April 23, 1997. This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationship between the national government and States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the

**Federal Register.** This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.


Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:


2. Section 180.205 is amended by alphabetically adding the following new entries to the table in paragraph (a) to read as follows:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atemoya</td>
<td>0.05</td>
</tr>
<tr>
<td>Biriba</td>
<td>0.05</td>
</tr>
<tr>
<td>Canistel</td>
<td>0.05</td>
</tr>
<tr>
<td>Cherimoya</td>
<td>0.05</td>
</tr>
<tr>
<td>Custard apple</td>
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<tr>
<td>Feijoa</td>
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<tr>
<td>Ilama</td>
<td>0.05</td>
</tr>
<tr>
<td>Jaboricaba</td>
<td>0.05</td>
</tr>
<tr>
<td>Longan</td>
<td>0.05</td>
</tr>
<tr>
<td>Lychee</td>
<td>0.05</td>
</tr>
<tr>
<td>Mango</td>
<td>0.05</td>
</tr>
<tr>
<td>Pawpaw</td>
<td>0.05</td>
</tr>
<tr>
<td>Pomegranate</td>
<td>0.05</td>
</tr>
</tbody>
</table>

* * * * *

[FR Doc. 2012–19320 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Part 2**

[Docket No. USCG–2007–27668]

**RIN 1625–AB35**

**Approval of Classification Societies**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** Federal law requires that classification societies conducting certain work in the United States be approved by the Coast Guard. In this rule, we finalize application procedures and performance standards that classification societies must meet in order to obtain approval by the Coast Guard. Through this final rule, we seek to improve marine safety and environmental protection by ensuring the consistency and quality of work conducted by classification societies that review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States.

**DATES:** This final rule is effective September 10, 2012.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on September 10, 2012.
II. Regulatory History

We published a notice of policy and a request for comments that outlined the procedures by which classification societies could apply for approval with the Coast Guard. See 69 FR 63548 (November 2, 2004). This notice of policy was based on the August 9, 2004 enactment of Section 413 of the Coast Guard and Maritime Transportation Act of 2004 (“the 2004 Act”) (Pub. L. 108–293). The 2004 Act amended 46 U.S.C. 3316 by adding paragraph (c), which prohibits certain activities on a vessel in the United States by classification societies that have not been approved by the Coast Guard. The 2004 Act mandated that, after December 31, 2004, a classification society, including an employee or agent of that society, may not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless the classification society is either approved by the Coast Guard or is a full member of the International Association of Classification Societies (IACS).

After publication of the notice of policy, we received two questions from the public that were addressed in a Notice of Proposed Rulemaking (NPRM) published in the Federal Register on April 23, 2010. The NPRM, entitled “Approval of Classification Societies” (75 FR 21212), outlined the procedures and criteria we would use to evaluate classification societies. The comment period closed on July 22, 2010, and we received no comments on the proposed rule. No public meeting was requested and none was held.

On October 15, 2010, the enactment of section 622 of the Coast Guard Authorization Act of 2010 (the “2010 Act”) (Pub. L. 111–281) amended 46 U.S.C. 3316(c). The 2010 Act changed the provision’s applicability to require all classification societies, including IACS members, to be approved by the Coast Guard prior to conducting any work on a vessel in the United States. Because of the 2010 Act’s applicability changes, we reopened the comment period to allow for any additional or updated comments from the public on our plan to remove the proposed rule’s exemption for IACS members, and apply the proposed rule to all classification societies seeking Coast Guard approval, including IACS members. See 76 FR 47531 (August 5, 2011). The comment period closed on September 6, 2011, and 4 commenters with 11 comments responded to the revised proposal. No public meeting was requested and none was held.

III. Basis and Purpose

This final rule codifies into Title 46 of the Code of Federal Regulations (CFR) the procedures and criteria to evaluate classification societies in accordance with 46 U.S.C. 3316(c) in order to have a specific, consistent, and enforceable basis for approval determinations.

IV. Background

To incorporate the requirements of 46 U.S.C. 3316(c) into regulations, we deem the International Maritime Organization (IMO) Resolution A.739(18), “Guidelines for the Authorization of Organizations Acting on Behalf of the Administration,” to provide a sound and internationally recognized standard on which to base our classification society review and approval program.

The IMO acknowledges that a classification society often acts as a Recognized Organization (RO) under authority delegated by a flag state administration when it performs technical and survey work on behalf of that administration. Recognizing this relationship, IMO Resolution A.739(18) adopted guidelines for minimum competency standards for ROs that act on behalf of flag state administrations to conduct vessel examinations, issue international certificates, perform surveys and certifications, and determine vessel tonnage in accordance with applicable international requirements. In addition, the IMO guidelines are consistent with our minimum standards for a classification society to qualify as a Coast Guard–recognized organization in accordance with 46 CFR part 8, “Vessel Inspection Alternatives.” To perform work on behalf of a flag state administration that uses the IMO guidelines, an RO must sufficiently demonstrate that its business practices meet or exceed the performance standards described in IMO Resolution A.739(18). For example, the RO must show that it—

- Publishes and systematically maintains rules for the design, construction, and certification of vessels;

# Table of Contents for Preamble

## I. Abbreviations

- ABS  American Bureau of Shipping
- CFR  Code of Federal Regulations
- DHS  Department of Homeland Security
- FR  Federal Register
- IACS  International Association of Classification Societies
- ICLL  International Convention on Load Lines, 1966
- IMO  International Maritime Organization
- ISO  International Organization for Standardization
- MARPOL 73/78  International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto
- MOU  Memorandum of Understanding
- NARA  National Archives and Records Administration
- NAICS  North American Industry Classification System
- NEPA  National Environmental Policy Act of 1969
- NPRM  Notice of Proposed Rulemaking
- NTATA  National Technology Transfer and Advancement Act
- OMB  Office of Management and Budget
- RO  Recognized Organization
- SOLAS  International Convention for the Safety of Life at Sea, 1974, as amended

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- Publishes and systematically maintains rules for the design, construction, and certification of vessels;
- Is professionally staffed with strategically placed resources for geographic coverage;
- Maintains a high level of professional ethics;
- Is competent;
- Provides timely and quality services; and
- Maintains an internal quality system no less effective than the International Organization for Standardization (ISO) 9000 series certification. (For information on these standards or on ISO, see www.iso.ch.)

When an RO demonstrates these competencies to the satisfaction of the flag state administration, its authorization is documented by that administration in a formal written agreement under the recommendations of IMO Resolution A.739(18).

Similarly, all classification societies must meet the following requirements for approval under the provisions of 46 U.S.C. 3316(c):

- Vessels surveyed by the classification society must have an adequate safety record.
- The classification society must have an adequate program to—
  - Develop and implement safety standards for the vessels it surveys;
  - Make its safety records available in an electronic format;
  - Make the safety records of a vessel survey available to other classification societies; and
  - Request safety records from other classification societies that previously surveyed a vessel for the purpose of a specific vessel survey.

To better assess classification societies, we evaluate how these societies implement safety standards for vessels by examining worldwide port state control statistics for each society and the vessels it surveys. These data normally appear in annual reports published by the world’s regional port state control organizations. Some of these annual reports are not available online. These organizations include, but are not limited to, the following organizations created under regional memoranda of understanding (MOU):


- Riyadh Memorandum of Understanding on Port State Control in the Gulf Region (Riyadh MOU: www.riyadhmou.org).
- Indian Ocean Memorandum on Port State Control (Indian Ocean MOU: www.iomou.org).

These MOU are regional agreements among countries to share port state control inspection results with the aim of eliminating the operation of substandard ships. Typically, MOU are managed by secretariats that maintain databases of inspection activities and results and often compile the data into annual reports. The annual reports normally compiled by the MOU secretariats are available to the public and identify, among other things—

- Vessel names and particulars;
- Inspection dates and locations;
- Classification societies;
- Deficiencies noted;
- Detentions imposed;
- Detained vessels; and
- Banned and targeted vessels.

For information on U.S. port state control results and the regional MOUs, see www.uscg.mil/hq/g-m/pscweb/index.htm. A copy of the most recent annual report from the United States and the regional organizations can be found in this docket.

We can evaluate the performance of a particular classification society by scrutinizing the port state control history of the vessels it surveys. For example, an annual report from a major MOU secretariat typically includes 3 years of data showing the performance of all ships listed by administration and RO. The RO is usually a classification society.

These shared port state control data are indispensable in evaluating the safety performance of flag state administrations and classification societies. Not only can we check performance from the data in the annual reports, we can also track trends from year to year.

V. Discussion of Comments and Changes

We received no comments from the NPRM published on April 23, 2010. Since the publication of the NPRM, the 2010 Act required all classification societies, without exemption, to seek Coast Guard approval prior to working on a vessel located in the United States. Accordingly, we reopened the comment period (76 FR 47531).

A. Comments Received After Reopening the Comment Period

We received 11 comments from 4 commenters in response to the NPRM after the reopening of the comment period.

Two commenters requested that a classification society that has qualified as a Coast Guard-recognized organization under 46 CFR part 8 to conduct work on behalf of the Coast Guard on U.S. flagged vessels be exempted from the proposed rule. We have determined that we lack the authority to grant wholesale exemptions to the requirement in 46 U.S.C. 3316(c)(1) that every classification society “apply[] for approval under this subsection,” and that section 3316(c)(2) requires us to “review[] and approve[] that society” under that subsection.

However, we will deem compliance with the application procedures in 46 CFR part 8 to satisfy the new application procedures under new 46 CFR subpart 2.45 promulgated by this rule. Consistent with the statute, we are requiring any Coast Guard-RO seeking approval as a classification society under this rule to explicitly request that the Coast Guard evaluate their 46 CFR part 8 application materials under this rule as well. Upon receiving such notice, we will treat the part 8 application materials as an application under this subpart. If we need additional information to perform our review, we will take the appropriate action to notify the classification society and give them an opportunity to submit the information to us.

One commenter requested that his or her organization be automatically approved under 46 U.S.C. 3316(c)(1) and under the proposed rule. The commenter argued that such approval was justified because the organization is identified in 46 U.S.C. 3316(a) by name as an agent on behalf of the U.S. Government in classifying vessels owned by the Government. Also, the organization is recognized by the Coast Guard and authorized as a recognized organization of the Coast Guard pursuant to the requirements of Coast Guard regulations in 46 CFR part 8 pursuant to 46 U.S.C. 3316(b)(1).

We agree with the commenter that the organization is identified as the sole classification society for U.S. Government-owned vessels. However, based on the reasoning previously stated, we cannot automatically approve
any organization as a classification society. Section 3316(c)(1) of 46 U.S.C. requires that every classification society make application to the Coast Guard for approval and that the Coast Guard assess the conduct of the classification society under 46 U.S.C. 3316(c)(2). An automatic approval would violate both the application requirement and the assessment requirement. As stated above, however, we will deem compliance with the application procedures in 46 CFR part 8 to satisfy the new application procedures under new 46 CFR subpart 2.45, provided each applicant submits indication that they all wish to be assessed under the new regulations in 46 CFR subpart 2.45 to become an approved classification society.

Additionally, the same commenter asked that we clarify in the final rule whether the detention rate is based on all vessel detentions or specifically RO-related detentions. We agree that clarification is necessary. An RO detention occurs when a vessel is detained due to a deficiency which is the result of an activity by an RO. Therefore, we will amend the regulatory text to specify that the detention rate is based specifically on RO-related detentions.

One commenter felt that the final rule does not list clear or specific criteria for annually reevaluating the records of classification societies to ensure they continue to meet the conditions for approval. The same commenter also stated that if the re-evaluation criteria include data from global port state control regimes, then some previously approved classification societies would have poorer records than some classification societies that are not approved. The same commenter expressed the hope that the requirement in §2.45–15 would not amount to annual auditing of classification societies performance processes. We agree that the proposed rule did not explicitly list the criteria for annually reevaluating the performance of a classification society. However, as stated in the NPRM (see 75 FR page 21215), we will “annually reevaluate the records of approved classification societies to ensure they continue to meet the conditions for approval.” It was and remains our intention to use the approval requirements listed in §§2.45–15 to annually reevaluate the performance of approved classification societies. We also agree that it is possible for us to find during a re-evaluation that an approved classification society has a poor performance record based on data collected from global port state control regimes. If we determine that a previously approved classification society no longer meets the requirements in §§2.45–15, then we will take corrective action per §2.45–20.

While we appreciate the commenter’s concern, annual review of a classification society’s performance is necessary to ensure that the classification society is in compliance with the requirements set forth in the regulations. One commenter had six comments, discussed as follows:

The commenter asked that we clarify the scope of “repair” in light of the fact that repairs to the hull, equipment, and machinery can be made at any time as a result of an accident or survey work. Repair includes, but is not limited to, any work done to the hull, equipment, or machinery that restores the item to its original design or intended operating condition.

The commenter requested that we clarify whether a classification society would be allowed to conduct surveys “whether they be periodical (annual, intermediate and renewal) or occasional and to issue certificates even if they are not approved by the Coast Guard.” A classification society that is not approved by the Coast Guard would be permitted to conduct surveys and issue certificates to a vessel if that vessel is not undergoing or has not completed any construction, repair, or alteration in the United States.

Next, the commenter took issue with the requirement proposed in §2.45–15(a)(6)(i) that a classification society must use a system to make its safety records available to the Coast Guard. The commenter believes the provision does not define or sufficiently clarify the scope of information to be provided as part of a vessel’s safety records, thereby risking the disclosure of commercially sensitive and confidential information of ship owners to parties who should not be privy to that information.

We appreciate the commenter’s concern; however, to determine whether the vessels surveyed by a classification society have an adequate safety record, the classification society would be required to provide all records we formally request. We would request only those records that are necessary to adequately determine the performance of a classification society with respect to safety and, except as required by law, would not disclose those records to any parties with competing interests.

The same commenter stated that §2.45–15(a)(6)(ii), which requires a classification society to have in place a system to provide its safety records to other classification societies when requested, is redundant because of existing procedures for sharing data. We appreciate the commenter’s concern; however, 46 U.S.C. 3316(c)(2)(B)(iii) mandates that the Coast Guard require classification societies to make their safety records available to all relevant parties.

Next, the commenter was concerned with the proposed requirement in §2.45–15(5) that requires that a country for which a classification society is an RO must be a signatory to the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS); the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL); and the International Convention on Load Lines, 1966 (ICLL). The commenter felt that this requirement may cause an adverse situation because a flag state would be compelled to ratify the aforementioned international conventions simply to have its RO meet the Coast Guard’s requirement. We disagree that this requirement would create an adverse situation. By ratifying the SOLAS, MARPOL, and ICLL conventions, a flag state would join the majority of flag states that have ratified these conventions and help ensure that their vessels improve their safety record.

Finally, the commenter requested we clarify whether all countries for which a classification society is an RO must be a signatory to each of the SOLAS, MARPOL, and ICLL conventions.

B. Changes Made To Address the 2010 Act

In this final rule, we made changes to several sections from the proposed rule based on changes in applicability as required by the enactment of the 2010 Act, which amended 46 U.S.C. 3316(c), and to improve clarity and ensure accuracy of the information presented in this final rule.

We amended §§2.45–10(a), 2.45–15(a), and 2.45–30 by deleting any references to exemptions for IACS members in accordance with the 2010...
Act, which requires all classification societies, without exemption, to seek Coast Guard approval prior to working on a vessel located in the United States.

We amended § 2.45–25 by adding new paragraph (c), which states that an application submitted to become a Coast Guard-RO under 46 CFR part 8, subpart B satisfies the application requirements to become an approved classification society as long as the RO’s status has not been revoked, it submits a request to become an approved classification society, and it certifies that the application information submitted under 46 CFR part 8, subpart B remains valid. This change, in response to commenters seeking an exemption or automatic approval based on RO status, avoids requiring organizations to resubmit information they have previously provided as part of an application under 46 CFR part 8, subpart B. This change permits such organizations to submit a minimal application, as long as the Coast Guard has the necessary information evidenced by continuing RO status and the certification that the previously submitted information is still valid.

We amended § 2.45–15(a)(1) to clarify that we will review the detention records of a classification society for vessels it surveys during the last 3 years.

We also amended § 2.45–15(a)(5) to clarify that the country for which the classification society is an RO refers to the same country referenced in § 2.45–15(a)(4).

We amended § 2.45–15(a)(5)(ii) by rewording the language of the proposed text to clarify that the one country for which the class society meets the requirement of § 2.45–15(a)(4) cannot be identified as a flag state targeted for additional port state control action by the Coast Guard.

We also made minor changes to the regulatory text. First, the final rule deletes the authority citation for 46 CFR 2.45, as this section was removed from the CFR on September 30, 1997. See 62 FR 51195. Second, the final rule makes minor formatting changes to improve clarity, such as adding paragraph designations within some sections. Finally, throughout the rule we changed the Coast Guard office designator “CG–521” to CG–ENG to reflect a recent Coast Guard organizational change.

VI. Incorporation by Reference

The Director of the Federal Register has approved the material in § 2.45–5 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.

VII. 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, as amended by Executive Order 13563, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order.

As previously discussed in section “V. Discussion of Comments and Changes,” the applicability provision was changed to reflect an amendment to the legal authority made by the Coast Guard Reauthorization Act of 2010. In summary, the total cost for this rule will involve only one-time costs for applications for the initial approval, and we estimate the total will be $5,429. Below, we present the basis for our estimate of the costs for this final rule that accounts for this amendment and the current status of classification societies active in the United States.

We previously approved six classification societies under the policy announced in 2004 based on the 2004 Act. Of the six, these two are IACS members: Indian Register of Shipping and Polish Register of Shipping. The other four that are not IACS members are: Bulgarian Register of Shipping, China Corporation Register of Shipping, Hellenic Register of Shipping, and International Naval Surveys Bureau. In the NPRM, we stated that approved classification societies would not need to take additional actions and would not occur any additional costs. We are not aware of any information, either from the comments or other sources, to alter that assessment. Thus, these six organizations would not have any cost burden associated with this rulemaking.

We identified the remaining members of IACS as the population affected by the 2010 Act amendments, which changed the applicability of 46 U.S.C. 3316(c) to include IACS members in the application and review procedures. Table 2 lists these classification societies and indicates whether they currently have RO status with the Coast Guard under 46 CFR part 8.

<table>
<thead>
<tr>
<th>Class society</th>
<th>Abbreviation</th>
<th>RO?</th>
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<tbody>
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<td>American Bureau of Shipping</td>
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<td>Yes.</td>
</tr>
<tr>
<td>Bureau Veritas</td>
<td>BV</td>
<td>Yes.</td>
</tr>
<tr>
<td>China Classification Society</td>
<td>CCS</td>
<td>No.</td>
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<tr>
<td>Croatian Register of Shipping</td>
<td>CRS</td>
<td>Yes.</td>
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<tr>
<td>Det Norske Veritas</td>
<td>DNV</td>
<td>Yes.</td>
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<tr>
<td>Germanischer Lloyd</td>
<td>GL</td>
<td>Yes.</td>
</tr>
<tr>
<td>Korean Register of Shipping</td>
<td>KRS</td>
<td>No.</td>
</tr>
<tr>
<td>Lloyd's Register of Shipping</td>
<td>LR</td>
<td>Yes.</td>
</tr>
<tr>
<td>Nippon Kaiji Kyokai</td>
<td>NK</td>
<td>Yes.</td>
</tr>
<tr>
<td>Registro Italiano Navale</td>
<td>RINA</td>
<td>Yes.</td>
</tr>
<tr>
<td>Russian Maritime Register of Shipping</td>
<td>RS</td>
<td>No.</td>
</tr>
</tbody>
</table>

As the table shows, there are seven class societies that are not approved but currently have RO status (ABS, BV, DNV, GL, LR, NK, and RINA). We assume that they will take advantage of § 2.45–25(c) and will submit an application to become approved classification societies.

Coast Guard subject matter experts in the Naval Architecture Division provided estimates of time to process one of these applications submitted in accordance with new § 2.45–25(c). The classification society will require 1 hour for a junior manager to draft the application letter and 0.5 hour for a senior manager to review it. Coast Guard processing will require 2 hours for a senior staff member or junior manager to review the application, verify the data,
and draft the approval letter, and 0.25 hour for a senior manager to review it. Table 2 presents the complete calculations of the unit cost for this application, with the same wage rates used in the NPRM, “Approval of Classification Societies” (75 FR 21212).

### Table 2—Unit Cost of Application for Classification Society With RO Status

<table>
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<tr>
<th>Sector</th>
<th>Position</th>
<th>Hours</th>
<th>Wage rate</th>
<th>Position cost</th>
<th>Sector cost</th>
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<td>$67</td>
<td>$67</td>
<td>------------</td>
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<tr>
<td></td>
<td>Senior Manager</td>
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<td>88</td>
<td>44</td>
<td>------------</td>
</tr>
<tr>
<td>Industry Total</td>
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<td>1.50</td>
<td></td>
<td>$111</td>
<td>------------</td>
</tr>
<tr>
<td>Government</td>
<td>Junior Officer</td>
<td>2.00</td>
<td>67</td>
<td>134</td>
<td>------------</td>
</tr>
<tr>
<td></td>
<td>Senior Officer</td>
<td>0.25</td>
<td>88</td>
<td>22</td>
<td>------------</td>
</tr>
<tr>
<td>Government Total</td>
<td></td>
<td>2.25</td>
<td></td>
<td></td>
<td>156</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>3.75</td>
<td></td>
<td></td>
<td>267</td>
</tr>
</tbody>
</table>

The total cost for these applications is $1,869 and Table 3 displays the calculations.

### Table 3—Application Costs for Classification Societies With RO Status

<table>
<thead>
<tr>
<th>Sector</th>
<th>Count</th>
<th>Unit cost</th>
<th>Total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry</td>
<td>7</td>
<td>$111</td>
<td>$777</td>
</tr>
<tr>
<td>Government</td>
<td>7</td>
<td>156</td>
<td>1,092</td>
</tr>
<tr>
<td>Total</td>
<td>7</td>
<td>267</td>
<td>1,869</td>
</tr>
</tbody>
</table>

We anticipate that the other four classification societies that currently are not ROs (CCS, CRS, KRS, and RS) will also apply to become approved classification societies. They will need to prepare a complete application per the requirements of § 2.45–25(b). In the NPRM, we estimated the total unit cost for one of these applications at $890 ($712 for industry and $178 for government). We received no additional information from either the comments or other sources to cause us to modify this estimate. The total cost for these four applications is $3,560, and Table 4 presents the calculations.

### Table 4—Application Costs for Classification Societies Without RO Status

<table>
<thead>
<tr>
<th>Sector</th>
<th>Count</th>
<th>Unit cost</th>
<th>Total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry</td>
<td>4</td>
<td>$712</td>
<td>$2,848</td>
</tr>
<tr>
<td>Government</td>
<td>4</td>
<td>178</td>
<td>712</td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>890</td>
<td>3,560</td>
</tr>
</tbody>
</table>

### Table 5—Total Application Costs

<table>
<thead>
<tr>
<th>RO Status</th>
<th>Count</th>
<th>Industry costs</th>
<th>Government costs</th>
<th>Total costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currently RO</td>
<td>7</td>
<td>$777</td>
<td>$1,092</td>
<td>$1,869</td>
</tr>
<tr>
<td>Not RO</td>
<td>4</td>
<td>2,848</td>
<td>712</td>
<td>3,560</td>
</tr>
<tr>
<td>Total</td>
<td>11</td>
<td>3,625</td>
<td>1,804</td>
<td>5,429</td>
</tr>
</tbody>
</table>

The benefits of this rule derive from incorporating the amendments from the Coast Guard Authorization Act of 2004 and the Coast Guard Authorization Act of 2010 and incorporating the standards from IMO Resolution A.739(18), “Guidelines for the Authorization of Organizations Acting on Behalf of the Administration,” to provide a sound and internationally recognized standard on which to base our review and approval program.

### 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.

For-profit classification societies affected by this rule may be classified under one of the following North American Industry Classification System (NAICS) 6-digit codes for water transportation: 488330—Navigation Services to Shipping or 488390—Other Support Activities for Water Transportation. According to the Small Business Administration’s (SBA) size standards, a U.S. company classified under these NAICS codes with annual revenues of less than $7 million is considered a small entity.

The only predominant U.S. classification society is the American Bureau of Shipping (ABS), which is a non-profit organization. We do not consider the ABS to be a small entity under the Regulatory Flexibility Act. In addition, the costs that we described in the previous section are so minimal, we
do not believe they rise to the level of being a significant economic impact. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will 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 offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. 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.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Enforcement Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

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

This rule comprises application procedures classification societies must meet for approval. As stated in Section VII.A, we expect four new approvals in the first year after the rule becomes effective. In the NPRM, we forecasted that there would be no or very few applications in the near future. We received no comments or additional information to indicate that there would be 10 or more approvals after the first year. Thus, we expect to receive less than 10 approval requests per year. This figure is less than the threshold of 10 per 12-month period for collection of information reporting purposes under the PRA.

This rule specifies a separate approval process for classification societies that are currently ROs. These ROs will only need to send the Coast Guard a letter requesting that we use previously collected data as the basis for their approval.

As stated in Section VII.A, we expect the seven current ROs to use this method to comply for approval the first year the rule becomes effective. This process does not require any new information and the affected population is less than the threshold of 10 per 12-month period for collection of information reporting purposes under the PRA.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. 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 (adjusted for inflation) or more in any one year. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause 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 does not create an environmental risk to health or risk to safety that may 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 does 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 (NNTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides 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 and adopted by voluntary consensus standards bodies.

This rule uses the following voluntary consensus standards: IMO Resolution A.739(18), “Guidelines for the Authorization of Organizations Acting on Behalf of the Administration.” The section that references this standard and the location where this standard is available is listed in 46 CFR 2.45–5.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, 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 that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (a)(4)(b) and (d) of the Instruction. This rule involves regulations concerning internal agency functions and regulations concerning
manning, documentation, admeasurement, inspection, and equipping of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 46 CFR Part 2

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

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 2 as follows:

PART 2—VESSSEL INSPECTIONS

§ 2.45–1 Definitions.

The following definitions apply to this subpart:

Administration means the Government of the State whose flag the ship is entitled to fly.

Classification society means an organization that, at a minimum, verifies that a vessel meets requirements embodying the technical rules, regulations, standards, guidelines and associated surveys, and inspections covering the design, construction, and/or through life compliance of a ship’s structure and essential engineering and electrical systems.

Recognized Organization (RO) means an organization authorized to act on behalf of an Administration.

Regional port state control secretariat means an organization established to collect and maintain port state control inspection data in addition to other functions under a regional agreement among countries.

§ 2.45–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part 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 this section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Also, it is available for inspection at the Coast Guard’s Office of Design and Engineering Systems (CG–ENG), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in this section.


(2) [Reserved]

§ 2.45–10 General.

(a) A classification society (including an employee or agent of that society) must not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless it is approved under the provisions of this subpart.

(b) This subpart applies to a recognized organization that meets the definition of a classification society provided in § 2.45–1 of this subpart.

§ 2.45–15 Approval requirements.

(a) A classification society may be approved for purpose of § 2.45–10 if the following conditions are met:

1. Vessels surveyed by the classification society must have a worldwide port state control detention rate of less than 2 percent based on the number of Recognized Organization (RO)-related detentions divided by the number of vessel inspections for at least 40 port state control inspections for the past 3 years;

2. The classification society must not be identified in the most recent publication of “Port State Control in the United States” as a Priority 1 and as having more than one RO-related detention for the past 3 years;

3. (The classification society must comply with the minimum standards for an RO recommended in IMO Resolution A.739(18), Appendix 1 (incorporated by reference, see § 2.45–5);)

4. (The classification society must be an RO for at least one country under a formal written agreement that includes all of the elements described in IMO Resolution A.739(18), Appendix 2 (incorporated by reference, see § 2.45–5);)

5. (The referenced country that is cited for satisfaction of the requirement of paragraph (a)(4) of this section for which the classification society is an RO—

(i) Must be signatory to each of the following: The International Safety of Life at Sea Convention (SOLAS), the International Convention on the Prevention of Pollution from Ships (MARPOL 73/78), the International Convention on Load Lines (ICLL), 1966, and the Protocol of 1988 relating to the ICLL, 1966; and

(ii) Must not be identified as a flag state targeted for additional port state control action by the Coast Guard or any regional port state control secretariat.

(6) The classification society must use a system to—

(i) Make its safety records and those of persons acting on behalf of the classification society available to the Coast Guard in electronic format;

(ii) Provide its safety records and those of persons acting on behalf of the classification society to another classification society that requests those records for the purpose of conducting surveys of vessels; and

(iii) Request the safety records of a vessel to be surveyed from any other classification society that previously surveyed that vessel.

(b) Where sufficient performance records are not available from a regional port state control secretariat, the Coast Guard may consider an equivalent safety performance indicator proposed by the classification society seeking approval.

§ 2.45–20 Probation, suspension, and revocation.

(a) A classification society approved for the purpose of this subpart must maintain the minimum requirements for approval set forth in § 2.45–15.

(b) If an approved classification society fails to maintain compliance with paragraph (a) of this section, the Coast Guard may place the classification society approval on probation, or suspend or revoke the classification society’s approval, as appropriate.

(c) Probation. A classification society on probation is approved for the
purpose of this subpart. The probation continues until the next review of the classification society’s compliance with paragraph (a) of this section.

(1) If the review shows that compliance with paragraph (a) of this section is achieved, the probation may end.

(2) If the review shows significant improvement but compliance with paragraph (a) of this section is not achieved, the probation may be extended.

(3) If the review does not show significant improvement, and compliance with paragraph (a) of this section is not achieved, the approval may be suspended.

(d) Suspension. A classification society whose approval is suspended is not approved for the purpose of this subpart. Suspension will continue until the next review of the classification society’s compliance with paragraph (a) of this section.

(1) If the review shows compliance with paragraph (a) of this section, the classification society’s approval may be restored.

(2) If the review shows significant improvement toward compliance with paragraph (a) of this section, the suspension may be extended.

(3) If the review does not show significant improvement and compliance with paragraph (a) of this section, the classification society’s approval may be revoked.

(e) Revocation. A classification society whose approval is revoked is not approved for the purpose of this subpart. The classification society may reapply for approval when the requirements of § 2.45–15 are met.

(f) The Coast Guard’s Office of Design and Engineering Standards (CG–ENG) administers probations, suspensions, and revocations and makes all related notifications to affected classification societies.

§ 2.45–25 Application for approval.
(a) An application for approval must be made in writing and in the English language to U.S. Coast Guard, Commandant (CG–ENG), Office of Design and Engineering Standards, 2100 Second Street SW. Stop 7126, Washington DC 20593–7126.

(b) The application must—

(1) Indicate the type of work the classification society intends to perform on vessels in the United States;

(2) Include documentation demonstrating that the classification society complies with § 2.45–15;

(3) Contain a list of the vessels surveyed by the classification society over the previous 3 calendar years. The list must include vessel names, flags, and IMO numbers, as well as initial vessel inspections and detentions; and

(4) Provide a summary of the safety records of vessels the classification society surveys for each of the previous 3 calendar years, including initial vessel inspections and detentions for all data contained in regional port state control Memoranda of Understanding (MOU) and other port state control data sources, including the U.S. Coast Guard.

(c) An application submitted in accordance with 46 CFR part 8, subpart B satisfies the application requirements of paragraph (a) of this section, provided the applicant:

(1) Has been notified in writing by the Commandant that it met the criteria to be a recognized classification society, and its recognized status has not been revoked, under 46 CFR part 8, subpart B;

(2) Submits in writing and in the English language to the address in paragraph (a) of this section a statement that the applicant is applying for approval under this subpart; and

(3) Certifies in the submission under paragraph (c)(2) of this section that the information in the application submitted under 46 CFR part 8, subpart B remains valid.

§ 2.45–30 Penalties.

The owner, charterer, managing operator, agent, master, or individual in charge of a vessel that employs a classification society to review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States is subject to civil penalties in accordance with Title 46 U.S.C. 3318 if the classification society is not approved by the Coast Guard under this subpart.

Dated: July 26, 2012.

J.G. Lantz,
Director of Commercial Regulations and Standards, U. S. Coast Guard.

[FR Doc. 2012–19376 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration

49 CFR Part 563
[Docket No. NHTSA–2012–0099]

RIN 2127–AL14

Event Data Recorders

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On August 5, 2011, the agency published a final rule amending the requirements for voluntarily installed event data recorders (EDRs) established in August 2006. In response to the August 2011 final rule, the agency received three petitions for reconsideration from the Alliance of Automobile Manufacturers, the Automotive Safety Council, and Honda Motor Co., LTD. The Association of Global Automakers, Inc. Technical Affairs Committee, and Nissan North America, Inc. both submitted comments in support of the petitioners’ requests. After careful consideration, the agency is granting some aspects of the petitions, and denying others. This document amends the final rule accordingly.

DATES: Effective Date: The amendments in this rule are effective October 9, 2012.

Compliance Dates: Except as provided below, light vehicles manufactured on or after September 1, 2012 that are equipped with an EDR and manufacturers of those vehicles must comply with this rule. However, vehicles that are manufactured in two or more stages or that are altered are not required to comply with the rule until September 1, 2013. Voluntary compliance is permitted before that date.

Petitions: If you wish to submit a petition for reconsideration of this rule, your petition must be received by September 24, 2012.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, 4th Floor, Washington, DC 20590. Please see the Privacy Act heading under Rulemaking Analyses and Notices.


Both persons may be reached by mail at the following address: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, 4th Floor, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: