# 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 15 (15 CFR): Commerce and Foreign Trade**

(3) Part 922, National Marine Sanctuary Program Regulations

**Title 33 (33 CFR): Navigation and Navigable Waters**

(4) Part 26, Vessel Bridge-to-Bridge Radiotelephone Regulations

(5) Part 70, Interference with or Damage to Aids to Navigation

(6) Part 80, COLREGS Demarcation Lines

(7) Part 110, Anchorage Regulations

(8) Part 117, Drawbridge Operation Regulations

(9) Part 157, Rules for the Protection of the Marine Environment relating to Tank Vessels Carrying Oil in Bulk

(10) Part 160, Ports and Waterways Safety-General

(11) Part 162, Inland Waterways Navigation Regulations

(12) Part 164, Navigation Safety Regulations (in part)

(13) Part 165, Regulated Navigation Areas and Limited Access Areas

(14) Part 167, Offshore Traffic Separation Schemes

(15) Part 169, Mandatory Ship Reporting Systems

(16) Part 207, Navigation Regulations

(17) Part 334, Danger Zones and Restricted Area Regulations

**Title 40 (40 CFR): Protection of Environment**

(18) Part 140, Marine Sanitation Device Standard

**Title 50 (50 CFR): Wildlife and Fisheries**

(19) Part 222, General Endangered and Threatened Marine Species

(20) Part 224, Endangered Marine and Anadromous Species

(21) Part 226, Designated Critical Habitat

**Note**

(22) 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:

(23) **National Oceanic and Atmospheric Administration:** (15 CFR 922);

(24) **U.S. Coast Guard:** (33 CFR 26, 80, 110, 117, 157, 160, 162, 164, 165, 167, and 169);

(25) **U.S. Army Corps of Engineers:** (33 CFR 207 and 334);

(26) **Environmental Protection Agency:** (40 CFR 140);

(27) **National Marine Fisheries Service, National Oceanic and Atmospheric Administration:** (50 CFR 222, 224, and 226).

## TITLE 15–COMMERCE AND FOREIGN TRADE

## Part 922–National Marine Sanctuary Program Regulations

## Subpart A–General

**§922.1 Applicability of regulations.**

(28) Unless noted otherwise, the regulations in subparts A, D and E apply to all thirteen National Marine Sanctuaries for which site specific regulations appear in Subparts F through R, respectively. Subparts B and C apply to the site evaluation list and to the designation of future Sanctuaries.

**§922.2 Mission, goals, and special policies.**

(29) (a) In accordance with the standards set forth in title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, also known as the National Marine Sanctuaries Act (Act) the mission of the National Marine Sanctuary program (Program) is to identify, designate and manage areas of the marine environment of special national, and in some cases international, significance due to their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

(30) (b) The goals of the Program are to carry out the mission to:

(31) (1) Identify and designate as National Marine Sanctuaries areas of the marine environment which are of special national significance;

(32) (2) Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(33) (3) Support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

(34) (4) Enhance public awareness, understanding, appreciation, and wise use of the marine environment;

(35) (5) Facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(36) (6) Develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(37) (7) Create models of, and incentives for, ways to conserve and manage these areas;

(38) (8) Cooperate with global programs encouraging conservation of marine resources; and

(39) (9) Maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.

(40) (c) To the extent consistent with the policies set forth in the Act, in carrying out the Program's mission and goals:

(41) (1) Particular attention will be given to the establishment and management of marine areas as National Marine Sanctuaries for the protection of the area's natural resource and ecosystem values; particularly for ecologically or economically important or threatened species or species assemblages, and for offshore areas where there are no existing special area protection mechanisms;

(42) (2) The size of a National Marine Sanctuary, while highly dependent on the nature of the site's resources, will be no larger than necessary to ensure effective management;

(43) (d) Management efforts will be coordinated to the extent practicable with other countries managing marine protected areas;

(44) (e) Program regulations, policies, standards, guidelines, and procedures under the Act concerning the identification, evaluation, registration, and treatment of historical resources shall be consistent, to the extent practicable, with the declared national policy for the protection and preservation of these resources as stated in the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., the Archeological and Historical Preservation Act of 1974, 16 U.S.C. 469 et seq., and the Archeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. 470aa et seq. The same degree of regulatory protection and preservation planning policy extended to historical resources on land shall be extended, to the extent practicable, to historical resources in the marine environment within the boundaries of designated National Marine Sanctuaries. The management of historical resources under the authority of the Act shall be consistent, to the extent practicable, with the Federal archeological program by consulting the Uniform Regulations, ARPA (43 CFR part 7) and other relevant Federal regulations. The Secretary of the Interior's Standards and Guidelines for Archeology may also be consulted for guidance. These guidelines are available from the Office of Ocean and Coastal Management at (301) 713-3125.

**§922.3 Definitions.**

(45) Act means title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 et seq., also known as the National Marine Sanctuaries Act.

(46) Active Candidate means a site selected by the Secretary from the Site Evaluation List for further consideration for possible designation as a National Marine Sanctuary.

(47) Assistant Administrator means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), or designee.

(48) Benthic community means the assemblage of organisms, substrate, and structural formations found at or near the bottom that is periodically or permanently covered by water.

(49) Commercial fishing means any activity that results in the sale or trade for intended profit of fish, shellfish, algae, or corals.

(50) Conventional hook and line gear means any fishing apparatus operated aboard a vessel and composed of a single line terminated by a combination of sinkers and hooks or lures and spooled upon a reel that may be hand or electrically operated, hand-held or mounted. This term does not include bottom longlines.

(51) Cultural resources means any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

(52) Director means, except where otherwise specified, the Director of the Office of Ocean and Coastal Resource Management, NOAA, or designee.

(53) Exclusive economic zone means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act, 16 U.S. 1801 et seq.

(54) Fish wastes means waste materials resulting from commercial fish processing operations.

(55) Historical resource means any resource possessing historical, cultural, archaeological or paleontological significance, including sites, contextual information, structures, districts, and objects significantly associated

with or representative of earlier people, cultures, maritime heritage, and human activities and events. Historical resources include "submerged cultural resources", and also include "historical properties", as defined in the National Historic Preservation Act, as amended, and its implementing regulations, as amended.

(56) Indian tribe means any American Indian tribe, band, group, or community recognized as such by the Secretary of the Interior.

(57) Injure means to change adversely, either in the long or short term, a chemical, biological or physical attribute of, or the viability of. This includes, but is not limited to, to cause the loss of or destroy.

(58) Lightering means at-sea transfer of petroleum-based products, materials or other matter from vessel to vessel.

(59) Marine means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law.

(60) Mineral means clay, stone, sand, gravel, metalliferous ore, non-metalliferous ore, or any other solid material or other matter of commercial value.

(61) National historic landmark means a district, site, building, structure or object designated as such by the Secretary of the Interior under the National Historic Landmarks Program (36 CFR part 65).

(62) National Marine Sanctuary means an area of the marine environment of special national significance due to its resource or human-use values, which is designated as such to ensure its conservation and management.

(63) Person means any private individual, partnership, corporation or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(64) Regional Fishery Management Council means any fishery council established under section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.

(65) Sanctuary quality means any of those ambient conditions, physical-chemical characteristics and natural processes, the maintenance of which is essential to the ecological health of the Sanctuary, including, but not limited to, water quality, sediment quality and air quality.

(66) Sanctuary resource means any living or non-living resource of a National Marine Sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the Sanctuary, including, but not limited to, the substratum of the area of the Sanctuary, other submerged features and the surrounding seabed, carbonate rock, corals and other bottom formations, coralline algae and other marine plants and algae, marine invertebrates, brine-seep biota, phytoplankton, zooplankton, fish, seabirds, sea turtles and other marine reptiles, marine mammals and historical resources.

(67) Secretary means the Secretary of the United States Department of Commerce, or designee.

(68) Shunt means to discharge expended drilling cuttings and fluids near the ocean seafloor.

(69) Site Evaluation List (SEL) means a list of selected natural and historical resource sites selected by the Secretary as qualifying for further evaluation for possible designation as National Marine Sanctuaries.

(70) State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

(71) Subsistence use means the customary and traditional use by rural residents of areas near or in the marine environment for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles; and for barter, if for food or non-edible items other than money, if the exchange is of a limited and non-commercial nature.

(72) Take or taking means:

(73) (1) For any marine mammal, sea turtle, or seabird listed as either endangered or threatened pursuant to the Endangered Species Act, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct;

(74) (2) For any other marine mammal, sea turtle, or seabird, to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct.

(75) For the purpose of both (1) and (2) of this definition, this includes, but is not limited to, to collect any dead or injured marine mammal, sea turtle or seabird, or any part thereof; to restrain or detain any marine mammal, sea turtle or seabird, or any part thereof, no matter how temporarily; to tag any sea turtle, marine mammal or seabird; to operate a vessel or aircraft or to do any other act that results in the disturbance or molestation of any marine mammal, sea turtle or seabird.

(76) Tropical fish means fish or minimal sport and food value, usually brightly colored, often used for aquaria purposes and which lives in a direct relationship with live bottom communities.

(77) Vessel means a watercraft of any description capable of being used as a means of transportation in/on the waters of the Sanctuary.

**§922.4 Effect of National Marine Sanctuary designation.**

(78) The designation of a National Marine Sanctuary, and the regulations implementing it, are binding on any person subject to the jurisdiction of the United States. Designation does not constitute any claim to territorial jurisdiction on the part of the United States for designated sites beyond the U.S. territorial sea, and

the regulations implementing the designation shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with:

(79) (a) Generally recognized principles of international law;

(80) (b) An agreement between the United States and the foreign state of which the person is a citizen; or

(81) (c) An agreement between the United States and the flag state of the foreign vessel, if the person is a crew member of the vessel.

## Subpart D–Management Plan Development and Implementation

### §922.30 General.

(82) (a) The Secretary shall implement each management plan, and applicable regulations, including carrying out surveillance and enforcement activities and conducting such research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of the Act.

(83) (b) Consistent with Sanctuary management plans, the Secretary shall develop and implement site-specific contingency and emergency-response plans designed to protect Sanctuary resources. The plans shall contain alert procedures and actions to be taken in the event of an emergency such as a shipwreck or an oil spill.

### §922.31 Promotion and coordination of Sanctuary use.

(84) The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of National Marine Sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, or other persons to promote use of one or more Sanctuaries for research, monitoring and education, including coordination with the National Estuaries Research Reserve System.

## Subpart E–Regulations of General Applicability

### §922.40 Purpose.

(85) The purpose of the regulations in this subpart and in subparts F through R is to implement the designations of the thirteen National Marine Sanctuaries for which site specific regulations appear in subparts F through R, respectively, by regulating activities affecting them, consistent with their respective terms of designation in order to protect, preserve and manage and thereby ensure the health, integrity and continued availability of the conservation, ecological, recreational, research, educational, historical and aesthetic resources and qualities of these areas. Additional purposes of the regulations implementing the designation of the Florida Keys and Hawaiian Islands Humpback Whale National Marine Sanctuaries are found at §§922.160, and 922.180, respectively.

### §922.41 Boundaries.

(86) The boundary for each of the thirteen National Marine Sanctuaries covered by this part is described in subparts F through R, respectively.

### §922.42 Allowed Activities.

(87) All activities (e.g., fishing, boating, diving, research, education) may be conducted unless prohibited or otherwise regulated in subparts F through R, subject to any emergency regulations promulgated pursuant to §§922.44, 922.111(c), 922.186, or 922.196, subject to all prohibitions, regulations, restrictions, and conditions validly imposed by any Federal, State, or local authority of competent jurisdiction, including Federal and State fishery management authorities, and subject to the provisions of section 312 of the National Marine Sanctuaries Act (NMSA), (16 U.S.C. 1431 et seq.). The Assistant Administrator may only directly regulate fishing activities pursuant to the procedure set forth in section 304(a)(5) of the NMSA.

### §922.43 Prohibited or otherwise regulated activities.

(88) Subparts F through R set forth site-specific regulations applicable to the activities specified therein.

### §922.44 Emergency Regulations.

(89) Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all such activities are subject to immediate temporary regulation, including prohibition. The provisions of this section do not apply to the Cordell Bank, Florida Keys, Hawaiian Islands Humpback Whale, Thunder Bay National Marine Sanctuaries. See §§922.111(c), 922.165, and 922.186, 922.196, respectively, or the authority to issue emergency regulations with respect to those sanctuaries.

### §922.45 Penalties.

(90) (a) Each violation of the NMSA or FKNMSPA, any regulation in this part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than $100,000. Each day of a continuing violation constitutes a separate violation.

(91) (b) Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions, and denials for enforcement reasons, issuance and use of written warnings, and

release or forfeiture of seized property appear at 15 CFR part 904.

**§922.46 Response costs and damages.**

(92) Under section 312 of the Act, any person who destroys, causes the loss of, or injures any Sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss or injury, and any vessel used to destroy, cause the loss of, or injure any Sanctuary resource is liable in rem to the United States for response costs and damages resulting from such destruction, loss or injury.

**§922.47 Pre-existing authorizations or rights and certifications of pre-existing authorizations or rights.**

(93) (a) Leases, permits, licenses, or rights of subsistence use or access in existence on the date of designation of any National Marine Sanctuary shall not be terminated by the Director. The Director may, however, regulate the exercise of such leases, permits, licenses, or rights consistent with the purposes for which the Sanctuary was designated.

(94) (b) The prohibitions listed in subparts F through P of this part do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in this subpart P, and issued by any Federal, State or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in subpart P, provided that the holder of such authorization or right complies with certification procedures and criteria promulgated at the time of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in subpart P, and with any terms and conditions on the exercise of such authorization or right imposed by the Director as a condition of certification as the Director deems necessary to achieve the purposes for which the Sanctuary was designated.

**§922.48 National Marine Sanctuary permits-application procedures and issuance criteria.**

(95) (a) A person may conduct an activity prohibited by subparts F through O, if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subparts F through O, as appropriate. For the Florida Keys National Marine Sanctuary, a person may conduct an activity prohibited by subpart P if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under §922.166. For the Thunder Bay National Marine Sanctuary and Underwater Preserve, a person may conduct an activity prohibited by Subpart R in accordance with the scope, purpose, terms and conditions of a permit issued §922.195.

(96) (b) Applications for permits to conduct activities otherwise prohibited by subparts F through O should be addressed to the Director and sent to the address specified in subparts F through O, or subpart R, as appropriate. An application must include:

(97) (1) A detailed description of the proposed activity including a timetable for completion:

(98) (2) The equipment, personnel and methodology to be employed;

(99) (3) The qualifications and experience of all personnel;

(100) (4) The potential effects of the activity, if any, on Sanctuary resources and qualities; and

(101) (5) Copies of all other required licenses, permits, approvals or other authorizations.

(102) (c) Upon receipt of an application, the Director may request such additional information from the applicant as he or she deems necessary to act on the application and may seek the views of any persons or entity, within or outside the Federal government, and may hold a public hearing, as deemed appropriate.

(103) (d) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct a prohibited activity, in accordance with the criteria found in subparts F through O, or subpart R, as appropriate. The Director shall further impose, at minimum, the conditions set forth in the relevant subpart.

(104) (e) A permit granted pursuant to this section is nontransferable.

(105) (f) The Director may amend, suspend, or revoke a permit issued pursuant to this section for good cause. The Director may deny a permit application pursuant to this section, in whole or in part, if it is determined that the permittee or applicant has acted in violation of the terms and conditions of a permit or of the regulations set forth in this section or subparts F through O, subpart R or for other good cause. Any such action shall be communicated in writing to the permittee or applicant by certified mail and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

**§922.49 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.**

(106) (a) A person may conduct an activity prohibited by subparts L through P, or subpart R, if such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary after the effective date of the regulations in subpart P, provided that:

(107) (1) The applicant notifies the Director, in writing, of the application for such authorization (and of any application for an amendment, renewal, or extension of such authorization) within fifteen (15) days of the date of filing of the application or the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in subpart P, whichever is later;

(108) (2) The applicant complies with the other provisions of this §922.49;

(109) (3) The Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization (or amendment, renewal, or extension); and

(110) (4) The applicant complies with any terms and conditions the Director deems reasonably necessary to protect Sanctuary resources and qualities.

(111) (b) Any potential applicant for an authorization described in paragraph (a) of this section may request the Director to issue a finding as to whether the activity for which an application is intended to be made is prohibited by subpart L through P, or subpart R, as appropriate.

(112) (c) Notification of filings of applications should be sent to the Director, Office of Ocean and Coastal Resource Management at the address specified in subparts L through P, or subpart R, as appropriate. A copy of the application must accompany the notification.

(113) (d) The Director may request additional information from the applicant as he or she deems reasonably necessary to determine whether to object to issuance of an authorization described in paragraph (a) of this section, or what terms and conditions are reasonably necessary to protect Sanctuary resources and qualities. The information requested must be received by the Director within 45 days of the postmark date of the request. The Director may seek the views of any persons on the application.

(114) (e) The Director shall notify, in writing, the agency to which application has been made of his or her pending review of the application and possible objection to issuance. Upon completion of review of the application and information received with respect thereto, the Director shall notify both the agency and applicant, in writing, whether he or she has an objection to issuance and what terms and conditions he or she deems reasonably necessary to protect Sanctuary resources and qualities, and reasons therefor.

(115) (f) The Director may amend the terms and conditions deemed reasonably necessary to protect Sanctuary resources and qualities whenever additional information becomes available justifying such an amendment.

(116) (g) Any time limit prescribed in or established under this §922.49 may be extended by the Director for good cause.

(117) (h) The applicant may appeal any objection by, or terms or conditions imposed by, the Director to the Assistant Administrator or designee in accordance with the provisions of §922.50.

**§922.50 Appeals of administrative action.**

(118) (a)(1) Except for permit actions taken for enforcement reasons (see subpart D of 15 CFR part 904 for applicable procedures), an applicant for, or a holder of, a National Marine Sanctuary permit; an applicant for, or a holder of, a Special Use permit pursuant to section 310 of the Act; a person requesting certification of an existing lease, permit, license or right of subsistence use or access under §922.47; or, for those Sanctuaries described in subparts L through P and subpart R, an applicant for a lease, permit, license or other authorization issued by any Federal, State, or local authority of competent jurisdiction (hereinafter appellant) may appeal to the Assistant Administrator:

(119) (i) The granting, denial, conditioning, amendment, suspension or revocation by the Director of a National Marine Sanctuary or Special Use permit;

(120) (ii) The conditioning, amendment, suspension or revocation of a certification under §922.47; or

(121) (iii) For those Sanctuaries described in subparts L through P and subpart R, the objection to issuance of or the imposition of terms and conditions on a lease, permit, license or other authorization issued by any Federal, State, or local authority of competent jurisdiction.

(122) (2) For those National Marine Sanctuaries described in subparts F through K, any interested person may also appeal the same actions described in §922.50(a)(1)(i) and (ii). For appeals arising from actions taken with respect to these National Marine Sanctuaries, the term "appellant" includes any such interested persons.

(123) (b) An appeal under paragraph (a) of this section must be in writing, state the action(s) by the Director appealed and the reason(s) for the appeal, and be received within 30 days of receipt of notice of the action by the Director. Appeals should be addressed to the Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA 1305 East-West Highway, 13th Floor, Silver Spring, MD 20910.

(124) (c)(1) The Assistant Administrator may request the appellant to submit such information as the Assistant Administrator deems necessary in order for him or her to decide the appeal. The information requested must be received by the Assistant Administrator within 45 days of the postmark date of the request. The Assistant Administrator may seek the views of any other persons. For the Monitor National Marine Sanctuary, if the appellant has requested a hearing, the Assistant Administrator shall grant an informal hearing. For all other National Marine Sanctuaries, the Assistant Administrator may determine whether to hold an informal hearing on the appeal. If the Assistant Administrator determines that an informal hearing should be held, the Assistant Administrator may designate an officer before whom the hearing shall be held.

(125) (2) The hearing officer shall give notice in the **Federal Register** of the time, place and subject matter of the hearing. The appellant and the Director may appear

personally or by counsel at that hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record for the hearing closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator.

(126) (d) The Assistant Administrator shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the Director and any information submitted regarding the appeal, and, if a hearing has been held, on the record before the hearing officer and the hearing officer's recommended decision. The Assistant Administrator shall notify the appellant of the final decision and the reason(s) therefore in writing. The Assistant Administrator's decision shall constitute final agency action for the purpose of the Administrative Procedure Act.

(127) (e) Any time limit prescribed in or established under this section other than the 30-day limit for filing an appeal may be extended by the Assistant Administrator or hearing office for good cause.

## Subpart F–Monitor National Marine Sanctuary

### §922.60 Boundary.

(128) The Monitor National Marine Sanctuary (Sanctuary) consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 35°00'23"N. and 75°24'32"W.

### §922.61 Prohibited or otherwise regulated activities.

(129) Except as may be permitted by the Director, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

(130) (a) Anchoring in any manner, stopping, remaining, or drifting without power at any time;

(131) (b) Any type of subsurface salvage or recovery operation;

(132) (c) Diving of any type, whether by an individual or by a submersible;

(133) (d) Lowering below the surface of the water any grappling, suction, conveyor, dredging or wrecking device;

(134) (e) Detonating below the surface of the water any explosive or explosive mechanism;

(135) (f) Drilling or coring the seabed;

(136) (g) Lowering, laying, positioning or raising any type of seabed cable or cable-laying device;

(137) (h) Trawling; or

(138) (i) Discharging waster material into the water in violation of any Federal statute or regulation.

### §922.62 Permit procedure and criteria.

(139) (a) Any person or entity may conduct in the Sanctuary any activity listed in §922.61 if such activity is either: (1) For the purpose of research related to the Monitor, or (2) Pertains to salvage or recovery operations in connection with an air or marine casualty and such person or entity is in possession of a valid permit issued by the Director authorizing the conduct of such activity; except that, no permit is required for the conduct of any activity immediately and urgently necessary for the protection of life, property or the environment.

(140) (b) Any person or entity who wishes to conduct in the Sanctuary an activity for which a permit is authorized by this section (hereafter a permitted activity) may apply in writing to the Director for a permit to conduct such activity citing this section as the basis for the application. Such application should be made to: Director, Office of Ocean and Coastal Resource Management; ATTN: Manager, Monitor National Marine Sanctuary, Building 1519, NOAA, Fort Eustis, VA 23604-5544.

(141) (c) In considering whether to grant a permit for the conduct of a permitted activity for the purpose of research related to the Monitor, the Secretary shall evaluate such matters as:

(142) (1) The general professional and financial responsibility of the applicant;

(143) (2) The appropriateness of the research method(s) envisioned to the purpose(s) of the research;

(144) (3) The extent to which the conduct of any permitted activity may diminish the value of the MONITOR as a source of historic, cultural, aesthetic and/or maritime information;

(145) (4) The end value of the research envisioned; and

(146) (5) Such other matters as the Director deems appropriate.

(147) (d) In considering whether to grant a permit for the conduct of a permitted activity in the Sanctuary in relation to an air or marine casualty, the Director shall consider such matters as:

(148) (1) The fitness of the applicant to do the work envisioned;

(149) (2) The necessity of conducting such activity;

(150) (3) The appropriateness of any activity envisioned to the purpose of the entry into the Sanctuary;

(151) (4) The extent to which the conduct of any such activity may diminish the value of the Monitor as a source of historic, cultural, aesthetic and/or maritime information; and

(152) (5) Such other matters as the Director deems appropriate.

(153) (e) In considering any application submitted pursuant to this section, the Director shall seek and consider the views of the Advisory Council on Historic Preservation.

(154) (f) The Director may observe any activity permitted by this section; and/or may require the submission of one or more reports of the status or progress of such activity.

## Subpart I-Gray's Reef National Marine Sanctuary

### §922.90 Boundary.

(155) The Gray's Reef National Marine Sanctuary (Sanctuary) consists of approximately 16.68 square nautical miles of ocean waters and the submerged lands thereunder, off the coast of Georgia. The Sanctuary boundary includes all waters and submerged lands within the geodetic lines connecting the following coordinates:

(156) Datum: NAD83

(157) Geographic Coordinate System

(158) (1) N 31.362732 degrees W 80.921200 degrees

(159) (2) N 31.421064 degrees W 80.921201 degrees

(160) (3) N 31.421064 degrees W 80.828145 degrees

(161) (4) N 31.362732 degrees W 80.828145 degrees

(162) (5) N 31.362732 degrees W 80.921200 degrees

### §922.91 Definitions.

(163) In addition to those definitions found at §922.3, the following definitions apply to this subpart:

(164) Handline means fishing gear that is set and pulled by hand and consists of one vertical line to which may be attached leader lines with hooks.

(165) Rod and reel means a rod and reel unit that is not attached to a vessel, or, if attached, is readily removable, from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel manually or electrically.

(166) Stowed and not available for immediate use means not readily accessible for immediate use, e.g., by being securely covered and lashed to a deck or bulkhead, tied down, unbaited, unloaded, partially disassembled, or stowed for transit.

### §922.92 Prohibited or otherwise regulated activities.

(167) (a) Except as specified in paragraphs (b) through (d) of this section and in §922.94 regarding additional prohibitions in the research area, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

(168) (1) Dredging, drilling into, or otherwise altering in any way the submerged lands of the Sanctuary (including bottom formations).

(169) (2) Constructing any structure other than a navigation aid, or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands of the Sanctuary.

(170) (3) Discharging or depositing any material or other matter except:

(171) (i) Fish or fish parts, bait, or chumming materials;

(172) (ii) Effluent from marine sanitation devices; and

(173) (iii) Vessel cooling water.

(174) (4) Operating a watercraft other than in accordance with the Federal rules and regulations that would apply if there were no Sanctuary.

(175) (5)(i) Injuring, catching, harvesting, or collecting, or attempting to injure, catch, harvest, or collect, any marine organism, or any part thereof, living or dead, within the Sanctuary by any means except by use of rod and reel, and handline gear;

(176) (ii) There shall be a rebuttable presumption that any marine organism or part thereof referenced in this paragraph found in the possession of a person within the Sanctuary has been collected from the Sanctuary.

(177) (6) Using any fishing gear within the Sanctuary except rod and reel, and handline gear, or for law enforcement purposes.

(178) (7) Using underwater any explosives, or devices that produce electric charges underwater.

(179) (8) Breaking, cutting, damaging, taking, or removing any bottom formation.

(180) (9) Moving, removing, damaging, or possessing, or attempting to move, remove, damage, or possess, any Sanctuary historical resource.

(181) (10) Anchoring any vessel in the Sanctuary, except as provided in §922.92 when responding to an emergency threatening life, property, or the environment.

(182) (11) Possessing or carrying any fishing gear within the Sanctuary except:

(183) (i) Rod and reel, and handline gear;

(184) (ii) Fishing gear other than rod and reel, handline gear, and spearfishing gear, provided that it is stowed on a vessel and not available for immediate use;

(185) (iii) Spearfishing gear provided that it is stowed on a vessel, not available for immediate use, and the vessel is passing through the Sanctuary without interruption; and

(186) (iv) For law enforcement purposes.

(187) (b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section and §922.94. The exemption of additional activities having significant impacts shall be determined in consultation between the Director and the Department of Defense.

(188) (c) The prohibitions in this section and in §922.94 do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.93.

(189) (d) The prohibitions in this section and in §922.94 do not apply to any activity necessary to respond to an emergency threatening life, property, or the environment.

### §922.93 Permit procedures and criteria.

(190) (a) A person may conduct an activity prohibited by §922.92(a)(1) through (10) and §922.94 if conducted in accordance within the scope, purpose, manner, terms

and conditions of a permit issued under this section and §922.48.

(191) (b) Applications for such permits should be addressed to the Director, National Marine Sanctuary Program, ATTN: Manager, Gray's Reef National Marine Sanctuary, 10 Ocean Science Circle, Savannah, GA 31411.

(192) (c) The Director, at his or her discretion may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by §922.92(a)(1) through (10). The Director must also find that the activity will:

(193) (1) Further research related to the resources and qualities of the Sanctuary;

(194) (2) Further the educational, natural, or historical resource value of the Sanctuary;

(195) (3) Further salvage or recovery operations in connection with a recent air or marine casualty; or

(196) (4) Assist in managing the Sanctuary.

(197) (d) The Director shall not issue a permit unless the Director also finds that:

(198) (1) The applicant is professionally qualified to conduct and complete the proposed activity;

(199) (2) The applicant has adequate financial resources available to conduct and complete the proposed activity;

(200) (3) The duration of the proposed activity is no longer than necessary to achieve its state purpose;

(201) (4) The methods and procedures proposed by the applicant are appropriate to achieve the proposed activity's goals in relation to the activity's impacts on Sanctuary resources and qualities;

(202) (5) The proposed activity will be conducted in a manner compatible with Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any indirect, secondary or cumulative effects of the activity, and the duration of such effects;

(203) (6) The proposed activity will be conducted in a manner compatible with the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary, and the duration of such effects;

(204) (7) It is necessary to conduct the proposed activity within the Sanctuary to achieve its purposes;

(205) (8) The reasonably expected end value of the activity to the furtherance of Sanctuary goals and purposes outweighs any potential adverse impacts on Sanctuary resources and qualities from the conduct of the activity; and

(206) (9) There are no other factors that make the issuance of a permit for the activity inappropriate.

(207) (e) It shall be a condition of any permit issued that the permit or a copy thereof be displayed on board all vessels or aircraft used in the conduct of the activity.

(208) (f) The Director shall, inter alia, make it a condition of any permit issued that any data or information obtained under the permit be made available to the public.

(209) (g) The Director may, inter alia, make it a condition of any permit issued to require the submission of one or more reports of the status and progress of such activity.

(210) (h) The Director may, inter alia, make it a condition of any permit issued that a NOAA official be allowed to observe any activity conducted under the permit and/or that the permit holder submit one or more reports on the status, progress or results of any activity authorized by the permit.

**§922.94 Prohibited or otherwise regulated activities—Research area.**

(211) In addition to the prohibitions set out in §922.92, which apply throughout the Sanctuary, the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted within the research area described in Appendix A to this subpart.

(212) (a)(1) Injuring, catching, harvesting, or collecting, or attempting to injure, catch, harvest, or collect, any marine organism, or any part thereof, living or dead.

(213) (2) There shall be a rebuttable presumption that any marine organism or part thereof referenced in this paragraph found in the possession of a person within the research area has been collected from the research area.

(214) (b) Using any fishing gear, or possessing, or carrying any fishing gear unless such gear is stowed and not available for immediate use while on board a vessel transiting through the research area without interruption or for valid law enforcement purposes.

(215) (c) Diving.

(216) (d) Stopping a vessel in the research area.

**Appendix A to Subpart I of Part 922—Boundary Coordinates for the Gray's Reef National Marine Sanctuary Research Area**

(217) [Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

(218) The research area boundary is defined by the coordinates provided in Table 1 and the following textual description. The research area boundary extends from Point 1, the southwest corner of the sanctuary, to Point 2 along a straight line following the western boundary of the Sanctuary. It then extends along a straight line from Point 2 to Point 3, which is on the eastern boundary of GRNMS. The boundary then follows the eastern boundary line of the sanctuary southward until it intersects the line of the southern boundary of GRNMS at Point 4, the southeastern corner of the sanctuary. The last straight line is defined by connecting Point 4 and Point 5, along the southern boundary of the GRNMS.

(219) TABLE 1—COORDINATES FOR THE RESEARCH AREA

(220) (1) 31.362732°N, 80.921200°W

(221) (2) 31.384444°N, 80.921200°W

(222) (3) 31.384444°N, 80.828145°W
(223) (4) 31.362732°N, 80.828145°W
(224) (5) 31.362732°N; 80.921200°W

## Subpart P–Florida Keys National Marine Sanctuary

### §922.160 Purpose.

(225) (a) The purpose of the regulations in this subpart is to implement the comprehensive management plan for the Florida Keys National Marine Sanctuary by regulating activities affecting the resources of the Sanctuary or any of the qualities, values, or purposes for which the Sanctuary is designated, in order to protect, preserve and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In particular, the regulations in this part are intended to protect, restore, and enhance the living resources of the Sanctuary, to contribute to the maintenance of natural assemblages of living resources for future generations, to provide places for species dependent on such living resources to survive and propagate, to facilitate to the extent compatible with the primary objective of resource protection all public and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities, to reduce conflicts between such compatible uses, and to achieve the other policies and purposes of the Florida Keys National Marine Sanctuary and Protection Act and the National Marine Sanctuaries Act.

(226) (b) Section 304(e) of the NMSA requires the Secretary to review management plans and regulations every five years, and make necessary revisions. Upon completion of the five year review of the Sanctuary management plan and regulations, the Secretary will repropose the regulations in their entirety with any proposed changes thereto, including those regulations in subparts A and E of this part that apply to the Sanctuary. The Governor of the State of Florida will have the opportunity to review the reproposed regulations before they take effect and if the Governor certifies such regulations as unacceptable, they will not take effect in State waters of the Sanctuary.

### §922.161 Boundary.

(227) The Sanctuary consists of an area of approximately 2900 square nautical miles (9,800 square kilometers) of coastal and ocean waters, and the submerged lands thereunder, surrounding the Florida Keys in Florida. Appendix I to this subpart sets forth the precise Sanctuary boundary.

### §922.162 Definitions.

(228) (a) The following definitions apply to the Florida Keys National Marine Sanctuary regulations. To the extent that a definition appears in §922.3 and this section, the definition in this section governs.

(229) Acts means the Florida Keys National Marine Sanctuary and Protection Act, as amended, (FKNMSPA) (Pub. L. 101-605), and the National Marine Sanctuaries Act (NMSA), also known as Title III of the Marine Protection, Research, and Sanctuaries Act, as amended, (MPRSA) (16 U.S.C. 1431 et seq.).

(230) Adverse effect means any factor, force, or action that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms any Sanctuary resource, as defined in section 302(8) of the NMSA (16 U.S.C. 1432(8)) and in this section, or any of the qualities, values, or purposes for which the Sanctuary is designated.

(231) Airboat means a vessel operated by means of a motor driven propeller that pushes air for momentum.

(232) Areas To Be Avoided means the areas in which vessel operations are prohibited pursuant to section 6(a)(1) of the FKNMSPA (see §922.164(a)). Appendix VII to this subpart sets forth the geographic coordinates of these areas, including any modifications thereto made in accordance with section 6(a)(3) of the FKNMSPA.

(233) Closed means all entry or use is prohibited.

(234) Coral means but is not limited to the corals of the Class Hydrozoa (stinging and hydrocorals); Class Anthozoa, Subclass Hexacorallia, Order Scleractinia (stony corals); Class Anthoza, Subclass Ceriantipatharia, Order Antipatharia (black corals); and Class Anthozoa, Subclass Octocorallia, Order Gorgonacea, Species Gorgonia ventalina and Gorgonia flabellum (sea fans).

(235) Coral area means marine habitat where coral growth abounds including patch reefs, outer bank reefs, deepwater banks, and hardbottoms.

(236) Coral reefs means the hard bottoms, deep-water banks, patch reefs, and outer bank reefs.

(237) Ecological Reserve means an area of the Sanctuary consisting of contiguous, diverse habitats, within which uses are subject to conditions, restrictions and prohibitions, including access restrictions, intended to minimize human influences, to provide natural spawning, nursery, and permanent residence areas for the replenishment and genetic protection of marine life, and also to protect and preserve natural assemblages of habitats and species within areas representing a broad diversity of resources and habitats found within the Sanctuary. Appendix IV to this subpart sets forth the geographic coordinates of these areas.

(238) Existing Management Area means an area of the Sanctuary that is within or is a resource management area established by NOAA or by another Federal authority of competent jurisdiction as of the effective date of these regulations where protections above and beyond those provided by Sanctuary-wide prohibitions and restrictions are needed to adequately protect resources. Appendix II to this subpart sets forth the geographic coordinates of these areas.

(239) Exotic species means a species of plant, invertebrate, fish, amphibian, reptile or mammal whose natural zoogeographic range would not have included the waters of the Atlantic Ocean, Caribbean, or Gulf of Mexico without passive or active introduction to such area through anthropogenic means.

(240) Fish means finfish, mollusks, crustaceans, and all forms of marine animal and plant life other than marine mammals and birds.

(241) Fishing means: (1) The catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or any operation at sea in support of, or in preparation for, any activity described in this subparagraph (1).

(242) (2) Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(243) Hardbottom means a submerged marine community comprised of organisms attached to exposed solid rock substrate. Hardbottom is the substrate to which corals may attach but does not include the corals themselves.

(244) Idle speed only/no-wake means a speed at which a boat is operated that is no greater than 4 knots or does not produce a wake.

(245) Idle speed only/no-wake zone means a portion of the Sanctuary where the speed at which a boat is operated may be no greater than 4 knots or may not produce a wake.

(246) Length overall (LOA) or length means, as used in §922.167 with respect to a vessel, the horizontal distance, rounded to the nearest foot (with 0.5 ft and above rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.

(247) Live rock means any living marine organism or an assemblage thereof attached to a hard substrate, including dead coral or rock but not individual mollusk shells (e.g., scallops, clams, oysters). Living marine organisms associated with hard bottoms, banks, reefs, and live rock may include, but are not limited to: sea anemones (Phylum Cnidaria: Class Anthozoa: Order Actinaria); sponges (Phylum Porifera); tube worms (Phylum Annelida), including fan worms, feather duster worms, and Christmas tree worms; bryozoans (Phylum Bryzoa); sea squirts (Phylum Chordata); and marine algae, including Mermaid's fan and cups (Udotea spp.), corraline algae, green feather, green grape algae (Caulerpa spp.) and watercress (Halimeda spp.).

(248) Marine life species means any species of fish, invertebrate, or plant included in sections (2), (3), or (4) of Rule 46 –42.001, Florida Administrative Code, reprinted in Appendix VIII to this subpart.

(249) Military activity means an activity conducted by the Department of Defense with or without participation by foreign forces, other than civil engineering and other civil works projects conducted by the U.S. Army Corps of Engineers.

(250) No-access buffer zone means a portion of the Sanctuary where vessels are prohibited from entering regardless of the method of propulsion.

(251) No motor zone means an area of the Sanctuary where the use of internal combustion motors is prohibited. A vessel with an internal combustion motor may access a no motor zone only through the use of a push pole, paddle, sail, electric motor or similar means of operation but is prohibited from using it's internal combustion motor.

(252) Not available for immediate use means not readily accessible for immediate use, e.g., by being stowed unbaited in a cabin, locker, rod holder, or similar storage area, or by being securely covered and lashed to a deck or bulkhead.

(253) Officially marked channel means a channel marked by Federal, State of Florida, or Monroe County officials of competent jurisdiction with navigational aids except for channels marked idle speed only/no wake.

(254) Personal watercraft means any jet air-powered watercraft operated by standing, sitting, or kneeling on or behind the vessel, in contrast to a conventional boat, where the operator stands or sits inside the vessel, and that uses an inboard engine to power a water jet pump for propulsion, instead of a propeller as in a conventional boat.

(255) Prop dredging means the use of a vessel's propulsion wash to dredge or otherwise alter the seabed of the Sanctuary. Prop dredging includes, but is not limited to, the use of propulsion wash deflectors or similar means of dredging or otherwise altering the seabed of the Sanctuary. Prop dredging does not include the disturbance to bottom sediments resulting from normal vessel propulsion.

(256) Prop scarring means the injury to seagrasses or other immobile organisms attached to the seabed of the Sanctuary caused by operation of a vessel in a manner that allows its propeller or other running gear, or any part thereof, to cause such injury (e.g., cutting seagrass rhizomes). Prop scarring does not include minor disturbances to bottom sediments or seagrass blades resulting from normal vessel propulsion.

(257) Residential shoreline means any man-made or natural:

(258) (1) Shoreline,

(259) (2) Canal mouth,

(260) (3) Basin, or

(261) (4) Cove adjacent to any residential land use district, including improved subdivision, suburban residential or suburban residential limited, sparsely settled, urban residential, and urban residential mobile home under the Monroe County land development regulations.

(262) Sanctuary means the Florida Keys National Marine Sanctuary.

(263) Sanctuary Preservation Area means an area of the Sanctuary that encompasses a discrete, biologically important area, within which uses are subject to conditions, restrictions and prohibitions, including access restrictions, to avoid concentrations of uses that could result in significant declines in species populations or habitat, to reduce conflicts between uses, to protect areas that are critical for sustaining important marine species or habitats, or to provide opportunities for scientific research. Appendix V to this subpart sets forth the geographic coordinates of these areas.

(264) Sanctuary wildlife means any species of fauna, including avifauna, that occupy or utilize the submerged resources of the Sanctuary as nursery areas, feeding grounds, nesting sites, shelter, or other habitat during any portion of their life cycles.

(265) Seagrass means any species of marine angiosperms (flowering plants) that inhabit portions of the seabed in the Sanctuary. Those species include, but are not limited to: Thalassia testudinum (turtle grass); Syringodium filiforme (manatee grass); Halodule wrightii (shoal grass); Halophila decipiens, H. engelmannii, H. johnsonii; and Ruppia maritima.

(266) Special-use Area means an area of the Sanctuary set aside for scientific research and educational purposes, recovery or restoration of Sanctuary resources, monitoring, to prevent use or user conflicts, to facilitate access and use, or to promote public use and understanding of Sanctuary resources. Appendix VI to this part sets forth the geographic coordinates of these areas.

(267) Stem means the foremost part of a vessel, consisting of a section of timber or fiberglass, or cast, forged, or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end.

(268) Stern means the aftermost part of the vessel.

(269) Tank vessel means any vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that -

(270) (1) Is a United States flag vessel;

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

(272) (3) Transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States [46 U.S.C. 2101].

(273) Traditional fishing means those commercial or recreational fishing activities that were customarily conducted within the Sanctuary prior to its designation as identified in the Environmental Impact Statement and Management Plan for this Sanctuary.

(274) Tropical fish means any species included in section (2) of Rule 46–42.001, Florida Administrative Code, reproduced in Appendix VIII to this subpart, or any part thereof.

(275) Vessel means a watercraft of any description, including, but not limited to, motorized and non-motorized watercraft, personal watercraft, airboats, and float planes while maneuvering on the water, capable of being used as a means of transportation in/on the waters of the Sanctuary. For purposes of this part, the terms "vessel," "watercraft," and "boat" have the same meaning.

(276) Wildlife Management Area means an area of the Sanctuary established for the management, protection, and preservation of Sanctuary wildlife resources, including such an area established for the protection and preservation of endangered or threatened species or their habitats, within which access is restricted to minimize disturbances to Sanctuary wildlife; to ensure protection and preservation consistent with the Sanctuary designation and other applicable law governing the protection and preservation of wildlife resources in the Sanctuary. Appendix III to this subpart lists these areas and their access restrictions.

(277) (b) Other terms appearing in the regulations in this part are defined at 15 CFR 922.3, and/or in the Marine Protection, Research, and Sanctuaries Act (MPRSA), as amended, 33 U.S.C. 1401 et seq. and 16 U.S.C., 1431 et seq.

**§922.163 Prohibited activities–Sanctuary-wide.**

(278) (a) Except as specified in paragraph (b) through (e) of this section, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted:

(279) (1) Mineral and hydrocarbon exploration, development and production. Exploring for, developing, or producing minerals or hydrocarbons within the Sanctuary.

(280) (2) Removal of, injury to, or possession of coral or live rock. (i) Moving, removing, taking, harvesting, damaging, disturbing, touching, breaking, cutting, or otherwise injuring, or possessing (regardless of where taken from) any living or dead coral, or coral formation, or attempting any of those activities, except as permitted under 50 CFR part 622.

(281) (ii) Harvesting, or attempting to harvest, any live rock from the Sanctuary, or possessing (regardless of where taken from) any live rock within the Sanctuary, except as authorized by a permit for the possession or harvest from aquaculture operations in the Exclusive Economic Zone, issued by the National Marine Fisheries Service pursuant to applicable regulations under the appropriate Fishery Management Plan, or as authorized by the applicable State authority of competent jurisdiction within the Sanctuary for live rock cultured on State submerged lands leased from the State of Florida, pursuant to applicable State law. See §370.027, Florida Statutes and implementing regulations.

(282) (3) Alteration of or construction on, the seabed. Drilling into, dredging, or otherwise altering the seabed of the Sanctuary, or engaging in prop-dredging; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary, except as an incidental result of:

(283) (i) Anchoring vessels in a manner not otherwise prohibited by this part (see §§922.163(a)(5)(ii) and 922.164(d)(1)(v));

(284) (ii) Traditional fishing activities not otherwise prohibited by this part;

(285) (iii) Installation and maintenance of navigational aids by, or pursuant to valid authorization by, any Federal, State, or local authority of competent jurisdiction;

(286) (iv) Harbor maintenance in areas necessarily associated with Federal water resource development projects in existence on July 1, 1997, including maintenance dredging of entrance channels and repair, replacement, or rehabilitation of breakwaters or jetties;

(287) (v) Construction, repair, replacement, or rehabilitation of docks, seawalls, breakwaters, piers, or marinas with less than ten slips authorized by any valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent jurisdiction.

(288) (4) Discharge or deposit of materials or other matter. (i) Discharging or depositing, from within the boundary of the Sanctuary, any material or other matter, except:

(289) (A) Fish, fish parts, chumming materials, or bait used produced incidental to and while conducting a traditional fishing activity in the Sanctuary;

(290) (B) Water generated by routine vessel operations (e.g., deck wash down and graywater as defined in section 312 of the FWPCA), excluding oily wastes from bilge pumping; or

(291) (C) Cooling water from vessels or engine exhaust;

(292) (ii) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except:

(293) (A) Those listed in paragraph (a)(4)(i)(A) through (a)(4)(i)(C) of this section;

(294) (B) Sewage incidental to vessel use and gnerated by a marine sanitation device approved in accordance with section 312 of the Federal Water Pollution Control Act (FWPCA) as amended, 33 U.S.C. 1322 et seg.;

(295) (C) Those authorized under Monroe County land use permits.

(296) (D) Those authorized under State permits.

(297) (5) Operation of Vessels. (i) Operating a vessel in such a manner as to strike or otherwise injure coral, seagrass, or any other immobile organism attached to the seabed, including, but not limited to, operating a vessel in such a manner as to cause prop-scarring.

(298) (ii) Having a vessel anchored on living coral other than hardbottom in water depths less than 50 feet when visibility is such that the seabed can be seen.

(299) (iii) Except in officially marked channels, operating a vessel at a speed greater than 4 knots or in a manner which creates a wake:

(300) (A) Within an area designated idle speed only/no wake;

(301) (B) Within 100 yards of navigational aids indicating emergent or shallow reefs (international diamond warning symbol);

(302) (C) Within 100 yards of the red and white "divers down" flag (or the blue and white "alpha" flag in Federal waters);

(303) (D) Within 100 yards of residential shorelines; or

(304) (E) Within 100 yards of stationary vessels.

(305) (iv) Operating a vessel in such a manner as to injure or take wading, roosting, or nesting birds or marine mammals.

(306) (v) Operating a vessel in a manner which endangers life, limb, marine resources, or property.

(307) (vi) Having a marine sanitation device that is not secured in a manner that prevents discharges or deposits of treated and untreated sewage. Acceptable methods include, but are not limited to, all methods that have been approved by the U.S. Coast Guard (at 33 CFR 159.7(b) and (c)).

(308) (6) Conduct of diving/snorkeling without flag. Diving or snorkeling without flying in a conspicuous manner the red and white "divers down" flag (or the blue and white "alpha" flag in Federal waters).

(309) (7) Release of exotic species. Introducing or releasing an exotic species of plant, invertebrate, fish, amphibian, or mammals into the Sanctuary.

(310) (8) Damage or removal of markers. Marking, defacing, or damaging in any way or displacing, removing, or tampering with any official signs, notices, or placards, whether temporary or permanent, or with any navigational aids, monuments, stakes, posts, mooring buoys, boundary buoys, trap buoys, or scientific equipment.

(311) (9) Movement of, removal of, injury to, or possession of Sanctuary historical resources. Moving, removing, injuring, or possessing, or attempting to move, remove, injure, or possess, a Sanctuary historical resource.

(312) (10) Take or possession of protected wildlife. Taking any marine mammal, sea turtle, or seabird in or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., and the Migratory Bird Treaty Act, as amended, (MBTA) 16 U.S.C. 703 et seq.

(313) (11) Possession or use of explosives or electrical charges. Possessing, or using explosives, except powerheads, or releasing electrical charges within the Sanctuary.

(314) (12) Harvest or possession of marine life species. Harvesting, possessing, or landing any marine life species, or part thereof, within the Sanctuary, except in accordance with rules 68B-42 of the Florida Administrative Code, and such rules shall apply mutatis mutandis (with necessary editorial changes) to all Federal and State waters within the Sanctuary.

(315) (13) Interference with law enforcement. Interfering with, obstructing, delaying or preventing an investigation, search, seizure, or disposition of seized property

in connection with enforcement of the Acts or any regulation or permit issued under the Acts.

(316) (b) Notwithstanding the prohibitions in this section and in §922.164, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of, a National Marine Sanctuary permit issued pursuant to §922.166.

(317) (c) Notwithstanding the prohibitions in this section and in §922.164, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of these regulations, provided that the applicant complies with §922.49, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems reasonably necessary to protect Sanctuary resources and qualities. Amendments, renewals and extensions of authorizations in existence on the effective date of these regulations constitute authorizations issued after the effective date of these regulations.

(318) (d) Notwithstanding the prohibitions in this section and in §922.164, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of these regulations, provided that the applicant complies with §922.168, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems reasonably necessary to protect Sanctuary resources and qualities. Amendments, renewals and extensions of authorizations in existence on the effective date of these regulations constitute authorizations issued after the effective date of these regulations.

(319) (e) The following prohibitions do not apply to Federal, State and local officers while performing enforcement duties in their official capacities or responding to emergencies that threaten life, property, or the environment:

(320) (1) Those contained in paragraph (a)(4) of this section only as it pertains to discharges of sewage incidental to vessel use and generated by a marine sanitation device approved in accordance with section 312 of the Federal Water Pollution Control Act (FWPCA), as amended, 33 U.S.C. 1322 et seq.; and

(321) (2) Those contained in paragraph (a)(5) of this section.

(322) (f) The prohibitions contained in paragraph (a)(5) of this section do not apply to Federal, State and local officers while performing enforcement duties and/or responding to emergencies that threaten life, property, or the environment in their official capacity.

(323) (g) Notwithstanding paragraph (b) of this section and paragraph (a) of §922.168, in no event may the Director issue a permit under §922.166 authorizing, or otherwise approve, the exploration for, leasing, development, or production of minerals or hydrocarbons within the Sanctuary, the disposal of dredged material within the Sanctuary other than in connection with beach renourishment or Sanctuary restoration projects, or the discharge of untreated or primary treated sewage (except by a certification, pursuant to §922.167, of a valid authorization in existence on the effective date of these regulations), and any purported authorizations issued by other authorities after the effective date of these regulations for any of these activities within the Sanctuary shall be invalid.

(324) (h) Any amendment to these regulations shall not take effect in Florida State waters until approved by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. Any fishery regulations in the Sanctuary shall not take effect in Florida State waters until established by the Florida Marine Fisheries Commission.

**§922.164 Additional activity regulations by Sanctuary area.**

(325) In addition to the prohibitions set forth in §922.163, which apply throughout the Sanctuary, the following regulations apply with respect to activities conducted within the Sanctuary areas described in this section and in Appendix (II) through (VII) to this subpart. Activities located within two or more overlapping Sanctuary areas are concurrently subject to the regulations applicable to each overlapping area.

(326) (a) Areas To Be Avoided. Operating a tank vessel or a vessel greater than 50 meters in registered length is prohibited in all areas to be avoided, except if such vessel is a public vessel and its operation is essential for national defense, law enforcement, or responses to emergencies that threaten life, property, or the environment. Appendix VII to this subpart sets forth the geographic coordinates of these areas.

(327) (b) Existing Management Areas.–(1) Key Largo and Looe Key Management Areas. The following activities are prohibited within the Key Largo and Looe Key Management Areas (also known as the Key Largo and Looe Key National Marine Sanctuaries) described in Appendix II to this subpart:

(328) (i) Removing, taking, damaging, harmfully disturbing, breaking, cutting, spearing or similarly injuring any coral or other marine invertebrate, or any plant, soil, rock, or other material, except commercial taking of spiny lobster and stone crab by trap and recreational taking of spiny lobster by hand or by hand gear which is consistent with these regulations and the applicable egulations implementing the applicable Fishery Management Plan.

(329) (ii) Taking any tropical fish.

(330) (iii) Fishing with wire fish traps, bottom trawls, dredges, fish sleds, or similar vessel-towed or anchored bottom fishing gear or nets.

(331) (iv) Fishing with, carrying or possessing, except while passing through without interruption or for law enforcement purposes: pole spears, air rifles, bows and arrows, slings, Hawaiian slings, rubber powdered arbaletes, pneumatic and spring-loaded guns or similar devices known as spearguns.

(332) (2) Great White Heron and Key West National Wildlife Refuge Management Areas. Operating a personal watercraft, operating an airboat, or water skiing except within Township 66 South, Range 29 East, Sections 5, 11, 12 and 14; Township 66 South, Range 28 East, Section 2; Township 67 South, Range 26 East, Sections 16 and 20, all Tallahassee Meridian, are prohibited within the marine portions of the Great White Heron and Key West National Wildlife Refuge Management Areas described in Appendix II to this subpart:

(333) (c) Wildlife Management Areas. (1) Marine portions of the Wildlife Management Areas listed in Appendix III to this subpart or portions thereof may be designated "idle speed only/no-wake", "no-motor" or "no-access buffer" zones or "closed." The Director, in cooperation with other Federal, State, or local resource management authorities, as appropriate, shall post signs conspicuously, using mounting posts, buoys, or other means according to location and purpose, at appropriate intervals and locations, clearly delineating an area as an "idle speed only/no wake", a "no- motor", or a "no-access buffer" zone or as "closed", and allowing instant, long-range recognition by boaters. Such signs shall display the official logo of the Sanctuary.

(334) (2) The following activities are prohibited within the marine portions of the Wildlife Management Areas listed in Appendix III to this subpart:

(335) (i) In those marine portions of any Wildlife Management Area designated an " idle speed only/no wake" zone in Appendix III to this subpart, operating a vessel at a speed greater that idle speed only/no wake.

(336) (ii) In those marine portions of any Wildlife Management Area designated a "no-motor" zone in Appendix III to this subpart, using internal combustion motors or engines for any purposes. A vessel with an internal combustion motor or engine may access a "no-motor" zone only through the use of a push pole, paddle, sail, electric motor or similar means of propulsion.

(337) (iii) In those marine portions of any Wildlife Management Area designated a "no-access buffer" zone in Appendix III of this subpart, entering the area by vessel.

(338) (iv) In those marine portions of any Wildlife Management Area designated as closed in Appendix III to this subpart, entering or using the area.

(339) (3) The Director shall coordinate with other Federal, State, or local resource management authorities, as appropriate, in the establishment and enforcement of access restrictions described in paragraph (c)(2) (i)–(iv) of this section in the marine portions of Wildlife Management Areas.

(340) (4) The Director may modify the number and location of access restrictions described in paragraph (c)(2) (i)–(iv) of this section within the marine portions of a Wildlife Management Area if the Director finds that such action is reasonably necessary to minimize disturbances to Sanctuary wildlife, or to ensure protection and preservation of Sanctuary wildlife consistent with the purposes of the Sanctuary designation and other applicable law governing the protection and preservation of wildlife resources in the Sanctuary. The Director will effect such modification by:

(341) (i) Publishing in the **Federal Register**, after notice and an opportunity for public comments in accordance, an amendment to the list of such areas set forth in Appendix III to this subpart, and a notice regarding the time and place where maps depicting the precise locations of such restrictions will be made available for public inspection, and

(342) (ii) Posting official signs delineating such restrictions in accordance with paragraph (c)(1) of this section.

(343) (d) Ecological Reserves, Sanctuary Preservation Areas, and Special Use (Research only) Areas. (1) The following activies are prohibited within the Ecological Reserves described in Appendix IV to this subpart, within the Sanctuary Preservation Areas described in Appendix V to this subpart, and within the Special Use (Research only Areas) described in Appendix V to this subpart, and within the Special Use (Research only Areas) described in Appendix VI to this subpart:

(344) (i) Discharging or depositing any material or other matter except cooling water or engine exhaust.

(345) (ii) Possessing, moving, harvesting, removing, taking, damaging, disturbing, breaking, cutting, spearing, or otherwise injuring any coral, marine invertebrate, fish, bottom formation, algae, seagrass or other living or dead organism, including shells, or attempting any of these activities. However, fish, invertebrates, and marine plants may be possessed aboard a vessel in an Ecological Reserve or Sanctuary Preservation Area, provided such resources can be shown not to have been harvested within, removed from, or taken within, the Ecological Reserve or Sanctuary Preservation Area, as applicable, by being stowed in a cabin, locker, or similar storage area prior to entering and during transit through such reserves or areas.

(346) (iii) Except for catch and release fishing by trolling in the Conch Reef, Alligator Reef, Sombrero Reef, and Sand Key SPAs, fishing by any means. However, gear capable of harvesting fish may be aboard a vessel in an Ecological Reserve or Sanctuary Preservation Area, provided such gear is not available for immediate use when entering and during transit through such Ecological Reserve or Sanctuary Preservation Area, and no presumption of fishing activity shall be drawn therefrom.

(347) (iv) Touching living or dead coral, including but not limited to, standing on a living or dead coral formation.

(348) (v) Anchoring in the Tortugas Ecological Reserve. In all other Ecological Reserves and Sanctuary Preservation Areas, placing any anchor in a way that allows the anchor or any portion of the anchor apparatus (including the anchor, chain or rope) to touch living or dead coral, or any attached living organism. When anchoring dive boats, the first diver down must inspect the anchor to ensure that it is not touching living or dead coral, and will not shift in such a way as to touch such coral or other attached organism. No further diving shall take place until the anchor is placed in accordance with these requirements.

(349) (vi) Except in the Tortugas Ecological Reserve where mooring buoys must be used, anchoring instead of mooring when a mooring buoy is available or anchoring in other than a designated anchoring area when such areas have been designated and are available.

(350) (vii) Except for passage without interruption though that area, for law enforcement purposes, or for purposes of monitoring pursuant to paragraph (d)(2) of this section, violating a temporary access restriction imposed by the Director pursuant to paragraph (d)(2) of this section.

(351) (viii) Except for passage without interruption through the area, for law enforcement purposes, or for purposes of monitoring pursuant to paragraph (d)(2) of this section: entering the Tortugas South area of the Tortugas Ecological Reserve; or entering the Tortugas North area of the Tortugas Ecological Reserve without a valid access permit issued pursuant to §922.167 or entering or leaving the Tortugas North area with a valid access permit issued pursuant to §922.167 without notifying FKNMS staff at the Dry Tortugas National Park office by telephone or radio no less than 30 minutes and no more than 6 hours, before entering and upon leaving the Tortugas Ecological Reserve.

(352) (ix) Tying a vessel greater than 100 feet (30.48 meters) LOA, or tying more than one vessel (other than vessels carried on board a vessel) if combined lengths would exceed 100 feet (30.48 meters) LOA, to a mooring buoy or to a vessel tied to a mooring buoy in the Tortugas Ecological Reserve.

(353) (2) The Director may temporarily restrict access to any portion of any Sanctuary Preservation Area or Ecological Reserve if the Director, on the basis of the best available data, information and studies, determines that a concentration of use appears to be causing or contributing to significant degradation of the living resources of the area and that such action is reasonably necessary to allow for recovery of the living resources of such area. The Director will provide for continuous monitoring of the area during the pendency of the restriction. The Director will provide public notice of the restriction by publishing a notice in the **Federal Register**, and by such other means as the Director may deem appropriate. The Director may only restrict access to an area for a period of 60 days, with one additional 60 day renewal. The Director may restrict access to an area for a longer period pursuant to a notice and opportunity for public comment rulemaking under the Administrative Procedure Act. Such restriction will be kept to the minimum amount of area necessary to achieve the purpose thereof.

(354) (e) Special-use Areas. (1) The Director may set aside discrete areas of the Sanctuary as Special-use Areas, and, by designation pursuant to this paragraph, impose the access and use restrictions specified in paragraph (e)(3) of this section. Special-use Areas are described in Appendix VI to this subpart, in accordance with the following designations and corresponding objectives:

(355) (i) "Recovery area" to provide for the recovery of Sanctuary resources from degradation or other injury attributable to human uses;

(356) (ii) "Restoration area" to provide for restoration of degraded or otherwise injured Sanctuary resources;

(357) (iii) "Research-only area" to provide for scientific research or education relating to protection and management through the issuance of a Sanctuary General permit for research pursuant to §922.166; and

(358) (iv) "Facilitated-use area" to provide for the prevention of use or user conflicts or the facilitation of access and use, or to promote public use and understanding, of Sanctuary resources through the issuance of special-use permits.

(359) (2) A Special-use Area shall be no larger than the size the Director deems reasonably necessary to accomplish the applicable objective.

(360) (3) Persons conducting activities within any Special-use Area shall comply with the access and use restrictions specified in this paragraph and made applicable to such area by means of its designations as a "recovery area," "restoration area," "research-only area," or "facilitated-use area." Except for passage without interruption through the area or for law enforcement purposes, no person may enter a Special-use Area except to conduct or cause to be conducted the following activities:

(361) (i) In such area designated as a "recovery area" or a "restoration area," habitat manipulation related to restoration of degraded or otherwise injured Sanctuary resources, or activities reasonably necessary to monitor recovery of degraded or otherwise injured Sanctuary resources;

(362) (ii) In such area designated as a "research only area," scientific research or educational use specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of a valid National Marine Sanctuary General or Historical Resources permit, or

(363) (iii) In such area designated as a "facilitated-use area," activities specified by the Director or specifically authorized by and conducted in accordance with the

scope, purpose, terms, and conditions of a valid Special-use permit.

(364) (4)(i) The Director may modify the number of, location of, or designations applicable to, Special-use Areas by publishing in the **Federal Register**, after notice and an opportunity for public comment in accordance with the Administration Procedure Act, an amendment to Appendix VI to this subpart, except that, with respect to such areas designated as a "recovery area," "restoration area," or "research only area," the Director may modify the number of, location of, or designation applicable to, such areas by publishing a notice of such action in the **Federal Register** if the Director determines that immediate action is reasonably necessary to:

(365) (A) Prevent significant injury to Sanctuary resources where circumstances create an imminent risk to such resources;

(366) (B) Initiate restoration activity where a delay in time would significantly impair the ability of such restoration activity to succeed;

(367) (C) Initiate research activity where an unforeseen natural event produces an opportunity for scientific research that may be lost if research is not initiated immediately.

(368) (ii) If the Director determines that a notice of modification must be promulgated immediately in accordance with paragraph (e)(4)(i) of this section, the Director will, as part of the same notice, invite public comment and specify that comments will be received for 15 days after the effective date of the notice. As soon as practicable after the end of the comment period, the Director will either rescind, modify or allow the modification to remain unchanged through notice in the **Federal Register**.

(369) (5) In addition to paragraph (e)(3) of this section no person shall conduct activities listed in paragraph (d) of this section in "Research-only Areas."

(370) (f) Additional Wildlife Management Areas, Ecological Reserves, Sanctuary Preservation Areas, or Special-use Areas, and additional restrictions in such areas, shall not take effect in Florida State waters unless first approved by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

(371) (g) Anchoring on Tortugas Bank. Vessels 50 meters or greater in registered length, are prohibited from anchoring on the portion of Tortugas Bank within the Florida Keys National Marine Sanctuary west of the Dry Tortugas National Park that is outside of the Tortugas Ecological Reserve. The boundary of the area closed to anchoring by vessels 50 meters or greater in registered length is formed by connecting in succession the points at the following coordinates (based on the North American Datum of 1983):

(372) (1) 24°32.00'N., 83°00.05'W.

(373) (2) 24°37.00'N., 83°06.00'W.

(374) (3) 24°39.00'N., 83°06.00'W.

(375) (4) 24°39.00'N., 83°00.05'W.

(376) (5) 24°32.00'N., 83°00.05'W

**§922.165 Emergency regulations.**

(377) Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities are subject to immediate temporary regulation, including prohibition. Emergency regulations shall not take effect in Florida territorial waters until approved by the Governor of the State of Florida. Any temporary regulation may be in effect for up to 60 days, with one 60-day extension. Additional or extended action will require notice and comment rulemaking under the Administrative Procedure Act, notice in local newspapers, notice to Mariners, and press releases.

**§922.166 Permits other than for access to the Tortugas Ecological Reserve–application procedures and issuance criteria.**

(378) (a) National Marine Sanctuary General Permit.

(379) (1) A person may conduct an activity prohibited by §§922.163 or 922.164, other than an activity involving the survey/inventory, research/recovery, or deaccession/transfer of Sanctuary historical resources, if such activity is specifically authorized by, and provided such activity is conducted in accordance with the scope, purpose, terms and conditions of, a National Marine Sanctuary General permit issued under this paragraph (a).

(380) (2) The Director, at his or her discretion, may issue a General permit under this paragraph (a), subject to such terms and conditions as he or she deems appropriate, if the Director finds that the activity will:

(381) (i) Further research or monitoring related to Sanctuary resources and qualities;

(382) (ii) Further the educational value of the Sanctuary;

(383) (iii) Further the natural or historical resource value of the Sanctuary;

(384) (iv) Further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty;

(385) (v) Assist in managing the Sanctuary; or

(386) (vi) Otherwise further Sanctuary purposes, including facilitating multiple use of the Sanctuary, to the extent compatible with the primary objective of resource protection.

(387) (3) The Director shall not issue a General permit under this paragraph (a), unless the Director also finds that:

(388) (i) The applicant is professionally qualified to conduct and complete the proposed activity;

(389) (ii) The applicant has adequate financial resources available to conduct and complete the proposed activity;

(390) (iii) The duration of the proposed activity is no longer than necessary to achieve its stated purpose;

(391) (iv) The methods and procedures proposed by the applicant are appropriate to achieve the proposed activity's goals in relation to the activity's impacts on Sanctuary resources and qualities;

(392) (v) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any indirect, secondary or cumulative effects of the activity, and the duration of such effects;

(393) (vi) It is necessary to conduct the proposed activity within the Sanctuary to achieve its purposes; and

(394) (vii) The reasonably expected and value of the activity to the furtherance of Sanctuary goals and purposes outweighs any potential adverse impacts on Sanctuary resources and qualities from the conduct of the activity.

(395) (4) For activities proposed to be conducted within any of the areas described in §922.164(b)–(e), the Director shall not issue a permit unless he or she further finds that such activities will further and are consistent with the purposes for which such area was established, as described in §§922.162 and 922.164 and in the management plan for the Sanctuary.

(396) (b) National Marine Sanctuary Survey/Inventory of Historical Resources Permit.

(397) (1) A person may conduct an activity prohibited by §§922.163 or 922.164 involving the survey/inventory of Sanctuary historical resources if such activity is specifically authorized by, and is conducted in accordance with the scope, purpose, terms and conditions of, a Survey/Inventory of Historical Resources permit issued under this paragraph (b). Such permit is not required if such survey/inventory activity does not involve any activity prohibited by §§922.163 or 922.164. Thus, survey/inventory activities that are non-intrusive, do not include any excavation, removal, or recovery of historical resources, and do not result in destruction of, loss of, or injury to Sanctuary resources or qualities do not require a permit. However, if a survey/inventory activity will involve test excavations or removal of artifacts or materials for evaluative purposes, a Survey/Inventory of Historical Resources permit is required. Regardless of whether a Survey/Inventory permit is required, a person may request such permit. Persons who have demonstrated their professional abilities under a Survey/Inventory permit will be given preference over other persons in consideration of the issuance of a Research/Recovery permit. While a Survey/Inventory permit does not grant any rights with regards to areas subject to pre-existing rights of access which are still valid, once a permit is issued for an area, other survey/inventory permits will not be issued for the same area during the period for which the permit is valid.

(398) (2) The Director, at his or her direction, may issue a Survey/Inventory permit under this paragraph (b), subject to such terms and conditions as he or she deems appropriate, if the Director finds that such activity:

(399) (i) Satisfies the requirements for a permit issued under paragraph (a)(3) of this section;

(400) (ii) Either will be non-intrusive, not include any excavation, removal, or recovery of historical resources, and not result in destruction of, loss of, or injury to Sanctuary resources or qualities, or if intrusive, will involve no more than the minimum manual alteration of the seabed and/or the removal of artifacts or other material necessary for evaluative purposes and will cause no significant adverse impacts on Sanctuary resources or qualities; and

(401) (iii) That such activity will be conducted in accordance with all requirements of the Programmatic Agreement for the Management of Submerged Cultural Resources in the Florida Keys National Marine Sanctuary among NOAA, the Advisory Council on Historic Preservation, and the State of Florida (hereinafter SCR Agreement), and that such permit issuance is in accordance with such SCR Agreement.

(402) Copies of the SCR Agreement may also be examined at, and obtained from, the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1305 East-West Highway, 12th floor, Silver Spring, MD 20910; or from the Florida Keys National Marine Sanctuary Office, P.O. Box 500368, Marathon, FL 33050.

(403) (c) National Marine Sanctuary Research/Recovery of Sanctuary Historical Resources Permit.

(404) (1) A person may conduct any activity prohibited by §§922.163 or 922.164 involving the research/recovery of Sanctuary historical resources if such activity is specifically authorized by, and is conducted in accordance with the scope, purpose, terms and conditions of, a Research/Recovery of Historical Resources permit issued under this paragraph (c).

(405) (2) The Director, at his or her discretion, may issue a Research/Recovery of Historical Resources permit, under this paragraph (c), and subject to such terms and conditions as he or she deems appropriate, if the Director finds that:

(406) (i) Such activity satisfies the requirements for a permit issued under paragraph (a)(3) of this section;

(407) (ii) The recovery of the resource is in the public interest as described in the SCR Agreement;

(408) (iii) Recovery of the resource is part of research to preserve historic information for public use; and

(409) (iv) Recovery of the resource is necessary or appropriate to protect the resource, preserve historical information, and/or further the policies and purposes of the NMSA and the FKNMSPAK, and that such permit issuance is an accordance with, and that the activity will be conducted in accordance with, all requirements of the SCR Agreement.

(410) (d) National Marine Sanctuary Special-use Permit.

(411) (1) A person may conduct any commercial or concession-type activity prohibited by §§922.163 or 922.164, if such activity is specifically authorized by, and is conducted in accordance with the scope, purpose, terms and conditions of, a Special-use permit issued under this paragraph (d). A Special-use permit is required

for the deaccession/transfer of Sanctuary historical resources.

(412) (2) The Director, at his or her discretion, may issue a Special-use permit in accordance with this paragraph (d), and subject to such terms and conditions as he or she deems appropriate and the mandatory terms and conditions of section 310 of the NMSA, if the Director finds that issuance of such permit is reasonably necessary to: establish conditions of access to and use of any Sanctuary resource; or promote public use and understanding of any Sanctuary resources. No permit may be issued unless the activity is compatible with the purposes for which the Sanctuary was designated and can be conducted in a manner that does not destroy, cause the loss of, or injure any Sanctuary resource, and if for the deaccession/transfer of Sanctuary Historical Resources, unless such permit issuance is in accordance with, and that the activity will be conducted in accordance with, all requirements of the SCR Agreement.

(413) (3) The Director may assess and collect fees for the conduct of any activity authorized by a Special-use permit issued pursuant to this paragraph (d). No Special-use permit shall be effective until all assessed fees are paid, unless otherwise provided by the Director by a fee schedule set forth as a permit condition. In assessing fee, the Director shall include:

(414) (i) all costs incurred, or expected to be incurred, in reviewing and processing the permit application, including, but not limited to, costs for:

(415) (A) Number of personnel;

(416) (B) Personnel hours;

(417) (C) Equipment;

(418) (D) Biological assessments;

(419) (E) Copying; and

(420) (F) Overhead directly related to reviewing and processing the permit application;

(421) (ii) all costs incurred, or expected to be incurred, as a direct result of the conduct of the activity for which the Special-use permit is being issued, including, but not limited to:

(422) (A) The cost of monitoring the conduct both during the activity and after the activity is completed in order to assess the impacts to Sanctuary resources and qualities;

(423) (B) The use of an official NOAA observer, including travel and expenses and personnel hours; and

(424) (C) Overhead costs directly related to the permitted activity; and

(425) (iii) an amount which represents the fair market value of the use of the Sanctuary resource and a reasonable return to the United States Government.

(426) (4) Nothing in this paragraph (d) shall be considered to require a person to obtain a permit under this paragraph for the conduct of any fishing activities within the Sanctuary.

(427) (e) Applications. (1) Application for permits should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuary Superintendent, Florida Keys National Marine Sanctuary, PO Box 500368, Marathon, FL 33050. All applications must include:

(428) (i) A detailed description of the proposed activity including a timetable for completion of the activity and the equipment, personnel and methodology to be employed;

(429) (ii) The qualifications and experience of all personnel;

(430) (iii) The financial resources available to the applicant to conduct and complete the proposed activity;

(431) (iv) A statement as to why it is necessary to conduct the activity within the Sanctuary;

(432) (v) The potential impacts of the activity, if any, on Sanctuary resources and qualities;

(433) (vi) The benefit to be derived from the activity; and

(434) (vii) Such other information as the Director may request depending on the type of activity.

(435) Copies of all other required licenses, permits, approvals, or other authorizations must be attached to the application.

(436) (2) Upon receipt of an application, the Director may request such additional information from the applicant as he or she deems reasonably necessary to act on the application and may seek the views of any persons. The Director may require a site visit as part of the permit evaluation. Unless otherwise specified the information requested must be received by the Director within 30 days of the postmark date of the request. Failure to provide such additional information on a timely basis may be deemed by the Director to constitute abandonment or withdrawal of the permit application.

(437) (f) A permit may be issued for a period not exceeding five years. All permits will be reviewed annually to determine to the permittee's compliance with permit scope, purpose, terms and conditions and progress toward reaching the stated goals and appropriate action taken under paragraph (g) of this section if warranted. A permittee may request permit renewal pursuant to the same procedures for applying for a new permit. Upon the permittee's request for renewal, the Director shall review all reports submitted by the permittee as required by the permit conditions. In order to renew the permit, the Director must find that the:

(438) (1) Activity will continue to further the purposes for which the Sanctuary was designated in accordance with the criteria applicable to the initial issuance of the permit;

(439) (2) Permittee has at no time violated the permit, or these regulations; and

(440) (3) The activity has not resulted in any unforeseen adverse impacts to Sanctuary resources or qualities.

(441) (g) The Director may amend, suspend, or revoke a permit for good cause. The Director may deny a permit application, in whole or in part, if it is determined that the permittee or applicant has acted in violation of a previous permit, of these regulations, of the NMSA or FKNMSPA, or for other good cause. Any such action shall be communicated in writing to the permittee

or applicant by certified mail and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

(442) (h) The applicant for or holder of a National Marine Sanctuary permit may appeal the denial, conditioning, amendment, suspension or revocation of the permit in accordance with the procedures set forth in §922.50.

(443) (i) A permit issued pursuant to this section other than a Special-use permit is nontransferable. Special-use permits may be transferred, sold, or assigned with the written approval of the Director. The permittee shall provide the Director with written notice of any proposed transfer, sale, or assignment no less than 30 days prior to its proposed consummation. Transfers, sales, or assignments consummated in violation of this requirement shall be considered a material breach of the Special-use permit, and the permit shall be considered void as of the consummation of any such transfer, sale, or assignment.

(444) (j) The permit or a copy thereof shall be maintained in legible condition on board all vessels or aircraft used in the conduct of the permitted activity and the displayed for inspection upon the request of any authorized officer.

(445) (k) Any permit issued pursuant to this section shall be subject to the following terms and conditions:

(446) (1) All permitted activities shall be conducted in a manner that does not destroy, cause the loss of, or injure Sanctuary resources or qualities, except to the extent that such may be specifically authorized.

(447) (2) The permittee agrees to hold the United States harmless against any claims arising out of the conduct of the permitted activities.

(448) (3) All necessary Federal, State, and local permits from all agencies with jurisdiction over the proposed activities shall be secured before commencing field operations.

(449) (l) In addition to the terms and conditions listed in paragraph (k) of this section, any permit authorizing the research/recovery of historical resources shall be subject to the following terms and conditions:

(450) (1) A professional archaeologist shall be in charge of planning, field recovery operations, and research analysis.

(451) (2) An agreement with a conservation laboratory shall be in place before field recovery operations are begun, an approved nautical conservator shall be in charge of planning, conducting, and supervising the conservation of any artifacts and other materials recovered.

(452) (3) A curation agreement with a museum or facility for curation, public access and periodic public display, and maintenance of the recovered historical resources shall be in place before commencing field operations (such agreement for the curation and display of recovered historical resources may provide for the release of public artifacts for deaccession/transfer if such deaccession/transfer is consistent with preservation, research, education, or other purposes of the designation of the designation and management of the Sanctuary. Deaccession/transfer of historical resources requires a Special-use permit issued pursuant to paragraph (d) of this section and such deaccession/transfer shall be executed in accordance with the requirements of the SCR Agreement).

(453) (4) The site's archaeological information is fully documented, including measured drawings, site maps drawn to professional standards, and photographic records.

(454) (m) In addition to the terms and conditions listed in paragraph (k) and (l) of this section, any permit issued pursuant to this section is subject to such other terms and conditions, including conditions governing access to, or use of, Sanctuary resources, as the Director deems reasonably necessary or appropriate and in furtherance of the purposes for which the Sanctuary is designated. Such terms and conditions may include, but are not limited to:

(455) (1) Any data or information obtained under the permit shall be made available to the public.

(456) (2) A NOAA official shall be allowed to observe any activity conducted under the permit.

(457) (3) The permittee shall submit one or more reports on the status, progress, or results of any activity authorized by the permit.

(458) (4) The permittee shall submit an annual report to the Director not later than December 31 of each year on activities conducted pursuant to the permit. The report shall describe all activities conducted under the permit and all revenues derived from such activities during the year and/or term of the permit.

(459) (5) The permittee shall purchase and maintain general liability insurance or other acceptable security against potential claims for destruction, loss of, or injury to Sanctuary resources arising out of the permitted activities. The amount of insurance or security should be commensurate with an estimated value of the Sanctuary resources in the permitted area. A copy of the insurance policy or security instrument shall be submitted to the Director.

**§922.167 Permits for access to the Tortugas Ecological Reserve.**

(460) (a) A person may enter the Tortugas North area of the Tortugas Ecological Reserve other than for passage without interruption through the reserve, for law enforcement purposes, or for purposes of monitoring pursuant to paragraph (d)(2) of §922.164, if authorized by a valid access permit issued pursuant to §922.167.

(461) (b)(1) Access permits must be requested at least 72 hours but no longer than one month before the date the permit is desired to be effective. Access permits do not require written applications or the payment of any fee. Permits may be requested via telephone or radio by contacting FKNMS at any of the following numbers:

| Appendix III to Subpart P of Part 922—Wildlife Management Areas Access Restrictions | |
|---|---|
| **Area** | **Access restrictions** |
| Bay Keys | No-motor zone (300 feet) around one key; idle speed only/no-wake zones in tidal creeks. |
| Boca Grande Key | South one-half of beach closed (beach above mean high water closed by Department of Interior). |
| Woman Key | One-half of beach and sand spit on southeast side closed (beach and sand spit above mean high water closed by Department of the Interior). |
| Cayo Agua Keys | Idle speed only/no-wake zones in all navigable tidal creeks. |
| Cotton Key | No-motor zone on tidal flat. |
| Snake Creek | No-motor zone on tidal flat. |
| Cottrell Key | No-motor zone (300 feet) around entire key. |
| Little Mullet Key | No-access buffer zone (300 feet) around entire key. |
| Big Mullet Key | No-motor zone (300 feet) around entire key |
| Crocodile Lake | No-access buffer zone (100 feet) along shoreline between March 1 and October 1. |
| East Harbor Key | No-access buffer zone (300 feet) around northernmost island. |
| Lower Harbor Keys | Idle speed only/no-wake zones in selected tidal creeks. |
| Eastern Lake Surprise | Idle speed only/no-wake zone east of highway U.S. 1. |
| Horseshoe Key | No-access buffer zone (300 feet) around main island (main island closed by Department of Interior). |
| Marquesas Keys | (i) No-motor zones (300 feet) around three smallest keys on western side of chain;<br>(ii) no-access buffer zone (300 feet) around one island at western side of chain;<br>(iii) idle speed only/no-wake zone in southwest tidal creek. |
| Tidal flat south of Marvin Key | No-access buffer zone on tidal flat |
| Mud Keys | (i) Idle speed only/no-wake zones in the two main tidal creeks;<br>(ii) two smaller creeks on west side closed. |
| Pelican Shoal | No-access buffer zone-out to 50 meters from shore between April 1 and August 31 (shoal closed by the Florida Game Freshwater Fish Commission). |
| Rodriguez Key | No-motor zone on tidal flats. |
| Dove Key | No-motor zone on tidal flats; area around the two small islands closed. |
| Tavernier Key | No-motor zone on tidal flats. |
| Sawyer Keys | Tidal creeks on south side closed. |
| Snipe Keys | (i) Idle speed only/no-wake zone in main tidal creek; (ii) no-motor zone in all other tidal creeks. |
| Upper Harbor Key | No-access buffer zone (300 feet) around entire key. |
| East Content Keys | Idle speed only/no-wake zones in tidal creeks between southwesternmost keys. |
| West Content Keys | Idle speed only/no-wake zones in selected tidal creeks; no-access buffer zone in one cove. |
| Little Crane Key | No-access buffer zone (300 feet) around entire key. |

(462) Key West office: telephone: 305-292-0311

(463) Marathon office: telephone: 305-743-2437

(464) (2) The following information must be provided, as applicable:

(465) (i) Vessel name.

(466) (ii) Name, address, and telephone number of owner and operator.

(467) (iii) Name, address, and telephone number of applicant.

(468) (iv) USCG documentation, state license, or registration number.

(469) (v) Home port.

(470) (vi) Length of vessel and propulsion type (i.e., motor or sail).

(471) (vii) Number of divers.

(472) (viii) Requested effective date and duration of permit (2 weeks, maximum).

(473) (c) The Sanctuary Superintendent will issue a permit to the owner or to the owner's representative for the vessel when all applicable information has been provided. The Sanctuary Superintendent will provide a permit number to the applicant and confirm the effective date and duration period of the permit. Written confirmation of permit issuance will be provided upon request.

### §922.168 [Removed and reserved]

### Appendix I to Subpart P of Part 922–Florida Keys National Marine Sanctuary Boundary Coordinates(Appendix based on North American Datum of 1983)

(474) (1) The boundary of the Florida Keys National Marine Sanctuary–

(475) (a) Begins at the northeasternmost point of Biscayne National Park located at approximately 25°39'N., 80°05'W., then runs eastward to the point at 25°39'N., 80°04'W.; and

(476) (b) then runs southward and connects in succession the points at the following coordinates:

(477) (i) 25°34'N., 80°04'W.,
(478) (ii) 25°28'N., 80°05'W., and
(479) (iii) 25°21'N., 80°07'W.;
(480) (iv) 25°16'N., 80°08'W.;
(481) (c) then runs southwesterly approximating the 300-foot isobath and connects in succession the points at the following coordinates:
(482) (i) 25°07'N., 80°13'W.,
(483) (ii) 24°57'N., 80°21'W.,
(484) (iii) 24°39'N., 80°52'W.,
(485) (iv) 24°30'N., 81°23'W.,
(486) (v) 24°25'N., 81°50'W.,
(487) (vi) 24°22'N., 82°48'W.,
(488) (vii) 24°37'N., 83°06'W.,
(489) (viii) 24°46'N., 83°06'W.,
(490) (ix) 24°46'N., 82°54'W.,
(491) (x) 24°44'N., 81°55'W.,
(492) (xi) 24°51'N., 81°26'W., and
(493) (xii) 24°55'N., 80°56'W.;
(494) (d) then follows the boundary of Everglades National Park in a southerly then northeasterly direction through Florida Bay, Buttonwood Sound, Tarpon Basin, and Blackwater Sound;
(495) (e) after Division Point, then departs from the boundary of Everglades National Park and follows the western shoreline of Manatee Bay, Barnes Sound, and Card Sound;
(496) (f) then follows the southern boundary of Biscayne National Park to the southeastern most point of Biscayne National Park; and
(497) (g) then follows the eastern boundary of Biscayne National Park to the beginning point specified in paragraph (a).
(498) (2) The shoreward boundary of the Florida Keys National Marine Sanctuary is the mean high-water mark except around the Dry Tortugas where the boundary is coterminous with that of the Dry Tortugas National Park, formed by connecting in succession the point at the following coordinates:
(499) (a) 24°34'00"N., 82°54'00"W.;
(500) (b) 24°34'00"N., 82°58'00"W.;
(501) (c) 24°39'00"N., 82°58'00"W.;
(502) (d) 24°43'00"N., 82°54'00"W.;
(503) (e) 24°43'00"N., 82°52'00"W.;
(504) (f) 24°43'00"N., 82°48'00"W.;
(505) (g) 24°42'00"N., 82°46'00"W.;
(506) (h) 24°40'00"N., 82°46'00"W.,
(507) (i) 24°37'00"N., 82°48'00"W.; and
(508) (j) 24°34'00"N., 82°54'00"W.
(509) (3) The Florida Keys National Marine Sanctuary also includes the area located within the boundary formed by connecting in succession the points at the following coordinates:
(510) (a) 24°33'N., 83°09'W.;
(511) (b) 24°33'N., 83°05'W.;
(512) (c) 24°18'N., 83°05'W.;
(513) (d) 24°18'N., 83°09'W.; and
(514) (e) 24°33'N., 83°09'W.;

**Appendix II to Subpart P of Part 922–Existing Management Areas boundary coordinates**

(515) (1) The boundary of each of the Existing Management Areas is formed by connecting in succession the points at the following coordinates:
(516) National Oceanic and Atmospheric Administration

**Key Largo Management Area**
[Based on differential Global Positioning System data]

| Point | Latitude | Longitude |
|---|---|---|
| 1 | 25°19.45'N. | 80°12.00'W. |
| 2 | 25°16.02'N. | 80°08.07'W. |
| 3 | 25°07.05'N. | 80°12.05'W. |
| 4 | 24°58.03'N. | 80°19.08'W. |
| 5 | 25°02.02'N. | 80°25.25'W. |
| 6 | 25°19.45'N. | 80°12.00'W. |

**Looe Key Management Area**
[Based on differential Global Positioning System data]

| Point | Latitude | Longitude |
|---|---|---|
| 1 | 24°31.62'N. | 81°26.00'W. |
| 2 | 24°33.57'N. | 81°26.00'W. |
| 3 | 24°34.15'N. | 81°23.00'W. |
| 4 | 24°32.20'N. | 81°23.00'W. |
| 5 | 24°31.62'N. | 81°26.00'W. |

**United States Fish and Wildlife Service**
**Great White Heron National Wildlife Refuge**
[Based on the North American Datum of 1983]

| Point | Latitude | Longitude |
|---|---|---|
| 1 | 24°43.8'N. | 81°48.6'W. |
| 2 | 24°43.8'N. | 81°37.2'W. |
| 3 | 24°49.2'N. | 81°37.2'W. |
| 4 | 24°49.2'N. | 81°19.8'W. |
| 5 | 24°48.0'N. | 81°19.8'W. |
| 6 | 24°48.0'N. | 81°14.4'W. |
| 7 | 24°49.2'N. | 81°14.4'W. |
| 8 | 24°49.2'N. | 81°08.4'W. |
| 9 | 24°49.8'N. | 81°08.4'W. |
| 10 | 24°43.8'N. | 81°14.4'W. |
| 11 | 24°43.2'N. | 81°14.4'W. |
| 12 | 24°43.2'N. | 81°16.2'W. |
| 13 | 24°42.6'N. | 81°16.2'W. |
| 14 | 24°42.6'N. | 81°21.0'W. |
| 15 | 24°41.4'N. | 81°21.0'W. |
| 16 | 24°41.4'N. | 81°22.2'W. |
| 17 | 24°43.2'N. | 81°22.2'W. |
| 18 | 24°43.2'N. | 81°22.8'W. |
| 19 | 24°43.8'N. | 81°22.8'W. |
| 20 | 24°43.8'N. | 81°24.0'W. |
| 21 | 24°43.2'N. | 81°24.0'W. |
| 22 | 24°43.2'N. | 81°26.4'W. |
| 23 | 24°43.8'N. | 81°26.4'W. |
| 24 | 24°43.8'N. | 81°27.0'W |

| United States Fish and Wildlife Service<br>Great White Heron National Wildlife Refuge<br>[Based on the North American Datum of 1983] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 25 | 24°43.2'N. | 81°27.0'W. |
| 26 | 24°43.2'N. | 81°29.4'W. |
| 27 | 24°42.6'N. | 81°29.4'W. |
| 28 | 24°42.6'N. | 81°30.6'W. |
| 29 | 24°41.4'N. | 81°30.6'W. |
| 30 | 24°41.4'N. | 81°31.2'W. |
| 31 | 24°40.8'N. | 81°31.2'W. |
| 32 | 24°40.8'N. | 81°32.4'W. |
| 33 | 24°41.4'N. | 81°32.4'W. |
| 34 | 24°41.4'N. | 81°34.2'W. |
| 35 | 24°40.8'N. | 81°34.2'W. |
| 36 | 24°48.0'N. | 81°35.4'W. |
| 37 | 24°39.6'N. | 81°35.4'W. |
| 38 | 24°39.6'N. | 81°36.0'W. |
| 39 | 24°39.0'N. | 81°36.0'W. |
| 40 | 24°39.0'N. | 81°37.2'W. |
| 41 | 24°37.8'N. | 81°37.2'W. |
| 42 | 24°37.8'N. | 81°37.8'W. |
| 43 | 24°37.2'N. | 81°37.8'W. |
| 44 | 24°37.2'N. | 81°40.2'W |
| 45 | 24°36.0'N. | 81°40.2'W |
| 46 | 24°36.0'N. | 81°40.8'W. |
| 47 | 24°35.4'N. | 81°40.8'W. |
| 48 | 24°35.4'N. | 81°42.0'W. |
| 49 | 24°36.0'N. | 81°42.0'W. |
| 50 | 24°36.0'N. | 81°48.6'W. |
| 51 | 24°43.8'N. | 81°48.6'W. |

| Key West National Wildlife Refuge<br>[Based on the North American Datum of 1983] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°40.0'N. | 81°49.0'W. |
| 2 | 24°40.0'N. | 82°10.0'W. |
| 3 | 24°27.0'N. | 82°10.0'W. |
| 4 | 24°27.0'N. | 81°49.0'W. |
| 5 | 24°40.0'N. | 81°49.0'W. |

(517) (2) When differential Global Positioning Systems data becomes available, these coordinates may be published in the **Federal Register** to reflect the increased accuracy of such data.

### Appendix IV to Subpart P of Part 922–Ecological Reserves Boundary Coordinates

(518) (1) The boundary of the Western Sambo Ecological Reserve is formed by connecting in succession the points at the following coordinates:

| Western Sambo<br>[Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°33.70'N. | 81°40.80'W. |
| 2 | 24°28.85'N. | 81°41.90'W. |
| 3 | 24°28.50'N. | 81°43.70'W. |
| 4 | 24°33.50'N. | 81°43.10'W. |

(519) (2) The Tortugas Ecological Reserve consists of two discrete areas, Tortugas North and Tortugas South.

(520) (3) The boundary of Tortugas North is formed by connecting in succession the points at the following coordinates:

| Tortugas North | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°46.00'N. | 83°06.00'W. |
| 2 | 24°46.00'N. | 82°54.00'W. |
| 3 | 24°45.80'N. | 82°48.00'W. |
| 4 | 24°43.53'N. | 82°48.00'W. |
| 5 | 24°43.53'N. | 82°52.00'W. |
| 6 | 24°43.00'N. | 82°54.00'W. |
| 7 | 24°39.00'N. | 82°58.00'W. |
| 8 | 24°39.00'N. | 83°06.00'W. |
| 9 | 24°46.00'N. | 83°06.00'W. |

(521) (4) The boundary of Tortugas South is formed by connecting in succession the points at the following coordinates:

| Tortugas South | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°33.00'N. | 83°09.00'W. |
| 2 | 24°33.00'N. | 83°05.00'W. |
| 3 | 24°18.00'N. | 83°05.00'W. |
| 4 | 24°18.00'N. | 83°09.00'W. |
| 5 | 24°33.00'N. | 83°09.00'W. |

### Appendix V to Subpart P of Part 922–Sanctuary Preservation Areas Boundary Coordinates

(522) The boundary of each of the Sanctuary Preservation Areas (SPAs) is formed by connecting in succession the points at following coordinates:

| Alligator Reef<br>[Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°50.98'N. | 80°36.84'W. |
| 2 | 24°50.51'N. | 80°37.35'W. |
| 3 | 24°50.81'N. | 80°37.63'W. |
| 4 | 24°51.23'N. | 80°37.17'W. |
| 5 | 24°50.98'N. | 80°36.84'W. |
| Catch and release fishing by trolling only is allowed in this SPA. | | |

| Carysfort/South Carysfort Reef [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°13.78'N. | 80°12.00'W. |
| 2 | 25°12.03'N. | 80°12.98'W. |
| 3 | 25°12.24'N. | 80°13.77'W. |
| 4 | 25°14.13'N. | 80°12.78'W. |
| 5 | 25°13.78'N. | 80°12.00'W. |

| Cheeca Rocks [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°54.42'N. | 80°36.91'W. |
| 2 | 24°54.25'N. | 80°36.77'W. |
| 3 | 24°54.10'N. | 80°37.00'W. |
| 4 | 24°54.22'N. | 80°37.15'W. |
| 5 | 24°54.42'N. | 80°36.91'W. |

| Coffins Patch [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°41.47'N. | 80°57.68'W. |
| 2 | 24°41.12'N. | 80°57.53'W. |
| 3 | 24°40.75'N. | 80°58.33'W. |
| 4 | 24°41.06'N. | 80°58.48'W. |
| 5 | 24°41.47'N. | 80°57.68'W. |

| Conch Reef [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°57.48'N. | 80°27.47'W. |
| 2 | 24°57.34'N. | 80°27.26'W. |
| 3 | 24°56.78'N. | 80°27.52'W. |
| 4 | 24°56.96'N. | 80°27.73'W. |
| 5 | 24°57.48'N. | 80°27.47'W. |
| Catch and release fishing by trolling only is allowed in this SPA. | | |

| Davis Reef [Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°55.61'N. | 80°30.27'W. |
| 2 | 24°55.41'N. | 80°30.05'W. |
| 3 | 24°55.11'N. | 80°30.35'W. |
| 4 | 24°55.34'N. | 80°30.52'W. |
| 5 | 24°55.61'N. | 80'30.27'W. |

| Dry Rocks [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°07.59'N. | 80°17.91'W. |
| 2 | 25°07.41'N. | 80°17.70'W. |
| 3 | 25°07.25'N. | 80°17.82'W. |
| 4 | 25°07.41'N. | 80°18.09'W. |
| 5 | 25°07.59'N. | 80°17.91'W. |

| Grecian Rocks [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°06.91'N. | 80°18.20'W. |
| 2 | 25°06.67'N. | 80°18.06'W. |
| 3 | 25°06.39'N. | 80°18.32'W. |
| 4 | 25°06.42'N. | 80°18.48'W. |
| 5 | 25°06.81'N. | 80°18.44'W. |
| 6 | 25°06.91'N. | 80°18.20'W. |

| Eastern Dry Rocks [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°27.92'N. | 81°50.55'W. |
| 2 | 24°27.73'N. | 81°50.33'W. |
| 3 | 24°27.47'N. | 81°50.80'W. |
| 4 | 24°27.72'N. | 81°50.86'W. |
| 5 | 24°27.29'N. | 81°50.55'W. |

| The Elbow [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°08.97'N. | 80°15.63'W. |
| 2 | 25°08.95'N. | 80°15.22'W. |
| 3 | 25°08.18'N. | 80°15.64'W. |
| 4 | 25°08.50'N. | 80°16.07'W. |
| 5 | 25°08.97'N. | 80°15.63'W. |

| French Reef [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°02.20'N. | 80°20.63'W. |
| 2 | 25°01.81'N. | 80°21.02'W. |
| 3 | 25°02.36'N. | 80°21.27'W. |
| 4 | 25°02.20'N. | 80°20.63'W. |

| Hen and Chickens [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°56.38'N. | 80°32.86'W. |
| 2 | 24°56.21'N. | 80°32.63'W. |
| 3 | 24°55.86'N. | 80°32.95'W. |
| 4 | 24°56.04'N. | 80°33.19'W. |
| 5 | 24°56.38'N. | 80°32.86'W. |

| Looe Key [Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°33.24'N. | 81°24.03'W. |
| 2 | 24°32.70'N. | 81°23.85'W. |
| 3 | 24°32.52'N. | 81°32.70'W. |
| 4 | 24°33.12'N. | 81°24.81'W. |
| 5 | 24°33.24'N. | 81°24.03'W. |

| Molasses Reef [Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°01.00'N. | 80°22.53'W. |
| 2 | 25°01.06'N. | 80°21.84'W. |
| 3 | 25°00.29'N. | 80°22.70'W. |
| 4 | 25°00.72'N. | 80°22.83'W. |
| 5 | 25°01.00'N. | 80°23.34'W. |

| Newfound Harbor Key [Based on differential Global Positioning System data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°37.10'N. | 81°23.34'W. |
| 2 | 24°36.85'N. | 81°23.28'W. |
| 3 | 24°36.74'N. | 81°23.80'W. |
| 4 | 24°37.00'N. | 81°23.86'W. |
| 5 | 24°37.10'N. | 81°23.34'W. |

| Rock Key [Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°27.48'N. | 81°51.35'W. |
| 2 | 24°27.30'N. | 81°51.15'W. |
| 3 | 24°27.21'N. | 81°51.60'W. |
| 4 | 24°27.45'N. | 81°51.65'W. |
| 5 | 24°27.48'N. | 81°51.35'W. |

| Sand Key [Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°27.58'N. | 81°52.29'W. |
| 2 | 24°27.01'N. | 81°52.32'W. |
| 3 | 24°27.02'N. | 81°52.95'W. |
| 4 | 24°27.61'N. | 81°52.94'W. |
| 5 | 24°27.58'N. | 81°52.29'W. |
| Catch and release fishing by trolling only is allowed in this SPA. | | |

| Sombrero Key [Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°37.91'N. | 81°06.78'W. |
| 2 | 24°37.50'N. | 81°06.19'W. |
| 3 | 24°37.25'N. | 81°06.89'W. |
| 4 | 24°37.91'N. | 81°06.78'W. |
| Catch and release fishing by trolling only is allowed in this SPA. | | |

## Appendix VI to Subpart P of Part 922–Special-Use Areas Boundary Coodinates and Use Designations

(523) The boundary of each of the Special-Use Areas is formed by connecting in succession the points at the following coordinates:

| Conch Reef (Research Only)—[Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°56.83'N. | 80°27.26'W. |
| 2 | 24°57.10'N. | 80°26.93'W. |
| 3 | 24°56.99'N. | 80°27.42'W. |
| 4 | 24°57.34'N. | 80°27.26'W. |
| 5 | 24°56.83'N. | 80°27.26'W. |

| Eastern Sambo (Research Only)—[Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°29.84'N. | 81°39.59'W. |
| 2 | 24°29.55'N. | 81°39.35'W. |
| 3 | 24°29.37'N. | 81°39.96'W. |
| 4 | 24°29.77'N. | 81°40.03'W. |
| 5 | 24°29.84'N. | 81°39.59'W. |

| Looe Key (Research Only)—[Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°34.17'N. | 81°23.01'W. |
| 2 | 24°33.98'N. | 81°22.96'W. |
| 3 | 24°33.84'N. | 81°23.60'W. |
| 4 | 24°34.23'N. | 81°23.68'W. |
| 5 | 24°34.17'N. | 81°23.01'W. |

| Tennessee Reef (Research Only)—[Based on differential Global Positioning Systems data] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 24°44.77'N. | 80°47.12'W. |
| 2 | 24°45.57'N. | 80°46.98'W. |
| 3 | 24°44.68'N. | 80°46.59'W. |
| 4 | 24°44.95'N. | 80°45.74'W. |
| 5 | 24°44.77'N. | 80°47.12'W. |

## Appendix VII to Subpart P of Part 922–Areas To Be Avoided Boundary Coordinates

| In The Vicinity of the Florida Keys [Reference Charts: United States 11466, 27th Edition—September 1, 1990 and United States 11450, 4th Edition—August 11, 1990] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 1 | 25°45.00'N. | 80°06.10'W. |
| 2 | 25°38.70'N. | 80°02.70'W. |
| 3 | 25°22.00'N. | 80°03.00'W. |
| 4 | 25°06.38'N. | 80°10.48'W. |
| 5 | 24°56.37'N. | 80°19.26'W. |
| 6 | 24°37.90'N. | 81°47.30'W. |
| 7 | 24°29.20'N. | 81°17.30'W. |
| 8 | 24°22.30'N. | 81°43.17'W. |
| 9 | 24°28.00'N. | 81°43.17'W. |

| In The Vicinity of the Florida Keys [Reference Charts: United States 11466, 27th Edition—September 1, 1990 and United States 11450, 4th Edition—August 11, 1990] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 10 | 24°28.70'N. | 81°43.50'W. |
| 11 | 24°29.80'N. | 81°43.17'W. |
| 12 | 24°33.10'N. | 81°35.15'W. |
| 13 | 24°33.60'N. | 81°26.00'W. |
| 14 | 24°38.20'N. | 81°07.00'W. |
| 15 | 24°43.20'N. | 80°53.20'W. |
| 16 | 24°46.10'N. | 80°46.15'W. |
| 17 | 24°51.10'N. | 80°37.10'W. |
| 18 | 24°57.50'N. | 80°27.50'W. |
| 19 | 25°09.90'N. | 80°16.20'W. |
| 20 | 25°24.00'N. | 80°09.10'W. |
| 21 | 25°31.50'N. | 80°07.00'W. |
| 22 | 25°39.70'N. | 80°06.85'W. |
| 23 | 25°45.00'N. | 80°06.10'W. |

| In the Vicinity of Key West Harbor (Reference Chart: United States 11434, 21st Edition–August 11, 1990.) | | |
|---|---|---|
| 24 | 24°27.95'N. | 81°48.65'W. |
| 25 | 24°23.00'N. | 81°53.50'W. |
| 26 | 24°26.60'N. | 81°58.50'W. |
| 27 | 24°27.75'N. | 81°55.70'W. |
| 28 | 24°29.35'N. | 81°53.40'W. |
| 29 | 24°29.35'N. | 81°50.00'W. |
| 30 | 24°27.95'N. | 81°48.65'W. |

| Area Surrounding the Marquesas Keys [Reference Chart: United States 11434, 21st Edition—August 11, 1990] | | |
|---|---|---|
| **Point** | **Latitude** | **Longitude** |
| 31 | 24°26.60'N. | 81°59.55'W. |
| 32 | 24°23.00'N. | 82°03.50'W. |
| 33 | 24°23.60'N. | 82°27.80'W. |
| 34 | 24°34.50'N. | 82°37.50'W. |
| 35 | 24°43.00'N. | 82°26.50'W. |
| 36 | 24°38.31'N. | 81°54.06'W. |
| 37 | 24°37.91'N. | 81°53.40'W. |
| 38 | 24°36.15'N. | 81°51.78'W. |
| 39 | 24°34.40'N. | 81°50.60'W. |
| 40 | 24°33.44'N. | 81°49.73'W. |
| 41 | 24°31.20'N. | 81°52.10'W. |
| 42 | 24°28.70'N. | 81°56.80'W. |
| 43 | 24°26.60'N. | 81°59.55'W. |

| Area Surrounding the Dry Tortugas Islands (Reference Chart: United States 11434, 21st Edition–August 11, 1990.) | | |
|---|---|---|
| 44 | 24°32.00'N. | 82°53.50'W. |
| 45 | 24°32.00'N. | 83°00.05'W. |
| 46 | 24°39.70'N. | 83°00.05'W. |
| 47 | 24°45.60'N. | 82°54.40'W. |
| 48 | 24°45.60'N. | 82°47.20'W. |
| 49 | 24°42.80'N. | 82°43.90'W. |
| 50 | 24°39.50'N. | 82°43.90'W. |
| 51 | 24°35.60'N. | 82°46.40'W. |
| 52 | 24°32.00'N. | 82°53.50'W. |

# TITLE 33–NAVIGATION AND NAVIGABLE WATERS

## Part 26–Vessel Bridge-to-Bridge Radiotelephone Regulations

### §26.01 Purpose.

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

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

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

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

(528) (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.

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

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

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

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

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

(534) Territorial sea means all waters as defined in §2.22(a)(1) of this chapter.

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

(536) 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.

(537) 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.

(538) **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.**

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

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

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

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

(543) (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.

(544) (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 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission for the exchange of navigational information.

(545) (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.

(546) (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).

(547) (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):

(548) (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;

(549) (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 Inner Harbor Navigation Canal; and

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

(551) (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).

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

**§26.04 Use of the designated frequency.**

(553) (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.

(554) (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.

(555) (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.

(556) (d) On the navigable waters of the United States, channel 13 (156.65 MHz) is the 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.

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

(558) **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.

**§26.05 Use of radiotelephone.**

(559) 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. Section 6 of the Act states–**

(560) (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.**

(561) 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.**

(562) (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.

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

(564) (c) Each petition must be submitted in writing to U.S. Coast Guard, Marine Safety, Security and Environmental Protection, (CG-5), 2100 2nd St. SW., Stop 7355, Washington, DC 20593-7355, and must state:

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

(566) (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.**

(567) (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.

(568) (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 70–Interference with or Damage to Aids to Navigation

**§70.05–10 Revocation of merchant mariner credential officer endorsement or license**

(569) Every master, pilot, and engineer, or person or persons acting in such capacity, respectively, on board any vessel who shall willfully injure or destroy an aid to navigation established or maintained by the United States shall be deemed guilty of violating the provisions of §70.05-1 and shall upon conviction be punished as provided in §70.05-5 and shall also have his merchant mariner credential officer endorsement or license revoked or suspended for a term to be fixed by the judge before whom tried and convicted.

**§70.05–20 Report Required**

(570) Whenever any vessel collides with an aid to navigation established and maintained by the United States or any private aid to navigation established or maintained in accordance with Part 64, 66, 67 or 68 of this subchapter, or is connected with any such collision, it shall be the duty of the person in charge of such vessel to report the accident to the nearest Officer in Charge, Marine Inspection, in accordance with 46 CFR 4.

## Part 80–COLREGS Demarcation Lines

**§80.01 General basis and purpose of demarcation lines.**

(571) (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.

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

(573) (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.

**§80.510 Chesapeake Bay Entrance, Va.**

(574) A line drawn from Cape Charles Light to Cape Henry Light.

**§80.515 Cape Henry, Va. to Cape Hatteras, N.C.**

(575) (a) A line drawn from Rudee Inlet Jetty Light 2 to Rudee Inlet Jetty Light 1.

(576) (b) A line formed by the centerline of the highway bridge across Oregon Inlet.

**§80.520 Cape Hatteras, N.C. to Cape Lookout, N.C.**

(577) (a) A line drawn from Hatteras Inlet Lookout Tower (30°11.8'N., 75°44.9'W.) 255° true to the eastern end of Ocracoke Island.

(578) (b) A line drawn from the westernmost extremity of Ocracoke Island at 35°04.0'N., 76°00.8'W. to the northeastern extremity of Portsmouth Island at 35°03.7'N., 76°02.3'W.

(579) (c) A line drawn across Drum Inlet parallel with the general trend of the highwater shoreline.

**§80.525 Cape Lookout, N.C. to Cape Fear, N.C.**

(580) (a) A line drawn from Cape Lookout Light to the seaward tangent of the southeastern end of Shackleford Banks.

(581) (b) A line drawn from Morehead City Channel Range Front Light to the seaward extremity of the Beaufort Inlet west jetty.

(582) (c) A line drawn from the southernmost extremity of Bogue Banks at 34°38.7'N., 77°06.0'W. across Bogue Inlet to the northernmost extremity of Bear Beach at 34°38.5'N., 77°07.1'W.

(583) (d) A line drawn from the southeasternmost extremity on the southwest side of New River inlet at 34°31.5'N., 77°20.6'W., to the seaward tangent of the shoreline on the northeast side on New River Inlet.

(584) (e) A line drawn across New Topsail Inlet between the closest extremities of the shore on either side of the inlet from 34°20.8'N., 77°39.2'W. to 34°20.6'N., 77°39.6'W.

(585) (f) A line drawn from the seaward extremity of the jetty on the northeast side of Masonboro Inlet to the seaward extremity of the jetty on the southeast side of the Inlet.

(586) (g) Except as provided elsewhere in this section from Cape Lookout to Cape Fear, lines drawn parallel with the general trend of the highwater shoreline across the entrance of small bays and inlets.

**§80.530 Cape Fear, N.C. to Little River Inlet, N.C.**

(587) (a) A line drawn from the abandoned lighthouse charted in approximate position 33°52.4'N., 78°00.1'W. across the Cape Fear River Entrance to Oak Island Light.

(588) (b) Except as provided elsewhere in this section from Cape Fear to Little River Inlet, lines drawn parallel with the general trend of the highwater shoreline across the entrance to small inlets.

**§80.703 Little River Inlet, S.C. to Cape Romain, S.C.**

(589) (a) A line drawn from the westernmost extremity of the sand spit on Bird Island to the easternmost extremity of Waties Island across Little River Inlet.

(590) (b) From Little River Inlet, a line drawn parallel with the general trend of the highwater shoreline across Hog Inlet; thence a line drawn across the seaward ends of the Murrels Inlet jetties; thence a line drawn parallel with the general trend of the highwater shoreline across Midway Inlet, Pawleys Inlet, and North Inlet.

(591) (c) A line drawn from the charted position of Winyah Bay North Jetty End Buoy 2N south to the Winyah Bay South Jetty.

(592) (d) A line drawn from Santee Point to the seaward tangent of Cedar Island.

(593) (e) A line drawn from Cedar Island Point west to Murphy Island.

(594) (f) A north-south line (longitude 79°20.3'W.) drawn from Murphy Island to the northernmost extremity of Cape Island Point.

**§80.707 Cape Romain, S.C. to Sullivans Island, S.C.**

(595) (a) A line drawn from the western extremity of Cape Romain 292° true to Racoon Key on the west side of Racoon Creek.

(596) (b) A line drawn from the westernmost extremity of Sandy Point across Bull Bay to the northernmost extremity of Northeast Point.

(597) (c) A line drawn from the southernmost extremity of Bull Island to the easternmost extremity of Capers Island.

(598) (d) A line formed by the overhead power cable from Capers Island to Dewees Island.

(599) (e) A line formed by the overhead power cable from Dewees Island to Isle of Palms.

(600) (f) A line formed by the centerline of the highway bridge between Isle of Palms and Sullivans Island over Breach Inlet.

**§80.710 Charleston Harbor, S.C.**

(601) (a) A line formed by the submerged north jetty from the shore to the west end of the north jetty.

(602) (b) A line drawn from across the seaward extremity of the Charleston Harbor Jetties.

(603) (c) A line drawn from the west end of the South Jetty across the South Entrance to Charleston Harbor to shore on a line formed by the submerged south jetty.

**§80.712 Morris Island, S.C. to Hilton Head Island, S.C.**

(604) (a) A line drawn from the easternmost tip of Folley Island to the abandoned lighthouse tower on the north side of Lighthouse Inlet; thence west to the shoreline of Morris Island.

(605) (b) A straight line drawn from the seaward tangent of Folly Island through Folly River Daybeacon 10 across Stono River to the shoreline of Sandy Point.

(606) (c) A line drawn from the southernmost extremity of Seabrook Island 257° true across the North Edisto River Entrance to the shore of Botany Bay Island.

(607) (d) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3'N. longitude 80°19.2'W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island.

(608) (e) A line formed by the centerline of the highway bridge between Hunting Island and Fripp Island.

(609) (f) A line drawn from the westernmost extremity of Bull Point on Capers Island to Port Royal Sound Channel Range Rear Light, 32°13.7'N., 80°36.0'W.; thence 259° true to the easternmost extremity of Hilton Head at 32°13.0'N., 80°40.1'W.

**§80.715 Savannah River.**

(610) A line drawn from the southernmost tank on Hilton Head Island charted in approximate position 32°06.7'N., 80°49.3'W. to Bloody Point Range Rear Light; thence to Tybee Range Rear Light.

**§80.717 Tybee Island, Ga. to St. Simons Island, Ga.**

(611) (a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(612) (b) A straight line drawn from the northeasternmost extremity of Wassaw Island 031° true through Tybee River Daybeacon 1 to the shore of Little Tybee Island.

(613) (c) A line drawn approximately parallel with the general trend of the highwater shorelines from the seaward tangent of Wassaw Island to the seaward tangent of Bradley Point on Ossabaw Island.

(614) (d) A north-south line (longitude 81°08.4'W.) drawn from the southernmost extremity of Ossabaw Island to St. Catherine Island.

(615) (e) A north-south line (longitude 81°10.6'W.) drawn from the southernmost extremity of St. Catherines Island to Northeast Point on Blackbeard Island.

(616) (f) A line following the general trend of the seaward highwater shoreline across Cabretta Inlet.

(617) (g) A north-south line (longitude 81°16.9'W.) drawn from the southwesternmost point on Sapelo Island to Wolf Island.

(618) (h) A north-south line (longitude 81°17.1'W.) drawn from the southeasternmost point of Wolf Island to the northeasternmost point on Little St. Simons Island.

(619) (i) A line drawn from the northeastern extremity of Sea Island 045° true to Little St. Simons Island.

(620) (j) An east-west line from the southernmost extremity of Sea Island across Goulds Inlet to St. Simons Island.

**§80.720 St. Simons Island, Ga. to Amelia Island, Fla.**

(621) (a) A line drawn from St. Simons Light to the northernmost tank on Jekyll Island charted in approximate position latitude 31°05.9'N. longitude 81°24.5'W.

(622) (b) A line drawn from the southernmost tank on Jekyll Island charted in approximate position latitude 31°01.6'N. longitude 81°25.2'W. to coordinate latitude 30°59.4'N. longitude 81°23.7'W. (0.5 nautical mile east of the charted position of St. Andrew Sound Lighted Buoy 32); thence to the abandoned lighthouse tower on the north end of Little Cumberland Island charted in approximate position 30°58.5'N., 81°24.8'W.

(623) (c) A line drawn across the seaward extremity of the St. Marys River Entrance Jetties.

**§80.723 Amelia Island, Fla. to Cape Canaveral, Fla.**

(624) (a) A line drawn from the southernmost extremity of Amelia Island to the northeasternmost extremity of Little Talbot Island.

(625) (b) A line formed by the centerline of the highway bridge from Little Talbot Island to Fort George Island.

(626) (c) A line drawn across the seaward extremity of the St. Johns River Entrance Jetties.

(627) (d) A line drawn across the seaward extremity of the St. Augustine Inlet Jetties.

(628) (e) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(629) (f) A line drawn across the seaward extremity of the Ponce de Leon Inlet Jetties.

**§80.727 Cape Canaveral, Fla. to Miami Beach, Fla.**

(630) (a) A line drawn across the seaward extremity of the Port Canaveral Entrance Channel Jetties.

(631) (b) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(632) (c) A line drawn across the seaward extremity of the Fort Pierce Inlet Jetties.

(633) (d) A north-south line (longitude 80°09.7'W.) drawn across St. Lucie Inlet.

(634) (e) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast extremity of the concrete apron on the south side of Jupiter Inlet.

(635) (f) A line drawn across the seaward extremity of the Lake Worth Inlet Jetties.

(636) (g) A line drawn across the seaward extremity of the Boynton Inlet Jetties.

(637) (h) A line drawn from Boca Raton Inlet North Jetty Light 2 to Boca Raton Inlet South Jetty Light 1.

(638) (i) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light 2; thence to Hillsboro Inlet Entrance Light 1; thence west to the shoreline.

(639) (j) A line drawn across the seaward extremity of the Port Everglades Entrance Jetties.

(640) (k) A line formed by the centerline of the highway bridge over Bakers Haulover Inlet.

**§80.730 Miami Harbor, Fla.**

(641) A line drawn across the seaward extremity of the Miami Harbor Government Cut Jetties.

**§80.735 Miami, Fla. to Long Key, Fla.**

(642) (a) A line drawn from the southernmost extremity of Fisher Island **212°** true to the point in latitude 25°45.0'N. longitude 80°08.6'W. on Virginia Key.

(643) (b) A line formed by the centerline of the highway bridge between Virginia Key and Key Biscayne.

(644) (c) A line drawn from Cape Florida Light to the northernmost extremity on Soldier Key.

(645) (d) A line drawn from the southernmost extremity on Soldier Key to the northernmost extremity of the Ragged Keys.

(646) (e) A line drawn from the Ragged Keys to the southernmost extremity of Angelfish Key following the general trend of the seaward shoreline.

(647) (f) A line drawn on the centerline of the Overseas Highway (U.S. 1) and bridges from latitude 25°19.3'N. longitude 80°16.0'W. at Little Angelfish Creek to the radar dome charted on Long Key at approximate position latitude 24°49.3'N. longitude 80°49.2'W.

**§80.740 Long Key, Fla. to Cape Sable, Fla.**

(648) A line drawn from the microwave tower charted on Long Key at approximate position latitude 24°48.8'N. longitude 80°49.6'W. to Long Key Light 1; thence to Arsenic Bank Light 2; thence to Sprigger Bank Light 5; thence to Schooner Bank Light 6; thence to Oxfoot Bank Light 10; thence to East Cape Light 2; thence through East Cape Daybeacon 1A to the shoreline at East Cape.

## Part 110–Anchorage Regulations

**§110.1 General.**

(649) (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).

(650) (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).

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

(652) (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

**§110.72b St. Simons Island, Ga.**

(653) The area beginning at a point southwest of Frederica River Bridge, St. Simons Island Causeway at

(654) 31°09'58"N., 81°24'55"W.; thence southwesterly to

(655) 31°09'42"N., 81°25'10"W.; thence westerly to the shoreline at

(656) 31°09'45"N., 81°25'20"W.; thence northeasterly along the shoreline to

(657) 31°10'02"N., 81°25'00"W.; thence southeasterly to the point of origin.

**§110.72d Ashley River, SC.**

(658) All waters on the southwest portion of the Ashley River encompassed within the following points; beginning at

(659) 32°46'42.7"N., 79°57'19.3"W.; thence southwest to

(660) 32°46'38.0"N., 79°57'24.0"W.; thence southeast to

(661) 32°46'32.0"N., 79°57'15.5"W.; thence southeast to

(662) 32°46'29.0"N., 79°57'00.9"W.; thence back to origin following the southwest boundary of the Ashley River Channel. All coordinates are North American Datum 1983.

**§110.73 St. Johns River, Fla.**

(663) (a) Area A. The waters lying within an area bounded by a line beginning at a point located at the west bank of St. Johns River at

(664) 30°15'11", 81°41'23"; thence to

(665) 30°15'13", 81°41'14"; thence to

(666) 30°15'03", 81°41'11"; thence to

(667) 30°15'04", 81°41'20"; and thence to the point of beginning.

(668) (b) Area B. The waters lying within an area bounded by a line beginning at

(669) 30°15'03", 81°41'28"; thence to

(670) 30°15'02", 81°41'10"; thence to

(671) 30°14'56", 81°41'08"; thence to

(672) 30°14'54.5", 81°41'10.5"; and thence to the point of beginning.

**§110.73a Indian River at Sebastian, Florida.**

(673) Beginning at a point on the shoreline at

(674) 27°49'40"N., 80°28'26"W.; thence **060°** to

(675) 27°49'46"N., 80°28'13"W.; thence **156°** to

(676) 27°49'31"N., 80°28'05"W.; thence **242°** to

(677) 27°49'25"N., 80°28'18"W.; thence northerly along the shoreline to the point of beginning.

(678) **Note:** This area is principally for use by commercial fishing vessels less than 65 feet in length.

### §110.73b Indian River at Vero Beach, Fla.

(679) (a) Area A. Beginning at a point located on the eastern shore of Fritz Island at

(680) 27°39'32.5"N., 80°22'20.6"W., following the shoreline northward to the northwest point at

(681) 27°39'46"N., 80°22'25.9"W., thence due east to a point on Orchid Island at approximately

(682) 27°39'46"N., 80°22'16.2"W., thence southerly along the shoreline of Orchid Island to

(683) 27°39'32.5"N., 80°22'13.4"W., thence due west to the point of beginning.

(684) (b) Area B. Beginning at a point located at the entrance channel marker No. 2 at

(685) 27°39'12"N., 80°22'17.3"W., thence northeasterly to channel marker No. 4 at

(686) 27°39'21"N., 80°22'15.8"W., thence due east to Orchid Island at approximately

(687) 27°39'21"N., 80°22'11.8"W., thence southerly along the western shoreline of Orchid Is. to

(688) 27°39'12"N., 80°22'15.6"W., thence due west to the point of beginning.

(689) (c) Vessels shall be so anchored so that no part of the vessel obstructs the turning basin or channels adjacent to the special anchorage areas.

### §110.73c. Okeechobee Waterway, St. Lucie River, Stuart, FL.

(690) The following is a special anchorage area: Beginning on the Okeechobee Intracoastal Waterway between mile marker 7 and 8 on the St. Lucie River, bounded by a line beginning at

(691) 27°12'06.583"N., 80°15'33.447"W.; thence to

(692) 27°12'07.811"N., 80°15'38.861"W.; thence to

(693) 27°12'04.584"N., 80°15'41.437"W.; thence to

(694) 27°11'49.005"N., 80°15'44.796"W.; thence to

(695) 27°11'47.99"N., 80°15'44.78"W; thence to

(696) 27°11'42.51"N., 80°15'49.36"W; thence to

(697) 27°11'41.40"N., 80°15'47.70"W.; thence to

(698) 27°11'40.44"N., 80°15'44.64"W.; thence to

(699) 27°11'43.49"N., 80°15'40.74"W.; thence to

(700) 27°11'46.82"N., 80°15'37.9647"W.; thence to

(701) 27°11'47.881"N., 80°15'38.271"W.; thence back to the original point. All coordinates reference Datum NAD:83.

## Subpart B–Anchorage Grounds

### §110.170 Lockwoods Folly Inlet, N.C.

(702) (a) Explosives Anchorage. Beginning at a point southeast of Shallotte Inlet at

(703) 33°52'31"N., 78°18'49"W.; thence south to

(704) 33°51'31"N., 78°18'42"W.; thence east to

(705) 33°51'51"N., 78°14'35"W.; thence north to

(706) 33°52'52"N., 78°14'40"W.; thence west to the point of beginning.

(707) (b) General regulations. (1) This anchorage is reserved for the exclusive use of vessels carrying explosives.

(708) (2) Vessels in this anchorage shall not anchor closer than 1,500 yards to one another. This provision is not intended to prohibit barges or lighters from lying alongside vessels for transfer of cargo.

(709) (3) The maximum quantity of explosives aboard any vessel that may be in this anchorage is 8,000 tons.

(710) (4) Nothing in this section shall be construed as relieving the owner, master, or person in charge of any vessel from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, etc.

### §110.173 Port of Charleston, S.C.

(711) (a) The anchorage grounds. (1) Commercial Anchorage A. This anchorage is located adjacent to the western edge of Folly Island Channel and southwest of Rebellion Reach and is bounded by the following coordinates:

(712) 32°45'34"N., 79°52'12"W.; to

(713) 32°46'17"N., 79°53'21"W.; to

(714) 32°45'51"N., 79°53'23"W.; to

(715) 32°45'34"N., 79°52'55"W.; thence back to

(716) 32°45'34"N., 79°52'12"W.

(717) (2) Commercial Anchorage B. This anchorage is located adjacent to the south side of South Channel and bounded by the following coordinates:

(718) 32°45'28"N., 79°53'40"W.; to

(719) 32°45'28"N., 79°54'46"W.; to

(720) 32°45'19"N., 79°54'46"W.; to

(721) 32°45'12"N., 79°54'06"W.; to

(722) 32°45'16"N., 79°53'40"W.; thence back to

(723) 32°45'28"N., 79°53'40"W.

(724) (3) Commercial Anchorage C. This anchorage is located 1,800 yards, 118° true from St. Michaels Church Spire and has a diameter of 500 yards. Vessels using this anchorage must anchor in the center.

(725) (4) Commercial Anchorage D. This anchorage is located **051°30'** true, 1,375 yards from St. Michaels Church Spire and has a diameter of 1,400 feet. The use of this anchorage is limited to loaded vessels for a period of not more than 24 hours.

(726) (b) The regulations (1) Except in cases of great emergency, no vessel shall be anchored in the main ship channels as defined by broken lines marking their boundaries on NOAA Chart 11524. Vessels must be anchored in such a way as not to interfere with the free navigation of channels in the port, including Cooper, Ashley, Wando Rivers, and Town Creek, nor to obstruct the approach to any pier or entrance to any slip, nor to impede the movement of any vessel or craft.

(727) (2) Vessels using the anchorages opposite the eastern waterfront of Charleston shall place their anchors as near as possible in the center of the anchorage. Vessels

not using a designated commercial anchorage shall not place their anchors within the main ship channels, nor shall be so anchored as to swing within 400 feet of any wharf or pier on the eastern waterfront of Charleston. Vessels may be so anchored as to swing into the main ship channels only if they are so placed with reference to the customary winds, tides, and currents of the harbor, as to swing only during slack water, and that during this period there shall remain in the waters adjacent to the channel an area of sufficient depth as to permit the safe passage of loaded vessels.

(728) (3) No vessel may anchor within the designated anchorages for more than 72 hours without the prior approval of the Captain of the Port.

(729) (4) No vessel may anchor unless it maintains a bridge watch, guards and answers Channel 16 FM, and maintains an accurate position plot.

(730) (5) If any anchored vessel is so close to another that a collision is probable, each vessel must communicate with the other vessel and the Captain of the Port on Channel 16 FM and shall act to eliminate the close proximity situation.

(731) (6) No vessel may anchor unless it maintains the capability to get underway within 4 hours.

(732) (7) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port.

(733) (8) Dragging of anchors in or across main ship channels and cable areas is prohibited.

(734) (9) Vessels which, through force of great emergency, are anchored contrary to the foregoing regulations in this section shall be shifted to new berths in accordance with such regulations at the earliest opportunity.

(735) (10) A vessel, upon notification from the Captain of the Port to shift its position in anchorage grounds must get underway at once or signal for a tug, and must change position as directed with reasonable promptness.

(736) (11) No vessel may conduct lightering operations in an anchorage without permission from the Captain of the Port.

(737) (12) When the use of an anchorage is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(738) (13) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, etc.

**§110.179 Skidaway River, Isle of Hope, Ga.**

(739) (a) The anchorage ground. An area in Skidaway River beginning at a point on the mean low water line 400 feet south of Brady Boat Works, thence 076°30', 300 feet to a buoy; thence 152°30', 900 feet to a buoy; thence 251°00', 450 feet to the mean low water line at Wymberly Yacht Club dock.

(740) (b) The regulations. (1) Except in cases of great emergency, no vessels shall anchor in Skidaway River between the north end of Barbee's dock and southward to Day Marker 48 except in the anchorage area hereby defined and established: Provided, however, that vessels may moor to any lawfully constructed wharf.

(741) (2) Except in cases of great emergency, no vessel shall be anchored where it can swing within 50 feet of any lawfully constructed wharf or within 50 feet of the mean low water line, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundary of the anchorage area.

(742) (3) Any vessel anchoring under circumstances of great emergency outside the anchorage area should be placed in such a position as not to interfere with the free navigation of the channel nor obstruct the approach to any lawfully constructed wharf nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification of the District Commander.

(743) (4) No vessels with an overall length greater than 65 feet will use the anchorage area except in cases of great emergency.

(744) (5) Vessels operating within the anchorage area will not exceed a speed of five (5) miles per hour.

**§110.182 Atlantic Ocean off Fort George Inlet, near Mayport, Fla.**

(745) (a) The Anchorage areas–(1) Anchorages for aircraft carriers and other deep draft vessels. Four circular areas each with a radius of 600 yards and with their centers located at:

(746) "A"–30°25'35"N., 81°21'23"W.;

(747) "B"–30°26'13"N., 81°21'13"W.;

(748) "C"–30°26'19"N., 81°20'27"W.;

(749) "D"–30°26'55"N., 81°20'47"W.

(750) (2) Anchorages for destroyers and other ships of similar size. Six circular areas each with a radius of 300 yards and with their centers located at:

(751) "1"–30°24'38"N., 81°21'57"W.;

(752) "2"–30°24'57"N., 81°21'58"W.;

(753) "3"–30°24'56"N., 81°21'38"W.;

(754) "4"–30°25'13"N., 81°22'05"W.;

(755) "5"–30°25'13"N., 81°21'43"W;

(756) "6"–30°25'07"N., 81°21'24"W.

(757) (3) Explosives anchorage. The circular area "A" described in paragraph (a) (1) of this section is also designated as an explosives anchorage for use during periods when ammunition must be handled outside the limits of the U.S. Naval Station, Mayport, Fla.

(758) (b) The regulations for all designated areas. (1) Usage of these areas by naval vessels shall predominate only when necessary for military requirements; at such times other vessels shall remain clear of the areas.

(759) (2) Prudent assignment of the anchorage areas shall be made by the Commanding Officer, U.S. Naval Station, Mayport, Fla.

(760) (c) Additional regulations for Explosives Anchorage Area "A." (1) When occupied by a vessel handling explosives, no other vessel may enter the area unless authorized by the enforcing agency.

(761) (2) Only one vessel handling explosives may anchor in the area at one time. A patrol craft shall be utilized to assure that other vessels remain clear when explosives are exposed or being transferred to and from the anchorage.

(762) (3) No more than 500,000 pounds net high explosives or equivalent may be exposed in the area at any one time.

(763) (d) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Station, Mayport, Fla., or other agencies that he may designate.

**§110.183 St. Johns River, Florida.**

(764) (a) The anchorage grounds–

(765) (1) Anchorage A. (Upper Anchorage) The Anchorage is established within the following coordinates, the area enclosed by a line starting at the south shore westerly of the entrance to Miller Creek at

(766) 30°18'43.8"N., 81°38'15.0"W.; thence to

(767) 30°18'52.8"N., 81°38'15.0"W.; thence to

(768) 30°18'47.6"N., 81°37'47.6"W.; thence to

(769) 30°18'55.0"N., 81°37'29.0"W.; thence to

(770) 30°19'06.0"N., 81°37'27.0"W.; thence to

(771) 30°19'06.0"N., 81°37'02.0"W.; thence to

(772) 30°19'01.2"N., 81°37'02.0"W.; thence returning to the point of beginning.

(773) (2) Anchorage B. (Lower Anchorage) The Anchorage is established within the following coordinates, the area enclosed by a line starting at a point on the eastern shore of the river at Floral Bluff at

(774) 30°21'00.0"N., 81°36'41.0"W.; thence to

(775) 30°20'00.0"N., 81°37'03.0"W.; thence to

(776) 30°21'00.0"N., 81°37'06.0"W.; thence to

(777) 30°21'50.0"N., 81°36'56.0"W.; thence to

(778) 30°21'54.0"N., 81°36'48.0"W.; thence to returning to the point of beginning.

(779) (b) The regulations.

(780) (1) Except in cases of emergency, only vessels meeting the conditions and restrictions of this paragraph will be authorized by the Captain of the Port to anchor in the St. Johns River, as depicted on NOAA chart 11491, between the entrance buoy (STJ) and the Main Street Bridge (in position 30°19'20"N., 81°39'32"W). Vessels unable to meet any of the following conditions and restrictions must obtain specific authorization from the Captain of the Port prior to anchoring in Anchorage A or B.

(781) (2) All vessels intending to enter and anchor in Anchorage A or B shall notify the Captain of the Port prior to entering.

(782) (3) Anchorages A and B are temporary anchorages. Additionally, Anchorage B is used as a turning basin. Vessels may not anchor for more than 24 hours in either anchorage without specific written authorization from the Captain of the Port.

(783) (4) All vessels at anchor must maintain a watch on VHF-FM channels 13 and 16 by a person fluent in English, and shall make a security broadcast on channel 13 upon anchoring and every 4 hours thereafter.

(784) (5) Anchorage A is restricted to vessels less than 250 feet in length.

(785) (6) Anchorage B is restricted to vessels with a draft of 24 feet or less, regardless of length.

(786) (7) Any vessel transferring petroleum products within Anchorage B shall have a pilot or Docking Master aboard, and employ sufficient assist tugs to assure the safety of the vessel at anchor and any vessels transiting the area.

(787) (8) Any vessel over 300 feet in length within Anchorage B shall have a Pilot or Docking Master aboard, and employ sufficient assist tugs to assure the safety of the vessel at anchor and any vessels transiting the area.

**§110.185 Atlantic Ocean, off the Port of Palm Beach, FL**

(788) (a) The anchorage grounds. (1) Anchorage A. The waters lying within an area bounded by a line beginning at

(789) 26°50'00"N., 80°01'12"W.; thence westerly to

(790) 26°50'00"N., 80°01'30"W.; thence southerly to

(791) 26°47'30"N., 80°01'30"W.; thence easterly to

(792) 26°47'30"N., 80°01'12"W.; and thence northerly to the point of beginning.

(793) (2) Anchorage B. The waters lying within an area bounded by a line beginning at

(794) 26°45'06"N., 80°01'12"W.; thence westerly to

(795) 26°45'06"N., 80°01'42"W.; thence southerly to

(796) 26°43'48"N., 80°01'42"W.; thence easterly to

(797) 26°43'48"N., 80°01'12"W.; and thence northerly to the point of beginning.

(798) (b) The regulations. (1) Vessels in the Atlantic Ocean near Lake Worth Inlet awaiting berthing space at the Port of Palm Beach, shall only anchor within the anchorage areas hereby defined and established, except in cases of great emergency.

(799) (2) Vessels anchoring under circumstances of great emergency outside the anchorage areas shall be shifted to new positions within the anchorage areas immediately after the emergency ceases.

**§110.186 Port Everglades, Florida.**

(800) (a) The anchorage grounds. The anchorage grounds, the center of which is located approximately two and one half miles northeast of the entrance of Port Everglades, is an area bounded by a line connecting points with the following North American Datum 83 coordinates:

(801) 26°08'26.93"N., 080°04'28.24"W.

(802) 26°08'08.56"N., 080°04'16.15"W.
(803) 26°07'56.00"N., 080°04'17.48"W.
(804) 26°07'56.00"N., 080°02'42.62"W.
(805) 26°07'19.50"N., 080°02'53.15"W.
(806) 26°07'19.50"N., 080°04'28.80"W.
(807) 26°06'35.16"N., 080°04'28.80"W.
(808) 26°06'35.16"N., 080°04'38.69"W.
(809) 26°08'26.93"N., 080°04'28.24"W

(810) (b) The regulations. (1) Commercial vessels in the Atlantic Ocean in the vicinity of Port Everglades shall anchor only within the anchorage area hereby defined and established, except in cases of emergency.

(811) (2) Prior to entering the anchorage area, all vessels shall notify the Coast Guard Captain of the Port, via the Port Everglades Harbormaster, on VHF-FM Channel 14.

(812) (3) All vessels within the designated anchorage area shall maintain a 24-hour bridge watch by a licensed or credentialed deck officer proficient in English, monitoring VHF-FM channel 16. This individual shall confirm that the ship's crew performs frequent checks of the vessel's position to ensure the vessel is not dragging anchor.

(813) (4) Vessels may anchor anywhere within the designated anchorage area provided that: such anchoring does not interfere with the operations of any other vessels currently at anchorage; and all anchor and chain or cable is positioned in such a manner to preclude dragging over reefs.

(814) (5) No vessel may anchor in a “dead ship” status (i.e. propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port. Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, shall immediately notify the Coast Guard Captain of the Port via Coast Guard Sector Miami on VHF-FM Channel 16.

(815) (6) No vessel may anchor within the designated anchorage for more than 72 hours without the prior approval of the Captain of the Port. To obtain this approval, contact the Coast Guard Captain of the Port, via the Port Everglades Harbor Master, on VHF-FM Channel 14.

(816) (7) The Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety or security.

(817) (8) Commercial vessels anchoring under emergency circumstances outside the anchorage area shall shift to new positions within the anchorage area immediately after the emergency ceases.

(818) (9) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port, U.S. Coast Guard, Miami, Florida, may direct relocation of any vessel anchored within the anchorage area. Once directed, such vessel must get underway at once or signal for a tug, and must change position as directed.

**§110.188 Atlantic Ocean off Miami and Miami Beach, Fla.**

(819) (a) The anchorage grounds. The area to the eastward of a line bearing **012°** through a point X, which is 1½ nautical miles due east of the intersection of the Miami Beach shoreline with the north jetty; to the northward of a line bearing **102°** and intersecting the **012°** line at a point A, one-half nautical mile north of the said point X; and to the southward of a line bearing **102°** and intersecting the **012°** line at a point B, 2½ nautical miles north of the said point X. The northern and southern extremities of the **012°** line are marked by spar buoys. The entire anchorage area lies north of the entrance channel to Miami Harbor.

(820) (b) The rules and regulations. (1) Except in cases of great emergency, no vessel shall be anchored in the Atlantic Ocean in the vicinity of the entrances to the approach channels leading to the cities of Miami Beach and Miami, Fla., outside of the anchorage area hereby defined and established–that is, they shall not anchor shoreward of the line first named nor southward of the second nor northward of the third line–but may anchor as far to the eastward as may be desired.

(821) (2) Any vessel anchoring under circumstances of great emergency outside of the anchorage area shall be shifted to new berths within the area immediately after the emergency ceases.

(822) (3) All vessels shall lie at anchor with as short a cable as conditions will permit.

(823) (4) A vessel upon being notified to move into the anchorage limits or to shift its position on the anchorage ground must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

(824) (5) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port, U.S. Coast Guard, Miami, Fla., is hereby empowered to shift the position of any vessel anchored on the anchorage ground or outside thereof, or of any vessel moored or anchored so as to impede or obstruct vessel movements or obstruct or interfere with range lights.

(825) (6) Vessels carrying explosives shall be anchored only under a written permit issued by the Captain of the Port and at such point as he may direct.

(826) (7) Vessels carrying explosives shall be at all times in charge of a competent person, and must display by day a red flag, of not less than 16 square feet, at the masthead, or not less than 10 feet above the upper deck if the vessel has no mast; at night a red light shall be displayed in the positions specified for the red flag.

(827) (8) Nothing in this paragraph shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or other aids to navigation, or for otherwise violating law.

(828) (9) All vessels desiring to use the Anchorage must notify the Coast Guard Captain of the Port, via the Biscayne Bay Pilots on VHF-FM channel 12 or 16.

(829) (10) All vessels anchored within the anchorage area shall maintain a 24-hour bridge watch by an English speaking licensed or credentialed deck officer monitoring VHF-FM Channel 16. This individual shall perform frequent checks of the vessels's position to ensure the vessel is not dragging anchor.

(830) (11) Vessels experiencing casualties such as a main propulsion, main steering or anchoring equipment malfunction or which are planning to perform main propulsion engine repairs or maintenance, shall immediately notify the Coast Guard Captain of the Port via the Coast Guard Sector Miami on VHF-FM channel 16.

(831) (12) The Coast Guard Captain of the Port may close the anchorage area and direct vessels to depart the anchorage during periods of adverse weather or at other times as deemed necessary in the interest of port safety.

**§110.189a Key West Harbor, Key West, Fla.; naval explosives anchorage area.**

(832) (a) The anchorage ground. A circular area with its center at latitude 24°30'50.6", longitude 81°50'31.6" with a radius of 300 yards, for use for ammunition exceeding the prescribed limits for pier-side handling.

(833) (b) The regulations. (1) When occupied by a vessel handling explosives, no other vessel may enter the area unless authorized by the enforcing agency.

(834) (2) Only one vessel handling explosives may anchor in the area at one time.

(835) (3) No more than 300,000 pounds net of high explosives or equivalent may be handled in the area at any one time.

(836) (4) The regulations in this section shall be enforced by the Commander, U.S. Naval Base, Key West, Fla., and any other agencies he may designate.

## Part 117–Drawbridge Operation Regulations

## Subpart A–General Requirements

**§117.1 Purpose.**

(837) (a) This part prescribes the general and special drawbridge operating regulations that apply to the drawbridges across the navigable waters of the United States and its territories. The authority to regulate drawbridges across the navigable waters of the United States is vested in the Secretary of Homeland Security.

(838) (b) Subpart A contains the general operation requirements that apply to all drawbridges.

(839) (c) Subpart B contains specific requirements for operation of individual drawbridges. These requirements are in addition to or vary from the general requirements in Subpart A. Specific sections in subpart B that vary from a general requirement in Subpart A supersede the general requirement. All other general requirements in Subpart A, that are not at variance, apply to the drawbridges and removable span bridges listed in Subpart B.

**§117.3 [Removed].**

**§117.4 Definitions.**

(840) The following definitions apply to this part:

(841) Appurtenance means an attachment or accessory extending beyond the hull or superstructure that is not an integral part of the vessel and is not needed for a vessel's piloting, propelling, controlling, or collision avoidance capabilities.

(842) Automated drawbridge means a drawbridge that is operated by an automated mechanism, not a drawtender. An automated drawbridge is normally kept in the open to navigation position and closes when the mechanism is activated.

(843) Deviation means a District Commander's action authorizing a drawbridge owner to temporarily not comply with the drawbridge opening requirements in this part.

(844) Drawbridge means a bridge with an operational span that is intended to be opened for the passage of waterway traffic.

(845) Drawspan means the operational span of a drawbridge.

(846) Lowerable means a non-structural vessel appurtenance that is or can be made flexible, hinged, collapsible, or telescopic so that it can be mechanically or manually lowered.

(847) Nonstructural means that the item is not rigidly fixed to the vessel and can be relocated or altered.

(848) Not essential to navigation means that a nonstructural vessel appurtenance, when in the lowered position, would not adversely affect the vessel's piloting, propulsion, control, or collision-avoidance capabilities.

(849) Public vessel means a vessel that is owned and operated by the United States Government and is not engaged in commercial service, as defined in 46 U.S.C. 2101.

(850) Remotely operated drawbridge means a drawbridge that is operated by remote control from a location away from the drawbridge.

(851) Removable span bridge means a bridge that requires the complete removal of a span by means other than machinery installed on the bridge to open the bridge to navigation.

(852) Untended means that there is no drawtender at the drawbridge.

**§117.5 When the drawbridge must open.**

(853) Except as otherwise authorized or required by this part, drawbridges must open promptly and fully for the passage of vessels when a request or signal to open is given in accordance with this subpart.

**§117.7 General requirements of drawbridge owners.**

(854) Except for drawbridges that have been authorized, before January 3, 2007, to remain closed to navigation or as otherwise specified in subpart B, drawbridge owners must:

(855) (a) Provide the necessary drawtender(s) for the safe and prompt opening of the drawbridge.

(856) (b) Maintain the working machinery of the drawbridge in good operating condition.

(857) (c) Cycle the drawspan(s) periodically to ensure operation of the drawbridge.

(858) (d) Ensure that the drawbridge operates in accordance with the requirements of this part.

(859) (e) Any drawbridge allowed to remain closed to navigation prior to January 3, 2007, when necessary, must be returned to operable condition within the designated time set forth by the District Commander and will become subject to the requirements of this part.

**§117.8 Permanent changes to drawbridge operation.**

(860) (a) Anyone may submit a written request to the District Commander for a permanent change to a drawbridge operating requirement. The request must include documentation supporting or justifying the requested change.

(861) (b) If after evaluating the request, the District Commander determines that the requested change is not needed, he or she will respond to the request in writing and provide the reasons for denial of the requested change.

(862) (c) If the District Commander decides that a change may be needed, he or she will begin a rulemaking to implement the change.

**§117.9 Delaying opening of a draw.**

(863) No person shall unreasonably delay the opening of a draw after the signals required by §117.15 have been given.

**Note**

(864) Trains are usually controlled by the block method. That is, the track is divided into blocks or segments of a mile or more in length. When a train is in a block with a drawbridge, the draw may not be able to open until the train has passed out of the block and the yardmaster or other manager has "unlocked" the drawbridge controls. The maximum time permitted for delay is defined in Subpart B for each affected bridge. Land and water traffic should pass over or through the draw as soon as possible in order to prevent unnecessary delays in the opening and closure of the draw.

**§117.11 Unnecessary opening of the draw.**

(865) No vessel owner or operator shall -

(866) (a) Signal a drawbridge to open if the vertical clearance is sufficient to allow the vessel, after all lowerable nonstructural vessel appurtenances that are not essential to navigation have been lowered, to safely pass under the drawbridge in the closed position; or

(867) (b) Signal a drawbridge to open for any purpose other than to pass through the drawbridge opening.

**§117.15 Signals.**

(868) (a) General. (1) The operator of each vessel requesting a drawbridge to open shall signal the drawtender and the drawtender shall acknowledge that signal. The signal shall be repeated until acknowledged in some manner by the drawtender before proceeding.

(869) (2) The signals used to request the opening of the draw and to acknowledge that request shall be sound signals, visual signals, or radiotelephone communications described in this subpart.

(870) (3) Any of the means of signaling described in this subpart sufficient to alert the party being signaled may be used.

(871) (b) Sound signals. (1) Sound signals shall be made by whistle, horn, megaphone, hailer, or other device capable of producing the described signals loud enough to be heard by the drawtender.

(872) (2) As used in this section, "prolonged blast" means a blast of four to six seconds duration and "short blast" means a blast of approximately one second duration.

(873) (3) The sound signal to request the opening of a draw is one prolonged blast followed by one short blast sounded not more than three seconds after the prolonged blast. For vessels required to be passed through a draw during a scheduled closure period, the sound signal to request the opening of the draw during that period is five short blasts sounded in rapid succession.

(874) (4) When the draw can be opened immediately, the sound signal to acknowledge a request to open the draw is one prolonged blast followed by one short blast sounded not more than 30 seconds after the requesting signal.

(875) (5) When the draw cannot be opened immediately, or is open and shall be closed promptly, the sound signal to acknowledge a request to open the draw is five short blasts sounded in rapid succession not more than 30 seconds after the vessel's opening signal. The signal shall be repeated until acknowledged in some manner by the requesting vessel.

(876) (c) Visual signals. (1) The visual signal to request the opening of a draw is–

(877) (i) A white flag raised and lowered vertically; or

(878) (ii) A white, amber, or green light raised and lowered vertically.

(879) (2) When the draw can be opened immediately, the visual signal to acknowledge a request to open the draw, given not more than 30 seconds after the vessel's opening signal, is–

(880) (i) A white flag raised and lowered vertically;

(881) (ii) A white, amber, or green light raised and lowered vertically, or

(882) (iii) A fixed or flashing white, amber, or green light or lights.

(883) (3) When the draw cannot be opened immediately, or is open and must be closed promptly, the visual signal to acknowledge a request to open the draw is –

(884) (i) A red flag or red light swung back and forth horizontally in full sight of the vessel given not more than 30 seconds after the vessel's opening signal; or

(885) (ii) A fixed or flashing red light or lights given not more than 30 seconds after the vessel's opening signal.

(886) (4) The acknowledging signal when the draw cannot open immediately or is open and must be closed promptly shall be repeated until acknowledged in some manner by the requesting vessel.

(887) (d) Radiotelephone communications. (1) Radiotelephones may be used to communicate the same information provided by sound and visual signals.

(888) (2) The vessel and the drawtender shall monitor the frequency used until the vessel has cleared the draw.

(889) (3) When radiotelephone contact cannot be initiated or maintained, sound or visual signals under this section shall be used.

**§117.17 Signalling for contiguous drawbridges.**

(890) When a vessel must pass two or more drawbridges close together, the opening signal is given for the first bridge. After acknowledgment from the first bridge that it will promptly open, the opening signal is given for the second bridge, and so on until all bridges that the vessel must pass have been given the opening signal and have acknowledged that they will open promptly.

**§117.19 Signalling when two or more vessels are approaching a drawbridge.**

(891) When two or more vessels are approaching the same drawbridge at the same time, or nearly the same time, whether from the same or opposite directions, each vessel shall signal independently for the opening of the draw and the drawtender shall reply in turn to the signal of each vessel. The drawtender need not reply to signals by vessels accumulated at the bridge for passage during a scheduled open period.

**§117.21 Signalling for an opened drawbridge.**

(892) When a vessel approaches a drawbridge with the draw in the open position, the vessel shall give the opening signal. If no acknowledgment is received within 30 seconds, the vessel may proceed, with caution, through the open draw.

**§117.23 Installation of radiotelephones.**

(893) (a) When the District Commander deems it necessary for reasons of safety of navigation, the District Commander may require the installation and operation of a radiotelephone on or near a drawbridge.

(894) (b) The District Commander gives written notice of the proposed requirement to the bridge owner.

(895) (c) All comments the owner wishes to submit shall be submitted to the District Commander within 30 days of receipt of the notice under paragraph (b) of this section.

(896) (d) If, upon consideration of the comments received, the District Commander determines that a radiotelephone is necessary, the District Commander notifies the bridge owner that a radiotelephone shall be installed and gives a reasonable time, not to exceed six months, to install the radiotelephone and commence operation.

**§117.24 Radiotelephone installation identification.**

(897) (a) The Coast Guard authorizes, and the District Commander may require the installation of a sign on drawbridges, on the upstream and downstream sides, indicating that the bridge is equipped with and operates a VHF radiotelephone in accordance with §117.23.

(898) (b) The sign shall give notice of the radiotelephone and its calling and working channels-

(899) (1) In plain language; or

(900) (2) By a sign consisting of the outline of a telephone handset with the long axis placed horizontally and a vertical three-legged lightning slash superimposed over the handset. The slash shall be as long vertically as the handset is wide horizontally and normally not less than 27 inches and no more than 36 inches long. The preferred calling channel should be shown in the lower left quadrant and the preferred working channel should be shown in the lower right quadrant.

**§117.31 Drawbridge operations for emergency vehicles and emergency vessels.**

(901) (a) Upon receiving notification that an emergency vehicle is responding to an emergency situation, a drawtender must make all reasonable efforts to have the drawspan closed at the time the emergency vehicle arrives.

(902) (b) When a drawtender receives notice, or a proper signal as provided in §117.15 of this part, the drawtender shall take all reasonable measures to have the draw opened, regardless of the operating schedule of the draw, for passage of the following, provided this opening does not conflict with local emergency management procedures which have been approved by the cognizant Coast Guard Captain of the Port:

(903) (1) Federal, State, and local government vessels used for public safety;

(904) (2) vessels in distress where a delay would endanger life or property;

(905) (3) commercial vessels engaged in rescue or emergency salvage operations; and

(906) (4) vessels seeking shelter from severe weather.

**§117.33 Closure of draw for natural disasters or civil disorders.**

(907) Drawbridges need not open for the passage of vessels during periods of natural disasters or civil disorders declared by the appropriate authorities unless otherwise provided for in Subpart B or directed to do so by the District Commander.

**§117.35 Temporary change to a drawbridge operating schedule.**

(908) (a) For any temporary change to the operating schedule of a drawbridge, lasting less than or equal to 180 days, the District Commander may issue a deviation approval letter to the bridge owner and publish a "Notice of deviation from drawbridge regulation" in the **Federal Register**.

(909) (b) If the time period for a temporary change to the operating schedule of a drawbridge will be greater then 180 days, the District Commander will follow appropriate rulemaking procedures and publish a temporary rule in the **Federal Register** prior to the start of the action.

(910) (c) Request for change. (1) To temporarily change the drawbridge-operating requirements the bridge owner must submit a written request to the District Commander for approval of the change.

(911) (2) The request must describe the reason for the closure and the dates and times scheduled for the start and end of the change.

(912) (3) Requests should be submitted as early as possible, preferably 90 days before the start of the action. District Commanders have discretion to accept requests submitted less than 90 days before a needed change if those requests can be processed before the date of the needed change.

(913) (d) Determination. The District Commander's determination to allow the schedule change is normally forwarded to the bridge owner within ten working days after receipt of the request. If the request is denied, the reasons for the denial will be set out in the District Commander's decision letter.

(914) (e) The drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

(915) (f) If the authorized closure period for an event is broken into separate time periods on the same day or on consecutive days, the drawbridge must provide openings for navigation between the authorized closures.

(916) (g) The District Commander will also announce the change to the operating schedule in the Local Notice to Mariners and other appropriate local media.

**§117.36 Closure of drawbridge for emergency repair.**

(917) (a) When a drawbridge unexpectedly becomes inoperable, or should be immediately rendered inoperable because of mechanical failure or structural defect, the drawbridge owner must notify the District Commander of the closure without delay and give the reason for the emergency closure of the drawbridge and an estimated time when the drawbridge will be returned to operating condition.

(918) (b) The District Commander will notify mariners about the drawbridge status through Broadcast Notices to Mariners, Local Notice to Mariners and any other appropriate local media.

(919) (c) Repair work under this section must be performed with all due speed in order to return the drawbridge to operation as soon as possible.

**§117.37 [Removed].**

**§117.39 Authorized closure of drawbridge due to infrequent requests for openings.**

(920) (a) When there have been no requests for drawbridge openings for at least two years, a bridge owner may request in writing that the District Commander authorize the drawbridge to remain closed to navigation and to be untended.

(921) (b) The District Commander may:

(922) (1) Authorize the closure of the drawbridge;

(923) (2) Set out any conditions in addition to the requirement in paragraph (d): and

(924) (3) Revoke an authorization and order the drawbridge returned to operation when necessary.

(925) (c) All drawbridges authorized to remain closed to navigation, under this section, must be maintained in operable condition.

(926) (d) Authorization under this section does not:

(927) (1) Authorize physical changes to the drawbridge structure, or

(928) (2) Authorize removal of the operating machinery.

(929) (e) Drawbridges authorized under this section to remain closed to navigation and to be untended are identified in subpart B of this part.

**§117.40 Advance notice for drawbridge opening.**

(930) (a) Upon written request by the owner of a drawbridge, the District Commander may authorize a drawbridge to operate under an advance notice for opening. The drawbridge tender, after receiving the advance notice, must open the drawbridge at the requested time and allow for a reasonable delay in arrival of the vessel giving the advance notice.

(931) (b) If the request is approved, a description of the advanced notice for the drawbridge will be added to subpart B of this part.

**§117.41 Maintaining drawbridges in the fully open position.**

(932) (a) Drawbridges permanently maintained in the fully open to navigation position may discontinue drawtender service as long as the drawbridge remains fully open to navigation. The drawbridge must remain in the fully open position until drawtender service is restored.

(933) (b) If a drawbridge is normally maintained in the fully open to navigation position, but closes to navigation for the passage of pedestrian, vehicular, rail, or other traffic, the drawbridge must be tended unless:

(934) (1) Special operating requirements are established in subpart B of this part for that drawbridge; or

(935) (2) The drawbridge is remotely operated or automated.

**§117.42 Remotely operated and automated drawbridges.**

(936) (a) Upon written request by the owner of a drawbridge, the District Commander may authorize a drawbridge to operate under an automated system or from a remote location.

(937) (b) If the request is approved, a description of the full operation of the remotely operated or automated drawbridge will be added to subpart B of this part.

**§117.43 [Removed].**

**§117.45 [Removed].**

**§117.47 Clearance gauges.**

(938) (a) Clearance gauges are required for drawbridges across navigable waters of the United States discharging into the Atlantic Ocean south of Delaware Bay (including the Lewes and Rehoboth Canal, DE) or into the Gulf of Mexico (including coastal waterways contiguous thereto and tributaries to such waterways and the Lower Atchafalaya River, LA), except the Mississippi River and its tributaries and outlets.

(939) (b) Except for provisions in this part which specify otherwise for particular drawbridges, clearance gauges shall be designed, installed, and maintained according to the provisions of 33 CFR 118.160 (not carried in this Coast Pilot).

**Note**

(940) Clearance gauge requirements, if any, for drawbridges other than those referred to in this section are listed in Subpart B under the appropriate bridge.

**§117.49 Process of violations.**

(941) (a) Complaints of alleged violations under this part are submitted to the District Commander of the Coast Guard District in which the drawbridge is located.

(942) (b) Penalties for violations under this part are assessed and collected under Subpart 1.07 of Part 1 of this chapter (not published in this Coast Pilot; see 33 CFR 1.07).

## Subpart B–Specific Requirements

**§117.51 General.**

(943) The drawbridges in this subpart are listed by the state in which they are located and by the waterway they cross. Waterways are arranged alphabetically by state. The drawbridges listed under a waterway are generally arranged in order from the mouth of the waterway moving upstream. The drawbridges on the Atlantic Intracoastal Waterway are listed from north to south and on the Gulf Intracoastal Waterway from east to west.

**§117.53 [Removed].**

**§117.55 Posting of requirements.**

(944) (a) The owner of each drawbridge under this subpart, other than removable span bridges, must ensure that a sign summarizing the requirements in this subpart applicable to the drawbridge is posted both upstream and downstream of the drawbridge. The requirements to be posted need not include those in Subpart A or §§117.51 through 117.59 of this part.

(945) (b) The signs shall be of sufficient size and so located as to be easily read at any time from an approaching vessel.

(946) (c) If advance notice is required to open the draw, the signs shall also state the name, address, and telephone number of the person to be notified.

**§117.57 [Removed].**

**§117.59 Special requirements due to hazards.**

(947) For the duration of occurrences hazardous to safety or navigation, such as floods, freshets, and damage to the bridge or fender system, the District Commander may require the owner of an operational drawbridge listed in this subpart to have the bridge attended full time and open on signal.

**§117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.**

(948) (a) General. Public vessels of the United States and tugs with tows mustl be passed through the drawspan of each drawbridge listed in this section at any time.

(949) (b) McCormick Bridge, mile 747.5 at Jacksonville Beach. The draw shall open on signal; except that, during April, May, October, and November, from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m. Monday through Friday except federal holidays, the draw need open only on the hour and half-hour. During April, May, October, and November, from 12 noon to 6 p.m. Saturdays, Sundays, and federal holidays, the draw need open only on the hour and half-hour.

(950) (c) [Reserved]

(951) (d) Bridge of Lions (SR A1A) bridge, mile 777.9 at St. Augustine. The draw shall open on signal; except

that, from 7 a.m. to 6 p.m. the draw need open only on the hour and half-hour; however, the draw need not open at 8 a.m., 12 noon, and 5 p.m. Monday through Friday except federal holidays. From 7 a.m. to 6 p.m. on Saturdays, Sundays and federal holidays the draw need only open on the hour and half-hour.

(952) (e)–(f) [Reserved]

(953) (g) Memorial bridge, mile 830.6 at Daytona Beach. The draw shall open on signal; except that, from 7:45 a.m. to 8:45 a.m. and 4:45 p.m. to 5:45 p.m. Monday through Saturday except federal holidays, the draw need open only at 8:15 a.m. and 5:15 p.m.

(954) (h) Coronado Beach bridge (SR 44), mile 845 at New Smyrna Beach. The Coronado Beach bridge (SR 44), mile 845, shall open on signal, except that from 7 a.m. until 7 p.m., each day of the week, the draw need only open on the hour, twenty minutes past the hour and forty minutes past the hour.

(955) (i) [Reserved]

(956) (j) NASA Railroad bridge, mile 876.6 at Kennedy Space Center.

(957) (1) The draw is not constantly tended.

(958) (2) The draw is normally in the fully open position displaying flashing green lights to indicate that vessels may pass.

(959) (3) When a train approaches the bridge, it stops and the operator initiates a command to lower the bridge. The lights go to flashing red and the draw lowers and locks, providing scanning equipment reveals nothing under the draw. The draw remains down until a manual raise command is initiated, or will raise automatically 5 minutes after the intermediate track circuit is no longer occupied by a rail car.

(960) (4) After the train has cleared, the draw opens and the lights return to flashing green.

(961) (k) State Road 402, Max Brewer bridge, mile 878.9 at Titusville. The draw shall open on signal; except that, from 6 a.m. to 7:15 a.m. and 3:15 p.m. to 4:30 p.m., Monday through Friday, except federal holidays, the draw need not open.

(962) (l) John F. Kennedy Space Center bridge, mile 885 at Addison Point. The draw shall open on signal; except that from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5 p.m. Monday through Friday, except Federal holidays, the draw need not open.

(963) (m) [Reserved]

(964) (n) [Reserved]

(965) (o) Jensen Beach (SR 707a) bridge, mile 981.4 at Stuart. The draw shall open on signal; except that from December 1 through May 1, from 7 a.m. to 6 p.m., Monday through Friday, except federal holidays, the draw need open only on the hour and half-hour.

(966) (p) [Reserved]

(967) (q) Indiantown Road bridge, mile 1006.2. The draw shall open on the hour and half-hour.

(968) (r) Donald Ross bridge, mile 1009.3, at North Palm Beach. The draw shall open on the hour and half-hour.

(969) (s) PGA Boulevard bridge, mile 1211.6 at North Palm Beach. The draw shall open on the hour and on the half-hour.

(970) (t) Parker (US–1) bridge, mile 1013.7, at Riviera Beach. The draw shall open on the quarter and three-quarter hour.

(971) (u) Flagler Memorial (SR A1A) bridge, mile 1020.8, at Palm Beach. The draw shall open on the quarter and three-quarter hour.

(972) (v) Royal Park (SR 704) bridge, mile 1022.6, at Palm Beach. The draw shall open on the hour and half-hour.

(973) (w) Southern Boulevard (SR 700/80) bridge, mile 1024.7, at Palm Beach. The draw shall open on the quarter and three-quarter hour.

(974) (x) Ocean Avenue bridge, mile 1031.0 at Lantana. The draw shall open on the hour and half-hour.

(975) (y) Ocean Avenue bridge, mile 1035.0, at Boynton Beach. The draw shall open on the hour and half-hour.

(976) (z) [Reserved]

(977) (z-1) Atlantic Avenue (SR 806) bridge, mile 1039.6, at Delray Beach. The draw shall open on the quarter and three-quarter hour.

(978) (z-2) Linton Boulevard bridge, mile 1041.1, at Delray Beach. The draw shall open on the hour and half-hour.

(979) (z-3) Spanish River bridge, mile 1044.9, at Boca Raton. The draw shall open on the hour and half-hour.

(980) (aa) Palmetto Park bridge, mile 1047.5, at Boca Raton. The draw shall open on the hour and half-hour.

(981) (aa-1) Boca Club, Camino Real bridge, mile 1048.2, at Boca Raton. The draw shall open on the hour, twenty minutes past the hour and forty minutes past the hour.

(982) (bb) Broward County (1) Hillsboro Boulevard bridge (SR 810), mile 1050.0 at Deerfield Beach. The draw shall open on the hour and half-hour.

(983) (2) NE 14th Street bridge, mile 1055.0 at Pompano. The draw shall open on the quarter-hour and three-quarter hour.

(984) (3) Atlantic Boulevard (SR 814) bridge, mile 1056.0 at Pompano. The draw shall open on the hour and half-hour.

(985) (4) Commercial Boulevard (SR 870) bridge, mile 1059.0, at Lauderdale-by-the-Sea. The draw shall open on the hour and half-hour.

(986) (5) Oakland Park Boulevard bridge, mile 1060.5 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(987) (6) East Sunrise Boulevard (SR 838) bridge, mile 1062.6, at Fort Lauderdale. The draw shall open on the hour and half-hour. On the first weekend in May, the draw need not open from 4 p.m. to 6 p.m. on Saturday and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(988) (7) East Las Olas bridge, mile 1064 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour. On the first weekend in May, the draw need not open from 4 p.m. to 6 p.m. on Saturday

and Sunday, and, on the first Saturday in May, the draw need not open from 9:45 p.m. to 10:45 p.m.

(989) (8) SE 17th Street (Brooks Memorial) bridge, mile 1065.9 at Fort Lauderdale. The draw shall open on the hour and half hour.

(990) (9) Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach. The draw shall open on the hour and half-hour.

(991) (10) Sheridan Street bridge, mile 1070.5, at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(992) (11) Hollywood Beach Boulevard (SR 820) bridge, mile 1072.2 at Hollywood. The draw shall open on the hour and half-hour.

(993) (12) Hallandale Beach Boulevard (SR 824) bridge, mile 1074.0 at Hallandale. The draw shall open on the quarter-hour and three-quarter hour.

(994) (cc)-(kk) [Reserved]

(995) (ll) N.E. 163rd Street (SR826) bridge, mile 1078.0 at Sunny Isles. The draw shall open on signal; except that, from 7 a.m. to 6 p.m. on Monday through Friday except federal holidays, and from 10 a.m. to 6 p.m. on Saturdays, Sundays, and federal holidays, the draw need open only on the quarter-hour and three-quarter-hour.

(996) (mm) Broad Causeway bridge, mile 1081.4 at Bay Harbor Islands. The draw shall open on signal; except that, from 8 a.m. to 6 p.m., the draw need open only on the quarter-hour and three-quarter-hour.

(997) (nn) [Reserved].

(998) (oo) [Reserved].

(999) (pp) [Reserved].

(1000) (qq) Jewfish Creek, mile 1134, Key Largo. The draw shall open on signal; except that from 10 a.m. to sunset, Thursday through Sunday and federal holidays, the draw need open only on the hour and half-hour.

(1001) (rr)-(ss) [Reserved].

**§117.263 Banana River.**

(1002) (a) The draw of the Mathers (SR A-1-A) Bridge, mile 0.5 at Indian Harbor Beach, shall open on signal; except that, from 10 p.m. to 6 a.m. Monday through Friday except Federal holidays, the draw shall open on signal if at least two hours notice is given.

(1003) (b) The draw of the NASA Causeway bridge, mile 27.6 at Cape Canaveral, shall open on signal if at least four hours notice is given to the NASA Security Office by telephone or in person.

**§117.269 Biscayne Bay.**

(1004) The Venetian Causeway Bridge (East) shall open on signal, except that from 7 a.m. to 7 p.m., Monday through Friday, except Federal holidays, the bridge need only open on the hour and half-hour.

**§117.272 Boot Key Harbor.**

(1005) The draw of the Boot Key Harbor drawbridge, mile 0.13, between Marathon and Boot Key, will open as necessary on the hour between the hours of 7 a.m. to 7 p.m. At all other times, the bridge will open following a one hour notification to the bridge tender by calling the posted cell phone number. The draw shall open on demand and as soon as practicable for the passage of tugs with tows, public vessels of the United States and vessels whereby a delay would endanger life or property.

**§117.273 Canaveral Barge Canal.**

(1006) (a) The drawspan of the Christa McAuliffe Drawbridge, SR 3, mile 1.0, across the Canaveral Barge Canal need only open daily for vessel traffic on the hour and half-hour from 6 a.m. to 10 p.m.; except that from 6:15 a.m. to 8:15 a.m. and from 3:10 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the drawspan need not open. From 10:01 p.m. to 5:59 a.m., everyday, the drawspan must open on signal if at least 3 hours notice is given to the drawtender. The drawspan must open as soon as possible for the passage of public vessels of the United States and tugs with tows.

(1007) (b) The drawspan of the SR401 Drawbridge, mile 5.5 at Port Canaveral, must open on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5:15 p.m. Monday through Friday except Federal holidays, the drawspan need not be opened for the passage of vessels. From 10 p.m. to 6 a.m., the drawspan must open on signal if at least three hours notice is given. The drawspan must open as soon as possible for the passage of public vessels of the United States and tugs with tows.

**§117.289 Hillsboro Inlet.**

(1008) The drawspans of the SR A-1-A Drawbridge, mile 0.3 at Hillsboro Beach, must open on signal; except that, from 7 a.m. to 6 p.m., the drawspan need be opened only on the hour, quarter hour, half hour, and three quarter hour. Public vessels of the United States and tugs with tows must be passed at anytime.

**§117.295 Kissimmee River.**

(1009) The draw of the DSX Railroad bridge, mile 37.0, near Fort Basinger, shall open if at least 96 hours notice is given.

**§117.299 Loxahatchee River.**

(1010) The draw of the Florida East Coast Railway Bridge across the Loxahatchee River, mile 1.2 at Jupiter, operates as follows:

(1011) (a) The bridge is not constantly tended.

(1012) (b) The draw is normally in the fully open position, displaying flashing green lights to indicate that vessels may pass.

(1013) (c) When a train approaches, the lights go to flashing red and a horn starts four blasts, pauses, and then continues four blasts. After an eight minute delay, the draw lowers and locks, providing the scanning equipment reveals nothing under the draw. The draw remains down for a period of eight minutes or while the approach track circuit is occupied.

(1014) (d) After the train has cleared, the draw opens and the lights return to flashing green.

**§117.305 Miami River.**

(1015) (a) General. Public vessels of the United States, tugs, tugs with tows, and vessels in a situation where a delay would endanger life or property shall, upon proper signal, be passed through the draw of each bridge listed in this section at any time.

(1016) (b) The draws of the S.W. First Street Bridge, mile 0.9, up to and including the N.W. 27th Avenue Bridge, mile 3.7 at Miami, shall open on signal; except that, from 7:35 a.m. to 8:59 a.m. and 4:45 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels.

(1017) (c) The draws of the Miami Avenue Bridge, mile 0.3, and the S.W. Second Avenue Bridge, mile 0.5, at Miami, shall open on signal; except that, from 7:35 a.m. to 8:59 a.m., 12:05 p.m. to 12:59 p.m. and 4:35 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels.

(1018) (d) The draw of the Brickell Avenue Bridge, mile 0.1, at Miami, shall open on signal; except that, from 7 a.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half-hour. From 7:35 a.m. to 8:59 a.m., 12:05 p.m. to 12:59 p.m. and 4:35 p.m. to 5:59 p.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels.

**§117.307 Miami River, North Fork.**

(1019) The draw of the FDOT Railroad Bridge, mile 5.3 at Miami, shall open on signal if at least 48-hour notice is given to CSX System Operating Headquarters 800-232-0144.

**§117.309 Nassau Sound.**

(1020) The draw of the Fernandina Port Authority (SR A-1-A) bridge, mile 0.4 between Amelia Island and Talbot Island, shall open on signal from 6 a.m. to 6 p.m. if at least six hours notice is given. The draw need not be opened from 6 p.m. to 6 a.m.

**§117.313 New River.**

(1021) (a) The draw of the S.E. Third Avenue bridge, mile 1.4 at Fort Lauderdale shall open on signal; except that, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays the draw need not open. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

(1022) (b) The draw of the Andrews Avenue bridge, mile 2.3 at Fort Lauderdale, shall open on signal; however, the draw need not be opened for upbound vessels when the draw of the Florida East Coast railroad bridge, mile 2.5 at Fort Lauderdale, is in the closed position for the passage of a train.

**§117.315 New River, South Fork.**

(1023) (a) The draw of the Davie Boulevard (SW. Twelfth Street) bridge, mile 0.9 at Fort Lauderdale shall open on signal; except that, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

(1024) (b) The draw of the SR84 bridge, mile 4.4 at Fort Lauderdale, shall open on signal if at least 24 hours notice is given. Public vessels of the United States, regularly scheduled cruise vessels, tugs with tows, and vessels in distress shall be passed through the draw as soon as possible.

**§117.317 Okeechobee Waterway.**

(1025) (a) Exempt Vessels. This term means public vessels of the United States and tugs with tows.

(1026) (b) Evans Crary (SR A1A) bridge, mile 3.4 at Stuart. The draw shall open on signal; except that from December 1 through May 1, from 7 a.m. to 6 p.m., Monday through Friday, except federal holidays, the draw need open only on the hour and half-hour. On Saturdays, Sundays, and federal holidays, December 1, through May 1, from 8 a.m. to 6 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. Exempt vessels shall be passed at any time.

(1027) (c) Florida East Coast Railroad bridge, mile 7.4 at Stuart. The draw shall operate as follows:

(1028) (1) The bridge is not constantly tended.

(1029) (2) The draw is normally in the fully open position, displaying flashing green lights to indicate that vessels may pass.

(1030) (3) When a train approaches the bridge, the navigation lights go to flashing red and a horn sounds four blasts, pauses, and then repeats four blasts. After an eight minute delay, the draw lowers and locks, providing the scanning equipment reveals nothing under the draw. The draw remains down for a period of eight minutes or while the approach track circuit is occupied.

(1031) (4) After the train has cleared, the draw opens and the lights return to flashing green.

(1032) (d) Roosevelt (US1) bridge, mile 7.4 at Stuart. The draw shall open on signal; except Monday through Friday, except federal holidays, from 7 a.m. to 6 p.m. the draw need open only on the hour and half hour. However, the draw need not open between 7:30 a.m. and 9 a.m. and 4 p.m. and 5:30 p.m. except at 8:15 a.m. and 4:45 p.m. On Saturdays, Sundays, and federal holidays from 8 a.m. to 6 p.m. the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. When the adjacent railway bridge is in the closed position at the time of a scheduled opening the draw need not open, but it must then open immediately upon opening of the railroad bridge to pass all accumulated vessels. Exempt vessels shall be passed at any time.

(1033) (e) Seaboard System Railroad bridge, mile 28.2 at Indiantown. The draw shall open on signal; except that, from 10 p.m. to 6 a.m. the draw shall open on signal if at least three hours notice is given.

(1034) (f) Florida East Coast Railroad bridge, mile 38.0, at Port Mayaca.

(1035) (1) The bridge is not constantly tended.

(1036) (2) The draw is normally in the fully open position, displaying flashing green lights to indicate that vessels may pass.

(1037) (3) When a train approaches the bridge, it will stop and a crew member will observe the waterway for approaching vessels, which will be allowed to pass. Upon manual signal, the bridge lights will go to flashing red, and the horn will sound four blasts, pause, then repeat four blasts, then the draw will lower and lock, providing scanning equipment reveals nothing under the span.

(1038) (4) After the train has cleared, the draw will open, and the lights will return to flashing green.

(1039) (g) Belle Glade Dike (SR 71) bridge, mile 60.7 between Torry Island and Lake Shore. The draw shall open on signal from 7 a.m. to 6 p.m. Monday through Thursday, and from 7 a.m. to 7 p.m. Friday through Sunday. At all other times, the draw need not be opened for passage of vessels.

(1040) (h) Seaboard System Railroad bridge, mile 78.3 at Moore Haven. The draw shall open on signal; except that, from 10 p.m. to 6 a.m. the draw need not be opened for the passage of vessels.

(1041) (i) Highway bridges at Moore Haven (mile 78.4), La Belle (mile 103.0), Denaud (mile 108.2), Alva (mile 116.0), and Olga (mile 126.3). The draws shall open on signal; except that, from 10 p.m. to 6 a.m. the draws shall open on signal if at least three hours notice is given.

**§117.319 Oklawaha River.**

(1042) (a) The draws of the Sharpes Ferry (SR 40) bridge, mile 55.1, and Muclan Farms bridge, mile 63.9, shall open on signal if at least three hours notice is given.

(1043) (b) The draw of the Moss Bluff (SR464) bridge, mile 66.0, need not open for the passage of vessels.

**§117.324 Rice Creek.**

(1044) The CSX Railroad swingbridge, mile 0.8, in Putnam County, shall open on signal from 8 a.m. to 4 p.m., daily. From 4:01 p.m. to 7:59 a.m., daily, the bridge shall open with a 24-hour advance notice to CSX at 1-800-232-0142.

**§117.325 St. Johns River.**

(1045) (a) The drawspan for the Main Street (US1/SR 90) drawbridge, mile 24.7 at Jacksonville, must open on signal except that, from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m., Monday through Saturday except Federal holidays, the drawspan need not be opened for the passage of vessels.

(1046) (b) The draw of the Florida East Coast automated railroad bridge, mile 24.9, shall operate as follows:

(1047) (1) The bridge shall be constantly tended and have a mechanical override capability for the automated operation. A radiotelephone shall be maintained at the bridge for the safety of navigation.

(1048) (2) The draw is normally in the fully open position, displaying flashing green lights to indicate that vessels may pass.

(1049) (3) When a train approaches, large signs on both the upstream and downstream sides of the bridge flash "Bridge Coming Down," the lights go to flashing red, and siren signals sound. After an eight minute delay, the draw lowers and locks if there are no vessels under the draw. The draw remains down for a period of eight minutes or while the approach track circuit is occupied.

(1050) (4) After the train has cleared, the draw opens and the lights return to flashing green.

**§117.329 St. Marys River.**

(1051) The draws of US17 bridge, mile 23.0, and the Seaboard System Railroad bridge, mile 23.1, both at King Island, shall open on signal if at least 48 hours notice is given.

**§117.331 Snake Creek.**

(1052) The draw of the Snake Creek bridge, at Islamorada, Florida, shall open on signal, except that from 8 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

**§117.335 Taylor Creek.**

(1053) The draw of US441 bridge, mile 0.3 at Okeechobee, shall open on signal if at least two hours notice is given.

**§117.337 Trout River.**

(1054) The draw of the CSX Railroad Bridge across the Trout River, mile 0.9 at Jacksonville, operates as follows:

(1055) (a) The bridge is not tended.

(1056) (b) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.

(1057) (c) As a train approaches, provided the scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously sounds while the draw closes. The draw remains closed until the train passes.

(1058) (d) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

**§117.351 Altamaha River.**

(1059) (a) The draws of all bridges, except the Seaboard System Railroad bridge, mile 59.4 at Doctortown, shall open on signal if at least 24 hours notice is given.

(1060) (b) The draw of the Seaboard System Railroad bridge, mile 59.4 at Doctortown, shall open on signal if at least seven days notice is given.

**§117.353 Atlantic Intracoastal Waterway, Savannah River to St. Marys River.**

(1061) (a) General. Public vessels of the United States and tugs with tows must, upon proper signal, be passed through the drawspan of each drawbridge in this section at anytime.

(1062) (b) Causton Bluff, SR 26, mile 579.9 near Causton Bluff. The draw shall open on signal, except that from 6:30 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. Monday through Friday, except Federal holidays, the draw need open only at 7 a.m., 8 a.m. and 5:30 p.m.

(1063) (c) Skidaway Bridge, SR 204, mile 592.9 near Savannah. The draw will open as necessary on the hour from 7 a.m. to 9 a.m. (7, 8, and 9 a.m.) and on the half-hour between 4:30 p.m. to 6:30 p.m. (4:30, 5:30, and 6:30 p.m.), daily; Monday through Friday except Federal holidays. The draw shall open at any time for Public vessels of the United States, tugs with tows, and vessels in distress. At all other times, the draw will open on signal.

**§117.363 Ocmulgee River.**

(1064) The draws of each bridge shall open on signal if at least 24 hours notice is given.

**§117.365 Oconee River.**

(1065) The draw of the SR46 bridge, mile 44.3 near Soperton, shall open on signal if at least 24 hours notice is given.

**§117.367 Ogeechee River.**

(1066) (a) The draw of the Seaboard System Railroad bridge, mile 30.7 at Richmond Hill, shall open on signal if at least 15 days notice is given.

(1067) (b) The draw of the highway bridge, mile 37.8 near Richmond Hill, need not be opened for the passage of vessels.

**§117.369 Satilla River.**

(1068) The draw of the Seaboard System Railroad bridge, mile 25.7 at Woodbine, shall open on signal if at least 24 hours notice is given.

**§117.371 Savannah River.**

(1069) (a) The draw of the Houlihan bridge (US 17) mile 21.6 at Savannah shall open on signal if at least three hours advance notice is given to the Georgia Department of Transportation Area Engineer in Savannah.

(1070) (b) The draw of the Seaboard System Railroad bridge, mile 27.4 near Hardeeville, South Carolina, shall open on signal if at least three hours advance notice is given. VHF radiotelephone communications will be maintained at the railroad's chief dispatcher's office in Savannah.

(1071) (c) The draw of the CSX Transportation railroad bridge, mile 60.9, near Clyo, Georgia, shall open on signal if at least 48 hours advance notice is given. Openings can be arranged by contacting CSX Transportation on Channel 16 VHF or by telephone at 1-800-232-0146. VHF radiotelephone communications will be maintained at the dispatcher's office in Savannah, Georgia.

(1072) (d) The draw of the Seaboard System Railroad bridge, mile 195.4 near Augusta, shall open on signal if at least three hours notice is given.

**§117.373 St. Marys River.**

(1073) See §117.329, St. Marys River, listed under Florida.

**§117.820 Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal.**

(1074) The draw of the Great Dismal Swamp Canal Bridge, mile 28.0 at South Mills, NC, shall operate as follows:

(1075) (a) The draw shall remain in the open position for navigation. The draw shall only be closed for pedestrian crossings or periodic maintenance authorized in accordance with Subpart A of this part.

(1076) (b) The bridge shall be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center. Operational information will be provided 24 hours a day on marine channel 13.

(1077) (c) The bridge shall not be operated when the operator's visibility is impaired.

(1078) (d) Before the bridge closes for any reason, the operator will monitor waterway traffic in the area. The bridge shall only be closed if the operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area. While the bridge is moving, the operator shall maintain constant surveillance of the navigation channel.

(1079) (e) Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the bridge is seated and locked down to vessels.

(1080) (f) When pedestrian traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic.

**§117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.**

(1081) (a) The drawbridges across the Atlantic Intracoastal Waterway in North Carolina shall open on signal for commercial vessels at all times and on signal for pleasure vessels, except at the times and during the periods specified in this paragraph:

(1082) (1) Onslow Beach Swing Bridge, mile 240.7, at Cap Lejeune, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour and half hour.

(1083) (2) S.R. 50 Bridge, mile 260.7, at Surf City, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour.

(1084) (3) Figure Eight Swing Bridge, mile 278.1, at Scotts Hill, NC, the draw need only open on the hour and half hour.

(1085) (4) S.R. 74 Bridge, mile 283.1, at Wrightsville Beach, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour; except that from 7 a.m. to 9 a.m. on the second Saturday of July of every year, from 7 a.m. to 11 a.m. on the third and fourth Saturday of September of every year, and from 7 a.m. to 10:30 a.m. on the last Saturday of October of every year or the first or second Saturday of November of every year, the draw need not open for vessels due to annual races.

(1086) (5) S.R. 1172 Bridge, mile 337.9, at Sunset Beach, NC, shall open on the hour on signal between 7 a.m. to 9 p.m.

(1087) (b) If a pleasure vessel is approaching a drawbridge which is only required to open on the hour or on the hour and half hour, and cannot reach the drawbridge on the hour or on the half hour, drawtender may delay the required opening up to 10 minutes past the hour or half hour.

**§117.822 Cape Fear River.**

(1088) The draw of the Cape Fear Memorial Bridge, mile 26.8, at Wilmington need not open for the passage of vessels from 7 a.m. to 9 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the first or second Sunday of November of every year to accommodate annual races.

**§116.823 Gallants Channel.**

(1089) The draw of the US 70 bridge, mile 0.1, at Beaufort, shall open as follows:

(1090) (a) From 6 a.m. to 10 p.m., the draw need only open on the hour and on the half hour; except that Monday through Friday the bridge need not open between the hours of 6:30 a.m. to 8 a.m. and 4:30 p.m. to 6 p.m.

(1091) (b) From 10 p.m. to 6 a.m., the bridge shall open on signal.

**§117.824 Neuse River.**

(1092) (a) The draw of the Atlantic and East Carolina Railway bridge, mile 80.0, at Kinston shall open on signal if at least 24 hours notice is given.

**§117.825 Newport River.**

(1093) The draw of the Atlantic and East Carolina Railway bridge, mile 13.0 at Newport, need not be opened for the passage of vessels.

**§117.829 Northeast Cape Fear River.**

(1094) (a) The draw of the Isabel S. Holmes Bridge, at mile 1.0, at Wilmington, North Carolina will operate as follows:

(1095) (1) The draw will be closed to pleasure craft from 6 a.m. to 6 p.m. every day except at 10 a.m. and 2 p.m. when the draw will open for all waiting vessels.

(1096) (2) The draw will open on signal for Government and commercial vessels at all times.

(1097) (3) The draw will open for all vessels on signal from 6 p.m. to 6 a.m.

(1098) (4) From 7 a.m. to 9 a.m. on the second Saturday of July of every year, from 12 p.m. to 11:59 p.m. on the last Saturday of October or the first or second Saturday of November of every year, and from 7 a.m. to 11 a.m. on the first or second Sunday of November of every year, the draw need not open for vessels to accommodate annual races.

(1099) (b) The CSX Hilton Railroad Bridge, mile 1.5 in Wilmington, NC shall operate as follows:

(1100) (1) The draw of the bridge to be remotely operated by the controller at the Navassa Railroad Bridge mile 34.0 across the Cape Fear River.

(1101) (2) The draw shall be left in the open position to vessels and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with Subpart A of this part.

(1102) (3) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in 117.31(b).

(1103) (4) The CSX Hilton Railroad Bridge shall not be operated by the controller at the CSX Navassa Railroad in the event of failure or obstruction of the motion sensors, laser scanners, video cameras or marine-radio communications. In these situations, a bridge tender must be called to operate the bridge on-site.

(1104) (5) When rail traffic has cleared, the horn will automatically sound one prolonged blast followed by one short blast to indicate that the CSX Hilton Railroad Bridge is moving to the full open position to vessels. During open span movement, the channel traffic lights will flash red, until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will flash green, allowing vessels to pass safely.

(1105) (6) During closing span movement, the channel traffic lights will flash red, the horn will sound five short blasts, and an audio voice-warning device will announce bridge movement. Five short blasts of the horn will continue until the bridge is seated and locked down. When the bridge is seated and in the locked down position to vessels, the channel traffic lights will continue to flash red.

(1106) (c) The draw of the Seaboard System Railroad Bridge across the Northeast Cape Fear River, mile 27.0, at Castle Hayne, North Carolina shall open on signal if at a least 4 hours notice is given.

**§117.831 Pamlico and Tar Rivers.**

(1107) The draws of the US17-264 bridge, mile 37.2 at Washington, and the Boyds Ferry bridge, mile 44.8 at Grimesland, shall open on signal if at least 24 hours notice is given. The bridge owners shall restore constant attendance when so directed by the District Commander.

**§117.833 Pasquotank River.**

(1108) (a) The draw of the Albermarle & Chesapeake railroad bridge, mile 47.7, at Elizabeth City, North Carolina, shall be maintained in the open position; the draw may close only for the crossing of trains and maintenance of the bridge. When the draw is closed, a bridgetender shall be present to reopen the draw after the train has cleared the bridge.

(1109) (b) The draw of the US 158 Highway Bridge, mile 50.7, at Elizabeth City, shall open on signal; except that between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., Monday through Friday, the draw need open only at 7:30 a.m., 8:30 a.m., 4:30 p.m., and 5:30 p.m. for any pleasure vessels waiting to pass.

**§117.835 Perquimans River.**

(1110) The draw of the US17 bridge, mile 12.0 at Hertford, shall open on signal from 8 a.m. to midnight from April 1 through September 30 and from 10 a.m. to 10 p.m. from October 1 through March 31. The draw need not be opened at all other times.

**§117.837 Roanoke River.**

(1111) The draw of the Seaboard System Railroad bridge, mile 94.0 at Palmyra, need not be opened for the passage of vessels.

**§117.841 Smith Creek.**

(1112) The draw of the S117-S133 bridge, mile 1.5 at Wilmington, need not open for the passage of vessels.

**§117.843 Trent River.**

(1113) (a) The draw of the U.S. 70 bridge, mile 0.0, at New Bern:

(1114) (1) Need not open from 6:30 a.m. to 8:30 a.m. and from 4:00 p.m. to 6:00 p.m., Monday through Friday, for pleasure vessels. However, the draw shall open at 7:30 a.m. and 5:00 p.m. for any vessel waiting to pass.

(1115) (2) Need not open from 2:00 p.m. to 7:00 p.m. from May 24 through September 8, on Sundays and Federal holidays, for pleasure vessels. However, the draw shall open at 4:00 p.m. and 6:00 p.m. for any vessel waiting to pass.

(1116) (3) Must always open on signal for public vessels of the United States.

(1117) (4) Shall open on signal at all other times.

(1118) (b) The draws of the Seaboard System Railroad bridge, mile 18.0 near Pollocksville, need not be opened for the passage of vessels.

**§117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.**

(1119) (a) General. Public vessels of the United States and tugs with tows, upon proper signal, will be passed through the drawspan of each drawbridge listed in this section at any time.

(1120) (b) [Reserved]

(1121) (c) Ben Sawyer (SR703) bridge across Sullivan's Island Narrows, mile 462.2 between Sullivan's Island and Mount Pleasant. The draw shall open on signal, except that the draw need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. Monday through Friday except federal holidays. On Saturdays, Sundays, and federal holidays, from 9 a.m. to 7 p.m., the draw need open only on the hour.

(1122) (d) SR 171/700 bridge across Wappoo Creek Mile 470.8 at Charleston. The draw shall open on signal, except that from April 1 to November 30 from 9 a.m. to 4 p.m. Monday through Friday, except federal holidays, and from 9 a.m. to 7 p.m., on Saturdays, Sundays and federal holidays, the bridge need not open except on the hour and half-hour. From June 1 to September 30 and from December 1 to March 30 the draw need not open from 6:30 a.m. to 9 a.m. and from 4 p.m. to 6:30 p.m. Monday through Friday, except federal holidays, and from April 1 to May 31 and from October 1 to November 30 Monday through Friday, except federal holidays, the draw need not open from 6 a.m. to 9 a.m. and from 4 p.m. to 6:30 p.m.

(1123) (e) John Limehouse Bridge across the Stone River, mile 479.3 at Johns Island. The draw of the John Limehouse Bridge shall open on signal; except that the draw need not open from 6:30 a.m. to 9 a.m. and from 4 p.m. to 6:30 p.m., Monday through Friday except Federal holidays. Between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half hour. The draw shall open as soon as possible for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

(1124) (f) Lady's Island Bridge, across the Beaufort River, Mile 536.0 at Beaufort. The draw shall operate as follows:

(1125) (1) On Monday through Friday, except Federal holidays:

(1126) (i) From 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open, and,

(1127) (ii) Between 9 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(1128) (2) At all other times the draw shall open on signal.

**§117.913 Ashepoo River.**

(1129) The draw of the Seaboard System Railroad bridge, mile 32.0 at Ashepoo, need not be opened for the passage of vessels. However, the draw shall be returned to operable condition within six months after notification by the District Commander to do so.

**§117.915 Ashley River.**

(1130) (a) The draws of the US17 highway bridges, miles 2.4 and 2.5 at Charleston, shall open on signal; except that, from 7 a.m. to 9 a.m. Monday through Friday and 4 p.m. to 7 p.m. daily, the draws need be opened only if at least 12 hours notice is given. The draws of either bridge

shall open as soon as possible for the passage of vessels in an emergency involving danger to life or property.

(1131) (b) The draw of the Seaboard System Railroad bridge, mile 12.0 near Drayton Hall, shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m., the draw shall open on signal if at least three hours notice is given.

**§117.917 Battery Creek.**

(1132) The draw of the State highway bridge, mile 2.1 between Beaufort and Parris Island, shall open on signal if at least 24 hours notice is given.

**§117.921 Broad River.**

(1133) (a) The draw of the S170 bridge, mile 14.0 near Beaufort, shall open on signal if at least 24 hours notice is given.

(1134) (b) The draw of the Seaboard System Railroad bridge, mile 17.0 near Whale Branch, shall open on signal if at least 24 hours notice is given.

**§117.923 Congaree River.**

(1135) The draw of the Southern Railway bridge, mile 4.3 at Moye's Station, shall open on signal if at least 24 hours notice is given.

**§117.925 Cooper River.**

(1136) The draw of the Seaboard System Railroad bridge, mile 42.8 near Cordesville, shall open on signal if at least six hours advance notice is given.

**§117.927 Coosaw River (Whale Branch).**

(1137) The draw of the Seaboard System Railroad bridge, mile 5.3 at Seabrook, and the draw of the US21 bridge, mile 7.0 at Beaufort, shall open on signal from 6 a.m. to 8 p.m. Monday through Friday if at least 24 hours notice is given. At all other times, the draw need not be opened for the passage of vessels.

**§117.929 Durham Creek.**

(1138) The removable span of the Seaboard System Railroad bridge, mile 1.7 at Bushy Park, shall be removed to allow the passage of dredges and construction equipment if at least 20 days notice is given. When notified by the City of Charleston of an emergency in the Bushy Park Reservoir, the span shall be removed as soon as possible to permit the passage of dredges and construction equipment.

**§117.933 Pee Dee River.**

(1139) The draws of the Seaboard System Railroad bridges, mile 72.6 near Poston and mile 107.2 near Pee Dee, need not be opened for the passage of vessels.

**§117.935 Rantowles Creek.**

(1140) The draw of the Seaboard System Railroad bridge, 1.1 near Rantowles, need not be opened for the passage of vessels.

**§117.936 Savannah River.**

(1141) **See §117.371, Savannah River, listed under Georgia.**

**§117.937 [Suspended]**

**§117.938 Waccamaw River.**

(1142) The draw of the Waccamaw Coast Line Railroad bridge, mile 44.4 at Conway, shall open on signal; except that from 8 a.m. to 6 p.m. Monday through Friday, the draw shall open on signal if at least one hour notice is given.

**§117.939 Wando River.**

(1143) The draw of the S41 bridge, mile 10.0 near Cainhoy, shall open on signal if at least 12 hours notice is given.

**§117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albermarle and Chesapeake Canal.**

(1144) (a) The draw of the Belt Line Railroad Bridge, mile 2.6, in Portsmouth and Chesapeake will operate as follows:

(1145) (1) The bridge will be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(1146) (2) The bridge will be operated by the controller at the Berkley Yard office.

(1147) (3) The controller will monitor waterway traffic in the area of the bridge and directly beneath the bridge with closed circuit cameras mounted on top of the bridge and with surface navigational radar.

(1148) (4) When the bridge closes for any reason, the controller will announce 30 minutes in advance, 15 minutes in advance, and immediately proceeding the actual lowering, over marine channel 13, that the Belt Line Railroad Bridge is closing for river traffic. In each of these three announcements, the bridge/train controller will request all concerned river traffic to please acknowledge on marine channel 13.

(1149) (5) The bridge shall only be operated from the remote site if closed circuit visual and radar information shows there are no vessels in the area and no opposing radio communications have been received.

(1150) (6) While the Belt Line Bridge is moving from the full open position to the full closed position, the bridge/train controller will maintain constant surveillance of the navigational channel to ensure no conflict with maritime traffic exists. In the event of failure of a camera or the radar system, or loss of marine-radio

communications, the bridge shall not be operated by the off-site bridge/train controller from the remote location.

(1151) (7) If the off-site bridge/train controller's visibility of the navigational channel is less than \3/4\ of a mile, the bridge shall not be operated from the remote location.

(1152) (8) When the draw cannot be operated from the remote site, a bridgetender must be called to operate the bridge in the traditional on- site manner.

(1153) (9) The Belt Line mid-channel lights will change from green to red anytime the bridge is not in the full open position.

(1154) (10) During the downward and upward span movement, a warning alarm will sound until the bridge is seated and locked down or in the full open position.

(1155) (11) When the bridge has returned to its full up position, the midchannel light will turn from red to green, and the controller will announce over marine radio channel 13, "Security, security, security, the Belt Line bridge is open for river traffic." Operational information will be provided 24 hours a day on marine channel 13 and via telephone 757-543-1996 or 757-545-2941.

(1156) (b) The draw of the Norfolk and Western railroad bridge across the South Branch of the Elizabeth River, mile 3.6 at Portsmouth-Chesapeake, shall be maintained in the open position; except the draw may close for the crossing of trains and maintenance of the bridge. When the draw is closed, a drawtender shall be present and the draw shall open on signal.

(1157) (c) The draw of the Gilmerton (US13/460) bridge, mile 5.8, in Chesapeake:

(1158) (1) Shall open on signal at any time for commercial vessels carrying liquified flammable gas or other hazardous materials.

(1159) (2) From 6:30 a.m. to 8:30 a.m. and from 3:30 to 5:30 p.m., Monday through Friday, except Federal holidays:

(1160) (i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (d)(2)(ii) of this section.

(1161) (ii) Need not open for commercial cargo vessels, including tugs, and tugs with tows, unless 2 hours advance notice has been given to the Gilmerton Bridge at 757-545-1512.

(1162) (3) Shall open on signal at all other times.

(1163) (d) The draw of the Norfolk Southern #7 Railroad Bridge, mile 5.8 in Chesapeake, shall operate as follows:

(1164) (1) The draw shall be remotely controlled by the operator at the Norfolk Southern #5 Railroad Bridge office over the Eastern Branch of the Elizabeth River, at mile 1.1, in Norfolk.

(1165) (2) The draw shall be left in the open position to vessels and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(1166) (3) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in §117.31(b).

(1167) (4) Before the bridge closes for any reason, the off-site remote operator will monitor waterway traffic in the area with closed circuit cameras and motion sensors mounted on the bridge. The bridge will only be closed if the off-site remote operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

(1168) (5) While the bridge is moving from the full open position to the full closed position, the off-site remote operator will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists. In the event of failure or obstruction, the off-site remote operator will stop and return the bridge to the full open position to vessels. In the event of a failure or obstruction, a bridge tender must be called by the off-site remote operator and must be on-site within 30 minutes of the call to operate the bridge.

(1169) (6) During closing of the span, the channel traffic lights will change from flashing green to flashing red, the horn will sound twice, and an audio voice warning device will announce bridge movement, then two repeat blasts of the horn will sound until the bridge is seated and locked down. When the bridge is seated and locked down to vessels, the channel traffic lights will flash red.

(1170) (7) During the open span movement, the channel traffic lights will flash red, the horn will sound twice, followed by a pause, and then five repeat blasts of the horn will sound until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will turn from flashing red to flashing green then an audio warning device will announce bridge movement by stating "Security, security, security, the Norfolk Southern #7 Railroad Bridge at mile 5.8 is open for river traffic"

(1171) (8) Operational information will be provided 24 hours a day on marine channel 13 and via telephone 757-924-5320.

(1172) (e) The draw of the I-64 bridge across the South Branch of the Elizabeth River, mile 7.1 at Chesapeake, shall open on signal if at least 24 hours notice is given.

(1173) (f) The draw of the Dominion Boulevard (US 17) bridge, mile 8.8, in Chesapeake:

(1174) (1) Shall open on signal at any time for commercial vessels carrying liquified flammable gas or other hazardous materials.

(1175) (2) From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, need not open for the passage of recreational vessels, and need open for commercial cargo vessels not carrying hazardous materials, including tugs and tugs with tows, only when notice has been given at least 2 hours in advance to the Dominion Boulevard Bridge at 757-547-0521.

(1176) (3) From 6 a.m. to 7 a.m. and from 9 a.m. to 4 p.m., Monday to Friday, and from 6 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need only

be opened every hour on the hour, except the draw shall open on signal for commercial vessels that qualify under paragraphs (g)(1) or (g)(2) of this section.

(1177) (4) If any vessel is approaching the bridge and cannot reach the draw exactly on the hour, the drawtender may delay the opening up to ten minutes past the half hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(1178) (5) Shall open on signal at all other times.

(1179) (g) The draw of the S168 bridge, mile 12 at Chesapeake (Great Bridge), shall open on signal; except that, from 6 a.m. to 7 p.m., the draw need be opened only on the hour. If any vessel is approaching the bridge and cannot reach the draw exactly on the hour, the drawtender may delay the hourly opening up to 10 minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass. Vessels in an emergency condition which presents danger to life or property shall be passed at any time.

(1180) (h) The draw of the Albemarle & Chesapeake Railroad bridge, mile 13.9, in Chesapeake, Virginia, shall be maintained in the open position; the draw may close only for the crossing of trains and maintenance of the bridge. When the draw is closed, a bridgetender shall be present to reopen the draw after the train has cleared the bridge.

(1181) (i) The draw of the Centerville Turnpike (SR 170) bridge across the Albemarle and Chesapeake Canal, mile 15.2, at Chesapeake:

(1182) (1) Shall open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials.

(1183) (2) From 6:30 a.m. to 8.:30 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays:

(1184) (i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (i)(2)(ii) of this section.

(1185) (ii) Need not open for commercial cargo vessels, including tugs, and tugs with tows, unless 2 hours advance notice has been given to the Centerville Turnpike bridge at 757-547-3632.

(1186) (3) From 8:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays, the draw need only be opened on the hour and half hour.

(1187) (4) If any vessel is approaching the bridge and cannot reach the draw exactly on the hour or half hour, the drawtender may delay the opening ten minutes past the hour or half hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(1188) (5) Shall open on signal at all other times.

### §117.999 Blackwater River.

(1189) The draw of the S189 bridge, mile 9.2 at South Quay, need not be opened for the passage of vessels.

**Note**

(1190) Call signs and radio channels for drawbridges equipped with radiotelephones are included with the bridge descriptions in chapters 4 through 12.

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

## Subpart A–General

### §157.01 Applicability.

(1191) (a) Unless otherwise indicated, this part applies to each vessel that carries oil in bulk as cargo and that is:

(1192) (1) Documented under the laws of the United States (a U.S. vessel); or

(1193) (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).

(1194) (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.

(1195) (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 U.S. Coast Guard, Office of Operating and Environmental Standards, (CG-522), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. All approved material is available from the sources indicated in paragraph (b) of this section.

(1196) (b) The material approved for incorporation by reference in this part and the sections affected are as follows:

(1197) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, England. IMO Assembly Resolution A.601(15), Provision and Display of Manoeuvering Information on Board Ships, Annex Sections 1.1, 2.3, 3.1 and 3.2 with appendices, adopted on 19 November 1987 — **157.450**

(1198) IMO Assembly Resolution A.744(18), Guidelines on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, Annex B sections

1.1.3-1.1.4, 1.2-1.3, 2.1, 2.3-2.6, 3-8 and Annexes 1-10 with appendices, adopted 4 November 1993 — **157.430**

(1199) IMO Assembly Resolution A.751(18), Interim Standards for Ship Manoeuvrability, Annex sections 1.2, 2.3-2.4, 3-4.2 and 5, adopted 4 November 1993 with Explanatory Notes in MSC/Circ. 644 dated 6 June 1994 — **157.455**

(1200) Oil Compaines International Marine Forum (OCIMF), 15th floor, 96 Victoria Street, London SW1E 5JW, England. International Safety Guide for Oil Tankers and Terminals, Fourth Edition, Chapters 6, 7 and 10, 1996 — **157.435**

**§157.03 Definitions.**

(1201) Except as otherwise stated in a subpart:

(1202) Amidships means the middle of the length.

(1203) Animal fat means a non-petroleum oil, fat, or grease derived from animals and not specifically identified elsewhere in this part.

(1204) Ballast voyage means the voyage that a tank vessel engages in after it leaves the port of final cargo discharge.

(1205) Breadth or B means the maximum molded breadth of a vessel in meters.

(1206) Cargo tank length means the length from the forward bulkhead of the forwardmost cargo tanks, to the after bulkhead of the aftermost cargo tanks.

(1207) Center tank means any tank inboard of a longitudinal bulkhead.

(1208) Clean ballast means ballast which:

(1209) (1) If discharged from a vessel that is stationary into clean, calm water on a clear day, would not–

(1210) (i) Produce visible traces of oil on the surface of the water or on adjoining shore lines; or

(1211) (ii) Cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shore lines; or

(1212) (2) If verified by an approved cargo monitor and control system, has an oil content that does not exceed 15 p.m.

(1213) Combination carrier means a vessel designed to carry oil or solid cargoes in bulk.

(1214) 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.

(1215) 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.

(1216) Dedicated clean ballast tank means a cargo tank that is allocated solely for the carriage of clean ballast.

(1217) 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.

(1218) 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.

(1219) 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.

(1220) 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.

(1221) Existing vessel means any vessel that is not a new vessel.

(1222) 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.

(1223) Foreign trade means any trade that is not domestic trade.

(1224) From the nearest land means from the baseline from which the territorial sea of the United States is established in accordance with international law.

(1225) Fuel oil means any oil used as fuel for machinery in the vessel in which it is carried.

(1226) Inland vessel means a vessel that is not oceangoing and that does not operate on the Great Lakes.

(1227) 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.

(1228) 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.

(1229) Large primary structural member includes any of the following:

(1230) (1) Web frames.

(1231) (2) Girders.

(1232) (3) Webs.

(1233) (4) Main brackets.

(1234) (5) Transverses.

(1235) (6) Stringers.

(1236) (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.

(1237) 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.

(1238) 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.

(1239) Major conversion means a conversion of an existing vessel that:

(1240) (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;

(1241) (2) Changes the type of vessel;

(1242) (3) Substantially prolongs the vessel's service life; or

(1243) (4) Otherwise so changes the vessel that it is essentially a new vessel, as determined by the Commandant (CG-543).

(1244) 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.

(1245) New vessel means:

(1246) (1) A U.S. vessel in domestic trade that:

(1247) (i) Is constructed under a contract awarded after December 31, 1974;

(1248) (ii) In the absence of a building contract, has the keel laid or is at a similar stage of construction after June 30, 1975;

(1249) (iii) Is delivered after December 31, 1977; or

(1250) (iv) Has undergone a major conversion for which:

(1251) (A) The contract is awarded after December 31, 1974;

(1252) (B) In the absence of a contract, conversion is begun after June 30, 1975; or

(1253) (C) Conversion is completed after December 31, 1977; and

(1254) (2) A foreign vessel or a U.S. vessel in foreign trade that;

(1255) (i) Is constructed under a contract awarded after December 31, 1975;

(1256) (ii) In the absence of a building contract, has the keel laid or is at a similar stage of construction after June 30, 1976;

(1257) (iii) Is delivered after December 31, 1979; or

(1258) (iv) Has undergone a major conversion for which:

(1259) (A) The contract is awarded after December 31, 1975;

(1260) (B) In the absence of a contract, conversion is begun after June 30, 1976; or

(1261) (C) Conversion is completed after December 31, 1979.

(1262) 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.

(1263) Oceangoing has the same meaning as defined in §151.05 of this chapter.

(1264) 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.

(1265) 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.

(1266) 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."

(1267) Oily mixture means a mixture, in any form, with any oil content. "Oily mixture" includes, but is not limited to–

(1268) (1) Slops from bilges;

(1269) (2) Slops from oil cargoes (such as cargo tank washings, oily waste, and oily refuse);

(1270) (3) Oil residue; and

(1271) (4) Oily ballast water from cargo or fuel oil tanks, including any oil cargo residue.

(1272) Oil residue means–

(1273) (1) Oil cargo residue; and

(1274) (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.

(1275) 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.

(1276) 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.

(1277) Other non-petroleum oil means an oil of any kind that is not petroleum oil, an animal fat, or a vegetable oil.

(1278) 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.

(1279) Petroleum oil means petroleum in any form, including but not limited to, crude oil, fuel oil, sludge, oil residue, and refined products.

(1280) 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.

(1281) Product means any liquid hydrocarbon mixture in any form, except crude oil, petrochemicals, and liquefied gases.

(1282) 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.

(1283) Slop tank means a tank specifically designated for the collection of cargo drainings, washings, and other oily mixtures.

(1284) Tank means an enclosed space that is formed by the permanent structure of a vessel, and designed for the carriage of liquid in bulk.

(1285) Tank barge means a tank vessel not equipped with a means of self-propulsion.

(1286) 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–

(1287) (1) Is a vessel of the United States;

(1288) (2) Operates on the navigable waters of the United States; or

(1289) (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.

(1290) Tankship means a tank vessel propelled by mechanical power or sail.

(1291) 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.

(1292) Wing tank means a tank that is located adjacent to the side shell plating.

### §157.04 Authorization of classification societies.

(1293) (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.

(1294) (b) If a CS desires authorization to perform the plan reviews, certifications, and inspections required under this part, it must submit to the Commandant (CG-543), U.S. Coast Guard, 2100 2nd St. SW., Stop 7581, Washington, DC 20593-7581, 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.

(1295) (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.

(1296) (d) Acceptance as an authorized CS terminates unless the following are met:

(1297) (1) The authorized CS must have each Coast Guard regulation that is applicable to foreign vessels on the navigable waters of the United States.

(1298) (2) Each issue concerning equivalents to the regulations in this part must be referred to the Coast Guard for determination.

(1299) (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.

(1300) (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.

(1301) (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 (CG-543), U.S. Coast Guard, 2100 2nd St. SW., Stop 7581, Washington, DC 20593-7581.

## Subpart B–Design, Equipment, and Installation

### §157.08 Applicability of Subpart B.

(1302) NOTE: An "oil tanker" as defined in §157.03 includes barges as well as self-propelled vessels.

(1303) (a) Sections 157.10d and 157.11(g) apply to each vessel to which this part applies.

(1304) (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.

(1305) (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.

(1306) (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.

(1307) (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.

(1308) (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.

(1309) (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.

(1310) (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.

(1311) (i) Section 157.09(d) does not apply to any:

(1312) (1) U.S. vessel in domestic trade that is constructed under a contract awarded before January 8, 1976;

(1313) (2) U.S. vessel in foreign trade that is constructed under a contract awarded before April 1, 1977; or

(1314) (3) Foreign vessel that is constructed under a contract awarded before April 1, 1977.

(1315) (j) Sections 157.09 and 157.10a do not apply to a new vessel that:

(1316) (1) Is constructed under a building contract awarded after June 1, 1979;

(1317) (2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(1318) (3) Is delivered after June 1, 1982; or

(1319) (4) Has undergone a major conversion for which:

(1320) (i) The contract is awarded after June 1, 1979;

(1321) (ii) In the absence of a contract, conversion is begun after January 1, 1980; or

(1322) (iii) Conversion is completed after June 1, 1982.

(1323) (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.

(1324) (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.

(1325) (m) Section 157.12 does not apply to a U.S. vessel that:

(1326) (1) Is granted an exemption under Subpart F of this part; or

(1327) (2) Is engaged solely in voyages that are:

(1328) (i) Between ports or places within the United States, its territories or possessions;

(1329) (ii) Of less than 72 hours in length; and

(1330) (iii) At all times within 50 nautical miles of the nearest land.

(1331) (n) Section 157.10d does not apply to:

(1332) (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);

(1333) (2) An oil spill response vessel;

(1334) (3) Before January 1, 2015–

(1335) (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

(1336) (ii) A delivering vessel that is offloading oil in bulk as cargo in lightering activities–

(1337) (A) Within a lightering zone established under 46 U.S.C. 3715(b)(5); and

(1338) (B) More than 60 miles from the territorial sea base line, as defined in 33 CFR 2.20.

(1339) (4) A vessel documented under 46 U.S.C., Chapter 121, that was equipped with a double hull before August 12, 1992;

(1340) (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

(1341) (6) A vessel in the National Defense Reserve Fleet pursuant to 50 App. U.S.C. 1744.

**§157.10d Double hulls on tank vessels.**

(1342) (a) With the exceptions stated in §157.08(n), this section applies to a tank vessel–

(1343) (1) For which the building contract is awarded after June 30, 1990; or

(1344) (2) That is delivered after December 31, 1993;

(1345) (3) That undergoes a major conversion for which;

(1346) (i) The contract is awarded after June 30, 1990; or

(1347) (ii) Conversion is completed after December 31, 1993; or

(1348) (4) That is otherwise required to have a double hull by 46 U.S.C. 3703a(c).

(1349) NOTE: 46 U.S.C. 3703a(c) is shown in appendix G to this part.

(1350) (b) Each vessel to which this section applies must be fitted with:

(1351) (1) A double hull in accordance with this section; and

(1352) (2) If §157.10 applies, segregated ballast tanks and a crude oil washing system in accordance with that section.

(1353) (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:

(1354) (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:

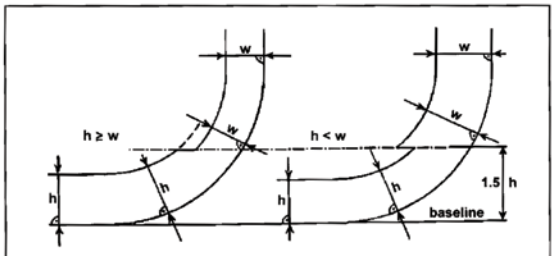



Figure 157.10d(c) Minimum Double Hull Dimensions

(1355) (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.).

(1356) (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.).

(1357) (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.

(1358) (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:

(1359) (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.).

(1360) (ii) For a vessel of less than 5,000 DWT: h=B/15, but in no case less than 0.76 meter (30 in.).

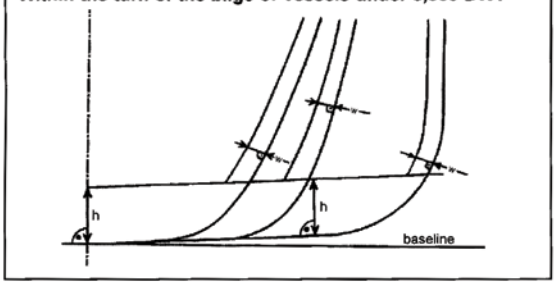
(1361) (iii) For a vessel to which Paragraph (a)(4) of this section applies: h=B/15; or, h=2.0 meters (79 in.), whichever is the lesser, but in no case less than 0.76 meter (30 in.), provided that the double bottom was fitted under a construction or conversion contract awarded prior to June 30, 1990.

(1362) (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–

(1363) (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.

(1364) (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.

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




(1365) (4) For a vessel to which §157.10(b) applies that is built under a contract awarded after September 11, 1992.

(1366) (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.

(1367) (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.

(1368) (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:

(1369) (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

(1370) (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.

(1371) (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 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.

(1372) (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.

(1373) (e) Except as provided in Paragraph (e)(3) of this section, a vessel must not carry any oil in any tank extending forward of:

(1374) (1) The collision bulkhead; or

(1375) (2) In the absence of a collision bulk-head, the transverse plane perpendicular to the centerline through a point located:

(1376) (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;

(1377) (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

(1378) (iii) On each vessel which operates exclusively as a box or trail barge, 61 cm. (2 ft.) aft of the headlog.

(1379) (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.

(1380) (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.

(1381) (a) The purpose of this subpart is to establish mandatory safety and operational requirements to reduce environmental damage resulting from petroleum oil spills.

(1382) (b) This subpart applies to each tank vessels specified in §157.01 of this part that–

(1383) (1) Is 5,000 gross tons or more;

(1384) (2) Carries petroleum oil in bulk as cargo or oil cargo residue; and

(1385) (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.

(1386) (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–

(1387) (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

(1388) (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.

(1389) (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.

(1390) (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.

(1391) (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.

(1392) (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.

(1393) (a) This subchapter contains regulations implementing the Ports and Waterway Safety Act (33 U.S.C. 1221) and related statutes.

### §160.3 Definitions.

(1394) For the purposes of this subchapter:

(1395) Bulk means 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.

(1396) 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.

(1397) Commandant means the Commandant of the United States Coast Guard.

(1398) Deviation means any departure from any rule in this subchapter.

(1399) Director, 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.

(1400) 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.

(1401) ETA means estimated time of arrival.

(1402) 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.

(1403) Person means an individual, firm, corporation, association, partnership, or governmental entity.

(1404) 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.

(1405) Tanker means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

(1406) 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.

(1407) Vehicle means every type of conveyance capable of being used as a means of transportation on land.

(1408) Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(1409) 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.

(1410) 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.

(1411) **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.

(1412) VTS Special Area means a waterway within a VTS area in which special operating requirements apply.

### §160.5 Delegations.

(1413) (a) District Commanders and Captains of the Ports are delegated the authority to establish safety zones.

(1414) (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.

(1415) (c) Under the provisions 33 CFR §1.05–1, District Commanders have been delegated authority to establish regulated navigation areas.

(1416) (d) Subject to the supervision of the cognizant Captain of the Port and District Commander, Directors, 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.

(1417) (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.

(1418) (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 (e) 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.

(1419) (c) Any person directly affected by the establishment of a safety zone or by an order or direction issued by, or on behalf of, a District Commander, or who receives an unfavorable ruling on an appeal taken under paragraph (b) of this section may appeal to the Area Commander through the District Commander. The appeal must be

## Table 160.206 – NOA Information Items

| 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 | X | X | X |
| (viii) Name of classification society | X | X | X |
| **(2) Voyage Information** | | | |
| (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 | 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 | | 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) Nationalitiy | X | X | X |
| (iv) Passport or mariners document number (type of identification and number) | X | X | X |
| (v) Position or duties on the vessel | X | X | X |
| (vi) Where the crewmembers 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 | X | X | X |
| (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 | 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) Cargo Declaration (Customs Form 1302) as described in 19 CFR 4.7** | X | X | X |
| **(9) International Ship and Port Facility Code (ISPS) Notice*** | | | |
| (i) The date of issuance for the vessel's International Ship Security Certificate (ISSC), if any | X | X | X |
| (ii) Whether the ISSC, if any, is an initial Interim ISSC, subsequent and consecutive Interim ISSC, or final ISSC | X | X | X |
| (iii) Declaration that the approved ship security plan, if any, is being implemented | X | X | X |
| (iv) If a subsequent and consecutive Interim ISSC, the reasons therefor | X | X | X |
| (v) The name and 24-hour contact information for the Company Security Officer | X | X | X |
| (vi) The name of the Flag Administration, or the recognized security organization(s) representing the vessel flag Administration that issued the ISSC | X | X | X |

* The information required by items 9(i)-(iii) need not be submitted before January 1, 2004. All other information required by item 9 need not be submitted before July 1, 2004.

in writing, except as allowed under paragraph (e) of this section, and shall contain complete supporting documentation and evidence which the appellant wishes to have considered. Upon receipt of the appeal, the Area 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 Area Commander issues a ruling, in writing, on the appeal. Prior to issuing the ruling, the Area Commander may, as a matter of discretion, allow oral presentation on the issues.

(1420) (d) Any person who receives an unfavorable ruling on an appeal taken under paragraph (c) of this section, may appeal through the Area Commander to the Assistant Commandant for Marine Safety, Security and Stewardship, U.S. Coast Guard, (CG-5), 2100 2nd St. SW., Stop 7363, Washington, DC 20593-7363. The appeal must be in writing, except as allowed under paragraph (e) of this section. The Area 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 (c) of this section was made, and any comments which might be relevant, to the Assistant Commandant for Marine Safety, Security and Stewardship. 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 Marine Safety, Security and Stewardship. The decision of the Assistant Commandant for Marine Safety, Security and Stewardship is based upon the materials submitted, without oral argument or presentation. The decision of the Assistant Commandant for Marine Safety, Security and Stewardship is based upon the materials submitted, without oral argument or presentation. The decision of the Assistant Commandant for Prevention is issued in writing and constitutes final agency action.

(1421) (e) 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.

(1422) 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.

(1423) (a) This subpart applies to any-

(1424) (1) Vessel on the navigable waters of the United States, except as provided in paragraphs (b) and (c) of this section;

(1425) (2) Bridge or other structure on or in the navigable waters of the United States; and

(1426) (3) Land structure or shore area immediately adjacent to the navigable waters of the United States.

(1427) (b) This subpart does not apply to any vessel on the Saint Lawrence Seaway.

(1428) (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–

(1429) (1) Innocent passage through the territorial sea of the United States;

(1430) (2) Transit through the navigable waters of the United States which form a part of an international strait.

### §160.105 Compliance with orders.

(1431) 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.

(1432) 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.

(1433) (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–

(1434) (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

(1435) (2) Conduct examinations to assure compliance with the safety equipment requirements for structures.

**§160.111 Special orders applying to vessel operations.**

(1436) Each District Commander or Captain of the Port may order a vessel to operate or anchor in the manner directed when–

(1437) (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;

(1438) (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

(1439) (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.**

(1440) (a) Each District Commander or Captain of the Port may prohibit any vessels 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.

(1441) (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:

(1442) (1) Fails to comply with any applicable regulation;

(1443) (2) Discharges oil or hazardous material in violation of any law or treaty of the United States;

(1444) (3) Does not comply with applicable vessel traffic service requirements;

(1445) (4) While underway, does not have at least one deck officer on the navigation bridge who is capable of communicating in the English language.

(1446) (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.

(1447) (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.**

(1448) (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.**

(1449) This subpart contains requirements and procedures for submitting Notices of Arrival (NOA) and Notice of Hazardous Condition. The sections in this subpart describe:

(1450) (a) Applicability and exemptions from requirements in this subpart;

(1451) (b) Required information in an NOA;

(1452) (c) Required changes to an NOA;

(1453) (d) Methods and times for submission of an NOA and changes to an NOA;

(1454) (e) How to obtain a waiver; and

(1455) (f) Requirements for submission of the Notice of Hazardous Conditions.

**§160.202 Applicability.**

(1456) (a) This subpart applies to U.S. and foreign vessels bound for or departing from ports or places in the United States.

(1457) (b) This subpart does not apply to recreational vessels under 46 U.S.C. 4301 et seq.

(1458) (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.

(1459) (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.**

(1460) (a) Except for reporting notice of hazardous conditions, the following vessels are exempt from requirements in this subpart:

(1461) (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.

(1462) (2) Oil Spill Recovery Vessels (OSRVs) when engaged in actual spill response operations or during spill response exercises.

(1463) (3) Vessels operating upon the following waters:

(1464) (i) Mississippi River between its sources and mile 235, Above Head of Passes;

(1465) (ii) Tributaries emptying into the Mississippi River above mile 235;

(1466) (iii) Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway and the Red River; and

(1467) (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.

(1468) (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:

(1469) (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).

(1470) (2) Vessels operating exclusively within a Captain of the Port Zone.

(1471) (3) Vessels arriving at a port or place under force majeure.

(1472) (4) Towing vessels and barges operating solely between ports or places in the continental United States.

(1473) (5) Public vessels.

(1474) (6) Except for tank vessels, U.S. vessels operating solely between ports or places in the United States on the Great Lakes.

(1475) (c) Vessels less than 500 gross tons need not submit the International Safety Management (ISM) Code Notice (Entry (7) to Table 160.206).

(1476) (d) [Suspended]

(1477) (e) [Suspended]

(1478) (f) U.S. vessels need not submit the International Ship and Port Facility Code (ISPS) Notice information (Entry (9) to Table 160.206).

**§160.204 Definitions.**

(1479) As used in this subpart:

(1480) 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.

(1481) Barge means a non-self propelled vessel engaged in commerce.

(1482) 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.

(1483) Certain dangerous cargo (CDC) includes any of the following:

(1484) (1) Division 1.1 or 1.2 explosives as defined in 49 CFR 173.50.

(1485) (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.

(1486) (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.

(1487) (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.

(1488) (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 CFR171.8 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.

(1489) (6) Class 7, "highway route controlled quantity" radioactive material or "fissile material, controlled shipment," as defined in 49 CFR 173.403.

(1490) (7) All bulk liquefied gas cargo carried under 46 CFR 151.50-31 or listed in 46 CFR 154.7 that is flammable and/or toxic and that is not carried as certain dangerous cargo residue (CDC residue).

(1491) (8) The following bulk liquids except when carried as CDC residue:

(1492) (i) Acetone cyanohydrin;

(1493) (ii) Allyl alcohol;

(1494) (iii) Chlorosulfonic acid;

(1495) (iv) Crotonaldehyde;

(1496) (v) Ethylene chlorohydrin;

(1497) (vi) Ethylene dibromide;

(1498) (vii) Methacrylonitrile;

(1499) (viii) Oleum (fuming sulfuric acid); and

(1500) (ix) Propylene oxide, alone or mixed with ethylene oxide.

(1501) (9) The following bulk solids:

(1502) (i) Ammonium nitrate listed as Division 5.1 (oxidizing) material in 49 CFR 172.101 except when carried as CDC residue; and

(1503) (ii) Ammonium nitrate based fertilizer listed as a Division 5.1 (oxidizing) material in 49 CFR 172.101 except when carried as CDC residue.

(1504) Certain dangerous cargo residue (CDC residue) includes any of the following:

(1505) (1) Ammonium nitrate in bulk or ammonium nitrate based fertilizer in bulk remaining after all saleable cargo is discharged, not exceeding 1,000 pounds in total and not individually accumulated in quantities exceeding two cubic feet.

(1506) (2) For bulk liquids and liquefied gases, the cargo that remains onboard in a cargo system after discharge that is not accessible through normal transfer procedures, with the exception of the following bulk liquefied gas cargoes carried under 46 CFR 151.50-31 or listed in 46 CFR 154.7:

(1507) (i) Ammonia, anhydrous;

(1508) (ii) Chlorine;

(1509) (iii) Ethane;

(1510) (iv) Ethylene oxide;

(1511) (v) Methane (LNG);

(1512) (vi) Methyl bromide;

(1513) (vii) Sulfur dioxide; and

(1514) (viii) Vinyl chloride.

(1515) 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."

(1516) 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.

(1517) 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.

(1518) 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.

(1519) 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.

(1520) Nationality means the state (nation) in which a person is a citizen or to which a person owes permanent allegiance.

(1521) 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.

(1522) Persons in addition to crewmembers mean any person onboard the vessel, including passengers, who are not included on the list of crewmembers.

(1523) Port or place of departure means any port or place in which a vessel is anchored or moored.

(1524) Port or place of destination means any port or place in which a vessel is bound to anchor or moor.

(1525) 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.

(1526) 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.

(1527) 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.**

(1528) (a) Each NOA must contain all of the information items specified in Table 160.206.

(1529) (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.

(1530) (c) You may submit a copy of INS Form I–418 to meet the requirements of entries (4) and (5) in Table 160.206.

(1531) (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.**

(1532) (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.

(1533) (b) Changes in the following information need not be reported:

(1534) (1) Changes in arrival or departure times that are less than six (6) hours;

(1535) (2) Changes in vessel location or position of the vessel at the time of reporting (entry (2)(vi) to Table 160.206); and

(1536) (3) Changes to crewmembers' position or duties on the vessel (entry (5)(v) to Table 160.206).

(1537) (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.**

(1538) (a) [Suspended]

(1539) (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.

(1540) (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).

(1541) (d) [Suspended]

(1542) (e) Submission to the National Vessel Movement Center (NVMC). Except as provided in paragraphs (b) and (c) of this section, vessels must submit NOA information required by §160.206 (entries 1-9 to Table 160.206) to the NVMC, United States Coast Guard, 408 Coast Guard Drive, Kearneysville, WV 25430, By:

(1543) (1) Electronic submission via the electronic NOA (e-NOA) available on the NVMC web site at http://www.nvmc.uscg.gov.

(1544) (2) Electronic submission via web service of formatted XML (eXtensible Markup Language) documents. E-mail sans@nvmc.uscg.gov to ask for the XML schema details;

(1545) (3) E-mail at sans@nvmc.uscg.gov. Workbook available at http://www.nvmc.uscg.gov;

(1546) (4) Fax at 1-800-547-8724 or 304-264-2684. Workbook available at http://www.nvmc.uscg.gov; or,

(1547) (5) Telephone at 1-800-708-9823 or 304-264-2502.

**§160.212 When to submit an NOA.**

(1548) (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.

(1549) (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.

(1550) (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. |

(1551) (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.

(1552) (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.

(1553) (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. |

(1554) (c) [Suspended]

**§160.214 Waivers.**

(1555) 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 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.**

(1556) 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 Sector Office or Group Office. (Compliance with this section does not relieve responsibility for the written report required by 46 CFR 4.05–10.)

## Part 162–Inland Waterways Navigation Regulations

**§162.1 General.**

(1557) 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.

**§162.65 All waterways tributary to the Atlantic Ocean south of Chesapeake Bay and all waterways tributary to the Gulf of Mexico east and south of St. Marks, FL.**

(1558) (a) Description. This section applies to the following: (1) Waterways. All navigable waters of the United States, natural or artificial, including bays, lakes, sounds, rivers, creeks, intracoastal waterways, as well as canals and channels of all types, which are tributary to or connected by the other waterways with the Atlantic Ocean south of Chesapeake Bay or with the Gulf of Mexico east and south of St. Marks, Florida.

(1559) (2) United States property. All river and harbor lands owned by the United States in or along the waterways described in paragraph (a)(1) of this section, including lock sites and all structures thereon, other sites for Government structures and for the accommodation and use of employees of the United States, and rights of way and spoil disposal areas to the extent of Federal interest therein.

(1560) (3) Vessels and rafts. The term "vessel" as used in this section includes all floating things moved over these waterways other than rafts.

(1561) (b) Waterways-(1) Fairway. A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and rafts that normally use the various waterways or sections thereof. The District Commander may specify the width of the fairway required in the various waterways under his charge.

(1562) (2) Stoppage in waterway, anchorage or mooring. (i) No vessels or rafts shall anchor or moor in any of the land cuts or other narrow parts of the waterway, except in case of an emergency. Whenever it becomes necessary for a vessel or raft to stop in any such portions of the waterway it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such a place and under such conditions as will not obstruct or prevent the passage of other vessels or craft. Stoppages shall be only for such periods as may be necessary.

(1563) (ii) No vessel or raft will be allowed to use any portion of the fairway as a mooring place except temporarily as authorized above without the written permission from the District Commander.

(1564) (iii) When tied up, all vessels must be moored by bow and stern lines. Rafts and tows shall be secured at sufficiently close intervals to insure their not being drawn away from the bank by winds, currents or the suction of passing vessels. Tow lines shall be shortened so that the different parts of the tow shall be as close together as possible. In narrow sections, no vessel or raft shall be tied abreast of another.

(1565) (iv) Lights shall be displayed in accordance with provisions of the Navigation Rules, International-Inland, Commandant Instruction M16672.2 (series).

(1566) (v) No vessel, even if fastened to the bank as prescribed in paragraph (b)(2)(i) of this section, shall be left without a sufficient crew to care for it properly.

(1567) (vi) Vessels will not be permitted to load or unload in any of the land cuts except as a regular established landing or wharf without written permission secured in advance from the District Commander.

(1568) (vii) No vessel, regardless of size, shall anchor in a dredged channel or narrow portion of a waterway for the purpose of fishing, if navigation is obstructed, thereby.

(1569) (viii) Except in cases of emergency the dropping of anchors, weights, or other ground tackle, within areas occupied by submarine cable or pipe crossings, is prohibited. Such crossings will ordinarily be marked by signboards on each bank of the shore or indicated on coast charts.

(1570) (3) Speed. (i) Vessels shall proceed at a speed which will not endanger other vessels or structures and will not interfere with any work in progress incident to maintaining, improving, surveying or marking the channel.

(1571) (ii) Official signs indicating limited speeds through critical portions of the waterways shall be strictly obeyed.

(1572) (iii) Vessels approaching and passing through a bridge shall so govern their speed as to insure passage through the bridge without damage to the bridge or its fenders.

(1573) (4) Assembly and handling of tows.

(1574) (i) All vessels drawing tows and equipped with rudders shall use two tow lines or a bridle and shorten them to the greatest possible extent so as to have full control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. If necessary, as in the case of lengthy or cumbersome tows or tows in restricted channels, the District Commander may require that tows be broken up and may require the installation of a rudder, drag or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others, including aids to navigation maintained by the United States or under its authorization, by collision or otherwise.

(1575) (ii) No tow shall be drawn by a vessel that has insufficient power or crew to permit ready maneuverability and safe handling.

(1576) (iii) Tows desiring to pass a bridge shall approach the opening along the axis of the channel so as to pass through without danger of striking the bridge or its fenders. No vessel or tow shall navigate through a drawbridge until the movable span is fully opened.

(1577) (iv) In the event that it is evident to the master of a towing vessel that a tow cannot be safely handled

through a bridge, it will be brought to anchor and the towed vessels will be taken through the bridge in small units, or singly if necessary, or the tow will wait until navigation conditions have improved to such an extent that the tow can pass through the bridge without damage.

(1578) (5) Projections from vessels. No vessel carrying a deck load which overhangs or projects over the side of said vessel, or whose rigging projects over the side of the vessel so as to endanger passing vessels, wharves or other property, will enter or pass through any of the narrow parts of the waterway.

(1579) (6) Meeting and passing. Vessels, on meeting or overtaking, shall give the proper signals and pass in accordance with the Navigation Rules, International-Inland, Commandant Instruction M16672.2 (series). Rafts shall give to vessels the side demanded by proper signal. All vessels approaching dredges, or other plant engaged on improvements to a waterway, shall give the signal for passing and slow down sufficiently to stop if so ordered or if no answering signal is received. On receiving the answering signal, they shall then proceed to a pass at a speed sufficiently slow to insure safe navigation.

**NOTE**

(1580) The Corps of Engineers also has regulations dealing with this section in 33 CFR 207.

## Part 164–Navigation Safety Regulations (in part). For a complete description of this part see 33 CFR 164.

### §164.01 Applicability.

(1581) (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.

(1582) (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 –

(1583) (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;

(1584) (2) Used solely for assistance towing as defined by 46 CFR 10.103;

(1585) (3) Used solely for pollution response; or

(1586) (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.

(1587) (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 noncommercial service when these vessels are equipped with electronic navigation systems that have met the applicable agency regulations regarding navigation safety.

(1588) (d) Provisions of §164.46 apply to some self-propelled vessels of less than 1600 gross tonnage.

### §164.02 Applicability exception for foreign vessels.

(1589) (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:

(1590) (1) Are not destined for, or departing from, a port or place subject to the jurisdiction of the United States; and

(1591) (2) Are in:

(1592) (i) Innocent passage through the territorial sea of the United States; or

(1593) (ii) Transit through navigable waters of the United States which form a part of an international strait.

### §164.03 Incorporation by reference.

(1594) (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 Navigational Systems Division (CG-553), Coast Guard Headquarters, 2100 2nd St. SW., Stop 7580, Washington, DC 20593-7580 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. All approved material is available from the sources indicated in paragraph (b) of this section.

(1595) (b) The materials approved for incorporation by reference in this part and the sections affected are as follows:

(1596) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005

(1597) API Specifications 9A, Specification for Wire Rope, Section 3, Properties and Tests for Wire and Wire Rope, May 28, 1984 — **164.74**

(1598) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(1599) ASTM D4268-93, Standard Test Method for Testing Fiber Ropes — **164.74**

(1600) Cordage Institute, 350 Lincoln Street, Hingham, MA 02043

(1601) CIA-3, Standard Test Methods for Fiber Rope Including Standard Terminations, Revised, June 1980 — **164.74**

(1602) International Electrotechnical Commission (IEC), 3, rue de Varemb, Geneva, Switzerland.

(1603) IEC 61993–2, Maritime navigation and radiocommunication equipment and systems–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**

(1604) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, U.K. IMO Resolution A342(IX), Recommendation on Performance Standards for Automatic Pilots, adopted November 12, 1975 — **164.13**

(1605) Resolution MSC.74(69), Annex 3, Recommendation on Performance Standards for a Universal Shipborne Automatic Identification System (AIS), adopted May 12, 1998 — **164.46**

(1606) SN/Circ.227, Guidelines for the Installation of a Shipborne Automatic Identification System (AIS), dated January 6, 2003 — **164.46**

(1607) 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**

(1608) 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**

(1609) International Telecommunication Union Radiocommunication Bureau (ITU-R), Place de Nations CH-1211 Geneva 20 Switzerland

(1610) (1) ITU-R Recommendation M.821, Optional Expansion of the Digital Selective-Calling System for Use in the Maritime Mobile Service, 1992 — **164.43**

(1611) (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**

(1612) 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**

(1613) Radio Technical Commission for Maritime Services, 655 Fifteenth Street, NW., Suite 300, Washington, DC 20005

(1614) (1) RTCM Paper 12-78/DO-100, Minimum Performance Standards, Loran C Receiving Equipment, 1977 — **164.41**

(1615) (2) RTCM Paper 194-93/SC104-STD, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1, 1994 — **164.43**

(1616) (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**

(1617) (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 under way: General.**

(1618) The owner, master, or person in charge of each vessel underway shall ensure that:

(1619) (a) The wheelhouse is constantly manned by persons who–

(1620) (1) Direct and control the movement of the vessel; and

(1621) (2) Fix the vessel's position;

(1622) (b) Each person performing a duty described in paragraph (a) of this section is competent to perform that duty;

(1623) (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;

(1624) (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;

(1625) (e) Buoys alone are not used to fix the vessel's position;

(1626) **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.

(1627) (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;

(1628) (g) Rudder orders are executed as given;

(1629) (h) Engine speed and direction orders are executed as given;

(1630) (i) Magnetic variation and deviation and gyrocompass errors are known and correctly applied by the person directing the movement of the vessel;

(1631) (j) A person whom he has determined is competent to steer the vessel is in the wheelhouse at all times (See also 46 U.S.C. 8702(d), which requires an able seaman at the wheel on U.S. vessels of 100 gross tons or more in narrow or crowded waters during low visibility.);

(1632) (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.

(1633) (1) Current velocity and direction for the area to be transited are known by the person directing the movement of the vessel;

(1634) (m) Predicted set and drift are known by the person directing movement of the vessel;

(1635) (n) Tidal state for the area to be transited is known by the person directing movement of the vessel;

(1636) (o) The vessel's anchors are ready for letting go;

(1637) (p) The person directing the movement of the vessel sets the vessel's speed with consideration for -

(1638) (1) The prevailing visibility and weather conditions;

(1639) (2) The proximity of the vessel to fixed shore and marine structures;

(1640) (3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;

(1641) (4) The comparative proportions of the vessel and the channel;

(1642) (5) The density of marine traffic;

(1643) (6) The damage that might be caused by the vessel's wake;

(1644) (7) The strength and direction of the current; and

(1645) (8) Any local vessel speed limit;

(1646) (q) The tests required by §164.25 are made and recorded in the vessel's log; and

(1647) (r) The equipment required by this part is maintained in operable condition.

(1648) (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.

(1649) (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.

(1650) (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.**

(1651) (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.

(1652) (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.

(1653) (c) Each tanker must navigate with at least two deck officers with an appropriately endorsed license or merchant mariner credential 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 holding an appropriately endorsed license or merchant mariner credential and assigned to the vessel as master, mate, or officer in charge of a navigational watch, who is separate and distinct from the pilot.

(1654) (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:

(1655) (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).

(1656) (2) A qualified helmsman is present at the helm and prepared at all times to assume manual control.

(1657) (3) The tanker is not operating in any of the following areas:

(1658) (i) The areas of the traffic separation schemes specified in subchapter P of this chapter.

(1659) (ii) The portions of a shipping safety fairway specified in part 166 of this chapter.

(1660) (iii) An anchorage ground specified in part 110 of this chapter.

(1661) (iv) An area within one-half nautical mile of any U.S. shore.

**§164.15 Navigation bridge visibility.**

(1662) (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:

(1663) (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 (1,640 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.

(1664) (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.

(1665) (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.

(1666) (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.

(1667) (b) A clear view must be provided through at least two front windows at all times regardless of weather conditions.

**§164.19 Requirements for vessels at anchor.**

(1668) The master or person in charge of each vessel that is anchored shall ensure that–

(1669) (a) A proper anchor watch is maintained;

(1670) (b) Procedures are followed to detect a dragging anchor; and

(1671) (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.**

(1672) (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:

(1673) (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:

(1674) (i) Each remote steering gear control system.

(1675) (ii) Each steering position located on the navigating bridge.

(1676) (iii) The main steering gear from the alternative power supply, if installed.

(1677) (iv) Each rudder angle indicator in relation to the actual position of the rudder.

(1678) (v) Each remote steering gear control system power failure alarm.

(1679) (vi) Each remote steering gear power unit failure alarm.

(1680) (vii) The full movement of the rudder to the required capabilities of the steering gear.

(1681) (2) All internal vessel control communications and vessel control alarms.

(1682) (3) Standby or emergency generator, for as long as necessary to show proper functioning, including steady state temperature and pressure readings.

(1683) (4) Storage batteries for emergency lighting and power systems in vessel control and propulsion machinery spaces.

(1684) (5) Main propulsion machinery, ahead and astern.

(1685) (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.

(1686) (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.

(1687) (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:

(1688) (1) Operation of the main steering gear from within the steering gear compartment.

(1689) (2) Operation of the means of communications between the navigating bridge and the steering compartment.

(1690) (3) Operation of the alternative power supply for the steering gear if the vessel is so equipped.

**§164.30 Charts, publications, and equipment: General.**

(1691) 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.**

(1692) (a) Each vessel must have the following:

(1693) (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–

(1694) (i) Are of a large enough scale and have enough detail to make safe navigation of the area possible; and

(1695) (ii) Are currently corrected.

(1696) (2) For the area to be transited, a currently corrected copy of, or applicable currently corrected extract from, each of the following publications:

(1697) (i) U.S. Coast Pilot.

(1698) (ii) Coast Guard Light List.

(1699) (3) For the area to be transited, the current edition of, or applicable current extract from:

(1700) (i) Tide tables published by private entities using data provided by the National Ocean Service.

(1701) (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.

(1702) (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.

(1703) (c) As used in this section, "currently corrected" means corrected with changes contained in all Notices to Mariners published by 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.**

(1704) Each vessel must have the following:

(1705) (a) A marine radar system for surface navigation.

(1706) (b) An illuminated magnetic steering compass, mounted in a binnacle, that can be read at the vessel's main steering stand.

(1707) (c) A current magnetic compass deviation table or graph or compass comparison record for the steering compass, in the wheelhouse.

(1708) (d) A gyrocompass.

(1709) (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.

(1710) (f) An illuminated rudder angle indicator in the wheelhouse.

(1711) (g) The following maneuvering information prominently displayed on a fact sheet in the wheelhouse:

(1712) (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.

(1713) (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.

(1714) (3) For each vessel with a fixed propeller, a table of shaft revolutions per minute for a representative range of speeds.

(1715) (4) For each vessel with a controllable pitch propeller, a table of control settings for a representative range of speeds.

(1716) (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.

(1717) (6) The maneuvering information for the normal load and normal ballast condition for–

(1718) (i) Calm weather-wind 10 knots or less, calm sea;

(1719) (ii) No current;

(1720) (iii) Deep water conditions-water depth twice the vessel's draft or greater; and

(1721) (iv) Clean hull.

(1722) (7) At the bottom of the fact sheet, the following statement:

(1723) **Warning**.

(1724) 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:

(1725) (1) Calm weather-wind 10 knots or less, calm sea;

(1726) (2) No current;

(1727) (3) Water depth twice the vessel's draft or greater;

(1728) (4) Clean hull; and

(1729) (5) Intermediate drafts or unusual trim.

(1730) (h) An echo depth sounding device.

(1731) (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.

(1732) (j) Equipment on the bridge for plotting relative motion.

(1733) (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.

(1734) (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.

(1735) (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.

(1736) (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.

(1737) (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.**

(1738) (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.

**Note**

(1739) 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.

(1740) (b) On each tanker of 10,000 gross tons or more that is subject to Section 5 of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a), 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.**

(1741) (a) This section applies to each foreign tanker of 10,000 gross tons or more, except a public vessel, that–

(1742) (1) Transfers oil at a port or place subject to the jurisdiction of the United States; or

(1743) (2) Otherwise enters or operates in the navigable waters of the United States, except a vessel described by §164.02 of this part.

(1744) (b) Definitions. The terms used in this section are as follows:

(1745) Constructed means the same as in Chapter II-1, Regulations 1.1.2 and 1.1.3.1, of SOLAS 74.

(1746) Existing tanker means a tanker–

(1747) (1) For which the building contract is placed on or after June 1, 1979;

(1748) (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;

(1749) (3) The delivery of which occurs on or after June 1, 1982; or

(1750) (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.

(1751) Public vessel, oil, hazardous materials, and foreign vessel mean the same as in 46 U.S.C. 2101.

(1752) SOLAS 74 means the International Convention for the Safety of Life at Sea, 1974, as amended.

(1753) 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).

(1754) (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.

(1755) (d) Each tanker constructed before September 1, 1984, must meet the requirements of Chapter II-1, Regulation 29.19, of SOLAS 74.

(1756) (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.

(1757) (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.**

(1758) (a) Each vessel required to be fitted with an Automatic Radar Plotting Aid (ARPA) under §164.38 must be fitted with a device to indicate speed and distance of the vessel either through the water, or over the ground. Vessels constructed prior to September 1, 1984, must have this equipment according to the following schedule:

(1759) (1) Each tank vessel constructed before September 1, 1984, operating on the navigable waters of the United States–

(1760) (i) If of 40,000 gross tons or more, by January 1, 1985;

(1761) (ii) If of 10,000 gross tons or more but less than 40,000 gross tons, by January 1, 1986.

(1762) (2) Each self-propelled vessel constructed before September 1, 1984, that is not a tank vessel, operating on the navigable waters of the United States–

(1763) (i) If of 40,000 gross tons or more, by September 1, 1986;

(1764) (ii) If of 20,000 gross tons or more, but less than 40,000 gross tons, by September 1, 1987;

(1765) (iii) If of 15,000 gross tons or more, but less than 20,000 gross tons, by September 1, 1988.

(1766) (b) The device must meet the following specifications:

(1767) (1) The display must be easily readable on the bridge by day or night.

(1768) (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.

(1769) (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.**

(1770) (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 a satellite navigation receiver with–

(1771) (1) Automatic acquisition of satellite signals after initial operator settings have been entered; and

(1772) (2) Position updates derived from satellite information during each usable satellite pass.

(1773) (b) 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 Coast Guard Deputy Commander for Operations (CG-DCO), 2100 2nd St. SW., Stop 7471, Washington, DC 20593-7471. 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.

(1774) **Note:** The Federal Radionavigation Plan is available from the National Technical Information Service, Springfield, Va. 22161, with the following Government Accession Numbers:

(1775) Vol 1, ADA 116468

(1776) Vol 2, ADA 116469

(1777) Vol 3, ADA 116470

(1778) Vol 4, ADA 116471

**§164.42 Rate of turn indicator.**

(1779) 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.**

(1780) (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:

(1781) (1) Twelve-channel all-in-view Differential Global Positioning System (dGPS) receiver;

(1782) (2) Marine band Non-Directional Beacon receiver capable of receiving dGPS error correction messages;

(1783) (3) VHF-FM transceiver capable of Digital Selective Calling (DSC) on the designated DSC frequency; and

(1784) (4) Control unit.

(1785) (b) An AISSE must have the following capabilities:

(1786) (1) Use dGPS to sense the position of the vessel and determine the time of the position using Universal Coordinated Time (UTC);

(1787) (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;

(1788) (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;

(1789) (4) Achieve a course error of less than 0.5 degrees from true course over ground in the course information transmitted to a VTS;

(1790) (5) Achieve a speed error of less than 0.05 knots from true speed over ground in the speed information transmitted to a VTS;

(1791) (6) Receive and comply with commands broadcast from a VTS as DSC messages on the designated DSC frequency;

(1792) (7) Receive and comply with RTCM messages broadcast as minimum shift keying modulated medium frequency signals in the marine radiobeacon band, and supply the messages to the dGPS receiver;

(1793) (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;

(1794) (9) Display a visual alarm to indicate to shipboard personnel when a failure to receive or utilize the RTCM messages occurs;

(1795) (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

(1796) (11) Display two RTCM type 16 messages, one of which must display the position error in the position error broadcast.

(1797) (c) An AISSE is considered non-operational if it fails to meet the requirements of paragraph (b) of this section.

(1798) **Note:** Vessel Traffic Service (VTS) areas and operating procedures are set forth in Part 161 of this chapter.

**§164.46 Automatic Identification System (AIS).**

(1799) (a) The following vessels must have a properly installed, operational, type approved AIS as of the date specified:

(1800) (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.

(1801) (2) Notwithstanding 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):

(1802) (i) Passenger vessels, of 150 gross tonnage or more, not later than July 1, 2003;

(1803) (ii) Tankers, regardless of tonnage, not later than the first safety survey for safety equipment on or after July 1, 2003;

(1804) (iii) Vessels, other than passenger vessels or tankers, of 50,000 gross tonnage or more, not later than July 1, 2004; and

(1805) (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.

(1806) (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:

(1807) (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;

(1808) (ii) Towing vessels of 26 feet or more in length and more than 600 horsepower, in commercial service;

(1809) (iii) Passenger vessels certificated to carry more than 150 passengers-for-hire.

(1810) 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.

(1811) (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.

(1812) (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.

(1813) (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.**

(1814) 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.**

(1815) (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.

(1816) (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.**

(1817) 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.**

(1818) 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–

(1819) (a) Ensure compliance with 46 CFR 4.05, "Notice of Marine Casualty and Voyage Records," and

(1820) (b) Ensure that the voyage records required by 46 CFR 4.05–15 are retained for -

(1821) (1) 30 days after the casualty if the vessel remains in the navigable waters of the United States; or

(1822) (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.**

(1823) For purposes of §§164.72 through 164.82, the term –

(1824) Current edition means the most recent published version of a publication, chart, or map required by §164.72.

(1825) 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.

(1826) 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

**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<br>Display Category II[1]<br>Stabilization Category BRAVO | RTCM Paper 71-95/SC112-STD Version 1.1<br>Display Category II[1]<br>Stabilization Category BRAVO | RTCM Paper 71-95/SC112-STD Version 1.1<br>Display Category I[2]<br>Stabilization Category ALPHA |
| Towing Vessels of 300 GT or more | RTCM Paper 191-93/SC112-X Version 1.2 (except the Azimuth stabilization requirement in paragraph 3.10)[1] | RTCM Paper 191-93/SC112-X Version 1.2 (except the Azimuth 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<br>(2) Current edition or currently corrected edition | (1) Large enough scale<br>(2) Current edition or currently corrected edition | (1) Large enough scale<br>(2) Currently corrected edition |
| General Publications | (1) U.S. Coast Guard Light List<br>(2) Notices to Navigation or Local Notices to Mariners<br>(3) River-current Tables | (1) U.S. Coast Guard Light List<br>(2) Local Notices to Mariners<br>(3) Tidal-current Tables<br>(4) Tide Tables<br>(5) U.S. Coast Pilot | (1) U.S. Coast Guard Light List<br>(2) Local Notices to Mariners<br>(3) Tidal-current Tables<br>(4) Tide Tables<br>(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 requirements until August 2, 2001.
[3] A towing vessel may carry either a swing-meter or a magnetic compass.

(between miles 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock.

(1827) Swing-meter means an electronic or electric device that indicates that rate of turn of the vessel on board which it is installed.

(1828) 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.

(1829) 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.

(1830) (a) Except as provided by §164.01(b), each towing vessel must be equipped with the following navigational-safety equipment:

(1831) (1) Marine Radar. By August 2, 1997, a marine radar that meets the following applicable requirements:

(1832) (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–

(1833) (A) The requirements of the Federal Communications Commission (FCC) specified by 47 CFR part 80; and

(1834) (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.

(1835) (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–

(1836) (A) The requirements of the FCC specified by 47 CFR part 80; and

(1837) (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.

(1838) (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–

(1839) (A) The requirements of the Federal Communications Commission (FCC) specified by 47 CFR part 80; and

(1840) (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.

(1841) (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–

(1842) (A) The requirements of the FCC specified by 47 CFR Part 80; and

(1843) (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.

(1844) (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.

(1845) (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.

(1846) (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.)

(1847) (4) Magnetic Compass. Either–

(1848) (i) An illuminated swing-meter or an illuminated card-type magnetic steering compass readable from the vessel's main steering station, if the vessel engages in towing exclusively on Western Rivers; or

(1849) (ii) An illuminated card-type magnetic steering compass readable from the vessel's main steering station.

(1850) (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.

(1851) (6) Electronic Position-Fixing Device. An electronic position-fixing device, 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.

(1852) (b) Each towing vessel must carry on board and maintain the following:

(1853) (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.

(1854) (i) The charts or maps must be of a large enough scale and have enough detail to make safe navigation of the areas possible.

(1855) (ii) The charts or maps must be either–

(1856) (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

(1857) (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.

(1858) (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.

(1859) (2) 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:

(1860) (i) If the vessel is engaged in towing exclusively on Western Rivers–

(1861) (A) U.S. Coast Guard Light List;

(1862) (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

(1863) (C) River-current tables published by the ACOE or a river authority, if available.

(1864) (ii) if the vessel is engaged other than in towing exclusively on Western Rivers–

(1865) (A) Coast Guard Light List;

(1866) (B) Notices to Mariners published by National Geospatial-Intelligence Agency, or LNMs published by the Coast Guard;

(1867) (C) Tidal-Current tables published by private entities using data provided by the NOS, or river-current tables published by the ACOE or a river authority:

(1868) (D) Tide tables published by private entities using data provided by the NOS; and

(1869) (E) U.S. Coast Pilot.

(1870) (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 engaged in towing:

**§164.74 Towline and terminal gear for towing astern.**

(1871) (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:

(1872) (1) The size and material of each towline must be–

(1873) (i) Appropriate for the horsepower or bollard pull of the vessel;

(1874) (ii) Appropriate for the static loads and dynamic loads expected during the intended service;

(1875) (iii) Appropriate for the sea conditions expected during the intended service;

(1876) (iv) Appropriate for exposure to the marine environment and to any chemicals used or carried on board the vessel;

(1877) (v) Appropriate for the temperatures of normal stowage and service on board the vessel;

(1878) (vi) Compatible with associated navigational-safety equipment; and

(1879) (vii) Appropriate for the likelihood of mechanical damage.

(1880) (2) Each towline as rigged must be–

(1881) (i) Free of knots;

(1882) (ii) Spliced with a thimble, or have a poured socket at its end; and

(1883) (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.

(1884) (3) The condition of each towline must be monitored through the–

(1885) (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;

(1886) (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;

(1887) (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);

(1888) (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–

(1889) (A) Nautical miles on, or time in service of, the towline;

(1890) (B) Operating conditions experienced by the towline;

(1891) (C) History of loading of the towline;

(1892) (D) Surface condition, including corrosion and discoloration, of the towline;

(1893) (E) Amount of visible damage to the towline;

(1894) (F) Amount of material deterioration indicated by measurements of diameter and, if applicable, measurements of lay extension of the towline; and

(1895) (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

(1896) (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.

(1897) (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:

(1898) (1) The material and size of the terminal gear are appropriate for the strength and anticipated loading of the towline and for the environment;

(1899) (2) Each connection is secured by at least one nut with at least one cotter pin or other means of preventing its failure;

(1900) (3) The lead of the towline is appropriate to prevent sharp bends in the towline from fairlead blocks, chocks, or tackle;

(1901) (4) There is provided a method, whether mechanical or non-mechanical, that does not endanger operating personnel but that easily releases the towline;

(1902) (5) The towline is protected from abrasion or chafing by chafing gear, lagging, or other means;

(1903) (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

(1904) (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.**

(1905) The owner, master, or operator of each vessel towing alongside or pushing ahead shall ensure the face wires, spring lines, and push gear used–

(1906) (a) Are appropriate for the vessel's horsepower;

(1907) (b) Are appropriate for the arrangement of the tow;

(1908) (c) Are frequently inspected; and

(1909) (d) Remain serviceable.

**§164.78 Navigation under way: Towing vessels.**

(1910) (a) The owner, master, or operator of each vessel towing shall ensure that each person directing and controlling the movement of the vessel–

(1911) (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;

(1912) (2) Can fix the position of the vessel using installed navigational equipment, aids to navigation, geographic reference- points, and hydrographic contours;

(1913) (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.);

(1914) (4) Evaluates the danger of each closing visual or radar contact;

(1915) (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;

(1916) (6) Knows the speed and direction of the current, and the set, drift, and tidal state for the area to be transited;

(1917) (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 and direction of the current, and local speed-limits; and

(1918) (8) Monitors the voyage plan required by §164.80.

(1919) (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.**

(1920) (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:

(1921) (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.

(1922) (2) Navigational equipment. A test of all installed navigational equipment.

(1923) (3) Communications. Operation of all internal vessel control communications and vessel-control alarms, if installed.

(1924) (4) Lights. Operation of all navigational lights and all searchlights.

(1925) (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.

(1926) (6) Propulsion systems. Visual inspection of the spaces for main propulsion machinery, of machinery, and of devices for monitoring machinery.

(1927) (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:

(1928) (1) Navigational equipment. Tests of onboard equipment as required by §164.25.

(1929) (2) Terminal gear. Visual inspection of tackle; of connections of bridle and towing pendant, if applicable; of charting gear; and of the winch brake, if installed.

(1930) (c)(1) The voyage-planning requirements outlined in this section do not apply to you if your towing vessel is–

(1931) (i) Used solely for any of the following services or any combination of these services–

(1932) (A) Within a limited geographic area, such as fleeting-area for barges or a commercial facility, and used for restricted service, such as making up or breaking up larger tows:

(1933) (B) For harbor assist;

(1934) (C) For assistance towing as defined by 46 CFR 10.103;

(1935) (D) For response to emergency or pollution;

(1936) (ii) A public vessel that is both owned, or demise chartered, and operated by the United States Government or by a government of a foreign country; and that is not engaged in commercial service;

(1937) (iii) A foreign vessel engaged in innocent passage; or

(1938) (iv) Exempted by the Captain of the Port (COTP).

(1939) (2) If you think your towing vessel should be exempt from these voyage planning requirements for a specified route, you should submit a written request to the appropriate COTP. The COTP will provide you with a written response granting or denying your request.

(1940) (3) 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):

(1941) (i) Applicable information from nautical charts and publication (also see paragraph (b) of section 164.72), including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the port of departures, all ports of call, and the destination;

(1942) (ii) 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 section 164.78 and (b) of section 164.82);

(1943) (iii) Data on tides and currents for the port of departure, all ports of call, and the destination, and the river staged and forecast, if appropriate;

(1944) (iv) Forward and after drafts of the barge or barges and under-keel and vertical clearances (air-gaps) for all bridges, ports, and berthing areas;

(1945) (v) Pre-departure checklists;

(1946) (vi) Calculated speed and estimated time of arrival at proposed waypoints;

(1947) (vii) Communication contacts at any Vessel Traffic Services, bridges, and facilities, and any port specific requirements for VHF radio;

(1948) (viii) Any master's or operator's standings orders detailing closest points of approach, special conditions, and critical maneuvers; and

(1949) (ix) Whether the towing vessel has sufficient power to control the tow under all foreseeable circumstances.

**§164.82 Maintenance, failure, and reporting.**

(1950) (a) Maintenance. The owner, master, or operator of each towing vessel shall maintain operative the navigational-safety equipment required by §164.72.

(1951) (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.

(1952) (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:

(1953) (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;

(1954) (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

(1955) (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.)

(1956) (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.

(1957) (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.

(1958) (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.

(1959) The purpose of this part is to–

(1960) (a) Prescribe procedures for establishing different types of limited or controlled access areas and regulated navigation areas;

(1961) (b) Prescribe general regulations for different types of limited or controlled access areas and regulated navigation areas;

(1962) (c) Prescribe specific requirements for established areas; and

(1963) (d) List specific areas and their boundaries.

### §165.5 Establishment procedures.

(1964) (a) A safety zone, security zone, or regulated navigation area may be established on the initiative of any authorized Coast Guard official.

(1965) (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:

(1966) (1) The name of the person submitting the request;

(1967) (2) The location and boundaries of the safety zone, security zone, or regulated navigation area;

(1968) (3) The date, time, and duration that the safety zone, security zone, or regulated navigation area should be established;

(1969) (4) A description of the activities planned for the safety zone, security zone, or regulated navigation area;

(1970) (5) The nature of the restrictions or conditions desired; and

(1971) (6) The reason why the safety zone, security zone, or regulated navigation area is necessary.

(1972) (Requests for safety zones, security zones, and regulated navigation areas are approved by the Office of Management and Budget under control number 1625-0020.)

(1973) (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.

(1974) (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.

(1975) (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.

(1976) (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.

(1977) 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.

(1978) (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.

(1979) (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.

(1980) (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 amended 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.

(1981) (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 12 nautical miles from the baseline.

## Subpart B–Regulated Navigation Areas

### §165.10 Regulated navigation area.

(1982) 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).

(1983) Each District Commander may control vessel traffic in an area which is determined to have hazardous conditions, by issuing regulations–

(1984) (a) Specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(1985) (b) Establishing vessel size, speed, draft limitations, and operating conditions; and

(1986) (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.

(1987) (a) The master of a vessel in a regulated navigation area shall operate the vessel in accordance with the regulations contained in Subpart F.

(1988) (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.

(1989) 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.

(1990) Unless otherwise provided in this part–

(1991) (a) No person may enter a safety zone unless authorized by the COTP or the District Commander;

(1992) (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;

(1993) (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

(1994) (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.

(1995) (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.

(1996) (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–

(1997) (1) Vessels,

(1998) (2) Harbors,

(1999) (3) Ports and

(2000) (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.

(2001) Unless otherwise provided in the special regulations in Subpart F of this part–

(2002) (a) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(2003) (b) Each person and vessel in a security zone shall obey any direction or order of the Captain of the Port;

(2004) (c) The Captain of the Port may take possession and control of any vessel in the security zone;

(2005) (d) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(2006) (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

(2007) (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 Area

### §165.40 Restricted Waterfront Areas.

(2008) 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.

**§165.501 Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters-Regulated Navigation Area.**

(2009) (a) Location. The waters enclosed by the shoreline and the following lines are a Regulated Navigation Area:

(2010) (1) Offshore zone. A line drawn due East from the mean low water mark at the North Carolina and Virginia border at 36°33'03"N., 75°52'00"W., to the Territorial Seas boundary line at 36°33'05"N., 75°36'51"W., thence generally Northeastward along the Territorial Seas boundary line to 38°01'39"N., 74°57'18"W., thence due West to the mean low water mark at the Maryland and Virginia border at 38°01'39"N., 75°14'30"W., thence South along the mean low water mark on the Virginia coast, and eastward of the Colregs Demarcation Lines across Chincoteague Inlet, Assawoman Inlet, Gargathy Inlet, Metompkin Inlet, Wachapreague Inlet, Quinby Inlet, Great Machipongo Inlet, Sand Shoal Inlet, New Inlet, Ship Shoal Inlet and Little Inlet, to the Colregs Demarcation Line across the mouth of Chesapeake Bay, continuing south along the Virginia low water mark and eastward of the Colregs Demarcation Line across Rudee Inlet to the point of beginning. All positions reference NAD 83.

(2011) (2) Inland zone. The waters enclosed by the shoreline and the following lines:

(2012) (i) A line drawn across the entrance to Chesapeake Bay between Wise Point and Cape Charles Light, and then continuing to Cape Henry Light.

(2013) (ii) A line drawn across the Chesapeake Bay between Old Point Comfort Light and Cape Charles City Range "A" Rear Light.

(2014) (iii) A line drawn across the James River along the eastern side of U.S. Route 17 highway bridge, between Newport News and Isle of Wight County, Virginia.

(2015) (iv) A line drawn across Chuckatuck Creek along the northern side of the north span of the U.S. Route 17 highway bridge, between Isle of Wight County and Suffolk, Virginia.

(2016) (v) A line drawn across the Nansemond River along the northern side of the Mills Godwin (U.S. Route 17) Bridge, Suffolk, Virginia.

(2017) (vi) A line drawn across the mouth of Bennetts Creek, Suffolk, Virginia.

(2018) (vii) A line drawn across the Western Branch of the Elizabeth River along the eastern side of the West Norfolk Bridge, Portsmouth, Virginia.

(2019) (viii) A line drawn across the Southern Branch of the Elizabeth River along the northern side of the I-64 highway bridge, Chesapeake, Virginia.

(2020) (ix) A line drawn across the Eastern Branch of the Elizabeth River along the western side of the west span of the Campostella Bridge, Norfolk, Virginia.

(2021) (x) A line drawn across the Lafayette River along the western side of the Hampton Boulevard Bridge, Norfolk, Virginia.

(2022) (xi) A line drawn across Little Creek along the eastern side of the Ocean View Avenue (U.S. Route 60) Bridge, Norfolk, Virginia.

(2023) (xii) A line drawn across Lynnhaven Inlet along the northern side of Shore Drive (U.S. Route 60) Bridge, Virginia Beach, Virginia.

(2024) (b) Definitions. In this section:

(2025) CBBT means the Chesapeake Bay Bridge Tunnel.

(2026) Coast Guard Patrol Commander is a Coast Guard commissioned, warrant or petty officer who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2027) Designated representative of the Captain of the Port means a person, including the duty officer at the Coast Guard Sector Hampton Roads, the Joint Harbor Operations Center watchstander, or the Coast Guard or Navy Patrol Commander who has been authorized by the Captain of the Port to act on his or her behalf and at his or her request to carry out such orders and directions as needed. All patrol vessels shall display the Coast Guard Ensign at all times when underway.

(2028) I-664 Bridge Tunnel means the Monitor Merrimac Bridge Tunnel.

(2029) Inland waters means waters within the COLREGS Line of Demarcation.

(2030) Thimble Shoal Channel consists of the waters bounded by a line connecting Thimble Shoal Channel Lighted Bell Buoy 1TS, thence to Thimble Shoal Lighted Gong Buoy 17, thence to Thimble Shoal Lighted Buoy 19, thence to Thimble Shoal Lighted Buoy 21, thence to Thimble Shoal Lighted Buoy 22, thence to Thimble Shoal Lighted Buoy 18, thence to Thimble Shoal Lighted Buoy 2, thence to the beginning.

(2031) Thimble Shoal North Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the north side of Thimble Shoal Channel, the southern boundary of which extends from Thimble Shoal Channel Lighted Buoy 2 to Thimble Shoal Lighted Buoy 18.

(2032) Thimble Shoal South Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the south side of Thimble Shoal Channel, the northern boundary of which extends from Thimble Shoal Channel Lighted Bell Buoy 1TS, thence to Thimble Shoal Lighted Gong Buoy 17, thence to Thimble Shoal Lighted Buoy 19, thence to Thimble Shoal Lighted Buoy 21.

(2033) (c) Applicability. This section applies to all vessels operating within the Regulated Navigation Area, including naval and public vessels, except vessels that are engaged in the following operations:

(2034) (1) Law enforcement.

(2035) (2) Servicing aids to navigation.

(2036) (3) Surveying, maintenance, or improvement of waters in the Regulated Navigation Area.

(2037) (d) Regulations.

(2038) (1) Anchoring restrictions. No vessel over 65 feet long may anchor or moor in the inland waters of the Regulated Navigation Area outside an anchorage designated in Sec. 110.168 of this title, with these exceptions:

(2039) (i) The vessel has the permission of the Captain of the Port.

(2040) (ii) Only in an emergency, when unable to proceed without endangering the safety of persons, property, or the environment, may a vessel anchor in a channel.

(2041) (iii) A vessel may not anchor within the confines of Little Creek Harbor, Desert Cove, or Little Creek Cove without the permission of the Captain of the Port. The Captain of the Port shall consult with the Commander, Naval Amphibious Base Little Creek, before granting permission to anchor within this area.

(2042) (2) Anchoring detail requirements. A self-propelled vessel over 100 gross tons, which is equipped with an anchor or anchors (other than a tugboat equipped with bow fenderwork of a type of construction that prevents an anchor being rigged for quick release), that is underway within two nautical miles of the CBBT or the I-664 Bridge Tunnel shall station its personnel at locations on the vessel from which they can anchor the vessel without delay in an emergency.

(2043) (3) Secondary towing rig requirements on inland waters.

(2044) (i) A vessel over 100 gross tons may not be towed in the inland waters of the Regulated Navigation Area unless it is equipped with a secondary towing rig, in addition to its primary towing rig, that:

(2045) (A) Is of sufficient strength for towing the vessel.

(2046) (B) Has a connecting device that can receive a shackle pin of at least two inches in diameter.

(2047) (C) Is fitted with a recovery pickup line led outboard of the vessel's hull.

(2048) (ii) A tow consisting of two or more vessels, each of which is less than 100 gross tons, that has a total gross tonnage that is over 100 gross tons, shall be equipped with a secondary towing rig between each vessel in the tow, in addition to its primary towing rigs, while the tow is operating within this Regulated Navigation Area. The secondary towing rig must:

(2049) (A) Be of sufficient strength for towing the vessels.

(2050) (B) Have connecting devices that can receive a shackle pin of at least two inches in diameter.

(2051) (C) Be fitted with recovery pickup lines led outboard of the vessel's hull.

(2052) (4) Thimble Shoals Channel controls.

(2053) (i) A vessel drawing less than 25 feet may not enter the Thimble Shoal Channel, unless the vessel is crossing the channel. Masters should consider the squat of their vessel based upon vessel design and environmental conditions. Channel crossings shall be made as perpendicular to the channel axis as possible.

(2054) (ii) Except when crossing the channel, a vessel in the Thimble Shoal North Auxiliary Channel shall proceed in a westbound direction.

(2055) (iii) Except when crossing the channel, a vessel in the Thimble Shoal South Auxiliary Channel shall proceed in an eastbound direction.

(2056) (5) Restrictions on vessels with impaired maneuverability.

(2057) (i) Before entry. A vessel over 100 gross tons, whose ability to maneuver is impaired by heavy weather, defective steering equipment, defective main propulsion machinery, or other damage, may not enter the Regulated Navigation Area without the permission of the Captain of the Port.

(2058) (ii) After entry. A vessel over 100 gross tons, which is underway in the Regulated Navigation Area, that has its ability to maneuver become impaired for any reason, shall, as soon as possible, report the impairment to the Captain of the Port.

(2059) (6) Requirements for navigation charts, radars, and pilots. No vessel over 100 gross tons may enter the Regulated Navigation Area, unless it has on board:

(2060) (i) Corrected charts of the Regulated Navigation Area. Instead of corrected paper charts, warships or other vessels owned, leased, or operated by the United States Government and used only in government noncommercial service may carry electronic charting and navigation systems that have met the applicable agency regulations regarding navigation safety.

(2061) (ii) An operative radar during periods of reduced visibility;

(2062) (iii) When in inland waters, a pilot or other person on board with previous experience navigating vessels on the waters of the Regulated Navigation Area.

(2063) (7) Emergency procedures.

(2064) (i) Except as provided in paragraph (d)(7)(ii) of this section, in an emergency any vessel may deviate from the regulations in this section to the extent necessary to avoid endangering the safety of persons, property, or the environment.

(2065) (ii) A vessel over 100 gross tons with an emergency that is located within two nautical miles of the CBBT or I-664 Bridge Tunnel shall notify the Captain of the Port of its location and the nature of the emergency, as soon as possible.

(2066) (8) Vessel speed limits.

(2067) (i) Little Creek. A vessel may not proceed at a speed over five knots between the Route 60 bridge and the mouth of Fishermans Cove (Northwest Branch of Little Creek).

(2068) (ii) Southern Branch of the Elizabeth River. A vessel may not proceed at a speed over six knots between the junction of the Southern and Eastern Branches of the Elizabeth River and the Norfolk and Portsmouth Belt Line Railroad Bridge between Chesapeake and Portsmouth, Virginia.

(2069) (iii) Norfolk Harbor Reach. Nonpublic vessels of 300 gross tons or more may not proceed at a speed over 10 knots between the Elizabeth River Channel Lighted Gong Buoy 5 of Norfolk Harbor Reach (southwest of Sewells Point) at approximately 36°58'00"N., 076°20'00"W, and gated Elizabeth River Channel Lighted Buoys 17 and 18 of Craney Island Reach (southwest of Norfolk International Terminal at approximately 36°54'17"N., and 076°20'11"W.

(2070) (9) Port security requirements. Vessels in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall not enter the Regulated Navigation Area, move within the Regulated Navigation Area, or be present within the Regulated Navigation Area, unless they comply with the following requirements:

(2071) (i) Obtain authorization to enter the Regulated Navigation Area from the designated representative of the Captain of the Port prior to entry. All vessels entering or remaining in the Regulated Navigation Area may be subject to a Coast Guard boarding.

(2072) (ii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without a valid purpose and photo identification.

(2073) (iii) Report any departure from or movement within the Regulated Navigation Area to the designated representative of the Captain of the Port prior to getting underway.

(2074) (iv) The designated representative of the Captain of the Port is the Sector Command Center (SCC)-Joint Harbor Operations Center (JHOC) which shall be contacted on VHF-FM channel 12, or by calling (757) 668-5555.

(2075) (v) In addition to the authorities listed in this part, this paragraph is promulgated under the authority under 33 U.S.C. 1226.

(2076) (e) Waivers.

(2077) (1) The Captain of the Port may, upon request, waive any regulation in this section.

(2078) (2) An application for a waiver must state the need for the waiver and describe the proposed vessel operations.

(2079) (f) Control of vessels within the regulated navigation area.

(2080) (1) When necessary to prevent damage, destruction or loss of any vessel, facility or port infrastructure, the Captain of the Port may direct the movement of vessels or issue orders requiring vessels to anchor or moor in specific locations.

(2081) (2) If needed for the maritime, commercial or security interests of the United States, the Captain of the Port may order a vessel to move from the location in which it is anchored to another location within the Regulated Navigation Area.

(2082) (3) The master of a vessel within the Regulated Navigation Area shall comply with any orders or directions issued to the master's vessel by the Captain of the Port.

**§165.514 Safety Zone: Atlantic Intracoastal Waterway and Connecting Waters, Vicinity of Marine Corps Base Camp Lejeune, North Carolina.**

(2083) (a) Location. The following area is a safety zone: All waters of the Atlantic Intracoastal Waterway (AICW) and connecting waters, from Bogue Sound-New River Daybeacon 58 (LLNR 39210) at approximate position 34°37'57"N., 77°12'18"W., and continuing in the AICW southwest to Bogue Sound–New River Daybeacon 70 (LLNR 39290) at approximate position 34°33'08"N., 77°20'34"W. All coordinates reference Datum: NAD 1983.

(2084) (b) Regulations. Notwithstanding the provisions of 33 CFR 334.440 (e)(2)(i), no vessel may enter the safety zone described in Paragraph (a) of this section while weapons firing exercises are in progress, except as provided in Paragraph (c) of this section or unless permitted by the Captain of the Port (COTP) Nort Carolina.

(2085) (1) Red warning flags or red warning lights will be displayed on towers located at both ends of the safety zone (Bear Creek and Cedar Point) while firing exercises are in progress. The flags or lights will be displayed by 8 a.m. on days where firing exercises are scheduled, and will be removed at the end of the firing exercise.

(2086) (2) A Coast Guard or U.S. Navy vessel will patrol each end of the safety zone to ensure the public is aware that firing exercises are in progress and that the firing area is clear of vessel traffic before weapons are fired.

(2087) (c) General information.

(2088) (1) Announcements. The COTP North Carolina will announce the specific times and locations of firing exercises by Broadcast Notice to Mariners and Local Notice to Mariners. Normally, weapons firing for each firing exercise is limited to a 2-nautical-mile portion of the safety zone. The COTP may issue general permission to transit all or specified parts of the safety zone outside of the actual firing area or if firing is temporarily stopped. This general permission will be announced in a Local Notice to Mariners and Broadcast Notice to Mariners.

(2089) (2) Camp Lejeune Artillery Operations. Artillery weapons firing over the AICW from Marine Corps Base Camp Lejeune will be suspended and vessels permitted to transit the specified 2-nautical-mile firing area for a 1-hour period beginning at the start of each odd-numbered hour local time (e.g., 9 a.m.; 1 p.m.). A vessel may not enter the specified firing area unless it will be able to complete its transit of the firing area before firing exercises are scheduled to re-start.

(2090) (3) Atlantic Ocean Naval Gunnery live fire operations. Naval gunnery live fire operations over the AICW from off shore on the Atlantic Ocean may be conducted for periods not to exceed 4 hours, then suspended and vessels permitted to transmit the specified two-mile firing area for a minimum of one hour before firing may resume. A vessel may not enter the specified firing area unless it will be able to complete its transit of the firing area before firing exercises are scheduled to re-start.

(2091) (d) Contact information. U.S. Navy safety vessels may be contacted on VHF marine band radio channels 13 (156.65 MHz) and 16 (156.8 MHz). The Captain of the Port may be contacted at Sector North Carolina by telephone at 877-229-0770 or 910-770-2200.

**§165.515 Safety Zone: Cape Fear River, Wilmington, North Carolina.**

(2092) (a) Location. The following area is a safety zone:

(2093) (1) The waters of the Cape Fear River bounded by a line connecting the following points:

(2094) 34°14'12"N., 77°57'10"W.

(2095) 34°14'12"N., 77°57'06"W.

(2096) 34°13'54"N., 77°57'00"W.

(2097) 34°13'54"N., 77°57'06"W.

(2098) (2) The safety zone boundary can be described as follows: starting at the stern of the Battleship USS NORTH CAROLINA, across the Cape Fear River to the north end of the Coast Guard moorings, down along the east bank of the Cape Fear River to the bow of the tug CAPTAIN JOHN TAXIS Memorial (Chandler's Wharf), back across the Cape Fear River to Eagle Island, and then up along the west bank of the Cape Fear River to the stern of the Battleship USS NORTH CAROLINA.

(2099) (b) Definitions. The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, North Carolina to act on his behalf.

(2100) (c) General information. The Captain of the Port and the Command Duty Officer at Sector North Carolina can be contacted at telephone number 877-229-0770 or 910-772-2200. The Coast Guard Patrol Commander and the senior boarding officer on each vessel enforcing the safety zone can be contacted on VHF-FM channels 16 and 81.

(2101) (d) Regulation. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2102) (1) The operator of any vessel in the immediate vicinity of this safety zone shall:

(2103) (i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(2104) (ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(2105) (2) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a) of the section, but may not block a navigable channel.

(2106) (e) Effective date. The Captain of the Port will issue a Marine Safety Information Broadcast and a Notice to Mariners to notify the public when this section is in effect.

**§165.518 Security Zone; Waters of the Fifth Coast Guard District.**

(2107) (a) Definitions. As used in this section–

(2108) Designated Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander or local Captain of the Port (COTP), as defined in 33 CFR part 3, subpart 3.25, to act on his or her behalf.

(2109) Escorted vessel means a vessel, other than a U.S. naval vessel as defined in §165.2015, that is accompanied by one or more Coast Guard assets or Federal, State or local law enforcement agency assets as listed below:

(2110) (1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2111) (2) Coast Guard Auxiliary surface asset displaying the Coast Guard Auxiliary insignia.

(2112) (3) State and/or local law enforcement asset displaying the applicable agency markings and or equipment associated with the agency.

(2113) State and/or local law enforcement officers means any State or local government law enforcement officer who has authority to enforce State criminal laws.

(2114) (b) Location. The following area is a security zone: 500-yard radius around escorted vessels in the navigable waters of the Fifth Coast Guard District as defined in 33 CFR 3.25–1, from surface to bottom.

(2115) (c) Regulations. (1) No vessel may approach within 500 yards of an escorted vessel within the navigable waters of the Fifth Coast Guard District, unless traveling at the minimum speed necessary to navigate safely.

(2116) (2) No vessel may enter within a 100-yard radius of an escorted vessel within the navigable waters of the Fifth Coast Guard District, without approval from the District Commander, Captain of the Port or their designated representatives.

(2117) (3) Moored or anchored vessels, which are overtaken by a moving zone, must remain stationary at their location until the escorted vessel maneuvers at least 500 yards past.

(2118) (4) Vessels restricted in their ability to maneuver may request permission of the District Commander, Captain of the Port or designated representative to enter the security zone in order to ensure safe passage in accordance with the Navigation Rules in 33 CFR chapter 1, subparts D and E.

(2119) (5) The local COTP may notify the maritime and general public by marine information broadcast of the periods during which individual security zones have been activated by providing notice in accordance with 33 CFR 165.7.

(2120) (6) When moored, a security zone around an escorted vessel may also be enforced by Coast Guard, State or Local law enforcement personnel shoreside.

(2121) (7) Persons desiring to transit within 100 yards of an escorted vessel in the Fifth Coast Guard District must contact the local Captain of the Port on VHF channel 16 (156.800 MHz),VHF channel 13 (156.650 MHz) or at telephone numbers:

(2122) Philadelphia: 215-271-4807

(2123) Baltimore: 410-576-2693

(2124) Hampton Roads: 757-668-5555 or 757-484-8192

(2125) North Carolina: 877-229-0770 or 910-772-2200

(2126) (8) If permission is granted to transit within 100 yards of an escorted vessel, all persons and vessels must comply with the instructions of the District Commander, Captain of the Port or their designated representative.

**§165.530 Safety Zone: Cape Fear and Northeast Cape Fear Rivers, NC.**

(2127) (a) Location. The following area is a moving safety zone during the specified conditions: The waters of the Cape Fear and Northeast Cape Fear Rivers for 500 yards ahead and astern, and 75 yards abeam of a vessel carrying hazardous materials when designated by the Captain of the Port, North Carolina.

(2128) (b) General Information. (1)) The Captain of the Port and the Command Duty Officer at Sector North Carolina can be contacted at telephone number 877-229-0770 or 910-772-2200. The Coast Guard Patrol Commander enforcing the safety zone can be contacted on VHF–FM channels 16 and 81.

(2129) (2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing this safety zone.

(2130) (3) Sector North Carolina will notify the maritime community of periods during which this safety zone will be in effect by providing advance notice of scheduled arrivals and departures of loaded hazardous materials vessels via a marine broadcast Notice to Mariners.

(2131) (c) Regulation. The general regulations governing safety zones contained in §165.23 apply.

**§165.540 Regulated Navigation Area; Cape Fear River, Northeast Cape Fear River, Wilmington, North Carolina.**

(2132) (a) Description of the Regulated Navigation Area (RNA). The RNA encompasses all waters of the Cape Fear River and Northeast Cape Fear River from the intersection of Bald Head Shoal Channel and Smith Island Channel (centerline coordinates 33°52'24.028"N., 78°00'29.624"W (NAD 83)) to mile 26.7 on the Northeast Cape Fear River.

(2133) (b) Work areas. Dredging work within the RNA will be conducted in five distinct areas: Ocean Bar II, Horseshoe Shoal, Passing Lane & Anchorage Basin, Big Island, and the Northeast Cape Fear River. Drilling or blasting is expected to occur within the Passing Lane & Anchorage Basin, Big Island, and the Northeast Cape Fear River work areas. The blast sites within the RNA, will be identified and made available to the public through: Broadcast Notices to Mariners or Local Notices to Mariners (Local Notices to Mariners are available online at www.navcen.uscg.gov/lnm/d5/); direct contact with the control vessel on channel 16 VHF–FM; direct contact with the contractor; or through the Captain of the Port on VHF marine Band Radio, channels 13 and 16; or at telephone number 910-772-2200. In addition, dredge and blasting companies will have a control vessel present at the site of each blast.

(2134) (c) Enforcement period. This section will be enforced during the months of August, September, October, November, December, and January, each year. This rule will expire on January 31, 2006.

(2135) (d) Definitions.

(2136) Active work area means a work area in which blasting, drilling, or dredging operations are currently taking place.

(2137) Blast site means the area where explosive material is handled during loading, including the perimeter formed by the loaded blast holes and fifty (50) feet (15.2 meters) in all directions from loaded holes.

(2138) Blasting operations means the detonation of explosives on the river bottom.

(2139) Captain of the Port means the Coast Guard officer designated by the Commandant to command the Captain of the Port Zone as described in 33 CFR 3.25–20.

(2140) Control vessel means the vessel at an active work area which coordinates operations within the active work area.

(2141) Hangfire means a blast that fails to detonate at initiation, but detonates at a later time.

(2142) Mile means measured as nautical miles.

(2143) Misfire means a blast that fails to detonate completely after an attempt at initiation, also the explosive material that failed to detonate as planned.

(2144) RNA means Regulated Navigation Area.

(2145) Work area means those places within the RNA where dredging, drilling, and blasting shall be conducted.

(2146) (e) Description of work areas in the RNA. (1) Ocean Bar II, mouth of Cape Fear. The work area includes: Part of Bald Head Shoal Channel, Smith Island Channel, Baldhead Caswell Channel, Southport Channel, Battery Island Channel, Lower Swash Channel and the majority of Snows Marsh Channel. The downstream end of the work area (centerline coordinates: 33°50'43.668"N., 78°01'40.068"W (NAD 1983)) is located southeast of Cape Fear River Channel Lighted Buoy 8 (LL 30350), approximately 2,560 feet east of the centerline of the existing Bald Head Shoal Channel. Upstream end of the work area is located 1,200 feet downstream of the intersection of Snows Marsh Channel and Horseshoe Shoal Channel at turn six (mile 6.5, approximately 1,150 feet downstream of Cape Fear River Channel Lighted Buoy 25 (LL 30530/39965)).

(2147) (2) Horseshoe Shoal. The work area includes: Horseshoe Shoal Channel and part of Snows Marsh Channel. Downstream end of the work area is located 1,200 feet downstream of the intersection of Snows Marsh Channel and Horseshoe Shoal Channel (mile 6.5, approximately 1,150 feet downstream of Cape Fear River Channel Lighted Buoy 25 (LL 30530/39965)). Upstream end of the work area is located at the intersection of Horseshoe Shoal Channel and Reaves Point Channel (mile 7.7, at about Cape Fear River Channel Lighted Buoy 27 (LL 30550/39945)).

(2148) (3) Big Island. The work area includes: Part of Keg Island Channel, Lower Big Island Channel, Upper Big Island Channel, and part of Lower Brunswick Channel. Downstream end of the work area is approximately 2,230 feet upstream of the intersection of Upper Lilliput Channel and Keg Island Channel (mile 16.2,

approximately 1,320 feet downstream of Cape Fear River Channel Lighted Buoy 46 (LL 30765) and approximately 2,300 feet upstream of Cape Fear River Channel Lighted Buoy 44 (LL 30750)). Upstream end of the work area is approximately 2,680 feet upstream of intersection of Upper Big Island Channel and Lower Brunswick Channel (mile 18.7, approximately 1,620 feet upstream of Cape Fear River Channel Lighted Buoy 56 (LL 30830) and approximately 590 feet downstream of the Carolina Power & Light Company (CP&L) overhead power line crossing).

(2149) (4) Passing Lane and Anchorage Basin. There are two separate work areas for this contact, separated by the Big Island Contract.

(2150) (i) Passing Lane work area is located immediately downstream of the Big Island contract work area. The work area includes: Reaves Point Channel, Lower Midnight Channel, Upper Midnight Channel, Lilliput Channel, and part of Keg Island Channel. Downstream end of Passing Lane work area is the intersection of Horseshoe Shoal Channel and Reaves Point Channel (mile 7.7, at about Cape Fear River Channel Lighted Buoy 27 (LL 30550/39945)). Upstream end of the Passing Lane work area is approximately 2,230 feet upstream of intersection of Upper Lilliput Channel and keg Island Channel (mile 16.2, approximately 1,320 feet downstream of Cape Fear River Channel Lighted Buoy 46 (LL 30765) and approximately 2,300 feet upstream of Cape Fear River Channel Lighted Buoy 44 (LL 30750)).

(2151) (ii) Anchorage Basin work area is located immediately upstream of the Big Island contract work area. The work area includes: Part of Lower Brunswick Channel, Fourth East Jetty Channel, Between Channel, and Anchorage Basin Channel. Downstream end of Anchorage Basin work area is approximately 2,680 feet upstream of intersection of Upper Big Island Channel and Lower Brunswick Channel (mile 18.7, approximately 1,620 feet upstream of Cape Fear River Channel Lighted Buoy 56 (LL 30830) and approximately 590 feet downstream of the CP&L overhead power line crossing). Upstream end of Anchorage Basin work area is the Cape Fear Memorial Bridge (mile 23.6).

(2152) (5) Northeast Cape Fear River. The downstream end of the work area is the Cape Fear Memorial Bridge (mile 23.6). Upstream end of the work area (approximately mile 26.7) is on the Northeast Cape Fear River and is approximately 700 feet upstream of the turning basin located opposite Koch Sulfur Products Co. and approximately 90 feet downstream of the submerged gas pipeline crossing.

(2153) (f) Regulations. (1) Blasting, drilling, and dredging operations raise many safety issues for vessels transiting the RNA. All mariners are reminded to exercise caution while transiting or operating in the RNA.

(2154) (2) Active work areas, control vessels, and blast sites will be identified via Broadcast Notices to Mariners or Local Notices to Mariners. The Local Notice to Mariners is available on-line at www.navcen.uscg.gov/lnm/d5/. Control vessels shall monitor channel 16 VHF–FM.

(2155) (3) The following requirements apply to all vessels.

(2156) (i) All vessels shall inform themselves of the active work areas prior to entering the RNA.

(2157) (ii) All vessels shall contact and receive permission from the control vessel for that work area before entering the active work area.

(2158) (iii) All vessels transiting an active work area shall do so at no wake speed or the minimum speed necessary to maintain steerage.

(2159) (iv) During blasting operations all vessels are prohibited from entering an area of 500 yards surrounding the blast site. Upon notification of a misfire or hangfire, all vessels underway in the RNA shall proceed to clear the active work area in which the misfire or hangfire occurred.

(2160) (4) Vessels over 300 gross tons and tugs with tows are required to contact the COTP 12 hours before vessel movement within the RNA.

(2161) (5) Vessels meeting the notice of arrival requirement under 33 CFR 160.207 are encouraged to notify the COTP at least 48-hours before the vessel enters the RNA to facilitate scheduling and minimize delays. Updates are encouraged at least 12 hours before arriving at the RNA boundaries. The COTP may delay entry into the RNA to accommodate other commercial traffic.

(2162) (6) Vessels of 300 gross tons or greater shall be prohibited from entering the RNA when they are advised that a misfire or hangfire has occurred.

(2163) (7) For any vessel with another vessel/barge in tow transiting an active work area, the hawser or wire length of the tow shall not exceed 275 feet, measured from the towing bit on the tug to the point where the hawser or wire connects with the towed vessel or barge.

(2164) (8) Vessels of 300 gross tons or greater and tugs with tows, shall, prior to entering the RNA, ensure that they have sufficient propulsion and directional control to safely navigate the RNA under the prevailing conditions.

(2165) (9) Vessels of 300 gross tons or greater and tugs with tows are prohibited from meeting or overtaking vessels of 300 gross tons or greater or tugs with tows in active work areas or within one nautical mile of an active work area.

(2166) (10) The Captain of the Port, North Carolina may, upon written request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 48 hours before intended operation and must state the need and describe the proposal.

## Subpart F–Specific Regulated Navigation Areas and Limited Access Areas

### §165.701 Vicinity, Kennedy Space Center, Merritt Island, Florida–security zone.

(2167) (a) The water, land, and land and water within the following boundaries are a security zone–The perimeter of the Cape Canaveral Barge Canal and the Banana River at 28°24'33"N., 80°39'48"W.; then due west along the northern shoreline of the barge canal for 1,300 yards; then due north to 28°28'42"N., 80°40'30"W., on Merritt Island. From this position, the line proceeds irregularly to the eastern shoreline of the Indian River to a position 1,300 yards south of the NASA Causeway at 28°30'54"N., 80°43'42"W. (the line from the barge canal to the eastern shoreline of the Indian River is marked by a three-strand barbed-wire fence); then north along the shoreline of the Indian River to the NASA Causeway at 28°31'30"N., 80°43'48"W. The line continues west on the southern shoreline of the NASA Causeway to NASA Gate 3 (permanent), then north to the northern shoreline of the NASA Causeway and east on the northern shoreline of the causeway back to the shoreline on Merritt Island at position 28°31'36"N., 80°43'42"W.; then northwest along the shoreline to 28°41'01.2"N., 80°47'10.2"W. (Blackpoint); then due north to channel marker #6 on the Intracoastal Waterway (ICW), then northeast along the southern edge of the ICW to the western entrance to the Haulover Canal. From this point, the line continues northeast along the southern edge of the Haulover Canal to the eastern entrance to the canal; then due east to a point in the Atlantic Ocean 3 miles offshore at 28°44'42"N., 80°37'51"W.; then south along a line 3 miles from the coast to Wreck Buoy "WR6", then to Port Canaveral Channel Lighted Buoy 10, then west along the northern edge of the Port Canaveral Channel to the northeast corner of the intersection of the Cape Canaveral Barge Canal and the ICW in the Banana River at 28°24'36"N., 80°38'42"W. The line continues north along the east side of the Intracoastal Waterway to daymarker "35" thence North Westerly one quarter of a mile south of NASA Causeway East (Orsino Causeway) to the shoreline on Merritt Island at position 28°30.95'N., 80°37.6'W., then south along the shoreline to the starting point.

(2168) (b) The area described in paragraph (a) of this section is closed to all vessels and persons, except those vessels and persons authorized by the Commander, Seventh Coast Guard District, or the COTP Jacksonville, Florida, whenever space vehicles are to be launched by the United States Government from Cape Canaveral.

(2169) (c) COTP Jacksonville, Florida, closes the security zone, or specific portions of it, by means of locally promulgated notices. The closing of the area is signified by the display of a red ball from a 90-foot pole near the shoreline at approximately 28°35'00"N., 80°34'36"W., and from a 90-foot pole near the shoreline at approximately 28°25'18"N., 80°35'00"W. Appropriate Local Notices to Mariners will also be broadcast on 2670 kHz.

### §165.705 Port Canaveral Harbor, Cape Canaveral, Florida.

(2170) (a) Security Zone A-East (TRIDENT) Basin, Port Canaveral Harbor, at Cape Canaveral Air Force Station, Brevard County, Florida. All waters of the East Basin north of latitude 28°24'36"N.

(2171) (b) Security Zone B-Middle Basin, Port Canaveral Harbor, adjacent to the Navy wharf at Cape Canaveral Air Force Station, Brevard County, Florida. The waters of Port Canaveral Harbor within a line circumscribing the water approaches to the Navy wharf along the northeasterly edge of the Port Canaveral Harbor turning basin at a distance of 200 feet from all portions of the wharf including the dolphins located 200 feet off the northwest end and 75 feet of the southeast end of the wharf.

(2172) (c) Entrance into these zones by vessels other than vessels owned or leased by the United States is prohibited without permission of the Captain of the Port, Jacksonville, Florida.

(2173) (d) The general regulations governing security zones contained in 33 CFR 165.33 apply.

### §165.708 Safety/Security Zone; Charleston Harbor and Cooper River, Charleston, SC.

(2174) (a) Regulated area. The following boundaries are established as a safety and security zone during specified conditions:

(2175) (1) All waters 200 yards ahead and astern and 100 yards to each side of a vessel transporting nuclear materials while the vessel transits from Charleston Harbor Entrance Buoy "C" (LLNR 1885, position 32-39.6N, 079-40.9W) to the Charleston Naval Weapons Station (position 32-55.4N, 079-56.0W) on the Cooper River. All coordinates referenced use datum: NAD 1983.

(2176) (2) All waters within 100 yards of the vessel described in paragraph (a)(1) of this section while the vessel is conducting cargo operations at the Charleston Naval Weapons Station.

(2177) (b) Captain of the Port Charleston will announce the activation of the safety/security zones described in paragraph (a) of this section by Broadcast Notice to Mariners. The general regulations governing safety and security zones contained in §§165.23 and 165.33 apply.

### §165.709 Security Zone; Charleston Harbor, Cooper River, South Carolina.

(2178) (a) Regulated area. The Coast Guard is establishing a fixed security zone on all waters of the Cooper River, bank-to-bank and surface to bottom, from the Don Holt I-526 Bridge to the intersection of Foster Creek at a line on 32 degrees 58 minutes North Latitude.

(2179) (b) Enforcement period. This section will be enforced when security assets are on scene and Marine

Safety Office Charleston has notified the maritime community that an Enforcement Period is in effect. Marine Safety Office Charleston will notify the maritime community by broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz), or Marine Safety Information Bulletins, or actual notice from on scene security assets enforcing the security zone.

(2180) (c) Regulations. During enforcement of the security zone described in paragraph (a) of this section, vessels or persons are prohibited from entering, transiting, mooring, anchoring, or loitering within the security zone unless authorized by the Captain of the Port Charleston, South Carolina or his or her designated representative.

(2181) (1) Persons desiring to transit the Regulated Area may contact the Captain of the Port via VHF-FM channel 16 or by telephone at 843-720-3240 and request permission to transit the security zone.

(2182) (2) If permission to transit the security zone is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

**§165.714 Regulated Navigation Area: Atlantic Ocean, Charleston, SC.**

(2183) (a) Location. The following area is a Regulated Navigation Area: A trapezoid at the water surface, and the entire water column from surface to seabed inclusive of the vessel, bounded by the following four coordinates:

| | |
|---|---|
| Western boundary | 32°42'56"N., 79°47'34"W |
| Southern boundary | 32°42'32"N., 79°46'42"W |
| Eastern boundary | 32°43'26"N., 79°45'27"W |
| Northern boundary | 32°43'56"N., 79°46'08"W |

(2184) (NAD 83)

(2185) (b) Regulations. In accordance with the general regulations in §165.23 of this part, all vessels and persons are prohibited from anchoring, diving, laying cable or conducting salvage operations in this zone except as authorized by the Captain of the Port.

**§165.720 Safety/Security Zone: St. Johns River, Jacksonville, FL.**

(2186) (a) Location. The water and the land within the following boundaries are established as a safety and security zone during specified conditions:

(2187) (1) All waters within 200 yards of Blount Island, Jacksonville, Florida and all adjacent land within 100 yards of the island shoreline during staging of Department of Defense equipment and during the loading/unloading of military supply vessels.

(2188) (2) All waters within 200 yards of "any" waterfront facility at which a laden military vessel is located and all land at the facility, including docks and piers, within 100 yards of the St. Johns River.

(2189) (3) All waters within 200 yards of any specified military supply vessel during its transit of the St. Johns River and out to three (3) nautical miles offshore.

(2190) (b) Regulations. (1) For public notice, the zone described in paragraph (a)(1) of this section is effective beginning 11 December 1990 and will remain in force until cancelled by the Captain of the Port Jacksonville, Florida.

(2191) (2) The COTP Jacksonville may activate, as necessary, any portion of the safety/security zone described in paragraphs (a)(2) and (a)(3) of this section by means of locally promulgated broadcast notice to mariners. Once implemented, neither overtaking nor meeting situations will be allowed during specified vessel transits.

(2192) (3) In accordance with the general regulations governing safety and security zones contained in 33 CFR 165.23 and 165.33 of this part, entry into any portion of the described zone is prohibited unless authorized by the Captain of the Port Jacksonville, Florida.

(2193) (4) This regulation does not apply to authorized law enforcement agencies operating within the safety/security zone.

**§165.722 Security Zone: St. Johns River, Jacksonville, Florida.**

(2194) (a) Location. The water located within the following area is established as a security zone: beginning at the shoreline of the St. Johns River at the northernmost property line of Naval Air Station Jacksonville next to Timuquana Country Club, at

(2195) 30°14'39.5"N., 81°40'45"W.; thence northeasterly to

(2196) 30°14'42"N., 81°40'42"W.; thence south remaining 400 feet from the shoreline at mean high water; thence past Piney Point and Black Point to the northern edge of Mulberry Cover Manatee refuge, 400 feet from Naval Air Station Jacksonville boat ramp, at

(2197) 30°13'00"N., 81°40'23.5"W.; thence southwesterly in a straight line to position

(2198) 30°12'14"N., 81°40'42"W.; thence southerly, remaining 400' seaward of the mean high water shoreline to

(2199) 30°11'40"N., 81°41'15.5"W.; thence northwest to the point at the end of the property line of Naval Air Station Jacksonville just north of the Buckman Bridge at position

(2200) 30°11'42.30"N., 81°41'23.66"W.; thence northeasterly along the mean high water shoreline of the St. Johns River and Mulberry Cove to the point of beginning. Datum: NAD 83

(2201) (b) In accordance with the general regulations in §165.33 of this part, no person or vessel may enter or remain in the zone without the permission of the Captain of the Port Jacksonville, Florida. All other portions of §165.33 remain applicable.

(2202) (c) This regulation does not apply to Coast Guard vessels and authorized law enforcement vessels operating within the Security Zone.

**§165.726 Regulated Navigation Areas; Miami River, Miami, Florida.**

(2203) (a) Location. The following are Regulated Navigation Areas:

(2204) (1) All the waters of the Miami River, Miami, Florida, from the Brickell Avenue Bridge, in approximate position 25°46.19'N., 80°11.4'W., inland to the South Florida Water Management District's salinity dam in approximate position 25°48.4'N., 80°15.6'W.

(2205) (2) The Tamiami Canal from its intersection with the Miami River in approximate position 25°47.7'N., 80°14.7'W. to the N.W. 37th Avenue bridge in approximate position 25°48.5'N., 80°15.5'W. All coordinates referenced use datum: NAD 83.

(2206) (b) Regulations. The restrictions in this paragraph apply to vessels operating within the regulated navigation areas in paragraph (a) of this section unless authorized to deviate by the Captain of the Port, Miami, Florida, or a Coast Guard commissioned, warrant, or petty officer designated by him.

(2207) (1) All rafted vessels (inboard and outboard) must be properly moored in accordance with applicable municipal laws and regulations.

(2208) (2) At no time shall any vessels be rafted more than two abreast.

(2209) (3) Neither single nor rafted vessels shall extend greater than 54 feet into the main river (measured from the dock) without permission of the Captain of the Port.

(2210) (4) A minimum channel width of 65 feet shall be maintained at all times on the Miami River from the Brickell Avenue Bridge west to the Tamiami Canal. A minimum channel width of 45 feet shall be maintained at all times on the Miami River west of the junction of the Miami River and the Tamiami Canal to the South Florida Water Management District's salinity dam, as well as on the Tamiami Canal from its mouth to the N.W. 37th Avenue Bridge.

(2211) (5) All moored and rafted vessels shall provide safe access from the shore.

(2212) (6) All moored and rafted vessels shall provide clear and ready access for land-based firefighters to safely and quickly reach outboard rafted vessels.

(2213) (7) No vessels shall moor or raft in any manner as to impede safe passage of another vessel to any of the tributaries of the Miami River.

(2214) (8) Nothing in these regulations shall prohibit the U.S. Army Corps of Engineers from requiring the relocation or movement of vessels in a declared flood emergency.

(2215) (c) Enforcement. Violations of these regulated navigation areas should be reported to the Captain of the Port, Miami. Persons in violation of these regulations will be subject to civil penalty under §165.13(b) of this part.

**§165.728 Jacksonville, Florida–Safety Zones.**

(2216) (a) The water, land, and land and water within the following boundaries are established as Safety Zones during the specified conditions:

(2217) (1) Zone A: 200 yards in all directions around any specified Maritime Prepositioned Ship as it transits between the St. Johns River entrance sea buoy (STJ) and its berth inside the Mayport Basin (Ribault Bay), Mayport, Florida. The prescribed safety zone will also be in effect as the vessel transits to its berth at Blount Island Marine Terminal, Jacksonville, Florida.

(2218) (2) Zone B: 100 yards in all directions on land and 200 yards on water from the eastern end of Transit Shed #2 to the east shore of Alligator Creek at Blount Island Terminal, Jacksonville, Florida.

(2219) (3) Zone C: 100 yards in all directions on land from Gate berth #1 and all waters within the Back River (locally known as the Gate Slip) on Blount Island, Jacksonville, Florida, commencing from a line drawn between the southwesterly most shore point 30°23'34"N., 81°30'52"W. and the southeasterly most shore point 30°23'38"N., 81°30'36"W.

(2220) (b) The areas described in paragraph (a) of this section may be closed to all vessels and persons, except those vessels and persons authorized by the Commander, Seventh Coast Guard District or the Captain of the Port, Jacksonville, Florida, whenever specified Maritime Prepositioned Ships are transiting the St. Johns River (Zone A), moored at Blount Island (Zone B), or moored at Gate Terminal (Zone C).

(2221) (c) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2222) (d) The Captain of the Port Jacksonville, Florida will activate the safety zones or specific portions of them by issuing a local broadcast notice to mariners. The closing of the area at Blount Island, described above, will be signified by the display of a rotating yellow light located on the waterfront at Blount Island Marine Terminal or at the Gate Terminal Berth #1.

**§165.729 Jacksonville Harbor, Florida-Security Zone.**

(2223) (a) The water, land, and land and water within the following boundaries are established as Security Zones during the specified conditions:

(2224) (1) Zone A: 200 yards in all directions around any specified Maritime Prepositioned Ship as it transits between the St. Johns River entrance sea buoy (STJ) and its berth inside the Mayport Naval Basin (Ribault Bay), Mayport, Florida. The prescribed security zone will also be in effect as the vessel transits to its berth at Blount Island Marine Terminal, Jacksonville, Florida.

(2225) (2) Zone B: 100 yards in all directions on land and 200 yards on water from the eastern end of Transit Shed #2 to the east shore of Alligator Creek at Blount Island Terminal, Jacksonville, Florida.

(2226) (3) Zone C: 100 yards in all directions on land from Gate berth #1 and all waters within the Back River

(locally known as the Gate Slip) on Blount Island, Jacksonville, Florida, commencing from a line drawn between the southwesterly most shore point 30°23'34"N., 81°30'52"W. and the southeasterly most shore point 30°23'38"N., 81°30'36"W.

(2227) (b) The areas described in paragraph (a) of this section may be closed to all vessels and persons, except those vessels and persons authorized by the Commander, Seventh Coast Guard District or the Captain of the Port, Jacksonville, Florida, whenever specified Maritime Prepositioned Ships are transiting the St. Johns River (Zone A), moored at Blount Island (Zone B), or moored at Gate Terminal (Zone C).

(2228) (c) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2229) (d) The Captain of the Port Jacksonville, Florida will activate the safety zones or specific portions of them by issuing a local broadcast notice to mariners. The closing of the area at Blount Island, described above, will be signified by the display of a rotating yellow light located on the waterfront at Blount Island Marine Terminal or at the Gate Terminal Berth #1.

**§165.730 Kings Bay, GA-Regulated navigation area.**

(2230) Vessels transiting in the water bounded by the line connecting the following points must travel no faster than needed for steerageway:

(2231) 30°48'00.0"N., 081°29'24.0"W.

(2232) 30°46'19.5"N., 081°29'17.0"W.

(2233) 30°47'35.0"N., 081°30'16.5"W. and thence to the point of beginning.

**§165.731 Safety/Security Zone; Cumberland Sound, Georgia and St. Marys River Entrance Channel.**

(2234) (a) Location. A permanent safety/security zone is established within the following coordinates, the area enclosed by a line starting at

(2235) 30°44'55"N., 81°29'39"W.; thence to

(2236) 30°44'55"N., 81°29'18"W.; thence to

(2237) 30°46'35"N., 81°29'18"W.; thence to

(2238) 30°47'02"N., 81°29'34"W.; thence to

(2239) 30°47'21"N., 81°29'39"W.; thence to

(2240) 30°48'00"N., 81°29'42"W.; thence to

(2241) 30°49'07"N., 81°29'56"W.; thence to

(2242) 30°49'55"N., 81°30'35"W.; thence to

(2243) 30°50'15"N., 81°31'08"W.; thence to

(2244) 30°50'14"N., 81°31'30"W.; thence to

(2245) 30°49'58"N., 81°31'45"W.; thence to

(2246) 30°49'58"N., 81°32'03"W.; thence to

(2247) 30°50'12"N., 81°32'17"W.; thence following the land based perimeter boundary to the point of origin.

(2248) (b) A temporary safety/security zone, when activated by the Captain of the Port, Jacksonville, Florida, encompasses all waters and land from bank to bank within Cumberland Sound and the St. Marys Entrance Channel: the northern extent of this zone starts at the southern tip of Crab Island; lighted buoy number "1" at the mouth of the Amelia River demarks the southern boundary; daymarker number "2" at the mouth of the St. Marys River indicates the western boundary; and the eastern boundary extends out to three (3) nautical miles in the Atlantic Ocean, with the zone also encompassing the waters within 1,000 yards of the entrance channel east of the jetties.

(2249) (c) Regulations. (1) The Captain of the Port, Jacksonville, Florida will activate the temporary safety/security zone described in paragraph (b) of this section by issuing a local broadcast notice to mariners.

(2250) (2) All persons and vessels in the vicinity of the safety/security zone shall immediately obey any direction or order of the Captain of the Port, Jacksonville, Florida.

(2251) (3) The general regulations governing safety and security zones contained in 33 CFR 165.23 and .33 apply. No person or vessel may enter or remain within the designed zones without the permission of the Captain of the Port, Jacksonville, Florida.

(2252) (4) This regulation does not apply to persons or vessels operating under the authority of the United States Navy nor to authorized law enforcement agencies.

**§165.749 Security Zone: Escorted Vessels, Savannah, Georgia, Captain of the Port Zone.**

(2253) (a) Definitions. The following definitions apply to this section:

(2254) COTP means Captain of the Port Savannah, GA.

(2255) Designated representatives means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the COTP, in the enforcement of the security zone.

(2256) Escorted vessel means a vessel, other than a large U.S. naval as defined in 33 CFR 165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State, or local law enforcement agency assets clearly identifiable by lights, vessels markings, or with agency insignia as listed below:

(2257) (1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2258) (2) State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

(2259) (3) When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used. In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

(2260) Minimum safe speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway.

A vessel is not proceeding at minimum safe speed if it is:

(2261) (1) On a plane;

(2262) (2) In the process of coming up onto or coming off a plane; or

(2263) (3) Creating an excessive wake.

(2264) (4) Regulated Area. All navigable waters, as defined in 33 CFR 2.36, within the Captain of the Port Zone, Savannah, Georgia 33 CFR 3.35-15.

(2265) (c) Security Zone. A 300-yard security zone is established around each escorted vessel within the regulated area described in paragraph (b) of this section. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the escorted vessel anchored or moored. A security zone will not extend beyond the boundary of the regulated area in this section.

(2266) (d) Regulations. (1) The general regulations for security zones contained in §165.33 of this part apply to this section.

(2267) (2) A vessel may request the permission of the COTP Savannah or a designated representative to enter the security zone described in paragraph (c) of this section. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the orders of the COTP or a designated representative. No vessel or person may enter the inner 50-yard portion of the security zone closed to the vessel.

(2268) (e) Notice of Security Zone. The COTP will inform the public of the existence or status of the security zone around escorted vessels in the regulated area by Broadcast Notice to Mariners. Coast Guard assets or other Federal, State or local law enforcement agency assets will be clearly identified by lights, vessels markings, or with agency insignia. When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used.

(2269) (f) Contact Information. The COTP Savannah may be reached via phone at 912-652-4353. Any on scene Coast Guard or designated representative assets may be reached via VHF-FM channel 16.

**§165.751 Security Zone: LNG mooring slip, Savannah River, Savannah, Georgia.**

(2270) (a) Security Zone. The following area is a security zone: All the waters from surface to bottom of the northeastern most mooring dolphin located at approximately 32°05.01' North, 080°59.38' West, to the southeastern most mooring dolphin located at approximately 32°04.79' North, 080°59.35' West, and continues west along the North and South shoreline of the mooring slip to the shoreline of the right descending bank of the Savannah River. All marine traffic is prohibited from entering this zone unless authorized by the Captain of the Port (COTP).

(2271) (b) Applicability. This section applies to all vessels including naval and other public vessels, except vessels that are engaged in the following operations:

(2272) (1) Law enforcement, security, or search and rescue;

(2273) (2) Servicing aids to navigation;

(2274) (3) Surveying, maintenance, or improvement of waters in the security zone; or

(2275) (4) Actively engaged in escort, maneuvering, or support duties for an LNG tankship.

(2276) (c) Regulations. In accordance with the general regulations in §165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Savannah or vessels engaged in activities defined in paragraph (b).

(2277) (d) Reporting of Violations. Violations of this section should be reported to the Captain of the Port, Savannah, at (912) 652-4353.

**§165.756 Regulated Navigation Area; Savannah River, Georgia.**

(2278) (a) Regulated Navigation Area (RNA). The Savannah River between Fort Jackson (32°04.93'N., 081°02.19'W.) and the Savannah River Channel Entrance Sea Buoy is a regulated navigation area when an LNG tankship in excess of heel is transiting the area or moored at the LNG facility. All coordinates are North American Datum 1983.

(2279) (b) Definitions. The following definitions apply to this section:

(2280) Bare steerage way means the minimum speed necessary for a ship to maintain control over its heading.

(2281) Bollard pull means an industry standard used for rating tug capabilities and is the pulling force imparted by the tug to the towline. It means the power that an escort tug can apply to its working line(s) when operating in a direct mode.

(2282) Direct mode means a towing technique defined as a method of operation by which a towing vessel generates towline forces by thrust alone at an angle equal to or nearly equal to the towline, or thrust forces applied directly to the escorted vessel's hull.

(2283) Fire Wire means a length of wire rope or chain hung from the bow and stern of a vessel in port to allow the vessel to be towed away from the pier in case of fire; also called fire warp or emergency towing wire.

(2284) Heel means the minimum quantity of liquefied natural gas (LNG) retained in an LNG tankship after unloading at the LNG facility to maintain temperature, pressure, and/or prudent operations. A quantity of LNG less than five percent (5%) of the LNG tankship's carrying capacity shall be presumed to be heel.

(2285) Indirect mode means a towing technique defined as a method of operation by which an escorting towing vessel generates towline forces by a combination of thrust and hydrodynamic forces resulting from a presentation of the underwater body of the towing vessel at an oblique angle to the towline. This method increases the resultant bollard pull, thereby arresting and controlling the motion of an escorted vessel.

(2286) LNG tankship means a vessel as described in 46 CFR 154.

(2287) Made-up means physically attached by cable, towline, or other secure means in such a way as to be immediately ready to exert force on a vessel being escorted.

(2288) Make-up means the act of, or preparations for becoming made-up.

(2289) Operator means the person who owns, operates, or is responsible for the operation of a facility or vessel.

(2290) Savannah River Channel Entrance Sea Buoy means the aid to navigation labeled R W "T" Mo (A) WHIS on the National Oceanic and Atmospheric Administration's (NOAA) Nautical Chart 11512.

(2291) Standby means readily available at the facility and equipped to provide a ready means of assistance to maintain a safe zone around LNG tankships, provide emergency firefighting assistance, and aid the LNG tankship in the event of an emergency departure.

(2292) Underway means that a vessel is not at anchor, not made fast to the shore, or not aground.

(2293) (c) Applicability. This section applies to all vessels operating within the RNA, including naval and other public vessels, except vessels that are engaged in the following operations:

(2294) (1) Law enforcement, security, or search and rescue;

(2295) (2) Servicing aids to navigation;

(2296) (3) Surveying, maintenance, or improvement of waters in the RNA; or

(2297) (4) Actively engaged in escort, maneuvering, or support duties for an LNG tankship.

(2298) (d) Regulations–(1) Requirements for vessel operations while a LNG tankship, carrying LNG in excess of heel, is underway within the RNA. (i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1,600 gross tons or greater may come within two nautical miles of a LNG tankship, carrying LNG in excess of heel, which is underway within the Savannah River shipping channel without the permission of the Captain of the Port (COTP).

(2299) (ii) All vessels less than 1,600 gross tons shall keep clear of transiting LNG tankships.

(2300) (iii) The owner, master, or operator of a vessel carrying liquefied natural gas (LNG) shall:

(2301) (A) Comply with the notice requirements of 33 CFR part 160. The COTP may delay the vessel's entry into the RNA to accommodate other commercial traffic.

(2302) (B) Obtain permission from the COTP before commencing the transit into the RNA.

(2303) (C) Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel, and/or wind speed is, or is expected to be, greater than 25 knots.

(2304) (D) While transiting the RNA, the LNG tankship, carrying LNG in excess of heel, shall have a minimum of two escort towing vessels with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode. At least one of the towing vessels shall be FiFi Class 1 equipped.

(2305) (2) Requirements while an LNG tankship is moored outside of the LNG facility slip. (i) An LNG tankship moored outside of the LNG facility slip shall have on-scene a minimum of two escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode in order to escort transiting vessels 1,600 gross tons or greater past the moored LNG tankship. At least one of these towing vessels shall be FiFi Class 1 equipped.

(2306) (ii) In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the LNG tankship moored outside of the slip shall have at least one standby towing vessel with a minimum of 90,000 pounds of bollard pull to take appropriate actions in an emergency as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.

(2307) (3) Requirements while LNG tankships are moored inside the LNG facility slip. (i) An LNG tankship moored inside the LNG facility slip shall have two standby towing vessels with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode. At least one of these towing vessels shall be FiFi Class 1 equipped. The standby towing vessels shall take appropriate action in an emergency as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.

(2308) (ii) If two LNG tankships are moored inside the LNG facility slip, each vessel shall provide a standby towing vessel that is FiFi class 1 equipped with a minimum capacity of 100,000 pounds of bollard pull and 4,000 horsepower that is available to assist as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.

(2309) (4) Requirements while LNG tankships are moored both inside the LNG facility slip and outside the LNG facility slip. (i) When one LNG tankship is moored inside and one LNG tankship is moored outside of the LNG facility slip, the LNG tankship moored outside of the LNG facility slip shall have on-scene a minimum of two escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode in order to escort transiting vessels 1,600 gross tons or greater past the moored LNG tankship. At least one of these towing vessels shall be FiFi Class 1 equipped. In addition, the LNG tankship moored inside of the slip shall have at least one standby towing vessel with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and FiFi Class 1 equipped to take appropriate actions in an emergency as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.

(2310) (ii) When one LNG tankship is moored outside and two LNG tankships are moored inside the LNG facility slip, the LNG tankship moored outside of the LNG facility slip shall have on-scene a minimum of two escort

towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode in order to escort transiting vessels 1,600 gross tons or greater past the moored LNG tankship. At least one of these towing vessels shall be FiFi Class 1 equipped. In addition, the LNG tankships moored inside of the slip shall have at least one standby towing vessel between the two ships with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and FiFi Class 1 equipped to take appropriate actions in an emergency as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.

(2311) (iii) In the event of an actual emergency, escort towing vessels can be utilized as stand-by towing vessels to take appropriate actions as directed by the LNG vessel bridge watch required in paragraph (d)(5) of this section.

(2312) (5) Requirements for moored LNG tankships. (i) While moored within the RNA, each LNG tankship shall maintain a bridge watch consisting of a docking pilot or licensed deck officer who shall monitor all vessels transiting past the LNG facility. In addition, the LNG Bridge Watch shall communicate with the pilots of vessels greater than 1600 gross tons at the points identified in section (d)(6)(iii) of this section prior to passing the LNG facility in order to take actions of the towing vessel(s) required in paragraphs (d)(2) through (4) of this section.

(2313) (ii) While moored within the RNA, LNG tankships shall have emergency towing wires (fire wires) positioned one meter above the waterline, both on the offshore bow and quarter of the ship. LNG vessels equipped with waterline bollards are exempt from this requirement.

(2314) (6) Requirements for other vessels while within the RNA. (i) Transiting vessels 1,600 gross tons or greater, when passing an LNG tankship moored outside of the LNG facility slip, shall have a minimum of two towing vessels with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, made-up in such a way as to be immediately available to arrest and control the motion of an escorted vessel in the event of steering, propulsion or other casualty. At least one of the towing vessels shall be FiFi Class 1 equipped. While it is anticipated that vessels will utilize the towing vessel services required in paragraphs (d)(2)(i) and (d)(4)(i) of this section, this section does not preclude escorted vessel operators from providing their own towing vessel escorts, provided they meet the requirements of this part.

(2315) (A) Outbound vessels shall be made-up and escorted from Bight Channel Light 46 until the vessel is safely past the LNG dock.

(2316) (B) Inbound vessels shall be made-up and escorted from Elba Island Light 37 until the vessel is safely past the LNG dock.

(2317) (ii) The requirements in paragraph (d)(6)(i) of this section do not apply when one or more LNG tankships are moored in the LNG facility slip and no LNG tankship is moored at the pier outside of the LNG facility slip.

(2318) (iii) Vessels 1,600 gross tons or greater shall make a broadcast on channel 13 at the following points on the Savannah River:

(2319) (A) Buoy “33” in the vicinity of Fields Cut for inbound vessels;

(2320) (B) Buoy “53” in the vicinity of Fort Jackson for outbound vessels.

(2321) (iv) Vessels 1,600 gross tons or greater shall at a minimum, transit at bare steerageway when within an area 1,000 yards on either side of the LNG facility slip to minimize potential wake or surge damage to the LNG facility and vessel(s) within the slip.

(2322) (v) Vessels 1,600 gross tons or greater shall not meet nor overtake within an area 1,000 yards on either side of the LNG facility slip when an LNG tankship is present within the slip.

(2323) (vi) All vessels less than 1,600 gross tons shall not approach within 70 yards of an LNG tankship, carrying LNG in excess of heel, without the permission of the Captain of the Port.

(2324) (vii) Except for vessels involved in those operations noted in paragraph (c) of this section entitled Applicability, no vessel shall enter the LNG facility slip at any time without the permission of the Captain of the Port.

(2325) (e) Waivers. (1) The COTP may waive any requirement in this section, if the COTP finds that it is in the best interest of safety or in the interest of national security. Such waivers may be verbal or in writing.

(2326) (2) An application for a waiver of these requirements must state the compelling need for the waiver and describe the proposed operation and methods by which adequate levels of safety are to be obtained.

(2327) (f) Enforcement. Violations of this section should be reported to the Captain of the Port, Savannah, at (912) 652–4353. In accordance with the general regulations in §165.13 of this part, no person may cause or authorize the operation of a vessel in the regulated navigation area contrary to the provisions of this section.

**§165.759 Security Zones; Ports of Jacksonville, Fernandina, and Canaveral, Florida.**

(2328) (a) Regulated area. Moving security zones are established 100 yards around all tank vessels, cruise ships, and military pre-positioned ships during transits entering or departing the ports of Jacksonville, Fernandina, and Canaveral, Florida. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30°23'35"N., 81°19'08"W., when entering the port of Jacksonville, or pass Port Canaveral Channel Entrance Buoys #3 or #4, at respective approximate positions 28°22.7'N., 80°31.8'W., and 28°23.7'N., 80°29.2'W., when entering Port Canaveral. Fixed security zones are established 100

yards around all tank vessels, cruise ships, and military pre-positioned ships docked in the Ports of Jacksonville, Fernandina, and Canaveral, Florida.

(2329) (b) Regulations. In accordance with the general regulations §165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(2330) (c) Definition. As used in this section: cruise ship means a passenger vessel, except for a ferry, greater than 100 feet in length that is authorized to carry more than 12 passengers for hire.

(2331) (d) Authority. In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

**§165.761 Security Zones; Port of Palm Beach, Port Everglades, Port of Miami, and Port of Key West, Florida.**

(2332) (a) Location. The following areas are security zones:

(2333) (1) Fixed and moving security zones around vessels in the Ports of Palm Beach, Port Everglades, Miami, and Key West, Florida. Moving security zones are established 100 yards around all passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, during transits entering or departing the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida. These moving security zones are activated when the subject vessel passes: "LW" buoy, at approximate position 26°46.3'N., 080°00.6'W., when entering the Port of Palm Beach, passes "PE" buoy, at approximate position 26°05.5'N., 080°04.8'W., when entering Port Everglades; the "M" buoy, at approximate position 25°46.1'N., 80°05.0'W., when entering the Port of Miami; and "KW" buoy, at approximate position 24°27.7'N., 081°48.1'W., when entering the Port of Key West. Fixed security zones are established 100 yards around all passenger vessels, vessels carrying cargoes of particular hazard or liquefied hazardous gas (LHG) as defined in 33 CFR parts 120, 126 and 127 respectively, while they are docked in the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida.

(2334) (2) Fixed security zone in the Port of Miami, Florida. A fixed security zone encompasses all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami. The western boundary is formed by an imaginary line from points 25°46.79'N., 080°10.90'W., to 25°46.77'N., 080°10.92'W to 25°46.88'N., 080°10.84'W., and ending on Watson Park at 25°47.00'N., 080°10.67'W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, in approximate position 25°46.33'N., 080°09.12'W., which leads to Star Island, and MacArthur Causeway directly extending across the Main Channel to the Port of Miami, at 25°46.26'N., 080°09.18'W. The fixed security zone is activated when two or more passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquefied hazardous gas (LHG) as defined in 33 CFR 120, 126 and 127 respectively, enter or moor within this zone.

(2335) (i) Vessels may be allowed to transit the Main Channel when only one passenger vessel or vessel carrying cargoes of particular hazard are berthed, by staying on the north side of the law enforcement boats and cruise ship tenders, which will mark a transit lane in channel.

(2336) (ii) When passenger vessels are not berthed on the Main Channel, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(2337) (3) Fixed security zones in the Port Everglades. A fixed security zone encompasses all waters west of an imaginary line starting at the northern most point 26°05.98'N., 080°07.15'W., near the west side of the 17th Street Causeway Bridge, to the southern most point 26°05.41'N., 080°06.96'W., on the northern tip of pier 22. An additional fixed security zone encompasses the Intracoastal Waterway between a line connecting point 26°05.41'N., 080°06.97'W., on the northern tip of berth 22 and a point directly east across the Intracoastal Waterway to 26°05.41'N., 080°06.74'W.; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72'N., 080°06.92'W. easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area at point 26°04.72'N., 080°06.81'W.

(2338) (i) Vessels may be allowed to transit the Intracoastal Waterway when passenger vessels or vessels carrying cargoes of particular hazard are berthed, by staying east of the law enforcement vessels and cruise ship tenders, which will mark a transit lane in the Intracoastal Waterway.

(2339) (ii) Periodically, vessels may be required to temporarily hold their positions while large commercial traffic operates in this area. Vessels in this security zone must follow the orders of the COTP or his designated representative, who may be embarked in law enforcement or other vessels on scene. When passenger vessels are not berthed on the Intracoastal Waterway, navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(2340) (b) Regulations. (1) Prior to commencing the movement, the person directing the movement of a passenger vessel, a vessel carrying cargoes of particular hazard or a vessel carrying liquefied hazardous gas (LHG) as as defined in Title 33, Code of Federal Regulations parts 120, 126 and 127 respectively, is encouraged to make a security broadcast on VHF Marine Band Radio, Channel 13 (156.65 MHz) to advise mariners of the moving security zone activation and intended transit.

(2341) (2) In accordance with the general regulations §165.33 of this part, entry into those zones is prohibited

except as authorized by the Captain of the Port Miami or his designated representative. Other vessels such as pilot boats, cruise ship tenders, tug boats and contracted security vessels may assist the Coast Guard Captain of the Port under the direction of his designated representative by monitoring these zones strictly to advise mariners of the restrictions. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (156.8 MHz) when the security zones are being enforced.

(2342) (3) Persons desiring to enter or transit the area of the security zone may contact the Captain of the Port at (305) 535-8701 or on VHF Marine Band Radio, Channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(2343) (4) The Captain of the Port Miami may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for the purpose of port security, safety or environmental safety.

(2344) (c) Definition. As used in this section, cruise ship means a passenger vessel greater than 100 feet in length and over 100 gross tons that is authorized to carry more than 12 passengers for hire making voyages lasting more than 24 hours, except for a ferry.

(2345) (d) Authority. In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

**§165.765 Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, Florida.**

(2346) (a) Location. The following area in Port Everglades harbor is a regulated navigation area; all waters of Port Everglades harbor, from shore to shore, encompassed by a line commencing at the south mid-point tip of Harbor Heights approximately 26°05.67'N., 080°06.684'W.; thence south across Bar Cut to a point north of the Nova University Marina approximately 26°05.552'N., 80°06.682'W., thence southwesterly to a point near the center of Lake Mabel approximately 26°05.482'N., 080°06.793'W., thence northwesterly to a point near the Quick Flashing Red #12 approximately 26°05.666'N., 080°06.947'W., thence east to south mid-point tip of Harbor Heights (starting point) approximately 26°05.687'N., 080°06.684'W.

(2347) (b) Regulations. Vessels less than 150 meters entering and transiting through the regulated navigation area shall proceed at a slow speed. Nothing in this section alleviates vessels or operators from complying with all state and local laws in the area including manatee slow speed zones. Nor should anything in this section be construed as conflicting with the requirement to operate at safe speed under the Inland Navigation Rules, 33 U.S.C. 2001 et seq.

(2348) (c) Definition. As used in this section, slow speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A vessel is not proceeding at slow speed if it is;

(2349) (1) On a plane;

(2350) (2) In the process of coming up on or coming off of plane; or

(2351) (3) Creating an excessive wake.

**§ 165.769 Security Zone; Escorted Vessels, Charleston, South Carolina, Captain of the Port**

(2352) (a) Definitions. The following definitions apply to this section:

(2353) COTP means Captain of the Port Charleston, SC.

(2354) Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the COTP, in the enforcement of the security zone.

(2355) Escorted vessel means a vessel, other than a large U.S. naval vessel as defined in 33 CFR 165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia as listed below:

(2356) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2357) State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

(2358) When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used. In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

(2359) Minimum safe speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

(2360) (1) On a plane;

(2361) (2) In the process of coming up onto or coming off a plane; or

(2362) (3) Creating an excessive wake.

(2363) (b) Regulated area. All navigable waters, as defined in 33 CFR 2.36, within the Captain of the Port Zone, Charleston, South Carolina 33 CFR 3.35-15.

(2364) (c) Security zone. A 300-yard security zone is established around each escorted vessel within the regulated area described in paragraph (b) of this section. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the escorted vessel is anchored or moored. A security zone will not extend beyond the boundary of the regulated area of this section.

(2365) (d) Regulations. (1) The general regulations for security zones contained in § 165.33 of this part applies to this section.

(2366) (2) A vessel may request the permission of the COTP Charleston or a designated representative to enter the security zone described in paragraph (c) of this section. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the orders of the COTP or a designated representative. No vessel or person may enter the inner 50-yard portion of the security zone closest to the vessel.

(2367) (e) Notice of security zone. The COTP will inform the public of the existence or status of the security zones around escorted vessels in the regulated area by Broadcast Notice to Mariners. Coast Guard assets or other Federal, State or local law enforcement agency assets will be clearly identified by lights, vessel markings, or with agency insignia. When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used.

(2368) (f) Contact information. The COTP Charleston may be reached via phone at (843) 724-7616. Any on scene Coast Guard or designated representative assets may be reached via VHF-FM channel 16.

**§165.777 Security Zone; West Basin, Port Canaveral Harbor, Cape Canaveral, Florida.**

(2369) (a) Regulated area. The following area is a security zone: All waters of the West Basin of Port Canaveral Harbor northwest of an imaginary line between two points: 28°24'57.88"N., 80°37'25.69"W. to 28°24'37.48"N., 80°37'34.03"W.

(2370) (b) Requirement. (1) This security zone will be activated 4 hours prior to the scheduled arrival of a cruise ship at the West Basin of Port Canaveral Harbor during MARSEC Levels 2 and 3 or when the COTP determines there is a specified credible threat during MARSEC Level 1. This security zone will not be deactivated until the departure of all cruise ships from the West Basin. The zone is subject to enforcement when it is activated.

(2371) (2) Under general security zone regulations of 33 CFR 165.33, no vessel or person may enter or navigate within the regulated area unless specifically authorized by the COTP or the COTP's designated representative. Any person or vessel authorized to enter the security zone must operate in strict conformance with any direction given by the COTP or a designated representative and leave the security zone immediately if so ordered.

(2372) (3) The public will be notified when the security zone is activated by the display of a red ball on a 50-foot pole located at the east end of Cruise Ship terminal 10. This red ball will be lowered when the security zone is deactivated. To ensure boaters are given sufficient knowledge of the security zone, the Coast Guard will continuously broadcast the activations of the zone and law enforcement vessels will be on scene to inform boaters that the zone has been activated. Vessels encroaching on the security zone will be issued a Public Notice which clearly states the location of the security zone and the times it will be enforced. This will be the boater's first warning prior to enforcement action being taken.

(2373) (c) Definitions. The following definition applies to this section:

(2374) Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local law enforcement officers designated by or assisting the COTP in the enforcement of the security zone.

(2375) (d) Captain of the Port Contact Information. If you have any questions about this regulation, please contact the Sector Command Center at (904) 564-7513.

(2376) (e) Enforcement periods. This section will only be subject to enforcement when the security zone described in paragraph (a) is activated as specified in paragraph (b) (1) of this section.

## Subpart G-Protection of Naval Vessels

**§165.2010 Purpose.**

(2377) 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.**

(2378) The following definitions apply to this subpart:

(2379) Atlantic Area means that area described in 33 CFR 3.04–1 Atlantic Area.

(2380) Large U.S. naval vessel means any U.S. naval vessel greater than 100 feet in length overall.

(2381) Naval defensive sea area means those areas described in 32 CFR part 761.

(2382) 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.

(2383) Navigable waters of the United States means those waters defined as such in 33 CFR part 2.

(2384) Navigation rules means the Navigation Rules, International-Inland.

(2385) 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.

(2386) Pacific Area means that area described in 33 CFR 3.04–3 Pacific Area.

(2387) Restricted area means those areas established by the Army Corps of Engineers and set out in 33 CFR part 334.

(2388) 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.

(2389) 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.

(2390) 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.**

(2391) (a) Coast Guard. Any Coast Guard commissioned, warrant or petty officer may enforce the rules and regulations contained in this subpart.

(2392) (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.

**§165.2025 Atlantic Area.**

(2393) (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 Atlantic Area, which includes the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts.

(2394) **Note to §165.2025 paragraph (a)**: The boundaries of the U.S. Coast Guard Atlantic Area and the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(2395) (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.

(2396) (c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(2397) (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.

(2398) (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.

(2399) (f) When conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should:

(2400) (1) Give advance notice on VHF-FM channel 16 of all large U.S. naval vessel movements;

(2401) (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

(2402) (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

(2403) (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.

(2404) **Note to §165.2025 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 167-Offshore Traffic Separation Schemes

## Subpart A-General

**§167.1 Purpose.**

(2405) The purpose of the regulations in this part is to establish and designate traffic separation schemes and

precautionary areas to provide access routes for vessels proceeding to and from U.S. ports.

**§167.3 Geographic coordinates.**

(2406) Geographic coordinates are defined using North American 1927 Datum (NAD 27) unless indicated otherwise.

**§167.5 Definitions.**

(2407) (a) Area to be avoided means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all ships or certain classes of ships.

(2408) (b) Traffic separation scheme (TSS) means a designated routing measure which is aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

(2409) (c) Traffic lane means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

(2410) (d) Separation zone or line means a zone or line separating the traffic lanes in which ships are proceeding in opposite or nearly opposite directions; or separating a traffic lane from the adjacent sea area; or separating traffic lanes designated for particular classes of ships proceeding in the same direction.

(2411) (e) Precautionary area means a routing measure comprising an area within defined limits where ships must navigate with particular caution and within which the direction of traffic flow may be recommended.

(2412) (f) Deep-water route means an internationally recognized routing measure primarily intended for use by ships that, because of their draft in relation to the available depth of water in the area concerned, require the use of such a route.

(2413) (g) Two-way route means a route within defined limits inside which two-way traffic is established, aimed at providing safe passage of ships through waters where navigation is difficult or dangerous.

**§167.10 Operating rules.**

(2414) The operator of a vessel in a TSS shall comply with Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972, as amended.

**§167.15 Modification of schemes.**

(2415) (a) A traffic separation scheme or precautionary area described in this part may be permanently amended in accordance with 33 U.S.C. 1223 (92 Stat. 1473), and with international agreements.

(2416) (b) A traffic separation scheme or precautionary area in this part may be temporarily adjusted by the Commandant of the Coast Guard in an emergency, or to accommodate operations which would create an undue hazard for vessels using the scheme or which would contravene Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972. Adjustment may be in the form of a temporary traffic lane shift, a temporary suspension of a section of the scheme, a temporary precautionary area overlaying a lane, or other appropriate measure. Adjustments will only be made where, in the judgment of the Coast Guard, there is no reasonable alternative means of conducting an operation and navigation safety will not be jeopardized by the adjustment. Notice of adjustments will be made in the appropriate Notice to Mariners and in the Federal Register Requests by members of the public for temporary adjustments to traffic separation schemes must be submitted 150 days prior to the time the adjustment is desired. Such Requests, describing the interference that would otherwise occur to a TSS, should be submitted to the District Commander of the Coast Guard District in which the TSS is located.

## Subpart B-Description of Traffic Separation Schemes and Precautionary Areas

**§167.250 In the approaches to the Cape Fear River: General.**

(2417) The traffic separation scheme (TSS) in the approaches to the Cape Fear River consists of two parts: A precautionary area and a TSS. The specific areas in the approaches to Narragansett Bay, RI, and

(2418) Buzzards Bay, MA, are described in §§167.251 and 167.252. The geographic coordinates in §§167.251 and 167.252 are defined using North American Datum 1983 (NAD 83), which is equivalent to WGS 1984 datum.

**§167.251 In the approaches to the Cape Fear River: Precautionary area.**

(2419) A precautionary area is established bounded by a line connecting the following geographical positions: from

(2420) 33°47.65'N., 78°04.78'W.; to

(2421) 33°48.50'N., 78°04.27'W.; to

(2422) 33°49.53'N., 78°03.10'W.; to

(2423) 33°48.00'N., 78°01.00'W.; to

(2424) 33°41.00'N., 78°01.00'W.; to

(2425) 33°41.00'N., 78°04.00'W.; to

(2426) 33°44.28'N., 78°03.02'W.; then by an arc of 2 nautical miles radius, centered at

(2427) 33°46.03'N., 78°05.41'W.; then to the point of origin at 33°47.65'N., 78°04.78'W.

**§167.252 In the approaches to the Cape Fear River: Traffic Separation Scheme.**

(2428) (a) A traffic separation zone is established bounded by a line connecting the following geographical positions:

(2429) 33°44.94'N., 78°04.81'W.

(2430) 33°32.75'N., 78°09.66'W.

(2431) 33°34.50'N., 78°14.70'W.

(2432) 33°45.11'N., 78°04.98'W.

(2433) (b) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographic positions:

(2434) 33°32.75'N., 78°05.99'W.

(2435) 33°44.38'N., 78°03.77'W.

(2436) (c) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographic positions:

(2437) 33°36.22'N., 78°18.00'W.

(2438) 33°46.03'N., 78°05.41'W.

(2439) **Note to §167.252:** A pilot boarding area is located inside the precautionary area. Due to heavy ship traffic, mariners are advised not to anchor or linger in the precautionary area except to pick up or disembark a pilot.

## Part 169–Ship Reporting Systems

## Subpart A–General

### §169.1 What is the purpose of this part?

(2440) This subpart prescribes the requirements for mandatory ship reporting systems. Ship reporting systems are used to provide, gather, or exchange information through radio reports. The information is used to provide data for many purposes including, but not limited to: navigation safety, maritime security and domain awareness, environmental protection, vessel traffic services, search and rescue, weather forecasting and prevention of marine pollution.

### §169.5 How are terms used in this part defined?

(2441) As used in this part–

(2442) Administration means the Government of the State whose flag the ship is entitled to fly.

(2443) Cargo ship means any ship which is not a passenger ship.

(2444) Flag Administration means the Government of a State whose flag the ship is entitled to fly.

(2445) Gross tonnage means tonnage as defined under the International Convention on Tonnage Measurement of Ships, 1969 (Incorporated by reference, see §169.15).

(2446) Gross tons means vessel tonnage measured in accordance with the method utilized by the flag state administration of that vessel.

(2447) High speed craft means a craft that is operable on or above the water and is capable of a maximum speed equal to or exceeding V=3.7xdispl1667, where "V" is the maximum speed and "displ" is the vessel displacement corresponding to the design waterline in cubic meters.

(2448) High speed passenger craft means a high speed craft carrying more than 12 passengers.

(2449) International voyage means a voyage from a country to which the present International Convention for the Safety of Life at Sea (SOLAS), 1974 applies to a port outside such country, or conversely. For U.S. ships, such voyages will be considered to originate at a port in the United States, regardless of when the voyage actually began. Such voyages for U.S. ships will continue until the ship returns to the United States from its last foreign port.

(2450) Long range identification and tracking (LRIT) information or position report means report containing the following information:

(2451) (1) The identity of the ship;

(2452) (2) The position of the ship (latitude and longitude); and

(2453) (3) The date and time of the position provided.

(2454) LRIT Data Center means a center established by a SOLAS Contracting Government or a group of Contracting Governments, or in the case of International Data Center, by IMO, to request, receive, process, and archive LRIT information. An LRIT Data Center may be National, Regional, Co-operative or International.

(2455) Mandatory ship reporting system means a ship reporting system that requires the participation of specified vessels or classes of vessels, and that is established by a government or governments after adoption of a proposed system by the International Maritime Organization (IMO) as complying with all requirements of regulation V/8–1 of the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), except paragraph (e) thereof.

(2456) Mobile offshore drilling unit means a self-propelled vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.

(2457) Passenger ship means a ship that carries more than 12 passengers.

(2458) Self-propelled ships means ships propelled by mechanical means.

(2459) Shore-based authority means the government appointed office or offices that will receive the reports made by ships entering each of the mandatary ship reporting systems. The office or offices will be responsible for the management and coordination of the system, interaction with participating ships, and the safe and effective operation of the system. Such an authority may or may not be an authority in charge of a vessel traffic service.

(2460) United States means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

### §169.10 What geographic coordinates are used?

(2461) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts where the 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.

**§169.15 Incorporation by reference: Where can I get a copy of the publications mentioned in this part?**

(2462) (a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Also, it is available for inspection at the Coast Guard, Office of Navigation Systems (CG-5532), 2100 2nd St. SW., Stop 7580, Washington, DC 20593-7580, and is available from the sources indicated in this section.

(2463) (b) International Electrotechnical Commission (IEC) Bureau Central de la Commission Electrotechnique Internationale, 3 rue de Varembé, P.O. Box 131, 1211 Geneva 20, Switzerland.

(2464) (1) IEC 60945, Fourth edition 2002-08, Maritime navigation and radiocommunication equipment and systems–General requirements–Methods of testing and required test results, incorporation by reference approved for §169.215.

(2465) (2) [Reserved]

(2466) (c) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, U.K.

(2467) (1) IMO Resolution MSC.202(81), adopted on May 19, 2006, Adoption of Amendments to the International Convention for the Safety of Life at Sea, 1974, as Amended, incorporation by reference approved for §160.240.

(2468) (2) IMO Resolution MSC. 210(81), adopted on May 19, 2006, Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships, incorporation by reference approved for §§169.215 and 169.240.

(2469) (3) IMO Resolution MSC.254(83), adopted on October 12, 2007, Adoption of Amendments to the Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships, incorporation by reference approved for §§169.215 and 169.240.

(2470) (4) IMO Resolution A.694(17), adopted on November 6, 1991, General Requirements for Shipborne Radio Equipment Forming Part of the Global Maritime Distress and Safety System (GMDSS) and for Electronic Navigational Aids, incorporation by reference approved for §165.215.

(2471) (5) International Convention on Tonnage Measurement of Ships, 1969, incorporation by reference approved for §169.5.

## Subpart B–Establishment of Two Mandatory Ship Reporting Systems for the Protection of Northern Right Whales

**§169.100 What mandatory ship reporting systems are established by this subpart?**

(2472) This subpart prescribes requirements for the establishment and maintenance of two mandatory ship reporting systems for the protection of the endangered northern right whale (also known as the North Atlantic right whale). These two systems are designated for certain areas of the East Coast of the United States. One system is located in the northeast and is identified as WHALESNORTH. The other system is located in the southeast and is identified as WHALESSOUTH.

(2473) **Note:** 50 CFR 224.103(c) contains requirements and procedures concerning northern right whale approach limitations and avoidance procedures.

**§169.102 Who is the shore-based authority?**

(2474) The U.S. Coast Guard is the shore-based authority for these mandatory ship reporting systems.

**§169.105 Where is the northeastern reporting system located?**

(2475) Geographical boundaries of the northeastern area include the waters of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts. The coordinates (NAD 83) of the area are as follows: from a point on Cape Ann, Massachusetts at

(2476) 42°39'N., 70°37'W.; then northeast to

(2477) 42°45'N., 70°13'W.; then southeast to

(2478) 42°10'N., 68°31'W.; then south to

(2479) 41°00'N., 68°31'W.; then west to

(2480) 41°00'N., 69°17'W.; then northwest to

(2481) 42°05'N., 70°02'W.; then west to

(2482) 42°04'N., 70°10'W.; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at

(2483) 42°39'N., 70°37'W.

**§169.110 When is the northeastern reporting system in effect?**

(2484) The mandatory ship reporting system in the northeastern United States operates year-round.

**§169.115 Where is the southeastern reporting system located?**

(2485) Geographical boundaries of the southeastern area include coastal waters within about 25 nautical miles (45 kilometers) along a 90-nautical mile (170-kilometer) stretch of the Atlantic seaboard in Florida and Georgia. The area coordinates (NAD 83) extends from the shoreline east to longitude 80°51.6'W with the southern and northern boundaries at latitude 30°00'N and 31°27'N., respectively.

### §169.120 When is the southeastern reporting system in effect?

(2486) The mandatory ship reporting system in the southeastern United States operates during the period beginning on November 15 each year through April 16 of the following year.

### §169.125 What classes of ships are required to make reports?

(2487) Each self-propelled ship of 300 gross tons or greater must participate in the reporting systems, except government ships exempted from reporting by regulation V/8–1(c) of SOLAS. However, exempt ships are encouraged to participate in the reporting systems.

### §169.130 When are ships required to make reports?

(2488) Participating ships must report to the shore-based authority upon entering the area covered by a reporting system. Additional reports are not necessary for movements made within a system or for ships exiting a system.

### §169.135 How must the reports be made?

(2489) (a) A ship equipped with INMARSAT C must report in IM0 standard format as provided in §169.140 in table 169.140.

(2490) (b) A ship not equipped with INMARSAT C must report to the Coast Guard using other means, listed below in order of precedence–

(2491) (1) Narrow band direct printing (SITOR).

(2492) (2) HF voice communication, or

(2493) (3) MF or VHF voice communications.

(2494) (c) SITOR or HF reports made directly to the Coast Guard's Communications Area Master Station Atlantic (CAMSLANT) in Chesapeake, VA, or MF or VHF reports made to Coast Guard activities or groups, should only be made by ships not equipped with INMARSAT C. Ships in this category must provide all the required information to the Coast Guard watchstander.

**TABLE 169.140 – Requirements for Ship Reports**

| Telegraphy | Function | Information required |
|---|---|---|
| Name of system | System identifier | Ship reporting system WHALESNORTH or WHALESSOUTH. |
| M | INMARSAT Number | Vessel INMARSAT number |
| A | Ship | The name, call sign or ship station identity, IMO number, and flag of the vessel. |
| B | Date and time of event | A 6-digit group giving day of month (first two digits), hours and minutes (last four digits). |
| E | True course | A 3-digit group indicating true course. |
| F | Speed in knots and tenths of knots | A 3-digit group. |
| H | Date, time and point of entry into system | Entry time expressed as in (B) and entry position expressed as- (1) 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 (2) True bearing (first 3 digits) and distance (state distance) in nautical miles from a clearly identified landmark (state landmark) |
| I | Destination and expected time of arrival | Name of port and date time group expressed as in (B) |
| L | Route information | Intended track. |

### §169.140 What information must be included in the report?

(2495) Each ship report made to the shore-based authority must follow the standard reporting and format requirements listed in this section in table 169.140. Current email addresses and telex numbers are published annually in the U.S. Coast Pilot.

## Subpart C-Transmission of Long Range Identification and Tracking Information

### §169.200 What is the purpose of this subpart?

(2496) This subpart implements Regulation 19-1 of SOLAS Chapter V (SOLAS V/19-1) and requires certain ships engaged on an international voyage to transmit vessel identification and position information electronically. This requirement enables the Coast Guard to obtain long range identification and tracking (LRIT) information and thus heightens our overall maritime domain awareness, enhances our search and rescue operations, and increases our ability to detect anomalies and deter transportation security incidents.

### §169.205 What types of ships are required to transmit LRIT information (position reports)?

(2497) The following ships, while engaged on an international voyage, are required to transmit position reports:

(2498) (a) A passenger ship, including high speed passenger craft.

(2499) (b) A cargo ship, including high speed craft, of 300 gross tonnage or more.

(2500) (c) A mobile offshore drilling unit while underway and not engaged in drilling operations.

### §169.210 Where during its international voyage must a ship transmit position reports?

(2501) The requirements for the transmission of position reports, imposed by the United States, vary depending on the relationship of the United States to a ship identified in §169.205.

(2502) (a) Flag State relationship. A U.S. flag ship engaged on an international voyage must transmit position reports wherever they are located.

(2503) (b) Port State relationship. A foreign flag ship engaged on an international voyage must transmit position reports after the ship has announced its intention to enter a U.S. port or place under requirements in 33 CFR part 160, subpart C.

(2504) (c) Coastal State relationship. A foreign flag ship engaged on an international voyage must transmit position reports when the ship is within 1,000 nautical miles

of the baseline of the United States, unless their Flag Administration, under authority of SOLAS V/19-1.9.1, has directed them not to do so.

**§169.215 How must a ship transmit position reports?**

(2505) A ship must transmit position reports using Long Range Identification and Tracking (LRIT) equipment that has been type-approved by their Administration. To be type-approved by the Coast Guard, LRIT equipment must meet the requirements of IMO Resolutions A.694(17), MSC.210(81), and MSC.254(83), and IEC standard IEC 60945 (Incorporated by reference, see §169.15).

**§169.220 When must a ship be fitted with LRIT equipment?**

(2506) A ship identified in §169.205 must be equipped with LRIT equipment–

(2507) (a) Before getting underway, if the ship is constructed on or after December 31, 2008.

(2508) (b) By the first survey of the radio installation after December 31, 2008, if the ship is–

(2509) (1) Constructed before December 31, 2008, and

(2510) (2) Operates within–

(2511) (i) One hundred (100) nautical miles of the United States baseline, or

(2512) (ii) Range of an Inmarsat geostationary satellite, or other Application Service Provider recognized by the Administration, with continuous alerting is available.

(2513) (c) By the first survey of the radio installation after July 1, 2009, if the ship is–

(2514) (1) Constructed before December 31, 2008, and

(2515) (2) Operates within the area or range specified in paragraph (b)(2) of this section as well as outside the range of an Inmarsat geostationary satellite with which continuous alerting is available. While operating in the area or range specified in paragraph (b)(2) of this section, however, a ship must install LRIT equipment by the first survey of the radio installation after December 31, 2008.

**§169.225 Which Application Service Providers may a ship use?**

(2516) A ship may use an application Service Provider (ASP) recognized by its administration. Some Communication Service Providers may also serve as an ASP.

**§169.230 How often must a ship transmit position reports?**

(2517) A ship's LRIT equipment must transmit position reports at 6-hour intervals unless a more frequent interval is requested remotely by an LRIT Data Center.

**§169.235 What exemptions are there from reporting?**

(2518) A ship is exempt from this subpart if it is–

(2519) (a) Fitted with an operating automatic identification system (AIS), under 33 CFR 164.46, and operates only within 20 nautical miles of the United States baseline,

(2520) (b) A warship, naval auxiliaries or other ship owned or operated by a SOLAS Contracting Government and used only on Government non-commercial service, or

(2521) (c) A ship solely navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada.

**§169.240 When may LRIT equipment be switched off?**

(2522) A ship engaged on an international voyage may switch off its LRIT equipment only when it is permitted by its Flag Administration, in circumstances detailed in SOLAS V/19–1.7, or in paragraph 4.4.1, of resolution MSC.210(81), as amended by resolution MSC.254(83) (Incorporated by reference, see §169.15).

**§169.245 What must a ship master do if LRIT equipment is switched off or fails to operate?**

(2523) (a) If a ship's LRIT equipment is switched off or fails to operate, the ship's master must inform his or her Flag Administration without undue delay.

(2524) (b) The master must also make an entry in the ship's logbook that states–

(2525) (1) His or her reason for switching the LRIT equipment off, or an entry that the equipment has failed to operate, and

(2526) (2) The period during which the LRIT equipment was switched off or non-operational.

(2527) **Note to §169.245**: for U.S. vessels, the U.S. Coast Guard serves as the Flag Administration for purposes of this section. All LRIT notifications for the U.S. Flag administration, in addition to requests or questions about LRIT, should be communicated to the U.S. Coast Guard by e-mail addressed to LRIT@uscg.mil.

## Part 207–Navigation Regulations

**§207.160 All waterways tributary to the Atlantic Ocean south of Chesapeake Bay and all waterways tributary to the Gulf of Mexico east and south of St. Marks, FL; use, administration, and navigation.**

(2528) (a) Description. This section applies to the following:

(2529) (1) Waterways. All navigable waters of the United States, natural or artificial, including bays, lakes, sounds, rivers, creeks, intracoastal waterways, as well as canals and channels of all types, which are tributary to or connected by other waterways with the Atlantic Ocean south of Chesapeake Bay or with the Gulf of Mexico east and south of St. Marks, Florida.

(2530) (2) Locks. All Government owned or operated locks and hurricane gate chambers and appurtenant structures in any of the waterways described in paragraph (a) (1) of this section.

(2531) (3) United States property. All river and harbor lands owned by the United States in or along the waterways described in paragraph (a) (1) of this section, including lock sites and all structures thereon, other sites for Government structures and for the accommodation and use of employees of the United States, and rights of way and spoil disposal areas to the extent of Federal interest therein.

(2532) (4) Vessels and rafts. The term "vessels" as used in this section includes all floating things moved over these waterways other than rafts.

(2533) (b) Authority of District Engineers. The use, administration, and navigation of these waterways, Federal locks and hurricane gate chambers shall be under the direction of the officers of the Corps of Engineers, United States Army, detailed in charge of the respective sections, and their authorized assistants. The cities in which the U.S. District Engineers are located are as follows:

(2534) U.S. District Engineer, Norfolk, Virginia.

(2535) U.S. District Engineer, Wilmington, North Carolina.

(2536) U.S. District Engineer, Charleston, South Carolina.

(2537) U.S. District Engineer, Savannah, Georgia.

(2538) U.S. District Engineer, Jacksonville, Florida.

(2539) (c) [Reserved].

(2540) (d) Bridges. (For regulations governing the operation of bridges, see 33 CFR 117.1, 117.240, and 117.245.)

(2541) (e) Locks–(1) Authority of Lockmasters

(2542) (i) Locks Staffed with Government Personnel. The provisions of this subparagraph apply to all waterways in this Section except for the segment of the Atlantic Intracoastal Waterway identified in (e)(1)(ii). The lockmaster shall be charged with the immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. He/she shall see that all laws, rules and regulations for the use of the lock and lock area are duly complied with, to which end he/she is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock and lock area, whether navigating the lock or not. No one shall cause any movement of any vessel, boat, or other floating thing in the lock or approaches except by or under the direction of the lockmaster or his/her assistants.

(2543) (ii) Locks Staffed with Contract Personnel. The provisions of this subparagraph apply to the segment of the Atlantic Intracoastal Waterway comprising the Albemarle and Chesapeake Canal and the Dismal Swamp Canal including Great Bridge Lock, Chesapeake, Virginia; Deep Creek Lock, Chesapeake, Virginia; and South Mills Lock, North Carolina. Contract personnel shall give all necessary orders and directions for operation of the locks. No one shall cause any movement of any vessel, boat or other floating thing in the locks or approaches except by or under the direction of the contract lock operator. All duties and responsibilities of the lockmaster set forth in this Section shall be performed by the contract lock operator except that the responsibility for enforcing all laws, rules and regulations shall be vested in a government employee designated by the Norfolk District Engineer. The District Engineer will notify waterway users and the general public through appropriate notices and media concerning the location and identity of the designated government employee.

(2544) (2) Signals. Vessels desiring lockage in either direction shall give notice to the lockmaster at not more than three-quarters of a mile nor less than one-quarter of a mile from the lock, by two long and two short blasts of a whistle. When the lock is available, a green light, semaphore or flag will be displayed; when not available, a red light, semaphore or flag will be displayed. No vessels or rafts shall approach within 300 feet of any lock entrance unless signalled to do so by the lockmaster.

(2545) (3) Precedence at locks. (i) The vessel arriving first at a lock shall be first to lock through; but precedence shall be given to vessels belonging to the United States and to commercial vessels in the order named. Arrival posts or markers may be established ashore above or below the locks. Vessels arriving at or opposite such posts or markers will be considered as having arrived at the locks within the meaning of this paragraph.

(2546) (ii) The lockage of pleasure boats, house boats or like craft shall be expedited by locking them through with commercial craft (other than barges carrying petroleum products or highly hazardous materials) in order to utilize the capacity of the lock to its maximum. If, after the arrival of such craft, no separate or combined lockage can be accomplished within a reasonable time not to exceed the time required for three other lockages, then separate lockage shall be made.

(2547) (4) Entrance to and exit from locks. No vessel or raft shall enter or leave the locks before being signalled to do so. While waiting their turns, vessels or rafts must not obstruct traffic and must remain at a safe distance from the lock. They shall take position in rear of any vessels or rafts that may precede them, and there arrange the tow for locking in sections if necessary. Masters and pilots of vessels or in charge of rafts shall cause no undue delay in entering or leaving the lock, and will be held to a strict accountability that the approaches are not at any time unnecessarily obstructed by parts of a tow awaiting lockage or already passed through. They shall provide sufficient men to move through the lock promptly without damage to the structures. Vessels or tows that fail to enter the locks with reasonable promptness after being signalled to do so will lose their turn.

(2548) (5) Lockage of vessels. (i) Vessels must enter and leave the locks carefully at slow speed, must be provided with suitable lines and fenders, must always use fenders to protect the walls and gates, and when locking at night

must be provided with suitable lights and use them as directed.

(2549) (ii) Vessels which do not draw at least six inches less than the depth on miter sills or breast walls, or which have projections or sharp corners liable to damage gates or walls, shall not enter a lock or approaches.

(2550) (iii) No vessel having chains or lines either hanging over the sides or ends, or dragging on the bottom, for steering or other purposes, will be permitted to pass a lock or dam.

(2551) (iv) Power vessels must accompany tows through the locks when so directed by the lockmaster.

(2552) (v) No vessel whose cargo projects beyond its sides will be admitted to lockage.

(2553) (vi) Vessels in a sinking condition shall not enter a lock or approaches.

(2554) (vii) The passing of coal from flats or barges to steamers while in locks is prohibited.

(2555) (viii) Where special regulations for safeguarding human life and property are desirable for special situations, the same may be indicated by printed signs, and in such cases such signs will have the same force as other regulations in this section.

(2556) (ix) The lockmaster may refuse to lock vessels which, in his judgment, fail to comply with this paragraph.

(2557) (6) Lockage of rafts. Rafts shall be locked through in sections as directed by the lockmaster. No raft will be locked that is not constructed in accordance with the requirements stated in paragraph (g) of this section. The party in charge of a raft desiring lockage shall register with the lockmaster immediately upon arriving at the lock and receive instructions for locking.

(2558) (7) Number of lockages. Tows or rafts locking in sections will generally be allowed only two consecutive lockages if one or more single vessels are waiting for lockage, but may be allowed more in special cases. If tows or rafts are waiting above and below a lock for lockage, sections will be locked both ways alternately whenever practicable. When there are two or more tows or rafts awaiting lockage in the same direction, no part of one shall pass the lock until the whole of the one preceding it shall have passed.

(2559) (8) Mooring. (i) Vessels and rafts when in the lock shall be moored where directed by the lockmaster by bow, stern and spring lines to the snubbing posts or hooks provided for that purpose, and lines shall not be let go until signal is given for vessel or raft to leave. Tying boats to the lock ladders is prohibited.

(2560) (ii) The mooring of vessels or rafts near the approaches to locks except while waiting for lockage, or at other places in the pools where such mooring interferes with general navigation of the waterway is prohibited.

(2561) (9) Maneuvering locks. The lock gates, valves, and accessories will be moved only under the direction of the lockmaster; but if required, all vessels and rafts using the locks must furnish ample help on the lock walls for handling lines and maneuvering the various parts of the lock under the direction of the lockmaster.

(2562) (f) [Reserved]

(2563) (g) Rafts, logging. (1) Rafts will be permitted to navigate a waterway only if properly and securely assembled. The passage of "bag" or "sack" rafts, "dog" rafts, or of loose logs over any portion of a waterway, is prohibited. Each section of a raft will be secured within itself in such a manner as to prevent the sinking of any log, and so fastened or tied with chains or wire rope that it cannot be separated or bag out so as to materially change its shape. All dogs, chains and other means used in assembling rafts shall be in good condition and of ample size and strength to accomplish their purposes.

(2564) (2) No section of a raft will be permitted to be towed over any portion of a waterway unless the logs float sufficiently high in the water to make it evident that the section will not sink en route.

(2565) (3) Frequent inspections will be made by the person in charge of each raft to insure that all fastenings remain secure, and when any one is found to have loosened, it shall be repaired at once. Should any log or section be lost from a raft, the fact must be promptly reported to the District Engineer, giving as definitely as possible the exact point at which the loss occurred. In all cases the owner of the lost log or section will take steps immediately to remove the same from the waterway.

(2566) (4) The length and width of rafts shall not exceed such maximum dimensions as may be prescribed by the District Engineer.

(2567) (5) All rafts shall carry sufficient men to enable them to be managed properly, and to keep them from being an obstruction to other craft using the waterway. To permit safe passage in a narrow channel rafts will, if necessary, stop and tie up alongside the bank. Care must be exercised both in towing and mooring rafts to avoid the possibility of damage to aids to navigation maintained by the United States or under its authorization.

(2568) (6) When rafts are left for any reason with no one in attendance, they must be securely tied at each end and at as many intermediate points as may be necessary to keep the timbers from bagging into the stream, and must be moored so as to conform to the shape of the bank. Rafts moored to the bank shall have lights at 500-foot intervals along their entire length. Rafts must not be moored at prominent projections of the bank, or at critical sections.

(2569) (7) Logs may be stored in certain tributary streams provided a clear channel at least one-half the width of the channel be left clear for navigation along the tributary. Such storage spaces must be protected by booms and, if necessary to maintain an open channel, piling should also be used. Authority for placing these booms and piling must be obtained by written permit from the District Engineer.

(2570) (8) The building, assembling, or breaking up of a raft in a waterway will be permitted only upon special

authority obtained from the District Engineer, and under such conditions as he may prescribe.

(2571) (h) Dumping of refuse or oil in waterway, obstructions. Attention is invited to the provisions of sections 13 and 20 of the River and Harbor Act of March 3, 1899 (30 Stat. 1152, 1154; 33 U.S.C. 407, 415), and of sections 2, 3, and 4 of the Oil Pollution Act of June 7, 1924 (43 Stat. 604, 605; 33 U.S.C. 432-434), which prohibit the depositing of any refuse matter in these waterways or along their banks where liable to be washed into the waters; authorize the immediate removal or destruction of any sunken vessel, craft, raft, or other similar obstruction, which stops or endangers navigation; and prohibit the discharge of oil from vessels into the coastal navigable waters of the United States.

(2572) (i) Damage. Masters and owners of vessels using the waterways are responsible for any damage caused by their operations to canal revetments, lock piers and walls, bridges, hurricane gate chambers, spillways, or approaches thereto, or other Government structures, and for displacing or damaging of buoys, stakes, spars, range lights or other aids to navigation. Should any part of a revetment, lock, bridge, hurricane gate chamber, spillway or approach thereto, be damaged, they shall report the fact, and furnish a clear statement of how the damage occurred, to the nearest Government lockmaster or bridge tender, and by mail to the District Engineer, U.S. Engineer Office in local charge of the waterway in which the damage occurred. Should any aid to navigation be damaged, they shall report that fact immediately to the Superintendent of Lighthouses at Norfolk, Virginia, if north of New River Inlet, North Carolina; to the Superintendent of Lighthouses at Charleston, South Carolina, if between New River Inlet, North Carolina, and St. Lucie Inlet, Florida; to the Superintendent of Lighthouses at Key West, Florida, if between St. Lucie Inlet and Suwanee River, Florida; and to the Superintendent of Lighthouses, New Orleans, Louisiana, if between Suwanee River and St. Marks, Florida.

(2573) (j) Trespass on property of the United States. Trespass on waterway property or injury to the banks, locks, bridges, piers, fences, trees, houses, shops or any other property of the United States pertaining to the waterway, is strictly prohibited. No business, trading or landing of freight or baggage will be allowed on or over Government piers, bridges, or lock walls.

(2574) (k) Copies of regulations. Copies of the regulations in this section will be furnished free of charge upon application to the nearest District Engineer.

**§207.169 Oklawaha River, navigation lock and dam at Moss Bluff, Fla.; use, administration and navigation.**

(2575) (a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 7 a.m. to 7 p.m. during the period of February 15 through October 15 each year, and from 8 a.m. to 6 p.m. during the remaining months of the year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels. The hours of operation are based on local time.

(2576) (b) The owner of or agency controlling the lock shall place signs of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville, Fla., at each side of the lock indicating the nature of the regulations of this section.

**§207.170 Federal Dam, Oklawaha River, Moss Bluff, Fla.; pool level.**

(2577) (a) The level of the pool shall normally be maintained at elevation 56.5 feet above sea level: Provided, That the level of the pool may be raised to not exceeding 58.5 feet above sea level at such times as may be authorized in writing by the District Engineer, Jacksonville, Fla., and subject to such conditions as he may specify.

(2578) (b) When in the opinion of the District Engineer, an emergency exists requiring the lowering of the pool level to an elevation less than 56.5 above sea level either to safeguard the dikes or to increase the discharge from Lake Griffin in times of high water, the discharge past the dam shall be regulated in such manner as he may direct until he shall declare the emergency passed.

**§207.170a Eugene J. Burrell Navigation Lock in Haines Creek near Lisbon, Florida; use, administration and navigation.**

(2579) (a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 7 a.m. to 12 noon, and from 1 p.m. to 7 p.m., during the period of February 15 through October 15 each year; and from 8 a.m. to 12 noon, and from 1 p.m. to 6 p.m., during the remaining months of each year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels.

(2580) (b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section.

**§207.170b Apopka-Beauclair Navigation Lock in Apopka-Beauclair Canal in Lake County, Florida; use, administration and navigation.**

(2581) (a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 7:00 a.m. to 12:00 noon, and from 1:00 p.m. to 7:00 p.m., during the period of February 15 through October 15 each year; and from 8:00 a.m. to 12 noon, and from 1:00 p.m. to 6:00 p.m., during the remaining months of each year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels.

(2582) (b) The owner of the lock shall place signs, of such size and descriptions as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville,

Florida, at each side of this lock indicating the nature of the regulations.

**§207.170c Kissimmee River, navigation locks between Lake Tohopekaliga and Lake Okeechobee, Fla.; use, administration and navigation.**

(2583) (a) The owner of or agency controlling the locks shall be required to open the navigation locks upon demand for passage of vessels during the following hours and periods:

(2584) Locks S–61, S–65, and S–65E:

(2585) Monday through Friday, all year; 7:00 a.m. to 6:00 p.m.

(2586) Saturday and Sunday, Mar. 1 through Oct. 31; 5:30 a.m. to 7:30 p.m.

(2587) Saturday and Sunday, Nov. 1 through Feb. 28; 5:30 a.m. to 6:30 p.m.

(2588) Lock S–65A:

(2589) Seven days a week, all year; 8:00 a.m. to 5:00 p.m.

(2590) Locks S–65B, S–65C, and S–65D:

(2591) Monday through Friday, all year; 8:00 a.m. to 5:00 p.m.

(2592) Saturday and Sunday, Mar. 1 through Oct. 31; 5:30 a.m. to 7:30 p.m.

(2593) Saturday and Sunday, Nov. 1 through Feb. 28; 5:30 a.m. to 6:30 p.m.

(2594) (b) The owner of or agency controlling the locks shall place signs, of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville, Florida, at each side of the locks indicating the nature of the regulations of this section.

**§207.170d Taylor Creek, navigation lock (S-193) across the entrance to Taylor Creek at Lake Okeechobee, Okeechobee, Fla.; use, administration and navigation.**

(2595) (a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 5:30 a.m. to 8:00 p.m. daily. During the above hours the lock shall be opened upon demand for the passage of vessels.

(2596) (b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Jacksonville, Florida at each side of this lock indicating the nature of the regulations of this section.

**§207.800 Collection of navigation statistics.**

(2597) (a) Definitions. For the purpose of this regulation the following terms are defined:

(2598) (1) Navigable waters of the United States means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. (See 33 CFR part 329 for a more complete definition of this term.)

(2599) (2) Offenses and Violations mean:

(2600) (i) Failure to submit a required report.

(2601) (ii) Failure to provide a timely, accurate, and complete report.

(2602) (iii) Failure to submit monthly listings of idle vessels or vessels in transit.

(2603) (iv) Failure to submit a report required by the lockmaster or canal operator.

(2604) (3) Leased or chartered vessel means a vessel that is leased or chartered when the owner relinquishes control of the vessel through a contractual agreement with a second party for a specified period of time and/or for a specified remuneration from the lessee. Commercial movements on an affreightment basis are not considered a lease or charter of a particular vessel.

(2605) (4) Person or entity means an individual, corporation, partnership, or company.

(2606) (5) Timely means vessel and commodity movement data must be received by the Waterborne Commerce Statistics Center within 30 days after the close of the month in which the vessel movement or nonmovement takes place.

(2607) (6) Commercial vessel means a vessel used in transporting by water, either merchandise or passengers for compensation or hire, or in the course of business of the owner, lessee, or operator of the vessel.

(2608) (7) Reporting situation means a vessel movement by an operator that is required to be reported. Typical examples are listed in the instructions on the various ENG Forms. Five typical movements that are required to be reported by vessel operating companies include the following examples:

(2609) Company A is the barge owner, and the barge transports corn from Minneapolis, MN to New Orleans, LA, with fleeting at Cairo, IL.

(2610) (i) Lease/Charter: If Company A leases or charters the barge to Company B, then Company B is responsible for reporting the movements of the barge until the lease/charter expires.

(2611) (ii) Interline Movement: A barge is towed from Minneapolis to Cairo by Company A, and from Cairo to New Orleans by Company B. Since Company A is the barge owner, and the barge is not leased. Company A reports the entire movement of the barge with an origin of Minneapolis and a destination of New Orleans.

(2612) (iii) Vessel Swap/Trade: Company A swaps barge with Company B to allow Company B to meet a delivery commitment to New Orleans. Since Company A has not leased/chartered the barge, Company A is responsible for filing the report. Company B is responsible for filing the report on the barge which is traded to Company A. The swap or trade will not affect the primary responsibility for reporting the individual vessel movements.

(2613) (iv) Re-Consignment: Barge is reconsigned to Mobile, AL. Company A reports the movements as originating in Minneapolis and terminating in Mobile. The point from which barge is reconsigned is not reported, only points of loading and unloading.

(2614) (v) Fleeting: Barge is deposited at a New Orleans fleeting area by Company A and towed by Company B from fleeting area to New Orleans area dock for unloading. Company A, as barge owner, reports entire movements from Minneapolis to the unloading dock in New Orleans. Company B does not report any barge movement.

(2615) (b) Implementation of the waterborne commerce statistics provisions of the River and Harbor Act of 1922, as amended by the Water Resources Development Act of 1986 (Pub. L. 99-662), mandates the following.

(2616) (1) Filing Requirements. Except as provided in paragraph (b)(2) of this section, the person or entity receiving remuneration for the movement of vessels or for the transportation of goods or passengers on the navigable waters is responsible for assuring that the activity report of commercial vessels is timely filed.

(2617) (i) For vessels under lease/charter agreements, the lessee or charterer of any commercial vessel engaged in commercial transportation will be responsible for the filing of said reports until the lease/charter expires.

(2618) (ii) The vessel owner, or his designated agent, is always the responsible party for ensuring that all commercial activity of the vessel is timely reported.

(2619) (2) The following Vessel Information Reports are to be filed with the Army Corps of Engineers, at the address specified on the ENG Form, and are to include:

(2620) (i) Monthly Reports. These reports shall be made on ENG Forms furnished upon written request of the vessel operating companies to the Army Corps of Engineers. The forms are available at the following address: U.S. Army Corps of Engineers, Waterborne Commerce Statistics Center, Post Office Box 62180, New Orleans, LA 70161-1280.

(2621) (A) All movements of domestic waterborne commercial vessels shall be reported, including but not limited to: Dry cargo ship and tanker moves, loaded and empty barge moves, towboat moves, with or without barges in tow, fishing vessels, movements of crew boats and supply boats to offshore locations, tugboat moves and movements of newly constructed vessels from the shipyard to the point of delivery.

(2622) (B) Vessels idle during the month must also be reported.

(2623) (C) Notwithstanding the above requirements, the following waterborne vessel movements need not be reported:

(2624) (1) Movements of recreational vessels.

(2625) (2) Movements of fire, police, and patrol vessels.

(2626) (3) Movements of vessels exclusively engaged in construction (e.g., piledrivers and crane barges). **Note:** however, that movements of supplies, materials, and crews to or from the construction site must be timely reported.

(2627) (4) Movements of dredges to or from the dredging site. However, vessel movements of dredged material from the dredging site to the disposal site must be reported.

(2628) (5) Specific movements granted exemption in writing by the Waterborne Commerce Statistics Center.

(2629) (D) ENG Forms 3925 and 3925b shall be completed and filed by vessel operating companies each month for all voyages or vessel movements completed during the month. Vessels that did not complete a move during the month shall be reported as idle or in transit.

(2630) (E) The vessel operating company may request a waiver from the Army Corps of Engineers, and upon written approval by the Waterborne Commerce Center, the company may be allowed to provide the requisite information of the above paragraph (D), on computer printouts, magnetic tape, diskettes, or alternate medium approved by the Center.

(2631) (F) Harbor Maintenance Tax information is required on ENG Form 3925 for cargo movements into or out of ports that are subject to the provisions of section 1402 of the Water Resources Development Act of 1986 (Pub. L. 99-662).

(2632) (1) The name of the shipper of the commodity, and the shipper 0146's Internal Revenue Service number or Social Security number, must be reported on the form.

(2633) (2) If a specific exemption applies to the shipper, the shipper should list the appropriate exemption code. The specific exemption codes are listed in the directions for ENG Form 3925.

(2634) (3) Refer to 19 CFR part 24 for detailed information on exemptions and ports subject to the Harbor Maintenance Tax.

(2635) (ii) Annual Reports. Annually an inventory of vessels available for commercial carriage of domestic commerce and vessel characteristics must be filed on ENG Forms 3931 and 3932.

(2636) (iii) Transaction Reports. The sale, charter, or lease of vessels to other companies must also be reported to assure that proper decisions are made regarding each company's duty for reporting vessel movements during the year. In the absence of notification of the transaction, the former company of record remains responsible until proper notice is received by the Corps.

(2637) (iv) Reports to Lockmasters and Canal Operators. Masters of self-propelled non-recreational vessels which pass through locks and canals operated by the Army Corps of Engineers will provide the data specified on ENG Forms 3102b, 3102c, and/or 3102d to the lockmaster, canal operator, or his designated representative in the manner and detail dictated.

(2638) (c) Penalties for Noncompliance. The following penalties for noncompliance can be assessed for offenses and violations.

(2639) (1) Criminal Penalties. Every person or persons violating the provisions of this regulation shall, for each and every offenses, be liable to a fine of not more than $5,000, or imprisonment not exceeding two months, to be enforced in any district court in the United States within whose territorial jurisdiction such offense may have been committed.

(2640) (2) Civil Penalties. In addition, any person or entity that fails to provide timely, accurate, and complete statements or reports required to be submitted by this regulation may also be assessed a civil penalty of up to $2,500 per violation under 33 U.S.C. 555, as amended.

(2641) (3) Denial of Passage. In addition to these fines, penalties, and imprisonments, the lockmaster or canal operator can refuse to allow vessel passage.

(2642) (d) Enforcement Policy. Every means at the disposal of the Army Corps of Engineers will be utilized to monitor and enforce these regulations.

(2643) (1) To identify vessel operating companies that should be reporting waterborne commerce data, The Corps will make use of, but is not limited to, the following sources.

(2644) (i) Data on purchase and sale of vessels.

(2645) (ii) U.S. Coast Guard vessel documentation and reports.

(2646) (iii) Data collected at Locks, Canals, and other facilities operated by the Corps.

(2647) (iv) Data provided by terminals on ENG Form 3926.

(2648) (v) Data provided by the other Federal agencies including the Internal Revenue Service, Customs Service, Maritime Administration, Department of Transportation, and Department of Commerce.

(2649) (vi) Data provided by ports, local facilities, and State or local governments.

(2650) (vii) Data from trade journals and publications.

(2651) (viii) Site visits and inspections.

(2652) (2) Notice of Violation. Once a reporting violation is determined to have occurred, the Chief of the Waterborne Commerce Statistics Center will notify the responsible party and allow 30 days for the reports to be filed after the fact. If the reports are not filed within this 30-day notice period, then appropriate civil or criminal actions will be undertaken by the Army Corps of Engineers, including the proposal of civil or criminal penalties for noncompliance. Typical cases for criminal or civil action include, but are not limited to, those violations which are willful, repeated, or have a substantial impact in the opinion of the Chief of the Waterborne Commerce Statistics Center.

(2653) (3) Administrative Assessment of Civil Penalties. Civil penalties may be assessed in the following manner.

(2654) (i) Authorization. If the Chief of the Waterborne Commerce Statistics Center finds that a person or entity has failed to comply with any of the provisions specified herein, he is authorized to assess a civil penalty in accordance with the Class I penalty provisions of 33 CFR part 326. Provided, however, that the procedures in 33 CFR part 326 specifically implementing the Clean Water Act (33 U.S.C. 1319(g)(4)), public notice, comment period, and state coordination, shall not apply.

(2655) (ii) Initiation. The Chief of the Waterborne Commerce Statistics Center will prepare and process a proposed civil penalty order which shall state the amount of the penalty to be assessed, described by reasonable specificity the nature of the violation, and indicate the applicable provisions of 33 CFR part 326.

(2656) (iii) Hearing Requests. Recipients of a proposed civil penalty order may file a written request for a hearing or other proceeding. This request shall be as specified in 33 CFR part 326 and shall be addressed to the Director of the Water Resources Support Center, Casey Building, Fort Belvoir, VA 22060-5586, who will provide the requesting person or entity with a reasonable opportunity to present evidence regarding the issuance, modification, or revocation of the proposed order. Thereafter, the Director of the Water Resources Center shall issue a final order.

(2657) (4) Additional Remedies. Appropriate cases may also be referred to the local U.S. Attorney for prosecution, penalty collection, injunctive, and other relief by the Chief of the Waterborne Commerce Statistics Center.

## Part 334–Danger Zones and Restricted Area Regulations

### §334.1 Purpose.

(2658) The purpose of this part is to:

(2659) (a) Prescribe procedures for establishing, amending and disestablishing danger zones and restricted area;

(2660) (b) List the specific danger zones and restricted areas and their boundaries; and

(2661) (c) Prescribe specific requirements, access limitations and controlled activities within the danger zones and restricted areas.

### §334.2 Definitions.

(2662) (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.

(2663) (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.

(2664) (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.

(2665) (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),

(2666) (c) Temporary, occasional or intermittent use. If the use of the water area is desired for a short period of time, not to 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.**

(2667) (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:

(2668) (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.

(2669) (2) Name of waterway and if a small tributary, the name of a larger connecting waterbody.

(2670) (3) Name of closest city or town, county/parish and state.

(2671) (4) Location of proposed or existing danger zone or restricted area with a map showing the location, if possible.

(2672) (5) A brief statement of the need for the area, its intended use and detailed description of the times, dates and extent of restriction.

(2673) (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.

(2674) (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:

(2675) (i) Applicable statutory authority or authorities; (40 Stat. 266; 33 U.S.C. 1) and (40 Stat. 892; 33 U.S.C. 3)

(2676) (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.

(2677) (iii) The address of the District Engineer as the recipient of any comments received.

(2678) (iv) The identity of the applicant/proponent;

(2679) (v) The name or title, address and telephone number of the Corps employee from whom additional information concerning the proposal may be obtained;

(2680) (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.

(2681) (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:

(2682) (i) The Federal Aviation Administration (FAA) where the use of airspace is involved.

(2683) (ii) The Commander, Service Force, U.S. Atlantic Fleet, if a proposed action involves a danger zone off the U.S. Atlantic coast.

(2684) (iii) Proposed danger zones on the U.S. Pacific coast must be coordinated with the applicable commands as follows:

(2685) Alaska, Oregon and Washington:

(2686) Commander, Naval Base, Seattle

(2687) California:

(2688) Commander, Naval Base, San Diego

(2689) Hawaii and Trust Territories:

(2690) Commander, Naval Base, Pearl Harbor

(2691) (c) Public hearing. The District Engineer may conduct a public hearing in accordance with 33 CFR part 327.

(2692) (d) Environmental documentation. The District Engineer shall prepare environmental documentation in accordance with appendix B to 33 CFR part 325.

(2693) (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**.

(2694) (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.**

(2695) (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.

(2696) (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.**

(2697) (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.

(2698) (b) For further information on NAD 83 and National Service nautical charts please contact:

(2699) Director, Coast Survey (N/CG2)

(2700) National Ocean Service, NOAA

(2701) 1315 East-West Highway, Station 6147

(2702) Silver Spring, MD 20910-3282.

**§334.290 Elizabeth River, Southern Branch, Va., naval restricted areas**

(2703) (a) The areas–(1) St. Helena Annex Area. Beginning at a point at St. Helena Annex of the Norfolk Naval Shipyard, on the eastern shore of Southern Branch of Elizabeth River, at latitude 36°49'43", longitude 76°17'26.5"; thence in a southwesterly direction to a point on the eastern boundary of Norfolk Harbor 40-foot channel at latitude 36°49'42", longitude 76°17'33"; thence in a southerly direction along the eastern boundary of Norfolk Harbor 40-foot channel to latitude 36°49'28", longitude 76°17'27"; thence easterly to the shore at latitude 36°49'28", longitude 76°17'22"; and thence, northerly along the shore to the point of beginning.

(2704) (2) Norfolk Naval Shipyard Area. Beginning at a point on the shore at the northeast corner of the Norfolk Naval Shipyard, at latitude 36°49'43.5", longitude 76°17'41.5"; thence due east approximately 100 feet to the western boundary of Elizabeth River channel; thence in a southerly direction along the western boundary of the channel to the point where it passes through the draw of the Norfolk and Portsmouth Belt Line Railroad bridge, thence in a southwesterly direction along the northerly side of the bridge to the western shore of Southern Branch of Elizabeth River; and thence along the shore in a northerly direction to the point of beginning.

(2705) (3) Southgate Terminal Area. Beginning at a point at the northeast corner of Southgate Terminal Annex of Norfolk Naval Shipyard, at

(2706) 36°48'23", 76°17'39"; thence east to

(2707) 36°48'23", 76°17'29"; thence southerly along the western boundary of Norfolk Harbor 35-foot channel to

(2708) 36°48'04", 76°17'33"; thence west to

(2709) 36°48'04", 76°17'41"; and thence along the shore in a northerly direction to the point of beginning.

(2710) (b) The regulations. (1) No vessels other than Naval vessels and other vessels authorized to move to and from piers at the Norfolk Naval Shipyard and its two annexes described in paragraph (a) (1) and (3) of this section, and no person other than persons embarked in such vessels, shall enter the restricted areas.

(2711) (2) This section shall be enforced by the Commander, Norfolk Naval Shipyard, Portsmouth, Va. and such agencies as he may designate.

**§334.320 Chesapeake Bay entrance; naval restricted area.**

(2712) (a) The area. Beginning at a point on the south shore of Chesapeake Bay at longitude 76°03'06"; thence to

(2713) 37°01'18", 76°02'06"; thence to

(2714) 37°00'18", 75°55'54"; thence to

(2715) 36°58'00", 75°48'24"; thence to

(2716) 36°51'48", 75°51'00"; thence to the shore at longitude 75°58'48", and thence northwesterly and southwesterly along the shore at Cape Henry to the point of beginning.

(2717) (b) The regulations. (1) Anchoring, trawling, crabbing, fishing, and dragging in the area are prohibited, and no object attached to a vessel or otherwise shall be placed on or near the bottom.

(2718) (2) This section shall be enforced by the Commandant, Fifth Naval District, Norfolk, Va.

**§334.380 Atlantic Ocean south of entrance to Chesapeake Bay off Dam Neck, Virginia Beach, Virginia, naval firing range.**

(2719) (a) The danger zone. All of the water within a sector extending seaward a distance of 7,500 yards between radial lines bearing **035°** true and **092°** true, respectively, from a point on the shore at latitude 36°47'33"N, longitude 75°58'23"W.

(2720) (b) The regulations. (1) Vessels shall proceed through the area with caution and shall remain therein no longer than necessary for purpose of transit.

(2721) (2) When firing is in progress during daylight hours, red flags will be displayed at conspicuous locations on the beach. When firing is in progress during periods of darkness, red flashing lights will be displayed from conspicuous locations which are visible from the water a minimum distance of four (4) nautical miles.

(2722) (3) Firing on the ranges will be suspended as long as any vessel is within the danger zone.

(2723) (4) Lookout posts shall be manned by the activity or agency operating the firing range at Fleet Combat Center. After darkness, night vision systems will be utilized by lookouts to aid in locating vessels transiting the area.

(2724) (5) There shall be no firing on any ranges during the periods of low visibility which would prevent the recognition of a vessel (to a distance of 7,500 yards) which is properly displaying navigational lights, or which would preclude a vessel from observing the red range flags or lights.

(2725) (6) The regulations in this section shall be enforced by the Commanding Officer, Fleet Combat Training Center, Atlantic, Dam Neck, Virginia Beach, Virginia, and other such agencies as he/she may designate.

**§334.390 Atlantic Ocean south of entrance to Chesapeake Bay; firing range.**

(2726) (a) The danger zone. A sector extending seaward for a distance of 12,000 yards between two radial lines bearing 030° True and 083° True, respectively, from a point on the shore at 36°46'48"N., 75°57'24"W.; and an adjacent sector extending seaward for a distance of 15 nautical miles between two radial lines bearing 083° True and 150° True, respectively, from the same shore position.

(2727) (b) The regulations. (1) Vessels shall proceed through the area with caution and shall remain therein no longer than necessary for purposes of transit.

(2728) (2) When firing is in progress during daylight hours, red flags will be displayed at conspicuous locations on the beach. When firing is in progress during periods of darkness, red flashing lights will be displayed from conspicuous locations on the beach which are visible from the water a minimum distance of four (4) nautical miles.

(2729) (3) Firing on the ranges will be suspended as long as any vessel is within the danger zone.

(2730) (4) Lookout posts will be manned by the activity or agency operating the firing range at the Fleet Combat Center, Atlantic, Dam Neck, Virginia Beach, Virginia. After darkness, night vision systems will be utilized by lookouts to aid in locating vessels transiting the area.

(2731) (5) There shall be no firing on the range during periods of low visibility which would prevent the recognition of a vessel (to a distance of 7,500 yards) which is properly displaying navigation lights, or which would preclude a vessel from observing the red range flags or lights.

(2732) (6) The regulations in this section shall be enforced by the Commander, Naval Air Force, U.S. Atlantic Fleet/ Commander, Fleet Air Norfolk, Norfolk, Va., and such agencies as he may designate.

**§334.400 Atlantic Ocean south of entrance to Chesapeake Bay off Camp Pendleton, Virginia; naval restricted area.**

(2733) (a) The area. Beginning at a point on the shore at Camp Pendleton at

(2734) 36°48'19"N, 75°57'49"W; thence easterly 200 yards to

(2735) 36°48'20"N, 75°57'42"W; thence northerly 400 yards to

(2736) 36°48'32"N, 75°57'45"W: thence westerly 200 yards to

(2737) 36°48'31"N, 75°57'53"W; and thence southerly 400 yards along the shore to the point of beginning.

(2738) (b) The regulations. (1) Persons or vessels, other than those vessels owned and operated by the United States shall not enter the area except by permission of the Commanding Officer, U.S. Naval Amphibious Base, Little Creek, Norfolk, Virginia.

(2739) (2) This section shall be enforced by the Commanding Officer, U.S. Naval Amphibious Base, Little Creek, Norfolk, Virginia, and such agencies as he may designate.

**§334.410 Albemarle Sound, Pamlico Sound, and adjacent waters, N.C.; danger zones for naval aircraft operations.**

(2740) (a) Target areas–(1) North Landing River (Currituck Sound). The waters of North Landing River within a radius of 1,000 yards from a target located at latitude 36°31'00", longitude 76°01'40".

(2741) (2) Northern part of Currituck Sound. Beginning at a point bearing **65°30'**, 1,025 yards, from Currituck Sound Light 69; thence **86°**, 6,000 yards; thence **193°**, 4,425 yards; thence **267°30'**, 2,775 yards; and thence to the point of beginning. The target is located at latitude 36°27'16", longitude 75°56'30".

(2742) Note: All bearings in this section are referred to true meridian.

(2743) (b) Target and bombing area along south shore of Albemarle Sound. The area. Beginning at

(2744) 36°00'43", 76°19'20"; thence to

(2745) 36°02'40", 76°04'26", thence to

(2746) 36°00'12", 76°04'26"; thence to

(2747) 35°59'35", 76°19'20", and thence to the point of beginning. This area is divided into three subareas A, B, and C as follows: Area A, beginning at

(2748) 36°00'43", 76°19'20"; thence to

(2749) 36°01'20", 76°14'30"; thence to

(2750) 35°59'45", 76°14'30"; thence to

(2751) 35°59'35", 76°19'20", and thence to the point of beginning. Area B, beginning at

(2752) 36°01'20", 76°14' 30"; thence to

(2753) 36°02'18", 76°07'15"; thence to

(2754) 36°00'05", 76°07'15"; thence to

(2755) 35°59'45", 76°14'30"; and thence to the point of beginning. Area C, beginning at

(2756) 36°02'18", 76°07'15"; thence to

(2757) 36°02'40", 76°04'26"; thence to

(2758) 36°00'12", 76°04'26"; thence to

(2759) 36°00'05", 76°07'15"; and thence to the point of beginning.

(2760) (c) Naval Aviation Ordnance test area in Pamlico Sound in vicinity of Long Shoal. A circular area with radius of one and one-half miles having its center at latitude 35°32'18", longitude 75°40'39".

(2761) (d) The regulations–(1) Target areas. The area described in paragraph (1)(a) of this section will be used as a dive bombing target by naval aircraft. In peacetime, munitions will be limited to miniature bombs which contain only small explosive charges for producing smoke puffs to mark points of impact. All operations will be conducted during daylight hours, and the area will be open to navigate at night. No persons or vessels shall enter this area during the hours of daylight without special permission from the enforcing agency. The area will be patrolled and vessels will be warned not to enter. "Buzzing" by plane will warn vessels that they are in a danger zone, and upon being so warned vessels which have inadvertently entered the area shall immediately leave the area.

(2762) (2) Target and bombing area. The area described in paragraph (b) of this section will be used as a target and bombing area for both day and night operations. Dummy ammunition, waterfilled or smoke bombs and inert rockets will be used, except during wartime when live ammunition, bombs and rockets may be used. The area will be open to navigation except for periods when ordnance exercises are being conducted by naval aircraft. In area B described in paragraph (b) of the section the placing of nets, traps, buoys, pots, fishponds, stakes, or other equipment which may interfere with target vessels operating in the area shall not be permitted. The area will be patrolled and persons and vessels shall clear the area under patrol upon being warned by the surface patrol craft or when "buzzed" by patrolling aircraft. As a further means of warning vessels of naval aircraft operations in the area described in paragraph (b) of this section, a cluster of flashing red lights at night and a large red flag by day will be displayed from the range observation tower located in the approximate center of the shore side of this area.

(2763) (3) Naval Aviation Ordnance test area. The area described in paragraph (c) of this section shall be closed to persons and navigation except for such military personnel and vessels as may be directed by the enforcing agency to enter on assigned duties.

(2764) (4) Enforcing agency. The regulations in this section shall be enforced by the Commander, Naval Air Force, U.S. Atlantic Fleet, and such agencies as he/she shall designate.

**§334.412 Albermarle Sound, Pamlico Sound, Harvey Point and adjacent waters, NC; restricted area.**

(2765) (a) The area. Beginning on the north shore of Albemarle Sound and the easternmost tip of Harvey Point; thence southeasterly to Daybeacon 3; thence southeasterly to

(2766) 36°03'06"N., 76°16'43"W.; thence southwesterly to

(2767) 36°02'18"N., 76°19'30"W.; thence northwesterly to

(2768) 36°04'18"N., 76°20'20"W.; thence 23°5' True to the shore; and thence northeasterly along the shore to the point of beginning.

(2769) (b) The regulations. The restricted area described in this section is the inactive Harvey Point target range which was disestablished as a danger zone. The area will be open to public access for recreational and commercial uses, except that dredging, clamming, crabbing, seining, and anchoring of all vessels and any other activity which could result in disturbing or penetrating the bottom is prohibited.

(2770) (c) Enforcing agency. The regulations in this section shall be enforced by the Commander, Naval Air Force, U.S. Atlantic Fleet, and such agencies as he/she shall designate.

**§334.420 Pamlico Sound and adjacent waters, N.C.; danger zones for Marine Corps operations.**

(2771) (a) Bombing and rocket firing area in Pamilico Sound in vicinity of Brant Island–(1) The area. The waters within a circular area with a radius of 3.0 statute miles having its center on the southern side of Brant Island at latitude 35°12'30", longitude 76°26'30".

(2772) (2) The regulations. The area shall be closed to navigation and personnel at all times except for vessels engaged in operational and maintenance work as directed by the enforcing agency. Prior to bombing or firing operations the area will be "buzzed" by plane. Upon being so warned vessels working in the area shall leave the area immediately.

(2773) (b) Bombing, rocket firing, and strafing areas in Pamlico Sound and Neuse River–(1) The areas. (i) The

waters within a circular area with a radius of 1.8 statute miles having its center at

(2774) 35°02'12"N., 76°28'00"W.

(2775) (ii) The waters within a circular area with a radius of 0.5 statute mile having its center at

(2776) 35°04'12"N., 76°28'24"W.

(2777) (iii) The waters within a circular area with a radius of 0.5 statute mile having its center at

(2778) 35°01'42"N., 76°25'48"W.

(2779) (iv) The waters within a circular area with a radius of 0.5 statute mile having its center at

(2780) 34°58'48"N., 76°26'12"W.

(2781) (v) The waters within a circular band with an inner radius of 1.8 statute miles and an outer radius of 2.5 statute miles having its center at 35°02'12"N., 76°28'00"W.

(2782) (2) The regulations. (i) The area described in paragraph (b)(1) of this section will be used as bombing, rocket firing, and strafing areas. Live and dummy ammunition will be used. The area shall be closed to navigation and all persons at all times except for such vessels as may be directed by the enforcing agency to enter on assigned duties. The area will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the area. Vessels or personnel which have inadvertently entered the danger zone shall leave the area immediately upon being so warned.

(2783) (ii) The areas described in paragraphs (b)(1)(ii), (iii) and (iv) of this section shall be used for bombing, rocket firing, and strafing areas. Practice and dummy ammunition will be used. All operations will be conducted during daylight hours, and the areas will be open to navigation at night. No vessel or person shall enter these areas during the hours of daylight without special permission from the enforcing agency. The areas will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the areas. Vessels or personnel which have inadvertently entered the danger zones shall have leave the area immediately upon being warned.

(2784) (iii) The areas described in paragraph (b)(1)(v) of this section shall be used as a strafing area. Practice and dummy ammunition will be used. Operations will be conducted on five consecutive days (Monday through Friday) per month during the months of February through November between the hours of 4 p.m. to 11 p.m. The block training dates will be scheduled two weeks in advance of the actual training start date. Marine Corps Air Station Cherry Point will have a call-in number for public use to provide information on the current use of the training area. The Notification to Mariners System will also be utilized to inform the public on the status of the training area. No vessel or person shall enter the area during the scheduled block training session except for such vessels as may be directed by the enforcing agency to enter on assigned duties. The area will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the area. Vessels or personnel which have inadvertently entered the danger zone shall leave the area immediately upon being so warned.

**§334.430 Neuse River and tributaries at Marine Corps Air Station Cherry Point, North Carolina; restricted area and danger zone.**

(2785) (a) The restricted area. That portion of Neuse River within 500 feet of the shore along the reservation of the Marine Corps Air Station, Cherry Point, North Carolina, extending from the mouth of Hancock Creek to a point approximately 6,800 feet west of the mouth of Slocum Creek, and all waters of Hancock and Slocum Creeks and their tributaries within the boundaries of the reservation.

(2786) (b) The danger zone. The waters within an area beginning at

(2787) 34°55'24.3"N., 76°51'11.6"W.; thence northeasterly across Hancock Creek to

(2788) 34°55'30.9"N., 76°50'59.5"W.; continuing northeasterly to

(2789) 34°56'00.2"N., 76°50'06.3"W.; thence northwesterly to the Neuse River shoreline at

(2790) 34°56'13.1"N., 76°50'28.3"W.; continuing northwesterly to

(2791) 34°56'35.8"N., 76°51'07.8"W.; thence southwesterly along the shorelines to

(2792) 34°56'06.4"N., 76°51'32.7".; thence southeasterly along Hancock Creek shoreline to the point of origin.

(2793) (c) The regulations. (1) Except in cases of extreme emergency, all persons or vessels, other than those operated by the United States Navy or United States Coast Guard, are prohibited from entering the restricted area without prior permission of the enforcing agency.

(2794) (2) Entry points into the danger zone will be prominently marked with signage indicating the boundary of the danger zone.

(2795) (3) Firing will take place both day and night at irregular periods throughout the year. Appropriate warnings will be issued through official government and civilian channels servicing the region. Such warnings will specify the time and duration of operations and give such other pertinent information as may be required in the interest of safety. Upon completion of firing or if the schedules firing is cancelled for any reason, the warning signals marking the danger zone will be removed.

(2796) (4) Except as otherwise provided in this section the danger zone will be open to general public access. Vessels, watercraft, and other vehicles may proceed through the danger zone.

(2797) (5) The regulation in this section shall be enforced by the Commanding Officer, Marine Corps Air Station Cherry Point, North Carolina, and/or persons or agencies as he/she may designate.

**§334.440 New River, N.C., and vicinity; Marine Corps Firing Ranges.**

(2798) (a) Atlantic Ocean east of New River Inlet. The waters of the Atlantic Ocean within a sector bounded on the north by a line bearing 105° from

(2799) 34°37'25"N., 77°10'35"W.; on the east and south by the arc of a circle having a radius of 25,000 yards centered at

(2800) 34°34'15"N., 77°16'10"W.; on the west by a line bearing 205° from

(2801) 34°32'37"N., 77°18'34"W., and on the northwest by the shore.

(2802) Note: All bearings in this section are referred to true meridian.

(2803) (b) New River. The firing ranges include all waters to the high waterline within eight sections described as follows:

(2804) (1) Trap Bay Sector. Bounded on the south by a line running from Cedar Point 280° to New River Light 70, thence 254° to Hatch Point; and on the northwest by a line running from Wilkins Bluff 232° to Hall Point.

(2805) (2) Courthouse Bay Sector. Bounded on the southeast by the northwest boundary of the Traps Bay Sector and on the west by Sneads Ferry Bridge.

(2806) (3) Stone Bay Sector. Bounded on the east by Sneads Ferry Bridge and on the north by a line running from a point on the east side of New River opposite the head of Sneads Creek 291°30' to the south side of the mouth of Stone Creek.

(2807) (4) Stone Creek Sector. The northwest portion of Stone Bay, bounded on the south by the north boundary of the Stone Bay Sector; and on the east by longitude 77°26'.

(2808) (5) Grey Point Sector. Bounded on the south by the north boundary of the Stone Bay Sector; on the west by the east boundary of the Stone Creek Sector; and on the northeast by a line running from Town Point 113° to the south side of the mouth of French Creek.

(2809) (6) Farnell Bay Sector. Bounded on the south by the northeast boundary of the Grey Point Sector, including French Creek up to longitude 77°20'; and on the north by a line running from Hadnot Point 285°30' to Holmes Point.

(2810) (7) Morgan Bay Sector. Bounded on the south by the north boundary of the Farnell Bay Sector, including Wallace Creek up to longitude 77°22'; and on the northwest by a line running from Paradise Point 243°30' to Ragged Point.

(2811) (8) Jacksonville Sector. Bounded on the southeast by the northwest boundary of the Morgan Bay Sector, including Southwest Creek up to the point where it narrows to 200 feet in width, and Northeast Creek up to longitude 77°23'30"; and on the north by an east-west line passing through New River Day Beacon 41.

(2812) (c) The regulations. (1) No person shall enter or remain in the water in any closed section after notice of firing therein has been given. Sailing vessels and any water-craft having a speed of less than 5 knots shall keep clear of any closed sector at all times after notice of firing therein has been given. Vessels propelled by mechanical power at a speed greater than 5 knots may enter the sectors without restriction except when the firing signals are being displayed. When these signals are displayed, vessels shall clear the closed sectors immediately and no vessels shall enter such sectors until the signals indicate that firing has ceased.

(2813) (2) Firing will take place both day and night at irregular periods throughout the year. Insofar as training requirements will permit, underwater explosions will be restricted in the Atlantic Ocean sector (described in paragraph (a) of this section) during the periods May 1 and June 5, inclusive, and November 22 to December 15, inclusive.

(2814) (3) Two days in advance of the day when firing in any sector except the Stone Creek sector is scheduled to begin, the enforcing agency will warn the public of the contemplated firing, stating the sector or sectors to be closed, through the public press and the United States Coast Guard and, in the case of the Atlantic Ocean sector, the Cape Fear Pilots Association at Southport, and the Pilots Association at Morehead City, North Carolina. The Stone Creek sector may be closed without advance notice.

(2815) (4) Towers at least 50 feet in height will be erected near the shore at the northeast and southwest limits of the Atlantic Ocean sector, and towers at least 25 feet in height will be erected near the easterly shore at the upper and lower limits of each New River sector. On days when firing is to take place a red flag will be displayed on each of the towers marking the sector or sectors to be closed. These flags will be displayed by 8:00 a.m., and will be removed when firing ceases for the day. Suitable range markers will be erected indicating the bearings of the north and west limits of the Atlantic Ocean sector.

(2816) (5) During the night firing, red lights will be displayed on the towers; and, in the case of the Atlantic Ocean sector, searchlights will be employed as barrier lights to enable safety observers to detect vessels which may attempt to enter the danger zone.

(2817) (6) No person shall enter or remain within a 2-acre area surrounding a waterborne refueling training operation, in either the Grey Point Sector, Farnell Bay Sector, or Morgan Bay Sector as described in paragraph (b) of this section, for the duration of the training operation after a notice to conduct a waterborne refueling training operation has been published in the local notice to mariners and has been broadcast over the Marine Band radio network. The 2-acre area surrounding a waterborne refueling training operation will be patrolled and persons and vessels shall clear the area under patrol upon being warned by the surface patrol craft.

(2818) (d) Target and bombing area in Atlantic Ocean in vicinity of Bear Inlet–(1) The water within an area described as follows: Beginning at

(2819) 34°37'32"N., 77°12'03"W.; thence to

(2820) 34°36'58"N., 77°11'25"W.; thence to

(2821) 34°37'44"N., 77°10'35"W.; thence to
(2822) 34°32'27"N., 77°06'30"W.; thence to
(2823) 34°28'55"N., 77°15'05"W.; thence to
(2824) 34°34'50"N., 77°15'10"W.; thence to the point of beginning.
(2825) (2) The regulations. Vessels may proceed along established waterways except during military training periods. Warning of military training periods will be given through Notices to Mariners and by displaying one hour prior to commencement a red danger streamer during daylight hours or a red light at night, from a flag pole 40 feet in height located at the U.S. Coast Guard Life Boat Station, Bogue Inlet, Swansboro, North Carolina, and from observation tower 40 feet in height located at the northern end of Onslow (Hurst) Beach. Prior to bombing and firing operations, the area will be searched by plane. Watercraft in the area will be warned by aircraft "buzzing" of the impending target practice. Upon being so warned, all persons and vessels shall leave the area as quickly as possible by the most direct route.
(2826) (e) Inland waters in the Browns Inlet area between Bear Creek and Onslow Beach Bridge over the Atlantic Intracoastal Waterway–(1) The area. Navigable waters between Bear Creek and Onslow Beach Bridge to include all inlets, streams, bays, and water therein contained, bounded on the north by Bear Creek, on the east and south by the Atlantic Ocean, to the meridian 77°16'20"; thence by this meridian to latitude 34°34'31"; and thence by a line bearing 44° from this point until the line intersects Bear Creek.
(2827) (2) The regulations. (i) No person shall enter or remain in the waters of this area due the possibility of unexploded projectiles.
(2828) (ii) Vessels may proceed through the Atlantic Intracoastal Waterway in the area without stopping except in cases of extreme emergencies.
(2829) (iii) All navigable waters in the area between the south bank of Bear Creek and the north bank of the north connecting channel between the Atlantic Intracoastal Waterway and Browns Inlet shall be closed to navigation at all times. There are highly sensitive unexploded projectiles within the limits of this area.
(2830) (iv) Vessels may proceed through the north connecting channel and the south connecting channel (Banks Channel) in the area between the Atlantic Intracoastal Waterway and Browns Inlet to the Atlantic Ocean without stopping during periods of nonmilitary use. Caution should be used when proceeding through these waters due to the presence of unexplored projectiles lying in this area.
(2831) (v) Navigable waters in the area between the south connecting channel (Banks Channel) leading to Browns Inlet and Onslow Beach Bridge on both sides of the Atlantic Intracoastal Waterway are open to unrestricted navigation during periods of nonmilitary use. An unknown element of risk exists in this area due to the possible presence of unexploded projectiles.
(2832) (vi) Warning of impending military use of the area will be contained in weekly Notice to Mariners.
(2833) (vii) Vessels having specific authority from the Commanding General, Marine Corps Base, Camp Lejeune, North Carolina, may enter the area.
(2834) (f) Enforcing agency. The regulations of this section shall be enforced by the Commanding General, Marine Corps Base, Camp Lejeune, North Carolina, or his authorized representatives.

**§334.450 Cape Fear River and tributaries at Sunny Point Army Terminal, Brunswick County, North Carolina; restricted area.**

(2835) (a) The area. That portion of Cape Fear River due west of the main ship channel extending from U.S. Coast Guard buoy No. 35 (34°02'03.218"N., 77°56'28.755"W.) at the north approach channel to Sunny Point Army Terminal to U.S. Coast Guard buoy No. 27 (33°58'16.12"N., 77°56'59.736"W.) at the south approach channel to Sunny Point Army Terminal and all waters of its tributaries therein.
(2836) (b) Except in cases of extreme emergency, all persons or vessels of any size or rafts other than those authorized by the Commander, Sunny Point Army Terminal, are prohibited from entering this area without prior permission of the enforcing agency.
(2837) (c) The regulations in this section shall be enforced by the Commander, Sunny Point Army Terminal, Southport, North Carolina, and such agencies as he may designate.

**§334.460 Cooper River and tributaries at Charleston, SC.**

(2838) (a) The areas:
(2839) (1) That portion of the Cooper River beginning on the west shore at
(2840) 32°52'37"N., 79°58'06"W.; thence to
(2841) 32°52'37"N., 79°58'03"W.; thence to
(2842) 32°52'27"N., 79°68'01"W.; thence to
(2843) 32°52'06"N., 79°57'54"W.; at the west channel edge, thence to
(2844) 32°51'48.5"N., 79°57'41.5"W.; thence to
(2845) 32°51'33"N., 79°57'27"W.; thence to
(2846) 32°51'19"N., 79°57'05"W.; thence to
(2847) 32°51'01"N., 79°56'07"W.; thence to
(2848) 32°50'50"N., 79°56'02"W.; thence to
(2849) 32°50'48"N., 79°56'07"W.; on the west shore, thence north along the shoreline including the reach of Noisett Creek to the eastern boundary of the Navy Base to the beginning point at the west shore at
(2850) 32°52'37"N., 79°58'06"W.
(2851) (2) The reach of Shipyard Creek upstream from a line 300 feet from and parallel to the upstream limit of the Improved Federal Turning Basin.
(2852) (3) That portion of the interior Shipyard Creek commencing at 32°49'50"N., 79°56'10"W., being a point at the southern tip of the shoreline where the northern shore of Shipyard Creek joins the Cooper River, thence

going along the northern shore of Shipyard Creek to the southern portion of the existing restricted area in paragraph (a)(2) of this section; thence along said line being 300 feet from and parallel to the upstream limit of the Improved Federal Turning Basin for a distance of 15 feet, thence to the most northerly point of the Improved Federal Turning Basin, thence along the northeastern edge for the Improved Turning Basin to the northeast edge of the main channel of Shipyard Creek to a point lying in the mouth of Shipyard Creek where it reaches the Cooper River at the northeast edge of the main channel of the Shipyard Creek and 79°56'10"W., thence to the beginning point at 32°49'50"N., 79°56'10"W.

(2853) (4) That portion of the Cooper River surrounding Pier Yankee beginning at a point on the west shore of the Cooper River at

(2854) 32°50'00"N., 79°56'10.5"W.; thence to

(2855) 32°50'00"N., 79°55'55"W.; thence to

(2856) 32°49'54"N., 79°55'55"W.; thence to

(2857) 32°49'50"N., 79°56'10"W.; thence north along the shore to the beginning point at the west shore of the Cooper River at

(2858) 32°50'00"N., 79°56'10.5"W.

(2859) (5) That portion of the Cooper River beginning on the west channel edge at

(2860) 32°52'06"N., 79°57'54"W.; thence to the east shore at

(2861) 32°52'13"N., 79°57'30"W.; thence along the eastern shore to

(2862) 32°51'30"N., 79°56'15.5"W.; thence to

(2863) 32°51'01"N., 79°55'50"W.; thence to

(2864) 32°50'52"N., 79°56'03.5"W.; thence to

(2865) 32°51'01"N., 79°56'07"W.; thence to

(2866) 32°51'19"N., 79°57'05"W.; thence to

(2867) 32°51'33"N., 79°57'27"W.; thence to

(2868) 32°51'48.5"N., 79°57'41.5"W.; thence to the beginning point at the west channel edge at

(2869) 32°52'06"N., 79°57'54"W.

(2870) (6) That portion of the Cooper River beginning on the west shore at

(2871) 32°50'48"N., 79°56'07"W.; thence to

(2872) 32°50'50"N., 79°56'02"W.; thence to

(2873) 32°50'32"N., 79°55'55"W.; thence to

(2874) 32°50'00"N., 79°55'55"W.; thence to

(2875) 32°50'00"N., 79°56'10.5"W.; on the west shore, thence along the shoreline to the beginning point on the west shore at

(2876) 32°50'48"N., 79°56'07"W.

(2877) (7) That portion of Goose Creek beginning at a point on the west shore of Goose Creek at its intersection with the Cooper River at

(2878) 32°54'32"N., 79°57'04"W.; thence proceeding along the western shoreline of Goose Creek for approximately 6.9 miles to its intersection with the Seaboard Coastline Railroad at

(2879) 32°55'34"N., 79°59'30"W.; thence in a northwesterly direction along the Seaboard Coastline Railroad to

(2880) 32°55'37"N., 79°59'32"W.; thence proceeding along the eastern shoreline of Goose Creek in a southeasterly direction to

(2881) 32°54'33"N., 79°56'59"W.; thence back to

(2882) 32°54'32"N., 79°57'04"W.

(2883) (8) That portion of the Cooper River, extending from the mouth of Goose Creek, to a point approximately five-hundred (500) yards north of Red Bank Landing, a distance of approximately 4.8 miles and, the tributaries to the Cooper River within the area enclosed by the following arcs and their intersections:

(2884) (i) Radius=8,255' center of radius,

(2885) 32°55'45"N., 79°45'23"W.

(2886) (ii) Radius=3,790' center of radius,

(2887) 32°55'00"N., 79°55'41"W.

(2888) (iii) Radius=8,255' center of radius,

(2889) 32°55'41"N., 79°56'15"W.

(2890) (iv) Radius=8,255' center of radius,

(2891) 32°56'09"N., 79°56'19"W.

(2892) (9) That portion of the Cooper River beginning on the western shoreline at

(2893) 32°54'37"N., 79°57'01"W.; thence proceeding along the western shoreline in a northerly direction for approximately 4.8 miles to

(2894) 32°57'32"N., 79°55'27"W.; thence in a southerly direction for approximately 100 yards to

(2895) 32°57'29"N., 79°55'23"W., thence in a southwesterly direction, paralleling the shoreline to

(2896) 32°56'48"N., 79°55'48"W.; thence in an easterly direction for approximately 50 yards to

(2897) 32°56'49"N., 79°55'46"W., thence in a southerly direction, paralleling the shoreline, to

(2898) 32°56'40"N., 79°55'40"W.; thence in a westerly direction for approximately 50 yards to

(2899) 32°56'39"N., 79°55'42"W.; thence in a southwesterly direction, paralleling the shoreline, to

(2900) 32°56'15"N., 79°56'07"W.; thence in a southwesterly direction to

(2901) 32°56'05"N., 79°56'17"W.; thence in a westerly direction, for approximately 50 yards to

(2902) 32°56'05"N., 79°56'19"W.; thence in a southerly direction, paralleling the shoreline to

(2903) 32°55'45"N., 79°56'19"W.; thence in a southwesterly direction to

(2904) 32°55'42"N., 79°56'13"W.; thence in a southeasterly direction, parallel the shoreline, to

(2905) 32°55'18"N., 79°55'55"W.; thence in a southwesterly direction to

(2906) 32°55'16"N., 79°56'00"W.; thence in a southwesterly direction paralleling the shoreline to

(2907) 32°54'35"N., 79°56'57"W., thence back to

(2908) 32°54'37"W., 79°57'01"W.

(2909) (10) That portion of the Cooper River beginning at a point near the center of the Cooper River at

(2910) 32°55'03"N., 79°55'42"W.; thence easterly to

(2911) 32°55'03"N., 79°55'35"W.; thence southerly to

(2912) 32°54'52"N., 79°55'33"W.; thence westerly to

(2913) 32°54'53"N., 79°55'42"W.; thence northerly to

(2914) 32°55'03"N., 79°55'42"W.

(2915) (11) That portion of Foster Creek beginning at a point on the southern shoreline of Foster Creek at its intersection with Back River at

(2916) 32°58'30"N., 79°56'33"W.; thence proceeding along the southern shoreline to the terminus of Foster Creek; thence back down its northern shoreline of Foster Creek

(2917) 32°58'34"N., 79°56'34"W.; thence back to

(2918) 32°58'30"N., 79°56'33"W.

(2919) (12) Danger zone. That portion of Foster Creek beginning at the point of the southern shoreline of an unnamed tributary of Foster Creek at its intersection with Foster Creek at 32°59'16"N., 79°57'23"W.; thence back proceeding along the eastern shoreline to the terminus of the tributary at 32°59'49"N., 79°57'29"W.; thence back down the western shoreline of the unnamed tributary to 32°59'15"N., 79°57'26"W. The waters and associated marshes in this danger zone area are subject to impact by rounds and ricochets originating from a small arms range when firing is in progress.

(2920) (13) Danger Zone. Those portions of unnamed tributaries and associated marshes of Back River and Foster Creek that are generally described as lying south of the main shoreline and extending southward to the northern shoreline of Big Island (U.S. Naval Reservation). Specifically, the area beginning at a point on the main shoreline which is the northern shore of an unnamed tributary of Back River at 32°59'19"N., 79°56'52"W., southwesterly to a point on or near the northern shoreline of Big Island at 32°59'11"N., 79°56'59"W.; thence northwesterly to a point on the main shoreline, which is the northern shore of an unnamed tributary of Foster Creek, at 32°59'16"N., 79°57'11"W.; thence easterly along the main shoreline, which is the northern shore of the unnamed tributaries of Foster Creek and Back River, back to the point of beginning at 32°59'19"N., 79°56'52"W. The waters and associated marshes in this danger zone area are subject to impact by rounds and ricochets originating from a small arms range when firing is in progress.

(2921) (b) The regulations:

(2922) (1) Unauthorized personnel, vessels and other watercraft shall not enter the restricted areas described in paragraphs (a)(1), (a)(2), and (a)(4) of this section at any time.

(2923) (2) Personnel, vessels and other watercraft entering the restricted area described in paragraph (a)(5) of this section, shall proceed at normal speed and under no circumstances anchor, fish, loiter, or photograph until clear of the restricted area.

(2924) (3) Personnel, vessels and other watercraft may be restricted from using any or all of the area described in paragraphs (a)(3) and (a)(6) of this section without first obtaining an escort or other approval from Commander, Naval Base, Charleston, when deemed necessary and appropriately noticed by him/her for security purposes or other military operations.

(2925) (4) Personnel, vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the restricted area described in paragraph (a)(8) of this section shall proceed at normal speed, and under no circumstances anchor, fish, loiter, or photograph in any way until clear of the restricted area.

(2926) (5) Personnel, vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the areas described in paragraphs (a)(9) and (a)(10) of this section are prohibited from entering within one-hundred (100) yards of the west bank of the Cooper River, in those portions devoid of any vessels or man-made structures. In those areas where vessels or man-made structures are present, the restricted area will be 100 yards from the shoreline or 50 yards beyond those vessels or other man-made structures, whichever is the greater. This includes the area in paragraph (a)(10) of this section.

(2927) (6) In the interest of National Security, Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, may at his/her discretion, restrict passage of persons, watercraft and vessels in the areas described in paragraphs (a)(7), (a)(8) and (a)(11) of this section until such time as he/she determines such restriction may be terminated.

(2928) (7) All restricted areas and all danger zones and the approaches leading to the danger zones will be marked with suitable warning signs.

(2929) (8) The regulations described in paragraphs (b)(1), (2) and (3) of this section shall be enforced by Commander, Naval Base, Charleston, and such agencies as he/she may designate.

(2930) (9) The regulations in this section for the danger zones described in paragraphs (a)(12) and (a)(13) of this section and the regulations described in paragraphs (b)(4), (5) and (6) of this section, shall be enforced by the Commanding Officer, Naval Weapons Station Charleston, SC, and such agencies as he/she may designate.

(2931) (10) It is understood that none of the restrictions herein will apply to properly marked Federal vessels performing official duties. It is further understood that Federal employees will not take photographs from within the above described restricted areas.

(2932) (11) The unauthorized entering or crossing of the danger zones described in paragraphs (a)(12) and (a)(13) of this section by all persons, watercraft and vessels is prohibited at all times unless specifically authorized by the Commanding Officer of the U.S. Naval Weapons Station Charleston, SC.

**§334.470 Cooper River and Charleston Harbor, S.C.: restricted areas.**

(2933) (a) The Restricted Areas. (1) Area No. 1 is that portion of the Cooper River beginning near the westerly shore north of Shipyard Creek at

(2934) "a" 32°50'14"N., 79°56'11"W.; thence to

(2935) "b" 32°50'14"N., 79°55'37"W.; thence to
(2936) "c" 32°49'41"N., 79°55'37"W.; thence to
(2937) "d" 32°49'41"N., 79°55'52"W.; thence to
(2938) "e" 32°49'47"N., 79°56'09"W.; and thence returning to
(2939) "a" 32°50'14"N., 79°56'11"W.
(2940) (2) Area No. 2 is that portion of the Cooper River beginning at a point west of Shutes Folly Island at
(2941) "a" 32°46'27"N., 79°55'31"W.; thence to
(2942) "b" 32°46'39"N., 79°55'11"W.; thence to
(2943) "c" 32°46'39"N., 79°54'51"W.; thence to
(2944) "d" 32°46'28"N., 79°54'47"W.; thence to
(2945) "e" 32°46'17"N., 79°54'51"W.; thence to
(2946) "f" 32°46'17"N., 79°55'11"W.; and thence returning to
(2947) "a" 32°46'27"N., 79°55'31"W.
(2948) (b) The regulations. (1) There shall be no introduction of magnetic material or magneto-electric field sources within the area.
(2949) (2) No person shall enter or remain in the water within the restricted areas. Ships transiting the areas will proceed without delay and shall not, except as noted below, lie to or anchor within the areas.
(2950) (i) Pleasure craft under 50 feet LOA will not normally be affected; however, such craft may be required to stand clear upon notification, in the event they are interfering with range operation.
(2951) (ii) Anchored commercial ships will be allowed to swing into the restricted area at the Shutes Folly Island site when the range is not in use. Shutes Folly Island Range usage will be indicated by range house display of the international DELTA signal flag.
(2952) (iii) This section shall be enforced by the Commandant, Sixth Naval District, Charleston, South Carolina, and such agencies as he may designate.

### §334.475 Brickyard Creek and tributaries and the Broad River at Beaufort, SC.

(2953) (a) The areas: (1) That section of the Atlantic Intracoastal Waterway (AIWW), beginning at the confluence of the AIWW and Albergottie Creek, being that point on the west side of the AIWW navigational channel at 32°27'25"N., 80°41'16"W., thence continuing in a northerly direction along the western channel edge of the AIWW to
(2954) 32°27'32"N., 80°41'20"W., thence to
(2955) 32°27'36"N., 80°41'20"W., thence to
(2956) 32°27'39"N., 80°41'20"W., thence to
(2957) 32°27'50"N., 80°41'24"W., thence to
(2958) 32°28'12"N., 80°41'27"W., thence to
(2959) 32°28'15"N., 80°41'27"W., thence to
(2960) 32°28'30"N., 80°41'31"W., thence to
(2961) 32°28'40"N., 80°41'31"W., thence to
(2962) 32°28'44"N., 80°41'27"W., thence to
(2963) 32°28'55"N., 80°41'31"W., thence to
(2964) 32°29'34"N., 80°41'24"W., thence to
(2965) 32°29'38"N., 80°41'16"W., thence to
(2966) 32°29'49"N., 80°41'31"W. on the east shore of the Marine Corps Air Station (MCAS), at its intersection with the Station's property boundary line, thence heading south along the eastern shoreline of the MCAS to a point along the northern shoreline of Mulligan Creek at 32°29'24"N., 80°41'52"W., thence southwesterly across Mulligan Creek to the shoreline of the MCAS, at 32°29'16"N., 80°42'14"W., thence continuing along the eastern shoreline to its intersection with Albergottie Creek, at 32°27'14"N., 80°42'03"W., thence continuing along the southern shoreline of the MCAS to the intersection of Salt Creek with U.S. Highway 21, at 32°27'00"N., 80°43'55"W., thence back down the southern creek edge of Salt and Albergottie Creeks, thence back to the starting point at the confluence of Albergottie Creek and the AIWW, at 32°27'25"N., 80°41'16"W. Note: Situated within the boundaries of the area described in paragraph (a)(1) of this section are the areas described in paragraphs (a)(2), (a)(3), (a)(4), (a)(5) and the danger zone described in paragraph (a)(10) of this section. Since additional regulations apply to these sections, they are excluded from the area described in paragraph (a)(1) given that they are more strictly regulated.
(2967) (2) That portion of Mulligan Creek located on the southern side of the MCAS runway, beginning at a point on the eastern shoreline of Mulligan Creek at 32°29'24"N., 80°41'52"W., thence southwesterly across Mulligan Creek to the shoreline of the MCAS at 32°29'16"N., 80°42'14"W., thence continuing in a northerly direction along the eastern shoreline of the MCAS, thence in a northeasterly direction along the southern side of the MCAS runway, thence back down the eastern shoreline of Mulligan Creek to its starting point at 32°29'24"N., 80°41'52"W.
(2968) (3) That area adjacent to the Atlantic Intracoastal Waterway (AIWW), situated within the boundaries of the area described in paragraph (a)(1) of this section, beginning at a point on the west side of the AIWW navigational channel at 32°27'50"N., 80°41'24"W., thence continuing in a northerly direction along the western channel edge of the AIWW to 32°28'04"N., 80°41'27"W., thence turning in a westerly direction and continuing to 32°28'04"N., 80°42'00"W., on the eastern shore of the MCAS, thence heading in a southward direction along the shoreline to 32°27'50"N., 80°41'52"W., thence turning in a westerly direction and returning back to the starting point on the west edge of the AIWW channel at 32°27'50"N., 80°41'24"W.
(2969) (4) That area contiguous to Albergottie Creek, situated within the boundaries of the area described in paragraph (a)(1) of this section, beginning at a point on the southern shoreline of the MCAS at 32°27'07"N., 80°42'28"W., thence continuing in a northerly direction along the shoreline, up to the shoreline adjacent to Kimes Avenue and back down the opposite shoreline in a southerly direction to a point at 32°27'03"N., 80°42'57"W., thence turning in an easterly direction

and returning back to the starting point at 32°27'07"N., 80°42'28"W.

(2970) (5) That area contiguous to Salt Creek, situated within the boundaries of the area described in paragraph (a)(1) of this section, beginning at a point on the southern shoreline of the MCAS and the edge of Salt Creek at 32°27'07"N., 80°43'26"W., thence continuing in a northerly direction along the shoreline of the MCAS and continuing on to its intersection again with Salt Creek and adjacent to U.S. Highway 21, thence turning and continuing along the shoreline of Salt Creek in an easterly direction and returning back to the starting point at 32°27'07"N., 80°43'26"W.

(2971) (6) That section of the Atlantic Intracoastal Waterway (AIWW), beginning at the confluence of the AIWW and Albergottie Creek, being that point on the west side of the AIWW navigational channel at 32°27'25"N., 80°41'16"W., thence continuing in a northerly direction along the western channel edge of the AIWW to

(2972) 32°27'32"N., 80°41'20"W., thence to

(2973) 32°27'36"N., 80°41'20"W., thence to

(2974) 32°27'39"N., 80°41'20"W., thence to

(2975) 32°27'50"N., 80°41'24"W., thence to

(2976) 32°28'12"N., 80°41'27"W., thence to

(2977) 32°28'15"N., 80°41'27"W., thence to

(2978) 32°28'30"N., 80°41'31"W., thence to

(2979) 32°28'40"N., 80°41'31"W., thence to

(2980) 32°28'44"N., 80°41'27"W., thence to

(2981) 32°28'55"N., 80°41'31"W., thence to

(2982) 32°29'34"N., 80°41'24"W., thence to

(2983) 32°29'38"N., 80°41'16"W., thence crossing the AIWW channel in a southeasterly direction to a point on the east side of the AIWW and the marsh edge of bank, at 32°29'34"N., 80°41'13"W., thence southward along the edge of the AIWW and the waterward marsh edge of Ladies Island to a point on the west shoreline of Pleasant Point Peninsular, at 32°27'28"N., 80°41'13"W., thence back across the AIWW navigational channel to the point of beginning, at 32°27'25"N., 80°41'16"W.

(2984) (7) That portion of Mulligan Creek, beginning at its northern mouth and confluence with McCalleys Creek, at 32°30'28"N., 80°41'34"W., thence proceeding in a westerly direction along the northern shoreline of Mulligan Creek to its intersection with Perryclear Drive bridge crossing, at 32°30'18"N., 80°42'00"W., thence back down the southern shoreline to its starting point at McCalleys Creek, at 32°30'28"N., 80°41'34"W.

(2985) (8) That portion of Mulligan Creek, beginning at the Perryclear Drive bridge crossing, at 32°30'18"N., 80°42'00"W., thence proceeding in a southwesterly direction along the northern shoreline of Mulligan Creek to the terminus of its western tributary, thence back down its southern shoreline to the terminus of its eastern terminus located at the northern end on the MCAS runway, at 32°29'42"N., 80°42'25"W., thence back down the southern shoreline to its starting point at Perryclear Drive bridge crossing, at 32°30'18"N., 80°42'00"W.

(2986) (9) (Laurel Bay Military Family Housing Area, Broad River) That section of the Broad River, beginning on the western shoreline of Laurel Bay Military Family Housing Area boundary line, at 32°26'56"N., 80°48'10"W., thence proceeding in a northerly direction along the shoreline to the housing area northern boundary line at 32°28'15"N., 80°48'36"W., thence proceeding a distance of 500 feet into the Broad River, at 32°28'15"N., 80°48'39"W., thence proceeding in a southerly direction and maintaining a distance of 500 feet from the shoreline to 32°26'56"N., 80°48'18"W., thence back towards the shoreline to the point of beginning at 32°26'56"N., 80°48'10"W.

(2987) (10) (Danger Zone). That portion of Mulligan Creek located adjacent to the MCAS firing range and the restricted area described in paragraph (a)(2) of this section, beginning at a point on the western shoreline of Mulligan Creek at 32°29'16"N., 80°42'14"W., thence northeasterly across Mulligan Creek to the opposite shoreline at 32°29'24"N., 80°41'52"W., thence continuing in a southeasterly direction to an upland island bordering the northern shoreline of Mulligan Creek at 32°29'09"N., 80°41'49"W., thence turning in a southwesterly direction and crossing Mulligan Creek to a point on the eastern shoreline of the MCAS at 32°29'06"N., 80°42'07"W., thence continuing along the eastern shoreline of the MCAS to its starting point at 32°29'16"N., 80°42'14"W.

(2988) (b) The regulation: (1) Unauthorized personnel, vessels and other watercraft shall not enter the restricted areas described in paragraphs (a)(2), (a)(3), (a)(4), (a)(5) and (a)(8) of this section at any time.

(2989) (2) The public shall have unrestricted access and use of the waters described in paragraph (a)(6) of this section whenever the MCAS is in Force Protection Condition Normal, Alpha or Bravo. Whenever the facility is in Force Protection Condition Charlie or Delta, personnel, vessels and other watercraft entering the restricted area described in paragraph (a)(6) of this section shall proceed at normal speed and shall under no circumstances anchor, fish, loiter or photograph in any way until clear of the restricted area.

(2990) (3) The public shall have unrestricted access and use of the waters described in paragraphs (a)(1), (a)(7), and (a)(9) of this section whenever the MCAS is in Force Protection Condition Normal Alpha or Bravo. Whenever the facility is in Force Protection Condition Charlie or Delta, personnel, vessels and other watercraft are prohibited from entering the waters described in paragraphs (a)(1), (a)(7), and (a)(9) of this section, unless they first obtain an escort or other approval from the Commander, MCAS, Beaufort, South Carolina.

(2991) (4) Unauthorized personnel, vessels and other watercraft shall not enter the danger zone described in paragraph (a)(10) of this section at any time.

(2992) (5) All restricted areas and danger zones will be marked with suitable warning signs.

(2993) (6) It is understood that none of the restrictions herein will apply to properly marked Federal vessels performing official duties.

(2994) (7) It is further understood that unauthorized personnel will not take photographs from within the above described restricted areas.

(2995) (c) Enforcement: The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding Officer, MCAS Beaufort, or persons or agencies as he/she may authorize including any Federal Agency, State, Local or County Law Enforcement agency, or Private Security Firm in the employment of the facility, so long as the entity undertaking to enforce this Restricted Area has the legal authority to do so under the appropriate Federal, State or local laws.

**§334.480 Archers Creek, Ribbon Creek, and Broad River; U.S. Marine Corps Recruit Depot, Parris Island, South Carolina; danger zones.**

(2996) (a) *The areas*. (1) The danger zone on Archers Creek (between the Broad River and Beaufort River), Ribbon Creek, and the Broad River shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, adjacent to the existing rifle range. This area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the southernmost portion of the area, at

(2997) 32°19'59"N., 80°42'54"W., thence to a point at

(2998) 32°20'05"N., 80°43'16"W., thence to a point at

(2999) 32°21'40"N., 80°44'54"W., thence to a point at

(3000) 32°22'20"N., 80°43'52"W., thence to a point on the shoreline at

(3001) 32°21'34"N., 80°42'48"W., thence follow the mean high water line southwesterly around Horse Island approximately 2.3 nautical miles to a point at

(3002) 32°21'22"N., 80°42'30"W., thence to a point on the shoreline at

(3003) 32°20'56"N., 80°41'50"W., thence follow the mean high water line southwesterly approximately 2.2 nautical miles to terminate at the southernmost portion of the area (the starting point).

(3004) (2) The danger zone on the Broad River shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, adjacent to the existing pistol range. This area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the easternmost portion of the area, at

(3005) 32°19'36"N., 80°42'34"W., thence to a point at

(3006) 32°19'23"N., 80°42'50"W., thence to a point at

(3007) 32°19'06"N., 80°43'31"W., thence to a point at

(3008) 32°19'28"N., 80°43'54"W., thence to a point at

(3009) 32°19'59"N., 80°43'28"W., thence to a point on the shoreline at

(3010) 32°20'10"N., 80°43'10"W., and thence follow the mean high water line southeasterly approximately 0.75 nautical miles to terminate at the easternmost portion of the area (the starting point)

(3011) (b) *The regulations*. (1) All persons, vessels, or other watercraft are prohibited from entering, transiting, anchoring, or drifting within the danger zones described in paragraph (a) of this section when the adjacent rifle or pistol ranges on U.S. Marine Corps Recruit Depot Parris Island are in use.

(3012) (2) Firing over these ranges will normally take place between the hours of 6 a.m. and 5 p.m., Monday through Friday, and from 6 a.m. to 12 p.m. on Saturday, National holidays excepted, and at other times as designated and properly published by the Commanding General, U.S. Marine Corps Recruit Depot Parris Island.

(3013) (3) Warning signs indicating the periods when the rifle range is in use will be posted by the entrances to Archers Creek and Ribbon Creek. In addition, warning signs will be placed along the shoreline on the Broad River near the upstream and downstream boundaries of both the rifle range and the pistol range.

(3014) (4) Warning flags shall be flown from the top of the lookout tower and on the rifle range and pistol range during actual firing. In addition, a sentry lookout will be on duty during actual firing and a patrol boat will be accessible for clearing the area and warning all approaching vessels of the danger zone and the schedule of firing.

(3015) (5) During storms or similar emergencies these areas shall be opened to vessels to reach safety without undue delay for the preservation of life and property.

(3016) (c) *Enforcement*. The regulations in this section shall be enforced by the Commanding General, U.S. Marine Corps Recruit Depot Parris Island and/ or such persons or agencies as he/she may designate.

**§334.490 Atlantic Ocean off Georgia Coast; air-to-air and air-to-water gunnery and bombing ranges for fighter and bombardment aircraft, United States Air Force.**

(3017) (a) –(1) For fighter aircraft. An area approximately 30 miles offshore between Wassaw Sound and Brunswick, Georgia, described as follows: Beginning at

(3018) 31°55'30", 80°24'00"; thence 090° true to longitude 80°16'00"; thence southwesterly to

(3019) 31°10'00", 80°43'00"; thence 270° to longitude 80°51'00"; and then northeasterly to the point of beginning.

(3020) (2) For bombardment aircraft. An area approximately 70 miles off shore between Savannah Beach and Brunswick, Georgia, described as follows: Beginning at

(3021) 32°00'00", 79°43'00"; thence 090° true to longitude 79°07'00"; thence southwesterly to

(3022) 31°10'00", 79°24'00"; thence 270° true to longitude 80°00'00"; and thence northeasterly to the point of beginning.

(3023) (b) The regulations. (1) The danger zones shall be open to navigation except when aerial gunnery or bombing practice is being conducted.

(3024) (2) Prior to conducting each practice, the entire area will be patrolled by aircraft to warn any persons

and watercraft found in the vicinity that such practice is about to take place. The warning will be by "buzzing," (i.e., by flying low over the person or watercraft.) Any person or watercraft shall, upon being so warned, immediately leave the area designated and shall remain outside the area until practice has ceased.

(3025) (3) The regulations in this section shall be enforced by the Commanding Officer, 2d Bombardment Wing, Hunter Air Force Base, Savannah, Georgia, and such agencies as he may designate.

**§334.500 St. Johns River, Atlantic Ocean, Sherman Creek; restricted areas and danger zone, Naval Station Mayport, Florida.**

(3026) (a) The areas. (1) The St. Johns River restricted area and the Atlantic Ocean restricted area described in paragraphs (a)(2) and (a)(3) of this section, respectively, are contiguous but each area is described separately for clarification.

(3027) (2) St. Johns River restricted area. This restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at

(3028) 30°23'52.97"N., 81°25'36.51"W.; thence to

(3029) 30°23'56.71"N., 81°25'36.51"W.; then the line meanders irregularly, follow the shoreline at a distance of 380 feet seaward from the mean high water line to a point at

(3030) 30°23'54.20"N., 81°24'14.11"W., thence proceed directly to

(3031) 30°23'46.33"N., 81°24'03.73"W., then the line meanders irregularly, follow the shoreline at a distance of 380 feet seaward from the mean high water line to a point at

(3032) 30°23'53.08"N., 81°23'34.00"W., thence follow the arc of a circle with a radius of 466 feet, centered at

(3033) 30°23'48.52"N., 81°23'33.30"W., to a point on the jetty at

(3034) 30°23'50.06"N., 81°23'28.26"W.

(3035) (3) Atlantic Ocean restricted area. From the last point identified in paragraph (a)(2) of this section,

(3036) 30°23'50.06"N., 81°23'28.26"W., proceed to a point at

(3037) 30°23'49.12"N., 81°23'28.10"W., then the line meanders irregularly, follow the shoreline at a distance of 380 feet seaward from the mean high water line to a point at

(3038) 30°22'54.37"N., 81°23'44.09"W., thence proceed directly to shore to terminate at

(3039) 30°22'54.46"N., 81°23'48.44"W.

(3040) (4) Sherman Creek restricted area. This restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, to include Sherman Creek, its tributaries and associated tidal marshes located within the NAVSTA Mayport area boundaries described in this section. The restricted area is completely encircled by roadways and is bordered on the south by Wonderwood Expressway, on the west by SR A1A, on the north by Perimeter Road, and on the east by Mayport Road.

(3041) (5) Danger zone. The danger zone shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at

(3042) 30°24'00.31"N., 81°25'06.02"W.; thence to

(3043) 30°24'11.16"N., 81°25'03.90"W.; thence to

(3044) 30°24'00.62"N., 81°24'10.13"W.; thence to a point on the shoreline riprap at

(3045) 30°23'41.26"N., 81°24'08.82"W.

(3046) (b) The regulations–(1) St. Johns River restricted area. All persons, vessels, or other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the area described in paragraph (a)(2) of this section without the permission of the Commanding Officer, NAVSTA Mayport or his/her authorized representative. This restriction will be in place 24 hours a day, seven days a week. Warning signs notifying individuals of the restricted area boundary and prohibiting entry into the area will be posted at 500-foot intervals along the property boundary.

(3047) (2) Atlantic Ocean restricted area. All persons, vessels, or other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the area described in paragraph (a)(3) of this section without the permission of the Commanding Officer, NAVSTA Mayport or his/her authorized representative. This restriction will be in place 24 hours a day, seven days a week. Warning signs notifying individuals of the restricted area boundary and prohibiting entry into the area will be posted at 500-foot intervals along the property boundary.

(3048) (3) Sherman Creek restricted area. All persons, vessels, or other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the area described in paragraph (a)(4) of this section without the permission of the Commanding Officer, NAVSTA Mayport or his/her authorized representative. This restriction will be in place 24 hours a day, seven days a week. Warning signs notifying individuals of the restricted area boundary and prohibiting entry into the area will be posted at 500-foot intervals along the property boundary where practicable (e.g., not in the wetlands). In addition, a floating Small Craft Intrusion Barrier will be placed across Sherman Creek just east of the A1A bridge and another will be placed across tributaries to Sherman Creek just north of the Wonderwood Expressway.

(3049) (4) Danger zone. During periods of munitions movement at wharves Bravo and Charlie, no person or vessel shall be allowed to remain within the 1,250-foot Explosive Safety Quantity-Distance arcs generated by the activity. NAVSTA Mayport will not announce or publish notification prior to enforcing this regulation due

to the unacceptable security threat posed by advance public notice of military munitions movements.

(3050) (c) Enforcement. The regulations in this section shall be enforced by the Commanding Officer, NAVSTA Mayport and/or such persons or agencies as he/she may designate. Military vessels will patrol the areas identified in this section 24 hours a day, 7 days a week. Any person or vessel encroaching within the areas identified in this section will be asked to immediately leave the area. Failure to do so will result in the forceful removal of the person or vessel from the area in question.

**§334.510 U.S. Navy Fuel Depot Pier, St. Johns River, Jacksonville, Fla.; restricted area.**

(3051) (a) The area is described as:

(3052) (1) A line running at 238.5° true and paralleling the pier at 100 feet is extended from the eastern edge of the mooring platform No.59 to the western edge of platform No.65. From these points the boundaries are extended to the shoreline along lines running at 328.5°.

(3053) (2) The easterly waterward coordinate being:

(3054) 30°23'58.0"N., 81°37'15.0"W.

(3055) (3) The westerly waterward coordinate being:

(3056) 30°23'53.0"N., 81°37'24.4"W.

(3057) (b) The regulations. (1) The use of waters as previously described by private and/or commercial floating craft or persons is prohibited with the exception of vessels or persons that have been specifically authorized to do so by the Officer in Charge of the Navy Fuel Depot.

(3058) (2) This regulation shall be enforced by the Officer in Charge, U.S. Navy Fuel Depot, Jacksonville, Florida, and such agencies as the officer in charge may designate.

**§334.515 Blount Island Command and Marine Corps Support Facility - Blount Island; Jacksonville, Florida restricted areas.**

(3059) (a) The areas. (1) The restricted areas shall encompass all navigable waters of the United States, as defined at 33 CFR 329, contiguous to the area identified as Blount Island Command and Marine Corps Support Facility-Blount Island (MCSF-BI). The three areas are contiguous but each area is described separately below for clarification.

(3060) (2) Area 1. Commencing from the shoreline at the northwest portion of the facility, at 30°24'46.10"N., 81°32'19.01"W., thence proceed 200 yards in a northwesterly direction to 30°24'49.84"N., 81°32'23.12"W. From this point the line meanders irregularly, following the shoreline at a distance of 200 yards from the mean high water line to a point 30°23'36.75"N., 81°30'26.42"W., thence southwesterly to a point at 30°23'34.44"N., 81°30'28.80"W., thence west southwesterly to a point at 30°23'33.68"N., 81°30'32.61"W.

(3061) (3) Area 2. This includes all waters within the area generally identified as the U.S. Marine Corps Slipway but which is also known as the Back River area and the waters out to a distance of 100 yards from the entranceway. From the last point identified in paragraph (a)(2) of this section, 30°23'33.68"N., 81°30'32.61"W., proceed west southwesterly to a point at 30°23'30.93"N., 81°30'57.14"W.

(3062) (4) Area 3. From the last point identified in paragraph (a)(3) of this section, 30°23'30.93"N., 81°30'57.14"W., the line meanders irregularly in a westerly direction, following the shoreline at a distance of 100 yards from the mean high water line to a point at 30°23'26.34"N., 81°31'49.73"W., thence proceed north to terminate at a point on the shoreline at 30°23'29.34"N., 81°31'49.79"W.

(3063) (b) The regulations. (1) With the exception of local, State and federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the areas described in paragraph (a) of this section for any reason without the permission of the Commanding Officer, Marine Corps Support Facility-Blount Island, Jacksonville, Florida, or his/her authorized representative.

(3064) (2) The restriction noted in paragraph (b)(1) of this section is in effect 24 hours a day, 7 days a week.

(3065) (3) Warning signs will be posted near the MCSF-BI shoreline advising boaters of the restrictions in this section.

(3066) (c) Enforcement. (1) The regulations in this section shall be enforced by the Commanding Officer, Marine Corps Support Facility-Blount Island, Jacksonville, Florida, and/or such persons or agencies as he/she may designate.

(3067) (2) Enforcement of the regulations in this section will be accomplished utilizing the Department of Defense Force Protection Condition (FPCON) System. From the lowest security level to the highest, Force Protection Conditions levels are titled Normal, Alpha, Bravo, Charlie and Delta. The regulations in this section will be enforced as noted in paragraph (b) of this section, or at the discretion of the Commanding Officer.

**§334.520 Lake George, Fla.; naval bombing area.**

(3068) (a) The danger zone. An area in the eastern part of Lake George described as follows: Beginning at

(3069) 29°13'16", 81°34'28"; thence along a line parallel to the navigation channel to

(3070) 29°20'05", 81°36'15"; thence along a line about three-fifths mile southerly from the Putnam-Volusia County line to

(3071) 29°20'19", 81°35'12"; thence to

(3072) 29°18'36", 81°33'53"; thence to

(3073) 29°13'22", 81°32'38"; and thence to the point of beginning. The area will be marked by appropriate warnings signs at the five corners and at the midpoint of the longer side.

(3074) (b) The regulations. (1) Bombing operations will be confined, as nearly as practicable, to the north-south center line of the danger zone, keeping well clear of the navigation channel.

(3075) (2) Prior to each bombing operation the danger zone will be patrolled by naval aircraft which will warn

all persons and vessels to leave the area by "zooming" a safe distance to the side and at least 500 feet above the surface. Upon being so warned, such persons and vessels shall leave the danger zone immediately and shall not re-enter the danger zone until bombing operations have ceased.

(3076) (3) At intervals of not more than three months, public notices will be issued that bombing operations are continuing. Such notices will appear in the local newspaper and in "Notice to Mariners."

(3077) (4) The regulations in this section shall not deny passage through Lake George by regular cargo-carrying vessels proceeding along established lanes for such vessels. When any such vessel is within the danger zone the officer in charge of the bombing operations will cause the cessation or postponement of such operations until the vessel has cleared the area. The vessel shall proceed on its normal course and shall not delay its progress.

(3078) (5) The regulations in this section shall be enforced by the Commander, Naval Air Bases, Sixth Naval District, Naval Air Station, Jacksonville, Florida, and such agencies as he may designate.

**§334.525 Atlantic Ocean off John F. Kennedy Space Center, FL; Restricted Area.**

(3079) (a) The area. The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR 329, contiguous to the area offshore of the John F. Kennedy Space Center (KSC), Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the southwest portion of the area, at 28°35'00.5"N., 80°34'26.9"W., thence directly to 28°35'43.0"N., 80°32'56.3"W., thence follow the mean high water line northerly at a distance of 1.5 nautical miles to a point at 28°43'34.0"N., 80°39'05.6"W., thence proceed westerly to terminate at a point on the shoreline at 28°43'34.0"N., 80°41'11.3"W.

(3080) (b) The regulation. (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Director, KSC or his/her designee during launch operations or to address any perceived threat to the facilities. With the exception of local, State, and Federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed, unless they have the permission of the Director, KSC or his/her designee.

(3081) (2) Due to the nature of this restricted area, closures may occur with little advance notice. Closure of the area shall be noticed by warning statements displayed on the electronic marquee signs located at the gates of the KSC and on an electronic marquee sign located on the north side of the Port Canaveral ship channel between the Trident and Poseidon wharfs during the duration of the closure. If time permits, additional information will be published in area newspapers and announced on marine radio broadcast.

(3082) (c) Enforcement. The regulations in this section shall be enforced by the Director, KSC and/or such persons or agencies as he/she may designate.

**§334.530 Canaveral Harbor adjacent to the Navy pier at Port Canaveral, FL.; restricted area.**

(3083) (a) The area. The waters of Canaveral Harbor within a line circumscribing the water approaches to the Navy pier along the northeasterly edge of the Canaveral Harbor turning basin at a distance of 200 feet from all portions of the pier including the dolphins 200 feet off the northwest end and 75 feet off the southeast end of the pier.

(3084) (b) The regulations. (1) All unauthorized vessels and personnel are prohibited from the area during specified periods.

(3085) (2) The area will be closed when a red square flag (bravo), and depending on the status of the hazardous operation, either an amber or red beacon, steady burning or rotating, day or night, when displayed from any of the three berths along the wharf.

(3086) (3) Lighted signs indicating the restricted area will be placed on the pier and adjacent thereto.

(3087) (4) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Ordnance Test Unit, AFMTC, Patrick Air Force Base, Florida.

**§334.540 Banana River at the Eastern Range, 45th Space Wing, Cape Canaveral Air Force Station, FL; Restricted Area.**

(3088) (a) The area. The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, within the Banana River contiguous to the area offshore of Cape Canaveral Air Force Station, Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the southeast portion of the area, at approximately

(3089) 28°25.17'N., 80°36.24'W.; thence directly to

(3090) 28°25.18'N., 80°36.65'W.; thence directly to

(3091) 28°25.25'N., 80°36.66'W.; thence directly to

(3092) 28°25.22'N., 80°38.36'W.; thence directly to

(3093) 28°26.23'N., 80°38.25'W.; thence directly to

(3094) 28°26.23'N., 80°38.47'W.; thence to reach the south side of the Kennedy Space Center NASA Causeway East Roadway at approximately 29°30.74'N., 80°36.63'W.

(3095) (b) The regulation. (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Commander, 45th Space Wing or his/her designee to address any perceived threat to the local area. With the exception of local, State, and Federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed without the permission of the Commander, 45th Space Wing or his/her designee.

(3096) (2) Due to the nature of this restricted area, closures may occur with very little advance notice. Closure of the area shall be noticed by the display of a red beacon

located at the southern entrance to Cape Canaveral Air Force Station. Information will be provided via marine radio broadcast during the duration of the area closure.

(3097) (c) Enforcement. The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida and/or such persons or agencies as he/she may designate.

**§334.550 [Removed]**

**§334.560 Banana River at Patrick Air Force Base, Fla., restricted area.**

(3098) (a) The area. The waters within an area beginning at a point located at

(3099) 28°16'19"N., 80°36'28"W.; proceed west to

(3100) 28°16'19"N., 80°36'35"W.; thence, southwesterly to

(3101) 28°14'34"N., 80°37'08"W.; thence, southerly to

(3102) 28°12'44"N., 80°37'18"W.; thence, east to

(3103) 28°12'44"N., 80°37'11"W.

(3104) This encompasses an area reaching from the northern extent described to the southern extent described and extending from the mean high water line waterward a minimum distance of approximately 600 feet.

(3105) (b) The regulations. (1) All unauthorized persons and watercraft shall stay clear of the area at all times.

(3106) (2) The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida, and such agencies as he/she may designate.

**§334.570 Banana River near Orsino, FL; restricted area.**

(3107) (a) The area. That part of Banana River N of the NASA Banana River Causeway near Orsino and extending above the head of said river to the N and westerly to Kennedy Parkway North.

(3108) (b) The regulations. (1) All unauthorized craft and personnel shall stay clear of the area at all times.

(3109) (2) The regulations in this section shall be enforced by the Director, John F. Kennedy Space Center, NASA, Cocoa Beach, Fla.

**§334.580 Atlantic Ocean near Port Everglades, Fla.; naval restricted area.**

(3110) (a) The area. Beginning at a point at

(3111) 26°05'30"N., 80°03'30"W.; proceed west to

(3112) 26°05'30"N., 80°06'30"W.; thence, southerly to

(3113) 26°03'00"N., 80°06'42"W., thence, east to

(3114) 26°03'00"N., 80°05'44"W.; thence, south to

(3115) 26°01'36"N., 80°05'44"W.; thence, east to

(3116) 26°01'36"N., 80°03'30"W.; thence, north to the point of beginning.

(3117) (b) The regulations. (1) Anchoring, trawling, dredging, or attaching any object to the submerged sea bottom shall be prohibited in the above described area.

(3118) (2) The regulations of this section shall be enforced by the Facility Director, Naval Surface Warfare Center, Detachment Dania, Florida, and such agencies as he/she may designate.

**§334.590 Atlantic Ocean off Cape Canaveral, Fla.; Air Force Missile Testing Area, Patrick Air Force Base, FL.**

(3119) (a) The danger zone. An area in the Atlantic Ocean immediately offshore from Cape Canaveral defined by a line 3 nautical miles from shore, said area terminating in the north at a line on a bearing of 070° from a point on shore at approximate latitude 28°35' north and in the south at a line on a bearing of 115° from a point on the shore at approximate latitude 28°25' north.

(3120) (b) The regulations. (1) All unauthorized persons and vessels are prohibited from operating within the danger zone during firing periods to be specified by the Commander, Air Force Missile Test Center, Patrick Air Force Base.

(3121) (2) Warning signals will be used to warn persons and vessels that the danger zone is active. These signals will be in the form of a large red ball and a red flashing high intensity beacon. One signal will be located on a 90-foot pole near the shoreline at the north end of the danger zone, and one signal will be located on a 90-foot pole near the shoreline about one-half mile north of the south limit of the danger zone. An amber rotating beacon and warning sign will be erected on the north side of the Port Canaveral ship channel to indicate to vessels about to leave the harbor that the danger zone is in use.

(3122) (3) When the signals in paragraph (b)(2) of this section are displayed, all persons and vessels, except those authorized personnel and patrol vessels, will immediately leave the danger zone by the most direct route and stay out until the signals are discontinued.

(3123) (4) The regulations in this paragraph shall be enforced by the Commander, Air Force Missile Test Center, Patrick Air Force Base, Fla., and such agencies as he may designate.

**§334.595 Atlantic Ocean off Cape Canaveral; 45th Space Wing, Cape Canaveral Air Force Station, FL; Restricted Area.**

(3124) (a) The area. The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, contiguous to the area offshore of Cape Canaveral Air Force Station, Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the northwest portion of the area, at

(3125) 28°35.008'N., 80°34.448'W.; thence directly to

(3126) 28°35.716'N., 80°32.938'W., thence following the mean high water line at a distance of 1.5 nautical miles offshore proceed southerly to a point at

(3127) 28°24.187'N., 80°33.443'W., thence proceeding

(3128) 28°24.69'N., 80°35.05'W.

(3129) (b) The regulation. (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Commander, 45th Space Wing or his/

her designee to address any perceived threat to the local area. With the exception of local, State, and Federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed without the permission of the Commander, 45th Space Wing or his/her designee.

(3130) (2) Due to the nature of this restricted area, closures may occur with very little advance notice. Closure of the area shall be noticed by the display of a red ball and red beacon from a 90-foot pole near the shoreline at approximately

(3131) 28°35.0'N., 80°34.8'W and from a 90-foot pole near the shoreline at approximately

(3132) 28°25.3'N., 80°35.0'W. Information will be provided via marine radio broadcast and a warning statement displayed on an electronic marquee sign located on the north side of the Port Canaveral ship channel between the Trident and Poseidon Wharf during the duration of the area closure.

(3133) (c) Enforcement. The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida and/or such persons or agencies as he/she may designate.

**§334.600 Trident Basin Adjacent to Canaveral Harbor at Cape Canaveral Air Force Station, Brevard County, Florida Danger Zone.**

(3134) (a) The Danger Zone. From the west side of the access channel at latitude 28°24'37", longitude 80°35'35" to the east side of the access channel at latitude 28°24'37", longitude 80°35'26" and the entire basin.

(3135) (b) The regulations. (1) No unauthorized person or vessel shall enter the area. The area will be used for loading and unloading explosives. The entrance to the basin will be marked by suitable boundary signs.

(3136) (2) The regulations will be enforced by the Commanding Officer, Naval Ordnance Test Unit, Patrick Air Force Base, Florida, or such agencies he may designate.

**§334.605 Meloy Channel, U.S. Coast Guard Base Miami Beach, FL; restricted area.**

(3137) (a) *The area*. The restricted area shall encompass all navigable waters of the United States as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at

(3138) 25°46′20.07′N, 80°08′50.94′W; thence to

(3139) 25°46′22.69′N, 80°08′44.01′W; thence to

(3140) 25°46′22.02′N, 80°08′42.14′W; thence to

(3141) 25°46′12.23′N, 80°08′35.33′W; thence to

(3142) 25°46′09.13′N, 80°08′40.74′W; thence to

(3143) 25°46′11.63′N, 80°08′43.36′W; thence to

(3144) 25°46′17.22′N, 80°08′47.17′W; thence to

(3145) 25°46′17.15′N, 80°08′47.62′W; thence to

(3146) 25°46′17.63′N, 80°08′49.33′W; thence to

(3147) 25°46′18.91′N, 80°08′50.24′W; thence proceed directly to a point on the shoreline at

(3148) 25°46′18.76′N, 80°08′50.71′W thence following the mean high water line to the point of beginning.

(3149) (b) *The regulations*. (1) The restricted area described in paragraph (a) of this section is only open to U.S. Government vessels. U.S. Government vessels include, but are not limited to, U.S. Coast Guard and Coast Guard Auxiliary vessels, Department of Defense vessels, state and local law enforcement and emergency services vessels, and vessels under contract with the U.S. Government. Warning signs notifying individuals of the restricted area boundary and prohibiting all unauthorized entry into the area will be posted along the property boundary and, as appropriate, on the piers of the MacArthur Causeway Bridge adjacent to the restricted area.

(3150) (2) All persons, vessels, and other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the restricted area described in paragraph (a) of this section without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(3151) (3) Fishing, trawling, net-fishing, and other aquatic activities are prohibited in the restricted area without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(3152) (4) The restrictions described in paragraph (b) of this section are in effect 24 hours a day, 7 days a week.

(3153) (c) *Enforcement*. The regulations in this section shall be enforced by the Base Commander, U.S. Coast Guard Base Miami Beach and/or such persons or agencies as he/she may designate.

**§334.610 Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted areas and danger zone.**

(3154) (a) The areas. (1) All waters within 100 yards of the south shoreline of the Harry S. Truman Annex, beginning at a point on the shore at

(3155) 24°32'45.3"N., 81°47'51"W.; thence to a point 100 yards due south of the south end of Whitehead Street of

(3156) 24°32'42.3"N., 81°47'51"W.; thence extending westerly, paralleling the southerly shoreline of the Harry S. Truman Annex, to

(3157) 24°32'37.6"N., 81°48'32"W.; thence northerly to the shore at

(3158) 24°32'41"N., 81°48'31"W. (Area #1).

(3159) (2) All waters within 100 yards of the westerly shoreline of the Harry S. Truman Annex and all waters within a portion of the Truman Annex Harbor, as defined by a line beginning on the shore at

(3160) 24°33'00"N., 81°48'41.7"W.; thence to a point 100 yards due west at

(3161) 24°33'00"N., 81°48'45"W.; thence northerly, paralleling the westerly shoreline of the Harry S. Truman Annex, including a portion of the Truman Annex Harbor entrance, to

(3162) 24°33'23"N., 81°48'37"W.; thence southeasterly to the shore (sea wall) at

(3163) 24°33'19.3"N., 81°48'28.7"W. (Area #2).

(3164) (3) All waters within 100 yards of the U.S. Coast Guard Station and the westerly end of Trumbo Point Annex beginning at the shore at

(3165) 24°33'47.6"N., 81°47'55.6"W.; thence westerly to

(3166) 24°33'48"N., 81°48'00.9"W.; thence due south to

(3167) 24°33'45.8"N., 81°48'00.9"W.; thence westerly to

(3168) 24°33'47"N., 81°48'12"W.; thence northerly to

(3169) 24°34'06.2"N., 81°48'10"W.; thence easterly to a point joining the restricted area around Fleming Key at

(3170) 24°34'03.3"N., 81°47'55"W. (Area #3).

(3171) (4) Beginning at the last point designated in area 3 at 24°34.0550'N., 81°47.9166'W.; proceed in a northwesterly direction to a point at

(3172) 24°34.2725'N., 81°48.1304'W.; thence northeasterly to

(3173) 24°34.3562'N., 81°48.0192'W.; thence northwesterly direction to

(3174) 24°34.4506'N., 81°48.1444'W.; thence northwesterly to

(3175) 24°34.5619'N., 81°48.1873'W.; thence northeasterly to

(3176) 24°34.9084'N., 81°48.0945'W.; thence northeasterly to

(3177) 24°34.9809'N., 81°47.9400'W.; proceed in a general northerly direction maintaining a distance of 100 yards from the shoreline of Fleming Key, continue around Fleming Key to a point easterly of the southeast corner of Fleming Key at

(3178) 24°34.0133'N., 81°47.6250'W.; thence easterly to

(3179) 24°33.9600'N., 81°47.3333'W.; thence southerly to a point on the shore at

(3180) 24°33.9117'N., 81°47.3450'W. The Department of the Navy plans to install buoys along that portion of the restricted area boundary which marks the outer edge of the explosive hazard safety distance requirements.

(3181) (5) All waters contiguous to the southwesterly shoreline of Boca Chica Key beginning at a point on the southwest shoreline at

(3182) 24°33'24"N., 81°42'30"W.; proceed due south 100 yards to

(3183) 24°33'20.4"N., 81°42'30"W.; thence, maintaining a distance 100 yards from the shoreline, proceed westerly and northerly to

(3184) 24°34'03"N., 81°42'47"W.; thence due north to a point at the easterly end of the U.S. Highway 1 (Boca Chica Channel) bridge at

(3185) 24°34'39"N., 81°42'47"W. (Area #5).

(3186) (6) Danger zone. All waters within an area along the northeast side of the Naval Air Station on Boca Chica Key defined by a line beginning at

(3187) 24°35.472'N., 81°41.824'W.; thence proceed in a northerly direction to a point at

(3188) 24°36.289'N., 81°41.437'W.; thence proceed westerly to a point at

(3189) 24°36.392'N., 81°41.970'W.; thence to a point on shore at

(3190) 24°35.698'N., 81°41.981'W.

(3191) (b) The regulations: (1) Entering or crossing Restricted Areas #1 and #4 and the Danger Zone (Area #6) described in paragraph (a) of this section, by any person or vessel, is prohibited.

(3192) (2) Privately owned vessels, properly registered and bearing identification in accordance with Federal and/or State laws and regulations may transit the following portions of restricted area #2, #3 and #5. NOTE: All vessels entering the areas at night must display lights as required by Federal laws and Coast Guard regulations or, if no constant lights are required, then the vessel must display a bright white showing all around the horizon,

(3193) (i) The channel, approximately 75 yards in width, extending from the northwest corner of Pier D-3 of Trumbo Point Annex, eastward beneath the Fleming Key bridge and along the north shore of Trumbo Point Annex (area #3).

(3194) (ii) A channel of 150 feet in width which extends easterly from the main ship channel into Key West Bight, the northerly edge of which channel passes 25 feet south of the Trumbo Point Annex piers on the north side of the Bight. While the legitimate access of privately owned vessels to facilities of Key West Bight is unimpeded, it is prohibited to moor, anchor, or fish within 50 feet of any U.S. Government-owned pier or craft (area #3).

(3195) (iii) The dredged portion of Boca Chica channel from its seaward end to a point due south of the east end of the Boca Chica Bridge (area #5).

(3196) (iv) All of the portion of Restricted Area No. 2 that lies between the Truman Annex Mole and the Key West Harbor Range Channel. The transit zone extends to the northwesterly corner of the Truman Annex Mole, thence to the northwesterly end of the breakwater at

(3197) 24°33'21.3"N., 81°48'32.7"W.

(3198) (3) Stopping or landing by any person and/or any vessel, other than Government-owned vessels and specifically authorized private craft in any of the restricted areas or danger zone described in paragraph (a) of this section is prohibited.

(3199) (4) Vessels using the restricted channel areas described in paragraph (b)(2)(i), (ii), (iii), and (iv) of this section shall proceed at speeds commensurate with minimum wake.

(3200) (c) The regulations in this section shall be enforced by the Commanding Officer, Naval Air Station, Key West, Florida, and such agencies as he/she may designate.

### §334.620 Straits of Florida and Florida Bay in vicinity of Key West, FL; operational training area, aerial gunnery range, and bombing and strafing target areas, Naval Air Station, Key West, FL.

(3201) (a) The danger zones–(1) Operational training area. Waters of the Straits of Florida and Gulf of Mexico southwest, west and northwest of Key West bounded as follows: Beginning at latitude 25°45'00", longitude 82°07'00"; thence southeast to

(3202) 24°49'00", 81°55'00"; thence southwest to

(3203) 24°37'30", 82°00'30"; thence westerly to
(3204) 24°37'30", 82°06'00"; thence southerly to
(3205) 24°28'30", 82°06'00"; thence southerly to
(3206) 24°25'00", 82°06'30"; thence easterly to
(3207) 24°25'00", 81°57'00"; thence southwesterly to
(3208) 23°30'00", 82°19'00"; thence westerly to
(3209) 23°30'00", 82°46'00"; thence northwesterly to
(3210) 23°52'30", 83°11'00"; thence northerly to
(3211) 24°25'00", 83°11'00"; thence easterly to
(3212) 24°25'00", 83°08'00"; thence clockwise along the arc of a circle with a radius of 92 miles centered at
(3213) 24°35'00", 81°41'15" to
(3214) 25°45'05", 82°23'30"; thence east to point of beginning.
(3215) (2) Bombing and strafing target areas.
(3216) (i) A circular area immediately west of Marquesas Keys with a radius of two nautical miles having its center at
(3217) 24°33.4'N., 82°10.9'W., not to include land area and area within Marquesas Keys. The target located within this area, a grounded LSIL will be used for bombing and aircraft rocket exercises.
(3218) (ii) A circular area located directly west of Marquesas Keys with a radius of three statute miles having its center at
(3219) 24°35.6'N., 82°11.6'W., not to include land area within Marquesas Keys. The targets located within this area, pile-mounted platforms, will be used as high altitude horizontal bombing range utilizing live ordnance up to and including 1,800 pounds of high explosives. In general, these explosives will be of an air-burst type, above 1,500 feet.
(3220) (iii) A circular area located west of Marquesas Keys with a radius of two nautical miles having its center at
(3221) 24°34'30", 82°14'00".
(3222) (b) The regulations. (1) In advance of scheduled air or surface operations which, in the opinion of the enforcing agency, may be dangerous to watercraft, appropriate warnings will be issued to navigation interests through official government and civilian channels or in such other manner as the District Engineer, Corps of Engineers, Jacksonville, Florida, may direct. Such warnings will specify the location, type, time, and duration of operations, and give such other pertinent information as may be required in the interests of safety.
(3223) (2) Watercraft shall not be prohibited from passing through the operational training area except when the operations being conducted are of such nature that the exclusion of watercraft is required in the interest of safety or for accomplishment of the mission, or is considered important to the national security.
(3224) (3) When the warning to navigation interests states that bombing and strafing operations will take place over the designated target areas or that other operations hazardous to watercraft are proposed to be conducted in a specifically described portion of the overall area, all watercraft will be excluded from the target area or otherwise described zone of operations and no vessel shall enter or remain therein during the period operations are in progress.
(3225) (4) Aircraft and naval vessels conducting operations in any part of the operational training area will exercise caution in order not to endanger watercraft. Operations which may be dangerous to watercraft will not be conducted without first ascertaining that the zone of operations is clear. Any vessel in the zone of operations will be warned to leave and upon being so warned the vessel shall leave immediately.
(3226) (5) The regulations in this section shall be enforced by the Commandant, Sixth Naval District, Charleston, S.C., and such agencies as he may designate.

## TITLE 40–PROTECTION OF ENVIRONMENT

## Part 140–Marine Sanitation Device Standard

### §140.1 Definitions.

(3227) For the purpose of these standards the following definitions shall apply:
(3228) (a) Sewage means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;
(3229) (b) Discharge includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;
(3230) (c) Marine sanitation device includes any equipment for installation onboard a vessel and which is designed to receive, retain, treat, or discharge sewage and any process to treat such sewage;
(3231) (d) Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on waters of the United States;
(3232) (e) New vessel refers to any vessel on which construction was initiated on or after January 30, 1975;
(3233) (f) Existing vessel refers to any vessel on which construction was initiated before January 30, 1975;
(3234) (g) Fecal coliform bacteria are those organisms associated with the intestines of warm-blooded animals that are commonly used to indicate the presence of fecal material and the potential presence of organisms capable of causing human disease.

### §140.2 Scope of standard.

(3235) The standard adopted herein applies only to vessels on which a marine sanitation device has been installed. The standard does not require the installation of a marine sanitation device on any vessel that is not so equipped. The standard applies to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security.

**§140.3 Standard.**

(3236) (a) (1) In freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation, marine sanitation devices certified by the U.S. Coast Guard (see 33 CFR part 159, published in 40 FR 4622, January 30, 1975), installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. This shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have been secured so as to prevent such discharges.

(3237) (2) In all other waters, Coast Guard-certified marine sanitation devices installed on all vessels shall be designed and operated to either retain, dispose of, or discharge sewage. If the device has a discharge, subject to paragraph (d) of this section, the effluent shall not have a fecal coliform bacterial count of greater than 1,000 per 100 milliliters nor visible floating solids. Waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and inter-connected waterways, fresh-water lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation.

(3238) (b) This standard shall become effective on January 30, 1977 for new vessels and on January 30, 1980 for existing vessels (or, in the case of vessels owned and operated by the Department of Defense, two years and five years, for new and existing vessels, respectively, after promulgation of implementing regulations by the Secretary of Defense under section 312(d) of the Act).

(3239) (c) Any vessel which is equipped as of the date of promulgation of this regulation with a Coast Guard-certified flow-through marine sanitation device meeting the requirements of paragraph (a)(2) of this section, shall not be required to comply with the provisions designed to prevent the overboard discharge of sewage, treated or untreated, in paragraph (a)(1) of this section, for the operable life of that device.

(3240) (d) After January 30, 1980, subject to paragraphs (e) and (f) of this section, marine sanitation devices on all vessels on waters that are not subject to a prohibition of the overboard discharge of sewage, treated or untreated, as specified in paragraph (a)(1) of this section, shall be designed and operated to either retain, dispose of, or discharge sewage, and shall be certified by the U.S. Coast Guard. If the device has a discharge, the effluent shall not have a fecal coliform bacterial count of greater than 200 per 100 milliliters, nor suspended solids greater than 150 mg/1.

(3241) (e) Any existing vessel on waters not subject to a prohibition of the overboard discharge of sewage in paragraph (a)(1) of this section, and which is equipped with a certified device on or before January 30, 1978, shall not be required to comply with paragraph (d) of this section, for the operable life of that device.

(3242) (f) Any new vessel on waters not subject to the prohibition of the overboard discharge of sewage in paragraph (a)(1) of this section, and on which construction is initiated before January 31, 1980, which is equipped with a marine sanitation device before January 31, 1980, certified under paragraph (a)(2) of this section, shall not be required to comply with paragraph (d) of this section, for the operable life of that device.

(3243) (g) The degrees of treatment described in paragraphs (a) and (d) of this section are "appropriate standards" for purposes of Coast Guard and Department of Defense certification pursuant to section 312(g)(2) of the Act.

**§140.4 Complete prohibition.**

(3244) (a) Prohibition pursuant to CWA section 312(f)(3): a State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into some or all of the waters within such State by making a written application to the Administrator, Environmental Protection Agency, and by receiving the Administrator's affirmative determination pursuant to section 312(f)(3) of the Act. Upon receipt of an application under section 312(f)(3) of the Act, the Administrator will determine within 90 days whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels using such waters are reasonably available. Applications made by States pursuant to section 312(f)(3) of the Act shall include:

(3245) (1) A certification that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard;

(3246) (2) A map showing the location of commercial and recreational pump-out facilities;

(3247) (3) A description of the location of pump-out facilities within waters designated for no discharge;

(3248) (4) The general schedule of operating hours of the pump-out facilities;

(3249) (5) The draught requirements on vessels that may be excluded because of insufficient water depth adjacent to the facility;

(3250) (6) Information indicating that treatment of wastes from such pump-out facilities is in conformance with Federal law; and

(3251) (7) Information on vessel population and vessel usage of the subject waters.

(3252) (b) Prohibition pursuant to CWA section 312(f)(4)(A): a State may make a written application to the Administrator, Environmental Protection Agency, under section 312(f)(4)(A) of the Act, for the issuance of a regulation completely prohibiting discharge from a vessel of any sewage, whether treated or not, into particular waters of the United States or specified portions thereof, which waters are located within the boundaries of such State. Such application shall specify with particularly

the waters, or portions thereof, for which a complete prohibition is desired. The application shall include identification of water recreational areas, drinking water intakes, aquatic sanctuaries, identifiable fish-spawning and nursery areas, and areas of intensive boating activities. If, on the basis of the State's application and any other information available to him, the Administrator is unable to make a finding that the waters listed in the application require a complete prohibition of any discharge in the waters or portions thereof covered by the application, he shall state the reasons why he cannot make such a finding, and shall deny the application. If the Administrator makes a finding that the waters listed in the application require a complete prohibition of any discharge in all or any part of the waters or portions thereof covered by the State's application, he shall publish notice of such findings together with a notice of proposed rule making, and then shall proceed in accordance with 5 U.S.C. 553. If the Administrator's finding is that applicable water quality standards require a complete prohibition covering a more restricted or more expanded area than that applied for by the State, he shall state the reasons why his finding differs in scope from that requested in the State's application.

(3253) (1) For the following waters the discharge from a vessel of any sewage (whether treated or not) is completely prohibited pursuant to CWA section 312(f)(4)(A):

(3254) (i) Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, as described in 16 U.S.C. 577–577d1.

(3255) (ii) Waters of the State of Florida within the boundaries of the Florida Keys National Marine Sanctuary as delineated on a map of the Sanctuary at http://www.fknms.nos.noaa.gov/.

(3256) (2)(i) For the marine waters of the State of California, the following vessels are completely prohibited from discharging any sewage (whether treated or not):

(3257) (A) A large passenger vessel;

(3258) (B) A large oceangoing vessel equipped with a holding tank which has not fully used the holding tank's capacity, or which contains more than de minimis amounts of sewage generated while the vessel was outside of the marine waters of the State of California.

(3259) (ii) For purposes of paragraph (b)(2) of this section:

(3260) (A) "Marine waters of the State of California" means the territorial sea measured from the baseline as determined in accordance with the Convention on the Territorial Sea and the Contiguous Zone and extending seaward a distance of three miles, and all enclosed bays and estuaries subject to tidal influences from the Oregon border (41.999325 North Latitude, 124.212110 West Longitude, decimal degrees, NAD 1983) to the Mexican border (32.471231 North Latitude, 117.137814 West Longitude, decimal degrees, NAD 1983). A map illustrating these waters can be obtained from EPA or viewed at http://www.epa.gov/region9/water/no-discharge/overview.html.

(3261) (B) A "large passenger vessel" means a passenger vessel, as defined in section 2101(22) of title 46, United States Code, of 300 gross tons or more, as measured under the International Convention on Tonnage Measurement of Ships, 1969, measurement system in 46 U.S.C. 14302, or the regulatory measurement system of 46 U.S.C. 14502 for vessels not measured under 46 U.S.C. 14302, that has berths or overnight accommodations for passengers.

(3262) (C) A "large oceangoing vessel" means a private, commercial, government, or military vessel of 300 gross tons or more, as measured under the International Convention on Tonnage Measurement of Ships, 1969, measurement system in 46 U.S.C. 14302, or the regulatory measurement system of 46 U.S.C. 14502 for vessels not measured under 46 U.S.C.14302, that is not a large passenger vessel.

(3263) (D) A "holding tank" means a tank specifically designed, constructed, and fitted for the retention of treated or untreated sewage, that has been designated and approved by the ship's flag Administration on the ship's stability plan; a designated ballast tank is not a holding tank for this purpose.

(3264) (c)(1) Prohibition pursuant to CWA section 312(f)(4)(B): A State may make written application to the Administrator of the Environmental Protection Agency under section 312(f)(4)(B) of the Act for the issuance of a regulation establishing a drinking water intake no-discharge zone which completely prohibits discharge from a vessel of any sewage, whether treated or untreated, into that zone in particular waters, or portions thereof, within such State. Such application shall:

(3265) (i) Identify and describe exactly and in detail the location of the drinking water supply intake(s) and the community served by the intake(s), including average and maximum expected amounts of inflow;

(3266) (ii) Specify and describe exactly and in detail, the waters, or portions thereof, for which a complete prohibition is desired, and where appropriate, average, maximum and low flows in million gallons per day (MGD) or the metric equivalent;

(3267) (iii) Include a map, either a USGS topographic quadrant map or a NOAA nautical chart, as applicable, clearly marking by latitude and longitude the waters or portions thereof to be designated a drinking water intake zone; and

(3268) (iv) Include a statement of basis justifying the size of the requested drinking water intake zone, for example, identifying areas of intensive boating activities.

(3269) (2) If the Administrator finds that a complete prohibition is appropriate under this paragraph, he or she shall publish notice of such finding together with a notice of proposed rulemaking, and then shall proceed in accordance with 5 U.S.C. 553. If the Administrator's finding is that a complete prohibition covering a more restricted or more expanded area than that applied for by the State is appropriate, he or she shall also include a

statement of the reasons why the finding differs in scope from that requested in the State's application.

(3270) (3) If the Administrator finds that a complete prohibition is inappropriate under this paragraph, he or she shall deny the application and state the reasons for such denial.

(3271) (4) For the following waters the discharge from a vessel of any sewage, whether treated or not, is completely prohibited pursuant to CWA section 312(f)(4)(B):

(3272) (i) Two portions of the Hudson River in New York State, the first is bounded by an east-west line through the most northern confluence of the Mohawk River which will be designated by the Troy-Waterford Bridge (126th Street Bridge) on the south and Lock 2 on the north, and the second of which is bounded on the north by the southern end of Houghtaling Island and on the south by a line between the Village of Roseton on the western shore and Low Point on the eastern shore in the vicinity of Chelsea, as described in Items 2 and 3 of 6 NYCRR Part 858.4.

(3273) (ii) [Reserved]

**§140.5 Analytical procedures.**

(3274) In determining the composition and quality of effluent discharge from marine sanitation devices, the procedures contained in 40 CFR part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants," or subsequent revisions or amendments thereto, shall be employed.

## TITLE 50–WILDLIFE AND FISHERIES

## Part 222–General Endangered and Threatened Marine Species

## Subpart A–Introduction and General Provisions

**§222.101 Purpose and scope of regulations.**

(3275) (a) The regulations of parts 222, 223, and 224 of this chapter implement the Endangered Species Act (Act), and govern the taking, possession, transportation, sale, purchase, barter, exportation, importation of, and other requirements pertaining to wildlife and plants under the jurisdiction of the Secretary of Commerce and determined to be threatened or endangered pursuant to section 4(a) of the Act. These regulations are implemented by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. This part pertains to general provisions and definitions. Specifically, parts 223 and 224 pertain to provisions to threatened species and endangered species, respectively. Part 226 enumerates designated critical habitat for endangered and threatened species. Certain of the endangered and threatened marine species enumerated in §§224.102 and 223.102 are included in Appendix I or II to the Convention on International Trade of Endangered Species of Wild Fauna and Flora. The importation, exportation, and re-exportation of such species are subject to additional regulations set forth at 50 CFR part 23, chapter I.

(3276) (b) For rules and procedures relating to species determined to be threatened or endangered under the jurisdiction of the Secretary of the Interior, see 50 CFR parts 10 through 17. For rules and procedures relating to the general implementation of the Act jointly by the Departments of the Interior and Commerce and for certain species under the joint jurisdiction of both the Secretaries of the Interior and Commerce, see 50 CFR Chapter IV. Marine mammals listed as endangered or threatened and subject to these regulations may also be subject to additional requirements pursuant to the Marine Mammal Protection Act (for regulations implementing that act, see 50 CFR part 216).

(3277) (c) No statue or regulation of any state shall be construed to relieve a person from the restrictions, conditions, and requirements contained in parts 222, 223, and 224 of this chapter. In addition, nothing in parts 222, 223, and 224 of this chapter, including any permit issued pursuant thereto, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any state or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or any other National Marine Fisheries Service enforced statutes or regulations.

## Part 224–Endangered Marine and Anadromous Species

**§224.103 Special prohibitions for endangered marine mammals.**

(3278) (c) Approaching right whales –

(3279) (1) Prohibitions. Except as provided under paragraph (c)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or cause to be committed any of the following acts:

(3280) (i) Approach (including by interception) within 500 yards (460 m) of a right whale by vessel, aircraft, or any other means;

(3281) (ii) Fail to undertake required right whale avoidance measures specified under paragraph (c)(2) of this section.

(3282) (2) Right whale avoidance measures. Except as provided under paragraph (c)(3) of this section, the following avoidance measures must be taken if within 500 yards (460 m) of a right whale:

(3283) (i) If underway, a vessel must steer a course away from the right whale and immediately leave the area at slow safe speed.

(3284) (ii) An aircraft must take a course away from the right whale and immediately leave the area at a constant airspeed.

(3285) (3) Exceptions. The following exceptions apply to this section, but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(3286) (i) Paragraphs (c)(1) and (c)(2) of this section do not apply if a right whale 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.

(3287) (ii) Paragraphs (c)(1) and (c)(2) of this section do not apply where compliance would create an imminent and serious threat to a person, vessel, or aircraft.

(3288) (iii) Paragraphs (c)(1) and (c)(2)of this section do not apply when approaching to investigate a right whale entanglement or injury, or to assist in the disentanglement or rescue of a right whale, provided that permission is received from the National Marine Fisheries Service or designee prior the approach.

(3289) (iv) Paragraphs (c)(1) and (c)(2) of this section do not apply to an aircraft unless the aircraft is conducting whale watch activities.

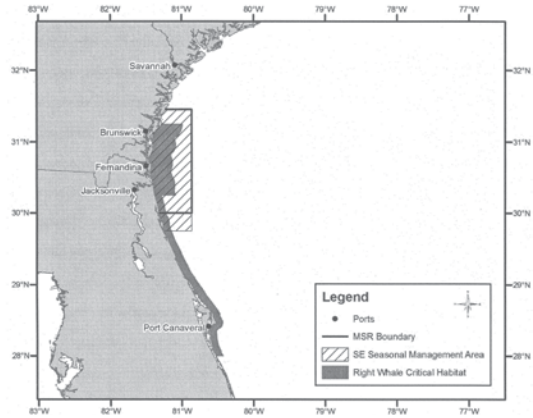
(3290) (v) Paragraph (c)(2) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (c)(2) of this section.

**§224.105 Speed restrictions to protect North Atlantic Right Whales.**

(3291) (a) The following restrictions apply to: All vessels greater than or equal to 65 ft (19.8 m) in overall length and subject to the jurisdiction of the United States, and all other vessels greater than or equal to 65 ft (19.8 m) in overall length entering or departing a port or place subject to the jurisdiction of the United States. These restrictions shall not apply to U.S. vessels owned or operated by, or under contract to, the Federal Government. This exemption extends to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy. In addition, these restrictions do not apply to law enforcement vessels of a State, or political subdivision thereof, when engaged in law enforcement or search and rescue duties.

(3292) (1) Southeast U.S. (south of St. Augustine, FL to north of Brunswick, GA): Vessels shall travel at a speed of 10 knots or less over ground during the period of November 15 to April 15 each year in the area bounded by the following: Beginning at 31°27'00.0"N., 80°51'36.0"W.; thence west to charted mean high water line then south along charted mean high water line and inshore limits of COLREGS limit to a latitude of 29°45'00.0"N., thence east to 29°45'00.0"N., 80°51'36.0"W.; thence back to starting point. (Fig. 1).

Figure 1. Southeast United States.




(3293) (2) Mid-Atlantic U.S. (from north of Brunswick, Georgia to Rhode Island): Vessels shall travel 10 knots or less over ground in the period November 1 to April 30 each year:

(3294) (i) In the area bounded by the following: 33°56'42.0"N., 77°31'30.0"W.; thence along a NW bearing of **313.26°** True to charted mean high water line then south along mean high water line and inshore limits of COLREGS limit to a latitude of 31°27'00.0"N.; thence east to

(3295) 31°27'00.0"N., 80°51'36.0"W.; thence to

(3296) 31°50'00.0"N., 80°33'12.0"W.; thence to

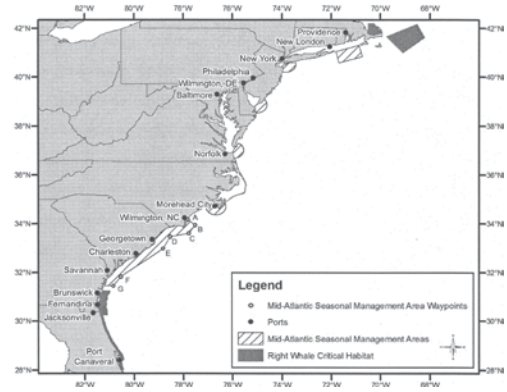
(3297) 32°59'06.0"N., 78°50'18.0"W.; thence to

(3298) 33°28'24.0"N., 78°32'30.0"W.; thence to

(3299) 33°36'30.0"N., 77°47'06.0"W.; thence back to starting point.;

(3300) (ii) Within a 20-nm (37 km) radius (as measured seaward from COLREGS delineated coast lines and the center point of the port entrance) (Fig. 2) at the

Figure 2. Mid-Atlantic United States.




(3301) (A) Ports of New York/New Jersey:

(3302) 40°29'42.2"N., 73°55'57.6"W.;

(3303) (B) Delaware Bay (Ports of Philadelphia and Wilmington): 38°52'27.4"N., 75°01'32.1"W.;

(3304) (C) Entrance to the Chesapeake Bay (Ports of Hampton Roads and Baltimore): 37°00'36.9"N., 75°57'50.5"W.; and

(3305) (D) Ports of Morehead City and Beaufort, NC: 34°41'32.0"N., 76°40'08.3"W.; and

(3306) (iii) In Block Island Sound, in the area bounded by the following coordinates: Beginning at

(3307) 40°51'53.7"N., 70°36'44.9"W.; thence to

(3308) 41°20'14.1"N., 70°49'44.1"W.; thence to

(3309) 41°04'16.7"N., 71°51'21.0"W.; thence to

(3310) 40°35'56.5"N., 71°38'25.1"W.; thence back to starting point. (Fig. 2).

(3311) (3) Northeast U.S. (north of Rhode Island):

(3312) (i) In Cape Cod Bay, MA: Vessels shall travel at a speed of 10 knots or less over ground during the period of January 1 to May 15 in Cape Cod Bay, in an area beginning at 42°04'56.5"N., 70°12'00.0"W.; thence north to 42°12'00.0"N., 70°12'00.0"W.; thence due west to charted mean high water line; thence along charted mean high water within Cape Cod Bay back to beginning point. (Fig. 3).

(3313) (ii) Off Race Point: Vessels shall travel at a speed of 10 knots or less over ground during the period of March 1 to April 30 each year in waters bounded by straight lines connecting the following points in the order stated (Fig. 3):

(3314) 42°30'00.0"N., 69°45'00.0"W.; thence to

(3315) 42°30'00.0"N., 70°30'00.0"W.; thence to

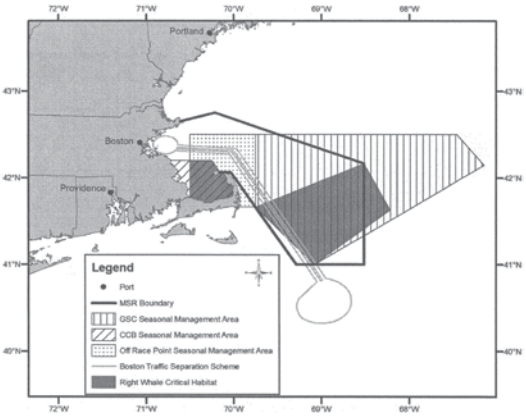
(3316) 42°12'00.0"N., 70°30'00.0"W.; thence to

(3317) 42°12'00.0"N., 70°12'00.0"W.; thence to

(3318) 42°04'56.5"N., 70°12'00.0"W.; thence along charted mean high water line and inshore limits of COLREGS limit to a latitude of 41°40'00.0"N., thence due east to 41°41'00.0"N., 69°45'00.0"W.; thence back to starting point.

(3319) (iii) Great South Channel: Vessels shall travel at a speed of 10 knots or less over ground during the period of April 1 to July 31 each year in all waters bounded by straight lines connecting the following points in the order stated (Fig. 3):

Figure 3. Northeast United States.




(3320) 42°30'00.0"N., 69°45'00.0"W.

(3321) 41°40'00.0"N., 69°45'00.0"W.

(3322) 41°00'00.0"N., 69°05'00.0"W.

(3323) 42°09'00.0"N., 67°08'24.0"W.

(3324) 42°30'00.0"N., 67°27'00.0"W.

(3325) 42°30'00.0"N., 69°45'00.0"W.

(3326) (b) Except as noted in paragraph (c) of this section, it is unlawful under this section:

(3327) (1) For any vessel subject to the jurisdiction of the United States to violate any speed restriction established in paragraph (a) of this section; or

(3328) (2) For any vessel entering or departing a port or place under the jurisdiction of the United States to violate any speed restriction established in paragraph (a) of this section.

(3329) (c) A vessel may operate at a speed necessary to maintain safe maneuvering speed instead of the required ten knots only if justified because the vessel is in an area where oceanographic, hydrographic and/or meteorological conditions severely restrict the maneuverability of the vessel and the need to operate at such speed is confirmed by the pilot on board or, when a vessel is not carrying a pilot, the master of the vessel. If a deviation from the ten-knot speed limit is necessary, the reasons for the deviation, the speed at which the vessel is operated, the latitude and longitude of the area, and the time and duration of such deviation shall be entered into the logbook of the vessel. The master of the vessel shall attest to the accuracy of the logbook entry by signing and dating it.

(3330) (d) This final rule expires on December 9, 2013.

## Part 226–Designated Critical Habitat

### §226.101 Purpose and scope.

(3331) The regulations contained in this part identify those habitats designated by the Secretary of Commerce as critical, under section 4 of the Act, for endangered and threatened species under the jurisdiction of the Secretary of Commerce. Those species are enumerated at §223.102 of this chapter if threatened and at §224.101 of this chapter if endangered. For regulations pertaining to the designation of critical habitat, see part 424 of this title; for regulations pertaining to prohibitions against the adverse modification or destruction of critical habitat, see part 402 of this title. Additional information regarding designated critical habitats that is not provided in this section may be obtained upon request to the Office of Protected Resources (*see* §222.102, definition of "Office of Protected Resources").

### §226.203 Critical habitat for northern right whales.

(3332) (a) Great South Channel. The area bounded by

(3333) 41°40'N., 69°45'W.;

(3334) 41°00'N., 69°05'W.;

(3335) 41°38'N., 68°13'W.; and

(3336) 42°10'N., 68°31'W.;

(3337) (b) Cape Cod Bay, Massachusetts. The area bounded by

(3338) 42°04.8'N., 70°10'W.;

(3339) 42°12'N., 70°15'W.;

(3340) 42°12'N., 70°30'W.;

(3341) 41°46.8'N., 70°30'W. and on the south and east by the interior shore line of Cape Cod, Massachusetts.

(3342) (c) Southeastern United States. The coastal waters between 31°15'N and 30°15'N from the coast out 15 nautical miles; and the coastal waters between 30°15'N and 28°00'N from the coast out 5 nautical miles.