

responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. This action provides performance criteria and QA test procedures for assessing the acceptability of HCl CEMS performance and data quality. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment. Documentation for this decision is provided in the Summary of Major Comments and Responses section of this preamble.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United

States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitoring systems, Hydrogen chloride, Performance specifications, Test methods and procedures.

Dated: September 13, 2017.

**E. Scott Pruitt,**  
Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

■ 1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. Amend appendix F to part 60 under “Procedure 6” by revising sections “4.1.5”, “4.1.5.1” and “5.2.4.2” to read as follows:

**Appendix F to Part 60—Quality Assurance Procedures**

\* \* \* \* \*

**Procedure 6. Quality Assurance Requirements for Gaseous Hydrogen Chloride (HCl) Continuous Emission Monitoring Systems Used for Compliance Determination at Stationary Sources**

\* \* \* \* \*

4.1.5 Additional Quality Assurance for Data above Span. This procedure must be used when required by an applicable regulation and may be used when significant data above span are being collected. Furthermore, the terms of this procedure do not apply to the extent that alternate terms are otherwise specified in an applicable rule or permit.

4.1.5.1 Any time the average measured concentration of HCl exceeds 150 percent of the span value for two consecutive one-hour averages, conduct the following ‘above span’ CEMS response check.

\* \* \* \* \*

5.2.4.2 Calculate results as described in section 6.4. To determine CEMS accuracy, you must calculate the dynamic spiking error (DSE) for each of the two upscale audit gases using Equation A5 in appendix A to PS–18 and Equation 6–3 in section 6.4 of Procedure 6 in appendix B to this part.

\* \* \* \* \*

[FR Doc. 2017–20172 Filed 9–20–17; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 2 and 8**

[Docket No. USCG–2016–0880]

RIN 1625–AC35

**Adding the Polar Ship Certificate to the List of SOLAS Certificates and Certificates Issued by Recognized Classification Societies**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule adds the Polar Ship Certificate to a list of certificates that certain U.S. and foreign-flag ships will need to carry on board if they engage in international voyages in polar waters. This rule also enables the Coast Guard to authorize recognized classification societies to issue the Polar Ship Certificate on the Coast Guard’s behalf. We are taking this action because the International Convention for Safety of Life at Sea (SOLAS) has been amended to require certain ships operating in Arctic or Antarctic waters to have a Polar Ship Certificate. This rule will help ensure that U.S.-flagged ships that need this certificate—commercial cargo ships greater than 500 gross tonnage and passenger ships carrying more than 12 passengers, that operate in polar waters as defined by SOLAS chapter XIV while engaged in international voyages—will be able to obtain it in a timely manner.

**DATES:** This final rule is effective October 23, 2017.

**ADDRESSES:** To view comments and material submitted in response to our proposed rule, as well as documents mentioned in this final rule preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2016–0880 in the “SEARCH” box and click “SEARCH.” Then click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Lieutenant Chris Rabalais, Systems Engineering Division (CG–ENG–3), Coast Guard; telephone 202–372–1485, email [Christopher.P.Rabalais@uscg.mil](mailto:Christopher.P.Rabalais@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents for Preamble**

- I. Abbreviations
- II. Regulatory History
- III. Basis, Purpose, and Background
- IV. Discussion of Comments and Changes
- 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. Abbreviations

BLS Bureau of Labor Statistics  
 CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 E.O. Executive order  
 FR Federal Register  
 GT ITC Gross Tonnage International  
 Tonnage Convention  
 IMO International Maritime Organization  
 MARPOL International Convention for the  
 Prevention of Pollution from Ships, 1974  
 MEPC Marine Environment Protection  
 Committee  
 MOA Memorandum of Agreement  
 MSC Maritime Safety Committee  
 NAICS North American Industry  
 Classification System  
 OCMi Officer in Charge, Marine Inspection  
 OMB Office of Management and Budget  
 Polar Code International Code for Ships  
 Operating in Polar Waters  
 RA Regulatory Assessment  
 SBA Small Business Administration  
 SOLAS International Convention for the  
 Safety of Life at Sea  
 § Section  
 U.S.C. United States Code

## II. Regulatory History

Coast Guard regulations for inspecting and certificating vessels are located in subpart 2.01 of title 46 of the Code of Federal Regulations (46 CFR subpart 2.01). Section 2.01–6 in that subpart contains provisions for issuing certificates of compliance to foreign-flagged vessels. Section 2.01–25 identifies certificates required by the International Convention for Safety of Life at Sea (SOLAS) on certain vessels engaged in international voyages. This section also lists SOLAS certificates the Coast Guard issues to vessels that meet applicable SOLAS requirements.

Part 8 of 46 CFR contains Coast Guard regulations for vessel inspection alternatives. Specifically, 46 CFR 8.320 identifies international certificates that the Coast Guard may authorize recognized classification societies to issue on the Coast Guard's behalf.

On November 22, 2016, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (81 FR 83786) entitled, “Adding the Polar Ship Certificate to the List of SOLAS Certificates and Certificates Issued by Recognized Classification Societies.” That NPRM proposed to amend 46 CFR

2.01–6, 2.01–25, and 8.320. We received two written submissions in response to the NPRM.

## III. Basis, Purpose, and Background

In 2014 and 2015, the International Maritime Organization (IMO) adopted the International Code for Ships Operating in Polar Waters (Polar Code) and added its requirements to two existing IMO Conventions—SOLAS, and the International Convention for the Prevention of Pollution from Ships (MARPOL)—in consideration of hazards and conditions unique to polar waters, and an expected increase in traffic in Arctic and Antarctic waters. These additional hazards include navigation in ice and low temperatures, high-latitude communications and navigation, remoteness from response resources, and limited hydrographic charting. Copies of the IMO Maritime Safety Committee and Marine Environment Protection Committee resolutions discussed in this paragraph are available in the docket.

The Polar Code took effect on January 1, 2017, and applies to all vessels constructed on or after that date. Beginning on January 1, 2018, the Polar Code will also start applying to existing vessels, based upon the date their SOLAS Certificates were issued.

One of the requirements for ships subject to the Polar Code is to carry a Polar Ship Certificate pursuant to SOLAS. The Polar Ship Certificate attests that the vessel has met applicable requirements of SOLAS. As a signatory to this convention, under Article I of SOLAS, the United States has an obligation to ensure compliance with SOLAS requirements.

This rule creates a certificate that newly constructed U.S.-flagged vessels, certified in accordance with SOLAS chapter I, will need in order to travel internationally within polar waters, beginning January 1, 2017. Existing vessels will need the same certificate by their first intermediate or renewal survey after January 1, 2018. U.S.-flagged vessels that do not carry a Polar Ship Certificate risk detention, denial of entry, or expulsion from the polar waters of other States.

This rulemaking is necessary to allow the Coast Guard to create the new Polar Ship Certificate and add it to the list of certificates required by SOLAS in 46 CFR part 2. Also, this rule allows the Coast Guard to authorize recognized classification societies to issue the Polar Ship Certificate on the Coast Guard's behalf under 46 CFR 8.320.

Foreign-flagged vessels, certified in accordance with SOLAS chapter I and operating in polar waters, are also

required to carry the Polar Ship Certificate. However, their certificates will be issued by the vessel's flag state, or a person or an organization authorized by that flag state to issue the certificate. The Coast Guard will examine foreign-flagged vessels during Port State Control boardings to ensure that they are properly certificated.

The Coast Guard is authorized to regulate this subject matter under 33 U.S.C. 1231; 46 U.S.C. 2103, 3306, 3316, and 3703; Department of Homeland Security Delegation No. 0170.1, and Executive Order 12234, “Enforcement of the Convention for the Safety of Life at Sea” (45 FR 58801, Sept. 5, 1980).

## IV. Discussion of Comments and Changes

We received two written submissions commenting on the proposed rule published on November 22, 2016 (81 FR 83786). The comments raised concerns about four specific items, which we address in this section of the preamble.

### *Applicability of the SOLAS Polar Code Provisions to U.S.-Flagged Vessels on Domestic Voyages*

One of the comments noted concerns about wording in the proposed rule that limits requirements to vessels engaged in international voyages. On this point, the comment also cited a December 2016 Coast Guard Polar Code policy letter (CG–CVC Policy Letter Letter 16–06, available in the docket), which states that U.S.-flag vessels operating on domestic voyages to ports or places in the U.S. Arctic do not need to meet the provisions of SOLAS chapter XIV,<sup>1</sup> but must instead comply with applicable domestic requirements. The commenter concluded that this Coast Guard interpretation, reflected in the proposed rule, does not meet the intent of the IMO in implementation of the Polar Code.

We decline to expand the scope of the proposed rule. The proposed rule is consistent with our view that the SOLAS convention's authority is generally limited to vessels traveling internationally. Based on the intent of the SOLAS convention to ensure safe international shipping, and SOLAS certification as part of voluntary U.S. compliance programs, the United States will not require U.S.-flagged vessels operating on domestic routes through Arctic waters to obtain a Polar Ship Certificate.

<sup>1</sup> SOLAS chapter XIV implements Part I–A, safety provisions, of the Polar Code.

### *Applicability of the SOLAS Polar Code Provisions in Antarctica*

A commenter raised concerns about the lack of clarity regarding the applicability of the Polar Code in Antarctica, given that these waters are not under the jurisdiction of the United States or any other nation. The Polar Code applies to ships engaged in international voyages that are also operating in polar waters. Polar waters include both the Arctic and Antarctic waters. Therefore, a U.S.-flagged vessel that is certified in accordance with SOLAS chapter I and is on an international voyage must have a Polar Ship Certificate if it enters Antarctic waters.

### *Time Estimates for Issuance of a Polar Ship Certificate*

The same commenter also questioned our burden hour estimate for the time required by classification societies to issue the Polar Ship Certificate. The commenter said that the estimate did not include time required for technical approvals or verification of compliance with provisions of the Polar Code.

Cost estimates for verifications of compliance with the Polar Code were not included in the regulatory analysis because these hours are outside the scope of this rulemaking. This rulemaking addresses the issuance of a Polar Ship Certificate, not compliance with substantive safety and environmental provisions or surveys to evaluate compliance with those provisions.

In our NPRM we used an estimate of 40 hours, which we obtained from a classification society and which includes administrative review, stamping the documents, and data input. The commenter, who also represents a classification society, gives a minimum time of 8 to 12 hours for these tasks. We have retained the more conservative 40-hour estimate.

The other hours the commenter discusses, 120 to 230 hours to complete approval work for new construction, risk assessments, and surveys, represent compliance aspects of the safety and environmental provisions of the Polar Code. Again, these compliance aspects are beyond the scope of this rulemaking.

### *Entry into Force of the SOLAS Polar Code Requirement for Certification*

One commenter stated that the language we used in the NPRM implied that all U.S.-flagged vessels subject to the Polar Code will be required to carry a Polar Ship Certificate by January 1, 2017.

The January 1, 2017 date applies to vessels built on or after that date.

Vessels built before that date need not comply until after January 1, 2018. Implementation for existing vessels is based on the first renewal or intermediate survey conducted after January 1, 2018. (See SOLAS chapter XIV, Reg. 2.2.) For the purposes of the Polar Code, the Cargo Ship Safety Construction or Passenger Ship Safety Certificate is typically the survey used to determine the implementation date for vessels built before January 1, 2017.

We have made no changes from the proposed regulatory text. The regulatory text in this final rule is the same as we proposed in the NPRM.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on 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 costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this final rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled *Guidance Implementing Executive Order 13771, Titled “Reducing Regulation and Controlling Regulatory Costs”* (April 5, 2017).

Our regulatory analysis (RA) follows. We only received one comment on our estimates in the regulatory analysis of the proposed rule. That comment

related to the number of hours used for the creation and issuance of the certificate. However, the commenter also mentioned some hour burdens that are not associated with the creation, review, and issuance of the Polar Ship certificate, and are beyond the scope of this rulemaking.

In preamble section IV, Discussion of Comments and Changes, we discuss this public comment regarding our estimate of the time it takes a recognized classification society to create a polar certificate—which includes reviewing, printing, stamping of the documents, and data input—and explain why we retained a more conservative estimate used in the NPRM as our primary estimate based on industry input. And as reflected in that discussion, we adopt the costs and benefits in the regulatory analysis of the proposed rule for this final rule.

This final rule adds a new Polar Ship Certificate to the list of existing SOLAS certificates that SOLAS requires to be carried on board all U.S. and foreign-flagged vessels above 500 GT ITC (the International Convention on Tonnage Measurement of Ships 1969 or gross tonnage assigned under this system)<sup>2</sup> or passenger ships carrying more than 12 passengers on international voyages operating in polar waters, generally above 60 degrees north latitude and below 60 degrees south latitude lines. The IMO adopted the Polar Code in 2014 and 2015 to acknowledge that polar waters impose additional operating demands and risks.<sup>3</sup> The United States is signatory to the SOLAS convention and has an obligation to ensure that all U.S.-flagged vessels certified in accordance with SOLAS chapter I that engage on international voyages carry a Polar Ship Certificate when operating in polar waters. Owners and operators of foreign-flagged vessels subject to SOLAS will have their Polar Ship Certificates issued by the ship's flag state or a person or an organization authorized by that flag state to issue the certificate.

This rule amends 46 CFR part 2, “Vessel Inspections,” subpart 2.01, “Inspecting and Certifying of Vessels.” Specifically, we are adding the Polar Ship Certificate to § 2.01–6, “Certificates issued to foreign vessels,” and § 2.01–25, “International Convention for Safety of Life at Sea.”

<sup>2</sup> This 500 GT ITC threshold comes from an exception in SOLAS Chapter 1 for ships that need to be certified in accordance with that chapter. Regulation 3 of Chapter I has an exception for cargo ships of less than 500 GT ITC.

<sup>3</sup> See Resolution MSC.385(94) and paragraph 7 of the Polar Code preamble in MSC.385(94)'s appendix. This resolution is available in the docket.

This rule also amends 46 CFR part 8, “Vessel Inspection Alternatives,” subpart C, “International Convention Certificate Issuance,” § 8.320, “Classification Society Authorization to Issue International Certificates,” at paragraph (b) to include the Polar Ship Certificate as one of the certificates that the Coast Guard may authorize a recognized classification society to issue on behalf of the Coast Guard.

#### Affected Population

Since the Coast Guard published the NPRM, two vessels in our original population of 41 have been re-flagged and are no longer U.S.-flagged vessels, and one vessel is no longer in service. In addition, this rule does not apply to domestic vessels that operate in polar waters if these vessels do not engage in international voyages. This was not distinguished in the analysis for the NPRM. Based on this factor and further analysis, the population of affected vessels is now estimated to be 23. This is the number of U.S.-flagged vessels that make international voyages in polar waters, which are generally above and below the 60 degree north and 60 degree south latitudes lines, respectively, over the past 5 years. This estimate is based on Coast Guard field data and Coast Guard databases such as the Marine Information for Safety and Law Enforcement, the Ship Arrival Notification System, and data from the Navigation Data Center.

Of the 23 U.S.-flagged vessels that have transited polar waters during the 5-year period, some entered polar waters in the first year and not the following year, but returned in subsequent years. The opposite is also true; some vessels that did not transit polar waters in the first year of the data period did so in the following years of the data period.

Recognized classification societies granted authority from the Coast Guard under provisions of 46 CFR 8.320(a) will issue the Polar Ship Certificate on behalf of the Coast Guard for U.S.-flagged vessels that are classed. Although multiple classification societies could request authorization to issue the Polar Ship Certificate on behalf of the Coast Guard, for the purpose of this analysis, the Coast Guard assumes that only one classification society will do so for the small number of classed U.S.-flagged vessels.

#### Cost Analysis

##### Classification Societies Cost

This rule amends 46 CFR 8.320(b) to enable recognized classification societies to request authorization under

§ 8.240(b), to issue the Polar Ship Certificate on behalf of the Coast Guard. As reflected in 46 CFR 2.01–25, vessels that are not classed can apply to the local Coast Guard Officer in Charge, Marine Inspection (OCMI) to request the Coast Guard to issue the Polar Ship Certificate.

There are two cost elements associated with a classification society issuing a Polar Ship Certificate: The cost to review and return a signed copy of the Memorandum of Agreement (MOA) between the recognized classification society and the Coast Guard, and the cost to create the certificate once the MOA is approved by each party. As stated in 46 CFR 8.320(c), the Coast Guard will enter into an agreement with the classification society to issue international convention certificates such as the Polar Ship Certificate. In this situation, the MOA represents a delegation letter and is a standard document that allows a recognized classification society to issue the Polar Ship Certificate on behalf of the Coast Guard.

Based on Coast Guard data from the Office of Design and Engineering Standards, we estimate it will take a recognized classification society’s classification and documentation specialist 1 hour to review the MOA. There is no equivalent labor category in the Bureau of Labor Statistics’ (BLS) Occupational Employment Statistics National Industry-Specific Occupational Employment and Wage Estimates for May 2016, so we used the “Business Operations Specialist, All Other” (Occupation Code 13–1199) category for Water Transportation with a North American Industry Classification System (NAICS) Code of 483000 as a representative occupation. The mean hourly wage rate for this occupation is \$37.55. Because this is an unloaded hourly wage rate, we added a load factor to obtain a loaded hourly wage rate. We used BLS’ May 2016 Employer Cost for Employee Compensation databases to calculate and apply a load factor of 1.52 to obtain a loaded hourly labor rate of about \$57.08 for this occupation.<sup>4</sup> We

<sup>4</sup> Information can be viewed at [https://www.bls.gov/oes/2016/may/naics3\\_483000.htm](https://www.bls.gov/oes/2016/may/naics3_483000.htm). Once on this page scroll down to review the wage rate for 13–1199 Business Operations Specialists, All Other, with a mean hourly wage of \$37.55. Please see <https://www.bls.gov/oes/2016/may/oes231011.htm>, for the mean hourly wage rate for a lawyer. A loaded labor rate is what a company pays per hour to employ a person, not the hourly wage. The loaded labor rate includes the cost of benefits (health insurance, vacation, etc.). The load factor for wages is calculated by dividing total compensation by wages and salaries. For this analysis, we used BLS’ Employer Cost for Employee Compensation/Transportation and Materials Moving Occupations, Private Industry Report

also estimate it will take a recognized classification society attorney 1 hour to review the MOA for legal sufficiency. Using the BLS’ Occupational Employment Statistics National Occupational Employment and Wage Estimates for May 2016, we used the category “Lawyers” (Occupation Code 23–1011). The mean hourly wage for this occupation is \$67.25. Because this is an unloaded hourly wage rate, we apply the same load factor of 1.52 as derived above to obtain a loaded hourly wage rate of about \$102.22.

We estimate the one-time cost for the classification society to review the MOA to be about \$162.30, undiscounted. This cost includes a \$3 postage cost to mail the signed MOA to the Coast Guard for approval and signature [(\$57.08 × 1 hour) + (\$102.22 × 1 hour) + \$3 for postage].

Based on a recognized classification society estimate, it will take approximately 40 hours to create and review the Polar Ship Certificate once the MOA is approved. We received a lower estimate of 8-to-12 hours from a commenter for work related to this task, but we are maintaining our more conservative 40-hour estimate we obtained from an industry source to specifically address hours needed to create and review the Polar Ship Certificate once the MOA is approved. As with the MOA, a classification and documentation specialist would create the certificate. We again used the “Business Operations Specialist, All Other” as a representative occupation. We estimate the one-time labor cost for a documentation specialist to create the certificate to be about \$2,283.20 (40 hours<sup>5</sup> × \$57.08/hour), undiscounted. Because the certificate is presented to a vessel owner or operator during the normal course of a vessel survey, we did not estimate a cost for this action.

We estimate the total undiscounted cost of the rule to a recognized classification society to be about \$2,445.50 (\$2,283.20 document development cost + \$162.30 MOA review cost). See Table 1.

(Series IDs, CMU2010000520000D and CMU2020000520000D for all workers using the multi-screen data search). Using 2016 Q4 data for the cost of compensation and cost per hour worked, we divide the total compensation amount of \$28.15 by the wage and salary amount of \$18.53 to obtain the load factor of about 1.52, rounded. See the following Web sites, <https://beta.bls.gov/dataQuery/find?fq=survey:oe&s=popularity:D> and <https://data.bls.gov/cgi-bin/dsrv?cm> Multiplying 1.52 by \$37.55, we obtain a loaded hourly wage rate of about \$57.08.

<sup>5</sup> Based on an estimate provided by a recognized classification society to the U.S. Coast Guard.

## Vessel Cost

There are two cost elements associated with vessel owners and operators: The fee a recognized classification society will charge a vessel owner or operator for issuing the certificate for U.S.-classed vessels only, and the cost associated with a crewmember posting the certificate onboard a vessel. Based on Coast Guard vessel data, approximately 22 percent, or about 5 out of the 23 U.S.-flagged vessels, are not classed by a recognized classification society.

The requirement for the 23 existing ships is to have the certificate by their first renewal or intermediate exam after January 1, 2018. This is a phased-in approach that will likely phase in the issuing of the certificates over a period of about 3 years. Therefore, the Coast Guard would issue the Polar Ship Certificate to vessel owners and operators of those 5 unclassified vessels as part of its routine inspection regime. A recognized classification society will issue the Polar Ship Certificate to the remaining 18 vessel owners and operators in the first, second, third, sixth, seventh, and eighth year of the analysis period.

The Polar Ship Certificate is valid for a 5-year period and, after this time, the recognized classification society and the Coast Guard will issue a new Polar Ship Certificate to vessel owners and operators, depending upon whether a vessel is classed or not classed. Based on information from a recognized classification society, the cost to issue a Polar Ship Certificate is \$100 if a recognized classification society issues the certificate (for 18 classed, U.S.-flagged vessels). The cost of the reissued

Polar Ship Certificate is also \$100; therefore, it will cost each U.S.-classed vessel owner and operator \$100 after 5 years to renew the certificate, or in the sixth, seventh, and eighth year of the analysis period. We assume a 3-year phase-in period for owners and operators to obtain the certificates. For the purpose of this analysis, we assume 7 U.S.-flagged vessels owners and operators (6 classed and 1 unclassified) will obtain a certificate in the first year and 8 (6 classed and 2 unclassified) U.S.-flagged vessel owners and operators will obtain one in the second and third years. For reissuance, again, we assume the same 7 vessel owners and operators will obtain a certificate in the sixth year and the same 8 vessel owners and operators will obtain one in the seventh and eighth years each; we divided the population accordingly to obtain even values.

Vessel owners and operators will be required to post the certificate in a conspicuous area onboard the vessel with other applicable operating certificates. Based on the Office of Management and Budget's (OMB) approved collection of information entitled "Various International Agreement Safety Certificates," (OMB control number 1625-0017), a crewmember equivalent to a U.S. Coast Guard cadet will post the Polar Ship Certificate on board a vessel. Using the Coast Guard's Commandant Instruction 7310.1R for loaded hourly wages outside of the Government, the hourly wage rate of a person outside of the Government equivalent to a cadet is \$29.00. We estimate it takes a crewmember about 6 minutes, or 0.1 hours, to post the Polar Ship Certificate

at a labor cost of about \$2.90 per vessel (\$29.00 × 0.1 hours). To post the Polar Ship Certificate, we estimate the total initial cost of the final rule to 7 U.S.-flagged vessel owners and operators to be about \$20.30 (6 U.S. classed and 1 unclassified vessel × 0.1 hours × \$29.00), regardless of whether a recognized classification society or the Coast Guard issues the Polar Ship Certificate. Owners and operators of U.S.-flagged vessels will incur this cost again in the sixth year because a crewmember will review and post the reissued certificate for the same seven vessels.

We estimate the initial cost of the rule to vessel owners and operators to be about \$620.30 in the first year [(6 classed vessels × \$100) + (6 classed vessels × \$2.90 to post the certificate) + 1 unclassified vessel × \$2.90 to post the certificate)].<sup>6</sup> The cost for the renewed certificate in the sixth year (or 5 years after the initial year) will also be \$620.30 for these seven vessels. In the second, third, seventh, and eighth years, we estimate the cost for eight U.S.-flagged vessel owners and operators to obtain and post a Polar Ship Certificate to be about \$623.20 [(6 classed vessels × \$100) + (6 classed vessels × \$2.90 to post the certificate) + (2 unclassified vessels in each of these years × \$2.90 each year to post the certificate)]. See Table 1.

We estimate the total 10-year undiscounted cost to be \$3,733.40 for all 23 U.S.-flagged vessel owners and operators (\$620.30 in the first and sixth year + \$623.20 in the second, third, seventh, and eighth years of the analysis period). Table 1 shows the cost to both class society and vessel owners and operators for this rule.

TABLE 1—SUMMARY OF CLASSIFICATION SOCIETY AND VESSEL OWNERS AND OPERATORS COSTS  
[Undiscounted]

Cost item	Unit cost	Labor rate	Hours	Total cost
Classification Society Certificate Creation.	.....	\$57.08 .....	40	\$2,283.20 (incurred in year 1).
Classification Society Review of MOA.	.....	\$102.22 (Attorney) .....	1	\$162.30 (incurred in year 1 and includes \$3 postage).
		\$57.08 (Business Operations Specialist).	1	
Certificate Fee Charged to Vessel Owners and Operators.	\$100	.....	.....	\$600 (incurred in years 1 through 3 and 6 through 8); \$1,800 for 18 classed vessels in years 1 through 3 and 6 through 8.
Vessel Crewmember Reviews and Posts Certificate.	.....	\$27 .....	0.1	\$2.90 (incurred in years 1 through 3 and 6 through 8); \$20.30 in years 1 and 6 and \$23.20 in years 2, 3, 7, and 8.

<sup>6</sup> Vessel owners and operators for ships built on or after January 1, 2017, have been required to carry the Polar Ship Certificate before engaging in

international voyages in polar waters. We have not identified any vessels that would be affected by this rule that were built after this date and we do not

have data to project how many newly built vessels will be affected or required to carry a Polar Ship Certificate in the future.

TABLE 1—SUMMARY OF CLASSIFICATION SOCIETY AND VESSEL OWNERS AND OPERATORS COSTS—Continued  
[Undiscounted]

Cost item	Unit cost	Labor rate	Hours	Total cost
Total Undiscounted Cost (Initial year).	.....	.....	.....	\$3,065.80

We estimate the initial undiscounted cost of the final rule to a recognized classification society and to 7 (6 classed and 1 unclassified vessels) U.S.-flagged vessel owners and operators to be about \$3,065.80 (\$2,283.20 for the classification society to create the certificate + \$162.30 for the classification society to review the MOA + \$600 fee charged by a classification

society to issue the certificate to the 6 classed vessel owners and operators + \$20.30 for crewmembers of the seven classed and unclassified vessels to post the certificate). We estimate the total 10-year undiscounted cost of the rule to industry to be about \$6,178.90 (\$3,065.80 in the first year + \$623.20 in the second, third, seventh, and, eighth

years + \$620.30 in the sixth year). See Table 2.

We estimate the 10-year present value—or discounted cost—of the rule to industry to be between \$5,082.42 and \$5,652.42 at 7- and 3-percent discount rates, respectively. We estimate the annualized cost to be between \$723.62 and \$662.64 at 7- and 3- percent discount rates, respectively. See Table 2.

TABLE 2—TOTAL COSTS OF THE RULE TO INDUSTRY  
[10-Year period of analysis, 7 and 3 percent discount rates, 2017 dollars]

Period	Cost (undiscounted)	7%	3%
1 .....	\$3,065.80	\$2,865.23	\$2,976.50
2 .....	623.20	544.33	587.43
3 .....	623.20	508.72	570.32
4 .....	.....	.....	.....
5 .....	.....	.....	.....
6 .....	620.30	413.33	519.49
7 .....	623.20	388.10	506.72
8 .....	623.20	362.71	491.96
9 .....	.....	.....	.....
10 .....	.....	.....	.....
Total .....	6178.90	5,082.42	5,652.42
Annualized .....	.....	723.62	662.64

**Note:** Totals may not sum due to independent rounding.

#### Government Costs

There are three cost elements associated with this rule for the Coast Guard: (1) A one-time cost of creating the Polar Ship Certificate and issuing it (in the initial year, second, third, sixth, seventh, and eighth years) to a vessel owner or operator if a vessel is not classed by a class society; (2) reviewing the certificate onboard a vessel as part of the Coast Guard's routine inspection regime; and (3) a one-time cost of creating and sending the delegation letter or MOA to a classification society for signature.

For the 5 U.S.-flagged vessels that are not classed by a recognized classification society, the Coast Guard will issue the Polar Ship Certificate in the first through the third years and the sixth through the eighth years. Because of the phase-in period, we divided the 5 vessels evenly over 3 years. We determined that 1 vessel will receive its certificate in the first and sixth years, and 2 vessels will receive it in the second, third, seventh, and eighth year,

with certificate reissuance occurring during the sixth, seventh, and eighth years. The two vessels in the second and third years are the same two vessels in the seventh and eighth years.

Based on information from the Coast Guard's Office of Vessel Compliance, we estimate it takes Coast Guard personnel with the average equivalence of a GS-15 about 40 hours to create and review a Polar Ship Certificate. Using the Commandant Instruction 7310.1R, we used an average loaded hourly wage rate of \$116.00. We estimate the one-time cost for the Coast Guard to create the Polar Ship Certificate to be about \$4,640.00 (40 hours × \$116.00 hour).

Based on an OMB-approved collection of information (Control Number 1625-0017), we estimate it takes a Coast Guard Officer the Officer in Charge Marine Inspection (OCMI), or more specifically, a Lieutenant with the rank of an O-3, about 30 minutes, or 0.5 hours per vessel, to review the Polar Ship Certificate for validity and correctness (the Coast Guard issues and reviews the certificate at the same time

during its normal inspection regime). Using the Coast Guard's Commandant Instruction 7310.1R for loaded hourly wages, an O-3 has a loaded hourly wage rate of \$79.00. Therefore, we estimate the total undiscounted cost to the Government to review the Polar Ship Certificate for all 23 affected vessels to be about \$908.50 (\$79.00 × 23 vessels × 0.5 hours), or about \$39.50 per vessel.

We use the same methodology noted earlier in this preamble with owners and operators obtaining certificates over a 3-year period (7 in the first and sixth year and 8 in the second, third, seventh and eighth year), with the sixth, seventh and eighth years being the renewal years. Again, 7 inspections (6 classed and 1 unclassified) will take place in the first and sixth year, and 8 (6 classed and 2 unclassified) in the second, third, seventh, and eighth year. We estimate the first year cost to the Government to review the certificate will be about \$276.50 (6 classed and 1 unclassified vessels × \$39.50). The Government will incur this cost again in the sixth year when the certificate is reissued. In years

two, three, seven, and eight, the Government will incur a certificate review cost of about \$316.00 (6 classed and 2 unclassified vessels × \$39.50) in each of these years.

The Coast Guard will also examine the certificates of foreign-flagged vessels that enter U.S. ports in polar waters as part of its routine Port State Control vessel boardings. This will take place during routine Coast Guard examinations and for issuing certificates of compliance and is a part of the inspection process. Therefore, we do not estimate a cost to the Government.

This final rule will also enable a recognized classification society to issue the Polar Ship Certificate on behalf of the Coast Guard. As a result, the Coast Guard and a recognized classification society will enter into an MOA that delegates authority to the classification society. This sets forth guidelines for cooperation between the Coast Guard

and a classification society with respect to initial and subsequent inspections for certifications and periodic re-inspections or examinations of vessels of the United States, as defined by 46 U.S.C. 116.

Based on information from the Coast Guard’s Office of Design and Engineering Standards, Coast Guard personnel with the average equivalence of a GS-15 will prepare the MOA for delivery to a classification society. Again, we used an average loaded hourly labor rate of \$116.00 for a GS-15. We estimate it will take Government personnel about 6.25 hours to prepare and review the MOA. We estimate it will cost about \$3 in postage for the Government to send the MOA to the classification society.

We estimate the total cost incurred by the Government for the MOA to be about \$725.00 plus \$3 for postage, or a total cost of \$728.00, undiscounted (6.25

hours × \$116.00 for the loaded labor rate).

We estimate the total initial cost to the Government to be about \$5,644.50 (\$4,640 to create and review the certificate, \$276.50 to review the certificates for 6 classed and 1 unclassified U.S.-flagged vessels, and \$728.00 for the MOA). We estimate the total 10-year undiscounted cost to the Government to be about \$7,185.00 (\$5,644.50 in the initial year + \$316.00 in the second, third, seventh and eighth years + \$276.50 in the sixth year). We estimate the 10-year present value, or discounted cost of the rule to the Government, to be between \$6,374.14 and \$6,805.10, using 7- and 3- percent discount rates, respectively. We estimate the annualized cost to be between \$907.53 and \$797.76, using 7- and 3-percent discount rates, respectively. See Table 3.

TABLE 3—TOTAL COSTS OF THE RULE TO THE GOVERNMENT  
[10-Year period of analysis, 7 and 3 percent discount rates, 2017 dollars]

Period	Cost (undiscounted)	7%	3%
1 .....	\$5644.50	\$5,275.23	\$5,480.10
2 .....	316.00	276.01	297.86
3 .....	316.00	257.95	289.18
4 .....			
5 .....			
6 .....	276.50	184.24	231.56
7 .....	316.00	196.79	256.94
8 .....	316.00	183.91	249.45
9 .....			
10 .....			
Total .....	7,185.00	6,374.14	6,805.10
Annualized .....		907.53	797.76

Note: Totals may not sum due to independent rounding.

Total Cost of the Rule to Industry and Government

We estimate the total 10-year combined undiscounted cost of the rule

to industry and the Government to be about \$13,364. We estimate the 10-year present value, or discounted cost of the rule to industry and the Government, to be between \$11,457 and \$12,458 at 7-

and 3-percent discount rates, respectively. We estimate the annualized cost to be between \$1,631 and \$1,460 using the same discount rates. See Table 4.

TABLE 4—SUMMARY OF COSTS OF THE RULE TO INDUSTRY AND GOVERNMENT  
[10-Year period of analysis, 2017 dollars]

Type of cost	Industry	Government	Total cost	Annualized
Undiscounted .....	\$6,178.90	\$7,185.00	\$13,363.90	.....
7% .....	5,082.42	6,374.14	11,456.55	1,631.16
3% .....	5,652.42	6,805.10	12,457.51	1,460.40

Benefits

The primary benefit of this rule is to ensure that vessel owners and operators have a valid Polar Ship Certificate on board the vessel. Without a Polar Ship Certificate, a vessel will be subject to deficiencies, detention, denial of entry,

or expulsion from the polar waters of other port States. Adherence to SOLAS will ensure vessels are capable of operating in the hazards and adverse weather conditions unique to polar waters.

Alternatives

When creating this rule, the Coast Guard considered several alternatives. The previous analysis represents the preferred alternative, which will help ensure that the United States fulfills its treaty obligations under SOLAS

regarding the Polar Ship Certificate, and that U.S.-flagged vessel owners and operators that operate vessels in polar waters will be able to obtain Polar Ship Certificates and thus operate more efficiently by avoiding the risk of potential negative actions against their vessel by foreign countries (such as, detentions, deficiencies, denial of entry, or expulsions) if their vessel does not have a Polar Ship Certificate on board.

#### Alternative 1: Preferred Alternative

The analysis for this alternative appears in this, “Regulatory Analysis,” section of this preamble.

#### Alternative 2: No Action Alternative

In this alternative, the United States would take no action to issue a Polar Ship Certificate. None of the costs itemized in the preferred alternative would be incurred, as a result. However, with this alternative, the United States would not be compliant with its international legal obligations as a signatory Government to the SOLAS Convention. Additionally, the lack of appropriate certifications would likely negatively impact U.S.-flagged vessels on international voyages in polar waters of other port States. U.S.-flagged vessels could potentially be subject to deficiencies, detentions, denial of entry, or expulsion from the polar waters of other port states due to the lack of proper certificates.

Because the United States would not meet its international treaty obligations in this alternative, the Coast Guard rejects this alternative.

#### Alternative 3: Large Scale Regulatory Implementation of the Polar Code

In this alternative, the Coast Guard would implement the entire Polar Code in one regulatory effort. This would create or modify regulations throughout 46 and 33 CFR. The affected vessels, operators, and the Government will also incur the costs and impacts of the implementation of the entire Polar Code from a single regulatory effort.

The Coast Guard rejected this alternative because it would

considerably delay the issuance of the certificate beyond the January 1, 2017 effective date of the Polar Code. As stated previously, U.S.-flagged vessels could potentially be subject to deficiencies, detentions, denial of entry, or expulsion from the polar waters of other port states due to the lack of proper certificates.

By moving forward with Alternative 1, U.S.-flagged vessel owners and operators will be able to obtain a Polar Ship Certificate much sooner and thus operate more efficiently in polar waters of foreign nations by avoiding adverse consequences from not having the certificate on board.

#### B. Small Entities

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, we have 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. In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Coast Guard prepared this threshold analysis that examines the impacts of the rule on small entities.

Based on our analysis of the entities affected by this rule, all of the 23 affected U.S.-flagged vessels are owned by U.S. entities. To determine which entities are small, we compiled the data used in this analysis from publicly available and proprietary sources such as Manta, ReferenceUSAGov, and Cortera, and from the affected entities’ Web sites. We used available owner’s business information to identify the entities’ primary line of business as coded by the NAICS to find employee and revenue size information. We used this information to determine whether we should consider a business “small” by comparing it to the Small Business Administration’s (SBA) “Table of Small

Business Size Standards Matched to North American Industry Classification System Codes.” In some cases, SBA classifies businesses on a standard either based on the number of employees or annual revenues.<sup>7</sup> We found that no small government jurisdictions or non-profits own any of the U.S.-flagged vessels affected by this rule.

We found that 12 companies own the 23 vessels that will be affected by this final rule. Of the 12 different companies, we found only one to be a small entity, or about 8 percent, based on SBA’s table of small business size standards. The one small entity that we found has a primary NAICS code of 483111, or “Deep Sea Freight Transportation.”

We estimate the initial cost to each classed vessel owner and operator (small and not small) to be about \$102.90 [\$600/6 classed U.S.-flagged vessel owners and operators that have their vessels classed by a class society + \$17.40 (6 classed vessels × \$2.90)/6 (cost for crewmembers of 6 classed U.S.-flagged vessel owners and operators to post the certificate divided by the number of U.S.-classed vessel owners and operators. Again, in the sixth year, these 6 classed U.S.-flagged vessel owners and operators will incur this cost)]. In the second and third years, the remaining 12 (6 each year) classed U.S.-flagged vessel owners and operators will incur this same cost, and again in the renewal years of seven and eight. The 5 U.S.-flagged vessel owners who own unclassified vessels will only incur a cost of \$2.90 per vessel in the each of the years described above. These vessel owners and operators will incur the same cost in the first (one vessel) through third years (two vessels in the second and third year each) and sixth (the same vessel as in the first year) through eighth years (the same two vessels as in the second and third year in the seventh and eighth year each) of the analysis period. See Table 5.

TABLE 5—SUMMARY OF COSTS PER VESSEL THROUGHOUT THE 10-YEAR PERIOD OF ANALYSIS

Period	Classed U.S.-flagged Vessels	Unclassed U.S.-flagged Vessels
Initial and Sixth Year .....	6 .....	1.
Years 2, 3, 7, and 8 .....	6 (each year) .....	2 (each year).
Cost .....	\$102.90 (each year per vessel) .....	\$2.90 (each year per vessel).

**Note:** As described in the text, years six, seven, and eight are renewal years. The one unclassified U.S.-flagged vessel that received a certificate in the first year is the same vessel in the sixth year. The two unclassified U.S.-flagged vessels that receive a certificate in years two and three are the same ones in years seven and eight. The same rationale applies to classed U.S.-flagged vessels.

<sup>7</sup> Readers can access small entity information online at <http://www.sba.gov/size/indexableofsize.html>.



Based on the databases that we searched, the only small entity that we found in our analysis did not have revenue information, but had employee information. This vessel owned by the small entity is a classed vessel, which means the owner of this vessel will incur a cost of \$102.90 in the initial year and again in the sixth year of the analysis period when the reissuance of the certificate takes place. We believe the estimated impact on the affected entity is not a significant economic impact.

Based on the preceding analysis and noting that the NPRM received no public comments suggesting this rule would be a significant economic impact on small entities, 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, Public Law 104–121, we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this rule. 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 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).

#### D. Collection of Information

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires that the Coast Guard consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act, an agency may not collect or sponsor the collection of information, nor may it impose an

information collection requirement unless it displays a currently valid OMB control number.

This action amends the existing information collection requirements that were previously approved under OMB Control Number 1625–0017.

As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

The summary of revised 1625–0017 collection follows:

*Title:* Various International Agreement Safety Certificates.

*OMB Control Number:* 1625–0017.

*Summary of the Collection of Information:* These Coast Guard-issued certificates are used as evidence of compliance with SOLAS by certain U.S.-flagged vessels on international voyages. Without the proper certificates or documents, a U.S. vessel could be detained in a foreign port. SOLAS applies to all mechanically propelled cargo and tank vessels of 500 or more GT ITC, and to all mechanically propelled passenger vessels carrying more than 12 passengers that engage in international voyages. By IMO's definition, an “international voyage” means a voyage from a country to which the Convention applies to a port outside the country, or vice versa.

SOLAS currently requires one or more of the following certificates to be carried on onboard certain passenger and cargo ships engaged in international voyages (46 CFR 2.01–25):

- (1) Passenger Ship Safety Certificate and Record.
- (2) Cargo Ship Safety Construction Certificate.
- (3) Cargo Ship Safety Equipment Certificate and Record.
- (4) Cargo Ship Safety Radio Certificate (issued by Federal Communications Commission (FCC)).
- (5) Nuclear Passenger Ship Safety Certificate.
- (6) Nuclear Cargo Ship Safety Certificate.
- (7) Safety Management Certificate.
- (8) International Ship Security Certificate.
- (9) High-Speed Craft Safety Certificate.

The Coast Guard is adding the Polar Ship Certificate to the list of certificates that it can issue.

*Need for Information:* In 2014 and 2015, in resolutions MSC.385(94) and MEPC.264(68), IMO adopted the Polar Code. The Polar Code raises the safety standards for commercial ships operating in or transiting through polar waters, both Arctic and Antarctic, and enhances environmental protection for polar waters that include coastal communities in the U.S. Arctic. As a signatory to SOLAS, the United States has a treaty obligation to ensure compliance with SOLAS requirements.

All mechanically propelled passenger vessels carrying more than 12 passengers that engage in international voyages and all mechanically propelled cargo vessels of more than 500 GT ITC that engage in international voyages and operate within polar waters as defined by the Polar Code will be required to have the Polar Ship Certificate. The Polar Ship Certificate is valid for 5 years.

The purpose of this rulemaking is to ensure that U.S. marine inspectors can issue certificates required by SOLAS Polar Code provisions and that these certificates are being carried on all covered vessels. Additionally, this rulemaking will add the Polar Ship Certificate to the list of certificates that classification societies can issue on behalf of the Coast Guard in consideration of hazards and conditions unique to polar waters and a potential increase in traffic in Arctic and Antarctic waters. These additional hazards include navigation in ice and low temperatures, high latitude communications and navigation, remoteness from response resources, and limited hydrographic charting.

We calculate the hour burden on an annual basis to review and post the Polar Ship Certificate, which takes into account the reissuance of the certificate every fifth year. The estimated burden is 1/10 of an hour or 6 minutes. About 5 vessels (23 total vessels/5 years) annually equates to 30 minutes or 0.5 hours for the hour burden. Equivalently, 7 classed and unclassified U.S.-flagged vessels (6 classed and 1 unclassified) × 6 minutes in the first and sixth years + 8 classed and unclassified U.S.-flagged vessels (6 classed and 2 unclassified) × 6 minutes in the second, third, seventh and eighth year for a total of 276 minutes divided by 46 vessels (7 in the first and sixth years and 8 in the second, third, seventh, and eighth year of the analysis period). Because vessel owners and operators will have 3 years to obtain a certificate, we divided the population essentially into thirds, with 7 in the first and sixth years and 8 in the second, third, and seventh and eighth years.

*Proposed Use of Information:* The Polar Ship Certificate attests that the vessel has met applicable requirements of SOLAS to the satisfaction of the U.S. Government. Without the certificate, U.S.-flagged vessels could be detained in foreign ports as being unsafe.

*Description of the Respondents:* Respondents are the owner, agent, Master, operator, or person in charge of a U.S.-flagged vessel that transits in polar waters while engaged in an international voyage.

*Number of Respondents:* The existing OMB-approved number of respondents is 413. This rule will not change the number of respondents because the vessel population that will be affected is a subset of the existing number of respondents; this rule is not adding new respondents to this collection.

*Frequency of Response:* The existing OMB-approved number of responses is 912. This rule will increase the number of responses by about 8 annually (23 vessels/3-year renewal period) to 920.

*Burden of Response:* The existing OMB-approved burden of response is 6 minutes, or 0.1 hours, or the time it takes for a crewmember of a vessel to post the Polar Ship Certificate onboard the vessel.

*Estimate of Total Annual Burden:* The existing OMB-approved total annual burden is 94.4 hours. Due to rounding, this rule will increase the burden hours annually by one hour. The estimated total annual burden will be 95 hours annually.

As required by 44 U.S.C. 3507(d), we will submit a copy of this rule to OMB for its review of the collection of information.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard can enforce the collection of information requirements in this rule, OMB will have to approve the Coast Guard's request to collect this information.

#### *E. Federalism*

A rule has implications for federalism under Executive Order 13132 ("Federalism") if it has a substantial direct effect on 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 Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that Coast Guard regulations regarding vessel design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning issued under the authority of 46 U.S.C. 3306, 3703, 7101, and 8101 are within fields foreclosed from regulation by the States. See *United States v. Locke*, 529 U.S. 89, 90 (2000) (stating "Congress has left no room for state regulation of these matters."). This rule adds the Polar Ship Certificate to the list of certificates required, if applicable, by SOLAS. Also, this rule adds this certificate to the list of SOLAS certificates that the Coast Guard may authorize recognized classification societies to issue on behalf of the Coast Guard. The issuance of international certificates is within the sole purview of the Coast Guard to regulate pursuant to 46 U.S.C. 3306, 3703, 7101, and 8101; 33 U.S.C. 1230 and 1231, Executive Order 12234; and the principles discussed in *Locke*. Thus, the regulations are consistent with the principles for federalism and preemption requirements in Executive Order 13132.

#### *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 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 analyzed this rule under Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks"). This rule is not an economically significant rule and

will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### *J. Indian Tribal Governments*

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

#### *K. Energy Effects*

We have analyzed this rule under Executive Order 13211 ("Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"). We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *L. Technical Standards*

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards will be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *M. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D (COMDTINST M16475.1D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration

supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble.

This rule involves: (1) Adding a Polar Ship Certificate to the list of certificates required, if applicable, by SOLAS; and (2) adding the Polar Ship Certificate to the list of SOLAS certificates that the Coast Guard is allowed to authorize recognized classification societies to issue on behalf of the Coast Guard. This action constitutes editorial or procedural changes concerning vessel documentation requirements (that is, issuance of Polar Ship Certificates) and the delegation of authority for issuing such certificates. Thus, as reflected in the Record of Environmental Consideration, this rule is categorically excluded under chapter 2, Section B, Paragraph 2 Categorical Exclusions (CEs) and Figure 2–1 (Coast Guard Categorical Exclusions), paragraphs (34)(a), (b), and (d) of COMDTINST M16475.1D. This rule promotes the Coast Guard's maritime safety and environmental protection missions.

#### List of Subjects

##### 46 CFR Part 2

Marine Safety, Reporting and recordkeeping requirements, Vessels.

##### 46 CFR Part 8

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

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

#### Title 46—Shipping

### PART 2—VESSEL INSPECTIONS

- 1. The authority citation for 46 CFR part 2 is revised to read as follows:

**Authority:** Sec. 622, Pub. L. 111–281; 33 U.S.C. 1231, 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3703; Department of Homeland Security Delegation No. 0170.1(II)(77), (90), (92)(a), (92)(b); E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105.

#### § 2.01–6 [Amended]

- 2. In § 2.01–6(a)(1), after the words “passengers in U.S. ports” and before the words “holds a valid”, remove the word “and”; and after the text “Passenger Ship Safety Certificate”, add the text “, and, if applicable, holds a valid Polar Ship Certificate”.

- 3. Amend § 2.01–25 by adding paragraphs (a)(1)(x) and (a)(2)(x) to read as follows:

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

- (a) \* \* \*  
(1) \* \* \*  
(x) Polar Ship Certificate.  
(2) \* \* \*  
(x) Polar Ship Certificate.  
\* \* \* \* \*

### PART 8—VESSEL INSPECTION ALTERNATIVES

- 4. The authority citation for 46 CFR part 8 is revised to read as follows:

**Authority:** 33 U.S.C. 1231, 1903, 1904, 3803 and 3821; 46 U.S.C. 3103, 3306, 3316, and 3703; Department of Homeland Security Delegation No. 0170.1 and Aug. 8, 2011 Delegation of Authority, Anti-Fouling Systems.

- 5. Amend § 8.320 as follows:

- a. In paragraph (b)(13), remove the word “and”;  
■ b. In paragraph (b)(14), remove the period at the end of the paragraph and add, in its place, “; and”; and  
■ c. Add paragraph (b)(15).

The addition reads as follows:

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

- \* \* \* \* \*  
(b) \* \* \*  
(15) Polar Ship Certificate.  
\* \* \* \* \*

Dated: September 18, 2017.

**J.G. Lantz,**

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

[FR Doc. 2017–20155 Filed 9–20–17; 8:45 am]

**BILLING CODE 9110–04–P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 64

[WC Docket No. 16–106; FCC 16–148]

#### Protecting the Privacy of Customers of Broadband and Other Telecommunications Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Under the Congressional Review Act, Congress has passed, and the President has signed, Public Law 115–22, a resolution of disapproval of the rule that the Federal Communications Commission (FCC) submitted pursuant to such Act relating to “Protecting the Privacy of Customers of Broadband and Other Telecommunications Services.” By operation of the Congressional Review

Act, the rule submitted by the FCC shall be treated as if it had never taken effect. However, because the Congressional Review Act does not direct the Office of the Federal Register to remove the voided regulatory text and reissue the pre-existing regulatory text, the FCC issues this document to effect the removal of any amendments, deletions, or other modifications made by the nullified rule, and the reversion to the text of the regulations in effect immediately prior to the effect date of the Report and Order relating to “Protecting the Privacy of Customers of Broadband and Other Telecommunications Services.”

**DATES:** This action is effective September 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** For further information about this proceeding, please contact Melissa Kinkel, FCC Wireline Competition Bureau, Competition Policy Division, 445 12th St. SW., Washington, DC 20554, (202) 418–1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, adopted on October 27, 2016 in WC Docket No. 16–106, FCC 16–148, which amended the rules under 47 CFR part 64, subpart U. It published a summary of the Report and Order on December 2, 2016 (81 FR 87274), and thereafter submitted it to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). On March 23, 2017, the Senate passed a resolution of disapproval (S.J. Res. 34) of the Report and Order under the Congressional Review Act. The House of Representatives then passed S.J. Res. 34 on March 28, 2017. President Trump signed the resolution into law as Public Law 115–22 on April 3, 2017. Therefore, under the terms of the Congressional Review Act, the Report and Order shall be “treated as though such a rule had never taken effect.” 5 U.S.C. 801(f).

However, because the CRA does not include direction regarding the removal, by the Office of the Federal Register or otherwise, of the voided language from the Code of Federal Regulations, the FCC must publish this document to effect the removal of the voided text. This document will enable the Office of the Federal Register to effectuate congressional intent to remove the voided text of the rules adopted in the Report and Order as if it had never taken effect, and to restore the previous language in 47 CFR part 64, subpart U and prior state of the Code of Federal Regulations.

This action is not an exercise of the FCC's rulemaking authority under the Administrative Procedure Act, because