction with subsistence activities and

(1282) (C) Limit the term of a permit to a period of five years or less.

(1283) (vi) Temporary facilities. A temporary facility or structure directly and necessarily related to the taking of subsistence resources may be constructed and used by a qualified subsistence user without a permit so long as such use is for less than thirty days and the site is returned to a natural condition. The Superintendent may establish conditions and standards governing the use or construction of these temporary structures and facilities which shall be published annually in accordance with §1.7 of this chapter.

(1284) (vii) Shared use. In any permit authorizing the construction of a cabin or other structure necessary to reasonably accommodate authorized subsistence uses, the Superintendent shall provide for shared use of the facility by the permittee and other local rural residents rather than for exclusive use by the permittee.

(1285) (5) General public use cabins. (i) The Superintendent may designate a cabin or other structure located outside of designated wilderness areas and not otherwise under permit under this section (or under permit for only a portion of the year) as a public use cabin. Such designated public use cabins are intended for short term recreational use and occupancy only.

(1286) (ii) The Superintendent may establish conditions and develop an allocation system in order to manage the use of designated public use cabins.

(1287) (iii) The Superintendent shall mark all public use cabins with a sign and shall maintain a map showing their locations.

(1288) (6) Cabins in wilderness areas. The use and occupancy of a cabin or other structure located in a designated wilderness area are subject to the other applicable provisions of this section, and the following conditions:

(1289) (i) A previously existing public use cabin located within wilderness designated by ANILCA may be allowed to remain and may be maintained or replaced subject to such restrictions as the Superintendent finds necessary to preserve the wilderness character of the area. As used in this paragraph, the term "previously existing public use cabin" means a cabin or other structure which, on November 30, 1978, was recognized and managed by a Federal land managing agency as a structure available for general public use.

(1290) (ii) Within a wilderness area designated by ANILCA, a new public use cabin or shelter may be constructed, maintained and used only if necessary for the protection of the public health and safety.

(1291) (iii) A cabin or other structure located in a designated wilderness area may not be designated, assigned or used for commercial purposes, except that designated public use cabins may be used in conjunction with commercial guided visitor services, but not to the exclusion of the general public.

(1292) (7) Use of temporary facilities related to the taking of fish and wildlife. (i) In a national preserve where the taking of fish and wildlife is permitted, the construction, maintenance or use of a temporary campsite, tent platform, shelter or other temporary facility or equipment directly and necessarily related to such activities is prohibited except pursuant to the terms of a permit issued by the Superintendent. This requirement applies only to a temporary facility that will remain in place for a period longer than 14 days.

(1293) (ii) Permit application. In order to obtain or renew a permit, a person shall submit an application. In the case of an application to renew a permit issued pursuant to this paragraph, if no circumstance relating to the permittee's occupancy and use of the structure has changed in the interim, applicable material submitted by the permittee to satisfy the original application requirements is considered sufficient and need not be resubmitted. The following information is required to be included in a permit application:

(1294) (A) An explanation of the applicant's need for the temporary facility, including a description of the applicant's hunting and fishing activities relevant to his or her need for the facility;

(1295) (B) A diagram, sketch or photograph of the temporary facility;

(1296) (C) A map that shows the geographic location of the temporary facility; and

(1297) (D) A description of both the past use (if any) and the desired use of the temporary facility, including a schedule for its projected use and removal. All information may be provided orally except the diagram sketch or photograph of the facility and the map.

(1298) (iii) Permit issuance. (A) In making a decision on a permit application, the Superintendent shall determine whether a temporary facility is "directly and necessarily related to" the applicant's legitimate hunting and fishing activities by examining the applicant's particular circumstances, including, but not limited to his or her reasonable need for a temporary facility and any reasonable alternatives available that are consistent with the applicant's needs. The Superintendent shall also consider whether the proposed use would constitute an expansion of existing facilities or use and would be detrimental to the purposes for which the national preserve was established. If the Superintendent finds that the proposed use would either constitute an expansion above existing levels or be detrimental to the purposes of the preserve, he/she shall deny the permit. The Superintendent may authorize the replacement or relocation within the national preserve of an existing temporary facility or structure.

(1299) (B) The Superintendent shall deny an application for a proposed use that would exceed a ceiling or allocation established pursuant to the national preserve's General Management Plan.

(1300) (iv) Permit terms. The Superintendent shall allow for use and occupancy of a temporary facility only to the extent that such facility is directly and necessarily related to the permittee's hunting and fishing activities, and shall provide that the temporary facility be used and maintained in a manner consistent with the protection of the values and purpose of the park area in which it is located. The Superintendent may also establish permit terms that:

(1301) (A) Limit use to a specified period, not to exceed the applicable hunting or fishing season and such additional brief periods necessary to maintain the facility before and after the season;

(1302) (B) Require the permittee to remove a temporary facility and all associated personal property from the park area upon termination of the permittee's hunting and fishing activities and related use of the facility or on a specific date;

(1303) (C) Require reasonable seasonal relocation of a temporary facility in order to protect the values and purposes for which the park area was established.

(1304) (D) Require that a temporary facility be used on a shared basis and not exclusively by the permittee; and

(1305) (E) Limit the overall term of a permit to a reasonable period of time, not to exceed one year.

(1306) (8) New cabins and other structures otherwise authorized by law. The Superintendent may issue a permit for the construction, temporary use, occupancy, and maintenance of a cabin or other structure which is authorized by law but not governed by any other paragraph in this section.

§13.18 Camping and picnicking.

(1307) (a) Camping. Camping is permitted in the park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of §13.30, or asset forth for specific park areas in Subpart C of this part.

(1308) (b) Picnicking. Picnicking is permitted in park areas except where such activity is prohibited by the posting of appropriate signs.

§13.19 Weapons, traps and nets.

(1309) (a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(1310) (b) Firearms may be carried within park areas in accordance with applicable Federal and State laws, except where such carrying is prohibited or otherwise restricted pursuant to §13.30.

(1311) (c) Traps, bows and other implements authorized by State and Federal law for the taking of fish and wildlife may be carried within National Preserves only during those times when the taking of fish and wildlife is authorized by applicable laws or regulations.

(1312) (d) In addition to the authorities provided in paragraphs (b) and (c) of this section, weapons (other than firearms) traps and nets may be possessed within park areas provided such weapons, traps or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(1313) (e) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence uses, including the taking of wildlife pursuant to §13.48, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

§13.20 Preservation of natural features.

(1314) (a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. Mckinley National Park, Glacier Bay National Monument, and Katmai National Monument.

(1315) (b) Renewable Resources. The gathering or collecting, by hand and for personal use only, of the following renewable resources is permitted:

(1316) (1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;

(1317) (2) Driftwood and uninhabited sea-shells;

(1318) (3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(1319) (4) Dead or downed wood for use in fires within park areas.

(1320) (c) Rocks and Minerals. Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks and minerals is permitted: Provided, however, That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of the ground surface, such as the use of shovels, pickaxes, sluice boxes, and dredges, are prohibited.

(1321) (d) Closure and Notice. Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent shall prohibit the gathering or otherwise restrict the collecting of these items. Portions of a park area in which closures or restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the Superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

(1322) (e) Subsistence. Nothing in this section shall apply to local rural residents authorized to take renewable resources.

§13.21 Taking of fish and wildlife.

(1323) (a) [Reserved]

(1324) (b) Fishing. Fishing is permitted in all park areas in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with §2.3 of this chapter.

(1325) (c) Commercial fishing. The exercise of valid commercial fishing rights or privileges obtained prior to December 2, 1980, pursuant to existing law in Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of the Wrangell-St. Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve, including the use of these park areas for existing campsites, cabins and other structures, motorized vehicles, and aircraft landings on existing airstrips, may continue provided that all such use is directly incident to the exercise of those rights or privileges.

(1326) (1) Restrictions. The Superintendent may restrict or revoke the exercise of a valid commercial fishing right or privilege based upon specific findings, following public notice and an opportunity for response, that continuation of such use of a park area constitutes a direct threat to or significant impairment of the values and purposes for which the park area was established.

(1327) (2) Expansion of uses. (i) A person holding a valid commercial fishing right or privilege may expand his or her level of use of a park area beyond the level of such use in 1979 only pursuant to the terms of a permit issued by the Superintendent.

(1328) (ii) The Superintendent may deny a permit or otherwise restrict the expanded use of a park area directly incident to the exercise of such rights or privileges, if the Superintendent determines, after conducting a public hearing in the affected locality, that the expanded use constitutes either:

(1329) (A) A significant expansion of the use of a park area beyond the level of such use during 1979 (taking into consideration the relative levels of use in the general vicinity, as well as the applicant's levels of use); or

(1330) (B) A direct threat to, or significant impairment of, the values and purposes for which the park area was established.

(1331) (d) *Hunting and Trapping*. (1) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulations.

(1332) (2) Violating a provision of either Federal or non-conflicting State law or regulation is prohibited.

(1333) (3) Engaging in trapping activities as the employee of another person is prohibited.

(1334) (4) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking any species of bear, caribou, Sitka black-tailed deer, elk, coyote, arctic and red fox, mountain goat, moose, Dall sheep, lynx, bison, musk ox wolf and wolverine until after 3 a.m. on the day following the day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

(1335) (e) *Closures and restrictions*. The Superintendent may prohibit or restrict the non-subsistence taking of fish or wildlife in accordance with the provisions of §13.30 of this chapter. Except in emergency conditions, such restrictions shall take effect only after the Superintendent has consulted with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

§13.22 Unattended or abandoned property.

(1336) (a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park, or as further restricted for specific park areas in Subpart C of this part.

(1337) (b) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer

than 12 months without prior permission of the Superintendent is prohibited, and any property so left may be impounded by the Superintendent.

(1338) (c) The Superintendent may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount, and type of personal property that may be left unattended, (3) prescribe the manner in which personal property may be left unattended, or (4) established limits on the length of time personal property may be left unattended. Such designations and restrictions shall be (i) published in at least one newspaper of general circulation within the State, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated on a map which shall be available for public inspection at the office of the Superintendent, or (ii) designated by the posting of appropriate signs or (iii) both.

(1339) (d) In the event unattended property interferes with the safe and orderly management of a park area or is causing damage to the resources of the area, it may be impounded by the Superintendent at any time.

§13.30 Closure procedures.

(1340) (a) Authority. The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(1341) (b) Criteria. In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(1342) (c) Emergency closures. (1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; (2) emergency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice and hearing; (3) other emergency closures shall become effective upon notice as prescribed in §13.30(f); and (4) no emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(1343) (d) Temporary closures or restrictions. (1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate; (2) other temporary closures shall be effective upon notice as prescribed in §13.30(f); (3) temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(1344) (e) Permanent closures or restrictions. Permanent closures or restrictions shall be published as rulemaking in the FEDERAL REGISTER with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(1345) (f) Notice. Emergency, temporary and permanent closures or restrictions shall be (1) published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public; or (2) designated by the posting of appropriate signs; or (3) both.

(1346) (g) Openings. In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the FEDERAL REGISTER and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(1347) (h) Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

§13.31 Permits.

(1348) (a) Application. (1) Application for a permit required by any section of this part shall be submitted to the Superintendent having jurisdiction over the affected park area, or in the absence of the Superintendent, the Regional Director. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application.

(1349) (2) The Superintendent shall grant or deny the application in writing within 45 days. If this deadline cannot be met for good cause, the Superintendent shall so notify the applicant in writing. If the permit application is denied, the Superintendent shall specify in writing the reasons for the denial.

(1350) (b) Denial and appeal procedures. (1) An applicant whose application for a permit, required pursuant to

this part, has been denied by the Superintendent has the right to have the application reconsidered by the Regional Director by contacting him/her within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(1351) (i) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made.

(1352) (ii) The basis for the permit applicant's disagreement with the Superintendent's findings and conclusions; and

(1353) (iii) Whether or not the permit applicant requests an informal hearing before the Regional Director.

(1354) (2) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

Subpart C–Special Regulations–Specific Park Areas in Alaska

§13.65 Glacier Bay National Park and Preserve.

(1355) (a) *Commercial fishing*: authorizations, closures and restrictions–(1) *What terms do I need to know?* (i) *Commercial fishing* means conducting fishing activities under the appropriate commercial fishing permits and licenses as required and defined by the State of Alaska.

(1356) (ii) *Glacier Bay* means all marine waters within Glacier Bay National Park, including coves and inlets, north of an imaginary line drawn from Point Gustavus to Point Carolus.

(1357) (iii) *Outer waters* means all of the non-wilderness marine waters of the park located outside of Glacier Bay.

(1358) (2) *Is commercial fishing authorized in the marine waters of Glacier Bay National Park?* Yes–Commercial fishing is authorized within the outer waters of the park and within the non-wilderness waters of Glacier Bay, subject to the provisions of this chapter.

(1359) (1) Commercial fishing shall be administered pursuant to A cooperatively developed State/federal park fisheries management plan, international conservation and management treaties, and existing federal and Non-conflicting State law. The management plan shall provide for the protection of park values and purposes, the prohibition on any new or expanded fisheries, and the opportunity to study marine resources.

(1360) (ii) Commercial fishing or conducting an associated buying or processing operation in wilderness waters is prohibited.

(1361) (iii) A new or expanded fishery is prohibited. The Superintendent shall compile a list of the existing fisheries and gear types used in the outer waters and follow the procedures in §§1.5 and 1.7 of this chapter to inform the public.

(1362) (iv) Maps and charts showing which marine areas of Glacier Bay are closed to commercial fishing are available from the Superintendent.

(1363) (3) *What types of commercial fishing are authorized in Glacier Bay?* Three types of commercial fishing are authorized in Glacier Bay non-wilderness waters: longline fishing for halibut; pot and ring fishing for Tanner crab; and trolling for salmon.

(1364) (i) All other commercial fishing, or a buying or a processing operation not related to an authorized fishery is prohibited in Glacier Bay.

(1365) (ii) On October 1, 2000, each fishery will be limited to fishermen who qualify for a non-transferable commercial fishing lifetime access permit (see paragraph (a)(4) of this section). Commercial fishing without a permit issued by the superintendent, or other than in accordance with the terms and conditions of the permit, is prohibited.

(1366) (iii) The Superintendent shall include in a permit the terms and conditions that the superintendent deems necessary to protect park resources. Violating a term or condition of the permit is prohibited.

(1367) (4) *Who is eligible for a Glacier Bay commercial fishing lifetime access permit?* A Glacier Bay commercial fishing lifetime access permit will be issued by the superintendent to fishermen who have submitted documentation to the superintendent, on or before October 1, 2000, which demonstrates to the satisfaction of the superintendent that:

(1368) (i) They posses valid State limited entry commercial fishing permits for the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought; and,

(1369) (ii) They have participated as limited entry permit holders for the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought.

(1370) (A) For the Glacier Bay commercial halibut fishery, the Applicant must have participated as a permit holder for at least two years during the period 1992-1998.

(1371) (B) For the Glacier Bay salmon or Tanner crab commercial fisheries, the applicant must have

participated as a permit holder for at least three years during the period 1989-1998.

(1372) (5) *What documentation is required to apply for a commercial fishing lifetime access permit?* The required documentation includes:

(1373) (i) The applicants full name, date of birth, mailing address and phone number;

(1374) (ii) A notarized affidavit, sworn by the applicant, attesting to his or her history of participation as a limited permit holder in Glacier Bay, during the qualifying period, for each fishery for which a lifetime access permit is being sought;

(1375) (iii) A copy of the applicant's current State of Alaska limited entry permit and in the case of halibut an International

(1376) Pacific Halibut Commission quota share, that is valid for the area that includes Glacier Bay, for each fishery for which a lifetime access permit is sought;

(1377) (iv) Proof of the applicant's permit and quota share history for the Glacier Bay fishery during the qualifying period;

(1378) (v) Documentation of commercial landings for the Glacier Bay fishery during the qualifying periods, i.e., within the statistical unit or area that includes Glacier Bay: for halibut, regulatory sub-area 184; for Tanner crab, statistical areas 114-70 through 114-77. For salmon, the superintendent will consider landing reports from District 114; however, the superintendent may require additional documentation that supports the applicant's declaration of Glacier Bay salmon landings. For halibut and Tanner crab, the superintendent may consider documented commercial landings from the unit or area immediately adjacent to Glacier Bay (in Icy Strait) if additional documentation supports the applicant's declaration that landings occurred in Glacier Bay.

(1379) (vi) Any additional corroborating documentation that might assist the superintendent in a timely determination of eligibility for the access permits.

(1380) (6) *Where should the documentation for a lifetime access permit be sent?* Before October 1, 2000, all required information (as listed in paragraph (a)(5) of this section) should be sent to: Superintendent, Attn: Access Permit Program, Glacier Bay National Park and Preserve, P.0. Box 140, Gustavus, Alaska 99826.

(1381) (7) *Who determines eligibility?* The superintendent will make a written determination of a applicant's eligibility for the lifetime access permit based on information provided. A copy of the determination will be mailed to the applicant. If additional information is required to make an eligibility determination, the applicant will be notified in writing of that need and be given an opportunity to provide it.

(1382) (8) *Is there an appeals process if a commercial fishing lifetime access permit application is denied?* Yes–If an applicant's request for a commercial fishing lifetime access permit is denied, the superintendent will provide the applicant with the reasons for the denial in writing within 15 days of the decision. The applicant may appeal to the Regional Director, Alaska Region, within 180 days. The appeal must substantiate the basis of the applicant's disagreement with the Superintendent's determination. The Regional Director (or his representative) will meet with the applicant to discuss the appeal within 30 days of receiving the appeal. Within 15 days of receipt of written materials and the meeting, if requested, the Regional Director will affirm, reverse, or modify the Superintendent's determination and explain the reasons for the decision in writing. A copy of the decision will be forwarded promptly to the applicant and will be the final agency action.

(1383) (9) *How often will commercial fishing lifetime access permit be renewed?* The superintendent will renew lifetime access permit at 5-year intervals for the lifetime of a permittee who continues to hold a valid State limited entry commercial fishing permit, and for halibut an International Pacific Halibut Commission quota share, and is otherwise eligible to participate in the fishery under federal and State law.

(1384) (10) *What other closures and restrictions apply to commercial fishermen and commercial fishing vessels?*–The following are prohibited:

(1385) (i) Commercial fishing in the waters of Geikie, Tarr, Johns Hopkins and Reid Inlets.

(1386) (ii) Commercial fishing in the waters of the west arm of Glacier Bay north of 58°50'N latitude, except commercial fishermen who have been authorized by the superintendent to troll for salmon may troll for king salmon during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(1387) (iii) Commercial fishing in the east arm of Glacier Bay, north of an imaginary line running from Point Caroline through the southern point of Garforth Island and extending to the east side of Muir Inlet, except commercial fishermen who have been authorized by the superintendent to troll for salmon may troll for king salmon south of 58°50'N latitude during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(1388) (b) *Resource protection and vessel management*–

(1389) (1) *Definitions*. As used in this section:

(1390) *Charter vessel* means any motor vessel under 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) that is rated to carry up to 49 passengers, and is available for hire on an unscheduled

basis; except a charter vessel used to provide a scheduled camper or kayak drop off service.

(1391) *Commercial fishing vessels* means any motor vessel conducting fishing activities under the appropriate commercial fishing licenses as required and defined by the State of Alaska.

(1392) *Cruise ship* means any motor vessel at or over 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) carrying passengers for hire.

(1393) *Entry* means each time a motor vessel passes the mouth of Glacier Bay into the bay; each time a private vessel activates or extends a permit; each time a motor vessel based at or launched from Bartlett Cove leaves the dock area on the way into Glacier Bay, except a private vessel based at Bartlett Cove that is gaining access or egress to or from outside Glacier Bay; the first time a local private vessel uses a day of the seven use-day permit; or each time a motor vessel is launched from another vessel written Glacier Bay, except a motor vessel singularly launched from a permitted motor vessel and operated only while the permitted vessel remains at anchor, or a motor vessel launched and operated from a permitted motor vessel while that vessel is not under way and in accordance with a concession agreement.

(1394) *Glacier Bay* means all marine waters contiguous with Glacier Bay, lying north of an imaginary line between Point Gustavus and Point Carolus.

(1395) *Motor vessel* means any vessel, other than a seaplane, propelled or capable of being propelled by machinery (including steam), whether or not such machinery is the principal source of power, except a skiff or tender under tow or carried on board another vessel.

(1396) Operate or Operating includes the actual or constructive possession of a vessel or motor vessel.

(1397) *Private vessel* means any motor vessel used for recreation that is not engaged in commercial transport of passengers, commercial fishing or official government business.

(1398) *Pursue* means to alter the course or speed of a vessel or a seaplane in a manner that results in retaining a vessel, or a seaplane operating on the water, at a distance less than one-half nautical mile from a whale.

(1399) *Speed through the water* means the speed that a vessel moves through the water (which itself may be moving); as distinguished from "speed over the ground."

(1400) *Tour vessel* means any motor vessel under 100 tons gross (U.S. System) or 2,000 tons gross (International Convention System) that is rated to carry more than 49 passengers, or any smaller vessel that conducts tours or provides transportation at regularly scheduled route.

(1401) *Transit* means to operate a motor vessel under power and continuously so as to accomplish one-half nautical mile of littoral (i.e., along the shore) travel.

(1402) Vessel includes every type or description of craft used as a means of transportation on the water, including a buoyant device permitting or capable of free flotation and a seaplane while operating on the water.

(1403) *Vessel use-day* means any continuous period of time that a motor vessel is in Glacier Bay between the hours of 12 midnight on one day to 12 midnight the next day.

(1404) *Whale* means any humpback whale (*Megaptera novaeangliae*).

(1405) *Whale waters* means any portion of Glacier Bay, designated by the superintendent, having a high probability of whale occupancy, based upon recent sighting and/or past patterns of occurrence.

(1406) (2) *Permits*. The superintendent will issue permits for private motor vessels in accordance with this part and for cruise ships, tour vessels, and charter vessels in accordance with National Park Service concessions authorizations and this part.

(1407) (i) *Private vessel permits and conditions*. Each private motor vessel must have a permit to enter Glacier Bay June 1 through August 31.

(1408) (A) The superintendent may establish conditions regulating how permits can be obtained, whom a vessel operator must contact when entering or leaving Glacier Bay, designated anchorages, the maximum length of stay in Glacier Bay, and other appropriate conditions.

(1409) (B) June 1 through August 31, upon entering Glacier Bay through the mouth, the operator or a private motor vessel must report directly to the Bartlett Cove Ranger Station for orientation.

(1410) (1) Failing to report as required is prohibited.

(1411) (2) The superintendent may waive this requirement before or upon entry.

(1412) (ii) *Commercial vessel permits and conditions*. Each commercially operated motor vessel must have the required permit(s) to enter Glacier Bay.

(1413) (A) To obtain or renew an entry permit, a cruise ship company must submit and, after approval, implement a pollution minimization plan. The plan must ensure, to the fullest extent possible, that any ship permitted to travel within Glacier Bay will apply the industry's best approaches toward vessel oil-spill response planning and prevention and minimization of air and underwater noise pollution while operating in Glacier Bay. The superintendent will approve or disapprove the plan.

(1414) (B) Each cruise ship company must asses the impacts of its activities on Glacier Bay resources pursuant to the NPS research, inventory and monitoring plan as specified in the applicable concession permit.

(1415) (C) The superintendent at any time may impose operating conditions to prevent or mitigate air pollution, water pollution, underwater noise pollution or other effects of cruise ship operation.

(1416) (D) The superintendent will immediately suspend the entry permit(s) of any cruise ship that fails to submit, implement or comply with a pollution minimization plan or additional operating condition.

(1417) (E) A commercial vessel, except a commercial fishing vessel, is prohibited from entering Glacier Bay unless the operator notifies the Bartlett Cove Ranger Station of the vessel's entry immediately upon entry or within the 48 hours before entry.

(1418) (F) Off-boat activity from a commercial vessel is prohibited, unless the superintendent allows it under conditions that the superintendent establishes.

(1419) (iii) *Exceptions from entry permit requirement*. A permit is not required to enter Glacier Bay when:

(1420) (A) A motor vessel is engaged in official business of the state or federal government.

(1421) (B) A private motor vessel based at Bartlett Cove is transiting between Bartlett Cove and waters outside Glacier Bay, or is operated in Bartlett Cove in waters bounded by the public and administrative docks.

(1422) (C) A motor vessel is singularly launched from a permitted motor vessel and operated only while the permitted motor vessel remains at anchor, or a motor vessel is launched and operated in accordance with a concession agreement from a permitted motor vessel while that vessel is not underway.

(1423) (D) A commercial fishing vessel otherwise permitted under all applicable authorities is actually engaged in commercial fishing within Glacier Bay.

(1424) (E) The superintendent grants a vessel safe harbor at Bartlett Cove.

(1425) (iv) *Prohibitions*. (A) Operating a motor vessel in Glacier Bay without a required permit is prohibited.

(1426) (B) Violating a term or condition of a permit or an operating condition or restriction issued or imposed pursuant to this chapter is prohibited.

(1427) (C) The superintendent may immediately suspend or revoke a permit or deny a future permit request as result of a violation of a provision of this chapter.

(1428) (v) *Restrictions on vessel entry*. The superintendent will vessel entry in accordance with the following table:

Type of vessel	Allowable vessel use days per day	Total entries allowed	Total vessel use days allowed	Period covered by limitations
Cruise Ship	2	(1)	(1)	Year round.
Tour vessel	3	- - - - -	- - - - - -	Year round.
Charter vessel	6	312	552	June 1-Aug. 31
Private vessel	25	468	1,971	June 1-Aug 31

[1]See paragraphs (b)(2)(v) (A) through (C) of this section.

(1429) (A) By October 1, 1996, the superintendent will reinitiate consultation with the National Marine Fisheries Service (NMFS) and request a biological opinion under section 7 of the Endangered Species Act. The superintendent will request the NMFS assess and analyze and effects of vessel traffic authorized by this section, on the endangered and threatened species that occur in or use Glacier Bay National Park and Preserve.

(1430) (1) Based on this biological opinion, applicable authority, and any other relevant information, the director shall reduce the vessel entry and use levels for any or all categories of vessels in this section effective for the 1998 season or any year thereafter, if required to assure protection of the values and purposes of Glacier Bay National Park and Preserve.

(1431) (2) The director will publish a document in the **Federal Register** on any revision in the number of seasonal entries and use days under this paragraph (b)(2)(v), with an opportunity for public comment.

(1432) (B) October 1, 1997, the superintendent will determine, with the director's approval, whether studies have been completed and sufficient scientific and other information has been developed to support an increase in cruise ship entries for the 1998 summer season (June 1 through August 31) while assuring protection of the values and purposes of Glacier Bay National Park and Preserve. Any increase will be subject to the maximum daily limit of two vessel use-days. If the superintendent recommends an increase, the superintendent will publish a document of the increase in the **Federal Register** with an opportunity for public comments.

(1433) (C) By October 1, of each year (Beginning in 1998), the superintendent will determine, with the director's approval, the number of cruise ship entries for the following summer season (June 1 through August 31). This determination will be based upon available scientific and other information and applicable authorities. The number will be subject to the maximum daily limit of two vessel use days. The superintendent will publish a document of any revision in seasonal entries in the **Federal Register** with an opportunity for public comment.

(1434) (D) Nothing in this paragraph will be construed to prevent the superintendent from taking any action at any time to assure protection of the values and purposes of Glacier Bay National Park and Preserve.

(1435) (3) *Operating restrictions*. (i) Operating a vessel within one-quarter nautical mile of a whale is prohibited, except for a commercial fishing vessel actually trolling or setting or pulling long lines or crab pots as otherwise authorized by the superintendent.

(1436) (ii) The operator of a vessel accidentally positioned within one-quarter nautical mile of a whale shall immediately slow the vessel to ten knots or less, without shifting into reverse unless impact is likely. The operator shall then direct or maintain the vessel on as steady a course as possible away from the whale until at least one-quarter nautical mile of separation is established. Failure to take such action is prohibited.

(1437) (iii) Pursuing or attempting to pursue a whale is prohibited.

(1438) (iv) *Whale water restrictions*. (A) May 15 through August 31, the following Glacier Bay waters are designated as whale waters.

(1439) (1) Lower bay waters, defined as waters north of an imaginary line drawn from Point Carolus to Point Gustavus; and south of an imaginary line drawn from the northernmost point of Lars Island across the northernmost point of Strawberry Island to the point where it intersects the line that defines the Beardslee Island group, as described in paragraph (b)(3)(vii)(A)(4) of this section, and following that line south and west to the Bartlett Cove shore.

(1440) (2) [Reserved]

(1441) (B) June 1 through August 31, the following Glacier Bay waters are designated as whale waters.

(1442) (1) Whidbey Passage waters, defined as waters north of an imaginary line drawn from the northernmost point of Lars Island to the northernmost point of Strawberry Island; west of imaginary lines drawn from the northernmost point of Strawberry Island to the southernmost point of Willoughby Island, the northernmost point of Willoughby Island (proper) to the southernmost point of Francis Island, the northernmost point of Francis Island to the southernmost point of Drake Island; and south of the northernmost point of Drake Island to the northernmost point of the Marble Mountain peninsula.

(1443) (2) East Arm Entrance waters, defined as waters north of an imaginary line drawn from the southernmost point of Sebree Island to the northernmost point of Sturgess Island, and from there to the westernmost point of the unnamed island south of Puffin Island (that comprises the south shore of North Sandy Cove); and south of an imaginary line drawn from Caroline Point across the northernmost point of Garforth Island to shore.

(1444) (3) Russell Island Passage waters, defined as waters enclosed by imaginary lines drawn from: the easternmost point of Russell Island due east to shore, and from the westernmost point of Russell Island due north to shore.

(1445) (C) The superintendent may designate temporary whale waters and impose motor vessel speed restriction in whale waters. Maps of temporary whale waters and notice of vessel speed restrictions imposed pursuant to this paragraph (b)(3)(iv)(C) shall be made available to the public at park offices at Bartlett Cove and Juneau, Alaska, and shall be submitted to the U.S. Coast Guard for publication as a "Notice to Mariners."

(1446) (D) Violation of a whale water restriction is prohibited. The following restrictions apply in designated whale waters:

(1447) (1) Except on vessels actually fishing as otherwise authorized the superintendent or vessels operating solely under sail, while in transit, operators of motor vessels over 18 feet in length will in all cases where the width of the water permits, maintain a distance of at least one nautical mile from shore, and, in narrower areas will navigate in mid-channel: Provided, however, that unless other restrictions apply, operators may perpendicularly approach or land on shore (i.e., by the most direct line to shore) through designated whale waters.

(1448) (2) Motor vessel speed limits established by the superintendent pursuant to paragraph (b)(3)(iv)(C) of this section.

(1449) (v) *Speed restrictions*. (A) May 15 through August 31, in the waters of the lower bay as defined in paragraph (b)(3)(iv)(A)(1) of this section, the following are prohibited:

(1450) (1) Operating a motor vessel at more than 20 knots speed through the water; or

(1451) (2) Operating a motor vessel at more than 10 knots speed through the water, when the superintendent has designated a maximum speed of 10 knots (due to the presence of whales).

(1452) (B) July 1 through August 31, operating a motor vessel on Johns Hopkins Inlet south of 58°54.2'N. latitude (an imaginary line running approximately due west from Jaw Point) at more than 10 knots speed through the water is prohibited.

(1453) (vi) *Closed waters, islands and other areas*. The following are prohibited:

(1454) (A) Operating a vessel or otherwise approaching within 100 yards of South Marble Island; or Flapjack Island; or any of the three small unnamed islets approximately one nautical mile southeast of Flapjack Island; or Eider Island; or Boulder Island; or Geikie Rock; or

lone Island; or the northern three-fourths of Leland Island (north of 58°39.1'N. latitude; or any of the four small unnamed islands located approximately one nautical mile north (one island), and 1.5 nautical miles east (three islands) of the easternmost point of Russell Island; or Graves Rocks (on the outer coast); or Cormorant Rock, or any adjacent rock, including all of the near-shore rocks located along the outer coast, for a distance of 1½ nautical miles, southeast form the mouth of Lituya Bay; or the surf line along the outer coast, for a distance of 1½ nautical miles northwest of the mouth of the glacial river at Cape Fairweather.

(1455) (B) Operating a vessel or otherwise approaching within 100 yards of a Steller (northern) sea lion (Eumetopias jubatus) hauled-out on land or a rock or a nestling seabird colony: Provided, however, that vessels may approach within 50 yards of that part of South Marble Island lying south of 58°38.6'N. latitude (approximately the southern one-half of South Marble Island) to view seabirds.

(1456) (C) May 1 through August 31, operating a vessel, or otherwise approaching within ¼ nautical mile of, Spider Island or any of the four small islets lying immediately west of Spider Island.

(1457) (D) May 1 through August 31, operating a cruise ship on Johns Hopkins Inlet waters south of 58°54.2'N. latitude (an imaginary line running approximately due west from Jaw Point).

(1458) (E) May 1 through June 30, operating a vessel or a seaplane on Johns Hopkins Inlet waters south of 58°54.2'N. latitude (an imaginary line running approximately due west from Jaw Point).

(1459) (F) July 1 through August 31, operating a vessel or seaplane on Johns Hopkins Inlet waters south of 58°54.2'N. latitude (an imaginary line running approximately due west from Jaw Point), within ¼ nautical mile of a seal hauled out on ice; except when safe navigation requires, and them with due care to maintain the ¼ nautical mile distance from concentrations of seals.

(1460) (G) Restrictions imposed in this paragraph (b)(3)(vi) are minimum distances. Park visitors are advised that protection of park wildlife may require that visitors maintain greater distances from wildlife. See, 36 CFR 2.2 (Wildlife protection).

(1461) (vii) *Closed waters, motor vessels and seaplanes*. (A) May 1 through September 15, operating a motor vessel or a seaplane on the following water is prohibited:

(1462) (1) Adams Inlet, east of 135°59.2'W. longitude (an imaginary line running approximately due north and south through the charted (5) obstruction located approximately 2¼ nautical miles east of Pt. George).

(1463) (2) Rendu Inlet, north of the wilderness boundary of the mouth of the inlet.

(1464) (3) Hugh Miller complex, including Scidmore Bay and Charpentier Inlet, west of the wilderness boundary at the mouth of the Hugh Miller Inlet.

(1465) (4) Waters within the Beardslee Island group (except the Beardslee Entrance), that is defined by an imaginary line running due west from shore to the easternmost point of Lester Island, then along the south shore of Lester Island to its western end, then to the southernmost point of Young Island, then north along the west shore and east along the north shore of Young Island to its northernmost point, them at a bearing of 15° true to imaginary point located one nautical mile due east of the easternmost point of Strawberry Island, then at a bearing of 345° true to the northernmost of Flapjack island, then at a bearing of 81° true to the northernmost point of the unnamed island immediately to the east of Flapjack Island, then southeasterly to the northernmost point of the next unnamed island, then southeasterly along the (Beartrack Cove) shore of that island to its easternmost point, then due east to shore.

(1466) (B) June 1 through July 15, operating a motor vessel or a seaplane on the waters of Muir Inlet north of 59°02.7'N. latitude (an imaginary line running approximately due west from the point of land on the east shore approximately 1 nautical mile north of the McBride Glacier) is prohibited.

(1467) (C) July 16 through August 31, operating a motor vessel or a seaplane on the waters of Wachusett Inlet west of 136°12.0'W. longitude (an imaginary line running approximately due north from the point of land on the south shore of Wachusett Inlet approximately 2¼ nautical miles west of Rowlee Point) is prohibited.

(1468) (viii) *Noise restrictions*. June 1 through August 31, except on vessels in transit or as otherwise permitted by the superintendent, the use of generations or other non-propulsive motors (except a windless) is prohibited from 10:00 p.m. until 6:00 a.m. in Reid Inlet, Blue Mouse Cove and North Sandy Cove.

(1469) (ix) *Other restrictions*. Notwithstanding any other provisions of this part, due to the rapidly emerging and changing ecosystems of, and for the protection of wildlife in Glacier Bay National Park and preserve, including but not limited to whales, seals, sea lions, nesting birds and molting waterfowl:

(1470) (A) Pursuant to §§1.5 and 1.6 of this chapter, the superintendent may establish, designate, implement and enforce restrictions and public use limits and terminate such restrictions and public use limits.

(1471) (B) The public shall be notified of restrictions or public use limits imposed under this paragraph (b)(3)(ix) and the termination or relaxation of such, in

accordance with §1.7 of this chapter, and by submission to the U.S. Coast Guard for publication as a "Notice to Mariners," where appropriate.

(1472) (C) The superintendent shall make rules for the safe and equitable use of Bartlett Cove waters and for park docks. The public shall be notified of these rules by the posting of a sign or a copy of the rules at the dock. Failure to obey a sign or posted rule is prohibited.

(1473) (x) Closed waters and islands within Glacier Bay as described in paragraphs (b)(3)(iv) through (vii) of this section are described as depicted on NOAA Chart #17318 GLACIER BAY (4th Ed., Mar. 6/93) available to the public at park offices at Bartlett Cove and Juneau, Alaska.

(1474) (xi) Paragraphs (b)(3) (i) through (iii) of this section do not apply to a vessel being used in connection with federally permitted whale research or monitoring: other closures and restrictions in this paragraph (b)(3) do not apply to authorized persons conducting emergency or law enforcement operations, research or resource management, park administration/supply, or other necessary patrols.

(1475) (4) *Marine vessel visible emission standards*. Visible emissions from a marine vessel, excluding condensed water vapor, may not result in a reduction of visibility through the exhaust effluent of greater than 20 percent for a period or periods aggregating more than:

(1476) (i) Three minutes in any one hour while underway, at berth, or at anchor; or

(1477) (ii) Six minutes in any one hour during initial startup of diesel-driven vessels; or

(1478) (iii) 12 minutes in one hour while anchoring, berthing, getting underway or maneuvering in Bartlett Cove.

(1479) (5)-(6) [Reserved]

(1480) (7) The information collection requirements contained in paragraph (b)(3) of this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1024-0016. The information is being collected to allow the Superintendent to issue permits to allow vessels into Glacier Bay during the whale season. This information will be used to grant administration benefits.

TITLE 50-WILDLIFE AND FISHERIES

Part 224–Endangered Marine and Anadromous Species

§224.103 Special prohibitions for endangered marine mammals.

(1481) (b) *Approaching humpback whales in Alaska*–(1) *Prohibitions*. Except as provided under paragraph (b)(2) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, within 200 nautical miles (370.4 km) of Alaska, or within inland waters of the state, any of the acts in paragraphs (b)(1)(i) through (b)(1)(iii) of this section with respect to humpback whales (*Megaptera novaeangliae*):

(1482) (i) Approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale so that the whale surfaces within 100 yards (91.4 m) of the vessel), within 100 yards (91.4 m) of any humpback whale;

(1483) (ii) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(1484) (iii) Disrupt the normal behavior or prior activity of a whale by any other act or omission, as described in paragraph (a)(4) of this section.

(1485) (2) *Exceptions*. The following exceptions apply to this paragraph (b), but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(1486) (i) Paragraph (b)(1) of this section does not apply if an approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(1487) (ii) Paragraph (b)(1) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (b)(1) of this section.

(1488) (iii) Paragraph (b)(1) of this section does not apply to commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this paragraph (b), commercial fishing means taking or harvesting fish or fishery resources to sell, barter, or trade. Commercial fishing does not include commercial passenger fishing operations (i.e. charter operations or sport fishing activities).

(1489) (iv) Paragraph (b)(1) of this section does not apply to state, local, or Federal government vessels operating in the course of official duty.

(1490) (v) Paragraph (b)(1) of this section does not affect the rights of Alaska Natives under 16 U.S.C. 1539(e).

(1491) (vi) These regulations shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.65 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(1492) (3) *General measures*. Notwithstanding the prohibitions and exceptions in paragraphs (b)(1) and (2) of this section, to avoid collisions with humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. "Safe speed" has the same meaning as the term is defined in 33 U.S.C. 2006 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602), with respect to avoiding collisions with humpback whales.