through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh.

(2) Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. They may be contacted on VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

Dated: March 31, 2009.

S.T. Higman,

Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port Pittsburgh.

[FR Doc. E9–10115 Filed 5–1–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 2, 8, and 189

[Docket No. USCG–2004–19823]

RIN 1625–AA92

Alternate Compliance Program: Vessel Inspection Alternatives

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends the vessel inspection regulations to expand the Alternate Compliance Program (ACP). Through these amendments, we are updating the list of certificates the Coast Guard issues, incorporating Coast Guard policy regarding eligibility requirements for classification societies participating in the ACP, recognizing classification societies other than the American Bureau of Shipping, and expanding the ACP to include oceanographic research vessels.

DATES: This rule is effective June 3, 2009

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2004–19823 and are available for inspection at the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. William Peters, U.S. Coast Guard Office of Design and Engineering Standards, at telephone 202–372–1371, or e-mail him at *William.S.Peters@uscg.mil.* If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

ACP Alternate Compliance Program
CFR Code of Federal Regulations
DHS Department of Homeland Security
DMS Docket Management System
DOT Department of Transportation
FR Federal Register
IMO International Maritime Organization
NEPA National Environmental Policy Act of 1969
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
NVIC Navigation and Vessel Inspection Circular
PSSC Passenger Ship Safety Certificate
HSC High-speed Craft
RIN Regulation Identifier Number
SIP Streamlined Inspection Program
SOLAS International Convention for the Safety of Life at Sea
US United States
USC United States Code
USCG United States Coast Guard
VAP Vessel Action Plan

II. Background and Purpose

The Alternate Compliance Program (ACP) was launched as a pilot program in 1995. A notice about the ACP was published in the **Federal Register** on February 3, 1995. 60 FR 6687. Under the ACP, owners and operators of eligible vessels may request inspection by an authorized classification society, as defined in 46 CFR 8.100, using an equivalence to the requirements in the Code of Federal Regulations (CFR) comprising classification society rules, provisions of International Maritime Organization (IMO) treaties, and a supplementary list of requirements from the CFR that were not in IMO provisions or classification society rules. A classification society gained eligibility to participate in the ACP by meeting the standards described in the regulations. If it met these standards, a classification society was recognized and delegated authority to conduct plan reviews and inspections, and issue, on the Coast Guard's behalf, certain IMO certificates documenting compliance with IMO treaty provisions.

An interim rule establishing new 46 CFR part 8, ''Vessel Inspection Alternatives'' was published in the **Federal Register** on December 27, 1996. 61 FR 68510. The pilot program was concluded in 1997 and the ACP was fully implemented by a final rule published on December 24, 1997. 62 FR 67526.

Predictably, the program has evolved since 1997 and the lessons learned have been documented and typically implemented through Coast Guard policy decisions, where appropriate. The May 2007 notice of proposed rulemaking (NPRM) preceding this final rule described the Coast Guard's plans to expand the ACP and incorporate the lessons we have learned into the CFR. 72 FR 28650, May 22, 2007. For example, when the ACP was initiated, the Coast Guard chose to retain issuing authority for the SOLAS Passenger Ship Safety Certificate (PSSC). This decision was based on our experience with the complexities of the passenger vessel plan review, inspection, and certification process. Experience has shown that retaining this issuing authority has created confusion over the roles of the Coast Guard versus the authorized classification society under the ACP. Experience with the ACP has also allowed us to gain confidence with the ACP process. Therefore, we decided to grant PSSC issuing authority to authorized classification societies.

For similar reasons, in the May 2007 NPRM, we proposed to delegate to authorized classification societies issuing authority for the High-Speed Craft (HSC) Safety Certificate. This follows our determination that the HSC Code is equivalent to the 46 CFR Subchapter H requirements for passenger vessels. We published our

decision in Navigation and Vessel Inspection Circular (NVIC) 6–99 on inspection of high-speed craft and in Policy Letter 01–00, dated May 3, 2000. NVIC 6–99 is available from the Coast Guard National Maritime Center on the World Wide Web at *http://www.uscg.mil/hq/gm/nvic/index90.htm.* Policy Letter number 01–00 is available in the docket for this rulemaking. As the Coast Guard and several classification societies have now gained significant experience with the HSC Code, it is now appropriate to add the HSC Certificate to the ACP.

Our experience with the success of the ACP has also given us the flexibility to explore applying the program to other types of vessels that were originally excluded under our measured implementation approach. Positive feedback and recommendations from the U.S. maritime industry gathered since we initiated ACP demonstrate broad support for this idea. As a result, in May 2007, we proposed that the ACP be expanded to encompass Oceanographic Research Vessels that engage in international voyages.

Soon after the ACP rules went into effect, we recognized that a classification society needs authorization to issue five basic IMO certificates to fully leverage ACP flexibility, namely:

- The Cargo Ship Safety Construction Certificate from the International Convention for Safety of Life at Sea, 1974;
- The Cargo Ship Safety Equipment Certificate from the International Convention for Safety of Life at Sea, 1974;
- The International Load Line Certificate from the International Convention on Load Lines;
- The International Tonnage Certificate from the International Convention on Tonnage Measurement; and
- The International Oil Pollution Prevention Certificate from the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973.

While we have implemented this concept as part of our operating policies, it had not been incorporated into 46 CFR part 8. Therefore, in our May 2007 NPRM, we proposed to revise 46 CFR part 8 to require that a classification society have authority to issue the five basic IMO certificates to be eligible to participate in the ACP.

The initial version of the ACP only applied to the American Bureau of Shipping with whom the Coast Guard had collaborated to develop the first U.S. Supplement—a list of differences between the CFR and the combination of IMO treaty provisions and classification society rules. As the program has expanded, we have engaged in similar partnerships with other classification societies that are now approved to participate in the ACP. Consequently, our specific references to the American Bureau of Shipping in 46 CFR part 2 are outdated. Therefore, in May 2007, we proposed to replace specific references to the American Bureau of Shipping with a more general reference to authorized classification societies. The term ''authorized classification society'' is already defined in 46 CFR 8.100.

III. Discussion of Comments

We received four letters commenting on the notice of proposed rulemaking published May 22, 2007. 72 FR 28650. The commenters supported the Alternate Compliance Program (ACP) and recommended the Coast Guard expand the program further to the U.S. tank barge industry, the Great Lakes shipping fleet, offshore supply vessels, and other domestic vessels that receive classification and loadline certificates.

The Coast Guard appreciates these comments. The ACP is one of many ways the Coast Guard partners with our industry stakeholders to make the best use of our combined resources, achieve a balance between industry and government interests, and improve opportunities for the U.S. maritime community to be competitive in the global marketplace. The Coast Guard has opted not to delegate authority to implement our regulations on domestic vessels.

The owners of domestic vessels may apply for enrollment in other, similar programs, such as the Streamlined Inspection Program (SIP) described in 46 CFR part 8, subpart E. In the SIP, the vessel owner and the Coast Guard work together to develop a Vessel Action Plan (VAP) that prescribes the procedures for maintenance, examination, and inspection of a vessel enrolled in the SIP. Under the SIP, owners of domestic vessels earn, in a manner similar to the ACP, more autonomy, flexibility, and responsibility for their vessels and operations under Coast Guard oversight. We made no changes from the proposed rule based on these comments.

IV. Discussion of Final Rule

This final rule amends 46 CFR 2.01–25(a)(1) and (a)(2) to:

- List all SOLAS certificates required to be maintained aboard ships, including the High-Speed Craft Safety Certificate; and
- Update the lists of SOLAS certificates that the Coast Guard issues and that can be issued by an authorized classification society on the Coast Guard's behalf.

In the proposed regulatory text of the May 2007 NPRM, we omitted the HSC Safety certificate from the list of IMO certificates the Coast Guard would issue, but we did reference such an update in the preamble of the NPRM (72 FR 28651). Therefore, in this final rule we added a paragraph (ix) to § 2.01–25(a)(2) to include HSC Safety in the list of certificates issued by the Coast Guard.

In § 2.01–25(a)(3), we changed the phrase ''American Bureau of Shipping'' to ''authorized classification society.''

In § 8.320(b), we added the following IMO certificates to the list of those that can be issued by an authorized classification society:

- Passenger Ship Safety Certificate, and
- High-Speed Craft Safety Certificate.

Also, in § 8.420(c), we added to the list of conditions for eligibility to participate in the ACP, a requirement that a classification society must have been delegated issuing authority for the Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, International Load Line Certificate, International Tonnage Certificate, and International Oil Pollution Prevention Certificate.

Finally, in new § 189.15–5, we expand the ACP to include Subchapter U ''Oceanographic Research Vessels.''

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This rule will not impose mandatory costs on the public because it enables voluntary alternatives to inspections by Coast Guard personnel. We anticipate that vessel owners and operators will realize potential cost savings due to the expansion of the ACP. In this rule, we add to the delegation of certain inspections (and the resulting issuance of certain certificates) to classification societies that potentially leads to a

reduction of time and resources for plan review and the vessel inspection process.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises 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.

In the NPRM, we certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities and we requested public comments on this certification. We received no comments on this certification and adopt it as final.

This rule does not change any requirements in the regulations. It simply updates and expands an existing voluntary program for alternate compliance with Coast Guard regulations. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so they can better evaluate its effects on them and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. William Peters, U.S. Coast Guard Office of Design and Engineering Standards, telephone 202–372–1731. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in lieu of government-unique standards in their regulatory activities unless the agency determines use of these standards would be inconsistent with law or are otherwise impractical. Agencies not using voluntary consensus standards in lieu of government-unique standards must provide Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g. specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standard bodies.

This rule does not use voluntary consensus standards as there are none that meet the objectives of this rulemaking, and, therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2. Figure 2–1, paragraph 34(b), (d), and (e) of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the delegation of authority, the inspection and documentation of vessels, and equipment approval and carriage requirements. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 8

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

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 2, 8, and 189 as follows:

PART 2—VESSEL INSPECTIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1. Subpart 2.45 also issued under the Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. Note prec. 1).

■ 2. Amend § 2.01–25 as follows:

■ a. Add a new paragraph (a)(1)(ix) to read as set forth below;

■ b. Add a new paragraph (a)(2)(ix) to read as set forth below;

■ c. In paragraph (a)(3), remove the words ''the American Bureau of Shipping may issue the Cargo Ship Safety Construction Certificate to cargo and tankships which it classes.'' and add, in their place, the words ''an authorized classification society may issue international convention certificates as permitted under part 8, subpart C, of this title.'' and;

■ d. In paragraph (b)(1), after the word ''Cargoes),'' remove the word ''and'', and after the words ''Passenger Vessels)'', add the words ''and Subchapter U (Oceanographic Research Vessels),''.

§ 2.01–25 International Convention for the Safety of Life at Sea, 1974.

(a) * * *

(1) * * *

(ix) High-Speed Craft Safety Certificate

(2) * * *

(ix) High-Speed Craft Safety Certificate

* * * * *

PART 8—VESSEL INSPECTION ALTERNATIVES

■ 3. The authority citation for part 8 continues to read as follows:

Authority: 46 U.S.C. 3103, 3306, 3316, 3703; Department of Homeland Security Delegation No. 0170.1.

■ 4. Amend § 8.320 as follows:

■ a. In paragraph (b)(8), remove the word ''and'';

■ b. In paragraph (b)(9), remove the period and add, in its place, a semicolon; and

■ c. Add new paragraphs (b)(10) and (b)(11) to read as follows:

§ 8.320 Classification society authorization to issue international certificates.

* * * * *

(b) * * *

(10) SOLAS Passenger Ship Safety Certificate; and

(11) High-Speed Craft Safety Certificate.

* * * * *

■ 5. In § 8.420, revise paragraph (c) to read as follows:

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

* * * * *

(c) A recognized classification society:

(1) Will be eligible to receive authorization to participate in the ACP only after the Coast Guard has delegated to it the authority to issue the following certificates:

(i) International Load Line Certificate;

(ii) International Tonnage Certificate;

(iii) Cargo Ship Safety Construction Certificate;

(iv) Cargo Ship Safety Equipment Certificate; and

(v) International Oil Pollution Prevention Certificate; and

(2) Must have performed a delegated function related to general vessel safety assessment, as defined in § 8.100 of this part, for a two-year period.

* * * * *

Subchapter U—Oceanographic Research Vessels

PART 189—INSPECTION AND CERTIFICATION

■ 6. The authority citation for part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 7. Add new § 189.15–5 to read as follows:

§ 189.15–5 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 46 CFR part 8.

(b) For the purposes of this section, a list of authorized classification societies, including information for ordering copies of approved classification society rules and supplements, is available from Commandant (CG–521), 2100 Second St., SW., Washington, DC 20593–0001; telephone (202) 372–1371; or fax (202) 372–1925. Approved classification society rules and supplements are incorporated by reference into 46 CFR 8.110(b).

Dated: April 27, 2009.

Howard L. Hime,

U.S. Coast Guard, Acting Director of Commercial Regulations and Standards.

[FR Doc. E9–10113 Filed 5–1–09; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–837; MB Docket No. 07–175; RM–11380]

Radio Broadcasting Service; Cuba, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a petition for rule making filed by KM Communications, Inc. (''Petitioner'') to substitute Channel 252A for vacant Channel 292 at Cuba, Illinois. Petitioner proposes the foregoing channel substitution to accommodate its construction permit application to substitute Channel 291A for Channel 252A at Abington. Channel 292A can be allotted at Cuba, Illinois, in compliance with the Commission's technical engineering requirements, at 40–25–50 North Latitude and 90–14–05 West Longitude with a site restriction of 7.9 kilometers (4.9 miles) southwest of Cuba.

DATES: Effective June 1, 2009.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Richard B. Gorman, Media Bureau, (202) 418–2187.