

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 71, 114, 115, 125, 126, 167, 169, 175, and 176

[USCG-2000-6858]

RIN 1625-AA57

Alternate Hull Examinations Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing an alternative hull examination program for certain passenger vessels, and giving nautical school, offshore supply, passenger and sailing school vessels the option of having alternating drydock examinations with underwater surveys. It is also establishing examination processes, which give industry additional latitude in scheduling inspections and will create parity between passenger vessels and all other Coast Guard-inspected vessels.

DATES: This final rule is effective September 7, 2004.

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-2000-6858 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, 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://dms.dot.gov>. Anyone is able to 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LCDR Martin Walker, Office of Compliance (G-MOC) Coast Guard, telephone 202-267-1047. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets,

Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

The project was originally part of a notice of proposed rulemaking (NPRM) entitled "Frequency of Inspection, Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels" that was published on November 15, 1999, in the **Federal Register** [64 FR 62018]. A final rule, dealing only with "Frequency of Inspection" regulations, was published on February 9, 2000 [65 FR 6494], so that we could meet the International Convention for the Safety of Life at Sea, 1974 (SOLAS), and the International Convention on Load Lines compliance date of February 3, 2000. This allowed us to analyze the large number of comments on the Alternate Hull Examination and Underwater Survey portions of the NPRM independently from the comments addressing the "Frequency of Inspections" regulations.

On April 29, 2002, we published an interim rule with request for comments entitled "Alternate Hull Examinations Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels" in the **Federal Register** [67 FR 21062]. We received 51 comments on the interim rule.

Background and Purpose

Alternative Hull Examination (AHE) Program

Based on the results of an underwater survey demonstration performed in May 1997, the Coast Guard created a pilot program that allows owners or operators of qualified vessels to undergo an alternative hull examination process. This examination process includes an underwater survey and an internal structural examination along with annual condition assessments and scheduled preventative maintenance. The program allows owners and operators of qualified vessels to receive a credit hull exam of up to five years depending on the chosen method of hull examination.

Underwater Survey in Lieu of Drydocking (UWILD)

Inspected U.S. passenger vessels, nautical school ships (public and civilian), off-shore supply vessels (OSVs) under 46 CFR chapter I, subchapter L, and sailing school vessels lacked the regulatory option of alternating drydock examinations with

underwater surveys before the interim rule [67 FR 21062] was published in the **Federal Register** on April 29, 2002.

This rule, which adopts guidance from Navigation and Vessel Inspection Circular (NVIC) 1-89, allows owners or operators of U.S. passenger vessels, nautical school ships, OSVs, and sailing school vessels with steel or aluminum hulls the voluntary option of alternating underwater hull surveys with drydock examinations.

Discussion of Comments and Changes

The Coast Guard received 51 comments in response to the interim rule with request for comment on the "Alternate Hull Examination Program for Certain Passenger, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels" published April 29, 2002, in the **Federal Register** [67 FR 21062]. All changes in this Final Rule have been made in response to comments. These changes are noted in the discussion of comments.

Public Meetings

Three commenters requested public meetings be held to discuss various aspects of Alternative Hull Examinations (AHE). We extended the original comment period by publishing the interim rule, rather than a final rule. We further stated that if the public felt that a public meeting was still necessary, it should submit a comment explaining why there should be a meeting. The relatively low number of comments we received did not state compelling reasons to hold a public meeting. Therefore, we believe that the public has been afforded ample opportunity to comment and that a public meeting is unnecessary.

General

One commenter said the frequency of internal exams of water ballast tanks is not mentioned in the interim rule. We disagree. The definition of "internal structural exam" includes ballast tanks, and § 71.50-3 discusses the intervals for conducting internal structural exams.

One commenter stated the phrase "at alternate intervals" should be deleted from the first sentence in § 71.50-5(c). We disagree. The wording was designed to be the same as found in existing Underwater Survey in Lieu of Drydocking (UWILD) regulations for other vessel types. Further, we believe that the meaning is clear when taken in context with the rest of the sentence, which discusses alternating underwater surveys and drydock exams.

One commenter stated it should be clarified in §§ 71.50-15, 115.620, and

176.620 that all four steps for entering or re-entering the AHE program are needed when only divers are used for the examinations. We agree and have changed the wording accordingly.

One commenter stated filing a report on underwater cleanliness prior to an exam would unnecessarily increase the expense of a survey. We agree, and have changed §§ 71.50–19(d), 115.630(d), and 176.630(d) accordingly.

Two commenters made suggestions in regard to wording. One commenter stated the phrase “drydock extension” in §§ 71.50–29(a), 115.655(d), and 176.655 should instead be “drydock credit.” We agree and have changed the wording.

One commenter said the impact on small businesses, a cost assessment, or potential takings were not discussed in the interim rule. We disagree. Both the interim rule and this final rule include sections on impacts to small businesses, costs, and potential takings. The Coast Guard stands by its analyses of these issues.

One commenter stated that the interim rule is overly prescriptive. We disagree. The interim rule contains a level of direction and detail that we believe is necessary to preserve vessel safety while maximizing owner flexibility in the inspection of vessels.

Definition: Adequate Hull Protection System

Three commenters suggested changes in the definition for “adequate hull protection system” in §§ 71.50–1, 114.400, and 175.400. Of those, two said the phrase “sacrificial anodes” should be used instead of the word “zinc”. One commenter asked that the word “magnesium” be included in the definition. We agree, and have changed the definition to read “sacrificial anodes” versus “zinc anodes”. This new definition will allow for the inclusion of zinc or magnesium anodes.

Double Inspections

Two commenters stated there is no need for inspections to be done by both the Coast Guard and the American Bureau of Shipping (ABS). We disagree. The delegation of Coast Guard inspection authority is outside the scope of this rulemaking.

G–MOC Policy Letter 3–98

Two commenters stated that the G–MOC Policy Letter 3–98 should be used as guidance in regard to hull marking instead of the language included in the interim rule. We agree and have changed §§ 71.50–27(a)(2), 115.650(a)(2), and 176.650(a)(2) to read similar to the policy letter.

Hull Gauging

Three commenters responded to the gauging of a vessel’s hull. Of those, one stated multiple belts should be allowed as an alternative to five random shots per plate. We disagree. Belt gaugings are already required. The intent of the additional gaugings is to provide a greater probability of detecting thinning areas in the hull plating. We do not believe that gaugings taken 10 feet apart at the grid cables provide the same level of inspection as five readings per plate.

One commenter said there should be a minimum of five gaugings per plate, but that the third party examiner should be allowed to take the readings at any location. We disagree. The commenter said that some vessels do not have shell expansion diagrams, and that it is difficult to determine where to gauge these vessels. We acknowledge that spacing may not be easy, but believe that every effort should be made to spread the gaugings out as intended.

One commenter stated it is unclear in §§ 71.50–31(a), 115.660(a), and 176.660(a), who will do the audio gauging and conduct the internal exams for the annual hull condition assessment. We agree and have changed the wording to specify that vessel operators must do the audio gauging and conduct the internal exams during the hull condition assessment.

Hull Inspections

One commenter disagrees with the Coast Guard’s assessment that there is a “significant limitation” in a diver’s ability to inspect an entire hull. We disagree and believe that in anything other than ideal conditions, the diver will have some degree of difficulty seeing the surface, determining the exact location of a problem, and relaying it back to the third party examiner. The remotely operated vehicle (ROV) is able to overcome these difficulties to a greater degree.

Inspection Intervals: Remotely Operated Vehicle (ROV) vs. Diver-only

Six commenters questioned the difference in inspection intervals allowed for a predominately used ROV exam versus a diver-only exam. In addition, a Risk Based Decision Making (RBDM) study to assess the effectiveness of Policy Letter 3–98, Drydock Extensions For Certain Passenger Vessels, recommended that the interval be extended from 30 months to five years. Some commenters stated that a diver is required for a portion of the ROV exam and that often the divers find problems in the areas that are examined by the ROV. One commenter stated that

certain vessels on clear inland lakes have participated in a locally managed program with good success using the five-year interval for several years.

We agree in part. With the technology currently available, we concur that divers must be used during a percentage of the exams, and that, under some specific circumstances, a diver-only exam may achieve a level comparable to that of an exam done predominately by a ROV. We, however, do not believe the diver-only exam is as comprehensive as a ROV exam. Furthermore, it is our belief that an inspection equivalent to a drydock exam may be attained using a combination of the two methods with the ROV covering at least 80 percent of the hull and the diver examining those areas that are inaccessible for the ROV.

This is one of the reasons the authorized credit for the ROV exam is five years and the diver-only exam is three years, but not more than five years between exams.

The difference in the intervals was also part of the interim rule’s intent to allow the Officer in Charge, Marine Inspection (OCMI) to grant a larger time frame between exams depending on the results. It is also why the regulations allow the OCMI to waive the annual hull condition assessment in cases where the results of the UWILD indicate that it would be reasonable to do so.

We are adding a provision in §§ 71.50–29(d), 115.655(d), and 176.655(d) to allow the OCMI to waive the mid-period exam and, in effect, grant the full five years of credit to a vessel when it is examined under ideal conditions, and it is safe to do. Owners seeking a waiver must submit a request at least 60 days before each scheduled underwater exam.

One commenter said the word “predominate” is ambiguous in the definition for “underwater survey portion conducted primarily by an approved underwater ROV” in § 71.50–1. We disagree. The note to § 71.50–15 below the paragraph clearly states that the hull coverage for the ROV is at least 80 percent.

OCMI Responsibilities

Three commenters submitted views in regard to the OCMI’s responsibilities. Of those, two stated individual OCMI’s should make the final decision on eligibility requirements. We agree that the OCMI must make the final decision on eligibility. The interim rule granted the OCMI discretion to allow a vessel, which does not meet the eligibility requirements, to participate when “it is safe and reasonable to do so,” based on the vessel’s history of safe operation.

One commenter stated OCMIs should make the decision on whether to require the preliminary exam. We disagree. The preliminary exam is necessary to ensure that the vessel is suitable for the program by surveying the underwater portion of the hull. This is not a requirement for a ROV exam, because we believe that an owner will take this step before contracting a ROV to perform the exam.

Operating Limits

One commenter stated the limitations of operating 0.5 miles from shore and in shallow water should be eliminated from the regulations. We disagree. The interim rule was targeted at this group of vessels because they operate in a benign environment. The OCMI has the latitude to allow other vessels that operate beyond 0.5 miles into the program if it is safe and reasonable to do so.

Sea Valves

Four commenters expressed views regarding sea valves. One commenter stated the requirements in §§ 71.50–25(a)(3) should be broadened to allow for equivalent methods of inspection and testing, especially for vessels operating in fresh water areas. We believe that the regulations should remain as written, and will address inspection procedures in a future NVIC.

One commenter said a clarification is needed that sea valves need to be examined only once every five years. We agree and are adding clarification to the regulations with regard to sea valve inspection intervals.

One commenter stated that large diameter sea valves pose a greater flooding risk and inspection should be allowed with the valves in place. We agree that there is a flooding risk when examining sea valves, which is why the passengers must be removed from the vessel if the OCMI deems it necessary. These regulations are consistent with, and reflect the existing standard in 46 CFR 61, required for a traditional drydock exam, as well as existing guidance in NVIC 1–89. We recognize, however, that it is common practice under certain circumstances, for the OCMI to accept Alternative inspection methods when dealing with large sea valves or unusual piping installations. Therefore, we have revised this section to allow the owner to propose alternatives to the OCMI. The OCMI may approve alternatives on a case-by-case basis, as is the practice already.

One commenter stated the OCMI should have the discretion to allow an alternative means of examining large sea valves. We agree, as stated above, the

OCMI may approve alternatives on a case-by-case basis.

Third Party Examiners

Nine commenters responded in regard to third party examiners. Two commenters stated there is no need for third party examiners. We disagree. The third party examiner is required to direct the underwater portion of the survey, and may serve as a representative of the owner while the marine inspector conducts the internal exam of the vessel.

Three commenters stated third party examiners should be required to take part in the examinations regardless of the method. We disagree. The third party examiner must participate in diver-only exams and during the diver portion of a predominate ROV exam. We do not believe that the third party examiner needs to be present when the ROV is operating. The third party examiner's main function is interpreting the results obtained by the diver, whereas the ROV data is immediately and graphically available to the marine inspector.

Two commenters said third party examiners should be required to prepare reports from the examinations that include a recommendation of fitness for service. We agree. The written report is required by the regulations, and is the tool that the OCMI uses to evaluate the examination results. The third party examiner may make recommendations, provide assessments, and include opinions of the vessel's overall condition. It is, however, the marine inspector's responsibility to ensure that the exam has been conducted in accordance with the regulations, while it is the OCMI's responsibility to determine the vessel's suitability for continued service.

One commenter stated better qualifications are needed for third party examiners. We disagree. The general qualification a third party examiner must possess is defined in the rule. We did not include a specific qualification, which would prevent someone who otherwise meets the requirements from acting as a third party examiner, potentially creating a large onus for small entities. The rule's approach will allow vessel owners the opportunity to act as a third party examiner on their own vessel, if they are acceptable to the OCMI.

One commenter stated that third party examiners should allow a pre-survey conference call in lieu of an on-site meeting. We agree and are modifying §§ 71.50–23(c), 115.640(c), and 176.640(c) to allow teleconferences if agreed to by the OCMI in advance.

Videotaping Tactile Exams

Three commenters stated videotaping the tactile examinations of the hull is excessive. We disagree because this is the only record available to the OCMI of the extent, scope, and results of the underwater portion of the exam. The video and audio recording of the survey and the conditions will help the OCMI determine whether the annual condition assessments and mid-period exam may be waived.

Regulatory Evaluation

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). A final Regulatory Evaluation under the regulatory policies and procedures of DHS is available in the docket as indicated under **ADDRESSES**. A summary of the Regulatory Evaluation follows:

Alternative Hull Examination (AHE) Program

Because the AHE Program is voluntary, no costs are associated with this component of the rulemaking. Each vessel owner is given the option to choose the most cost-effective hull examination process. We estimate that about 51 passenger vessels will take advantage of the increased flexibility of this rule.

Underwater Survey in Lieu of Drydocking (UWILD) Program

The UWILD Program will provide increased flexibility to owners and operators for hull inspections of U.S. passenger vessels, nautical school ships, sailing school vessels, and offshore supply vessels. This program allows an underwater survey instead of a drydock examination on every other interval for the described vessels, and is currently available to most other classes of inspected vessels.

There are no additional costs to the vessel owners or operators with this component of the rulemaking because the use of underwater survey is completely voluntary. We estimate that 6,224 vessels could take advantage of the increased flexibility of this rule.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we considered whether this rule will 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.

The regulatory options in both the AHE and UWILD programs will make it more cost-efficient and beneficial for small entities by greatly decreasing the amount of time and resources associated with traditional drydock inspections. Additionally, because both programs are voluntary, it is expected that small entities will only participate when it is beneficial for them to do so.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

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 NPRM and the interim rule provided small businesses, organizations, or governmental jurisdictions a Coast Guard contact to ask questions concerning this rule's provisions or options for hull inspections.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory 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).

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501-3520]. We received no comments on the collection of information in our request for comments in the interim rule [67 FR 21062].

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section numbers are (§§) 71.50-5(b), 71.50-23(b), 71.50-29(b), 71.50-31(b), 71.50-31(c), 71.50-

31(d)(1), 115.615(b), 115.630, 115.640(b), 115.655(a), 115.655(b), 115.660(c), 115.660(d), 126.140(f), 126.140(g)(1), 126.140(g)(3), 167.15-33(b), 167.15-33(c), 169.230(b), 169.230(c), 176.615(b), 176.615(c), 176.630, 176.640(b), 176.655(a), 176.660(b), 176.660(c), and 176.660(d)(1), and the corresponding approval number from OMB is OMB Control Number 1625-0032, which expires on June 30, 2005. A notice announcing the effective date for this collection of information was published on August 28, 2002 [67 FR 55162].

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.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).)

This rule falls into the category of maintenance of vessels. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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.

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.

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.

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under section 6(a) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy," [67 FR 48244 (July 23, 2002)], this rule is categorically excluded from further environmental documentation. This final rule deals exclusively with changing inspection intervals and providing voluntary dry-docking alternatives for certain passenger vessels. A "Categorical Exclusion Determination" is available in

the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 114

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

46 CFR Part 115

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 125

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Seamen.

46 CFR Part 126

Authority delegation, Hazardous materials transportation, Marine safety, Offshore supply vessels, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the interim rule amending 46 CFR parts 71, 114, 115, 125, 126, 167, 169, 175, and 176 which was published as 67 FR 21062 on April 29, 2002, is adopted as a final rule with the following changes:

PART 71—INSPECTION AND CERTIFICATION

■ 1. Revise the authority citation for Part 71 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 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.

■ 2. In § 71.50–1, revise the definition for “Adequate hull protection system” to read as follows:

§ 71.50–1 Definitions relating to hull examinations.

* * * * *

Adequate hull protection system means a method of protecting the vessel's hull from corrosion. It includes, as a minimum, either hull coatings and a cathodic protection (CP) system consisting of sacrificial anodes, or an impressed current CP system.

* * * * *

■ 3. Revise § 71.50–15 and the Note to § 71.50–15 to read as follows:

§ 71.50–15 Description of the Alternative Hull Examination (AHE) Program for certain passenger vessels.

The Alternative Hull Examination (AHE) Program provides you with an alternative to a drydock examination by allowing your vessel's hull to be examined while it remains afloat. If completed using only divers, this program has four steps: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. If the vessel is already participating in the program or if a remotely operated vehicle (ROV) is used during the program, the preliminary exam step may be omitted. Once you complete these steps, the Officer in Charge, Marine Inspection (OCMI), will evaluate the results and accept the examination as a credit hull exam if the vessel is in satisfactory condition. If only divers are used for the underwater survey portion of the examination process, you may receive credit for a period of time such that subsequent AHEs would be conducted at intervals of twice in every five years, with no more than three years between any two AHEs. The OCMI may waive an underwater survey in accordance with § 71.50–29(d) provided that the interval does not exceed five years between any two underwater surveys. If an underwater ROV is used as the predominate method to examine the vessel's underwater hull plating, you may receive credit up to five years. At the end of this period, you may apply for further participation under the AHE Program.

Note to § 71.50–15: The expected hull coverage when using an ROV must be at least 80 percent.

§ 71.50–19 [Amended]

■ 4. In § 71.50–19, in paragraph (d), following the word “cleanliness”, add the words “(if known)”.

■ 5. In § 71.50–23, add paragraph (c) to read as follows:

§ 71.50–23 Pre-survey meeting.

* * * * *

(c) The pre-survey meeting may be conducted by teleconference, if agreed to in advance by the OCMI.

§ 71.50–25 [Amended]

■ 6. In § 71.50–25, in paragraph (a)(3), following the words “marine inspector”, add the words “once every five years”.

■ 7. In § 71.50–27, revise paragraph (a)(2) to read as follows:

§ 71.50–27 Alternative Hull Examination (AHE) program options: Divers or underwater remotely operated vehicles (ROV).

* * * * *

(a) * * *

(2) Provide permanent hull markings, a temporary grid system of wires or cables spaced not more than 10 feet apart and tagged at one-foot intervals, or any other acoustic or electronic positioning system approved by the OCMI to identify the diver's location with respect to the hull, within one foot of accuracy;

* * * * *

■ 8. In § 71.50–29, revise paragraph (a) and add paragraph (d) to read as follows:

§ 71.50–29 Hull examination reports.

(a) If you use only divers for the underwater survey portion of the Alternative Hull Examination (AHE), you must provide the Officer in Charge, Marine Inspection (OCMI), with a written hull examination report. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings, and any other information that will help the OCMI evaluate your vessel for a credit hull exam. The third party examiner must sign the report and confirm the validity of its contents.

* * * * *

(d) At least 60 days prior to each scheduled underwater exam, the owner may request a waiver from the OCMI if:

(1) A satisfactory exam has been completed within the last three years;

(2) The conditions during the last exam allowed at least 80 percent of the bottom surface to be viewed and recorded; and

(3) The results of the last exam indicated that an extended interval is safe and reasonable.

■ 9. In § 71.50–31, revise paragraphs (a) and (d)(1) to read as follows:

§ 71.50–31 Continued participation in the Alternative Hull Examination (AHE) Program.

(a) To continue to participate in the AHE Program, vessel operators must conduct an annual hull condition

assessment. At a minimum, vessel operators must conduct an internal examination and take random hull gaugings internally during the hull condition assessment, unless waived by the Officer in Charge, Marine Inspection (OCMI). If the annual hull assessment reveals significant damage or corrosion, where temporary repairs have been made, or where other critical areas of concern have been identified, the OCMI may require an expanded examination to include an underwater hull examination using divers. If an underwater examination is required, the examination must focus on areas at higher risk of damage or corrosion and must include a representative sampling of hull gaugings.

* * * * *

(d) * * *

(1) The owner may submit to the OCMI a plan for conducting the assessment, or a request for a waiver of this requirement, no fewer than 30 days before the scheduled assessment; and

* * * * *

PART 114—GENERAL PROVISIONS

■ 10. Revise the authority citation for Part 114 to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170; § 114.900 also issued under 44 U.S.C. 3507.

■ 11. In § 114.400(b), revise the definition for “Adequate hull protection system” to read as follows:

§ 114.400 Definitions of terms used in this subchapter.

* * * * *

(b) * * *

Adequate hull protection system means a method of protecting the vessel's hull from corrosion. It includes, as a minimum, either hull coatings and a cathodic protection (CP) system consisting of sacrificial anodes, or an impressed current CP system.

* * * * *

PART 115—INSPECTION AND CERTIFICATION

■ 12. Revise the authority citation for Part 115 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.

■ 13. Revise § 115.620 and add the Note to § 115.620 to read as follows:

§ 115.620 Description of the Alternative Hull Examination (AHE) Program for certain passenger vessels.

The Alternative Hull Examination (AHE) Program provides you with an alternative to a drydock examination by allowing your vessel's hull to be examined while it remains afloat. If completed using only divers, this program has four steps: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. If the vessel is already participating in the program or if a remotely operated vehicle (ROV) is used during the program, the preliminary exam step may be omitted. Once you complete these steps, the Officer in Charge, Marine Inspection (OCMI), will evaluate the results and accept the examination as a credit hull exam if the vessel is in satisfactory condition. If only divers are used for the underwater survey portion of the examination process, you may receive credit for a period of time such that subsequent AHEs would be conducted at intervals of twice in every five years, with no more than three years between any two AHEs. The OCMI may waive an underwater survey in accordance with § 115.655(d) provided that the interval does not exceed five years between any two underwater surveys. If an underwater ROV is used as the predominate method to examine the vessel's underwater hull plating, you may receive credit up to five years. At the end of this period, you may apply for further participation under the AHE Program.

Note to § 115.620: The expected hull coverage when using an ROV must be at least 80 percent.

§ 115.630 [Amended]

■ 14. In § 115.630, in paragraph (d), following the word “cleanliness”, add the words “(if known)”.

■ 15. In § 115.640, add paragraph (c) to read as follows:

§ 115.640 Pre-survey meeting.

* * * * *

(c) The pre-survey meeting may be conducted by teleconference, if agreed to in advance by the OCMI.

§ 115.645 [Amended]

■ 16. In § 115.645, in paragraph (a)(3), following the words “marine inspector”, add the words “once every five years”.

■ 17. In § 115.650, revise paragraph (a)(2) to read as follows:

§ 115.650 Alternative Hull Examination (AHE) Program options: Divers or underwater ROV.

* * * * *

(a) * * *

(2) Provide permanent hull markings, a temporary grid system of wires or cables spaced not more than 10 feet apart and tagged at one-foot intervals, or any other acoustic or electronic positioning system approved by the OCMI to identify the diver's location with respect to the hull, within one foot of accuracy;

* * * * *

■ 18. In § 115.655, revise paragraph (a) and add paragraph (d) to read as follows:

§ 115.655 Hull examination reports.

(a) If you use only divers for the underwater survey portion of the Alternative Hull Examination (AHE), you must provide the Officer in Charge, Marine Inspection (OCMI), with a written hull examination report. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings, and any other information that will help the OCMI evaluate your vessel for a credit hull exam. The third party examiner must sign the report and confirm the validity of its contents.

* * * * *

(d) At least 60 days prior to each scheduled underwater exam, the owner may request a waiver from the OCMI if:

(1) A satisfactory exam has been completed within the last three years;

(2) The conditions during the last exam allowed at least 80 percent of the bottom surface to be viewed and recorded; and

(3) The results of the last exam indicated that an extended interval is safe and reasonable.

■ 19. In § 115.660, revise paragraphs (a) and (d)(1) to read as follows:

§ 115.660 Continued participation in the Alternative Hull Examination (AHE) Program.

(a) To continue to participate in the AHE Program, vessel operators must conduct an annual hull condition assessment. At a minimum, vessel operators must conduct an internal examination and take random hull gaugings internally during the hull condition assessment, unless waived by the Officer in Charge, Marine Inspection (OCMI). If the annual hull assessment reveals significant damage or corrosion, where temporary repairs have been made, or where other critical areas of concern have been identified, the OCMI may require an expanded examination to include an underwater hull examination using divers. If an underwater examination is required, the examination must focus on areas at higher risk of damage or corrosion and

must include a representative sampling of hull gaugings.

* * * * *

(d) * * *

(1) The owner may submit to the OCMI a plan for conducting the assessment, or a request for a waiver of this requirement, no fewer than 30 days before the scheduled assessment; and

* * * * *

PART 175—GENERAL PROVISIONS

■ 20. Revise the authority citation for Part 175 to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170; § 175.900 also issued under authority of 44 U.S.C. 3507.

■ 21. In § 175.400, revise the definition for “Adequate hull protection system” to read as follows:

§ 175.400 Definitions of terms used in this subchapter.

* * * * *

Adequate hull protection system means a method of protecting the vessel’s hull from corrosion. It includes, as a minimum, either hull coatings and a cathodic protection (CP) system consisting of sacrificial anodes, or an impressed current CP system.

* * * * *

PART 176—INSPECTION AND CERTIFICATION

■ 22. Revise the authority citation for Part 176 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.

■ 23. Revise § 176.620 and the Note to § 176.620 to read as follows:

§ 176.620 Description of the Alternative Hull Examination (AHE) Program for certain passenger vessels.

The Alternative Hull Examination (AHE) Program provides you with an alternative to a drydock examination by allowing your vessel’s hull to be examined while it remains afloat. If completed using only divers, this program has four steps: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. If the vessel is already participating in the program, or if a remotely operated vehicle (ROV) is used during the program, the preliminary exam step may be omitted. Once you complete these steps, the Officer in Charge, Marine Inspection (OCMI), will

evaluate the results and accept the examination as a credit hull exam if the vessel is in satisfactory condition. If only divers are used for the underwater survey portion of the examination process, you may receive credit for a period of time such that subsequent AHEs would be conducted at intervals of twice in every five years, with no more than three years between any two AHEs. The OCMI may waive an underwater survey in accordance with § 176.655(d) provided that the interval does not exceed five years between any two underwater surveys. If an underwater ROV is used as the predominate method to examine the vessel’s underwater hull plating, you may receive credit up to five years. At the end of this period, you may apply for further participation under the AHE Program.

Note to § 176.620: The expected hull coverage when using an ROV must be at least 80 percent.

§ 176.630 [Amended]

■ 24. In § 176.630, in paragraph (d), following the word “cleanliness”, add the words “(if known)”.

■ 25. In § 176.640, add paragraph (c) to read as follows:

§ 176.640 Pre-survey meeting.

* * * * *

(c) The pre-survey meeting may be conducted by teleconference, if agreed to in advance by the OCMI.

§ 176.645 [Amended]

■ 26. In § 176.645, in paragraph (a)(3), following the words “marine inspector”, add the words “once every five years”.

■ 27. In § 176.650, revise paragraph (a)(2) to read as follows:

§ 176.650 Alternative Hull Examination Program options: Divers or underwater ROV.

* * * * *

(a) * * *

(2) Provide permanent hull markings, a temporary grid system of wires or cables spaced not more than 10 feet apart and tagged at one-foot intervals, or any other acoustic or electronic positioning system approved by the OCMI to identify the diver’s location with respect to the hull, within one foot of accuracy;

* * * * *

■ 28. In § 176.655, revise paragraph (a) and add paragraph (d) to read as follows:

§ 176.655 Hull examination reports.

(a) If you use only divers for the underwater survey portion of the Alternative Hull Examination (AHE), you must provide the Officer in Charge,

Marine Inspection (OCMI), with a written hull examination report. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings, and any other information that will help the OCMI evaluate your vessel for a credit hull exam. The third party examiner must sign the report and confirm the validity of its contents.

* * * * *

(d) At least 60 days prior to each scheduled underwater exam, the owner may request a waiver from the OCMI if:

(1) A satisfactory exam has been completed within the last three years;

(2) The conditions during the last exam allowed at least 80 percent of the bottom surface to be viewed and recorded; and

(3) The results of the last exam indicated that an extended interval is safe and reasonable.

■ 29. In § 176.660, revise paragraph (a) and (d)(1) to read as follows:

§ 176.660 Continued participation in the Alternative Hull Examination (AHE) Program.

(a) To continue to participate in the AHE Program, vessel operators must conduct an annual hull condition assessment. At a minimum, vessel operators must conduct an internal examination and take random hull gaugings internally during the hull condition assessment, unless waived by the Officer in Charge, Marine Inspection (OCMI). If the annual hull assessment reveals significant damage or corrosion, where temporary repairs have been made, or where other critical areas of concern have been identified, the OCMI may require an expanded examination to include an underwater hull examination using divers. If an underwater examination is required, the examination must focus on areas at higher risk of damage or corrosion and must include a representative sampling of hull gaugings.

* * * * *

(d) * * *

(1) The owner may submit to the OCMI a plan for conducting the assessment, or a request for a waiver of this requirement, no fewer than 30 days before the scheduled assessment; and

* * * * *

Dated: June 25, 2004.

T.H. Gilmour,

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

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