

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

46 CFR Parts 1, 8, 31, 69, 71, 91, 107, 153, and 154

[CGD 95-010]

RIN 2115-AF11

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

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

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 final 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 (SOLAS), 1974, as amended, the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), 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 final rule is effective January 23, 1998. Section 8.440 applied to existing vessels as of July 31, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on January 23, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Daniel Pippenger, Marine Safety and Environmental Protection (G-MSE-

1), telephone (202) 267-2997, fax (202) 267-4816.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On December 27, 1996, the Coast Guard published an interim rule entitled "Vessel Inspection Alternatives; Classification Procedures" in the **Federal Register** (61 FR 68510). The Coast Guard received 17 letters commenting on the interim rule. No public hearing was requested, and none was held.

Background and Purpose

On October 4, 1994, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Alternate Inspection Compliance Programs for the U.S. Maritime Industry" in the **Federal Register** (59 FR 50537). In the comments submitted in response to this NPRM, members of the U.S. maritime industry noted the continuing economic pressure on the U.S. oceangoing merchant fleet and commercial shipbuilding industry. Additional 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 (SOLAS) Cargo Ship Safety Construction Certificate. Compliance with these standards is required for oceangoing vessels, *i.e.* vessels trading in 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 the design, construction and maintenance 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 between the Coast Guard and the ABS involving safety of vessels that results in extra costs to U.S. vessel owners. In light of the authority in 46 U.S.C. 3316 to delegate vessel inspections and examinations 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 of inspections 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 Alternate Compliance Program (ACP) was developed to reduce redundant inspection 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 conducted an ACP pilot program, which was announced by the **Federal Register** notice of February 3, 1995 (60 FR 6687). Its purpose was to test and evaluate the standards and procedures developed for the ACP. Sixty-two ships were enrolled in the pilot program which ended on July 31, 1997. The ACP was implemented on that date under the regulations described in the following paragraphs.

On June 22, 1995, the Coast Guard published a 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.

On December 27, 1996, the Coast Guard published an interim rule entitled "Vessel Inspection Alternatives; Classification Procedures" in the **Federal Register** (61 FR 68510). This rulemaking with the addition of other 46 CFR sections not included in the NPRM, implemented the ACP program.

Discussion of Comments and Changes

In a continuous effort to refine the ACP, several minor technical changes are needed to facilitate clear application of this rule.

The Coast Guard amended the text of 46 CFR 8.450 to clarify the status of international certificates issued by a

classification society whose authority to participate in the ACP is terminated. If a classification society is no longer eligible to participate in the ACP, the certificates issued by that society would remain valid subject to any termination of authorization to issue those certificates on behalf of the Coast Guard as detailed in § 8.330. Also, the Coast Guard will notify a vessel owner of the time frame required for such action. Because of the many variables involved in the possible termination of authority of a classification society to participate in the ACP, such as the reason for termination or the number of ships involved, it is not reasonable to set a specific time limit for accomplishment of the required action.

The current regulatory text regarding four of the certificates listed in § 8.320 (International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk; 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) allows only the Coast Guard to issue these certificates to U.S. flag vessels. The intent of this rulemaking is to allow certain classification societies to issue these certificates on behalf of the U.S. as well. Therefore, modification to 33 CFR part 151, 46 CFR part 153 and 154 are necessary.

In § 8.100, the definition of "MARPOL 73/78" was changed to be consistent with the definition in 33 U.S.C. 1901.

As the ACP has been implemented, the Coast Guard has recognized that additional references to rules and approved supplements are necessary. Because a supplement is approved related to a specific year of classification society rules and international conventions, it is appropriate to update and approve the supplement each time a new set of classification society rules are approved. Therefore, each year, the Coast Guard anticipates approving and incorporating a set of classification society rules and a companion supplement. To facilitate this process, the Coast Guard eliminated the direct listing of approved classification society rules and supplements in the applicable 46 CFR parts (31, 71, 91, and 107) and modified the language of those sections to refer the user to one section for a list of incorporated classification society rules and supplements in § 8.110(b).

In § 8.320, the list of certificates requires correction. The "SOLAS Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk" and the "SOLAS Certificate of Fitness for the

Carriage of Liquefied Gases in Bulk" are correctly titled the "International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk" and the "International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk".

Participation of a vessel in the ACP is contingent upon several items in § 8.410. One requirement is that the vessel be "classed" by a recognized classification society that is authorized to participate in the ACP. To clearly convey the Coast Guard's understanding of what it means for a vessel to be "classed," the Coast Guard added a definition of the term to § 8.100.

The applicability in § 8.410 specified that the ACP applies to all U.S. flag vessels that meet certain requirements. However, the ACP is currently open to U.S. flag tank vessels, passenger vessels, cargo vessels, miscellaneous vessels, and mobile offshore drilling units (MODUs). To accurately reflect these limitations, § 8.410 will refer each vessel type to the appropriate subchapter of 46 CFR containing the authorization to use the ACP in place of other requirements.

46 CFR subchapter G, § 69.27(b) requires an organization to be a full member of the International Association of Classification Societies (IACS) and incorporated under the laws of the United States, a State of the United States, or the District of Columbia to be eligible for delegated tonnage measurement authority. There is no statutory requirement for these criteria and they are inconsistent with the intent of the ACP rulemaking, which is to allow classification societies, regardless of home country, meeting the standards in part 8, to be recognized and delegated authority to perform services on behalf of the Coast Guard. Therefore, the final rule modifies this section so the ACP can function as intended.

The Coast Guard received a total of 17 letters that commented on the ACP interim rule. All letters expressed support for the program. One comment specifically mentioned the reduced cost and increased options the ACP will give the maritime industry. Some letters contained suggestions for improvement in areas that may need adjustment. The following discussion addresses these comments.

Ten comments addressed issues relating to reciprocity. One comment noted that not all classification societies can "certify" in their own home country. These comments recommended modification of acceptance to include recognition when authorization to ABS is equal to that allowed by the country of origin. The Coast Guard will delegate

the authority to issue listed certificates when all of the conditions for reciprocity, recognition, and authorization are met. This approach is consistent with the language in the Coast Guard Authorization Act of 1996 (Pub. L. 140-324), and will result in the most efficient delegation program. To allow the appropriate flexibility needed for successful application of the ACP program, the Coast Guard will modify § 8.120(a). The Coast Guard will grant authorization to a foreign classification society to issue international certificates on a "case-by-case" basis. Some of the factors that the Coast Guard may consider in granting authorization are:

- Whether the foreign classification society has a satisfactory port state control history;
- Whether the foreign classification society has met the criteria contained in 46 CFR 8.230;
- Whether the foreign classification society developed a U.S. supplement to its class rules for use in the ACP that is in accordance with 46 CFR 8.430, as appropriate; and whether the home government of the foreign classification society has provided, or will simultaneously provide, ABS sufficient access to inspect, certify and provide related services to vessels documented in that country.

One of the comments suggested that the Coast Guard establish an annual review of reciprocity provisions. An annual review of reciprocity is unnecessary. In the event that the American Bureau of Shipping undergoes any changes in their foreign government authorizations, it is reasonable to expect that the Coast Guard will be notified by the American Bureau of Shipping of any such changes, at which time the Coast Guard will review the applicable reciprocity provisions for appropriate resolution.

Two comments recommended the removal of the 2-year trial period prior to being eligible to participate in the ACP as required in § 8.420. The Coast Guard does not agree. The ACP is a very comprehensive program that covers issues not addressed by international convention requirements. In the ACP, participating vessels have limited involvement with the Coast Guard and the Certificate of Inspection (COI) is based largely on classification society reports. The Coast Guard has limited experience with foreign classification societies. Therefore, it is prudent to maintain this 2-year trial period in order to gain experience with foreign classification societies, their rules, surveyors, and procedures. Additionally, the 2-year period will allow the Coast Guard to assess the

capability and performance of the classification society to ensure they are adequate to perform the extensive delegations granted under the ACP. The Coast Guard is making no change to this requirement.

One comment requested that the Safety Certificate for High Speed Craft be added to the functions that may be delegated in § 8.320. The Coast Guard does not agree. The High Speed Craft Code is new and has had very limited application in the U.S. Until further experience and familiarity are gained with the High Speed Craft Code for U.S. flag vessels, the Coast Guard does not plan to delegate this function.

One comment suggested adding the SOLAS Passenger Vessel Safety Certificate to those listed in § 8.320. Passenger vessels may qualify for participation in the ACP. However, the Coast Guard intends to maintain first hand involvement in the issuance of this certificate due to the degree of risk involved. The Coast Guard will retain authority for issuance of the SOLAS Passenger Vessel Safety Certificate.

One comment was from the United States Environmental Protection Agency (EPA). The EPA expressed concern about authorizing a classification society to issue the International Air Pollution Prevention (IAPP) and the Engine International Air Pollution Prevention (EIAPP) certificates under MARPOL Annex VI. Section 8.320 does not permit delegation of these certificates to a classification society. No change is made in response to this comment.

One comment addressed the definition of the term "gross tons" in § 8.100. The comment stated that the terms "method used by flag state administration" are confusing and unnecessary since subpart A is limited to U.S. flag vessels. The Coast Guard does not concur. This terminology is necessary because classed tonnage is an element of the minimum standards for a recognized classification society in § 8.230. The Coast Guard intends to allow class societies to count all vessel tonnage they class, regardless of the flag administration. Because not all administrations apply the International Convention on Tonnage Measurement of Ships, 1969, to all measured vessels, this clause is necessary.

One comment questioned the use of the American National Standards Institute (ANSI) standard ANSI/ASQC Q9001 in place of the international standard ISO 9001. The Coast Guard agrees that the international standard is also acceptable. As stated in the rule, a classification society may meet the requirements of the ANSI/ASQC Q9001

or an equivalent quality standard. Therefore, the Coast Guard makes no change in response to this comment.

Five comments recommended changes to the applicability of the ACP. These comments noted that the ACP should not be restricted only to vessels engaged on international voyages but should be open to all vessels that meet international requirements regardless of their ports of call. The term international voyages was used in § 8.410 to ensure that vessels in the ACP carried all applicable international certificates and was not intended to restrict ACP to only those vessels that engage on international voyages. The Coast Guard will modify the wording of § 8.410(b). Instead of the phrase "engaged in international voyages", the Coast Guard will use the term "certificated for international voyages". This clearly expresses the intent that a vessel participating in the ACP will have a valid set of all certificates necessary to engage in an international voyage.

The ACP is solidly based on the safety system comprised of the following elements: Compliance with all relevant international requirements, classification society rules, and the relevant U.S. supplement. This safety system is being accepted in the ACP as an equivalent to the system embodied in Title 46 of the CFR. Thus, U.S. flagged vessels that do not carry valid and appropriate certificates necessary to engage in international voyages, regardless of class, are not eligible to participate in the ACP.

Two comments related to the use of exclusive surveyors for all work done on behalf of the Coast Guard. One comment requested the use of exclusive surveyors for all ACP work. With the exception of tonnage measurement, the Coast Guard agrees and notes that this is already required under § 8.130(a)(25). Restricting tonnage measurement to exclusive surveyors is contrary to current practice and would reduce flexibility and probably result in higher cost to the public. Section 8.130(a)(25) has been modified to allow the use of part-time employees or independent contractors to provide tonnage measurement services.

The other comment requested the use of one classification society's exclusive surveyors by other classification societies if the two societies involved have a bilateral agreement. The Coast Guard does not agree. When authorizing a classification society to do work related to the ACP, the Coast Guard accepts a classification society's rules, survey procedures and processes as an acceptable alternative to federal

regulations. A classification society's own exclusive surveyors are in the best position to accurately enforce these items. Given the scope of delegation and the minimal Coast Guard presence on ACP vessels, the Coast Guard makes no change in response to this comment. However, based on these comments, the Coast Guard has added a definition of "exclusive surveyor" to § 8.100 for clarification.

One comment recommended a specific classification society not be allowed to participate in the ACP. The Coast Guard appreciates the intent of the individual to improve the program. All applications for recognition and authorization are carefully reviewed in accordance with part 8. Any classification society meeting these requirements may enter the program. The Coast Guard has made no change in response to this comment.

One comment recommended that authority to issue certificates be revoked if reciprocity conditions were no longer being satisfied. Reciprocity is required by U.S. law in the Coast Guard Authorization Act of 1996 (Pub. L. 104-324, 110 Stat. 3901). The Coast Guard agrees and has modified §§ 8.330 and 8.450 accordingly.

One comment contained recommendations on document availability. It requested all documents to be maintained in a public docket. The Coast Guard disagrees. Some information submitted during the application for recognition of a classification society is clearly proprietary and therefore inappropriate for release. Information regarding recognition and authorization status will be available in accordance with the Freedom of Information Act. The Coast Guard is making no change in response to this comment.

One comment on § 8.320(a)(7) recommended the removal of the term "SOLAS" from the "SOLAS Mobile Offshore Drilling Unit Safety Certificate." The Coast Guard agrees and will correct this certificate title to "International Maritime Organization (IMO) Mobile Offshore Drilling Unit Safety Certificate."

One comment stated that load line and tonnage admeasurement should be harmonized to require reciprocity with the delegations under ACP. The Coast Guard does not agree. Delegation of these functions is permitted under 46 U.S.C. 5107 and 46 U.S.C. 14103, respectively, and reciprocity is not an element of the conditions of delegation. The Coast Guard is making no change in response to this comment.

One comment stated that a recognized classification society should have the

right to refuse to conduct services. The Coast Guard agrees. However, the interim rule does not restrict the classification society actions in this regard. In consideration of this comment, the Coast Guard modified the text in § 8.130(a)(10) to recognize that a classification society may have occasion to refuse to attend a vessel for which it has performed a delegated function on behalf of the Coast Guard, when requested by the Coast Guard.

One comment requested that documents be "in a language which is mutually acceptable to both parties." The Coast Guard does not agree. The Coast Guard requires documents related to delegated functions to be in English. There is no change to § 8.130(a)(18) or § 8.230(a)(7) and (8) in response to this comment.

One comment suggests that the Coast Guard accept oversight monitoring by other administrations. The Coast Guard agrees that oversight and monitoring activities conducted by other administrations may be useful to the delegated functions of the ACP. The Coast Guard does not agree that any added text to § 8.130(a)(22) is warranted. The intent of this agreement condition is to ensure that an authorized classification society will allow the Coast Guard the necessary access to perform its own oversight activities. This agreement condition does not prohibit other means of attaining information as part of the Coast Guard's oversight activities.

One comment stated that reciprocity was intended to solidify ABS market shares and not to advance marine safety. The Coast Guard disagrees. Reciprocity is included because it is required under the Coast Guard Authorization Act of 1996 (Pub. L. 104-324). This provision may increase the choices available to the marine industry and result in lower costs. The Coast Guard makes no change in response to this comment.

One comment requested amendment to § 8.410(b) to further expand ACP applicability to foreign flag MODUs required to obtain a letter of compliance under 33 CFR subchapter N. The Coast Guard does not agree. The ACP is available for U.S. flag vessels as an alternative to compliance with U.S. regulations. The Coast Guard reiterates that the safety system of class rules, international conventions, and the supplement to class rules is considered as an alternative to U.S. regulations. Foreign flag vessels are not subject to U.S. vessel standards and therefore, are not considered in this program. There is no change in response to this comment.

One comment welcomed the ACP because COIs can be issued by foreign

class societies. The Coast Guard agrees that the ACP allows foreign classification societies to apply for recognition and authorization to perform delegated functions under part 8. However, the Coast Guard retains the authority to issue COIs.

One comment recommended a change in the term "serviced" in § 8.230(a)(17). The Coast Guard agrees and has clarified the language. The change will ensure that vessels on which a delegated function has been performed comply with all statutory requirements related to the delegation functions.

Three comments encouraged user fee reduction. The Coast Guard agrees that participation in ACP may result in lower fees. However, the purpose of this rulemaking is not to make changes to user fees. There are no changes made to this rule in response to this comment.

Two comments concerned supplements. One pointed out the necessity of the supplement. The other encouraged that the supplement be simplified and used to lead to harmonization with industry standards. The Coast Guard agrees with the spirit of these comments. In general, a supplement for the ACP contains cites from four sources:

- Statutory Requirements,
- SOLAS Interpretations,
- Critical safety issues where the combination of classification society rules and international conventions do not provide an equivalent level of safety to the CFR, or
- Other requirements that apply to all ships (primarily navigation safety and pollution prevention).

Because all classification society rules are not identical in scope, the supplement is needed. The Coast Guard is actively pursuing harmonized international interpretations to SOLAS. Where the combination of classification society rules and international conventions do not provide an equivalent level of safety, the Coast Guard intends to pursue these items individually with the classification society or through amendment of the international convention as appropriate. Ideally, these Coast Guard efforts may result in an equivalent level of safety and remove the need for additions to classification society rules. In addition, the Coast Guard has pursued harmonization with industry standards and will continue to seek additional opportunities to do so. There are no changes as a result of these comments.

One comment encouraged the Coast Guard to accept foreign class standards without rigid adherence to U.S. regulations. The Coast Guard agrees that an individual regulation, considered in

isolation, may not always be the best or most suitable standard for a particular vessel. However, the Coast Guard considers the Code of Federal Regulations (CFR) to represent a comprehensive set of standards for commercial vessel safety. The Coast Guard has worked extensively with the U.S. maritime industry in the application of standards other than those specifically prescribed in the CFR, and has allowed use of equivalent standards in many cases. The Coast Guard will ensure that a double standard does not develop between vessels that participate in ACP and those that do not. ACP standards will remain equivalent in scope and result in no reduction in safety. There is no change made as a result of this comment.

Two comments addressed reporting requirements for port-state control violations. One comment recommended a change in the term "ensure" in § 8.230 paragraphs (a)(16) and (a)(17). The comment contends that no classification society has the power to ensure compliance. Compliance is dependent on factors outside of the control of the classification societies. The Coast Guard agrees and will modify the text to more accurately reflect this condition.

One comment recommended that Oil Spill Recovery Vessels (OSRVs) be included in ACP with appropriate modification to corresponding regulations for this vessel type. The absence of specific regulations for OSRVs precludes their inclusion in the ACP at this time. The Coast Guard will consider participation of OSRVs after determining what regulations apply to them.

One comment encouraged classification society fee restraints for vessels participating in the ACP. While the intent of this rulemaking is to reduce the cost associated with dual inspection, the Coast Guard will not be involved with the establishment of classification society fees for services related to the ACP program. The ACP is a voluntary program and traditional Coast Guard inspection remains available to U.S. flag vessels that require Coast Guard certification.

One comment expressed concern about the ACP being used to bring more vessels under ABS class. The Coast Guard disagrees. Initially, the ACP was developed with ABS based on the extensive experience that the Coast Guard has with delegation of certification functions to ABS. Until the passage of the Coast Guard Authorization Act of 1996 (Pub. L. 104-324), delegation of this nature was restricted by law to U.S. classification

societies. The ACP is now available to foreign based classification societies as well. There is no change made as a result of this comment.

One comment questioned how appeals will be handled. There are two different levels of appeals. In the first level, a vessel owner, operator, or builder may desire to appeal the decision of an ACP authorized classification society or the Coast Guard. This procedure is defined in Coast Guard policy guidance and is published as Navigation and Vessel Inspection Circular (NVIC) No. 2-95, Change 1. On another level, a classification society may wish to appeal the decision of the Coast Guard with respect to its application for recognition. There was no appeal provision in the Interim Rule for this condition. In response to this comment, the Coast Guard has added a provision for a classification society to appeal the decision of the Coast Guard in § 8.420, related to the recognition application.

One comment recommended that the criteria for recognition be modified to be performance based. The comment suggested dropping the size and age criteria and the use of the term "adequate" within the list. The Coast Guard agrees in part. Performance is important. However, other criteria required by the rule indicate characteristics of the classification society that the Coast Guard determines to be necessary to assess quality prior to recognition. Considering the importance of the delegated work, no change is made in response to this comment.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 8.110 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in that section.

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 performed 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 COI 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.

The Coast Guard expects no impact to the regulatory assessment as a result of changes to this rulemaking.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule change provides an alternative to complying with existing regulations. The Coast Guard determined 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 under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard offers to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. Assistance with provisions of this final rule can be obtained by contacting Commandant (G-MSE), Office of Design and Engineering Standards, 2100 Second Street, SW., Washington, DC 20593-0001, telephone 202-267-2997.

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section numbers are: §§ 31.01-3, 71.15-5, 91.15-5, and 107.205, and the corresponding approval number from OMB is OMB Control Number 2115-0626, which expires on June 30, 1999.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

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.

Federal Preemption

Historically, the Coast Guard has inspected vessels for their compliance with Federal regulations that address the safety of a vessel and protection of the marine environment. These regulations establish design, construction, equipment, manning and other inspection standards that are part of international conventions to which the U.S. is a party as well as other inspection standards that assure the safety of a vessel participating in this alternative inspection program. The certificate of inspection issued to a vessel by the Coast Guard as a result of this inspection program indicates that the vessel is safe for the service in which it is engaged. It is the Coast Guard's opinion that the Supremacy Clause of the Constitution would preempt state and local regulations that seek to impose different or higher standards governing the inspection of a U.S. vessel as established in these regulations.

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

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 1

Administrative practice and procedure, Organization and functions

(Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 8

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

46 CFR Part 31

Marine safety, Reporting and recordkeeping requirements, Tank vessels.

46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 107

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

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 154

Cargo vessels, Gases, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, under the authority of 46 U.S.C. 3306, the Coast Guard amends 33 CFR part 151 and 46 CFR parts 1, 8, 31, 69, 71, 91 107, 153, and 154 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

1. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(c) and 1903(b); E.O. 12777, 3 CFR, 1991 Comp. P. 351; 49 CFR 1.46.

2. Revise § 151.19(c) to read as follows:

§ 151.19 International Oil Pollution Prevention (IOPP) Certificates.

* * * * *

(c) An IOPP Certificate is issued by a COTP, OCMI, or a classification society authorized under 46 CFR part 8, after a satisfactory survey in accordance with the provisions of § 151.17.

* * * * *

§ 151.37 [Amended]

3. In § 151.37, in paragraphs (a), (b), and (c), remove the words "Coast Guard issues" and add, in its place, the words "Coast Guard or a classification society authorized under 46 CFR part 8 issues".

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

4. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1045, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

5. Add § 1.03–15(h)(4) to read as follows:

§ 1.03–15 General.

* * * * *

(h) * * *

(4) Commandant (G–MSE) for appeals involving the recognition of a classification society.

* * * * *

6. Revise part 8 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.

Classed means that a vessel meets the classification society requirements that embody the technical rules, regulations, standards, guidelines and associated surveys and inspections covering the design, construction and through-life compliance of a ship's structure and essential engineering and electrical systems.

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.

Exclusive Surveyor means a person who is employed solely by a classification society and is authorized to conduct vessel surveys. Independent surveyors, hired on a case-by-case basis, or surveyors of another classification society are not considered exclusive surveyors for the performance of delegated functions on behalf of the Coast Guard.

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 Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention which means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols or Annexes which have entered into force for the United States.

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 a 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 46 U.S.C., 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 Incorporation 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 sources listed in paragraph (b).

(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. The Commandant will determine reciprocity on a “case-by-case” basis.

(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 authorities 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. Where simultaneous authorization by a foreign government for ABS is involved, this requirement may be waived.

(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. Where simultaneous recognition by a foreign government for ABS is involved, this requirement may be waived.

(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 when aware of such detention.

(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, without regard to the vessel’s location—unless prohibited to do so under the laws of the United States, the laws of the jurisdiction in which the vessel is located, the classification society’s home country domestic law, or where the classification society considers an unacceptable hazard to life and/or property exists.

(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–MOC) 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 them on 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 under any delegation from, the Coast Guard. For tonnage-related measurement service only, however, classification societies

may use part-time employees or independent contractors in place of independent surveyors.

(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) Determine classed vessels comply with class rules, during appropriate surveys and inspection;

(17) Determine that attended vessels comply with all statutory requirements related to delegated functions, during appropriate surveys and inspection;

(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 may be granted after 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 and its recognized status revoked if warranted.

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 are certificated for 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 (1969);
 - (3) SOLAS Cargo Ship Safety Construction Certificate;
 - (4) SOLAS Cargo Ship Safety Equipment Certificate;
 - (5) International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
 - (6) International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk;
 - (7) International Maritime Organization (IMO) 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) In the event that a flag administration of a country changes conditions related to the authority that is delegated to ABS, the Commandant may modify or revoke the Coast Guard's authorization of that classification

society that has its headquarters in that country.

(c) 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 subpart applies to:

- (a) Recognized classification societies; and
- (b) U.S. flag vessels that are certificated for 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 and whose vessel type is authorized to participate in the ACP per the applicable subchapter of 46 CFR chapter I.

§ 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. A classification society may appeal the decision of the Coast Guard concerning recognition to

the Commandant in writing in accordance with 46 CFR 1.03–15(h)(4).

(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 under the ACP.

(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 to participate in the Alternate Compliance Program 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) In the event that a flag administration of a country changes conditions related to the authority that is delegated to ABS, the Commandant may modify or revoke the Coast Guard's authorization of that classification society that has its headquarters in that country.

(c) Certificates issued by a classification society which has had its authorization to participate in the Alternate Compliance Program terminated will be subject to the provisions of § 8.330.

(d) 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:

(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.

(e) The Coast Guard will provide guidance to a vessel owner affected by the revocation of a classification society's authority to participate in the ACP. This will include notification of when the action required under paragraph (d) of this section must be completed.

PART 31—INSPECTION AND CERTIFICATION

7. The authority citation for part 31 continues 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.

8. Revise § 31.01-3 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, a list of authorized classification societies is available from Commandant (G-MSE). Approved classification society rules and supplements are contained in 46 CFR § 8.110(b).

PART 69—MEASUREMENT OF VESSELS

9. The authority citation for part 69 continues to read as follows:

Authority: 46 U.S.C. 2301, 14103; 49 CFR 1.46.

10. Amend § 69.27 by redesignating paragraphs (b)(3), (b)(4) and (b)(5) as paragraphs (b)(4), (b)(5), and (b)(6), respectively and by adding a new paragraph (b)(3) to read as follows:

§ 69.27 Delegation of authority to measure vessels.

* * * * *

(b) * * *

(3) In lieu of the requirements in paragraphs (b)(1) and (2) of this section, is a recognized classification society under the requirements of 46 CFR part 8.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

11. The authority citation for part 71 continues 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.

12. Revise § 71.15-5 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, a list of authorized classification societies is available from Commandant (G-MSE). Approved classification society rules and supplements are contained in 46 CFR 8.110(b).

PART 91—INSPECTION AND CERTIFICATION

13. The authority citation for part 91 continues 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.

14. Revise § 91.15-5 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, a list of authorized classification societies is available from Commandant (G-MSE). Approved classification society rules and supplements are contained in 46 CFR 8.110(b).

PART 107—INSPECTION AND CERTIFICATION

15. The authority citation for part 107 continues 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.

16. Revise § 107.205 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, a list of authorized classification societies is available from Commandant (G-MSE). Approved classification society rules and supplements are contained in 46 CFR 8.110(b).

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

17. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.110 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

18. In § 153.12, revise the introductory paragraph to read as follows:

§ 153.12 IMO certificates for United States ships.

Either a classification society authorized under 46 CFR part 8, or the Officer in Charge, Marine Inspection, issues a United States ship an IMO Certificate endorsed to allow the carriage of a hazardous material or NLS cargo in Table 1 of this part if the following requirements are met:

* * * * *

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

19. The authority citation for part 154 continues to read as follows:

Authority: 46 U.S.C. 3703, 9101; 49 CFR 1.46.

20. Revise § 154.19(a) introductory text to read as follows:

§ 154.19 U.S. flag vessel: IMO certificate issuance.

(a) Either a classification society authorized under 46 CFR part 8, or the Coast Guard Officer in Charge, Marine Inspection, issues an IMO Certificate to a U.S. flag vessel when requested by the owner or representative, if—

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Dated: December 17, 1997.

R. C. North,

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

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