



**U.S. DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD AUXILIARY  
ELEVENTH DISTRICT SOUTHERN REGION  
DISTRICT 11(SR) LEGAL DEPARTMENT  
Kevin R. Griffin, DSO-LP (DVC-LA)  
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**LEGAL MATTERS MEMORANDUM**  
**JAN 2006 D11(SR) DISTRICT CONFERENCE**

This Memo only briefly outlines some of the legal rules and procedures applicable to some common Auxiliary activities and issues. Complete rules, regulations, and procedures are contained in the official Coast Guard publications applicable to the Auxiliary, particularly in the Foxtrot version of the Auxiliary Manual, COMDTINST M16790.1F ("AUXMAN"). An Auxiliary member who has a legal question about any Auxiliary matter and who cannot find the answer in an official Auxiliary publication should contact the "assigned" District legal officer.

**A. DISTRICT LEGAL OFFICERS' ASSIGNMENTS.** To expedite legal assistance, District legal officers have divided responsibility for all legal matters in District 11(SR). The DSO-LP is responsible for District Bridge and District Staff matters. **The ADSOs-LP are assigned to Divisions--and each Flotilla of each Division--as follows:**

1. Michael C. Johnson: Divisions 1, 9, 10, 13, and 16
2. Patricia A. Houston: Divisions 2, 4, 5, 7, and 15
3. Laurence L. Lerner: Divisions 3, 11, 12, and 14

**Please send all inquiries to the assigned legal officer.** Presenting a legal inquiry or proposed Auxiliary Agreement to the "wrong" legal officer will only delay response while the matter is transferred to the assigned legal officer.

**B. ELECTED AND APPOINTED LEADERS' RESPONSIBILITIES.** Each Auxiliary member is personally responsible for being familiar with and adhering to Coast Guard and Auxiliary rules and procedures applicable to the particular mission or activity in which the member may be engaged. Elected and appointed leaders at all Unit levels, however, are directly in the chain of communication and have a leadership responsibility to ensure that new information is efficiently, effectively, and quickly passed down the chain. In the event failure to do so causes another member to suffer a loss of Coast Guard benefits or incur liability to a Third Party, the responsible leader could be personally liable to the Third Party and/or to the other Auxiliary member.

**C. ASSIGNMENT TO DUTY -- "INCIDENT COVERAGE".**

1. **NO "Coverage" Guarantee.** The Coast Guard Authorization Act of 1996, as amended to date (the "**1996 ACT**") is **not** an absolute guarantee of coverage in every case. In the event of an "Incident" during an Auxiliary mission, the coverage issue in **each** case is decided on its own facts and circumstances. The Coast Guard investigates and makes the determination whether there is coverage for Auxiliary property loss claims; the Department of Labor ("DOL") for Auxiliary members' injury or death claims; the Department of Justice ("DOJ") for Third Party claims for property damage, injury, and/or death. Although both DOL and DOJ will take into account a Coast Guard coverage recommendation, DOL and DOJ each make an independent investigation and determination for claims within their respective jurisdiction.

2. **Auxiliary Coverage Benefits.** In case of an Incident, a qualified member properly assigned to duty should have coverage during the mission and also should have benefits and liability coverage en route (to/from) the place of the mission, **provided** the mission is one in which an Auxiliarist is authorized by the AUXMAN to participate. The Coast Guard and federal government benefits and protection may include medical coverage, reimbursement for personal property loss, educational and survivors' benefits, and insulation from personal liability for injury or damage to Third Party person/property.

3. **"Qualified for" AND "Assignment to Duty".** To be eligible for coverage benefits, an Auxiliary member must conform to the minimum rules and procedures established by the Commandant (generally found in the AUXMAN and/or the new Auxiliary Operations Policy Manual, COMDTINST M16798.3E (the "OPMAN"). It is **extremely important** that members understand the **distinction between: (a) qualification for duty; and (b) assignment to duty**--and comply with the assignment to duty requirement. To be "qualified for duty," certain Auxiliary programs require that a member be "current" (specifically trained for and holding official program certification in the form of a certificate or other writing) in all certification requirements for that particular program (e.g., surface and air operations, vessel examination, instructor). Most such programs impose annual requirements (and/or periodic, mandatory workshops) to maintain currency. Other program areas may require only that the person be an Auxiliary member to be "qualified for duty." **Even though** a member may be **qualified** for a particular mission or activity (e.g., a VE is qualified to perform VSCs), **to be eligible for full "coverage" the member also must be assigned to duty** for the particular mission by the Coast Guard or an authorized Auxiliary officer.

4. **Assignment Authority; Non-Delegation.** Orders for water, air, and vehicular Patrol operations can be issued **only** by the Coast Guard--**that is** the assignment to duty. The AUXMAN specifies those Auxiliary members with authority for assigning and scheduling members to duty for other Auxiliary missions (**SEE**, e.g., AUXMAN Table 5-1 at pg 5-31). At the Flotilla level, the FC, VFC, **and** the appropriate staff officer for a particular mission/activity (e.g., the FSO-VE for a VE mission) each have assignment to duty authority. That authority generally cannot be delegated to any other member. The assignment to duty **always** **should be scheduled in writing.**

5. **DCP and VCP Limited Assignment Authority.** Division elected officers have limited assignment to duty authority. The DCP has assignment to duty authority as to the

VCP, the Division Staff officers, and Flotilla Commanders--for Division matters. As Division Chief of Staff, a VCP has assignment to duty authority with respect to each of that Division's staff officers--for Division matters. There is, however, **no** DCP and/or VCP assignment to duty authority as to any other Division member or non-Division matter.

6. DSOs, ADSOs, SOs Lack of Assignment Authority; Exception. District and Division staff officers are by their appointment assigned to duty and are charged with responsibility and authority for management, oversight, and coordination of matters within their appointed sphere of responsibility and activity. With one exception, however, **no** DSO, ADSO, or SO has any authority to assign to duty any other Auxiliary member. The sole exception is that a DSO has assignment to duty authority for the ADSOs of that particular DSO, within the scope of the DSO's particular Auxiliary activity. AUXMAN Para 4.G.7. In other words (with the single DSO exception), generally **only** at the Flotilla "working level" do Auxiliary staff officers--the FSOs--have assignment to duty authority.

7. No Assignment to Duty--No Coverage. It is absolutely **critical** that Auxiliary members always comply with the assignment to duty procedures for all missions. Absent proper scheduling for and assignment to duty, an Auxiliary member (even though qualified for a particular mission) is: (a) **Not** eligible for government protection against liability to a Third Party; and (b) **Not** eligible for benefits for the member's own personal injury or property damage loss. (For example, a VE-qualified member who "goes off on her/his own" to do VSCs without being assigned to duty is at risk of loss of benefits and personal liability exposure to Third Parties.) The AUXMAN makes this crystal clear: **"The Auxiliarist's assignment to duty is a requirement before any statutory protections are available. If the Auxiliarist is not assigned to duty, then the Auxiliarist cannot be characterized as a Federal employee and therefore cannot be acting within the scope of employment."** (AUXMAN Para 5.J.3; emphasis added)

8. "Scope of Employment". In any Incident (presuming, first, the Auxiliary member is both qualified for and assigned to duty), **the ultimate issue** is whether the member was acting within the scope of employment; i.e., acting within reasonable parameters of the assigned mission. If the member materially deviates from the authorized mission, there probably is no coverage if an Incident then results.

9. Burden of Proof In Assignment to Duty. The AUXMAN (Para 5.J.3 at pg 5-30) emphasizes that the Auxiliary member bears the burden of producing evidence to support a "covered" claim and the member should be prepared to document assignment to duty: **"The strongest possible evidence is that which demonstrates assignment to duty made prior to the incident in question. Examples may include written Coast Guard orders or verbal authorizations from appropriate Auxiliary elected and/or appointed leaders that are documented (via telephone log or other means) and written Auxiliary orders or duty rosters for authorized events."** (Emphasis added).

10. Flotilla Meetings/Unit "Social Functions". The AUXMAN (Para 5.J.1 at pg 5-29) specifically excludes en route coverage to/from Flotilla meetings (on the Coast Guard theory that the meeting place is the "duty station"). There also is no coverage for purely social functions (e.g., a Flotilla or Division picnic). Although not required to do so by the AUXMAN, Flotilla leaders should schedule an official MT session for each Flotilla

meeting and give prior notice of the MT session to Flotilla members--as a **possible** means of establishing a legal claim to en route coverage (i.e., that the member was en route to a MT session--not merely to a Flotilla meeting). For the same reason, Unit social functions at all Auxiliary levels should combine Auxiliary official business to the maximum possible extent.

#### **D. APPROVAL PENDING (“AP”) PERSONS—UNCERTAIN STATUS.**

1. Under the **1996 ACT**, Auxiliary **members** have federal government protection and “coverage” (CG, DOL, and DOJ) **only because members** are deemed to be federal government employees when assigned to duty on properly authorized Coast Guard and Auxiliary missions. By express definition in the 18 MAY 2004 AUXMAN, AP Persons are **not** members and a new applicant for Auxiliary membership cannot be officially enrolled as an Auxiliary member **until**: **(a)** DIRAUX has approved the AP Person’s application; **and (b)** Such person has received a favorable determination on the applicant’s personnel security investigation (“PSI”). Until then, the AP Person has only an “applicant status”. (SEE, e.g., AUXMAN Paras 3.B.1, 3.C.5.a.1, and 3.C.5.a.3.)

2. On 23 NOV 2004, CHDIRAUX issued revised Guidelines (“Basic Guidance and Clarification--New Members (sic)”). Under the Guidelines (copy attached), AP Persons (referred to as “**prospective members**” in the Guidelines) are allowed to engage in a number of Auxiliary activities (e.g., take exams for Auxiliary courses; train as a VE and even conduct the five “practical” VSCs as a VE trainee; train in NON-underway and NON-flight tasks in the Boat Crew and Aviation programs). **Among** the continuing Guidelines restrictions, AP Persons **still may NOT**: **(a)** Wear the Auxiliary uniform; **(b)** Be on operational facility patrols (boat or air) **except** as a **Guest**; **(c)** Be qualified in any Auxiliary program (e.g., BoatCrew, VE, IT); **(d)** Run for or be a Unit elected officer or be an appointed staff officer; **(e)** Be issued an Auxiliary ID card.

3. On 29 SEP 2005, the Coast Guard issued ALCOAST 478/05 (copy attached) making significant, “immediately effective” administrative policy changes relating to the PSI process. Among other things, the ALCOAST provides that, once an AP Person has submitted the basic enrollment application and PSI documents and DIRAUX has accepted the application and sent the PSI documents to SECCEN: **(a)** The AP Person “shall be recognized as a Coast Guard Auxiliarist for purposes of liability coverage and protection in the course of their Auxiliary training and program participation”; **but (b)** **Pending** a favorable PSI determination **all** of the Guidelines provisions “**still apply**” to AP Persons. (Emphasis added.)

4. All of the foregoing has created significant uncertainties and ambiguities concerning the exact status of AP Persons, the extent of AP Persons’ permissible, Auxiliary-related activities pending their security clearance and actual enrollment as Auxiliary members, **and** the “coverage” which **may** be afforded to AP Persons.

5. Auxiliary National and District legal officers continue to be concerned about the actual scope and degree of “coverage” (if any) which might be extended to AP Persons engaged in various “training” activities under the Guidelines. Auxiliary legal officers **also** are concerned about the “coverage” for Auxiliary **members** involved in AP Persons’

training activities (e.g., the Auxiliary VE member who supervises an AP Person's five "training" VSCs permitted under the Guidelines)—there may not be any coverage for such members. It is anticipated that (when issued) AUXMAN CH-1 will resolve the uncertainties and concerns. In the interim, Auxiliary members are cautioned to be extremely careful when engaged in any training activities with AP Persons.

## **E. OPERATIONAL BOAT PATROLS.**

1. Compliance With Coast Guard Rules and Procedures. It is strongly recommended that, early each year and periodically thereafter, DCPs and FCs issue a reminder to all of their BoatCrew members (CXN and Crew) of the legal requirements relating to patrols. In the event of failure to comply with Coast Guard rules and procedures, an Incident could expose each BoatCrew member to personal liability to Third Parties and/or loss of Coast Guard benefits.

2. Selected Minimum Requirements. Following are some of the minimum patrol requirements (with references to the OPMAN except as noted). The OPMAN and District 11(SR) Policy Directives specify the detailed requirements and procedures for patrols.

3. Coxswain In Charge. The CXN holding Patrol Orders is in charge of the patrol and is officially responsible for: (a) The Crew; (b) The patrol boat; and (c) The patrol mission. If at any time (before a patrol begins or during the course of the patrol) the CXN reasonably believes that the BoatCrew and/or the patrol boat cannot accomplish the mission with reasonable safety under existing conditions, the CXN then must immediately abort the patrol. OPMAN pgs 4-2, 4-7.

4. Crew Qualifications; Minimum/Maximum Crew. The CXN is responsible to make sure that each Crew member is properly qualified under the BoatCrew Program and that at least the minimum number of Crew members (not including trainees) required for the particular patrol and patrol boat are on board. (SEE, OPMAN pgs 1-23, 1-31; D11(SR) "Manning Levels for Auxiliary Operational Facilities, Surface", DIRAUX Directive 16798.3, dated 18 April 2001 ("4/2001 Directive")). Under the 4/2001 Directive, no more than two (2) qualified Crew members above the minimum required BoatCrew levels may be added to the Crew list without prior request to and approval of the DSO-OP. There is no prescribed form/procedure for a maximum-Crew-"plus" request; contact the DSO-OP.

5. CXN Assigns Crew to Duty. It is the CXN's responsibility to assign to duty each Auxiliary member on board the patrol boat. Only BoatCrew qualified members and Crew trainees can be assigned to "Crew" duties (the trainees only under the supervision of a qualified CXN, Crew or QE). Auxiliary members who are neither qualified BoatCrew nor Crew trainees are not allowed to perform any Crew duties, but the CXN must assign each such other member to some duty (e.g., radio watch if Comms-qualified; PATON verification if AV qualified) to give the member eligibility for Coast Guard benefits and protection against liability to Third Parties. OPMAN pgs 1-23, 4-4.

6. Guests/Passengers. Non-Auxiliary guests or passengers (collectively, "Guests") are not permitted on a patrol boat unless the CXN first has obtained the

express permission of cognizant Coast Guard authority for that particular patrol. Guests are not permitted to engage in any boathandling/other patrol duties and have no coverage by the Coast Guard or the federal government. OPMAN pg 4-29. Before getting under way, the CXN should remind all Guests of this non-coverage fact. **NOTE**: "AP Persons" are in the Guest category.

7. Crew Equipment. **All** Auxiliary members on the patrol boat (not only the BoatCrew qualified members) must be properly uniformed and carry minimum survival equipment specified in the OPMAN for each patrol, which **must be attached** to each member's PFD (reflective tape, whistle, light, and mirror). The former Delta OPMAN also required "flares or smoke" equipment for each PFD if the patrol boat will be more than three (3) miles offshore, but the new Echo version states that such equipment now is optional. OPMAN pg 4-26.

8. Pre-Underway Contact With Radio Guard. Before leaving the slip/launch ramp, the name of each person on board (Auxiliary member and Guest) must be given by personal contact, land-line, or NET radio (**not** the boat's VHF) to the shore-based unit (Coast Guard, Auxiliary, or a particular lake's State/local agency) holding the patrol boat's radio guard. OPMAN pgs 4-4, 4-8.

9. Patrol Communications; Ops Reports. The patrol boat must maintain a communications guard with a **shore unit** at all times during the patrol. Ops Reports must be submitted to the guard station at such intervals as are directed by the Coast Guard. OPMAN pg 4-3. A Coast Guard 2001 Directive changed the minimum one hour period stated in the OPMAN to an Ops Report requirement of each thirty (30) minutes for ocean and lakes/inland waterway patrols. (Although the new OPMAN states a 60 minute reporting interval, in D11(SR) the Coast Guard continues to apply the 2001 Directive's 30 minute reporting requirement.) Adverse or unusual conditions may dictate Ops Reports more frequently (e.g., a patrol boat engaged in a tow of a distress vessel is required to make Ops Reports every fifteen (15) minutes).

10. Patrol Mission; Scope of Employment. The CXN must know the patrol mission, brief the Crew on the mission, and confine the patrol activities to those authorized for the particular assigned mission. OPMAN pg 4-4. If an Incident occurs during a material departure from the mission, there probably are no Coast Guard benefits or liability coverage for the boat and the BoatCrew members.

11. Patrol Maximum Underway Time. The **maximum** BoatCrew underway time generally is: (a) 8 hours under normal conditions; and (b) 6 hours under adverse operating conditions. A rest period of 8 hours is required before undertaking another Patrol. **NOTE**: Under the new OPMAN, calculation of maximum "underway time" includes: (a) Time spent on pre-mission and post-mission vessel checks; and (b) Time spent in trailering activities and at a sheltered anchorage counts as 50% underway time (e.g., one hour in a sheltered anchorage counts as 30 minutes towards the maximum underway time). Those time periods are being strictly enforced by the Coast Guard. OPMAN pgs 4-20/21. Except for emergencies, a CXN may exceed such time limits only after consultation with and permission of the cognizant Coast Guard unit commander. OPMAN pg 4-20.

12. EPIRB/PEPIRB Requirement. Each Auxiliary patrol boat under Orders must have on board either: (a) A vessel-affixed Category I or II 406 MHZ EPIRB; or (b) At least one BoatCrew member with a McMurdo Fastfind 406MHZ PEPIRB attached to the member's PFD. OPMAN pg 4-26. DIRAUX is charged with the purchase and the registration, issuance, training, and accountability coordination of the PEPIRBs.

13. Cold Weather/Water Gear—Requirements. The OPMAN requires BoatCrew (Para E.15) and AirCrew (Annex 1, Section D) wear hypothermia protective clothing when water and/or air temperature is below that specified in the OPMAN. Waivers (with certain restrictions) may be granted by the Coast Guard on a case-by-case basis. The CXN/Pilot is responsible for making sure all Crew adhere to such requirements. There likely is no "coverage" if the gear is not worn when required and there is an Incident.

## **F. AUXILIARY AGREEMENTS--AUTHORITY AND PROCEDURE.**

1. Importance of Compliance With Requisite Procedure. Failure to comply with the procedure applicable to Auxiliary Agreements can result in serious consequences. There then is no "authorized" Auxiliary Agreement. If the Coast Guard (or DOJ/DOL) determine the required procedure was not followed: (a) The signatory of the unauthorized agreement may have personal liability; (b) The Auxiliary members acting under such agreement risk loss of benefits; and (c) DOJ may refuse to defend or indemnify the members acting under the unauthorized agreement, thus exposing them to personal liability to Third Party claims of injury and/or damages.

2. Two Basic Prerequisites; Exceptions. The Commandant has specifically directed that any written agreement for Auxiliary use of non-Auxiliary premises for any Auxiliary purpose is an official, authorized Auxiliary Agreement ONLY if there is compliance with two fundamental requirements: (a) The Agreement must be signed by the Unit senior elected officer (Flotilla--FC; Division--DCP; District--DCO); and (b) The Agreement must be reviewed and approved by a District legal officer before the Agreement is delivered to the Premises Owner. Exceptions: (a) In the absence of the FC and in "emergency" circumstances and only at the specific request of the VFC: (i) The DCP may sign an Auxiliary Agreement for the benefit of the Flotilla; OR (ii) The DCO may sign an Auxiliary Agreement for the benefit of the Flotilla; and (b) In the absence of the DCP and in "emergency" circumstances and only at the specific request of the VCP, the DCO may sign an Auxiliary Agreement for the benefit of the Division. AUXMAN Para 6.D at pg 6-11. What constitutes an "emergency" is not defined (presumably including a situation where time is of the essence) and will be determined on a case-by-case basis. Obviously, it always is legally "safer" if the particular Unit's senior elected officer is the signatory.

3. Unauthorized Signatory's Personal Liability. There is no authority for a DCO, DCP, or FC to delegate signatory authority. If any member other than a senior elected leader (absent the exceptions noted above) purports to sign an "agreement", there is no authorized Auxiliary Agreement (e.g., the FSO-PE cannot sign an agreement for a Flotilla's PE class meeting place). An unauthorized signatory effectively has a personal agreement with the Premises Owner and, in the event of an Incident,

effectively has assumed **personal liability**--without federal government protection and benefits otherwise afforded to Auxiliary members.

4. **District Legal Approval Required.** The Unit's senior elected officer is responsible to see that each of the Unit's written agreements is reviewed and approved by a District legal officer before the agreement is delivered to the Premises Owner. In the event of failure to do so, that officer is in the same at-risk position as noted in the preceding section; i.e., that Unit senior officer effectively has a personal agreement with the Premises Owner--with all of the attendant exposure to **personal liability** and loss of Coast Guard benefits.

5. **District Legal "Lead Time".** The original of a proposed agreement (fully completed) must be submitted to the assigned District legal officer at least fifteen (15) days before the function/event deadline date to allow time for review, any necessary discussion between the legal officer and Unit leader, and/or for any negotiations with the Premises Owner to attempt to resolve any differences. It is highly unlikely that tardy submissions will be timely completed if there are negotiation "difficulties" with the Owner.

6. **Choice of Agreement.** The Auxiliary order of preference for an agreement with a Premises Owner is: **(a) First**, if the Owner is willing, no written agreement is necessary (a verbal agreement is "the best agreement"-- do **not** offer any written agreement unless the Owner wants one); the Auxiliary still is covered and the Owner has protection under the Federal Tort Claims Act; **(b) Next**, whenever possible, use the standard Auxiliary fill-in-the-blanks form agreement (an example and a blank form of such agreement is attached--but **note** that District legal approval **still is required** on this form agreement); and **(c) Lastly**, the Owner's "form" agreement.

7. **"Indemnification" Clauses.** Almost without exception, an Owner's form agreement will contain indemnification and/or hold harmless clauses. Federal law **absolutely prohibits** any federal officer and agency--including the Auxiliary--from agreeing to such provisions (except pursuant to the Federal Tort Claims Act). Any Auxiliary member who signs such an agreement is effectively assuming virtually **unlimited personal liability** in the event of an Incident. District legal will attempt to revise the agreement with alternatives. If the Owner is adamant, however, the Auxiliary can only refuse the agreement and must seek other premises for the event/function.

## **G. DONATIONS--ACTIVE SOLICITATION.**

1. **Authorized Active Solicitation.** The Foxtrot AUXMAN significantly diluted the anti-solicitation provisions of the former Echo version. Subject to procedures and restrictions contained in Foxtrot Para 5.H, apparently a Flotilla (and **only** a Flotilla) is authorized to solicit and accept money, materials, and/or services from community charitable agencies, commercial firms and businesses, and private individuals, provided such prospective donors are "strictly local in nature". AUXMAN Para 5.H.1.c.1. Para 5.H.1.c.3 also authorized Auxiliary "Units" to "accept" the free use of physical space, free advertising, and other services from any private organization or business for authorized Auxiliary activities provided such was obtained in compliance with Para 5.H.1.c (Flotilla only solicitations) **or** Para 5.H.1.d (unsolicited donations to any Auxiliary Unit).

2. Ambiguity and Uncertainty. The several Para 5.H provisions, read alone and in conjunction with other related AUXMAN provisions, created a number of uncertainties and ambiguities. On 5 DEC 2005, the Coast Guard issued ALCOAST 600/05 (copy attached), making significant, "immediately effective" administrative policy changes "for clarification and amendment" of certain of the AUXMAN Para 5.H provisions. Unfortunately, the ALCOAST itself has created some uncertainties and ambiguities. It is anticipated that the still pending AUXMAN CH-1 will resolve the the remaining issues. In the interim, this Memo seeks to reconcile the AUXMAN and ALCOAST ambiguities and uncertainties.

3. Public and Governmental Entities. **All** Auxiliary Units now are authorized to accept offers (solicited or unsolicited) of free use of physical space, free advertising, and other services from any public entity (e.g., schools) and any federal, state, and local governmental organizations for authorized Auxiliary activities. Whether solicited or unsolicited, no prohibited source determination is required and acceptance of any such offer is not subject to the provisions of AUXMAN Para 5.H.1.d.

4. Semi-Public, Business Organizations, Private Individuals/Organizations. Subject first to a prohibited source determination by the District legal officer assigned to the Unit, **all** Auxiliary Units now are authorized to accept offers (solicited or unsolicited) of free use of physical space, free advertising, and other services from any semi-public organization (e.g., church; homeowners association), any commercial firms and business, and any private individual or organization--"strictly local in nature"--for authorized Auxiliary activities. Acceptance of any such unsolicited offer is not subject to the provisions of AUXMAN Para 5.H.1.d. When solicited, however: (a) Prior DCO and DIRAUX approval is required before any Unit's acceptance of such donations; and (b) Except when given by private individuals, the AUXMAN Para 5.H.1.c.1 "dollar cap" applies to such donations.

5. Flotilla (ONLY) Solicitation of Money or Materials. Flotilla Units (and only Flotillas) are authorized to solicit money or materials provided the solicitation is made in accordance with AUXMAN Para 5.H.1.c.1. Those provisions restrict the solicitation to "local" prospective donors, require prior DCO and DIRAUX approval and a prohibited source determination, and impose a dollar cap on such donations.

6. "Local" Prospective Donor. Although the term "local" may need to be refined on a case by case basis, it is not meant to include only the traditional neighborhood "Mom and Pop" store. It could include, for example, a West Marine Store geographically local to the particular Flotilla (although not a West Marine home office/headquarters or regional office--even if located "next door" to the Flotilla's meeting place).

7. DCO and DIRAUX Approval Requirement. **BEFORE** making any solicitation for money or materials, the Flotilla **must** request and obtain the written approval of both the DCO and DIRAUX (AUXMAN Para 5.H.c.1). The written request by the FC (sent up through the regular chain of communication) must contain sufficient information to enable the DCO and DIRAUX to make an informed decision, including at least: (a) The full name, address, and telephone number of the prospective donor; (b) The value of the donation the Flotilla intends to seek from the prospective donor, including: (i) If money, the dollar amount; (ii) If materials, a description of such and the estimated Fair Market

Value (based on the prospective donor's list or advertised prices or other reliable, available valuation information); and (c) The Flotilla's proposed use of the donation.

8. "Prohibited Source" Determination. When required, the DCO or DIRAUX will make a prohibited source determination (in accordance with AUXMAN Appendix E) regarding the prospective donor. The fact that a prospective donor is a prohibited source does not necessarily mean solicitation is forbidden; policy review of all of the facts may result in solicitation approval. AUXMAN Para 5.H.1.c.1 at pg 5-22 and Appendix E.

9. "Dollar Cap". Except only solicitations made to private individuals, a Flotilla's active solicitation of local sources for money or materials may not exceed \$2,500 per transaction (and not more than \$2,500 per donor annually) and \$5,000 total cumulative value (all donors) in any calendar year. AUXMAN Para 5.H.1.c.1 at pg 5-22.

10. Sale of Goods—Flotillas; Raffles—ALL Units. Subject to review and procedural restrictions, including the prior written consent of the DCO and DIRAUX and compliance with all local laws, Flotillas (and only Flotillas) now are authorized to sell goods to the general public. Among other things, DIRAUX and the DCO shall determine the appropriateness of the goods a Flotilla proposes to sell. AUXMAN Para 5.H.1.c.2 at pg 5-22. All Auxiliary Units are authorized to offer banquet raffle tickets to the general public, so long as such complies with local law and subject to either: (a) The joint written approval of DCO and DIRAUX (AUXMAN Para 5.H.1.c.4 at pg 5-23); or (b) under ALCOAST 600/05, DIRAUX annual "blanket" authority for raffles.

**H. UNSOLICITED DONATIONS**. Requisite DCO or Coast Guard prior review and approval of unsolicited donations depends upon the value of the proposed donation. If the dollar amount (cash amount gift or the fair market value of other donated property or materials) does not exceed \$2,500, the DCO may accept unsolicited donations for the benefit of a particular Unit (Flotilla, Division, or District) after review and a favorable prohibited source determination. An unsolicited donation of more than \$2,500 and up to \$5,000 is subject to Coast Guard District Commander approval and an unsolicited donation of more than \$5,000 is subject to Commandant approval. AUXMAN Para 5.H.d.

#### **I. ALL DONATIONS--SOLICITED AND UNSOLICITED**

1. Use of Donations. Any donation can be used only to promote or in connection with official Coast Guard Auxiliary missions. Neither the whole nor any part of a donation can be used for Auxiliary Unit social activities (e.g., may not be used for Flotilla parties, Division picnics, or the like). AUXMAN Para 5.H. subparagraphs at pgs 5-22/23.

2. Written Acknowledgement to Donor. Any Flotilla which receives any donation (solicited or unsolicited) from a private source that exceeds \$250 in value must, after consultation with the DCO and DSO-LP, provide the donor with written acknowledgment of the donation. AUXMAN Para 5.H.1.d.2 at pg 5-23. This written acknowledgment requirement also applies to Divisions and Districts that receive unsolicited donations. In addition, the senior elected leader of any Unit which accepts an offer of the free use of

physical space, free advertising, or other free services from any source must appropriately acknowledge (with thanks) the receipt of such offers. ALCOAST 600/05.

**3. Non-Compliance with Procedures: Mandatory Return of Donations.**

"Funds, property, or services **solicited or received** without compliance with established procedures **must be** returned." AUXMAN Para 5.H.2 at pg 5-23 (emphasis added).

**J. TAX ID NO. 52-1500576; FEDERAL TAX STATUS--CONTRIBUTIONS.**

1. IRS Assignment of Tax ID No. In a "Notice of New Employer Identification Number Assigned" on 10 MAR 1987, the Internal Revenue Service ("IRS") assigned Tax ID No. 52-1500576 to **all** Auxiliary Units nationwide (ALL Flotillas, Divisions, Districts, and National). Accordingly, that No. must be used by **each** D11(SR) Unit whenever a Tax ID No. is required (e.g., when opening a bank account). The name (title) on a Unit bank account **must expressly** reference the specific Unit designation. For example: (a) "Flotilla 51-17, D11(SR), U.S. Coast Guard Auxiliary"; (b) "Division 51, D11(SR), U.S. Coast Guard Auxiliary".

2. Unit Responsibilities. Since the same Tax ID No. is used by all Auxiliary Units, it is **imperative** for **each** Unit to be careful in its banking practices. A few years ago, a D11(SR) Division was careless about balancing its bank account. The Division's bank: (a) Stopped payment on the Division's checks for insufficient funds; and (b) Sent notice of such to a credit service agency. Although the mistake was resolved rather quickly, for a brief period of time the action imperiled accounts of all Auxiliary Units nationwide.

3. Auxiliary Units' Tax Status. In IRS letters to then DC-L dated 19 NOV 1980 and 14 JAN 1981, applicable to each Auxiliary Unit nationwide (Flotillas, Divisions, Districts, and National), the IRS clarified the tax status of the Auxiliary as follows:

(a) The Auxiliary (and every Unit subdivision) is an integral part of the United States Government.

(b) Accordingly, no Auxiliary Unit is subject to federal income tax or is required to file federal income tax returns.

(c) The Auxiliary is not a tax exempt organization of the type described in either of Internal Revenue Code Sections 501(c)(3) or 501(c)(1)---the Code Sections donors usually rely upon for federal tax deductions for contributions. Rather, **contributions** to the Auxiliary **are deductible** by a donor under Code Section 170(c)(1), the Section applicable to donations to U.S. Government subdivisions.

**K. UNIT STANDING RULES/"SAMPLE" STANDING RULES.**

1. Standing Rules Required. The AUXMAN (Para 4.H at pg 4-39) requires that each Auxiliary Unit have Standing Rules, duly adopted by the particular Unit. Standing Rules must conform to Coast Guard and Auxiliary policies and cannot conflict with any AUXMAN provisions.

2. Sample Rules. National has promulgated Sample Standing Rules for Flotillas and Divisions which include certain **mandatory** provisions which "may not be changed and must be included" in a Unit's Standing Rules. Flotilla Sample Rules are contained in the Flotilla Procedures Manual (COMDTPUB M16791.5, as modified by 10/6/99 Errata). Division Sample Rules are contained in the Auxiliary Division Procedures Guide (COMDTPUB P16791.3, as modified by CH-2 on 9/16/97). **[NOTE]**: Section 8.1 of the Division Guide **incorrectly** states that "the Division Captain or Division Vice Captain" may sign a Division Agreement/Contract. As noted in this Memo's Para F.2 (above), a VCP is **not** authorized to sign Division Agreements. Therefore, do **not** include the words "or Division Vice Captain" in Section 8.1 of the Division Rules].

3. Approval Procedure. A Unit's Rules become effective only after requisite review and approval through the chain of leadership. Briefly, the procedure is: (a) Four (4) fully signed copies of the Unit's adopted, proposed Standing Rules are sent to the Unit's **assigned** District legal officer for review (with Flotilla Rules first being sent through the DCP for review, approval, and DCP signature on all four (4) copies); and (b) The legal officer reviews the Rules and then sends three (3) copies up the chain for review and approval by DIRAUX (Division Rules) or the DCO (Flotilla Rules). A completely signed and approved copy of each Unit's Rules is maintained at the DIRAUX office and one copy is returned to the Unit (with the Division retaining a copy of Flotilla final Rules).

4. Sample Rules "AS IS" Adoption. A Unit can and should adopt the Sample Rules "as is" simply by filling in a few blanks with the appropriate entries; that would expedite the approval process. Material relating solely to a Unit's own peculiar, in-house matters (e.g., criteria for Unit awards) properly should be in a Standing Rules annex. This would avoid the need of formal approval of the Rules every time a Unit adopts or revises such in-house matters. Units with questions about what should go into an annex rather than into the formal Rules should contact their assigned District legal officer.

#### **L. UNIT-OWNED PROPERTY.**

1. 2001 Moratorium/ALCOAST 600/05. Under an April 2001 Moratorium, no Auxiliary Unit was authorized to acquire boats and/or highway mobile equipment. The Moratorium was imposed due to liability concerns for the Units and the Unit's individual members in the event of an Incident. ALCOAST 600/05 (copy attached), issued by the Coast Guard on 5 DEC 05 and made "effective immediately", changed CG policy to implement 9 AUG 2004 legislation amending the **1996 ACT** to authorize federal government coverage of specified, Unit-owned personal property.

2. **Authorized Property; Government Liability "Coverage"**. All Auxiliary Units now are authorized to acquire and own boats, mobile trailers, trailers, motor vehicles, and administrative support equipment **provided** such personal property (collectively, "Property") is held, owned, and operated by the Unit in strict accordance with published directives **and is used exclusively** for or in support of authorized Auxiliary missions. Such Property then will be treated as property of the United States for purposes of government "coverage" in the event of a liability Incident.

3. **“Private” Use Prohibited**. Under no circumstances may such Property be used for the private use of any Auxiliary member(s). In case of an Incident during any such “private use”, there would be no government coverage and the Auxiliary member(s) using the Property for a private purpose also would have no government coverage. Moreover, any private use of the Property may result in voiding the government coverage when the Property thereafter is used in an authorized Auxiliary mission. The elected leaders of each Unit owning any Property should be extremely careful about monitoring and controlling all use of the Property.

4. Private Insurance for Damage/Loss of Unit Property. The government will **not** cover any damage to or loss of the Property itself. Accordingly, Units should obtain private insurance policies, as approved by the District legal officer assigned to the Unit, to cover any such Property damage or loss. (NOTE: ALCOAST 600/05 excepts a Unit’s administrative support equipment” from the insurance recommendation.) Alternatively, Units may “self-insure”; i.e., cover any Property damage or loss from Unit funds.

#### **M. COAST GUARD TRAILERING/TOWING POLICY--PRIVATE INSURANCE.**

1. Coast Guard Towing Policy Guide. The full Coast Guard Trailering/Towing Policy Guide is posted at the Legal Site on the D11(SR) website. Members should carefully review that Guide. This Memo very briefly refers to some of the Guide highlights, which will apply **only if** the Coast Guard (and DOL and/or DOJ as the case may be) determines a towing Incident occurred within the course and scope of a properly authorized, officially ordered Auxiliary mission.

2. Towing An Auxiliary Operational Facility. Auxiliary members: (a) Will be protected against Third Party claims for property loss or personal injury; (b) Covered for their own personal injuries; and (c) Reimbursed for damage to or destruction of the facility and all "necessary equipment" in connection with the tow, including trailers and motor vehicles, subject to the Coast Guard Claims and Litigation Manual provisions.

3. Towing a Coast Guard Vessel or "Coastie". The coverage will be the same **EXCEPT** there will **NOT be any coverage for** damage to or destruction of the Auxiliary member's motor vehicle or trailer. The Coast Guard will **not** hold the Auxiliary member liable for damage to or destruction of Coast Guard equipment.

4. **Private Insurance**. A member **must** have private insurance to tow Coast Guard equipment. In addition, a member should hold private insurance against the possibility of a determination that the Incident did not occur during the course of official Auxiliary duties (e.g., that the member was not acting within the scope of employment at the time of the Incident). **NOTE**: Many private insurance policies may exclude coverage if a loss occurs while an Auxiliary member is acting under Orders. Accordingly: (a) Members should check their insurance policy and seek a written determination from the insurance carrier as to whether there would be coverage in towing circumstances; and (b) An owner of an operational facility (boat or aircraft) should seek the same written determination from their insurance carrier as to whether the facility is covered while the facility is in use on an Auxiliary mission.

**N. MEMORANDUM OF UNDERSTANDING ("MOU").** **Only** the Coast Guard can enter into an authorized MOU agreement with another agency (federal, State, or local) relating to the use of Auxiliary resources in areas within the sole jurisdiction of the other agency. For example, assisting a State in the promotion of boating safety with Auxiliary patrols on inland waters subject to sole State jurisdiction requires an MOU between the Coast Guard and the appropriate State agency. OPMAN pg 4-19. Although Auxiliary members may have general discussions with another agency about possible use of Auxiliary resources, no member may make a binding commitment to do so. Rather, the Auxiliary must seek guidance from and follow DIRAUX's direction for a formal Coast Guard MOU.

**O. OWT PROGRAM.** The On Water Program Training Manual, dated 4/1/2001 ("OWT Manual") appears to require only the FC's certification to begin authorized Flotilla OWT activities. In D11(SR), however, DIRAUX requires the OTO personally examine and certify the patrol boat and the particular patrol boat's "team" (CXN, Crew, and Instructor) before a Flotilla can engage in OWT activities. There will be **NO** federal government coverage of the Auxiliary members if a Flotilla proceeds with OWT activities without such prior OTO certification. Note, also: (a) An OWT Student is in the Guest category and has **no** Coast Guard or federal government coverage; and (b) The Flotilla **must** obtain the Student's signature on the Waiver/Release contained in the OWT Manual (pgs 38-39) **before** allowing the Student to participate in any OWT activity. If a Flotilla fails to do so, the FC and any other Flotilla member responsible for such failure may well have **personal liability** for any injury or loss suffered by the Student in an OWT evolution.

**P. "CIVILIAN" FLARE SHOTS PROHIBITED.**

1. **NO Coast Guard Authority for "Civilian" Flare Shoots.** The CG has not trained or authorized the Auxiliary to organize or conduct "firing range" flare shoots involving the active participation of non-Auxiliary, general public "civilians." It makes no difference whether the civilians would be using their own flares or flare guns or would be using flares/flare guns provided by the Auxiliary—it still is wholly unauthorized. Note that this would not preclude Auxiliary members (e.g., VEs, ITs in a PE class) from discussing general safety factors with civilians regarding emergency use of flares/flare guns.

2. **NO "Coverage"; Personal Liability.** In the event of any Incident during any such unauthorized Auxiliary-sponsored civilian flare shoot, there would be **no** government coverage for any Auxiliary member who planned, organized, or was directly or indirectly involved in the flare shoot. Each such Auxiliary member could have **personal liability** for any damage, loss, and/or injury suffered by any civilian(s).

**Q. DISCIPLINARY ACTIONS.**

1. **Foxtrot AUXMAN Changes.** The new AUXMAN substantially changes and expands on disciplinary action scope and process from that which was set forth in the former Echo version. This Memo makes **only** a very cursory mention of some of the factors involved in disciplinary actions. The AUXMAN (Paras 3.F through 3.K at pgs 3-21/35) specifically states the applicable procedures and issues, the possible penalties if

it is determined that some form of disciplinary action is appropriate, and the appeal process.

2. **Auxiliary Members' Rights.** Auxiliary membership is **not** (and never has been) a constitutionally protected liberty or property interest. Members, therefore, have **only** a right to the minimal due process protections set forth in the AUXMAN. AUXMAN Para 3.F.1 at pg 3-21.

3. **Investigation Request.** Any Coast Guard Forces person (Coast Guard active duty/Reserve, Auxiliary, civilian employee) who believes an Auxiliary member has violated any policy prescribed by the Commandant for the Auxiliary or its missions may request (verbally or in writing) a preliminary investigation. The request is made to the senior Unit elected leader at the lowest level of the Auxiliary capable of handling the complaint. AUXMAN Para 3.F.2 at pg 3-21. If the preliminary investigation finds there was no violation or there is insufficient evidence of a violation, the elected leader so notifies (in writing) the requesting person. AUXMAN Para 3.F.5 at pg 3-23.

4. **Informal Discipline.** A **NON-inclusive** list of types of infractions (minor violations) which may warrant informal action is in AUXMAN Para 3.G.1 at pg 3-25. Minor violations may result in verbal counseling or a Letter of Caution. AUXMAN Para 3.G.2 at pgs 3-25/26.

5. **Formal Discipline.** A **NON-inclusive** list of types of infractions (serious violations) which may warrant formal action is in AUXMAN Para 3.H.1 at pg 3-27. Serious violations may result in a DCO or DIRAUX Letter of Reprimand or in disenrollment by DIRAUX. AUXMAN Paras 3.H.6 through 3.H.8 at pgs 3-28/30. If the alleged violation is so serious as to warrant disenrollment if proven true, DIRAUX has authority to **temporarily** suspend an Auxiliary member's certifications, elected/appointed duties of office, or Auxiliary membership during the course of and pending final determination of a formal proceeding. AUXMAN Para 3.I at pg 3-31.

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## **ATTACHMENTS**

1. Standard Form Auxiliary License Agreement [Example]
2. Standard Form Auxiliary License Agreement [for use--with Blanks]
3. ALCOAST 478/05 (Issued by the Coast Guard on 29 SEP 2005)
4. ALCOAST 600/05 (Issued by the Coast Guard on 05 DEC 2005)
5. AP Persons—Guidelines (Issued by the Coast Guard on 23 NOV 2004)

**LICENSE AGREEMENT [Example]**

**THIS AGREEMENT** is made by and between [ insert legal name and address of Premises Owner ], hereinafter referred to as "Licensor", and the United States Coast Guard Auxiliary, [ insert Unit identification--for example: Flotilla XX / Division X ], District Eleven (Southern Region), hereinafter referred to as "Licensee".

The parties agree as follows:

1. Licensor hereby grants to Licensee and Licensee's members and employees who are authorized to conduct boating safety and related programs, the right, privilege, and permission to enter into and on a certain tract of real property and its appurtenant facilities owned by Licensor, more particularly described as follows: [ provide description of property and facility--for example: John Doe Elementary School, Classroom 222, located at 123 Middle Street, Smalltown, CA 92222 ]

2. The above-granted permission is for the purpose of conducting boating safety awareness and related educational programs by Licensee and its authorized members and employees. This License shall be effective during the following period [ insert date period(s) and times--for example: 10:00 a.m. to 12:00 a.m. each Saturday, beginning April 5, 2006, ending May 24, 2006. ]

3. The privilege granted by this Agreement is without any consideration and is merely an accommodation to Licensee.

4. The Licensee, in the manner and to the extent provided by the Federal Tort Claims Act, as amended (28 United States Code Sections 2671-2680), shall be liable for and shall hold the Licensor harmless from claims for damage or loss of property, personal injury or death caused by the acts or omissions of the Licensee, its members and employees, in the use of the licensed premises and its appurtenant facilities.

**IN WITNESS WHEREOF**, the undersigned each have executed this Agreement by its respective duly authorized representatives, made effective as of \_\_\_\_\_, 2006.

**"LICENSOR"**

**[Typed/Printed Name of Licensor]**

By \_\_\_\_\_

**[Typed/Printed Name and Office]**

**"LICENSEE"**

United States Coast Guard Auxiliary  
**[Flotilla \_\_\_/Division \_\_\_]**, District Eleven (Southern Region)

By \_\_\_\_\_

**[Typed/Printed Name and Office]**

Reviewed & approved for legal purposes only X / X, 2006 by \_\_\_\_\_

U.S.C.G. Auxiliary legal officer, D11(SR)

[U.S.C.G. Auxiliary License No. \_\_\_\_\_]

**LICENSE AGREEMENT**

**THIS AGREEMENT** is made by and between \_\_\_\_\_,  
\_\_\_\_\_, hereinafter referred to as "**Licensor**", and the  
United States Coast Guard Auxiliary, \_\_\_\_\_, District Eleven (Southern  
Region), hereinafter referred to as "**Licensee**".

The parties agree as follows:

1. Licensor hereby grants to Licensee and Licensee's members and employees who are authorized to conduct boating safety and related programs, the right, privilege, and permission to enter into and on a certain tract of real property and its appurtenant facilities owned by Licensor, more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_

2. The above-granted permission is for the purpose of conducting boating safety awareness and related educational programs by Licensee and its authorized members and employees. This License shall be effective during the period \_\_\_\_\_

\_\_\_\_\_

3. The privilege granted by this Agreement is without any consideration and is merely an accommodation to Licensee.

4. The Licensee, in the manner and to the extent provided by the Federal Tort Claims Act, as amended (28 United States Code Sections 2671-2680), shall be liable for and shall hold the Licensor harmless from claims for damage or loss of property, personal injury or death caused by the acts or omissions of the Licensee, its members and employees, in the use of the licensed premises and its appurtenant facilities.

**IN WITNESS WHEREOF**, the undersigned each have executed this Agreement by its respective duly authorized representatives, made effective as of \_\_\_\_\_, 200\_\_.

**"LICENSOR"**

\_\_\_\_\_

By \_\_\_\_\_

**"LICENSEE"**

United States Coast Guard Auxiliary  
\_\_\_\_\_, District Eleven (Southern Region]

By \_\_\_\_\_

Reviewed & approved for legal purposes only \_\_\_\_\_, 200\_\_ by \_\_\_\_\_  
U.S.C.G. Auxiliary legal officer, D11(SR)  
[U.S.C.G. Auxiliary License No. \_\_\_\_\_]

**ALCOAST 478/05 (Issued 29 SEP 2005)**

SUBJ: CHANGE TO AUXILIARY PERSONNEL SECURITY INVESTIGATION POLICY

A. COMDT COGARD WASHINGTON DC 181104Z DEC 03/ ALCOAST 550/03

B. AUXILIARY MANUAL, COMDTINST M16790.1F

1. REF (A) ESTABLISHED THE PERSONNEL SECURITY INVESTIGATION (PSI) PROGRAM FOR THE COAST GUARD AUXILIARY. IT DESCRIBED PSI PROCESSES AND POLICIES, PROVIDED REGIONAL QUOTAS FOR SUBMISSION OF OPERATIONAL SUPPORT (OS) AND DIRECT OPERATIONAL (DO) PSI PACKAGES, AND IDENTIFIED A THREE-YEAR IMPLEMENTATION PERIOD BY THE END OF WHICH ALL AUXILIARISTS ARE REQUIRED TO HAVE SUBMITTED A PSI PACKAGE (2004-2006). THIS THREE-YEAR PERIOD WAS BASED UPON THE AVAILABILITY OF FUNDS TO SUPPORT THE TENS OF THOUSANDS OF AUXILIARY PSI PACKAGES THAT HAD TO BE PROCESSED AND UPON THE ABILITY OF DIRECTOR OF AUXILIARY (DIRAUX) OFFICES AND COAST GUARD SECURITY CENTER SECCEN) TO SUFFICIENTLY MANAGE THE ACCOMPANYING INCREASE IN ADMINISTRATIVE WORKLOAD. REF (B) FORMALIZED AUXILIARY PSI POLICIES.

2. HAVING REACHED THE MID-POINT OF THE THREE-YEAR IMPLEMENTATION PERIOD, SOME COURSE ADJUSTMENTS ARE NECESSARY TO FACILITATE AND ENSURE TIMELY PSI PACKAGE PROCESSING AS WELL AS TO GUIDE GENERAL ADMINISTRATION OF REGIONAL AUXILIARY ORGANIZATION AND PROGRAMS.

3. THIS ALCOAST ANNOUNCES POLICY CHANGES TO REF A REGARDING AUXILIARY PSI PROCESSES AND THEIR IMPLICATIONS FOR NEW AUXILIARISTS AND ELECTED AND APPOINTED OFFICERS.

4. THE FOLLOWING REVISIONS ARE EFFECTIVE IMMEDIATELY:

A. ELECTED OFFICERS: REF B REFLECTS STEADY-STATE PSI PACKAGE PROCESSING. IT WAS BASED UPON THE PRESUMPTION THAT ALL ELECTED OFFICER NOMINEES HAVE BEEN MEMBERS OF THE AUXILIARY FOR MORE THAN ONE YEAR AND HAVE HAD SUFFICIENT TIME FOR FAVORABLE COMPLETION OF AT LEAST AN OS PSI. FURTHER, THAT CURRENT ELECTED OFFICERS HAVE HAD SUFFICIENT TIME TO SUBMIT THEIR REQUISITE PSI PACKAGES. THEREFORE:

(1) ALL FLOTILLA AND DIVISION ELECTED OFFICER NOMINEES IN 2005 AND 2006, IF ELECTED AND PRIOR TO ASSUMING OFFICE, MUST COMPLETE AND FORWARD TO THEIR RESPECTIVE DIRAUX ALL REQUIRED FORMS, DOCUMENTS AND INFORMATION NECESSARY TO PERFORM AN OS PSI PACKAGE. FAILURE TO DO SO WILL RESULT IN THE INDIVIDUAL'S INELIGIBILITY TO ASSUME OFFICE. THESE GUIDELINES APPLY IF AN INTERIM ELECTION NEEDS TO BE PERFORMED DURING 2005 AND 2006. FOR ELECTIONS HELD IN 2007 AND BEYOND, FLOTILLA AND DIVISION ELECTED OFFICER NOMINEES MUST HAVE A FAVORABLE OS PSI DETERMINATION PRIOR TO NOMINATION.

(2) ALL DISTRICT ELECTED OFFICER NOMINEES IN 2005 AND 2006, IF ELECTED AND PRIOR TO ASSUMING OFFICE, MUST COMPLETE AND FORWARD TO THEIR RESPECTIVE DIRAUX ALL REQUIRED FORMS, DOCUMENTS AND INFORMATION NECESSARY TO PERFORM A DO PSI PACKAGE. FAILURE TO DO SO WILL RESULT IN THE INDIVIDUAL'S INELIGIBILITY TO ASSUME OFFICE. THESE GUIDELINES APPLY IF AN INTERIM ELECTION NEEDS TO BE PERFORMED DURING 2005 AND 2006. THIS PROVISION ALSO APPLIES TO NATIONAL ELECTIONS AND NADCO SELECTIONS.

(3) PER PARA 4.F.8.B OF REF (B), ANY AUXILIARIST UNWILLING OR UNABLE TO UNDERGO THE APPROPRIATE PSI SHALL VACATE THEIR RESPECTIVE OFFICE, WITHOUT APPEAL, WITHIN 30 CALENDAR DAYS OF RECEIPT OF NOTIFICATION (NOTIFICATION MUST BE BY CERTIFIED MAIL FROM EITHER DIRAUX OR CHIEF DIRAUX (G-OCX)).

B. PSI QUOTA MANAGEMENT AND PACKAGE SUBMISSION:

(1) REGIONAL OS AND DO PSI PACKAGE QUOTAS IDENTIFIED IN REF (A) REMAIN THE SAME. DIRAUX IS RESPONSIBLE FOR MANAGING THE FLOW OF PSI

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PACKAGES TO THEIR OFFICE AND SUBSEQUENTLY TO SECCEN IN ORDER TO MEET THESE QUOTAS. THE SUCCESS OF THEIR EFFORTS AND THE OVERALL ABILITY OF THE COAST GUARD TO REMAIN ON BUDGET AND ACHIEVE STEADY- STATE PROCESSING OF ALL AUXILIARY PSI PACKAGES BY THE END OF 2006 HINGE UPON THE COOPERATIVE SUPPORT OF AUXILIARISTS TO PROPERLY COMPLETE AND SUBMIT THEIR PSI PACKAGES AS DIRECTED BY DIRAUX.

(2) TIMELY SUBMISSION OF ALL PSI PACKAGES WHEN CALLED FOR BY DIRAUX IS ESSENTIAL TO SUCCESSFUL PSI IMPLEMENTATION. THEREFORE, AS AUXILIARISTS ARE IDENTIFIED BY DIRAUX FOR PSI PACKAGE SUBMISSION, THEY SHALL HAVE 30 DAYS IN WHICH TO ENSURE RECEIPT AT THE DIRAUX OFFICE OF THEIR COMPLETED PSI PACKAGE. IF AN INDIVIDUAL FAILS TO DO SO, THEN THEIR PSI PACKAGE MAY BE RE-PRIORITIZED AT DIRAUX DISCRETION SO AS TO BE ADMINISTRATIVELY PROCESSED ONLY AFTER ALL OTHER REMAINING REGIONAL PSI PACKAGES HAVE BEEN RECEIVED.

(3) ONE MONTH ADMINISTRATIVE LEAD-TIME SHALL BE PROVIDED TO DIRAUX OFFICES AT THE END OF 2006 (I.E. - THE END OF THE THREE-YEAR PSI IMPLEMENTATION PERIOD) TO PROCESS ANY REMAINING PSI PACKAGE SUBMISSIONS. THEREFORE, ANY AUXILIARIST FOR WHOM AN APPROPRIATE AND COMPLETE PSI PACKAGE HAS NOT BEEN RECEIVED BY THEIR RESPECTIVE DIRAUX OFFICE BY 30 NOVEMBER 2006 SHALL BE DISENROLLED EFFECTIVE 31 DECEMBER 2006. ANY AUXILIARIST WHO MEETS THE CRITERIA FOR RETIRED STATUS MAY REQUEST RETIREMENT FROM THE AUXILIARY IN LIEU OF DISENROLLMENT. IN EITHER CASE, INDIVIDUALS WILL NOT BE ELIGIBLE FOR RE-ENROLLMENT BEFORE 01 JULY 2007.

(4) COOPERATION BY ALL THOSE INVOLVED IN THE PSI PROCESS IS CRITICAL TO EFFECTIVE STEWARDSHIP OF THE PSI PROGRAM AND THE FAIR AND EQUITABLE TREATMENT OF ALL AUXILIARISTS. AUXILIARISTS WHO INTEND TO EITHER RETIRE BY THE END OF 2006 OR NOT UNDERGO THE PSI PROCESS ARE STRONGLY ENCOURAGED TO ADVISE THEIR CHAIN OF LEADERSHIP OF THEIR INTENTIONS NO LATER THAN WHEN THEY ARE CALLED UPON TO SUBMIT THEIR PSI PACKAGES.

**C. AUXILIARY ENROLLEE/APPROVAL-PENDING STATUS:**

(1) WHEN AN INDIVIDUAL APPLIES FOR ENROLLMENT IN THE AUXILIARY, THAT PERSON SHALL FILL OUT AND SUBMIT ALL REQUIRED ENROLLMENT FORMS, INCLUDING A PSI PACKAGE, TO DIRAUX. UPON RECEIPT AND REVIEW, DIRAUX MAY SIGN THE ENROLLMENT FORM, ISSUE AN EMPLID TO THE ENROLLEE, COMMENCE AUXDATA ENTRIES, AND FORWARD THE PSI PACKAGE TO SECCEN.

(2) AT THIS POINT, THE ENROLLEE SHALL BE RECOGNIZED AS A COAST GUARD AUXILIARIST FOR PURPOSES OF LIABILITY COVERAGE AND PROTECTION IN THE COURSE OF THEIR AUXILIARY TRAINING AND PROGRAM PARTICIPATION. THEIR STATUS AS REFLECTED BY AUXDATA SHALL REMAIN APPROVAL-PENDING UNTIL THE RECEIPT OF A FAVORABLE PSI DETERMINATION. ACTIVITY GUIDELINES PREVIOUSLY ISSUED FOR INDIVIDUALS IN THIS STATUS STILL APPLY. NOTABLY, WHILE AWAITING THEIR PSI DETERMINATION FROM SECCEN, AUXILIARY ENROLLEES IN APPROVAL-PENDING STATUS MAY TAKE ANY AND ALL AUXILIARY TRAINING COURSES AND ASSOCIATED END-OF-COURSE EXAMS. HOWEVER, THEY MAY NOT BE ISSUED AN AUXILIARY ID CARD NOR BE QUALIFIED BY DIRAUX IN ANY AUXILIARY PROGRAM.

5. THESE POLICY CHANGES WILL BE REFLECTED IN A FUTURE CHANGE TO REF B.

6. QUESTIONS MAY BE DIRECTED TO MR STEVE MINUTOLO, G-OCX-1, SMINUTOLO(AT)COMDT.USCG.MIL, 202-267-6421.

7. INTERNET RELEASE AUTHORIZED.

8. RADM R.D. SIROIS, ASSISTANT COMMANDANT FOR OPERATIONS, SENDS.

**ALCOAST 600/05 (Issued 5 DEC 2005)**

SUBJ: CHANGE TO AUXILIARY ADMINISTRATIVE POLICIES

A. AUXILIARY MANUAL, COMDTINST M16790.1F

1. REF (A) BECAME EFFECTIVE IN MAY 2004. ITS FIRST FULL YEAR OF APPLICATION HAS REVEALED THE NEED FOR CLARIFICATION AND AMENDMENT OF SEVERAL ADMINISTRATIVE POLICIES THAT AUTHORIZE AND FACILITATE THE CONDUCT OF ROUTINE AUXILIARY BUSINESS.

2. THIS ALCOAST ANNOUNCES POLICY CHANGES TO REF A REGARDING OFFERS OF FREE USE OF SPACE, CONTRACT REVIEW, BANQUET RAFFLES, AND AUXILIARY UNIT-OWNED PROPERTY.

3. THE FOLLOWING POLICY REVISIONS TO REF (A) ARE EFFECTIVE IMMEDIATELY:

A. FREE SPACE AND ADVERTISING:

(1) AUXILIARY UNITS ARE AUTHORIZED TO ACCEPT OFFERS OF FREE USE OF PHYSICAL SPACE, FREE ADVERTISING, AND OTHER SERVICES FROM ANY PUBLIC OR GOVERNMENTAL ORGANIZATION (E.G. - SCHOOLS, MILITARY BASES, FEDERAL/STATE/LOCAL GOVERNMENTAL AGENCIES), WHETHER SOLICITED OR NOT, IN ORDER TO CONDUCT AUTHORIZED AUXILIARY ACTIVITIES (CONTRACT RENEWALS ARE NOT CONSIDERED SOLICITATIONS). UNDER SUCH CIRCUMSTANCES, PROHIBITED SOURCE ANALYSIS AND DETERMINATION ARE NOT REQUIRED, NOR IS ACCEPTANCE OF SUCH OFFERS SUBJECT TO SECTION 5.H.1.D. OF REF (A). THE SENIOR ELECTED LEADER

OF THE RECEIVING UNIT SHALL APPROPRIATELY ACKNOWLEDGE (WITH THANKS) RECEIPT OF ALL SUCH OFFERS.

(2) AUXILIARY UNITS ARE AUTHORIZED TO ACCEPT OFFERS OF FREE USE OF PHYSICAL SPACE, FREE ADVERTISING, AND OTHER SERVICES FROM SEMI-PUBLIC ORGANIZATIONS (E.G. - HOMEOWNERS ASSOCIATIONS, VOLUNTEER ORGANIZATIONS, CHURCHES), COMMERCIAL FIRMS (E.G. - RESTAURANTS, RETAIL STORES, BUSINESSES), AND PRIVATE INDIVIDUALS/ORGANIZATIONS, ALL STRICTLY LOCAL IN NATURE, IN ORDER TO CONDUCT AUTHORIZED AUXILIARY ACTIVITIES. ACCEPTANCE OF SUCH OFFERS SHALL NOT BE SUBJECT TO SECTION 5.H.1.D. OF REF (A). WHETHER SOLICITED OR UNSOLICITED, A PROHIBITED SOURCE DETERMINATION WILL BE MADE IN ACCORDANCE WITH APPENDIX (E) OF REF (A) BY THE AUXILIARY DISTRICT STAFF OFFICER FOR LEGAL PROGRAMS (DSO-LP). CONTRACT RENEWALS ARE NOT CONSIDERED SOLICITATIONS. THE SENIOR ELECTED LEADER OF THE RECEIVING UNIT SHALL APPROPRIATELY ACKNOWLEDGE (WITH THANKS) RECEIPT OF ALL SUCH OFFERS.

B. CONTRACT REVIEW: THE DSO-LP SHALL REVIEW AND APPROVE ANY AND ALL REGIONAL AUXILIARY CONTRACTS. IF EVER IN DOUBT OR IN QUESTION ABOUT CONTRACT PROVISIONS OR A PROHIBITED SOURCE DETERMINATION ANALYSIS, THE DSO-LP SHALL ADVISE AND SEEK GUIDANCE FROM THE DISTRICT COMMODORE (DCO) AND DIRECTOR OF AUXILIARY (DIRAUX) TO ACHIEVE RESOLUTION.

C. BANQUET RAFFLES: PROVISIONS OF THIS SECTION MAY BE SATISFIED BY BLANKET AUTHORIZATION IN REGIONAL AUXILIARY POLICY MANUALS OR ANNUAL BLANKET AUTHORIZATION BY DIRAUX. IF EVER IN DOUBT OR IN QUESTION ABOUT ANY CIRCUMSTANCES REGARDING THE CONDUCT OF BANQUET RAFFLES OR THE CLARITY OF ANY BLANKET AUTHORIZATION, THE AUXILIARY UNIT LEADER (E.G. - FLOTILLA COMMANDER (FC) OR DCP) SHALL ADVISE AND SEEK GUIDANCE FROM THE DSO-LP.

D. AUXILIARY UNIT-OWNED PROPERTY: THE FOLLOWING APPLIES IN ORDER TO IMPLEMENT THE STATUTORY CHANGE TO TITLE 14 USC 821 WHICH PERMITS THE TREATMENT OF AUXILIARY UNIT-OWNED PERSONAL PROPERTY DEDICATED SOLELY FOR AUXILIARY USE TO BE CONSTRUED AS PROPERTY OF THE U.S. FOR LIABILITY PURPOSES:

(1) AUXILIARY UNITS MAY OWN BOATS, MOBILE TRAILERS, TRAILERS, MOTOR VEHICLES, PERSONAL WATERCRAFT, AND ADMINISTRATIVE SUPPORT EQUIPMENT SO LONG AS THEY ARE OWNED AND OPERATED IN CONFORMITY WITH PUBLISHED DIRECTIVES. SUCH AUXILIARY UNIT-OWNED PROPERTY MUST BE USED FOR AUXILIARY UNIT ADMINISTRATION, AUXILIARY MEMBER TRAINING, OPERATIONS, PUBLIC EDUCATION, AND ANY OTHER AUTHORIZED ACTIVITIES OR

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MISSIONS OF THE AUXILIARY. UNDER NO CIRCUMSTANCES SHALL AUXILIARY OWNED PROPERTY BE USED FOR THE PRIVATE USE OF AUXILIARISTS.

(2) MOTORBOATS, YACHTS, AIRCRAFT, RADIO STATIONS, MOTORIZED VEHICLES, TRAILERS, AND OTHER EQUIPMENT THAT IS UNDER THE ADMINISTRATIVE JURISDICTION OF THE AUXILIARY, OR AN ORGANIZATIONAL ELEMENT OR UNIT OF THE AUXILIARY (EXCEPT WHEN USED OUTSIDE THE SCOPE OF TITLE 14 USC 822 OR NOT USED SOLELY FOR AUXILIARY PURPOSES) WILL AT ALL TIMES BE TREATED AS PROPERTY OF THE UNITED STATES FOR THE PURPOSES OF THE FEDERAL TORT CLAIMS ACT, THE MILITARY CLAIMS ACT, THE PUBLIC VESSELS ACT, THE SUITS IN ADMIRALTY ACT, THE ADMIRALTY EXTENSION ACT, AND OTHER MATTERS RELATED TO NON-CONTRACTUAL CIVIL LIABILITY. AUXILIARY UNIT-OWNED PROPERTY IS NOT NORMALLY COVERED BY THE ABOVE PROVISIONS FOR PROPERTY DAMAGE TO THE PROPERTY ITSELF DUE TO FUNDING AND FISCAL CONSTRAINTS. ACCORDINGLY, ALL AUXILIARY UNIT-OWNED PROPERTY, EXCEPT ADMINISTRATIVE SUPPORT EQUIPMENT, SHOULD BE COVERED BY A PRIVATE PROPERTY DAMAGE POLICY, AS APPROVED BY THE DSO-LP, UNLESS THE AUXILIARY UNIT DESIRES TO SELF INSURE FOR THE REPLACEMENT COST TO DAMAGE OR COMPLETE LOSS OF THE PROPERTY ITSELF.

4. THESE POLICY CHANGES WILL BE REFLECTED IN A FUTURE CHANGE TO REF A.

5. QUESTIONS MAY BE DIRECTED TO MR STEVE MINUTOLO, G-OCX-1, SMINUTOLO(AT)COMDT.USCG.MIL, 202-267-6421.

6. INTERNET RELEASE AUTHORIZED.

7. RADM R.D. SIROIS, ASSISTANT COMMANDANT FOR OPERATIONS, SENDS.

## **AP PERSONS--GUIDELINES**

### **“Basic Guidance and Clarification - New Members”**

**From Steve Minutolo, G-OCX-1, Chief, Administration and Policy (23 NOV 2004)**

1. Auxiliary Courses and Test Administration:

- a. Prospective members are authorized to take any and all Auxiliary courses. This includes specialty and Navrules exams. Flotillas may provide essential course materials to prospective members in order to facilitate learning as they would for an IQ or BQ Auxiliarist.
- b. Prospective members are authorized to take any and all end-of-course exams associated with these courses.
- c. Prospective members may be presented the corresponding course completion certificates in appropriate ceremonial venues upon successfully completing all course requirements.
- d. Test results may be entered in AUXDATA for prospective members as test results are similarly entered for IQ and BQ Auxiliarists (see section 3).

2. Training and Qualifications:

- a. Prospective members may train in any program similar to an IQ or BQ Auxiliarist to include attending workshops and having an assigned mentor. Limitations described below apply.
- b. Prospective members may perform tasks that must be completed in order to earn qualification in certain program disciplines, specifically, but not limited to:

(1) successfully conduct five VSCs as a VE trainee.

(2) successfully complete two visits as an RBS-PV trainee.

(3) successfully complete two class instruction periods as an IT trainee.

(4) successfully perform any non-underway or non-flight tasks in the boat crew, aviation or Trident programs (tasks associated with the donning of PPE and swim tests may be performed and signed off). They may ride aboard Auxiliary facilities in a guest status. As a reminder, once a prospective member has received a Favorable OS PSI determination, they may proceed on to qualification in a program that requires a favorable DO PSI determination. In doing so, they may perform all training tasks and may receive an interim certification upon completion of appropriate qualifications by the DIRAUX or operational commander while their DO PSI package is processed to completion. Similarly, an interim certification may also be granted to all other members who pursue their *first* program qualification that requires a Favorable DO determination. Interim certification is at the discretion of the DIRAUX or operational commander upon favorable review of the member's DO PSI package with no glaring issues.

(5) properly attend any required program workshops.

c. Prospective members may not attend Coast Guard or Coast Guard Auxiliary C schools.

d. Prospective members may not displace IQ or BQ Auxiliarists in any training venue or opportunity.

e. Prospective members may not be qualified by DIRAUX in any program area until they have received a Favorable PSI determination at the appropriate level (see note about interim certification circumstances in 2b4 above).

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f. Auxiliarists who, for whatever reason, disenroll or retire from the Auxiliary and then attempt to re-enroll without ever having obtained a Favorable PSI determination, shall be processed as any other prospective member in terms of PSI processing. Although the re-enrollee may effectively resume their certification at the corresponding point of currency maintenance, they must also pursue PSI determination like any other prospective member. If the re-enrollee was certified in a program that requires a Favorable DO PSI determination, then an interim certification may be issued by the DIRAUX or operational commander while their DO PSI package is processed to completion, per section 2b4.

### 3. AUXDATA Entries:

a. AUXDATA entries may be made as they occur for a prospective member's successful course completion as well as for successful completion of other distinct steps that must be completed in order to earn qualification in certain program disciplines, specifically, but not limited to:

(1) successfully conducting five VSCs as a VE trainee.

(2) successfully completing two visits as an RBS-PV trainee.

(3) successfully completing two class instruction periods as an IT trainee.

(4) successfully performing any non-underway or non-flight tasks in the boat crew, aviation or Trident programs (tasks associated with the donning of PPE and swim tests may be performed and signed off). They may ride aboard Auxiliary facilities in a guest status. As a reminder, once a prospective member has received a Favorable OS PSI determination, they may proceed on to qualification in a program that requires a favorable DO PSI determination. In doing so, they may perform all training tasks and may receive an interim certification upon completion of appropriate qualifications by the DIRAUX or operational commander while their DO PSI package is processed to completion. Similarly, an interim certification may also be granted to all other members who pursue their *first* program qualification that requires a Favorable DO determination. Interim certification is at the discretion of the DIRAUX or operational commander upon favorable review of the member's DO PSI package with no glaring issues.

(5) properly attending any required program workshops.

b. A prospective member's AUXDATA entries must be made to reflect their trainee status. At no time shall AUXDATA entries for a prospective member be made to reflect them in lead or non-lead status for any program activity. Accordingly, any Mission Activity reports (Form 7030) must only reflect unit mission hours for the prospective member as a trainee. Hours spent on operational facilities (e.g. - on patrols) cannot be applied retroactively toward qualification.

c. A prospective member's base enrollment date shall coincide with the date of issue of their EMPLID. See section 6a.

d. AUXDATA is being modified to enable data entries consistent with the above provisions. These modifications are expected to be completed in early December 2004 (approximately two weeks). Notification of completion will be issued from this office.

### 4. Uniforms, Awards and Ceremonies:

a. Authority to obtain or wear Auxiliary uniform items or associated insignia as described in the Auxiliary Manual are concerns that remain under assessment by Auxiliary program leadership. Until a final determination is issued, prospective members are not authorized to obtain or wear such items.

b. In the interim, prospective members should be strongly encouraged by Auxiliary mentors and leadership to obtain and wear non-uniform Auxiliary clothing items (e.g. - Auxiliary polo shirt

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[other than authorized VE or uniform polo shirt], Auxiliary jacket, Auxiliary sweater) in lieu of Auxiliary uniform items until they receive a Favorable PSI determination.

- c. Prospective members may participate on Flotilla committees (e.g. - Change of Watch committee).
- d. Prospective members may participate in ceremonial events that do not require uniform wear. For example, a prospective member may serve as an emcee at a Change of Watch, but they may not serve as part of a color guard.
- e. Prospective members may earn Auxiliary and Coast Guard unit/team awards if they are specifically identified as participants in the effort that earned the award and meet established award criteria. Appropriate AUXDATA entries may be made to reflect these awards. Until prospective members receive a Favorable PSI determination, normal policies apply for wear of corresponding award insignia on non-uniform attire (e.g. - lapel pin).

### 5. Organizational Assignments and Authorities:

- a. Prospective members should be strongly encouraged to attend meetings and fellowship events to learn about Auxiliary organization, policies, procedures and programs.
- b. Prospective members may provide direct administrative support to Coast Guard units but must have the concurrence of the command to do so. Auxiliary Liaison Officers are specifically tasked with ensuring that the command and DIRAUX are advised in advance of any prospective member who desires to do so and that appropriate arrangements for recurring access are made.
- c. Prospective members are not authorized to run for, accept nomination for, or hold any elected office. Waivers may not be granted by the prospective member's Auxiliary chain or DIRAUX under any circumstance.
- d. Prospective members are not authorized to accept or hold any appointed staff office. Waivers may not be granted by the prospective member's Auxiliary chain or DIRAUX under any circumstance.
- e. Prospective members may not sign any paperwork on behalf of the Auxiliary in the capacity of a qualified Auxiliarist or an elected or appointed staff officer.

### 6. ID Cards and EMPLIDs:

- a. Prospective members may be issued EMPLIDs.
- b. Prospective members are not authorized to have Auxiliary ID cards.
- c. Prospective members may only receive an Auxiliary ID card upon receipt of a Favorable PSI determination or waiver for such by their DIRAUX as allowed for in the Auxiliary Manual.
- d. Prospective members should never be placed in the position of having to attempt to gain access to a Coast Guard facility alone. All due effort shall be made by mentors and Auxiliary leaders to ensure that whenever prospective members may have need to gain access to a Coast Guard facility, they have an Auxiliary escort with them.