

# Gulf Coast Mariners Association



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## MET DOCUMENT #430, Revision 2

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**Purpose:** The purpose of this document is to present information based on a government document of interest to licensed mariners working on offshore supply vessels. We urge you to share and discuss this document with other mariners.

*[Publication History: Originally published as part of #R-167 Updated & re-numbered as GCMA Research Report #R-430, Rev. 2 on June 10, 2006.]*

### WHAT IS AN OSV? (ITC vs GRT Tonnage)

**Introduction:** In this document, we explain the background of events that affected a number of "lower-level" licensed mariners serving in the offshore oil industry.

We warn our readers that the subject matter is not simple or easy to comprehend. Consequently, we defined or explained a number of items and can supply can provide copies of various documents assigned a reprint number (R#) for readers upon request. Many items that do not contain explanations can be either ignored or skimmed through briefly.

As a result of the Coast Guard Authorization Act of 1996, Title 46 United States Code §2101(19) provides a new definition of an offshore supply vessel as follows: "Offshore supply vessel means a motor vessel of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources." The "alternate tonnage" provisions have affected many mariners since 1996.

Under the "old" law and regulations, an offshore supply vessel (OSV) was limited to 500 gross tons. To build a vessel under the upper tonnage limit, builders used many devices such as "tonnage openings" to insure that the vessels did not exceed 500 gross tons. Alternative tonnage, now permitted by U.S. law, is explained in the following document that appeared in the Federal Register of December 18, 1996. We added Editorial notes and underlining to that document to emphasize certain points in this document. We also draw your attention to "**Licensing Considerations**" below.

## 46 CFR PART 125

[CGD 96-058]

RIN 2115-AF35

Offshore Supply Vessels; Alternate Tonnage

AGENCY: Department of Transportation (DOT); United States Coast Guard

ACTION: Final rule; interpretation.

**SUMMARY:** The Coast Guard is establishing an alternate maximum size limit for offshore supply vessels that is based on the measurement system established under the International Convention on Tonnage (ITC) Measurement of Ships, 1969.<sup>(1)</sup>

The present maximum size limit of 500 gross tons is based on the U.S. regulatory measurement system. This action provides an alternative for owners and operators of offshore supply vessels that may result in the building of safer, more efficient vessels and may enable the U.S. designers and operators of these vessels to be competitive in the international market. *[<sup>(1)</sup>Available as MET Stock# BK-0344. Editorial note: We will use the abbreviation ITC for International Tonnage Convention that will contrast that with the old U.S. Regulatory Tonnage now known as Gross Regulatory Tonnage or GRT.]*

EFFECTIVE DATE: December 18, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Eareckson, Marine Safety Center, (202) 366-6441. *[2006 Editorial Comment: Mr. Eareckson is still the Coast Guard's foremost in-house tonnage expert.]*

### Regulatory Information

This rule was issued as an interpretative rule as authorized by section 702 of the Coast Guard Authorization Act of 1996 (the Act) (Pub. L. 104-324; October 19, 1996). The Conference Report on the Act (House Report 104-854) states that, because this rule is considered to be an interpretive rule<sup>(1)</sup> under the Administrative Procedure Act (5 U.S.C. 551 et seq.), the notice of proposed rulemaking and comment requirements and the 30 day delay of effective date under 5 U.S.C. 553 would not be required in order to expedite this rulemaking. Therefore, this rule is being made effective on the date of publication in the Federal Register. *[<sup>(1)</sup>Vocabulary: Interpretative rule = explains the meaning and purpose of the law.]*

### Scope of this Rulemaking

It is the intent of the Coast Guard, in this interpretive rule, to implement sections 702 and 709(3) of the Act which authorize the Secretary of Transportation (Coast Guard) to prescribe an alternate tonnage for offshore supply vessels. Section 702 of the Act amends 46 U.S.C. 14104 to provide the Coast Guard with discretionary authority to prescribe an alternate tonnage for a statute if that statute specifically states that an alternate tonnage may be prescribed under section 14104.

Section 709(3) of the Act amends 46 U.S.C. 2101(19) to define an offshore supply vessel as a motor vessel of more than 15 gross tons but less than 500 gross tons as measured under 46 U.S.C. 14502 (regulatory measurement), or an alternate tonnage under 46 U.S.C. 14302 (convention measurement) as prescribed by the Secretary (Coast Guard) under section 14104, that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration,

exploitation, or production of offshore mineral or energy resources.

The scope of this rulemaking is limited to prescribing an alternate tonnage threshold based on convention measurement to the maximum size limit of 500 gross tons (regulatory measurement) specified in the definition of "offshore supply vessel" in 46 U.S.C. 2101(19). To establish this alternate tonnage, this rule amends the definition of "offshore supply vessel" or "OSV" in 46 CFR chapter I, subchapter L, entitled "Offshore Supply Vessels."<sup>(1)</sup> <sup>(1)</sup>*Editorial note: Subchapter L, 46 CFR Parts 125 through 134, contains the detailed rules and regulations that govern all new offshore supply vessels. Most mariners serving on these vessels should be familiar with these regulations.]*

The Coast Guard recognizes that future rulemaking will be required to address other tonnage thresholds that apply to an OSV, such as the 200 gross ton threshold established under 46 U.S.C. 8301 that sets the standard for when an OSV is required to have a licensed engineer. In establishing alternate tonnage thresholds for this and other parameters, the Coast Guard intends to solicit comments from the public through notices in the *Federal Register*.<sup>(1)</sup> Also, the Coast Guard intends to use this approach in establishing alternate tonnage thresholds applicable to other vessel-types as well. However, it is important to note that the Coast Guard has the authority to establish alternate tonnage thresholds only for those statutory provisions authorized by the Congress. At the present time, authorization has been granted only for those statutes listed in sections 702 through 744 of the Act. <sup>(1)</sup>*Editorial note: Most mariners do not subscribe to the Federal Register. The Federal Register is now available on the internet at [http://www.access.gpo/su\\_docs/fedreg/frcont06.html](http://www.access.gpo/su_docs/fedreg/frcont06.html).]*

### Background

Tonnage is the principal parameter used in the shipping statutes to authorize Coast Guard regulations of a vessel according to its size. Also, tonnage has been used for a variety of other purposes including the assessment of taxes and fees. The traditional system used in the United States for measuring a vessel to determine its tonnage is called the regulatory measurement system and is authorized under 46 U.S.C. chapter 145. It consists of the standard, dual, and simplified measurement systems and is implemented under 46 CFR part 69, subparts C, D, and E, respectively.

The regulatory measurement system,<sup>(1)</sup> with the exception of the simplified system used primarily for smaller vessels, provides for a complex series of internal measurements and exemptions to arrive at gross tonnage. Over time, this system has become increasingly susceptible to manipulation because the system allows vessel designers to use features, such as excessive framing and tonnage openings, solely to reduce the gross tonnage of the vessel artificially. In this manner, increasingly larger vessels can be designed to fall within the tonnage bounds of their class. In most cases, these design features have a negative impact on the cost, efficiency, and international competitiveness of vessels. These features can also adversely affect safety performance. <sup>(1)</sup>*Editorial note: This paragraph describes the "old" tonnage measurement system (GRT) in effect in the United States. This system will be replaced gradually by an international system (ITC) that eventually will be used by all nations.]*

In response to this problem, the United States ratified the

International Convention on Tonnage Measurement of Ships, 1969, which establishes a worldwide system of measurement that provides a genuine representation of a vessel's size. Convention measurement is authorized under 46 U.S.C. chapter 143 and is implemented in 46 CFR part 69, subpart B. Under the convention measurement system, gross tonnage is based on a logarithmic function of the total enclosed volume of the vessel and is not subject to manipulation by the use of tonnage reduction techniques. Because of the differences between regulatory measurement and convention measurement, the tonnage for a single vessel could differ substantially (e.g., by thousands of tons for a 200 foot vessel). Because convention measurement does not allow for artificial tonnage reduction techniques, vessels measured using this system (ITC) often are greater in tonnage than vessels measured using regulatory measurement.

The Act authorizes the Coast Guard to establish tonnages based on the convention measurement system as an alternative to tonnages based on the (old U.S.) regulatory measurement system when a particular statute specifically provides that authority. With oil and gas production moving farther offshore and the average age of the present OSV fleet approaching 20 years, a market for technologically advanced vessels has evolved. With this in mind, and to discourage the continued use of tonnage reduction techniques on these vessels, the Coast Guard has decided to make the alternate tonnage threshold for offshore supply vessels a priority. In the interest of expediency and recognizing that new construction in many cases cannot effectively begin until an alternate tonnage is established for the maximum size of an OSV, the Coast Guard is establishing only the maximum size parameter in the definition of an OSV in 46 U.S.C. 2101(19) in this rule.

### Major Factors Considered in Determining Alternate Tonnage.

In determining an alternate tonnage parameter for the maximum size of an OSV under the convention measurement system, the Coast Guard took into consideration the following:

(1) The largest U.S.-flag offshore supply vessels in service today (1996) measure approximately 2,000 gross tons under the convention measurement system (ITC). However, there is no theoretical upper limit to the physical size that an OSV could be if tonnage reduction techniques are employed to keep its regulatory tonnage below the statutory maximum of 500 gross tons for an OSV.

(2) Technological advances in recent years have enabled the recovery of oil resources in increasingly deeper water. As a result of increased deep water operations, there has become a greater need for vessels with more capabilities and cargo-carrying capacities than those in service today. Selection of an alternate tonnage in excess of 2,000 gross tons gives industry the flexibility to build these new vessels without having to employ tonnage reduction techniques and to meet the needs of the offshore oil and gas exploration and production industries.

(3) Under Resolution A.469(XII), the International Maritime Organization (IMO) adopted guidelines entitled, "Guidelines for the Design and Construction of Offshore Supply Vessels." These TWO guidelines apply to vessels that are less than 100 meters in length, corresponding to a size of approximately 6,000 gross tons, as measured under the convention measurement system, for an OSV of modern design.

A number of offshore supply vessels approaching this size

were built under foreign flag or are on order in foreign shipyards. In authorizing the establishment of alternate tonnages for vessels under the convection measurement system, Congress indicated in the Conference Committee report that alternate tonnages enable U.S. vessel designers and operators to be more competitive in the international market.

(4) The safety record for the U.S. OSV fleet has been satisfactory. Further, there is no evidence to suggest that an increase of size would decrease the safety performance of these vessels. Under the convention measurement system (ITC) these factors support the selection of an alternate tonnage threshold in excess of the highest tonnage assigned to the largest U.S.-flag OSV in service today.

### Conclusion

Based on the factors considered and a comprehensive review of existing design and operating standards applicable to an OSV, the Coast Guard concluded that it is acceptable and appropriate to apply existing OSV regulations<sup>(1)</sup> to vessels as large as 6,000 gross tons as measured under the convention measurement (ITC) system. This figure corresponds to the 100-meter maximum length for vessels constructed to the latest international standards. An upper size limit of 6,000 gross tons will provide the OSV industry with the flexibility to build and operate vessels that are competitive with foreign-flag vessels built and operated under international standards. Therefore, the Coast Guard determined that the appropriate alternate tonnage for the maximum size limit for an OSV is 6,000 gross tons for vessels measured under the convention measurement system. This rule amends the definition of OSV in 46 CFR 125.160, which contains definitions applicable to the Coast Guard's general OSV regulations in 46 CFR chapter I, subchapter L. [<sup>(1)</sup>These regulations appear in 46 CFR Parts 125-134.]

With the promulgation of this regulation and the need for the OSV fleet to accommodate operations in deeper waters, the Coast Guard will monitor closely all aspects of the design, construction, and operating performance of vessels built after promulgation of this rule. Under 46 U.S.C. 3306, the Coast Guard may consider additional standards for these vessels if deemed necessary due to the promulgation of this regulation. Any rulemaking to establish additional standards will provide an opportunity for public comment.

### Effect of Alternate Tonnage on International Agreements

The establishment of a 6,000 gross ton alternate threshold in the definition of an OSV will not affect international requirements applicable to these vessels. For example, any U.S.-flag OSV with a keel laid after July 18, 1994, that engages on a foreign voyage must comply with international convention requirements based on the vessel's gross tonnage as assigned under the convention measurement (ITC) system.<sup>(1)</sup> These conventions<sup>(2)</sup> include the International Convention for the Safety of Life at Sea (SOLAS), International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW), and the International Convention for the Prevention of Pollution from Ships (MARPOL). [<sup>(1)</sup>Editorial note: Vessels on a foreign voyage must comply with international regulations including tonnage measurement under ITC not the old U.S. regulatory system (GRT). <sup>(2)</sup>Vocabulary: Convention = an international treaty agreement.]

### Licensing Considerations.<sup>(1)</sup>

Under the 1995 amendments to STCW,<sup>(2)</sup> tonnage thresholds were adjusted upwards to reflect the higher gross tonnages that have been assigned to many vessels measured under the convention measurement system. A rulemaking to implement the new STCW requirements is currently being developed (Coast Guard docket CGD 95-062)<sup>(3)</sup>. The Coast Guard will address, in CGD 95-062, licensing requirements for personal serving threshold as measured under the convention measurement (ITC) system.

<sup>(1)</sup>Editorial notes: This is one of the most important aspects that concerns most licensed mariners working on OSVs.

<sup>(2)</sup>This is now known as the Seafarers Training, Certification and Watchkeeping code (STCW Code). <sup>(3)</sup>This rulemaking was published in the Federal Register of June 26, 1997 and contains most of the new licensing requirements. Refer to GCMA Report #R-431.]

### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040); February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.<sup>(1)</sup> [<sup>(1)</sup>Don't let this paragraph distract you. It points out that the relative importance of the entire matter is very small compared with the size of the U.S. government and the minor economic impact to the country it may cause. It caused many mariners quite a bit of grief in additional training and licensing requirements.]

The objective of this rulemaking is to provide a definition of an OSV using an alternate tonnage threshold for vessels measured under the convention measurement system. This rule imposes no new regulatory burdens and may provide benefits for owners of an OSV built in the future. By designing a vessel under the convention measurement system, a vessel can be built with reduced cost and steel weight, with greater cargo-carrying capacity, and with improved structural safety.

### Small Entities

Under the Act, this rule is considered an interpretive rule and is not subject to the requirement under 5 U.S.C. 553(b) for publication of a general notice of proposed rulemaking. Therefore, under 5 U.S.C. 601, it is not a rule that is subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Nevertheless, this rule will effect primarily OSV owners, which, because of the high cost of the vessels, tend to be larger corporations. Smaller entities associated with the design and construction of these vessels may benefit from the potential increase in construction orders for new vessels. This increase is anticipated due to the improved competitiveness of these vessels in the international market provided by the establishment of an alternate tonnage threshold under the convention measurement system.