

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 143****46 CFR Part 2**

[CGD 91-030]

RIN 2115-AD78

Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Omnibus Budget Reconciliation Act of 1990 requires the Coast Guard to establish user fees for Coast Guard services related to the inspection and examination of U.S. and foreign commercial vessels. Fees in this rule are based on existing vessel inspection program requirements and services. The fees are established for the purpose of recovering costs associated with providing Coast Guard vessel inspection services.

EFFECTIVE DATE: This rule is effective on May 1, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

For inquiries and payment information during initial implementation of the rule, call, toll-free, 1-800-941-3337.

FOR FURTHER INFORMATION CONTACT: Denise J. Mursch, Planning Staff (G-MP-2), Office of Marine Safety, Security and Environmental Protection, (202) 267-0785.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this document are LCDR John J. Kelly, Project Manager, and LCDR J.K. Gillespie, Office of Marine Safety, Security and Environmental Protection, and C.G. Green, Project Counsel, Office of Chief Counsel.

Regulatory History

On December 18, 1991, the Coast Guard published in the **Federal Register** (56 FR 65786) a notice of proposed rulemaking (NPRM) entitled "Direct User Fees for Inspection or Examination

of U.S. and Foreign Commercial Vessels." On December 24, 1991, the Coast Guard published a correction to the proposed rule (56 FR 66766). This correction added Appendix A, a summary of the preliminary Regulatory Evaluation, to the NPRM published on December 18, 1991. The initial public comment period closed on February 18, 1992.

The Coast Guard received numerous comments requesting that public hearings be held in connection with the vessel inspection user fee rulemaking. The Coast Guard determined that public hearings would significantly contribute to this rulemaking, and published a Notice in the **Federal Register** on March 24, 1992 (57 FR 10149) to reopen the public comment period and announce the scheduling of nine public hearings. The nine public hearings were held between April 13, 1992, and May 1, 1992, at the following locations: Baltimore, MD; Secaucus, NJ; Boston, MA; Miami, FL; New Orleans, LA; Chicago, IL; Seattle, WA; San Francisco, CA; and San Diego, CA. The public comment period closed on May 18, 1992.

Background and Purpose

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended 46 U.S.C. 2110 and removed long-standing prohibitions against imposing certain user fees.

As amended by the Act, 46 U.S.C. 2110 now requires the establishment and collection of user fees for Coast Guard services provided under Subtitle II of Title 46, United States Code. The Coast Guard is developing Subtitle II user fees in several separate rulemakings, each of which covers services provided in an identifiable program area. On March 19, 1993 (58 FR 15228), the Coast Guard published the final rule on User Fees for Marine Licensing, Certification of Registry, and Merchant Mariner Documentation (CGD 91-002). On November 15, 1993 (58 FR 60256), the Coast Guard published the final rule on User Fees for Documentation of Vessels and Recording of Instruments (CGD 89-007). In addition to the fees for inspection or examination of U.S. and foreign commercial vessels in this rule, the Coast Guard also plans to establish fees for services related to Coast Guard equipment approval and factory inspections (CGD 92-013); inspections for the initial Certificate of Inspection (COI), such as new vessel construction inspections, inspections of existing vessels undergoing rebuilding, reflagging, or major conversion; and for commercial vessel plan review.

Overview of the Rulemaking

This rule revises 46 CFR Part 2 and creates user fees for Coast Guard inspections or examinations of existing U.S. and foreign commercial vessels as follows:

For U.S. Vessels

(1) An annual vessel inspection fee which covers all periodic inspections and follow-on inspections conducted during the course of a given year for commercial vessels required to have a Coast Guard COI.

(2) An overseas inspection fee for inspections conducted outside the United States and its territories, except for inspections conducted in Canada, Mexico, and the British Virgin Islands.

For Foreign Vessels

(1) A fee for the biannual Letter of Compliance (LOC) examination and for the annual reexamination of tankships carrying hazardous liquids or liquefied gases in bulk in U.S. waters;

(2) A fee for the annual examination of tankships carrying oil in bulk in U.S. waters;

(3) A fee for the LOC examination of mobile offshore drilling units (MODUs) operating on the U.S. outer continental shelf;

(4) An annual vessel inspection fee for all vessels required to have a Coast Guard COI, including Canadian tank barges and vessels of nations not signatory to the International Convention for Safety of Life at Sea (SOLAS).

(5) An overseas examination fee for examinations conducted outside the United States and its territories, except for examinations conducted in Canada, Mexico, and the British Virgin Islands.

Vessels Not Covered

This rule does not apply to foreign passenger vessels, to training vessels operated by State maritime academies, or to public vessels of the United States which are excluded from the provisions of subtitle II of Title 46 U.S. Code.

Waivers

Collection of vessel inspection fees is waived for all vessels whose fees would be paid directly using Federal appropriated funds.

Exemptions

No exemptions were proposed in the NPRM; however, the final rule contains one exemption for charitable, not-for-profit, youth-oriented organizations which use their vessel(s) exclusively for training youths in boating, seamanship, and navigation skills. This exemption is

discussed more fully in the section of this document entitled *Exemptions*.

Fee Limit for Tank Barges

Annual vessel inspection fees calculated for tank barges in various service and route categories all exceeded \$500. However, the Act provides that a user fee for inspection or examination of a non-self-propelled tank barge may not exceed \$500 per year. Thus, the Coast Guard set the annual vessel inspection fee for tank barges at the statutory limit of \$500.

Types of Inspections Covered under this Rule

Fees established by this rule are based on Coast Guard costs of providing inspection and examination services. These costs include marine inspector hours, travel time, mileage costs, administrative support costs, training costs, and overhead costs. In establishing these fees, the Coast Guard reviewed all inspection requirements contained in 46 CFR part 2, as well as the technical requirements for inspections found in 46 CFR parts 31, 71, 91, 105, 107, 108, 109, 151, 167, 175, 176, 189, and 190 and in 33 CFR parts 140, 143, 151, 155, and 157.

Depending on vessel type, commercial vessels are subject to periodic inspections at quarterly, 1 year, 1.5 year, 2 year, 2.5 year, 3 year, 5 year or 10 year inspection intervals. Typically, Coast Guard marine inspectors visit each U.S. commercial vessel a minimum of once each year to either: Inspect the vessel for reissuance of the COI; to conduct the annual reinspection; or to inspect the vessel's hull. The amount of time it takes to conduct any given inspection is often a function of the type of inspection being conducted, the specific category of vessel being inspected, the length and in some cases the tonnage of the vessel being inspected, and the maximum number of passengers the vessel is authorized to carry under the vessel's COI. These three periodic inspections, namely the inspection for certification, the reinspection (or mid-period inspection), and the hull (or drydock) inspection, generally require the same amount of inspection time for the majority of vessels in each vessel category.

Follow-on inspections ensure that a vessel remains in compliance with its COI. The purpose of follow-on inspections varies from one vessel to the next. However, these inspections typically include, but are not limited to, any of the following four activities:

(a) Certifying that deficiencies noted during a previous inspection have been satisfactorily corrected;

(b) Surveying either damaged ship structures or propulsion systems, or lifesaving, navigation, or firefighting equipment which has failed;

(c) Inspecting, testing, or approving repairs either to damaged ship structures or propulsion systems, or to lifesaving, navigation, or firefighting equipment which has failed; or

(d) Verifying that vessel modifications or alterations meet regulatory requirements.

Wide variations exist relative to the amount of time required to conduct follow-on inspections, which include, but are not limited to: Drydock extension inspections; MARPOL compliance inspections; inspections to clear outstanding requirements issued by a Coast Guard marine inspector on Coast Guard Form CG-835; damage surveys; repair inspections; permit to proceed inspections; and non-credit drydock inspections. These variations are attributable to many factors, including: The degree to which the vessel is made ready for inspection by the owner or operator; the knowledge, training, and experience of shipyard personnel and the ship's crew; the knowledge and training of the marine inspector; the vessel owner's or operator's management and operating procedures; the level of coordination with third party contractors; the nature and extent of the repairs required; and the size and extent of any deficiency list to be inspected or cleared. Generally, there are no accurate predictors as to the amount of time each type of follow-on inspection should take.

Inspection and Examination Fees

For the purposes of this rule, vessels required to have a COI are inspected, and foreign vessels not required to have a COI are examined. Annual vessel inspection fees are payable each year on or before the vessel's user fee anniversary date and entitle a vessel owner or operator to all periodic and follow-on inspection services needed during the year. All other inspection or examination-related fees are payable by the vessel's owner or operator prior to the time that the Service is provided.

Vessels of nations which are party to SOLAS are examined by the Coast Guard only to the extent necessary to verify compliance with their own nation's inspection laws, the requirements of various international treaties, and any additional domestic regulations which may be imposed by the United States. This rule does not

establish fees for SOLAS compliance examinations.

Derivation of the Annual Vessel Inspection Fee

Depending on the specific vessel category, COIs are issued for a period of one, two, or three years. Reinspections are conducted during the intervening years, on or about the anniversary date of the vessel's COI. Hull inspection intervals vary from once every twelve months to once every ten years, depending on the vessel category and whether the vessel operates in salt water or fresh water. Follow-on inspections, on the other hand, can occur at any time.

The length of the period for which a COI is issued is only one factor in the annual vessel inspection fee calculation. Using vessel inspection data, the Coast Guard determined the average amount of time needed to conduct periodic and follow-on inspections for vessels in each vessel category during a twelve month period. For Coast Guard data capture purposes, hull inspections also included internal structural inspections, fuel oil tank inspections, and tailshaft inspections, since these inspections most often coincide or are associated with the hull inspection.

The annual vessel inspection fee is based upon an equation which calculates the average expected value (in terms of annual inspector hours) of inspection services provided to each vessel category during any given year. The average expected value is the average number of hours it takes to conduct a type of inspection multiplied by the probability of that inspection taking place during any given year. It assumes that the average time to conduct an inspection is representative for all vessels within a given vessel category; that the distribution of the average inspection time about the mean is normal; and that the average inspection time has a relatively small standard deviation. However, while use of the average expected value worked well for periodic inspections, it did not work as well for follow-on inspections, because the standard deviation for many follow-on inspections was several times the mean.

Constructing annual vessel inspection fees predicated on full recovery of follow-on inspection costs would have resulted in shipowners who require less inspection services subsidizing shipowners who require significantly greater inspection services. For this reason, the Coast Guard proposed to base charges for follow-on inspections at 50% of cost. Charging only 50% of the cost associated with conducting follow-

on inspections minimized the impact of the large standard deviations and reduced the potential for inequities within vessel categories and subcategories. No comments on the NPRM suggested that there was any disagreement with the proposal. The annual vessel inspection fees in this final rule are thus based on the total cost of conducting periodic inspections and half of the costs of conducting follow-on inspections.

The Coast Guard developed its vessel inspection and examination fees using information from a workload analysis study, vessel inspection data contained in the Coast Guard's Marine Safety Information System (MSIS), and costs associated with conducting vessel inspection and examination activities by personnel assigned to Coast Guard Marine Safety Offices and Coast Guard Marine Inspection Offices.

Vessel inspection and examination fees were developed to generate receipts approximating the total vessel inspection program costs of providing those services. Vessel inspection program costs include the cost of personnel, local travel costs for inspectors, a portion of the annual cost of operating MSIS, and the associated overhead required to provide Coast Guard inspection and examination services (i.e., office space; office equipment and supplies such as telephones, computers and copiers; special training; and other personnel-related costs). Using information derived from a workload analysis study, the hourly standard rates provided in the Coast Guard Standard Rate Instruction (COMDTINST 7310.1), and the Coast Guard Staffing Standards Manual (COMDTINST M5312.11), the Coast Guard calculated the total cost of the vessel inspection program to be approximately \$28.7 million. Of this amount, an estimated \$2.9 million will be the subject of a separate rule covering fees for inspections associated with new vessel construction and for commercial vessel plan review services.

Based on the workload analysis study and the total vessel inspection program cost, the Coast Guard calculated a basic hourly rate for vessel inspection services of \$87 per qualified inspector hour. A detailed discussion of the calculation of this figure is set out in the Regulatory Evaluation.

Each fee was calculated based upon the time the Coast Guard would reasonably expect to spend inspecting or examining vessels in specific categories during an average year, including travel time to and from the inspection site. All fees were rounded down to the nearest \$5.00 increment.

The costs associated with inspecting the different types of MODUs were determined using Coast Guard historical information, because workload data was not captured based on the type of drilling unit.

Consistent with guidance provided by the Office of Management and Budget (OMB) Circular A-25, and except where otherwise mandated by statute, the Coast Guard's goal in establishing user fees for Subtitle II services is full cost recovery. This rule will recover an estimated \$17.2 million of the \$25.8 million annual cost of providing Coast Guard vessel inspection and examination services. An estimated \$8.6 million in costs will not be recovered by user fees due to statutory prohibitions or limitations; lack of statutory authority; exemptions in the rule from payment of fees; and administrative reductions during development of the final fee schedule. These unrecovered costs are listed in Appendix E of the Regulatory Evaluation for this rule.

OMB Circular No. A-25 requires that all user fees be reviewed periodically to determine if adjustments or changes to the fees are necessary. The fees in this rule will be revised if costs change due to inflation or deflation; if the Coast Guard changes the manner in which inspection or examination services are provided; or if otherwise deemed appropriate. Revisions to the fees would be done through rulemaking.

Optional Prepayment of Annual Vessel Inspection Fee

The final rule allows a vessel owner or operator to prepay the annual vessel inspection fee for any period of not less than three years and not more than the design life or expected remaining service life of the vessel. The Coast Guard will calculate the prepayment amount using the net present value of each annual payment during the requested prepayment period. The net present value is a discounted amount which, if deposited in an interest bearing account until the payment year and when added to the accumulated interest, would equal the payment amount due. The interest rate used in calculating net present value will be the 10-year Treasury note rate in effect at the time of calculation, as adjusted for inflation using the projected rate for Federal pay increases. Entitlement to inspection services during the prepayment period is transferable to a subsequent owner of the vessel, but the entitlement is not transferable to a different vessel. If a vessel certificated for a single service changes service during the prepayment period, the fee for the remainder of the prepayment

period must be recalculated using the vessel's new category. The remaining prepaid balance will be applied to the fee calculated for the remaining years in the vessel's new category, commencing with the next user fee anniversary date. With the exception of a vessel that is removed from Coast Guard certification, as discussed in § 2.10-105(e), prepayments of fees are non-refundable.

Overseas Inspection and Examination Fees

Approximately 40,000 inspector hours are expended annually in the overseas inspection of U.S. commercial vessels. These overseas inspections are conducted at the request of the vessel owner. Vessel owners and operators reimburse the Coast Guard (under 46 U.S.C. 3317) for travel and per diem expenses of the marine inspectors, but not for the personnel costs associated with conducting overseas inspections. Personnel hours expended during travel to the overseas inspection site and at the overseas inspection site waiting for a vessel to be made ready for inspection constitute the extra costs associated with providing inspection and examination services at overseas locations which are not included in the annual vessel inspection fees.

The Coast Guard proposed an additional flat fee for each overseas inspection. The total marine inspector hours expended in conducting overseas inspections divided by the number of overseas inspections conducted provides an average time for each inspection of approximately 53 hours travel and delay time. At \$87 per qualified inspector hour, this rule sets the fee for each overseas inspection at \$4,585.

Foreign Tankship Fees

Foreign tankships which carry hazardous liquids or liquefied gases in bulk are issued a LOC, which is valid for two years. These tankships are also examined annually, at which time the vessel's LOC is endorsed. Foreign tankships carrying oil in bulk, on the other hand, are issued a Tank Vessel Examination (TVE) Letter, which is valid for one year. The time involved to conduct each of these tankship examinations is essentially the same. The fee for each of the three examinations, therefore, is the same amount, namely \$1,100.

Foreign MODU Fees

Foreign MODUs are examined under the authority of the Outer Continental Shelf Lands Act, codified in 43 U.S.C. 1356. The regulation requiring a foreign MODU to obtain a LOC is published in

33 CFR 143.210. LOCs for foreign MODUs are valid for one year or until the MODU departs the outer continental shelf, whichever occurs first. Since certain other foreign vessels are required to pay user fees for inspections and examinations, and since U.S. MODUs are generally inspected by and pay fees to foreign agencies when operating in foreign waters, the Coast Guard has established user fees for examination services provided to foreign MODUs. Foreign MODU fees are collected under the authority of 14 U.S.C. 664 and 31 U.S.C. 9701.

Foreign MODU examinations are conducted under 33 CFR 143.207 and 143.210 to ensure compliance with one of the following: (a) The design and equipment standards for MODU's in 46 CFR part 108; (b) the design and equipment standards of the documenting nation, if those regulations have been found to meet or exceed U.S. standards; or, (c) the standards issued by the International Maritime Organization.

Since examinations conducted to ensure compliance with (a) above involve essentially the same inspection services provided to U.S. MODUs, the fees for these foreign MODU examinations are identical to the annual vessel inspection fees for U.S. MODUs. Likewise, since the scope of the examinations conducted to ensure compliance with categories (b) and (c) above are essentially the same, and involve the same amount of time, the fee for each of these foreign MODU examinations is the same amount, namely \$1,830.

Foreign Passenger Vessel Fees

The Coast Guard examines foreign passenger vessels of nations that are party to SOLAS to verify that these vessels are in substantial compliance with the laws of their flag state and the controls imposed by appropriate international treaties. The Coast Guard initially proposed to charge the same fee for each initial, annual, and quarterly foreign passenger vessel examination. However based on further review and research, the Coast Guard has subsequently determined that the reciprocity provision contained in 46 U.S.C. 3303(b) does not allow imposition of a fee for the examination of a foreign passenger vessel except to the extent that a foreign country charges vessels of the United States trading to the ports of that country. Since there are no U.S. passenger vessels being charged examination fees by a foreign country, and no clear indication that any such fees would be charged, the Coast Guard has not established a fee for the

examination of foreign passenger vessels under 46 U.S.C. 3303.

Fee Collections

The Coast Guard has established a vessel user fee anniversary date for each existing vessel currently inspected by the Coast Guard. This was accomplished by checking MSIS data for the COI anniversary date of all Coast Guard inspected vessels and assigning the vessel's user fee anniversary date as the first day of the next month after the COI anniversary date, exclusive of the year. Once established, the vessel user fee anniversary date remains the same for the service life of the vessel. Annual vessel inspection fees are due on or before the vessel's user fee anniversary date. Coast Guard inspection services will not be provided until the annual vessel inspection fee for that year has been paid in full. For new vessels entering service after the effective date of this rule, the vessel user fee anniversary date will be based upon the vessel's initial COI issuance date. This same method will be used for existing vessels coming under Coast Guard certification for the first time.

Annual vessel inspection fees and foreign vessel examination fees must be mailed to the address specified in 46 CFR 2.10-20. Overseas inspection and examination fees, on the other hand, must accompany each request for an overseas inspection or examination as required by § 2.10-120.

Fees generated by this rulemaking will be deposited in the general fund of the U.S. Treasury as offsetting receipts of the Department of Transportation and ascribed to Coast Guard activities. This means that the fees will not be added to current Coast Guard appropriations; nor will the fees directly affect future appropriations used for administration of the Coast Guard's marine safety programs. The Coast Guard considers this to be an advantage, since funding for these programs is more predictable when based on firm appropriations, and administration of the vessel inspection program will not be dependent on the amount of fees collected during any given year.

Discussion of the Comments

Overview

During the comment period, the Coast Guard received a total of 1,092 written comments to the docket. In addition, 176 persons either testified or submitted written statements during the nine public hearings.

All segments of the industry generally objected to the proposed imposition of any user fees for the inspections of their

vessels. They also objected to the proposed fee amounts being too high. Many requested an after-the-fact billing system to charge for the actual inspection time rather than the proposed annual fees.

The largest number of comments came from owners and operators of small passenger vessels who were primarily concerned with the cumulative economic impact of local, State, and Federal fees and the effect of the fees on their income.

Numerous comments were also received from the freight barge industry. The industry's primary concerns were that they were not included in the fee cap for tank barges and that they would be charged twice for what appears to be identical services conducted by the Coast Guard and American Bureau of Shipping (ABS).

The oceangoing merchant fleet industry was primarily concerned that the proposed fees would place their vessels at a competitive disadvantage relative to their foreign counterparts; that foreign countries may choose to reciprocate and charge U.S. vessels fees for operating in their ports; that the Coast Guard should delegate more of its inspection responsibilities to ABS; that charging an hourly rate would provide an incentive for owners to have their vessels ready for inspection; and that if the industry must pay for vessel inspection services, the Coast Guard needs to improve its efficiency and the quality of its inspection corps.

The offshore oil industry also submitted numerous comments. The primary concerns of this industry segment related to the economic impact the fees would have on individual vessel operators supporting their industry, i.e. offshore supply vessels (OSVs).

Some comments requested that more information be provided which specifically shows how the annual inspection fees were derived. The Coast Guard has included a detailed example of an annual fee calculation in the final Regulatory Evaluation for this rule.

Exemptions

Under 46 U.S.C. 2110(g), the Coast Guard may exempt a person from paying fees if it is determined to be in the public interest to do so. In the NPRM the Coast Guard did not propose any exemptions, but invited comments on exemptions that could be considered to be in the public interest. Over 40 exemption requests were received, spanning a wide range of vessel categories. The categories for which exemptions were requested included: State, local, and private ferries; vessels

operated by youth-oriented, not for profit, charitable or educational organizations; vessels operated by nonprofit organizations or foundations; oceangoing merchant vessels; small passenger vessels less than 30 feet in length; certain historic vessels; small entities; small passenger vessels; U.S. vessels engaged in foreign commerce; small passenger vessels built before December 31, 1990; vessels whose gross profit was less than 20% of the proposed annual vessel inspection fee; companies engaged in providing passenger transportation services; auxiliary sailing vessels; sailing school vessels less than or equal to 65 feet in length; yacht club launches carrying 12 passengers or less; any small entity negatively impacted by the fees; tourism vessels; U.S. flag liner vessels; small passenger vessels less than 100 gross tons; small passenger vessels less than 100 gross tons and engaged in recreational diving and fishing activities; foreign vessels; and U.S. vessels in general. Of this list, the greatest number of comments came from the Boy Scouts of America (BSA); state, local, and private ferries; and various not for profit organizations. Comments from these groups presented a variety of reasons to support their requests for exemption.

Most other requests for exemptions simply suggested an exemption category but failed to provide an articulated rationale in support of their request.

Several comments requested an exemption for ferries which are owned and operated by local, state, or private entities and which support local transportation systems. The comments indicated that ferries reduced vehicle traffic congestion on area roads and provided access to remote sites, such as to a barrier island State park, or to the islands of Martha's Vineyard and Nantucket. The comments also indicated that many ferries operate on a nonprofit basis in an effort to keep their fares as low as possible, with fare increases often regulated by a State Public Utilities Commission. One State transportation department indicated that it received some type of subsidy from the Federal Transit Administration (FTA) and stated that it is not logical for the Federal Government to subsidize water-based nonprofit operations on the one hand, while imposing a fee for Coast Guard inspection services on the other hand.

A substantial number of comments requested exemptions for vessels owned or operated by organizations that are charitable, not for profit, and youth-oriented, such as the BSA, including the Sea Scouts and Sea Explorers, Girl

Scouts of the United States of America (GSA), and the Young Men's Christian Association (YMCA) of the United States of America. These organizations are involved in teaching youths maritime skills, such as boating, seamanship, and navigational skills. These organizations argued that since many of their programs rely solely on volunteers, fund-raising activities, and private donations for their total funding and support, their ability to continue offering these programs would be adversely affected if fees were charged for the inspection of their vessels.

In addition to organizations discussed above, several other nonprofit organizations requested exemptions for their vessels. These organizations provide the public with educational programs having an environmental or historical focus, rather than teaching youths maritime skills. One organization provides charitable medical care and therefore has a humanitarian focus.

The Coast Guard acknowledges that there are many charitable organizations which provide services to the public, and that even commercial operations, such as ferries, benefit the general public. However, the Coast Guard does not agree that all organizations which serve or benefit the public in some manner should be exempted from the vessel inspection fees.

The Coast Guard has a long-standing record of supporting national youth programs (Coast Guard Public Affairs Manual—COMDTINST M5728.2B). Charging fees for inspecting these vessels would not be in keeping with this long-standing support, nor would it be consistent with other Coast Guard user fee rulemakings such as the recreational vessel user fee and merchant marine licensing user fees which have established a similar exemption. Therefore, consistent with past practice, the Coast Guard has decided to exempt vessels which are owned or operated by not for profit, charitable, youth-oriented organizations and which are used exclusively by those organizations for training youths in boating, seamanship, and navigation skills.

A vessel meeting the criteria set out in the final rule may be eligible for an exemption. Vessel owners and operators, including the BSA, GSA, and YMCA organizations, desiring an exemption must submit a written request to Commandant (G-MP) via the Officer in Charge, Marine Inspection (OCMI) of the Marine Inspection Zone in which the vessel normally operates. Since some of the vessels owned or operated by the BSA, GSA, and YMCA

organizations may not be used exclusively by those organizations for training youths in boating, seamanship, and navigation skills, it is expected that some of these vessels may not be eligible for this exemption.

Historic Vessels

Several comments to the docket asserted that the proposed annual vessel inspection fees will have an adverse impact on vessels listed on the National Register of Historic Places and other vessels possessing either historical character or historical significance. Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to consider the effects of their actions on historic properties and to seek comments from an independent reviewing agency, the Advisory Council on Historic Preservation (ACHP). The purpose of the Section 106 process is to prevent unnecessary harm to historic properties arising from Federal actions. Regulations for the Section 106 process are contained in 36 CFR part 800.

Because a number of inspected vessels are listed on the National Register of Historic Places, the Coast Guard referred this matter to the Advisory Council on Historic Preservation. In November 1993, the Advisory Council determined that this rule does not constitute an undertaking under Section 106 of the National Historic Preservation Act, therefore the Coast Guard did not do a Section 106 analysis.

Specific Comments

Several comments expressed the opinion that their taxes had already paid for the cost of providing Coast Guard inspection services, and that charging fees amounted to nothing more than "double taxation." Some comments stated that the primary beneficiaries of Coast Guard inspection services include the public, the ship's crew and its passengers, and the environment, and that fees should be reduced substantially in recognition of that fact.

The Coast Guard does not agree. The Omnibus Budget Reconciliation Act of 1990 tasked the Coast Guard with establishing user fees for services provided under Subtitle II of Title 46, United States Code. This congressional mandate was aimed at recovering costs associated with providing Coast Guard services from the recipients of those services. OMB Circular No. A-25, dated July 15, 1993, states that when a service or privilege provides special benefits to an identifiable recipient beyond those that accrue to the general public, a

charge will be imposed to recover the full cost to the Federal Government for providing the special benefit, or the market price. The Circular also provides that when the public obtains benefits as a necessary consequence of an agency's provision of special benefits to an identifiable recipient (i.e., the public benefits are not independent of, but merely incidental to, the special benefits), an agency need not allocate any costs to the public and should seek to recover from the identifiable recipient either the full cost to the Federal Government of providing the special benefit or the market price, whichever applies.

Just as a business cannot operate legally without applicable State and city business licenses, a U.S. commercial vessel of a certain size or tonnage cannot legally carry passengers or cargo in U.S. waters unless it has a valid COI issued by the Coast Guard. The Coast Guard's position is that the vessel owner or operator is the primary beneficiary of Coast Guard inspection services.

A few comments asserted that there were no cost controls inherent in the proposed fees that would help ensure that the fees were competitive, reasonable, and cost effective. Still others questioned having 416 FTE (full time equivalents or man-years, as opposed to actual personnel) associated with the total vessel inspection program cost, because only about half of the FTE could be accounted for by the MSIS inspection workload data.

Personnel such as the Chief of the Inspection Department, the Assistant Chief of the Inspection Department, marine inspector trainees, clerical and support personnel, and to a lesser extent the Executive Officer and the Commanding Officer at each of the Marine Safety Offices, all contribute to the 416 FTE associated with the administration of the Coast Guard's vessel inspection program. However, the hours for these support personnel are not in the MSIS inspection workload data which tracks mainly those who are directly involved in doing the inspection or processing the reports. The support and administrative costs not tracked in MSIS are nonetheless necessary to the vessel inspection program, as are the marine inspectors actually conducting the onboard inspections.

Others asserted that the Coast Guard intended to charge a separate fee for reinspections and follow-on inspections.

All reinspections, hull inspections, and follow-on inspections are encompassed within the annual vessel inspection fee. With the exception of the

overseas inspection fee, the annual vessel inspection fee represents the only inspection fee most U.S. vessel owners will pay during any given year. Payment of the annual vessel inspection fee entitles each owner or operator to a full year of periodic and follow-on inspections, regardless of when the COI, or any other inspection, is conducted.

Some comments stated that the Coast Guard's de facto COI issuance policy is shortening the inspection cycle, causing inspections to occur more frequently than statutorily required. They indicated the current Coast Guard practice of listing the COI issuance date as the date that the inspection was conducted (versus the actual expiration date of the COI) would cause owners to pay an annual vessel inspection fee while receiving less than 12 months of Coast Guard inspection services.

The annual vessel inspection fee will be due on the same date each year, namely the user fee anniversary date, for as long as the vessel remains in service. Therefore, the COI issuance date will have no bearing on the amount of annual vessel inspection services provided.

A few comments suggested that inspectors may become even more vigilant during future inspections so as to find discrepancies and thereby generate additional user fee receipts for the U.S. Treasury.

Since the annual vessel inspection fee includes all periodic and follow-on inspections conducted during the course of the year, there exists no incentive for inspectors to uncover additional discrepancies to increase fee collections.

A number of comments took exception to the Coast Guard's use of the term "privilege of inspection" in the NPRM and suggested that since inspections are required by Coast Guard regulations a more appropriate phrase would be either "right to be inspected," "eligibility for inspection," or "entitlement to inspection." The Coast Guard agrees, and the phrase "privilege of inspection" has been replaced by language more correctly indicating that payment of the annual vessel inspection fee entitles a vessel owner or operator to a full year of periodic and follow-on inspection services.

Numerous comments suggested that the proposed \$500 cap on tank barge inspection fees was discriminatory and inequitable, especially when compared to the fees proposed for small passenger vessels and the fees proposed for freight barges.

The tank barge cap was part of the Act passed by Congress. The calculated fees for tank barges ranged from an annual

fee of \$778 to \$1,015. Because the fees as calculated exceeded the statutory limit of \$500, and the Act prohibits charging a fee exceeding \$500 per year for these vessels, the Coast Guard set the annual vessel inspection fee at the maximum amount allowed by Congress.

Some comments expressed the opinion that in response to the fees established for foreign vessels under this rule, countries may elect, in turn, to charge fees for U.S. vessels operating in foreign ports.

The Coast Guard acknowledges the possibility that foreign countries may consider charging reciprocal fees. However, the Act requires that fees be established for services provided under Subtitle II of Title 46 United States Code, except as otherwise provided in Title 46 and to the extent that the fees are not in conflict with the international obligations of the United States. The Coast Guard has determined that user fees are enforceable for TVE and LOC examinations conducted on foreign tankships and MODUs. These examinations are required by 46 U.S.C. Chapter 37 and are not based solely on any international convention or agreement; rather, they are based on U.S. domestic port entry requirements aimed at ensuring the protection of U.S. ports, its waterways, and the environment.

Several comments suggested that annual vessel inspection fees will place U.S. vessels at a competitive disadvantage relative to foreign vessels engaging in U.S. or international commerce. One commercial shipping representative commented that his company was attempting to compete in an international market, where his competitor's costs associated with regulatory bodies are limited to those of a classification society. He objected to having to pay Coast Guard vessel inspection fees in addition to classification fees stating that the increased fee burden placed his company at a competitive disadvantage.

Just as the Coast Guard inspects the U.S. commercial vessel fleet, SOLAS signatory nations inspect vessels belonging to their commercial vessel fleets. Most of these nations charge their fleets fees for providing these inspection services. Since these vessels have been inspected by their "flag state," and have been issued appropriate international convention certificates prior to entering U.S. waters, Coast Guard examinations are limited to ensuring compliance only with U.S. regulations which may supersede international requirements. These LOC and TVE examinations take less time to conduct than an inspection for a COI. Thus, these examinations

have lower fees. Vessels of foreign nations not party to SOLAS, and vessels to which SOLAS does not apply are subject to the same inspection requirements as U.S. vessels. Because these latter vessels require the same amount of Coast Guard inspection services as their U.S. counterparts, they must pay a vessel inspection fee equal to the annual vessel inspection fee paid by U.S. vessels of the same vessel service category. Thus, foreign vessels using U.S. ports pay the equivalent amounts for Coast Guard inspection services as U.S. vessels.

One comment suggested that the proposed vessel examination fee schedule should be expanded to include inspections of foreign cargo vessels of nations that are signatory to SOLAS.

As authorized by 46 U.S.C. 3303 and required under 46 CFR 90.05-1, foreign vessels of a country having inspection laws and standards similar to those of the United States, and which have an unexpired COI issued by proper authority of its respective country, receive only a port state control examination to ensure that the condition of the vessel is as stated on its COI. User fees solely for port state control examinations would be inconsistent with the operation of customary international practice and they are not included in this rule.

A few comments stated that every vessel carrying passengers for hire should be inspected by the Coast Guard. Others stated that the law concerning bareboat charters should be changed.

These suggestions would require changes to inspection statutes and regulations which are beyond the scope of this rulemaking. However, should additional categories of commercial vessels become subject to Coast Guard inspection in the future, user fees will be established for these vessels as well. For example, the Passenger Vessel Safety Act of 1993 now requires that certain additional vessels carrying passengers for hire be inspected by the Coast Guard. Therefore, the fees established in this rule also apply to these vessels.

A few comments expressed the concern that fees charged for vessel inspection services were, in reality, paying for other Coast Guard services provided to recreational and fishing vessels for which user fees have not been proposed. The Coast Guard disagrees.

This rule establishes annual vessel inspection fees for those vessels subject to Coast Guard inspection under 46 U.S.C. 3301. Recreational vessels and fishing vessels are not currently required to be inspected.

One comment suggested that the proposed annual vessel inspection fee for liquefied natural gas tankships (LNG) was not based on the actual time spent inspecting such vessels. The comment stated that the proposed fee for LNG tankships was 244% higher than the proposed fee for a non-LNG tankship, despite the fact that both tankship categories should take essentially the same amount of time to inspect.

The Coast Guard agrees that if vessel size was the only factor, LNG tankships should take essentially the same amount of time to conduct the required inspections as non-LNG tankships. However, Coast Guard-inspected LNG vessels operate almost exclusively in the overseas trade. MSIS data indicates that most reinspections of LNG tankships occur while the vessel is underway, and most drydockings often require the services of a dedicated inspector for extended periods. The annual vessel inspection fee for LNG tankships also includes Coast Guard costs associated with conducting the annual testing of firefighting systems. All of these factors increase the average annual inspection time.

Because there are only 10 active vessels in the LNG tankship fleet, the Coast Guard reviewed MSIS data on each of the 10 vessels dating back to 1987 to establish a more reliable average inspection time. Data which clearly exceeded the mean inspection time was intentionally eliminated from this analysis. The results indicated that a reduction in the proposed annual vessel inspection fee for LNG tankships was, in fact, justified. However, the recalculated annual vessel inspection fee for LNG tankships remains almost twice as high as the annual vessel inspection fee for a conventional tankship.

One comment asked whether a separate fee would be assessed to a vessel operating part of the year in one region of the country and operating the rest of the year in another region of the country.

Only one annual vessel inspection fee will be charged per vessel, regardless of the number of regions in which a vessel operates during any given year. Payment of the annual vessel inspection fee entitles a vessel owner to a full year of periodic and follow-on inspections, regardless of where in the country the vessel chooses to operate and how often the vessel is inspected.

Several comments suggested that the Coast Guard should consider billing at the conclusion of the inspection. Other comments expressed the opinion that fixed annual fees do not provide an incentive for owners to have their

vessels "ready for inspection." These comments argued that paying an annual fee, in effect, rewards those owners and operators who are not prepared for the inspection at the expense of those who are prepared. One commenter said he objected to having his annual fee become higher because of another company which makes no attempt to maintain its vessels or prepare adequately for an inspection. He suggested the Coast Guard establish a published guideline of thresholds. When the number of visits exceeds that threshold, the annual fee for that vessel should increase on its next anniversary, and hopefully other more cooperative and prepared companies' fees should decline. Generally, these comments stated that charging for each inspection at a fair, hourly rate would not only be more equitable, but would also ensure that the fees reflected the actual amount of time spent on board the vessel.

Hourly fees would more accurately reflect the actual time an inspector spends on board a vessel and would also likely result in lower fees for those owners whose vessels were "ready for inspection" compared to owners whose vessels were "not ready for inspection." However, the average expected value of services provided each year is representative of the majority of vessels in each vessel category. In addition to the average annual amount of time spent on board each vessel, annual vessel inspection fees also include travel and administrative (paperwork, review, and research) time.

Billing at the conclusion of each inspection poses essentially the same problems as charging at an hourly rate. Charging at an hourly rate would require creating and staffing a billing system that would increase collection costs by an estimated \$1.75 million, resulting in higher fees for vessel owners and operators. Moreover, OMB Circular No. A-25 guidance states that user charges will be collected in advance of, or simultaneously with, the rendering of services unless appropriations and authority are provided in advance to allow reimbursable services. Thus, the Coast Guard decided not to bill at the conclusion of the inspection using an hourly rate.

The small passenger vessel industry was particularly concerned with the impact of the proposed fees on the ability of many operators, especially small entities, to stay in business. Citing the poor state of the economy and their declining revenues in general, they commented on the cumulative adverse impact of the growing number of Federal, State, and local fees and

regulations. The comments cited more than 60 different fees and assessments, with the number of fees applicable to any given vessel owner depending upon such considerations as the type of operation, the vessel's size, the geographic area of operation, and the number of passengers carried on board a given vessel. Included were such fees as harbor maintenance fees; drug testing fees; State gaming fees; tonnage fees; Animal and Plant Health Inspection Service fees; State agricultural inspection fees; Bureau of Land Management fees; State saltwater fishing license fees; Customs fees; St. Lawrence Seaway tolls; Federal Communications Commission (FCC) inspection fees; State vessel registration fees; State and Federal water use fees; dockage fees; National Marine Fisheries Service permit fees; municipal business registration fees; commercial use permit fees; Federal reef fishing fees; State business license fees; Gulf of Mexico Fishery Management Council fees; International Pacific Halibut Commission permit fees; Mexican Fish Commission permit fees; State fish and game permit fees; retail fish license fees; lobster license fees; and Public Utility Commission fees. Other comments mentioned State and Federal income taxes; State sales and excise taxes; fuel taxes; corporation taxes; municipal head taxes; self-employment taxes; unemployment taxes; winter boat storage fees; lift fees; insurance and maintenance costs; proposed Coast Guard user fees for marine licensing, vessel documentation, and plan review; and compliance with the Oil Pollution Act of 1990, the Americans with Disabilities Act, and the proposed Subchapter T, liferaft, and EPIRB regulations.

While admitting that the proposed vessel inspection fees alone would not likely cause them to consider leaving the industry, comments stated that the increasing costs of operating small passenger vessels is so overwhelming that some owners or operators will have little choice but to exit the industry. They were also concerned that if they went out of business there would be resulting loss of jobs and revenues in the local communities which often rely on tourist dollars for their income. Some small passenger vessel owners stated they were reluctant or unable to pass on the cost of Coast Guard fees by raising their fees to customers. Other small passenger vessel owners were concerned that their customers would be unwilling to pay higher fares, and would seek other, less costly leisure or tourist activities.

The Coast Guard considered the impact that the annual vessel inspection fees would have, particularly on the ability of small passenger vessel operators to remain in business. The Coast Guard held nine public hearings on the proposed rule in order to gather more data on the likely economic impact of the proposed fees. Based upon the comments received, both in writing to the docket and during the public hearings, the Coast Guard reviewed its proposed fees. The Coast Guard recognizes that the economic impact on each owner or operator depends on a myriad of factors including seasonal operation, number of passengers, status of the economy, weather, and the ability to pass on new costs to paying passengers. While the Coast Guard can calculate the dollar amount of impact on individual vessel owners, it cannot calculate the overall economic impact on each vessel owner and the data in the comments did not support a finding of a significant impact on a substantial number of small entities.

In the NPRM, the Coast Guard divided the U.S. fleet into 29 different vessel subcategories for the purpose of establishing annual vessel inspection fees. The Coast Guard selected the fee subcategories after observing patterns in the amount of time it takes to conduct an inspection as a function of inspection type, vessel type, and other factors.

Many comments stated that the costs for inspecting smaller vessels appeared too high and did not accurately reflect the inspection time required for these vessels. In response to these comments, the Coast Guard reexamined its inspection data and found that other breakpoints could be used to establish additional subcategories (see Figure 1). By establishing these additional subcategories, the Coast Guard was able to tier the fees differently in order to achieve a more precise allocation of program costs. While reexamining the inspection data, the Coast Guard also identified some outliers in the data that skewed the average mean inspection time for all vessels of that category. By disregarding these data outliers in computing the mean inspection time, the Coast Guard was able to develop mean inspection times that more precisely represent the average inspection time for each vessel category resulting, in many cases, in lower fees.

FIGURE 1.—NUMBER OF ANNUAL VESSEL INSPECTION FEE SUBCATEGORIES

Vessel category	NPRM ¹	Final rule
Freight Barges	1	3
Freight Ships	1	3
Ready Reserve Fleet		
Freight Ships	1	0
Industrial Vessels	1	2
Mobile Offshore Drilling Units	4	4
Offshore Supply Vessels	1	2
Offshore Supply Vessels in the Alternate Reinspection Program	0	2
Oceanographic Research Vessels	1	3
Sea-going Towing Vessels	1	1
Tank Barges	1	1
Tankships	1	3
Ready Reserve Fleet Tankships	1	0
Liquefied Gas Tankships	1	1
Small Passenger Vessels	6	9
Sailing School Ships ² ...	0	3
Passenger Barges	1	4
Passenger Ships	5	5
Nautical School Ships ...	1	3
All Other Inspected Vessels	1	1
Totals	29	50

Notes:
¹Ready Reserve Fleet Freight Ship and Ready Reserve Fleet Tankship are not included as categories in the final rule.

²Sailing School Ships were included with Small Passenger Vessels in the NPRM.

For instance, the Coast Guard initially proposed a single fee subcategory for all small passenger vessels less than or equal to 54 feet in length. The annual inspection fee proposed for all vessels in this category was \$820. However, during the review of the proposed fees for small passenger vessels, the Coast Guard determined that the inspection data supported creating another subcategory based on length, and recalculated the annual vessel inspection fees based on these new subcategories. The Coast Guard also examined its inspection data for DUKW vessels (ex-Army 2½ ton amphibian trucks), hydrojet boats, swamp tour boats, and yacht club launches. Comments stated that due to these vessels' simplified design, the time required to conduct an inspection on these types of vessels was considerably less than the time required for other small passenger vessels. However, MSIS inspection data supported the creation of separate fee categories for DUKW vessels and hydrojet boats, but did not

indicate a significant difference in the mean inspection time for "swamp tour boats" and yacht club launches when compared to other small passenger vessels of the same length. Therefore the following new subcategories were created for small passenger vessels (SPVs):

New subcategories	Annual inspection fee
—DUKW vessels	\$450
—Hydrojet boats	470
—SPVs length not greater than 30 feet	545
—SPVs more than 30 feet but not more than 54 feet	670

Several comments stated that fees should be linked to some measure of a vessel's ability to generate revenue, such as the number of passengers a vessel can carry. Others stated that fees should take into account a vessel's actual gross earnings for the year. For instance, several comments asserted that the fees failed to take into account the seasonal nature of many vessel operations, and that vessels operating 3-5 months a year should not be charged the same annual fees as vessels which operate year-round.

The Coast Guard does not agree. The number of passengers for which a vessel is certificated is not a direct measure of actual revenues, it is a measure of potential revenues. The authorized total number of passengers is not necessarily the same as the actual number of passengers a vessel carries during any given voyage. Indeed, many small passenger vessel owner comments indicated that their vessels frequently sail with fewer than half the authorized number of passengers on board. Nor is the number of months a vessel may operate during the year an effective predictor of revenues for that year. For instance, revenue generated by a vessel carrying one-half its passenger capacity for twelve months would be comparable to a similar vessel carrying full passenger capacity for six months.

Although the economic impact of an annual fee may be greater for a vessel with a short operating season, than for a similar vessel with a longer season, the amount of resources expended by the Coast Guard to inspect these vessels is the same whether a vessel operates for one month or for twelve. The Coast Guard based its annual vessel inspection fees on the average cost to the Coast Guard of inspecting each category of vessels.

Some comments expressed the opinion that Coast Guard travel costs ought to reflect the proximity of the inspector to the job site, instead of attributing a fixed amount of average travel time to each vessel per year. Others pointed out that many small passenger vessel owners and operators, especially those located in remote areas, often coordinate inspections with other vessel owners and operators in an effort to minimize Coast Guard travel time.

Coordinating inspections is a common practice within the small passenger vessel industry. This practice most often applies to inspection sites located several hours from the Coast Guard inspection unit. However, Coast Guard MSIS data shows that travel time averages just over two hours per inspection, regardless of the number of inspections conducted during a particular inspection trip. It is not uncommon for inspectors to travel three hours each way to get to an inspection site. In other cases, one inspector may inspect three vessels in the same day. The practice of doing multiple inspections during a single inspection trip allows the Coast Guard to minimize its travel costs; otherwise, average Coast Guard travel costs would be greater. Thus, the Coast Guard considers it reasonable that it include in the vessel owner's annual vessel inspection fee an average of about two hours travel time per vessel per year.

Comments from various industry segments recommended that the Coast Guard not impose any user fees until all the proposed user fee rules have been published, so that the cumulative economic impact of these fees on owners and operators could be properly evaluated.

The user fee rules under development by the Coast Guard may impact some of the same segments of the regulated marine community. One example is the small passenger vessel industry, where vessels are often owned and operated by the same individual who may be subject to both marine licensing fees (CGD 91-002) and inspection fees from this rule. On December 18, 1991, the Coast Guard reopened the comment period for the Marine Licensing NPRM to run concurrently with the comment period for the Commercial Vessel Inspection NPRM. Establishing the concurrent comment period did not provide any new information to the marine licensing user fee rule, or to this rule concerning cumulative impact of the fees. Since these two rules are the most likely to have affected the same segments of the regulated community, and since the Coast Guard did not receive data from the licensing rule comments during the

concurrent comment period that necessitated changes in this final rule, the Coast Guard decided not to delay publication of this final rule pending comments on remaining user fee proposals.

A number of comments expressed concern over the apparent duplication of inspection services by Coast Guard, ABS, and other parties for which fees are charged. One commercial shipping representative suggested that when a classed vessel is surveyed by ABS that the survey be accepted by the Coast Guard. One barge company stated that barge owners will incur inspection charges for essentially the same service from both Coast Guard and ABS, i.e., an inspection and survey to ensure the structural integrity of the vessel.

The Coast Guard is aware that inspections or surveys done by other agencies such as FCC, by classification societies like ABS, and by marine surveyors are subject to fees. Although activities of the same type done by different agencies may appear to be at least partially duplicative, the activities have a different purpose. Other third party inspections or surveys, such as those conducted by marine surveyors, are also for a different purpose, usually to meet insurance company requirements.

The Coast Guard agrees that cost savings could result if some inspections or surveys done by one agency could be used by other agencies or third parties for several purposes. Acceptance of third party inspections or surveys as evidence of compliance with Coast Guard regulations is an issue which is being reviewed by the Coast Guard as part of its Maritime Regulatory Reform initiative, and could result in changes to the Coast Guard's marine inspection program. However, such program changes are beyond the scope of this rule.

A few comments suggested that the Coast Guard should consider revising its vessel inspection intervals so that the various inspection requirements such as hull inspection interval and mid-period inspection or COI inspection interval coincide, thereby reducing the number of required Coast Guard inspections. One commercial shipping representative stated that presently, the rules call for drydocking deep-draft vessels twice in five years with a maximum of three years between drydockings. In addition, there are two inspections for certificate renewal and three annual inspections. As it stands now, some owners will schedule an inspection for certificate renewal at the two year interval and then drydock the vessel 6 to 12 months later and again request a new certificate.

The existing certificate expiration schedule and the new drydock provisions do not complement each other and cause both parties additional inspection time and delays. He suggested that adopting a 2.5 year COI with a 15 month reinspection schedule would rectify this situation.

Because the Coast Guard is currently unable to apportion its hull inspection costs more precisely, it chose to compute the annual vessel inspection fee based upon the longest hull inspection interval applicable to each vessel category or subcategory.

Although the Coast Guard is reexamining this subject with a view to minimizing the intervals to the extent allowed by law, this and other similar suggestions to revise the Coast Guard inspection intervals would involve program changes which are beyond the scope of this rule.

Some comments recommended deferring follow-on overseas inspections until the next scheduled reinspection or inspection for certification. Follow-on inspections can often be scheduled around or in conjunction with a periodic inspection. Only in extreme cases is it necessary to dispatch an inspector overseas solely for the purpose of conducting a follow-on inspection. Certain deficiencies may impact a vessel's overall safety and must be corrected prior to the next scheduled periodic inspection. The OCMi may extend the compliance date for certain deficiencies which do not jeopardize the safety of the vessel, its passengers, or its crew. Other deficiencies can be cleared administratively by the vessel's master or chief engineer submitting written servicing reports or certifications. The cognizant OCMi possesses the authority to determine whether a deficiency's compliance timeframe can be extended or whether it can be cleared administratively. If it requires a separate overseas trip, then another overseas fee must be paid. The overseas inspection and examination fee will apply to each periodic and follow-on inspection conducted overseas, as well as to each foreign vessel examination conducted overseas.

Some comments indicated that the overseas inspection or examination fee would be excessive for inspections or examinations conducted in locations near the continental U.S. These comments indicated that it may take less time to travel to the inspection site outside the continental U.S. than to travel to other inspection sites within the continental U.S. For instance, one commenter indicated that on occasion his firm, and at least one other U.S. shipping company, has used a Canadian

shipyard requiring approximately 35 miles of inspector travel from the Marine Safety Office in Buffalo, New York, for required inspections.

The Coast Guard agrees. The overseas inspection or examination fee in the final rule does not apply to inspections or examinations conducted in Canada, Mexico, or the British Virgin Islands. The overwhelming majority of inspections or examinations conducted in these countries involve only a short commute by either car, boat, or plane. For example, it is not uncommon for Coast Guard inspectors to travel to sites in Canada and Mexico by car or short plane trip, and sites in the British Virgin Islands by short boat trip. Coast Guard data indicates that it actually takes less time to travel to some of these sites than it does to travel to a remote inspection site in the continental United States. For this reason the Coast Guard will not charge the additional overseas inspection or examination fee for these inspections or examinations.

Another comment stated that it would be more equitable to owners whose vessels operate overseas if the Coast Guard charged just one overseas inspection fee per vessel per year instead of charging an overseas inspection fee each time an overseas inspection is conducted.

Overseas inspections involve travel and delay time of approximately 40,000 hours annually. Much of this time is expended in direct support of conducting periodic inspections; however, some of the time is expended conducting follow-on inspections, such as clearing deficiencies (i.e., CG-835s).

Several comments suggested that the Coast Guard should consider expanding the OSV alternate reinspection program for mid-period inspections to MODUs operating outside the U.S. for extended periods. Currently, OSVs under 400 gross tons, operating outside the continental U.S., have the option to participate in an alternate reinspection program, under the regulations contained in 46 CFR 91.27-13. If accepted into the alternate reinspection program, OSV owners perform an alternate reinspection of their vessel, in lieu of having a Coast Guard marine inspector perform the inspection, and then submit results to the OCMi for review.

This rule establishes a lower annual vessel inspection fee for OSVs participating in the alternate reinspection program than for those OSVs which do not participate in the alternate reinspection program. This lower fee reflects the fact that since a marine inspector is not needed for the inspection, it takes less time for the

Coast Guard simply to review the results of the alternate reinspection. Although expansion of the alternate reinspection program to include U.S. MODUs operating overseas is beyond the scope of this rule, the Coast Guard will examine this issue independently of this rule.

A few comments suggested that vessel owners should receive either credit or a refund for "unused certificate time" to cover that portion of a year during which a vessel may be laid up or otherwise taken out of service.

If the vessel owner pays the annual vessel inspection fee, and the vessel is subsequently laid up or taken out of service for part of the year, the Coast Guard will not issue a refund for the portion of the year for which the vessel was laid up or taken out of service. If a vessel is laid up or out of service on its user fee anniversary date, and the vessel is expected to remain laid up or out of service until its next user fee anniversary date (twelve months later), the vessel owner or operator will not be required to pay the annual vessel inspection fee for that year. When the vessel is placed back in service, however, the owner or operator will be required to pay the full annual vessel inspection fee before the vessel is inspected.

Additionally, OSVs will occasionally surrender their COI in order to operate as an oceanographic research vessel. Upon compliance with the procedures set forth in 46 CFR 3.10, the OCMi issues a Letter of Designation as an Oceanographic Research Vessel. Uninspected vessels may also be issued a Letter of Designation. For the purposes of this rule, vessels operating under a Letter of Designation as an Oceanographic Research Vessel will not be charged an annual vessel inspection fee. However, if the vessel returns to inspected service, it must pay the annual vessel inspection fee for that year before any inspection services are provided.

Several comments suggested Coast Guard marine inspectors should conduct FCC radio inspections, thereby saving vessel owners the cost of the FCC radio inspection fee.

When Coast Guard marine inspectors conduct inspections for COIs or reinspections, they do not conduct the FCC radio inspection. They only verify that a vessel has a valid Safety Radiotelephone Certificate issued by the FCC and ensure that the vessel's radio equipment passes an operational test. The Coast Guard and FCC have previously considered this issue and determined it was not feasible to combine these inspection activities.

Several comments expressed the opinion that if an OSV were to change its service to a freight vessel at any time during the course of a given year, the vessel owner should not have to pay the higher annual vessel inspection fee applicable to freight vessels. Another commenter suggested that since many OSV crewboats and utility boats are inspected under Subchapter T, these vessels should not have to pay an OSV fee that is any higher than the fee for a corresponding small passenger vessel.

Annual vessel inspection fees for vessels certificated for single service will not be adjusted for the year in which a change in vessel service occurs. The vessel's service at the time of its user fee anniversary date will thus determine which annual vessel inspection fee the owner must pay. Regardless of whether or not a crewboat or a utility boat is inspected under Subchapter T or Subchapter I, the vessel is still an OSV. Annual vessel inspection fees are based on the COI, reinspection, and hull inspection intervals applicable to each vessel category, and the average amount of time it takes to conduct each of these inspections. Thus, since small passenger vessel COIs are valid for three years and OSV COIs are valid for two years, an OSV owner should expect to pay a higher annual vessel inspection fee in comparison to a small passenger vessel of equivalent size.

A few comments asked which fee would apply on vessels operating in more than one service under their COI. Vessels which are authorized to operate in more than one service are referred to as "dual-certificated." In such instances, the vessel owner will pay the higher annual vessel inspection fee of the two.

Several questions were raised regarding the examination of foreign vessels and applicable fee payment procedures. For instance, how will fees be collected, and what billing system will be in place?

As with U.S. vessels, foreign vessel fees must be paid before the examination is conducted. The fee may be paid by either the vessel owner, the vessel operator, or some other designated vessel representative (e.g. the vessel's agent); however, the primary responsibility for payment of the fees resides with the vessel owner. Since it is not uncommon for a vessel to arrive in a U.S. port with an expired TVE Letter or LOC, foreign vessel representatives will need to plan accordingly. Payment must be received before the examination is conducted.

The fees listed in § 2.10-125 apply for foreign tank vessel examinations required by the Coast Guard. For vessels

receiving a LOC, which is valid for two years, the \$1,100 fee must be paid for each initial (or biennial examination, as appropriate), and for the examination conducted in the intervening years. For foreign tank vessels receiving a TVE, which is valid for one year only, the \$1,100 fee applies to each annual TVE letter examination. As with annual vessel inspection fees, follow-up visits necessary for corrections of deficiencies related to the above examinations are included in the fees established for TVE and LOC examinations.

Foreign vessel examination fees are based on the cost of providing required examination services, regardless of how many or how few port calls are made during the course of a given twelve month period. If a foreign tank vessel carrying oil in bulk has a TVE conducted one year and does not make another U.S. port call until three years later, its TVE letter will have expired and the \$1,100 fee must be paid before another TVE is conducted. If, on the other hand, a chemical tankship has a LOC examination conducted one year and doesn't return to U.S. waters until thirteen months later, its intervening annual examination will be due and the \$1,100 fee must be paid before the LOC endorsement examination is conducted.

Comments Beyond the Scope of the Rule

The Coast Guard received many other suggestions for changing the way the Coast Guard conducts its inspection program. These persons believed these changes would result in more efficient use of Coast Guard resources and would reduce the fees. For instance, several small passenger vessel owners recommended that the Coast Guard accept inspections by non-Coast Guard inspectors, such as insurance industry inspectors; qualified members of the marine surveying community belonging to a recognized professional organization; or qualified marine surveyors certified by the Coast Guard. These comments asserted that private sector companies could conduct vessel inspections in a more cost-effective manner.

Also, a few comments indicated that it takes a significant amount of time just to inspect lifejackets on large passenger vessels. They suggested that this activity should be performed by an individual whose services would cost less than a marine inspector, such as a Coast Guard petty officer.

All these comments are beyond the scope of this rule, and the Coast Guard will examine these issues independently of this rule.

Other Changes

In addition to changes discussed in the preceding sections, the Coast Guard made other substantive changes to the proposed regulations.

Applications for Inspections

In the NPRM, the Coast Guard proposed in § 2.01-1, *Applications for inspections*, that application forms would be accompanied by applicable fees, that evidence of payment would be endorsed on the COI, and that payment of fees would be verified before the inspection was scheduled. The Coast Guard has determined that this language is now redundant or inconsistent with the requirements of subpart 2.10 and, therefore, has been deleted from the final rule.

Definitions

Most vessel definitions are based on regulations or statutes. In addition to a few minor revisions to certain proposed definitions which are editorial in nature, the definition for "Towing vessel" has been changed to "Sea-going towing vessel." A definition for "Submersible vessel," the "user fee anniversary date" and the "vessel identification number," the latter two of which relate to the collection process, have been added, and the definition for Oceanographic research vessel has been corrected to conform with the definition in 46 U.S.C. 2101.

Also, definitions of the following have been revised to conform to revisions made by the Passenger Vessel Safety Act of 1993:

1. Offshore supply vessel
2. Passenger vessel
3. Sailing school vessel
4. Small passenger vessel

The revised definitions in the final rule do not change the category in which a vessel would have been placed by the NPRM. However, the Passenger Vessel Safety Act of 1993 has resulted in certain previously uninspected charter vessels now coming under Coast Guard inspection requirements. When the NPRM was published, these vessels were not inspected by the Coast Guard and, therefore, were not subject to inspection user fees. To comport with the statutory change, these vessels (most of which are now included in the small passenger vessel category) are subject to Coast Guard inspection and to the corresponding fees established in this rule.

The language in Table 2.10-101 has been revised so that the definition for "all other inspected vessels" is no longer needed and has been deleted from the final rule.

Public Vessels of the United States and Other Vessels Owned or Operated by Federal Agencies

Under 46 U.S.C. 2109, most public vessels of the United States are excluded from the vessel inspection requirements of Subtitle II of Title 46 United States Code. The provisions of Subtitle II apply only to those public vessels of the United States owned or operated by the Department of Transportation, except for Saint Lawrence Seaway Development and Coast Guard vessels. That means the Maritime Administration is the only Federal agency subject to user fees for subtitle II services provided to their public vessels. Maritime Administration public vessels include vessels of the Ready Reserve Fleet and training vessels operated by the U.S. Merchant Marine Academy and State maritime academies.

Under specific Memorandums of Understanding, the Coast Guard does inspect public vessels of other agencies such as the Military Sealift Command. However, these inspections are not required by Subtitle II, and the cost of providing these services is not recoverable through user fees; nor can these costs be reallocated to other vessels. In addition, Federal agencies may own or operate vessels which are not "public vessels" because they are engaged in commerce, or are required for some other reason to be inspected under Subtitle II. The Coast Guard could charge inspection fees for these vessels; however, there would be no benefit to charging fees to these agencies for required inspections. The user fee provisions of the Act are intended to help reduce the Federal budget deficit and the fees collected by the Coast Guard are deposited into the general fund of the U.S. Treasury. Payment of the fees by a Federal agency would result in a payment from a Federal agency to the U.S. Treasury; it would not increase the revenues to the U.S. Treasury. Thus, the Coast Guard has decided to waive collection of annual vessel inspection fees which would be paid directly using Federal appropriated funds.

Overtime Compensation for Civilian Inspectors

Overtime compensation for civilian inspectors is authorized by 46 U.S.C. 2111 and is currently located in 46 CFR 2.01-60 of the regulations. The Coast Guard proposed to update § 2.01-60 and include it with other inspection fees in new Subpart 2.10.

However, the Coast Guard decided not to move this section on overtime compensation regulations into the user

fee regulations. Although the Coast Guard's intent was to locate requirements for all inspection fees together, the Coast Guard decided that this action could cause confusion. The overtime compensation fees are required by a different statute and are not part of the user fees established in this rule. Also, since the Coast Guard is authorized to directly recover these amounts to pay for civilian overtime, different accounting procedures are in place.

Although the Coast Guard proposed to update the existing regulations in § 2.01-60, the Coast Guard has decided against doing so at this time. Instead, these regulations will be revised in a future rulemaking. Therefore, the regulations in § 2.01-60 have not been changed in this rulemaking and apply to inspections where civilian inspector overtime is involved.

Excursion Permit Fee

The NPRM proposed to charge a fee for excursion permits. Vessel operators desiring to carry passengers in excess of the number listed on the vessel's COI must apply to the cognizant OCMi for issuance of an excursion permit. Excursion permits are issued by the OCMi only after the vessel has been inspected to ensure that the proposed excursion would meet minimum safety requirements. The MSIS data indicates that only a limited number of these permits are issued each year (79 in 1989, 56 in 1990, and 85 in 1991), despite verbal comments during the public hearings which suggested that a substantially greater number of such permits are issued annually. Because the MSIS data on these permit inspections is incomplete, proposed section 2.10-106 has been deleted from this rule. The Coast Guard may, however, propose an excursion permit fee when more data becomes available in the future.

Collection Procedures

Since the NPRM was published, a collection system has been established for the payment of annual vessel inspection fees, foreign vessel examination fees, and overseas inspection fees. As a result, specific collection procedures have been added to this rule.

This rule specifies that payments may be made by check or money order only. Wire transfers and credit cards are not available payment options at this time. If desired, vessel owners and operators may pay inspection or examination fees for several different vessels in the same transaction, provided that the vessel name and vessel identification number

of each vessel for which a payment is being made accompanies the payment. All inspection and examination fees must be paid before the inspection or examination service is provided.

Regarding payment of the annual vessel inspection fee, proposed § 2.10-101(b) indicated that a U.S. vessel owner would pay the annual vessel inspection fee on the anniversary date of the COI. This requirement has been changed. The vessel owner must pay the annual inspection fee on or before the vessel's user fee anniversary date, as defined in § 2.10-25. Approximately six weeks prior to this date, the Coast Guard will send a user fee notification letter to the owner of each U.S. commercial vessel inspected by the Coast Guard. The notification letter will include the vessel's name, its official number, the vessel's user fee anniversary date (payment due date), the amount due, and the address to which the payment must be sent to ensure that the fee is credited to the proper vessel.

All user fee payments will be processed by NationsBank in Atlanta, Georgia. Inspection and examination fee payments will not be accepted at Coast Guard Marine Safety or Marine Inspection Offices. The only exception to this policy involves payment of overseas inspection and examination fees, which must accompany the request for an overseas inspection or examination. Under the computerized payment tracking system established by the Coast Guard, all payment histories should be updated within one business day following receipt of the payment by NationsBank. An 800 number has also been established to handle start-up user fee inquiries and to provide payment information. The number, 1-800-941-3337 will remain in effect during initial implementation of the rule.

Penalties for Failure To Pay

Section 2110 of Title 46 U.S.C. authorizes a civil penalty of up to \$5,000 for failure to pay fees and authorizes the Secretary of the Treasury to withhold customs clearance for vessels which fail to pay fees, when so requested by the Secretary of Transportation. Inspection and examination services will not be provided unless the Coast Guard can verify that the appropriate fees have been paid. The Coast Guard will treat checks returned due to insufficient funds, account closed, or any other such reason, as a delinquent payment and will seek to recover appropriate collection and enforcement costs from the appropriate party as permitted by law.

Renumbered Sections

This rule renumbers and reorganizes many of the sections in the proposed regulations (see Figure 2).

FIGURE 2.—CHANGES TO SECTION NUMBERS IN THE REGULATION

NPRM	Final Rule
(None)	§ 2.10-1
(None)	§ 2.10-5
(None)	§ 2.10-10
§ 2.10-11	(None)
(None)	§ 2.10-20
§ 2.10-1	§ 2.10-25
§ 2.10-101	§ 2.10-101
§ 2.10-103	§ 2.10-105
§ 2.10-105	§ 2.10-115
§ 2.10-106	(None)
§ 2.10-107	§ 2.10-120
§ 2.10-109	§ 2.10-125
§ 2.10-110	§ 2.10-130
§ 2.10-13	§ 2.10-135

Regulatory Evaluation

This rule is a significant regulatory action under section 3(f) of Executive Order 12866 but does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been reviewed by the Office of Management and Budget under that order. It is significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). Fees are mandated by the Omnibus Budget Reconciliation Act of 1990, which amended 46 U.S.C. 2110 to remove long-standing prohibitions against charging fees for Coast Guard commercial vessel inspection and examination services.

The Act required the Coast Guard to establish fees for services provided under Subtitle II of Title 46 United States Code. These services include: Licensing and documentation of merchant marine personnel; commercial vessel documentation; commercial vessel inspections and examinations; equipment approval and factory inspections; and vessel plan review and new vessel construction. Whereas the total cost of these user fees is expected to be less than \$35 million, this rulemaking deals only with vessel inspection user fees, which are estimated at \$17.2 million annually. Projected receipts are well below the \$100 million threshold which would make this subject to the provisions of section 6(a)(3) of Executive Order 12866, however the Coast Guard has prepared a final Regulatory Evaluation. The Regulatory Evaluation is available in the docket for inspection or copying where indicated under ADDRESSES. It concluded that the financial impact on

the public, including most of the individuals subject to the user fees in this rule, is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Based upon a careful review of the public comments and public testimony, the Coast Guard developed a fee structure which is intended to help reduce the impact on owners and operators of small business entities. Based on the establishment of additional vessel subcategories, which resulted in lower fees in many instances, the Coast Guard certifies under 5 U.S.C. 605(b) that these fees are not expected to have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains additional collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Existing requirements for applications for inspection are covered under OMB control number 2115-0007. Additional requirements under this rule involve the collection of funds, and of such information as is required to calculate the annual vessel inspection fee due and to ensure proper collection of fees. This information includes the name of the vessel, the vessel identification number, and other identifying information which will permit follow-up action if an incorrect fee amount is submitted or a payment instrument fails to clear NationsBank.

A new requirement is established for those owners choosing to pay annual vessel inspection fees for future years in advance. The owner must, in a written request to the Coast Guard, indicate the vessel identification number and the number of years for which the owner desires to prepay the annual vessel inspection fee. If a vessel is permanently removed from Coast Guard certification, the owner may seek a refund of the remaining prepayment amount by submitting a written request to the Coast Guard.

Another new requirement is established for organizations seeking an exemption from the annual vessel inspection fee for vessels owned or

operated by their organization. In order to be eligible for an exemption, organizations must submit a written request to the Coast Guard and provide evidence that their organization is charitable in nature, not for profit, and youth-oriented, and that each vessel is owned or operated by the organization and is used exclusively for training youths in boating, seamanship, and navigation skills.

Finally, a new requirement is established for Federal agencies owning or operating inspected vessels for which fees would be paid directly using Federal appropriated funds. The Coast Guard will waive collection of the annual vessel inspection fee for these vessels. However, by October 1 of each year, agencies owning or operating eligible vessels must provide the Coast Guard with the name and the vessel identification number of each vessel to which the waiver will apply.

The additional collection of information burden placed on the public by this rule is expected to be minimal. These new collection of information requirements were approved by OMB and are covered under OMB control number 2115-0617.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule establishes user fees for vessel inspection and examination services. This rule will result in the payment of fees by States, State agencies, and local governments for inspection services provided to vessels owned by such entities. The impact of these fees on these entities is expected to be minimal. While some States and local governments may be required to pay fees, the fees will be solely due to the fact that the entity owns or operates the vessel, not due to a mandate imposed on them as a government entity.

Environment

The Coast Guard has considered the environmental impact of this rule and has concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Section 2.B.2 of that instruction excludes "administrative actions and procedural regulations and policies which clearly do not have any environmental impacts." A Categorical

Exclusion Determination is available in the docket for inspection or copying.

List of Subjects

33 CFR Part 143

Continental shelf, Fees, Marine safety, Occupational safety and health, Vessels.

46 CFR Part 2

Fees, Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends Title 33, Chapter I, Subchapter N, Part 143 and Title 46, Chapter I, Subchapter A, Part 2 as follows:

Title 33—[Amended]

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 143—DESIGN AND EQUIPMENT

1. The authority citation for Part 143 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46; section 143.210 is also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

2. Section 143.210 is amended by adding a new paragraph (c) to read as follows:

§ 143.210 Letter of Compliance.

* * * * *

(c) The owner or operator of a foreign mobile offshore drilling unit requiring a letter of compliance examination must pay the fee prescribed in 46 CFR 2.10-130.

Title 46—[Amended]

SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

PART 2—VESSEL INSPECTIONS

3. The authority citation for Part 2 is revised to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703, 5115, 8105; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs 1, 2, 64 Stat 1120 (see 46 U.S.C. App. note prec. 1).

PART 2—VESSEL INSPECTIONS

4. In section 2.01-1 paragraph (b) is revised to read as follows:

§ 2.01-1 Applications for inspections.

(a) * * *

(b) *To whom submitted.* The completed form must be submitted to the Officer in Charge, Marine Inspection, in the Marine Inspection

Zone within which the inspection is to be conducted.

* * * * *

5. In section 2.01-6 the section heading is revised, paragraph (a)(2) is redesignated as paragraph (a)(2)(i) and a new paragraph (a)(2)(ii) is added to read as follows:

§ 2.01-6 Certificates issued to foreign vessels.

(a) * * *

(2) (i) * * *

(ii) Letter of Compliance—issued to Foreign Mobile Offshore Drilling Units engaged in Outer Continental Shelf activities under 33 CFR 143.210.

* * * * *

6. A new Subpart 2.10 is added to read as follows:

Subpart 2.10—Fees

Sec.

2.10-1 Applicability.

2.10-5 Exemptions.

2.10-10 Waivers.

2.10-20 General requirements.

2.10-25 Definitions.

2.10-101 Annual vessel inspection fee.

2.10-105 Prepayment of annual vessel inspection fees.

2.10-115 Changes in vessel service.

2.10-120 Overseas inspection and examination fees.

2.10-125 Fees for examination of foreign tankships.

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

2.10-135 Penalties.

Subpart 2.10—Fees

§ 2.10-1 Applicability.

(a) This subpart establishes vessel inspection fees for all vessels required to have a Certificate of Inspection and vessel examination fees for all foreign vessels required to have either a Letter of Compliance or a Tank Vessel Examination Letter.

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

(1) Vessels being inspected for the initial issuance of a Certificate of Inspection;

(2) Foreign passenger vessels;

(3) Training vessels operated by State maritime academies; and

(4) Public vessels of the United States, except for Maritime Administration vessels.

§ 2.10-5 Exemptions.

(a) Vessels owned or operated by an organization which is charitable in nature, not for profit, and youth-oriented may be exempted from the fees required by this subpart provided that the vessels are used exclusively for training youths in boating, seamanship, and navigation skills.

(b) Vessel owners or operators must submit a written request for exemption to the Officer in Charge, Marine Inspection of the Marine Inspection Zone in which the vessel normally operates. The exemption request must provide the vessel name, the vessel identification number, and evidence that the organization and the vessel meet the criteria set forth in paragraph (a) of this section.

§ 2.10-10 Waivers.

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

§ 2.10-20 General requirements.

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

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

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

(d) Unless otherwise specified, fees required by this subpart must be mailed to the following address: USCG Inspection Fees, PO Box 105663, Atlanta, GA 30348-5663.

(e) For purposes of this subpart, the address for Commandant (G-MP) is: Commandant (G-MP), United States Coast Guard, 2100 Second Street S.W., Washington, DC 20593-0001.

(f) Information concerning a vessel's user fee anniversary date may be obtained from any Coast Guard Marine Safety or Marine Inspection Office.

§ 2.10-25 Definitions.

The following definitions apply to this subpart:

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

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

Freight ship means a self-propelled freight vessel.

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

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

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

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

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

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

Offshore supply vessel means a motor vessel that is of at least 15 gross tons and less than 500 gross tons, and that regularly carries goods, supplies, individuals in addition to the crew, and equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

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

Passenger ship means a self-propelled passenger vessel.

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

- (1) Carrying more than 12 passengers, including at least one passenger for hire;
- (2) That is chartered and carrying more than 12 passengers; or

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

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

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

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

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

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

- (1) Carrying more than 6 passengers, including at least one passenger for hire;
- (2) That is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;
- (3) That is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or
- (4) That is a submersible vessel carrying at least one passenger for hire.

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

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

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

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

Tankship means any tank vessel propelled by power or sail, including an integrated tug and barge designed to

operate together only in the pushing mode.

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

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

§ 2.10-101 Annual vessel inspection fee.

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

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

(b) The vessel owner or operator must pay the annual vessel inspection fee each year on or before the vessel's user fee anniversary date, unless the fee has been prepaid under § 2.10-103 of this subpart.

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

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

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

Any inspected vessel not listed in this table	\$1,030
Freight Barges:	
Length not greater than 150 feet	495
More than 150 feet but not more than 300 feet	610
More than 300 feet	955
Freight Ships:	
Length not greater than 100 feet	1,425
More than 100 feet but no more than 300 feet	1,870
More than 300 feet	5,410
Industrial Vessels:	
Length not greater than 200 feet	1,435
More than 200 feet	2,550
Mobile Offshore Drilling Units (MODUs):	
Drill ship MODUs	6,710
Submersible MODUs	4,695
Self-elevating MODUs	4,695
Semi-submersible MODUs	8,050
Nautical School Vessels:	
Length not greater than 100 feet	835
More than 100 feet but not more than 200 feet	1,450
More than 200 feet	7,205
Oceanographic Research Vessels:	
Length not greater than 170 feet	840
More than 170 feet but not more than 240 feet	1,980
More than 240 feet	3,610
Offshore Supply Vessels:	
Length not greater than 140 feet	1,135
More than 140 feet	1,470
Offshore Supply Vessels: Alternate Reinspection Program*:	
Length not greater than 140 feet	940
More than 140 feet	1,260
Passenger Barges:	
Less than 100 gross tons and:	
Certified for fewer than 150 passengers	825
Certified for 150 or more passengers	1,110
100 gross tons or more and:	
Certified for fewer than 150 passengers	2,215
Certified for 150 or more passengers	2,525
Passenger Ships:	
Length not greater than 250 feet:	
Certified for fewer than 150 passengers	3,600
Certified for 150 or more passengers	4,050
More than 250 feet but not more than 350 feet	5,330
More than 350 feet but not more than 450 feet	6,835
More than 450 feet	14,650
Sailing School Vessels:	
Length not greater than 30 feet	530
More than 30 feet but not more than 65 feet	560
More than 65 feet	980
Sea-going Towing Vessels	2,915
Small Passenger Vessels:	
DUKW vessels	450
Hydrojet boats	470
All other small passenger vessels:	
Length not greater than 30 feet	545
More than 30 feet but not more than 54 feet	670
More than 54 feet but not more than 65 feet	750
More than 65 feet but not more than 130 feet	975
More than 130 feet but not more than 160 feet:	
Certified for fewer than 150 passengers	1,215
Certified for 150 or more passengers	2,585
More than 160 feet	2,585
Tank Barges	500
Tankships:	
Length not greater than 100 feet	1,295
More than 100 feet but not more than 300 feet	2,310
More than 300 feet	5,805
Liquefied Gas Tankships	12,120

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

§ 2.10-105 Prepayment of annual vessel inspection fees.

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

(b) To prepay the annual vessel inspection fee for a period of three or more years, the owner must submit a written request to Commandant (G-MP) specifying the vessel identification number and the period for which prepayment is to be made.

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

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

Where:

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

R_0 is the published user fee of the vessel

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

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

n is the total number of years to be prepaid

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

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

(e) If a vessel is removed from Coast Guard certification and the vessel owner surrenders the vessel's Certificate of Inspection, the owner may request a refund of the remaining prepayment amount. The annual vessel inspection fee will not be refunded for the year in which the Certificate of Inspection is surrendered. The request for refund

must be submitted to the Officer in Charge, Marine Inspection to whom the Certificate of Inspection is surrendered.

§ 2.10-115 Changes in vessel service.

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

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

§ 2.10-120 Overseas inspection and examination fees.

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

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

§ 2.10-125 Fees for examination of foreign tankships.

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

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

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

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

Each foreign mobile offshore drilling unit must pay:

(a) For examination for the issuance of a Letter of Compliance indicating compliance with the design and equipment standards of either the documenting nation or the International Maritime Organization Code for Construction and Equipment of Mobile Offshore Drilling Units, a fee of \$1,830.

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

§ 2.10-135 Penalties.

(a) A vessel owner or operator who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

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

(c) Each District Commander or Officer in Charge Marine Inspection may request the Secretary of the Treasury, or the authorized representative thereof, to withhold or revoke the clearance required by 46 U.S.C. app. 91 of a vessel for which a fee or charge established under this part has not been paid or until a bond is posted for the payment.

Dated: March 2, 1995.

A.E. Henn,

Vice Admiral, U.S. Coast Guard Acting Commandant.

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