

DEPARTMENT OF TRANSPORTATION**Coast Guard****46 CFR Parts 8, 31, 71, 91 and 107**

[CGD 95-010]

RIN 2115-AF11

Alternative Compliance via Recognized Classification Society and U.S. Supplement to Rules**AGENCY:** Coast Guard, DOT.**ACTION:** Interim rule with request for comments.

SUMMARY: The Coast Guard is issuing regulations to provide owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill the requirements for vessel design, inspection and certification. Under this interim rule, the Coast Guard can issue a certificate of inspection based upon reports by a recognized, authorized classification society that the vessel complies with the International Convention for the Safety of Life at Sea, the International Convention for the Prevention of Pollution from Ships, other applicable international conventions, classification society rules and other specified requirements. This new procedure will reduce the burden on vessel owners and operators by establishing an alternative to the current Coast Guard inspection system that results in plan reviews and inspections by the vessel's classification society as well as by the Coast Guard.

DATES: This interim rule is effective on December 27, 1997. Section 8.440 applies to existing vessels as of July 31, 1997. Comments on this interim rule must be received on or before March 27, 1997. The Director of the Federal Register approves the incorporation by reference of certain publications listed in the regulations as of December 27, 1997.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 95-010), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW.,

Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at room 1304, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: LCDR George P. Cummings, Marine Safety and Environmental Protection (G-MSE-1), telephone (202) 267-2997, fax (202) 267-4816.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553(d), the provisions of this interim rule relating to foreign classification societies are issued without a prior notice of proposed rulemaking and become effective immediately. The Coast Guard Authorization Act of 1996 (Pub. L. 104-324) removed a restriction that had been imposed on foreign classification societies that were interested in participating in the Coast Guard Alternate Compliance Program (ACP). To remove this restriction in a timely fashion, the Coast Guard is omitting prior notice and comment under the exception permitted by 5 U.S.C. 553(d)(1).

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 95-010) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing the Marine Safety Council at the address under

ADDRESSES. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will

aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Regulatory Information

This rule is being published as an interim rule and is being made effective on the date of publication with the exception of enrollment of existing vessels in the ACP. The rule is effective on July 31, 1997, for enrollment of existing vessels in the ACP. This delay is intended to allow the time necessary for completion of the ACP pilot program and the required training of Coast Guard personnel. Because the number of vessel owners seeking to have vessels constructed under the ACP is expected to be low, the rule will be effective on the date of publication for new vessel enrollment in the ACP.

Background and Regulatory History*Alternate Compliance Pilot Program*

In response to a solicitation for comments regarding regulatory reform, members of the U.S. maritime industry noted the continuing economic pressure on the U.S. oceangoing merchant fleet and commercial shipbuilding industry. Comments were submitted calling for reduction of the cost disadvantage attributed to Coast Guard inspection and certification of U.S. merchant vessels in order to improve the international competitiveness of the U.S. merchant fleet.

In order to address these concerns, the Coast Guard sought a means to alleviate the cost burdens on the maritime industry that resulted from the Coast Guard inspection program. The Coast Guard has had authority under 46 U.S.C. 3116 to rely on reports, documents and certificates issued by the American Bureau of Shipping (ABS) in carrying out its responsibilities for safety of U.S. merchant vessels and to delegate to ABS the inspection or examination of these vessels. The Coast Guard had in fact delegated to ABS the authority to issue certain certificates required by international conventions such as the International Convention for the Safety of Life at Sea, as amended, (SOLAS) Cargo Ship Safety Construction Certificate. Compliance with these standards is required for oceangoing vessels, i.e. vessels engaged in trading with foreign countries. Additionally, insurance companies require that, before a vessel is insured, it be classed. This means that a classification society must survey a vessel for compliance with its class rules. Class rules are rules developed by the particular classification society to

cover design, construction and safety of vessels. To ensure compliance with these class rules and with international standards, classification societies perform surveys on vessels using qualified marine surveyors. Many of the items examined by the classification society surveyors are the same as those examined by Coast Guard marine inspectors in their inspections for certification.

Thus, there is duplication of effort involving safety of vessels between the Coast Guard and the ABS that results in extra costs to U.S. vessel owners. In light of the authority in 46 U.S.C. 3316 to delegate to ABS, the Coast Guard, in order to address the concerns of the vessel owners regarding these costs, examined the feasibility of an alternative to the current situation that would avoid the duplication involved between ABS and the Coast Guard. A joint Coast Guard/ABS task force compared the Coast Guard requirements in the Code of Federal Regulations (CFR) to the class requirements in ABS class rules, SOLAS, and the International Convention for the Prevention of Pollution from Ships, as amended, (MARPOL 73/78) concerning the design, construction and safety systems for oceangoing merchant vessels. The purpose of this comparison was to identify redundancies between the requirements and to determine if the class and international requirements, which U.S. vessels must currently comply with, could be used in place of Coast Guard regulatory requirements. The standard used was whether compliance with the class and international standards would achieve a level of safety equivalent to compliance with Coast Guard regulatory requirements.

The task force determined that many Coast Guard regulatory requirements could be satisfied by certification of compliance with ABS classification rules, SOLAS, MARPOL 73/78, or combination of the three. This led to the development of a U.S. Supplement to the ABS classification rules. This supplement addresses those areas where current Coast Guard requirements are not embodied by either ABS classification rules or international conventions.

The Coast Guard concluded that the design requirements and survey provisions of ABS classification rules, applicable international conventions and the U.S. Supplement to the ABS classification rules provide a level of safety equivalent to corresponding Federal regulations.

As a result of this effort, the ACP was developed to reduce redundant

regulatory efforts without jeopardizing safety. The Coast Guard expects that, under the ACP, vessel owners and operators will have reduced vessel down time, greater flexibility in scheduling inspections, and greater flexibility in meeting required standards.

The Coast Guard is conducting an ACP pilot program, which was announced by the Federal Register notice of February 3, 1995 (60 FR 6687). The purpose of the pilot program is to test and evaluate the standards and procedures that have been developed for the ACP. The Coast Guard plans to conclude this pilot program and fully implement the ACP on July 31, 1997.

Notice of Proposed Rulemaking

On June 22, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Alternate compliance via Recognized Classification Society and U.S. Supplement to Rules" in the Federal Register (60 FR 32478). The NPRM proposed regulatory changes to allow owners, operators, shipbuilders, and designers of U.S. flagged tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units to use the services of a recognized classification society to conduct inspection and plan review functions now performed by the Coast Guard.

The NPRM proposed establishment of the ACP through addition of new sections in 46 CFR parts 31 (31.01-3), 71 (71.15-5), 91 (91.15-5), and 107 (107.205). These sections would allow the owner or operator of a vessel to submit the vessel for inspection by a recognized classification society. The classification society would survey the vessel and document compliance with applicable international requirements, class rules and its U.S. supplement. The cognizant Coast Guard Officer-in-Charge, Marine Inspection could then issue a certificate of inspection based upon the classification society's reports documenting that the vessel is classed and that it complies with all applicable requirements.

Additionally, the NPRM proposed new sections in 46 CFR parts 30 (30.01-4), 70(70.01-10) and 90 (90.01-10) to incorporate by reference the ABS Class Rules for Building and Classing Steel Vessels, 1996, and the ABS U.S. Supplement to Class Rules for Building and Classing Steel Vessels, 1996. When developed, the ABW U.S. Supplement to Class Rules for Building and Classing Mobile Offshore Drilling Units will be added to the existing incorporation by reference provisions in 46 CFR 107.115.

Overview of Interim Rule

This rule is published as an interim rule and is effective on the date of publication except for enrollment of existing vessels into the ACP. The effective date for application of the ACP to existing vessels, except for those currently involved in the pilot program, will be delayed until July 31, 1997 in order to allow the time necessary for completion of the ACP pilot program and the required training of Coast Guard personnel.

This interim rule modifies the NPRM in several areas. Changes to the NPRM are based on public comments received and recent changes to U.S. law allowing delegation of U.S. statutory authority to inspect and conduct plan approval to foreign classification societies. Changes to the NPRM are explained in this preamble.

Additionally, this interim rule establishes a new Part 8 in 46 CFR. This new part, entitled, "Vessel Inspection Alternatives", contains regulations regarding the ACP, recognition of classification societies, and future regulations regarding other vessel inspection alternatives.

Coast Guard Recognition and Authorization of a Classification Society

Until the passage of the 1996 Coast Guard Authorization Act (Pub. L. 104-324, 110 Stat. 3901), the Coast Guard could only delegate marine safety functions related to vessel plan review and inspection to the ABS or a similar U.S. classification society. Section 607 of Pub. L. 104-324 amended 46 U.S.C. 3316 to allow delegation of these functions to a classification society based in a foreign country. This new authority increases the number of classification societies that may be authorized to review and approve plans and to conduct vessel inspections and examinations on behalf of the Coast Guard. This also means that other classification societies may be utilized in a manner similar to the ABS under the ACP. But before any classification society can be delegated authority under this amendment to act on behalf of the Coast Guard for any purpose, the statute requires that the classification society be recognized by the Coast Guard. Thus, the Coast Guard is adopting a structured process to recognize classification societies other than the ABS for the delegation of marine safety functions.

Ship structural design has traditionally been covered by classification society rules. The fundamental motivation for the creation of classification societies was to meet

the need of hull underwriters to determine structural fitness before providing insurance coverage. Over time, and primarily based on service experience, some classification societies have developed, and continued to refine, the "rules" that address hull structural design.

Classification societies have expanded their services beyond ship structural design, analysis, and inspection to include various functions delegated to them on behalf of maritime administrations to document compliance with international regulations pertaining to other aspects of ship design and operations. Currently, most classification societies provide documentation of vessel's structural and mechanical "fitness-for-service", a service used by owners in obtaining insurance.

The Coast Guard will use the term "recognized" to indicate that a classification society has met minimum standards which address general characteristics and performance of a classification society. Achieving the status of "recognized classification society" will not, in itself, indicate any specific delegation of authority to the classification society by the Coast Guard. The Coast Guard will use the term "authorized" to indicate that a recognized classification society has been delegated the authority to conduct a specific marine safety function such as plan review, vessel inspection, or insurance of an international convention certificate. This approach will provide the necessary flexibility to accommodate determinations of reciprocity and individual classification society capabilities.

The terms used in the NPRM regarding classification society status have been modified to reflect this approach. A new section 8.100 defines these terms to clarify that a recognized classification society must receive authorization to conduct specific delegated functions.

Reciprocity (Section 8.120)

Section 607 of the 1996 Coast Guard Authorization Act amends 46 U.S.C. § 3316 by stating that delegations may be made to foreign classification societies only to the extent that the foreign country in which the society is headquartered delegates authority to the ABS and provides access to ABS to inspect, certify and provide related services to vessels flagged by that country. Thus, the Coast Guard will not consider any request to delegate authority until the conditions of reciprocity have been demonstrated and verified. Additionally, the Coast Guard

may not evaluate a classification society for recognition until the conditions of reciprocity have been demonstrated and verified for at least one of the delegations of authority being sought by the classification society.

There is no reciprocity clause associated with delegation of Load Line certification under 46 U.S.C. 5107 or Tonnage certification under 46 U.S.C. 14103.

Recognition of a Classification Society (Section 8.220)

A classification society must be recognized by the Coast Guard in order to be eligible to receive statutory authority delegated by the Coast Guard. This includes authority delegated under the ACP.

A classification society that applies for recognition, and is found to meet the criteria for recognition, will be notified in writing by the Commandant.

If the Coast Guard determines that a classification society does not meet the criteria for recognition, the reasons for this determination will be provided. A classification society may reapply for recognition when it complies with the criteria for recognition set forth in the regulation.

Minimum Standards for a Recognized Classification Society (Section 8.230)

In order to become recognized, a classification society must meet the Coast Guard's minimum standards for a recognized classification society established in this rule. In developing these minimum standards, the Coast Guard reviewed several international standards which address the quality and capability of a classification society. The standards evaluated by the Coast Guard for this purpose were: International Maritime Organization (IMO) Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration; European Communities Council Directive 94/57/EC; and the membership conditions of the International Association of Classification Societies. The Coast Guard's options were to either invoke the requirements of these standards through an Incorporation by Reference citation or include selected portions in the text of this rule. The Coast Guard decided that the existing criteria were not completely satisfactory and chose to include selected portions, with some modification, in the rule.

The Coast Guard has incorporated classification society performance, as indicated by its record under the Coast Guard Port State Control Program, as an element of the minimum standards for

classification society recognition under this rulemaking. The record of a particular classification society regarding detention of vessels classed or certificated by the society is one of the factors considered in determining boarding priorities for vessels calling in the U.S. This record represents a key measurement of the current performance of a classification society. Evaluation of classification society performance under the Coast Guard Port State Control Program is detailed in a report to the U.S. Congress entitled Port State Control, Evaluation of Classification Society Performance, dated May 13, 1996. A copy of this report is available in the docket for inspection or copying where indicated under "ADDRESSES."

It should be noted that there is a fundamental difference between the Coast Guard's recognition of a classification society for the delegation of authority under this rulemaking and any recognition issued previously under the Coast Guard's Port State Control Program indicating that the society met the requirements of IMO Resolution A.739(18). Classification societies found to meet this standard for the purposes of the Port State Control Program were sent letters indicating this. The Coast Guard's recognition of a classification society as meeting IMO Resolution A.739(18) for the purposes of the Port State Control targeting scheme does not constitute recognition for the purpose of delegation of Coast Guard vessel safety authorities.

Application for Recognition (Section 8.240)

A classification society must apply for recognition in writing to the Commandant (G-MSE). Applications should indicate which specific authority the classification society seeks to have delegated to it by the Coast Guard. The classification society must provide documentation with this application to establish that the conditions of reciprocity have been met for the authority sought to be delegated. Upon certification from the Coast Guard that the conditions of reciprocity have been met, the requesting classification society must submit documentation to establish that they meet the Coast Guard's minimum standards for a recognized classification society.

Revocation of Recognition (Section 8.260)

A recognized classification society which fails to maintain the minimum standards will be reevaluated for revocation of its recognized status.

Authorization to Perform Delegated Functions

The Coast Guard may authorize a recognized classification society to perform delegated functions after it has determined that the classification society is fully capable of conducting that function. This determination will include a review of applicable classification society rules and survey procedures. The Coast Guard will review the submitted material in order to determine whether delegation of authority to the particular classification society will result in the equivalent level of safety as that achieved through traditional Coast Guard performance of that function. When the classification society seeks ACP delegation, the classification society's class rules will be reviewed, and a U.S. Supplement to the classification society's class rules developed, as has been done with the ABS.

If the Coast Guard determines that the classification society's rules or procedures are not satisfactory, the requested delegation will not be granted. The Coast Guard will provide information to the applicant on deficiencies identified in rules or procedures. A classification society may reapply for the requested authorization after correction of any deficiencies in its rules or procedures.

Classification society authorization to perform delegated functions will be promulgated through an authorization agreement.

Existing Outlines of Cooperation between the Coast Guard and classification societies regarding passenger ship control verification are not affected by this rulemaking.

Authorization to Issue International Certificates (Section 8.320)

A recognized classification society will be eligible to receive authorization to issue certain international convention certificates on behalf of the Coast Guard. The Coast Guard may delegate the following international convention certifications to a recognized classification society: International Load Line Certificate; International Tonnage Certificate; SOLAS Cargo Ship Safety Construction Certificate; SOLAS Cargo Ship Safety Equipment Certificate; SOLAS Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; SOLAS Certificate of Fitness for the Carriage of Liquefied Gases in Bulk; SOLAS Mobile Offshore Drilling Unit Safety Certificate; MARPOL 73/78 International Oil Pollution Prevention Certificate; and MARPOL 73/78 International Oil Pollution Prevention

Certificate for the Carriage of Noxious Liquid Substances in Bulk.

The Coast Guard Authorization Act of 1996 authorizes the Coast Guard to delegate International Safety Management (ISM) Code certification to organizations including classification societies. The procedures for this delegation will be established in separate rulemaking.

Authorization for Participation in the Alternate Compliance Program (Section 8.420)

Because of the comprehensive nature of ACP delegation, the Coast Guard must ensure that a recognized classification society has adequate experience with exercising delegated authority on behalf of the Coast Guard. A classification society will be eligible to participate in the ACP only after it has performed a delegated function related to general vessel safety assessment for a period of two years. For the purposes of this interim rule, a delegated function related to general vessel safety assessment is issuance of the SOLAS Cargo Ship Safety Construction Certificate or issuance of the SOLAS Cargo Ship Safety Equipment Certificate. The Coast Guard believes this evaluation period is necessary to assess the capabilities and performance of a classification society. The Coast Guard requests comments on the requirement for this evaluation period.

If, after this evaluation period, the Coast Guard finds that the classification society has not performed satisfactorily or lacks adequate experience, the classification society will not be eligible to receive ACP delegation. The Coast Guard will provide the reason for this determination to the classification society.

U.S. Supplement to Class Rules (Section 8.430)

If the Coast Guard finds that a classification society is eligible to receive ACP delegation, the classification society will be required to prepare a U.S. Supplement to its rules. This supplement will address areas in which U.S. marine safety regulations are not adequately covered by the classification society's rules and applicable international regulations.

Agreement conditions (Section 8.130)

The Coast Guard will enter into a written authorization agreement with a recognized classification society that meets the standards necessary to receive delegation of authority. The agreement will define the scope, terms, conditions and requirements of that delegation.

Any authorization agreement between the Coast Guard and a recognized classification society must include the agreement conditions established in this rule. Development of these conditions included review of Appendix 2 of IMO Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, and the Model Agreement for the Authorization of Recognized Organizations Acting on Behalf of the Administration, developed by the IMO Flag State Implementation Subcommittee.

Termination of Authorizations (Sections 8.330 and 8.450)

Loss of recognized status for a classification society will result in termination of any authorization agreement with the Coast Guard.

A certificate issued by a classification society that has had its authorization agreement terminated will remain valid until the next classification society survey associated with that certificate is required or until the certificate expires.

An owner of any vessel enrolled in the ACP and classed by a classification society which loses its authority to participate in the ACP will either have to reclass the vessel with a different classification society that is authorized to participate in the ACP, or disenroll the vessel from the ACP.

Acceptance of Plan Review and Inspection Tasks Performed by a Recognized Classification Society

The Coast Guard may modify Navigation and Vessel Inspection Circuit (NVIC) 10-82, Acceptance of Plan Review and Inspection Tasks Performed by the American Bureau of Shipping for New Construction or Major Modification of U.S. Flag Vessels, to include other recognized classification societies. This determination will be based on a classification society's authorization to perform plan review and inspection functions, delegated under this rulemaking, that are similar to the tasks addressed in NVIC 10-82.

Acceptance of Standards and Functions Delegated Under Existing Regulations (Section 8.250)

Existing Coast Guard regulations contain provisions for acceptance of the standards of recognized classification societies, and for the delegation of some marine safety functions to recognized classification societies. Classification society rules will only be accepted as Coast Guard standards when that classification society has received authorization to conduct the related function. A recognized classification society is not permitted to conduct any

delegated function until it receives a separate written authorization from the Commandant to conduct that function.

Discussion of comments and changes

The Coast Guard received nine comment letters to the NPRM published on June 22, 1995. No public hearing was requested and none was held. The following discussion contains an analysis of comments received and an explanation of any changes made in the rule.

Regulatory Reform

Three comments indicated the NPRM does not go far enough toward eliminating the gap between U.S. regulatory standards and those of other flag states. One comment stated that, in development of the U.S. Supplement, the Coast Guard did not purge the current regulations of unique requirements in areas in which adequate international standards exist. One comment expressed concern that recent regulatory action and legislation leave U.S. flag operators at a significant cost disadvantage with respect to vessel rules.

The ACP is one of several elements of the Coast Guard's regulatory reform initiative. The intent of this rulemaking on the ACP and recognition of classification societies is to provide a compliance option to owners and operators of vessels which are classed by recognized classification societies and that have SOLAS, MARPOL 73/78, and other applicable international certificates. The ACP will reduce the current regulatory burden by eliminating the requirement for duplicative plan review and inspection for certain vessels by both a classification society and the Coast Guard.

Reducing and eventually eliminating the gap between U.S. requirements and international standards is a primary goal of Coast Guard regulatory reform. There are a series of ongoing and recently completed rulemaking projects which work toward this goal. These projects eliminate obsolete or unnecessary Coast Guard regulations and harmonize Coast Guard regulations with international standards.

Because these regulatory reform projects focus on elimination of many regulations which are unique to U.S. flag vessels, they will likely reduce the areas in which gaps exist that need to be covered by U.S. supplements to classification society class rules under the ACP. However, the U.S. supplement to class rules also contains U.S. interpretations of international convention regulations. This portion of

the supplement is affected by the proceedings of the IMO as well as by the Coast Guard regulatory reform initiative. It is, therefore, unlikely that the need for a U.S. supplement under the ACP will be entirely eliminated.

Two comments questioned the use of U.S. standards for vessel equipment as the basis for equivalency determinations under the ACP. One comment stated that this could result in rejection of equipment for vessels participating in the ACP that would otherwise be acceptable for foreign flag vessels under SOLAS, MARPOL 73/78, and ABS class rules. The ACP is based on a determination of vessel equivalency between the standards that apply to a vessel enrolled in the ACP and those that apply to other similar vessels certificated by the Coast Guard. As discussed above, harmonization with international standards is a principle goal of the Coast Guard regulatory reform initiative. Completion of this initiative should eliminate the adverse consequences raised by this comment.

One comment suggested that consideration be given to elimination of the requirement for a Certificate of Inspection (COI). The Coast Guard considered this during the initial development of the ACP and decided against it. The COI serves an important purpose in addition to serving as evidence of compliance with vessel inspection requirements because it also establishes specific vessel manning requirements and operational restrictions.

One comment stated this rulemaking was consistent with the goals of the President's National Performance Review and should reduce the inspection burden on owners and operators. The Coast Guard agrees with this comment. Goals expressed in the President's National Performance Review served as a basis for development of the ACP, which will reduce the burden of compliance with Coast Guard regulations.

Authorization of Classification Societies

Four comments supported Coast Guard delegation to classification societies other than the ABS under the ACP and, thereby, broaden the choices of classification societies that would be available to a participating vessel owner. One comment noted that the criteria for classification society eligibility for this program has not been published, and suggested stringent parameters to include criteria covering size, rules, international network, documented quality, and technical competence in general.

The Coast Guard Authorization Act of 1996, Pub. L. 104-324, 110 Stat. 3901, broadens Coast Guard authority to delegate by including foreign classification societies. This allows the Coast Guard to expand the ACP to include foreign classification societies which meet the criteria for recognized classification societies and the requirements for authorization of the delegations necessary to participate in the ACP. The Coast Guard agrees with the comment that criteria for recognition should be very stringent and agrees with the suggested parameters. This rulemaking establishes the criteria as suggested.

Conducting the Program

One comment stated that the success of the program is highly dependent on the Coast Guard's role as auditor. The Coast Guard agrees with this comment and recognizes that the role of the Coast Guard auditor under the ACP is substantially different from the traditional role of the Coast Guard marine inspector. The Coast Guard is redefining the role of the marine inspector in order to address major changes such as the ACP. These changes will be reflected in new Coast Guard procedures and training for marine inspectors.

One comment stated that older U.S. flag ships, which are not required to meet all of the provisions of SOLAS, are not addressed in the proposed rulemaking and questioned if this meant that only recently built ships or future new buildings will be able to enroll in the ACP. Nonapplicability of specific SOLAS regulations based on vessel age does not preclude vessel enrollment in the ACP. SOLAS regulations which do not apply to a vessel due to its age will not be applied to that vessel by virtue of the fact that it is enrolled in the ACP.

One comment stated that further information on the program should be distributed to candidates through seminars or meetings. The Coast Guard has disseminated information on the ACP through several major marine industry publications, the Federal Register, and Coast Guard publications. In addition, the Coast Guard is conducting a pilot program for the ACP. For these reasons, the Coast Guard does not see a need for a seminar or public meeting to publicize the ACP.

One comment stated that the Coast Guard should not totally remove itself from vessel inspections, and that the ACP should remain an option and not a requirement. The ACP is an optional program designed to provide an alternative means for vessel certification. The traditional process of

Coast Guard plan review and vessel inspection will remain available to all vessel owners and operators.

Two comments addressed Coast Guard oversight of this program and of classification society performance. An oversight program was developed as part of the ACP and published in COMMANDANT INSTRUCTION 16711.17, Oversight of the U.S. Coast Guard's ABS Based Alternate Compliance Program. Coast Guard oversight ensures that the classification societies perform their duties and responsibilities in accordance with the terms and conditions of their authorization agreement, and provides a means to monitor the performance of plan review and vessel inspection conducted on behalf of the Coast Guard. The Coast Guard will continue to board vessels participating in the ACP to conduct annual inspections. Coast Guard boardings will cover those requirements and activities not delegated to the classification societies. For example, boardings will be conducted by the Coast Guard to verify crew competency in emergency drills and to assess the vessel's condition. Additionally, Coast Guard oversight will ensure that the vessels participating in the ACP do not experience any degradation in the level of safety demonstrated by comparable vessels that continue to be inspected by the Coast Guard under vessel inspection regulations. Upon completion of the ACP pilot program, the oversight program will be evaluated and modified as necessary.

One comment recommended that more flexibility be given to the Coast Guard Officer in Charge, Marine Inspection (OCMI) concerning evaluation of the severity of inspection deficiencies that would preclude issuance of a COI under the ACP. The Coast Guard agrees with this comment and has modified the regulation to give greater discretion to the OCMI to evaluate the severity of deficiencies that may allow issuance of a COI. The revised text is in Section 8.440(d). Guidance is provided to Coast Guard OCMI's in COMMANDANT INSTRUCTION 16711.18, Procedures for Issuing COIs to vessels enrolled in the U.S. Coast Guard's ABS Based Alternate Compliance Program. This guidance allows OCMI's to accept the terms and conditions of classification society outstanding requirements leading to issuance of a COI unless they conflict with applicable U.S. law, or they present a direct and immediate threat to the vessel's crew, the safety of navigation, or the marine environment.

One comment suggested the Coast Guard add the IMO Mobile Offshore Drilling Unit (MODU) Safety Certificate to the list of the international certificates authorized to be issued under the ACP. The Coast Guard agrees with this comment and has included issuance of the IMO MODU Safety Certificate on the list of functions which may be delegated to a recognized classification society. Additionally, the ABS is currently developing a U.S. MODU Supplement to ABS Class Rules. Upon completion and Coast Guard acceptance of this supplement and related survey procedures, the ABS will be authorized to conduct ACP functions on MODUs.

One comment questioned whether the Coast Guard could maintain the technical expertise necessary to provide adequate oversight of classification societies under the ACP considering the reduction in field level training and vessel inspections opportunities that will likely result from the ACP. The Coast Guard recognizes the need to maintain the technical expertise of those individuals who will be charged with performing this oversight role, its marine inspectors. The Coast Guard will maintain its capabilities to perform all of the functions it now performs related to vessel inspection and certification. In addition to certification of U.S. flag vessels, marine inspectors with technical expertise are also currently required for an effective Port State Control Program. The importance of Coast Guard Port State Control responsibilities ensures a continuing need for training of, and technical expertise on the part of, Coast Guard marine inspectors.

One comment questioned the process for obtaining an equivalency determination for foreign equipment from the ABS under the ACP. The procedure for ABS equivalency determinations for vessels enrolled in the ACP is discussed in NVIC 2-95, U.S. Coast Guard's ABS Based Alternate Compliance Program.

User Fees

Two comments addressed reduction of user fees for vessels participating in the program. One comment recommended that information obtained from the pilot program be used to promulgate new user fees because the anticipated reduction in Coast Guard inspection involvement for vessels under the ACP should reduce user fees proportionately.

The Coast Guard will modify current vessel inspection user fees based on information gathered during the ACP pilot program. Any changes to user fee

regulations for vessels enrolled in the ACP will be promulgated in a separate rulemaking.

The Pilot Program

Two comments recommended that information obtained from the pilot program be published and used to identify required changes to the program. The Coast Guard agrees with these comments. The Coast Guard is collecting data on the ACP pilot program in order to assess the impact and effectiveness of the ACP. Results of the pilot program will be compiled in a final report which will be published in the Federal Register.

Economic Impact

One comment stated that if the rule were implemented and the surveys were properly planned, the overall cost of inspections and certification for U.S. shipowners should decrease. The Coast Guard agrees with this comment. One of the benefits intended to be provided through the ACP is the reduction of vessel down-time necessary to accommodate both Coast Guard inspections for certification and classification society surveys.

One comment stated that this program could have a positive economic effect for those operators who choose to participate. One comment questioned the economic benefit to the shipbuilder and ship owner during the ship acquisition phase and contended that the increase in ABS involvement would be at an increased cost to the shipbuilder. This comment also stated that a benefit of the ACP would be an improvement in the review process response time. The ACP is intended to be a voluntary alternative compliance method available to the U.S. maritime industry. Individual operators must evaluate their individual benefits of participation in this program.

One comment stated that the additional cost for the classification society surveyor to conduct inspections for the Coast Guard should be substantially less than the \$5,000 estimated in the NPRM, and requested specific information on the projected additional effort and fees anticipated by the classification society. The Coast Guard is not involved with the setting of fees for ACP or any other functions delegated to classification societies. Classification society fee information is available from each classification society.

One comment stated that if there were no U.S. Supplement then, theoretically, there should be no additional cost. As discussed above, other, ongoing and recently completed regulatory reform

rulemaking projects work toward eliminating unique Coast Guard regulations. These regulatory reform rulemakings that harmonize U.S. vessel regulations with international standards will remove the need to cover some of the areas that would currently be required to be included in the supplements to classification society class rules under the ACP. U.S. interpretations to international conventions, however, will continue to be covered in classification society supplements. Additionally, unique U.S. requirements required by U.S. statute will also be included in classification society supplements.

Specific Provisions

One comment noted that Section 91.15–5(b) of the NPRM prohibited vessels subject to Coast Guard intervention or enforcement action for violations of 46 CFR, Chapter I, from participating in the ACP and that this prohibition was not included in similar sections for other vessel types. This comment urged removal of this restriction. The Coast Guard agrees with this comment and has removed the restriction.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 8.110: ABS Rules for Building and Classing Steel Vessels, 1996, U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996, and ANSI/ASQC Q9001–1994, Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994. Copies of the material area available for inspection at Commandant (G–MSE–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. Copies of the material are available from the sources listed in § 8.110.

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.

The Coast Guard expects this rule to provide an economic benefit to the owners and operators of U.S. flagged vessels. Currently, 549 U.S. vessels may be eligible to participate in this optional ACP. The Coast Guard estimates that while a vessel owner may have to pay an additional \$5,000 in classification society fees for functions presently preformed by the Coast Guard, the savings in design, construction and operating costs will recover this expense many times over during the lifetime of the vessel. Moreover, ships built and maintained to SOLAS, MARPOL 73/78, recognized classification society rules and accepted U.S. supplement are expected to experience greater competitiveness in the worldwide shipping market.

Additionally, streamlining the certification process will reduce time frames for Coast Guard involvement in the Certificate of Inspection process from an average of over 50 hours to 10 hours or less. Because the vessel is already inspected by the classification society, this program will reduce duplication of effort, decrease vessel “down time” and permit greater scheduling flexibility. Lower construction and operating costs, greater flexibility for the vessel in the global market and additional availability for vessel hire will offset the costs incurred through the alternate plan review and inspection process utilizing a recognized classification society. The Coast Guard specifically solicits comments on potential costs, savings and benefits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. “Small entities” may include (1) small business and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This rule change provides an alternative to complying with existing regulations. The Coast Guard believes this rulemaking will have a positive economic impact if the owner chooses to participate in the ACP. Because of the current structure of the industry, it is not expected that any small businesses will be affected by the rule. However, under Section 601 of the Regulatory Flexibility Act, the Coast Guard has provided a flexible approach which could benefit any small businesses which choose to enter this industry.

This rulemaking will have no impact on vessel owners who do not choose to participate in this program. Therefore, the Coast Guard certifies that under 5 U.S.C. 605(b) this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification and other similar requirements.

This rule contains collection of information requirements in the following sections: §§ 31.01–3, 71.15–5, 91.15–5, and 107.205. The following particulars apply:

DOT No.: 2115–0626.

OMB Control No.: 2115–0626.

Administration: U.S. Coast Guard.

Title: Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules.

Need for Information: Vessel inspection reports are needed to document the compliance of a vessel with recognized classification society rules, the accepted U.S. supplement to rules, and applicable international maritime safety and marine environmental conventions. Classification societies recognized to participate in this program will submit copies of reports they routinely prepare to the Coast Guard. PROPOSED USE OF INFORMATION: The information will be used by the Coast Guard to determine if the vessel is in compliance with the requirements necessary for issuance of a Certificate of Inspection.

Frequency of Response: Reports are required whenever the recognized classification society inspects a vessel on behalf of the Coast Guard. This is generally for the initial issuance of the Certificate of Inspection (COI) and whenever the COI must be renewed. Renewal periods for vessel Certificates of Inspection are not being changed by this proposal. For tank, cargo, and miscellaneous vessels this period is two years; for passenger vessels over 100 gross tons the renewal period is one year; and for mobile offshore drilling units the renewal period is two years. A separate legislative proposal currently exists that would harmonize inspection intervals with international requirements.

Burden Estimate: There is no additional burden created by this

rulemaking. The required reports (120) are already being prepared in the course of business between the classification society and the vessel owner or operator. **RESPONDENTS:** The recognized classification societies. (60 vessels) **FORM(S):** None.

Average Burden Hours Per Respondent: No additional burden is created by this rulemaking. The required reports (2 hours per vessel) are already being prepared in the course of business between the classification society and the vessel owner or operator.

The Coast Guard has submitted the requirements to the OMB for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), and OMB has approved them. The OMB approval number is OMB Control Number 2115-0626. Persons submitting comments on the requirements should submit their comments both to OMB and the Coast Guard where indicated under "ADDRESSES."

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

The authority to regulate safety requirements of U.S. vessels is committed to the Coast Guard by statute. Furthermore, since these vessels tend to move from port to port in the national market place, these safety requirements need to be national in scope to avoid numerous, unreasonable and burdensome variances. Therefore, this action will preempt State action addressing the same matter.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule is excluded based on its inspection and equipment aspects. A categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Since the combination of classification society rules, applicable international conventions and the U.S. supplement to the rules have been determined to provide a level of safety equivalent to current Coast Guard regulations, the Coast Guard expects that this rulemaking will have no adverse environmental impact.

List of Subjects

46 CFR Part 8

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels, Incorporation by reference.

For the reasons set out in the preamble, under the authority of 46 U.S.C. 3306, the Coast Guard amends 46 CFR chapter I as follows:

PART 8—[ADDED]

1. Part 8 is added to read as follows:

PART 8—VESSEL INSPECTION ALTERNATIVES

Subpart A—General

- Sec.
- 8.100 Definitions.
 - 8.110 Incorporation by reference.
 - 8.120 Reciprocity.
 - 8.130 Agreement conditions.

Subpart B—Recognition of a Classification Society

- 8.200 Purpose.
- 8.210 Applicability.
- 8.220 Recognition of a classification society.
- 8.230 Minimum standards for a recognized classification society.
- 8.240 Application for recognition.
- 8.250 Acceptance of standards and functions delegated under existing regulations.
- 8.260 Revocation of classification society recognition.

Subpart C—International Convention Certificate Issuance.

- 8.300 Purpose.
- 8.310 Applicability.
- 8.320 Classification society authorization to issue international certificates.
- 8.330 Termination of classification society authority.

Subpart D—Alternate Compliance Program.

- 8.400 Purpose.
 - 8.410 Applicability.
 - 8.420 Classification society authorization to participate in the Alternate Compliance Program.
 - 8.430 U.S. Supplement to class rules.
 - 8.440 Vessel enrollment in the Alternate Compliance Program.
 - 8.450 Termination of classification society authority.
- Authority: 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104-324, 110 Stat. 3901; 46 U.S.C. 3703; 49 CFR 1.45, 1.46.

Subpart A—General

§ 8.100 Definitions.

Authorized Classification Society means a recognized classification society that has been delegated the authority to conduct certain functions and certifications on behalf of the Coast Guard.

Class Rules means the standards developed and published by a classification society regarding the design, construction and certification of commercial vessels.

Commandant means the Commandant of the Coast Guard.

Delegated Function means a function related to Coast Guard commercial vessel inspection which has been delegated to a classification society. Delegated functions may include issuance of international convention certificates and participation in the Alternate Compliance Program under this part.

Delegated Function Related to General Vessel Safety Assessment means issuance of the SOLAS Cargo Ship Safety Construction Certificate or issuance of the SOLAS Cargo Ship Safety Equipment Certificate.

Gross Tons means vessel tonnage measured in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Vessels not measured by this convention must be measured in accordance with the method utilized by the flag state administration of that vessel.

MARPOL 73/78 means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended.

Officer in Charge, Marine Inspection (OCMI) means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the superintendence and direction of the Coast Guard District Commander, is in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and

administration of title 46, Revised Statutes, and acts amendatory thereof or supplemental thereto, and rules and regulations thereunder.

Recognized Classification Society means the American Bureau of Shipping or other classification society recognized by the Commandant under this part.

SOLAS means International Convention for the Safety of Life at Sea, 1974, as amended.

§ 8.110 Incorporated by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the Federal Register and the material must be available to the public. All material is available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Office of Design and Engineering Standards, 2100 Second St., SW., Washington, DC 20593-0001, and is available from the source listed in paragraph (b) of this section.

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

Two World Trade Center, 106th Floor, New York, NY 10048.

Rules for Building and Classing Steel Vessels, 1996—31.01-3(b), 71.15-5(b), 91.15-5(b).

U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 21 October 1996—31.01-3(b), 71.15-5(b), 91.15-5(b).

American National Standards Institute (ANSI)

11 West 42nd St., New York, NY 10036.

ANSI/ASQC Q9001-1994, Quality Systems-Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994—8.230.

§ 8.120 Reciprocity.

(a) The Commandant may delegate authority to a classification society that has its headquarters in a country other than the United States only to the extent that the flag state administration of that country delegates authority and provides access to the American Bureau of Shipping to inspect, certify and provide related services to vessels flagged by that country.

(b) In order to demonstrate that the conditions described in paragraph (a) of this section are satisfied, a classification society must provide to the Coast Guard an affidavit from the government of the country that the classification society is headquartered in listing the authorizes delegated by the flag state

administration of that country to the American Bureau of Shipping, and indicating any conditions related to the delegated authority.

(c) The Commandant will not consider an application for authorization to perform a delegated function submitted under this part until the conditions described in paragraph (a) of this section are satisfied.

(d) The Commandant will not evaluate a classification society for recognition until the conditions described in paragraph (a) of this section are satisfied for at least one of the authorized delegations being sought.

(e) The Commandant may make a delegation regarding load lines under 46 U.S.C. 5107 or measurement of vessels under 46 U.S.C. 14103 without regard to the conditions described in paragraph (a) of this section.

§ 8.130 Agreement conditions.

(a) Delegated functions performed by, and statutory certificates issued by, an authorized classification society will be accepted as functions performed by, or certificates issued by, the Coast Guard, provided that the classification society maintains compliance with all provisions of its agreement with the Commandant. Any agreement between the Commandant and a recognized classification society authorizing the performance of delegated functions will be written and will require the classification society to comply with each of the following:

(1) Issue any certificates related to a delegated function in the English language.

(2) Maintain a corporate office in the United States that has adequate resources and staff to support all delegated functions and to maintain required associated records.

(3) Maintain all records in the United States related to delegated functions conducted on behalf of the Coast Guard.

(4) Make available to appropriate Coast Guard representatives vessel status information and records, including outstanding vessel deficiencies or classification society recommendations, in the English language, on all vessels for which the classification society has performed any delegated function on behalf of the coast Guard.

(5) Report to the commandant (G-MOC) the names and official numbers of any vessels removed from class for which the classification society has performed any delegated function on behalf of the Coast Guard and include a description of the reason for the removal.

(6) Report to the Commandant (G-MOC) all port state detentions on all vessels for which the classification society has performed any delegated function on behalf of the Coast Guard.

(7) Annually provide the Commandant (G-MOC) with its register of classed vessels.

(8) Ensure vessels meet all requirements for class of the accepting classification society prior to accepting vessels transferred from another classification society.

(9) Suspend class for vessels that are overdue for special renewal or annual survey.

(10) Attend any vessel for which the classification society has performed any delegated function on behalf of the Coast Guard at the request of the appropriate Coast Guard officials.

(11) Honor appeal decisions made by the Commandant (G-MSE) or Commandant (G-MOC) on issues related to delegated functions.

(12) Apply U.S. flag administration interpretations, when they exist, to international conventions for which the classification society has been delegated authority to certify or perform other functions on behalf of the Coast Guard.

(13) Obtain approval from the Commandant (G-MSE) prior to granting exemptions from the requirements of international conventions, class rules, and the U.S. supplement to class rules.

(14) Make available to the Coast Guard all records, in the English language, related to equivalency determinations or approvals made in the course of delegated functions conducted on behalf of the Coast Guard.

(15) Report to the Coast Guard all information specified in the agreement at the specified frequency and to the specified Coast Guard office or official.

(16) Grant the Coast Guard access to all plans and documents, including reports on surveys, on the basis of which certificates are issued or endorsed by the classification society.

(17) Identify a liaison representative to the Coast Guard.

(18) Provide regulations, rules, instructions and report forms in the English language.

(19) Allow the Commandant (G-M) to participate in the development of class rules.

(20) Inform the Commandant (G-M) of all proposed changes to class rules.

(21) Provide the Commandant (G-M) the opportunity to comment on any proposed changes to class rules and to respond to the classification society's disposition of the comments made by the Coast Guard.

(22) Furnish information and required access to the Coast Guard to conduct oversight of the classification society's activities related to delegated functions conducted on behalf of the Coast Guard.

(23) Allow the Coast Guard to accompany internal and external quality audits and provide written results of such audits to appropriate Coast Guard representatives.

(24) Provide the Coast Guard access necessary to audit the authorized classification society to ensure that it continues to comply with the minimum standards for a recognized classification society.

(25) Use only exclusive surveyors of that classification society to accomplish all work done on behalf of, or pursuant to any delegation from, the Coast Guard.

(26) Allow its surveyors to participate in training with the Coast Guard regarding delegated functions.

(b) Amendments to an agreement between the Coast Guard and an authorized classification society will become effective only after consultation and written agreement between parties.

(c) Agreements may be terminated by one party only upon written notice to the other party. Termination will occur sixty days after written notice is given.

Subpart B—Recognition of a Classification Society

§ 8.200 Purpose.

This subpart establishes criteria and procedures for vessel classification societies to obtain recognition from the Coast Guard. This recognition is necessary in order for a classification society to become authorized to perform vessel inspection and certification functions delegated by the Coast Guard as described in this part.

§ 8.210 Applicability.

This subpart applies to all vessel classification societies seeking recognition by the Coast Guard.

§ 8.220 Recognition of a classification society.

(a) A classification society must be recognized by the Commandant before it may receive statutory authority delegated by the Coast Guard.

(b) In order to become recognized, a classification society must meet the requirements of § 8.230.

(c) A classification society found to meet the criteria for recognition will be notified in writing by the Commandant.

(d) If the Coast Guard determines that a classification society does not meet the criteria for recognition, the Coast Guard will provide the reason for this determination.

(e) A classification society may reapply for recognition upon correction of the deficiencies identified by the Coast Guard.

§ 8.230 Minimum standards for a recognized classification society.

(a) In order to receive recognition by the Coast Guard a classification society must:

(1) Establish that it has functioned as an international classification society for at least 30 years with its own class rules;

(2) Establish that it has a history of appropriate corrective actions in addressing vessel casualties and cases of nonconformity with class rules;

(3) Establish that it has a history of appropriate changes to class rules based on their application and the overall performance of its classed fleet;

(4) Have a total classed tonnage of at least 10 million gross tons;

(5) Have a classed fleet of at least 1,500 ocean-going vessels over 100 gross tons;

(6) Have a total classed tonnage of ocean-going vessels over 100 gross tons totaling no less than 8 million gross tons;

(7) Publish and maintain class rules in the English language for the design, construction and certification of ships and their associated essential engineering systems;

(8) Maintain written survey procedures in the English language;

(9) Have adequate resources, including research, technical, and managerial staff, to ensure appropriate updating and maintaining of class rules and procedures;

(10) Have adequate resources and geographical coverage to carry out all plan review and vessel survey activities associated with delegated functions as well as classification society requirements;

(11) Employ a minimum of 150 exclusive surveyors;

(12) Have adequate criteria for hiring and qualifying surveyors and technical staff;

(13) Have an adequate program for continued training of surveyors and technical staff;

(14) Have a corporate office in the United States that provides a continuous management and administrative presence;

(15) Maintain an internal quality system based on ANSI/ASQC Q9001 or an equivalent quality standard;

(16) Ensure classed vessels comply with class rules;

(17) Ensure serviced vessels comply with all statutory requirements related to delegated functions;

(18) Monitor all activities related to delegated functions for consistency and required end-results;

(19) Maintain and ensure compliance with a Code of Ethics that recognizes the inherent responsibility associated with delegation of authority;

(20) Not be under the financial control of shipowners or shipbuilders, or of others engaged commercially in the manufacture, equipping, repair or operation of ships;

(21) Not be financially dependent on a single commercial enterprise for its revenue;

(22) Not have any business interest in, or share of ownership of, any vessel in its classed fleet; and

(23) Not be involved in any activities which could result in a conflict of interest.

(b) Recognition will be granted when it is established that the classification society has an acceptable record of vessel detentions attributed to classification society performance under the Coast Guard Port State Control Program.

§ 8.240 Application for recognition.

(a) A classification society must apply for recognition in writing to the Commandant (G-MSE).

(b) An application must indicate which specific authority the classification society seeks to have delegated.

(c) Upon verification from the Coast Guard that the conditions of reciprocity have been met in accordance with § 8.120, the requesting classification society must submit documentation to establish that it meets the requirements of § 8.230.

§ 8.250 Acceptance of standards and functions delegated under existing regulations.

(a) Classification society class rules will only be accepted as equivalent to Coast Guard regulatory standards when that classification society has received authorization to conduct a related delegated function.

(b) A recognized classification society may not conduct any delegated function under this title until it receives a separate written authorization from the Commandant to conduct that specific function.

§ 8.260 Revocation of classification society recognition.

A recognized classification society which fails to maintain the minimum

standards established in this part will be reevaluated for possible revocation of its recognized status.

Subpart C—International Convention Certificate Issuance

§ 8.300 Purpose.

This subpart establishes options for vessel owners and operators to obtain required international convention certification through means other than those prescribed elsewhere in this chapter.

§ 8.310 Applicability.

This subpart applies to:

- (a) Recognized classification societies; and
- (b) All U.S. flag vessels that engage in international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to issue the applicable international certificate as specified in this subpart.

§ 8.320 Classification society authorization to issue international certificates.

(a) The Commandant may authorize a recognized classification society to issue certain international convention certificates. Authorization will be based on review of:

- (1) Applicable class rules; and
- (2) Applicable classification society procedures.
- (b) The Coast Guard may delegate issuance of the following international convention certificates to a recognized classification society:
 - (1) International Load Line Certificate;
 - (2) International Tonnage Certificate;
 - (3) SOLAS Cargo Ship Safety Construction Certificate;
 - (4) SOLAS Cargo Ship Safety Equipment Certificate;
 - (5) SOLAS Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
 - (6) SOLAS Certificate of Fitness for the Carriage of Liquefied Gases in Bulk;
 - (7) SOLAS Mobile Offshore Drilling Unit Safety Certificate;
 - (8) MARPOL 73/78 International Oil Pollution Prevention Certificate; and
 - (9) MARPOL 73/78 International Oil Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

(c) The Coast Guard will enter into a written agreement with a recognized classification society authorized to issue international convention certificates. This agreement will define the scope, terms, conditions and requirements of that delegation. Conditions of these agreements are presented in § 8.130.

§ 8.330 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society if:

- (1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or
- (2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) Certificates issued by a classification society which has had its authorization terminated will remain valid until the next classification society survey associated with that certificate is required or until the certificate expires, whichever occurs first.

Subpart D—Alternate Compliance Program

§ 8.400 Purpose.

This subpart establishes an alternative to subpart 2.01 of this chapter for certification of United States vessels.

§ 8.410 Applicability.

This section applies to:

- (a) Recognized classification societies; and
- (b) All U.S. flag vessels that engage in international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to participate in the Alternate Compliance Program (ACP) as specified in this subpart.

§ 8.420 Classification society authorization to participate in the Alternate Compliance Program.

(a) The Commandant may authorize a recognized classification society to participate in the ACP. Authorization will be based on a satisfactory review of:

- (1) Applicable class rules; and
- (2) Applicable classification society procedures.
- (b) Authorization for a recognized classification society to participate in the ACP will require development of a U.S. Supplement to the society's class rules that meets the requirements of § 8.430 of this part, which must be accepted by the Coast Guard.

(c) A recognized classification society will be eligible to receive authorization to participate in the ACP only after it has performed a delegated function related to general vessel safety assessment, as defined in § 8.100, for a two-year period.

(d) If, after this two-year period, the Coast Guard finds that the recognized classification society has not demonstrated the necessary satisfactory performance or lacks adequate experience, the recognized classification

society will not be eligible to participate in the ACP. The Coast Guard will provide the reason for this determination to the recognized classification society.

(e) The Coast Guard will enter into a written agreement with a recognized classification society authorized to participate in the ACP. This agreement will define the scope, terms, conditions and requirements of the necessary delegation. Conditions of this agreement are presented in § 8.130.

§ 8.430 U.S. Supplement to class rules.

Prior to receiving authorization to participate in the ACP, a recognized classification society must prepare, and receive Commandant (G-MSE) approval of, a U.S. Supplement to the recognized classification society's class rules. This supplement must include all regulations applicable for issuance of a Certificate of Inspection (COI) which are not, in the opinion of the Commandant, adequately established by either the class rules of that classification society or applicable international regulations.

§ 8.440 Vessel enrollment in the Alternate Compliance Program.

(a) In place of compliance with other applicable provisions of this title, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a COI may submit the vessel for classification, plan review and inspection by a recognized classification society authorized by the Coast Guard to determine compliance with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG-3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by an authorized classification society.

(c) Based on reports from an authorized classification society that a vessel complies with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports made by the authorized classification society indicate that the vessel meets applicable standards, the vessel owner or operator may appeal the

OCMI decision as provided in subpart 1.03 of this chapter.

(d) If reports from an authorized classification society indicate that a vessel does not comply with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may decline to issue a certificate of inspection. If the OCMI declines to issue a certificate of inspection, the vessel owner or operator may:

(1) Correct the reported deficiencies and make arrangements with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the authorized classification society to the Chief, Office of Compliance, Commandant (G-MOC), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001.

§ 8.450 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) Owners or operators of vessels enrolled in the ACP and classed by a classification society that has its authority to participate in the ACP terminated must either:

(1) Change the classification society for the vessel to a classification society that is authorized to participate in the ACP; or

(2) Disenroll the vessel from the ACP.

PART 31—INSPECTION AND CERTIFICATION

2. The authority citation for part 31 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104-324, 110 Stat. 3901; 46 U.S.C. 3703, 5115, 8105; 49 U.S.C. App 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

§ 31.01-3 [Added]

3. Section 31.01-3 is added to read as follows:

§ 31.01-3 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter,

the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048.

Accepted Class Rules: Rules for Building and Classing Steel Vessels, 1996.

Accepted U.S. Supplements: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996.

PART 71—INSPECTION AND CERTIFICATION

4. The authority citation for part 71 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104-324, 110 Stat. 3901; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46.

§ 71.15-5 [Added]

5. Section 71.15-5 is added to read as follows:

§ 71.15-5 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048.

Accepted Class Rules: Rules for Building and Classing Steel Vessels, 1996.

Accepted U.S. Supplements: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996.

PART 91—INSPECTION AND CERTIFICATION

6. The authority citation for part 91 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec.

607, Pub. L. 104-324, 110 Stat. 3901; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

§ 91.15-5 [Added]

7. Section 91.15-5 is added to read as follows:

§ 91.15-5 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048.

Accepted Class Rules: Rules for Building and Classing Steel Vessels, 1996.

Accepted U.S. Supplements: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996.

PART 107—INSPECTION AND CERTIFICATION

8. The authority citation for part 107 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104-324, 110 Stat. 3901; 46 U.S.C. 5115; 49 CFR 1.45, 1.46; § 107.05 also issued under authority of 44 U.S.C. 3507.

§ 107.205 [Added]

9. Section 107.205 is added to read as follows:

§ 107.205 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

(No classification societies are authorized at this time)

Dated: December 11, 1996.

J.C. Card,

*Rear Admiral, U.S. Coast Guard, Assistant
Commandant for Marine Safety and
Environmental Protection.*

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