

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: August 19, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 8

[Docket No. USCG-2011-0745]

RIN 1625-AB79

### International Anti-Fouling System Certificate

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its vessel inspection regulations to add the International Anti-fouling System (IAFS) Certificate to the list of certificates a recognized classification society may issue on behalf of the Coast Guard. This action is being taken in response to recently enacted legislation implementing the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001. This proposed rule would enable recognized classification societies to apply to the Coast Guard for authorization to issue IAFS Certificates to vessel owners on behalf of the Coast Guard.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before October 3, 2011 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2011-0745 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, e-mail or call Mr. John Meehan, Environmental Standards Division, Coast Guard, e-mail [john.a.meehan@uscg.mil](mailto:john.a.meehan@uscg.mil), telephone 202-372-1429. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Public Participation and Request for Comments
  - A. Submitting Comments
  - B. Viewing Comments and Documents
  - C. Privacy Act
  - D. Public Meeting
- II. Abbreviations
- III. Background
- IV. Discussion of Proposed Rule
- V. Regulatory Analyses
  - A. Regulatory Planning and Review
  - B. Small Entities
  - C. Assistance for Small Entities
  - D. Collection of Information
  - E. Federalism
  - F. Unfunded Mandates Reform Act
  - G. Taking of Private Property
  - H. Civil Justice Reform
  - I. Protection of Children
  - J. Indian Tribal Governments
  - K. Energy Effects
  - L. Technical Standards
  - M. Environment

#### I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

##### A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2011-0745), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if

we have questions regarding your submission.

To submit your comments online, go to <http://www.regulations.gov> and click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu, select "Proposed Rule," and insert "USCG-2011-0745" in the "Keyword" box. Click "Search," then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

##### B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and click on the "Read Comments" box, which will then become highlighted in blue. In the "Keyword" box, insert "USCG-2011-0745" and click "Search." Click the "Open Docket Folder" option in the "Actions" column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

##### D. Public Meeting

We do not now plan to hold a public meeting. However, you may submit a public meeting request to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that holding a public meeting

would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## II. Abbreviations

CFR: Code of Federal Regulations.

DHS: Department of Homeland Security.

FR: **Federal Register**.

IAFS: International Anti-fouling System

NAICS: North American Industry Classification System.

NPRM: Notice of proposed rulemaking.

§: Section.

U.S.C.: United States Code.

## III. Background

The Coast Guard Authorization Act of 2010 at Title X, Public Law 111–281, 124 Stat. 3023, 33 U.S.C. 3801 to 3857 (Oct. 15, 2010), directs the Secretary of Homeland Security to administer and enforce the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (Convention). Section 1021 of Title X (33 U.S.C. 3821) and Regulation 2 of Annex 4 of the Convention call for U.S. Government officials, or an organization identified by the United States, to issue International Anti-fouling System (IAFS) Certificates to ships whose anti-fouling systems fully comply with the Convention.

Under the Convention, an “anti-fouling system” is defined as a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms. The Convention is currently focused on reducing pollution caused by organotin compounds used in anti-fouling systems.

Since the mid-1990s, under authority of 46 U.S.C. 3103, 3306, 3316 and 3703, and regulations in 46 CFR part 8, the Coast Guard has authorized recognized classification societies to issue international certificates to vessels. The United States currently recognizes six classification societies for purposes of issuing international certificates: the American Bureau of Shipping (ABS, United States), Det Norske Veritas (DNV, Norway), Lloyd’s Register (LR, Great Britain), Germanischer Lloyd (GL, Germany), Bureau Veritas (BV, France), and RINA, S.p.A. (RINA, Italy).

The list of international certificates the Coast Guard may authorize a recognized classification society to issue appears in 46 CFR 8.320. That list currently includes 12 certificates, but does not include the IAFS Certificate.

## IV. Discussion of the Proposed Rule

The Coast Guard proposes to amend 46 CFR 8.320(b) by adding the IAFS Certificate to the current list of international convention certificates included in that paragraph. Adding the

IAFS Certificate to § 8.320(b) would allow the Coast Guard to authorize recognized classification societies to issue IAFS Certificates. Authorization would be based on the Coast Guard’s review of applicable class rules and applicable classification society procedures. *See* 46 CFR 8.320(a). The Coast Guard would then enter into a written agreement with a recognized classification society authorized to issue international convention certificates. The agreement would define the scope, terms, conditions, and requirements of that delegation. *See* 46 CFR 8.320(c).

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

### A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This notice of proposed rulemaking (NPRM) has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget. A draft regulatory assessment follows.

Under the authority of 46 U.S.C. 3103, 3306, 3316, and 3703, the Coast Guard proposes to amend 46 CFR 8.320, to enable the Coast Guard to delegate the activity of issuing IAFS Certificates to a recognized classification society which would act on behalf of the Coast Guard. The intent of this proposed rule is only to allow for the delegation of IAFS Certification to recognized class societies; it does not impose mandatory actions on the U.S. maritime industry.

This proposed rule initiates the process that may allow recognized classification societies to issue IAFS Certificates on behalf of the Coast Guard. Any recognized classification society that wishes to issue IAFS Certificates on the Coast Guard’s behalf would be required to request a delegation of authority from the Coast

Guard pursuant to the procedures in 46 CFR part 8. In response, the Coast Guard would evaluate the application, and review the applicant’s applicable class rules and applicable classification society procedures, before deciding whether to issue a delegation of authority to the applicant.

Although requesting the delegation of authority to conduct IAFS surveys, inspections, and certifications is voluntary, classification societies may incur minor costs associated with this process. The Coast Guard may incur costs associated with the evaluation of these requests and the issuance of delegations of authority to recognized classification societies.

The Coast Guard estimates that this proposed rule would potentially affect six classification societies which may request a delegation of authority to issue IAFS Certificates. The Coast Guard used OMB-approved collections of information (1625–0101, 1625–0095, 1625–0093, and 1625–0041) to estimate the costs and burden.

The Coast Guard estimates that it will take classification society employees about 5.25 hours to review the rulemaking requirements and prepare the delegation request, at an average one-time cost of \$458.50 per classification society (3.5 hours at \$112 per hour for a director and 1.75 hours at \$38 per hour for a secretary). The total one-time cost for all six classification societies is estimated to be \$2,800 (rounded).

In addition, the Coast Guard estimates that it will incur a one-time cost to review and approve the requests for delegation. Based on the OMB-approved collections of information discussed above, the Coast Guard estimates that it will take about 5 hours to review, approve, and issue an order to delegate authority, at an average cost of \$360 per event (3.5 hours for reviewing/approving and 1.5 hours for issuing at \$72 per hour for a lieutenant). The Coast Guard estimates a total one-time Government cost of \$2,200 (rounded) based on OMB-approved collection of information estimates.

The Coast Guard estimates the total one-time cost of this proposed rule to be \$5,000 (non-discounted) for classification societies and the Government combined.

This proposed rule may result in several benefits to the U.S. maritime industry. First, it may result in a reduction of potential wait time for IAFS Certificates. In the absence of delegation of authority to classification societies, vessel owners and operators may experience delays while the Coast Guard processes and issues IAFS

Certificates. Combined with the Coast Guard's other activities and responsibilities, such a process could result in an unnecessary and burdensome wait for vessels. The Coast Guard might also have to redirect resources that could be used for other missions, resulting in a less efficient use of Government resources. Finally, this proposed rule may mitigate potential consequences to U.S. flag vessels due to non-compliance with the Convention, including costly vessel detentions in foreign ports.

#### *B. Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard has considered whether this proposed 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.

Classification societies affected by this proposed rule would be classified under one of the following North American Industry Classification System (NAICS) 6-digit codes for water transportation: 488330—Navigation Services to Shipping, 488390—Other Support Activities for Water Transportation, or 541611—Administrative Management and General Management Consulting Services.

The Coast Guard did not find any classification societies directly affected by this rule that are small businesses or governments with populations of less than 50,000. The only predominate U.S. classification society is the American Bureau of Shipping (ABS). ABS is a privately owned non-profit organization that is dominant in its field (Source: 2011 Hoovers, [http://www.hoovers.com/company/American\\_Bureau\\_of\\_Shipping\\_Inc/rfsksji-1.html](http://www.hoovers.com/company/American_Bureau_of_Shipping_Inc/rfsksji-1.html)). Based on publicly available information, ABS has more than 3,000 employees and an annual revenue of more than \$800 million (Source: 2011 Bloomberg, <http://investing.businessweek.com/research/stocks/private/person.asp?personId=28915205&privcapId=4217113&previousCapId=764755&previousTitle=ABS%20Group%20of%20Companies,%20Inc>). We do not consider ABS to be a small entity under the Regulatory Flexibility Act. The other classification societies affected by this rule are foreign owned and operated.

The Coast Guard expects that this proposed rule will not have a significant

economic impact on a substantial number of small entities. As described in section V.A. of this preamble, “Regulatory Planning and Review,” the anticipated cost of this rule, per class society, is less than \$500. This proposed rule is not mandatory, and classification societies, regardless of size, will choose to participate only if the benefits are greater than the costs.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment using one of the methods listed under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

#### *C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. John Meehan, Environmental Standards Division, Coast Guard, telephone 202–372–1429 or e-mail [john.a.meehan@uscg.mil](mailto:john.a.meehan@uscg.mil). 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 proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) because the Coast Guard expects that the number of applications will be less than 10 in any given year.

#### *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 proposed 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. Though this proposed rule will not result in such an expenditure, the Coast Guard does discuss the effects of this rule elsewhere in this preamble.

#### *G. Taking of Private Property*

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

#### *H. Civil Justice Reform*

This proposed 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*

The Coast Guard has analyzed this rule under Executive Order 13045 Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposed 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*

The Coast Guard has analyzed this proposed rule under Executive Order 13211 Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Coast Guard has determined that this proposed rule is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866, supplemented by Executive Order 13563, 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 this proposed rule 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 (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 or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, the Coast Guard did not consider the use of voluntary consensus standards.

#### M. Environment

The Coast Guard has analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and has made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. This proposed rule involves the delegation of authority, the inspection and documentation of vessels, and congressionally-mandated regulations designed to improve or protect the environment. This action falls under section 2.B.2, figure 2-1, paragraphs (34)(b) and (d), of the Instruction, and under section 6(b) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48243, July 23, 2002). The Coast Guard seeks any comments or information that may lead to the discovery of a

significant environmental impact from this proposed rule.

#### List of Subjects for 46 CFR Part 8

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 8 as follows:

#### PART 8—VESSEL INSPECTION ALTERNATIVES

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

**Authority:** 33 U.S.C. 3803 and 3821; 46 U.S.C. 3103, 3306, 3316, 3703; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 8.320 as follows:

- a. In paragraph (b)(11), remove the word "and";
- b. In paragraph (b)(12), remove the period at the end of the sentence and add, in its place, the text "; and"; and
- c. Add paragraph (b)(13) to read as follows:

#### § 8.320 Classification society authorization to issue international certificates.

\* \* \* \* \*

(b) \* \* \*

(13) International Anti-fouling System Certificate.

\* \* \* \* \*

Dated: August 25, 2011.

**F.J. Sturm,**

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

[FR Doc. 2011-22361 Filed 8-31-11; 8:45 am]

**BILLING CODE 9110-04-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 1

[WT Docket No. 08-61; WT Docket No. 03-187; DA 11-1455]

#### Programmatic Environmental Assessment

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on a draft programmatic environmental assessment (PEA) of the Antenna Structure Registration (ASR) program. The purpose of the PEA is to evaluate the potential environmental effects of the Commission's ASR program. Owners of structures that are taller than

200 feet above ground level or that may interfere with the flight path of a nearby airport must register those structures with the FCC. The antenna structure owner must obtain painting and lighting specifications from the Federal Aviation Administration and include those specifications in its registration prior to construction.

**DATES:** There will be a public meeting in the Federal Communications Commission's Meeting Room, 445 12th St., SW., Washington, DC on September 20, 2011, from 2:30 p.m. until 5 p.m., Eastern Time. Interested parties may file comments no later than October 3, 2011.

**ADDRESSES:** You may submit comments, identified by WT Docket No. 08-61; WT Docket No. 03-187, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System ("ECFS"): <http://www.fcc.gov/cgb/ecfs/>, through a link on the PEA Web site, <http://www.fcc.gov/pea>, or via the Federal eRulemaking Portal: <http://www.regulations.gov>.

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. The filing hours are 8 a.m. to 7 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

**Availability of Documents.** Comments and *ex parte* submissions will be available for public inspection during