Federal Register

Monday,
April 29, 2002

Part II

Department of Transportation

46 CFR Parts 71, et al.

Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels Coast Guard; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

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

[USCG–2000–6858]

RIN 2115–AF95

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

AGENCY: Coast Guard, DOT.

ACTION: Interim Rule with request for comments.

SUMMARY: The Coast Guard is establishing an alternative hull examination program for certain passenger vessels. This rule establishes the option of alternating drydock examinations with underwater surveys for nautical school, offshore supply, passenger and sailing school vessels. This rule also establishes an examination process that gives industry additional latitude in scheduling inspections and will create parity between passenger vessels and all other Coast Guard-inspected vessels. We expect this rule to result in a reduction of time and paperwork associated with Coast Guard vessel inspections and examinations.

DATES: This interim rule will be effective on June 28, 2002. Comments and related material must reach the Docket Management Facility on or before July 29, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before June 28, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2000–6858), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 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.*

FOR FURTHER INFORMATION CONTACT: For questions on this interim rule, call Don Darcy, Office of Standards Evaluation and Development (G–MSR), Coast Guard, at 202–267–1200. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting written comments and related material. The comment period for this rulemaking is 90 days. If you choose to submit your comments, please include your name and address, identify the docket number for this rulemaking (USCG–2000–6858), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the final rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Alternate Hull Examination (AHE) Program

In February 1997, the Riverboat Gaming Maritime Association (RGMA) of East Peoria, Illinois, wrote to the Coast Guard, asking if its member vessels may undergo hull examinations while afloat as an alternative to the examination at drydock that currently is required by our regulations. Many of RGMA's member vessels operate locally, are landlocked, and do not have drydock facilities of adequate size within a reasonable distance. They also operate in the low risk environments of fresh water rivers, protected lakes, near shore, or in shallow water. While reviewing RGMA's request, the Coast Guard considered the low risk environments in which these vessels operate and the advances in underwater survey technology. We concluded that an underwater hull examination, coupled with a thorough internal examination, could adequately evaluate the condition of a vessel's hull.

In March 1997, the owners of a vessel that operates in a low-risk environment requested a 1-year extension for completing their vessel's required drydock examination. This vessel operates approximately eight times a day on the Des Plaines River in Joliet, IL, in a restricted area (between two locks on the river). This vessel was due for its first 5-year drydock examination on May 31, 1997. The vessel's owners requested a 1-year drydock extension as an interim measure, pending the Coast Guard review of the proposed hull examination alternative.

In May 1997, along with a routine drydock extension survey, we observed a demonstration of the underwater survey methods currently used as industry practice. We determined that the survey results alone were sufficient to grant this vessel a 1-year drydock extension to May 1998, in accordance with 46 CFR 71.50–3. Under 46 CFR 71.50–3, the Commandant may allow extensions of the examination intervals between drydock examinations and internal structural examinations. The underwater survey procedures observed in the demonstration will be established by this rulemaking under the AHE Program.

Based on the results of the underwater survey demonstration, 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. Under this pilot program, the Coast Guard considers a drydock extension of up to 30 months for vessels that operate in low-risk environments.

To establish criteria for this pilot program, the Coast Guard Office of Compliance (G–MOC) published a Policy Letter 3–98 on March 5, 1998, entitled ''Drydock Extensions for Certain Passenger Vessels.'' This policy letter provides specific eligibility criteria, outlines application requirements, and establishes the survey criteria for these special drydock extensions. On March 5, 1998, the Coast Guard published a notice in the **Federal Register** (63 FR 10777) announcing that the G–MOC Policy Letter would be incorporated into regulations.

In April 1998, the first vessel in the pilot program underwent a second drydock extension survey using the guidelines in the G–MOC Policy Letter. Based on the results of the survey, the Coast Guard granted the vessel owner a 30-month drydock extension. After the Coast Guard set this precedent, several other gaming vessel owners or operators also completed successful surveys and were granted 30-month drydock extensions.

This rulemaking formalizes this pilot program and titles it: the Alternate Hull Examination (AHE) Program. The AHE Program allows owners or operators of qualifying vessels to receive a credit hull exam of up to 60 months, depending on the chosen method of hull examination. Once a vessel enters the program, it may continue to participate as long as certain requirements are maintained; however, the Officer in Charge of Marine Inspections (OCMI) may require it to be dry-docked if the AHE Program is deemed inadequate for evaluating its hull or if out-of-water repairs are required. The affected industry will save time and money, and still meet Coast Guard safety standards by using the advanced survey techniques under the AHE Program.

Underwater Survey in Lieu of Drydocking (UWILD)

Inspected United States passenger vessels, nautical school ships (public and civilian), off-shore supply vessels (OSV's) under 46 CFR chapter I, subchapter L, and sailing school vessels currently lack the regulatory option of alternating drydock examinations with underwater surveys. Current regulations grant this option to tank vessels, cargo and miscellaneous vessels, oceanographic research vessels, and mobile offshore drilling units (MODUs). Recognizing significant advances in underwater survey technology over the past decade, the Coast Guard has determined that it is safe and appropriate to include passenger vessels, nautical school ships, OSV's and sailing school vessels in the list of qualifying vessels.

Current regulations require U.S. passenger vessels operating on international voyages to drydock annually; however, their foreign counterparts generally drydock every 2 years. International regulations, as prescribed by the International Convention for Safety of Life at Sea (SOLAS) Chapter I, Regulation 7, require passenger ships to undergo annual surveys that include inspection of the outside of the ship's bottom. To satisfy this requirement, most classification societies, acting on behalf of foreign-flag administrations, accept drydock examinations every 2 years with an underwater hull examination at the mid-period. United States passenger vessels operating on international voyages will gain parity with their foreign counterparts by having such an option.

Navigation and Vessel Inspection Circular (NVIC) 1–89, entitled ''Underwater Survey Guidance,'' dated March 15, 1989, provides guidance for conducting underwater surveys to vessel owners or operators, underwater survey diving contractors, and other interested persons. The NVIC addresses the application process, the advanced planning necessary, and the procedure to be followed during an underwater survey.

This rule will incorporate the guidance from NVIC 1–89 into Coast Guard regulations, and allow owners or operators of U.S. passenger vessels, nautical school ships, OSV's and sailing school vessels with steel or aluminum hulls the option of alternating underwater hull surveys with drydock examinations. This voluntary option will result in a decrease in the overall costs for vessel owners or operators that choose this option. A discussion of the costs and benefits associated with this rule is included in the REGULATORY EVALUATION section of this publication.

Regulatory History

This interim rule was originally part of an NPRM published on November 15, 1999, that included regulations on Frequency of Inspection (64 FR 62018). In order to meet the International Convention for the Safety of Life at Sea, 1974, and the International Convention on Load Line compliance date of February 3, 2000, and to allow us to analyze the large number of comments on the Alternative Hull Examination and Underwater Survey portions of the NPRM, the Final Rule published on February 9, 2000, (65 FR 6494) dealt only with the Frequency of Inspection regulations.

Discussion of Comments

We received 50 letters of comment to our NPRM. Most of them included multiple comments. The comments generally supported the rulemaking and highlighted areas where commenters felt we needed additional consideration or clarification.

We have grouped the comments by topic, in order to facilitate our response.

General Comments

We received ten general comments. Three comments requested a public meeting. In lieu of a public meeting we are, in effect, extending the comment period by publishing this interim rule, rather than a final rule. This gives the public an opportunity for further comment.

We do not plan on holding a public meeting at this time. If you feel that a public meeting is still necessary, please send in a comment explaining why. Any public meeting would be announced by publication in the **Federal Register** at least thirty days in advance.

One comment requested a complete regulatory impact analysis and an extension of the comment period before a final rule. We have included a ''Regulatory Evaluation'' in this publication, which addresses the expected costs and benefits of the rule. This program is voluntary and, for those who choose to implement it, our regulatory evaluation shows that it will not result in a significant impact. Therefore, further regulatory impact analysis is not necessary.

One comment stated that not all gaming vessels are members of RGMA, and that as a result they are out of the loop and were not able to respond to the NPRM as fully as they would like. This interim rule gives the public an opportunity for further comment.

One comment stated that the AHE and underwater survey programs would benefit industry without compromising safety. The Coast Guard agrees with this comment. We have developed these programs as alternatives to drydock examinations for this reason.

One comment asked how many ROVs have been accepted by the Coast Guard. We have accepted one underwater ROV

for use in the AHE pilot program. This particular ROV incorporates the modern hull examination technologies described in this rule.

One comment stated that these rules would free up Coast Guard resources to perform other marine safety tasks. We agree with this comment, however, the purpose of this rulemaking is to provide vessel owners with a voluntary alternative to traditional dry docking requirements.

One comment expressed concern that the AHE rulemaking process and its results are driven by concerns with international treaties. The comment stated that this rule would result in economic disaster for at least one vessel operating on Lake Tahoe. The comment requested an extension of the comment period as well as a public meeting prior to final rule.

The AHE program was driven by concerns of a particular segment of the inland passenger vessel industry, not by international treaties. The Frequency of Inspection (FOI) portion of the proposed rulemaking was intended to align the vessel inspection intervals of U.S. regulations with the intervals prescribed in international treaties. Although included in the same notice of proposed rulemaking, the AHE and underwater survey portions of the proposed rule are not in any way associated with the FOI rules and have no connection to international treaties. To help address this confusion, we separated the AHE and underwater survey portions of the proposed rule from the original rulemaking.

Current regulations under 46 CFR Chapter I, Subchapters H, K, R, and T require all passenger vessels and nautical school ships to undergo hull examinations at periodic intervals. These examinations require that the vessel is hauled out of the water or placed in a drydock or slipway.

We recognize that the drydocking requirement may be particularly arduous for certain segments of the passenger vessel industry, and therefore the Coast Guard proposed the AHE and UWILD programs. These programs offer the owners or operators of qualifying vessels an alternative to out-of-water drydock examinations. Because they are alternatives, not requirements, the AHE and UWILD programs do not place any additional burden on the vessel owners or operators who do not wish to participate in these programs. The traditional drydock examination is still available. Also, for passenger vessels inspected under 46 CFR Chapter I, Subchapters T or K, and sailing school vessels under 46 CFR Chapter I, Subchapter R, the Officer-in-Charge, Marine Inspection may already give *special consideration* to authorize departure from the drydock examination requirements when warranted by unusual circumstances or arrangements.

One comment disputed the need for a public meeting. The comment stated that because all comments and the Coast Guard's responses will be part of the public record, there is no justification for the added expense of a public hearing. The Coast Guard agrees, in part. We recognize that not all interested parties learned of the NPRM until late in its comment period. In lieu of a public hearing we are, in essence, reopening the comment period for further public comment by publishing this interim rule, which is largely the same as what was proposed in the NPRM.

Comments on ROV Technology

We received fourteen comments on ROV technology. One comment stated that the ROV must be used in conjunction with divers, not as a stand-alone inspection tool. The comment recommended changing the wording to include ''if an underwater ROV *and divers* are used''. The comment suggested changes throughout parts 71, 115, and 176 that clarify when divers are used exclusively and when divers and ROV's are used. We agree that an underwater ROV is not a stand-alone inspection tool. Coast Guard acceptance of an underwater ROV will be based not only on the capabilities of the equipment, but also the qualifications of the operating team, the quality assurance and quality control methods employed, and the understanding that divers must be used to augment the examination process. We have revised the regulations to clarify this.

One comment strongly agrees with the rule's acknowledgement of the ROV's superior technology. We trust that this technology will continue to develop, offering convenience and value to industry while relieving some of the burden from our inspectors.

One comment stated that acoustical tracking systems are available to divers and offer the same quality of examination. The comment stated that this technology should be included as an alternative to the ROV in the regulations. Although we have not evaluated the use of acoustical tracking systems by divers, the regulations as written do not prevent the use of such systems if accepted by the OCMI.

One comment stated that the rule places too much emphasis on electronic data and not enough emphasis on the human element. Much of the ROV's work is done with a camera, not the other sensors. We agree that the human element plays a vital role in the hull inspection process, which is why a Coast Guard-accepted underwater ROV process must have a quality assurance program in place (including a training and qualification program for the ROV operating team). Secondly, in addition to a complete suite of NDT sensors for evaluating hull plating thickness, cathodic potential, coating thickness, and fracture detection, the ROV must have integrated video equipment to give a continuous visual indication of the vessel hull along its path of operation.

One comment stated that the rule should require the calibration of ROV instrumentation in accordance with the manufacturer prior to the survey. We agree that ROV instrumentation should be calibrated prior to the survey and periodically throughout the examination process. The quality assurance and quality control methods used by the underwater ROV company and operator will be critical to Coast Guard acceptance.

One comment stated that the ROV technology is unproven and these regulations would give one company a monopoly. We anticipate that several companies will develop this technology to pursue Coast Guard acceptance. We are incorporating the underwater ROV in this rulemaking to modernize the regulations and to keep pace with technology that has been demonstrated effective on numerous occasions. Along with the Coast Guard, the U.S. Navy and the American Bureau of Shipping have accepted the underwater ROV use as an alternative method to examine a vessel's hull.

One comment stated that the Coast Guard needs to provide criteria for the acceptance of ROV systems and that these criteria should be available for comment from the public and marine inspectors. We agree that an ROV should meet certain criteria. Based on current observation, the ROV process covers approximately 80 percent of the underwater hull. With the augmentation of divers, overall hull coverage is increased to approximately 90 percent. Therefore, we expect an ROV system will be able to assess at least 80 percent of the underwater hull.

One comment stated that this rule supports the use of cost-effective technology that is an improvement to marine safety and environmental protection. This technology includes a quality program with personnel certification, documented procedures, inspection plans, traceable calibration of equipment, and test material standards. We agree, which is why we are

incorporating this technology into regulation.

Two comments stated that this examination method is better than drydocking because the process is more comprehensive, accurate, repeatable, higher quality, and more cost effective. The ROV gathers data in the natural environment without stress or interference. We acknowledge that modern underwater ROV technology, when included as part of a comprehensive hull examination, can provide a level of safety and effectiveness that is equivalent to traditional drydock examination methods.

One comment stated that this technology should be extended to all vessels under the jurisdiction of the Marine Safety inspection program. Expanding the AHE program to vessels other than subchapter H, K, and T is beyond the scope of this rulemaking but could be considered for a future rulemaking.

One comment stated that the regulations should be clarified by using the phrase: ''ROV used to the maximum extent possible with the remainder of the inspection conducted by divers.'' When a Coast Guard-accepted underwater ROV is used for examination of the vessel's hull plating, we expect that the ROV will be used to the maximum extent possible. Divers must be used only for those areas of the hull and appurtenances that the ROV cannot access or is otherwise unable to evaluate. To clarify this, we are modifying the regulations. They will state that using an accepted underwater ROV process to examine the hull plating must be ''the predominant means'' and must be used to the fullest extent possible.

One comment disagreed with the statement that using an ROV is superior to other examination methods. Numerous gaugings are not that important when vessels without epoxy coating and sacrificial anodes can operate for 50–60 years. All recent vessels are equipped with epoxy and anode protection. An ROV's camera is almost useless at discovering hull damage even in clear water because it is difficult to get a three-dimensional sense on a two-dimensional screen. An internal structural exam coupled with divers is just as, if not more, effective than an ROV.

We disagree with this comment. The underwater ROV hull examination process has shown to be at least as effective as out-of-water drydock examinations. The Coast Guard has observed occasions where the ROV process detected hull deficiencies that might have gone undetected using traditional drydock and internal hull examination methods.

One comment responded to another comment we received in the docket by stating that an ROV produces an accurate and repeatable record of the exam. This comment also suggested that there is a low probability that conventional examination methods will detect the need for steel plate replacement. We agree with this comment to the extent that there are certain instances when plate replacement may be indicated using an ROV that may be overlooked by traditional methods, that overall an equivalent level of examination is achieved through either method.

Comments on the Definition of Fresh Water

The Coast Guard received two comments on the definition of fresh water. One comment stated that this rule relies on the benign nature of freshwater. However, fresh water under certain conditions—downstream from industrial out fall or during saltwater incursion—can be corrosive also. The commenter recommended that the Coast Guard set a standard for the acidity and conductivity of fresh water.

We recognize that certain conditions can cause accelerated corrosion in fresh water. These conditions are accounted for in the regulations that prescribe the drydocking intervals for Coast Guard-inspected commercial vessels and also for examination intervals under the AHE and underwater survey programs. It is left to the local OCMI to determine whether a vessel's area of operation is in fresh or salt water. The OCMI is given the same discretion for the AHE program.

The second comment stated that vessels using improperly designed, installed, and maintained shore ties may be destroying the vessel's immersed metal surfaces even though the vessel is in a benign environment. Regulations should require an initial and follow up survey of shore ties and prohibit electrical potentials and stray electrical currents for the vessel to be in the AHE program.

Stray current corrosion is not unique to vessels in the AHE program. The destruction caused by this type of corrosion may be rapid. The owner must be vigilant and ensure the integrity of any shore tie frequently.

Comments on Piping

One comment stated that piping outboard of skin valves could not be adequately examined using underwater techniques (UT). Regulations should require thorough UT gauging of piping and connections of vessels in the AHE and UWILD programs. We disagree with this comment. The piping outboard of skin valves can be adequately examined when the through-hull piping is mechanically plugged and sea valves are removed. If the condition of the piping is questionable, the marine inspector has the authority to require non-destructive testing, as appropriate.

Comments on § 71.50–5

One comment believed that there is a typo in this section: instead of drydock, internal, *or* underwater survey; it says drydock *and* underwater survey. Because of this typo, there is a question of whether an internal structural examination (ISE) is required. The commenter is mistakenly referring to the wrong section. Therefore no change is needed.

Comments on §§ 71.50–15, 115.620, 176.620 and §§ 71.50–29, 115.655, and 176. 655

The Coast Guard received five comments on these sections. One comment stated that the same length of drydock extension should be given to vessels whether divers or an ROV is used. Another comment stated that since there is an annual examination component for participation in AHE, a 5-year credit should be granted whether ROV or divers are used. Both methods require internal exams where most problems will be noted anyway. The customer should be able to determine the value of the ROV versus divers.

During the development of the AHE pilot program, as given by G-MOC Policy Letter 3–98, the Coast Guard decided that drydock extensions should be limited to 30 months when divers are used for the examination of hull plating. At that time, the Coast Guard had not yet evaluated the new underwater ROV hull examination technology, so the extension period when using an ROV had not been considered. Since setting the 30-month period for extensions some limitations of the AHE process using divers have been identified. The most significant limitation identified was the inability to cover the entire hull. When divers are used exclusively for the examination, it was estimated that only 30 percent of the underwater hull plating would be covered, on average. However, when an accepted underwater ROV was used, this figure generally climbs to over 80 percent. By augmenting the ROV process with divers, overall coverage will likely exceed 90 percent. Given the differences in coverage, we are keeping the differentiated periods. However, we

have defined the equivalencies of both types of underwater exams to a traditional drydock inspection. Based on this, we will not be issuing an extension, but rather granting a credit hull exam with the examination interval dependant upon the method used. In addition, we request comments on the following specific questions, and are accepting further comments during the interim phase of this rulemaking: (1) Should both methods receive the same level of credit? (2) If so, should additional requirements be invoked (such as required gaugings, examinations, etc.)? (3) Should the intervals remain the same with the option of requesting a waiver for the mid-period survey requirements on vessels meeting certain criteria?

One comment stated that the Coast Guard should add to these sections periodic independent review and evaluation of the program and vessels to ensure uniform application and results. We disagree with this comment. The program guidelines are well defined in the regulations and will be administered as consistently as other inspection programs. The procedures found in 46 CFR 1.03 may be used if the results of an inspection appear to be inconsistent with the regulations.

One comment questioned why the ROV approach, without a third party examiner, would receive a 60-month credit, while the certified third party examiner approach is only granted a 30-month credit when divers are still needed for 25 percent or more of vessel inspections.

The differences in the credit intervals granted are based on the methods employed to conduct the examination as well as the types of data obtained during the examination. The ROV team graphically tracks the progress of the examination and the data being obtained—both visual and NDT. The ROV has the ability to use the data collected to provide the inspector with a composite picture of the underway body of the vessel, as well as provides a quantified report of the examined areas. Examinations conducted with a third party examiner do provide a similar capability. The third party examiner is essential to ensure that the diver captures an adequate video record of the examination. During the examination, the third party examiner directs the diver to areas where he has detected an anomaly, whereas the ROV, by virtue of its data gathering capabilities, would record any such anomaly through its normal collection processes. It is true that a percentage of the hull may not be examined by an ROV (i.e.: rudders, propeller shafts, etc.). In the areas where a diver must be employed, a third party examiner may be required to ensure consistent results, particularly if a data collected by the diver can not be interfaced with the data collected by using the ROV.

One comment stated that the AHE process that uses divers exclusively requires re-surveys at 30-month intervals, which is a burden on owners or operators. The comment stated that this should be amended to 36 months to evenly space-time.

In response to concerns that an annual hull condition survey must be conducted at the 2-year anniversary, with only 6-months before expiration of a 30-month drydock credit, we have revised the drydock credit period for the AHE program when divers are used exclusively. The revision allows the AHE process to be conducted twice in a 5-year period with not more than 3 years between each AHE. The requirement for annual condition assessments remains the same; however, the revised drydock credit interval will allow all hull surveys and examinations under the AHE program to be conducted on an annual schedule. To clarify this, we revised §§ 71.50–15 and 71.50–29(c).

Comments on AHE Eligibility Criteria: §§ 71.50–17(a)(4), 115.625(a)(4), and 176.625(a)(4)

We received many comments on these sections. A number of comments stated that the focus of eligibility criteria should not be location or exposure of the waterway, but exposure of the vessel on its route. Vessels that operate in shallow waters, 0.5 miles from shore, like some vessels on the Great Lakes, should be allowed to participate in AHE. These comments recommend changing the wording of §§ 71.50–17(a)(4); 115.625(a)(4) and 176.625(a)(4) to ''operates in a reduced risk environment such as a river or along the shores of a lake''. Another comment stated that this section should include passenger vessels on restricted routes in semi-protected waters, like gaming vessels in the southern end of Lake Michigan. The Coast Guard agrees that a vessel operating on the Great Lakes should be allowed to participate if its operating route is limited to protected locations on the lake. The regulations have been changed to ''operates in a reduced-risk environment such as a river or the protected waters of a lake'' to clarify this intent.

Two comments requested that the 0.5-mile distance be extended to 1.0 mile from shore. One called the half of a mile measurement arbitrary and merely a carry over from the MOC policy letter 3–98. The Coast Guard disagrees. The reason for limiting program eligibility to vessels that operate exclusively in shallow water or within 0.5 nautical miles from shore was to provide an additional measure of safety in case of vessel flooding. There are many large passenger vessels operating in shallow inland rivers where, in the unlikely event that the vessel were to sink, it would come to rest on the river bottom and all passenger spaces would remain above water. Of course, not all vessels are operated in such shallow waters. For vessels operating in deeper waters, the 0.5 miles constraint provides a reasonable assuredness that the vessel can be safely grounded in the event of flooding.

One comment stated that the Coast Guard should eliminate the operating limitation of 0.5 miles from shore and shallow water from §§ 115.62 and 176.62. This requirement would eliminate several viable vessel operations in Lake Tahoe, Lake Meade, and Table Rock Lake. Vessels there already have a history of inspections while afloat. Another comment stated that it is impossible for a Lake Tahoe day/dinner cruise vessel to operate 0.5 miles from shore. The lake reaches 1200-foot depths. Conditions of the lake, ability of in-water repairs, etc. should allow boats on Lake Tahoe to continue to use underwater inspections (indefinitely) until it is necessary to remove the vessel from the water. A third comment stated that the 0.5-mile limitation threatens small businesses with extinction.

For small passenger vessels inspected under 46 CFR Chapter I, Subchapters T or K, the OCMI already has the authority to give special consideration to authorize departures from specific regulatory requirements where unusual circumstances or arrangements warrant such departures. Under this provision, the OCMI will have the authority to continue any special hull examination arrangements made at the local level, which preceded the AHE program, thus allowing certain vessels on the inland lakes to undergo underwater surveys in lieu of meeting drydocking or AHE program requirements. Thus, no change to the rule is necessary.

One comment stated that the definition and discussion of what a hull protection system is does not appear in the regulations. The regulations should provide the OCMI with some guidance. Some vessels do not use cathodic protection in fresh water. Coating is not as critical in fresh water. An explanation of ''adequate hull protection system'' was given in the proposed rule, and is still incorporated

in this rule. ''Adequate hull protection system'' means a method of protecting the vessel's hull from corrosion. Frequently, this is accomplished by the application of a combination of hull coatings and cathodic protection (usually zincs). For entry into the AHE program, the OCMI must be satisfied with the vessel's hull protection system.

Comments on the Preliminary Examination: §§ 71.50–21, 115.635, and 176.635

We received five comments to these sections. Three comments asked why a preliminary examination is only necessary when divers are used and not with an ROV. A preliminary examination is required when divers are used for the examination of the vessel's hull plating because it is critical that any areas of concern with regard to the vessel's hull be identified in advance of the pre-survey meeting. This allows the OCMI an opportunity to assess the areas of concern and to determine the necessary scope and focus of the hull plating examination during the AHE. A preliminary examination is not necessary when an underwater ROV is used for the examination of hull plating because the ROV survey process is quite comprehensive. As previously mentioned, the ROV process will cover approximately 80 percent of the underwater hull. With the augmentation of divers, overall hull coverage is increased to approximately 90 percent. Implicit in the ROV process is hull cleaning by a diver, which will support suitability.

Two comments stated that the preliminary exam should only be necessary when a vessel is entering or reentering the program with divers. The exam should not be necessary before each survey while the vessel is in the program. We agree with this recommendation. Since annual examinations are required for vessels examined by divers, the OCMI should already be familiar with the condition of the vessel and be aware of any suspect areas of the hull that require specific attention. This should eliminate the need for additional preliminary examinations. Therefore, as long as the vessel remains enrolled in the AHE program, the preliminary examination will be required only for program entry. We have clarified this in the regulatory text.

Comments on the Pre-survey Meeting: §§ 71.50–23, 115.640, and 176.640

A number of comments stated that the requirement in paragraph (a) that the ROV operator must attend the pre-survey meeting is overly restrictive. One comment pointed out that there might be more than one operator. The regulations should indicate that the meeting must be attended by a ''representative of the ROV operating company who is qualified to discuss the ROV capabilities and limitations.'' The Coast Guard agrees. The regulations have been modified to reflect these recommended changes.

A number of comments stated that in paragraph (b), the requirement for the vessel owner or operator to request the meeting in writing is overly restrictive. One comment pointed out that often someone other than a company official knows most about the vessel. The comment recommends using: ''owner, operator or designated agent.'' The Coast Guard agrees. The regulations have been modified to reflect these recommended changes.

One comment stated that this meeting is not necessary before each annual hull condition assessment and suggested adding: ''This meeting is required before the actual 36-month (divers) and 60 month (ROV) AHE survey.'' The Coast Guard intended that the pre-survey meeting only be required prior to each AHE survey. We clarified the regulations to reflect this.

One comment recommended that we make sure that the second sentence states that the third party examiner is present when divers are used exclusively. The Coast Guard agrees. The regulations have been modified to reflect these recommended changes.

One comment recommended a requirement to have the pre-survey meeting prior to the start of the survey, stating that meetings on the day of the exam result in unnecessary stress. While we agree with this comment we want to allow flexibility for the parties involved. We encourage but do not require that the two events be held on separate days.

Comments on the OCMI's Authority: §§ 71.50–25(c), 115.645(c), and 176.645(c)

A number of comments stated that they do not question the OCMI's authority, but believe that the explanation provided for requiring a vessel to be taken out of service is overly restrictive. As written, it could imply that permanent repairs and a full evaluation could not be conducted while in the water. They recommend allowing the OCMI to take out of service or drydock a vessel that has ''problems that cannot be repaired to the satisfaction of the OCMI while waterborne.''

We have revised this section to clarify the intent as follows: ''If the AHE reveals deterioration or damage to the vessel's hull plating or structural members, the OCMI may require the vessel be drydocked or otherwise taken out of service to further assess the extent of damage or to effect permanent repairs if the assessment or repairs cannot be completed to the satisfaction of the OCMI while the vessel is waterborne.''

Comments on Hull Thickness Readings: §§ 71.50–27(a), 115.650(a) and 176.650(a)

A number of comments stated that these sections are unclear regarding the number and spacing of transverse belts. One comment recommended requiring hull thickness readings at a minimum of bow, stem, and amidships and a longitudinal belt along the wind and water strake.

We have revised the affected paragraphs, to clarify our intent, to read as follows: ''Take hull plating thickness gaugings along transverse belts at the bow, stern, and midships, as a minimum. Plating thickness gaugings shall also be taken along a longitudinal belt at the wind and water strake. Individual gaugings along the transverse and longitudinal belts shall be spaced no more than 3 feet apart.''

One comment indicated that the statement we made in the proposed rule: ''the entire underwater survey is recorded on video when divers are used'' is incorrect. The diving companies use tactile examination methods and ultra-sonic testing of the shell plate and videotape of critical welds and other areas to determine the condition of the hull. Paragraph (a)(6) in each cite should not require audio and videotape of the examination.

As mentioned in the preamble to the NPRM, the AHE program was originally promulgated as a pilot program under MOC Policy Letter 3–98, entitled ''Drydock Extensions for Certain Passenger Vessels.'' As announced in the March 5, 1998, **Federal Register** publication (63 FR 10777) the intent of this rulemaking is to incorporate the policy letter into Coast Guard regulations. The policy letter clearly states that ''a complete underwater survey . . . shall be recorded on videotape.'' It is necessary to record the entire underwater survey by audio and video recording in order to document the areas covered by the underwater survey and to provide a complete account for the AHE. Even if the diver is doing a tactile examination of the hull, this process needs to be recorded in order to capture the diver's remarks and to verify the diver's location with respect to the hull.

Comments on Program Options: §§ 71.50–27, 115.650, and 176.650

Two comments stated that the third party examiner should be present during the examination no matter what method is used for the hull exam, because ROV operators do not have the knowledge of vessel construction. The comments also asked what the Coast Guard qualifications for the ROV operator are. Another comment stated that the third party examiner is an integral part of the examination process. Because divers are still needed to examine sea chests, bearings, rudders, wheels, thruster and other appendages, the third party examiner provides the objectivity needed to ensure the vessel's seaworthiness.

When a Coast Guard accepted underwater ROV is used as the predominant means for the examination of hull plating, the ROV operating team will take the place of the third party examiner. In order to be accepted by the Coast Guard, the underwater ROV process will include a quality control/assurance program, including an appropriate training program for the ROV operating team. As a minimum, the ROV operating team will consist of an ROV operator, a non-destructive testing (NDT) inspector, and an ROV tender/mechanic. The requirement has been added to the rulemaking.

The ROV operator will have at least 80 hours of documented field experience in navigating the particular ROV and will possess a thorough working knowledge of the ROV and its support equipment. Additionally, the operator will possess a strong understanding of structural plans and a familiarity with underwater ship structure and respective nomenclature.

The NDT inspector will have, as a minimum, Level II NDT certification in accordance with the guidelines of the American Society for Nondestructive Testing or that of an equivalent certification program.

With these acceptance criteria in place, the Coast Guard considers it unnecessary to have a third party examiner on site. For those portions of the vessel hull that the ROV is unable to evaluate and divers must be used, a third party examiner may be required to evaluate the results of the exam, especially if it can not be integrated into the results obtained by the ROV.

Comments on the Annual Hull Condition Assessment: §§ 71.50–19, 115.630, and 176.630

We received three comments on these sections. One comment stated that paragraph (h) seems vague and will result in differing interpretations and different OCMI expectations. The comment requested that the scope of the annual hull condition examination be more closely defined.

The second comment stated that there is no guidance on whether a third party examiner is needed for this annual inspection if the AHE survey was done with divers only.

A third comment stated that the annual hull condition assessment requirement is redundant. The annual hull condition assessment should be conducted at the midpoint between AHE's or 30 months from the original. If conducting an AHE using divers only, a hull condition assessment should be conducted at no less than one year, and no greater than 18 months from the original AHE. The scope of annual hull condition assessments should be defined as a visual exam of the vessel's underwater hull with emphasis on sea chests, thruster tunnels, running gear and the cathodic protection system; and ultrasonic tests of areas of known damage, corrosion, or otherwise suspect areas.

We agree that some of the regulations covering the annual hull condition assessment require further clarification. In response to the concern that the annual condition assessment is redundant or unnecessary, we disagree. An annual condition assessment of the vessel's hull helps to maintain a level of safety equivalent to that achieved by drydock examination. This helps by mitigating the concern that minor or latent hull damage may be overlooked during the AHE and provides a mechanism for examining those areas of the hull that require periodic reevaluation. However, because some vessels may be found to be in excellent condition upon completion of the AHE, the OCMI should have the authority to relax the scope of the annual hull condition assessment to accommodate this. In that regard, the regulations have been revised to give the OCMI the discretion to determine the necessary scope of the annual hull condition assessment.

On vessels where the AHE reveals few or no areas of concern relating to the vessel's hull condition, and where the outer hull is largely accessible from interior spaces, the OCMI may decide that an internal examination, coupled with random hull gaugings, is all that is necessary to complete the annual hull condition assessment. In contrast, for those vessels on which the AHE reveals significant damage or corrosion, after temporary repairs have been made, or after other critical areas of concern have been identified or are otherwise suspected, the OCMI may require both an internal exam and an underwater hull examination.

At the OCMI's discretion, the underwater examination may focus solely on known or suspect areas or may be more comprehensive in nature. If the OCMI determines that a comprehensive hull condition assessment is necessary and an underwater ROV was used for the AHE, it should not be necessary to employ an ROV for the annual condition assessment. Using divers should suffice for this purpose. Therefore, the OCMI has the discretion to determine whether it is necessary to have a third party examiner present during the annual hull condition assessment. If the condition assessment will involve little more than an internal examination and random hull gaugings, it should not be necessary to involve a third party examiner. Instead, if the assessment can be completed within a one-day period, a marine inspector should complete the assessment. As a result, the regulations have been revised to give the OCMI the authority to determine whether a third party examiner must be present during the annual hull condition assessment.

The scope of the annual hull condition assessment should be agreed upon well in advance, preferably upon completion of the AHE or the preceding hull condition assessment. The OCMI should advise the vessel representative, in writing, of the required scope of the annual hull condition assessment. Since this determination is best made upon completion of the AHE, it should not be necessary for the vessel owner or operator to provide this information when applying to the AHE program. In that regard, the regulations have been revised to remove from the application requirements the plan for conducting the annual hull condition assessment.

Prior to the scheduled annual hull condition assessment, the owner may submit to the OCMI a request for a waiver of the requirement. The OCMI may reduce the scope or extend the interval of the annual hull condition assessment if the operational, casualty, and deficiency history of the vessel, along with a recommendation of the vessel's master, indicates that it is warranted.

One comment stated that in paragraph (d), the statement to be signed by marine officers should provide the time period for which the officer would have knowledge of damage or suspected damage. The time period for which the officer would have knowledge of hull damage is irrelevant. By having a vested interest in the safety of the vessel, the master or chief engineer should be

adequately familiar with the vessel's hull condition and be aware of any known or suspect damage, regardless of the amount of time served on board the vessel.

Comments on the Third Party Examiner

We received seven comments on the third party examiner. One comment stated that companies with approved quality assurance programs do not need third party examiners. Companies with these programs should be able to train and certify their own people to manage the inspection.

Another comment suggested that the diving companies hire the third party examiner. This provides the greatest separation from the owner and avoids conflict of interest.

The regulations in this rule give the OCMI a wide degree of latitude to determine the acceptability of the third party examiner. Nothing in these regulations prevents the dive company from providing the third party examiner. We do not see a need for reviewing a company's quality assurance program since a significant part of the third party examiner's role will be quality assurance.

One comment agreed that the OCMI should determine whether or not the third party examiner is qualified, but noted that the Coast Guard should provide uniform guidance to OCMI's. We agree with this comment. The regulations have been changed to include a description of skills that a third party examiner should possess as guidelines to assist the OCMI in determining their acceptability.

One comment stated that the rule does not specify who will hire the third party examiners. Because the vessel owner may influence the objectivity of the third party examiner, the Coast Guard should put into policy that the diving company hires the third party examiner. The OCMI must consider whether any involved party could influence the objectivity of the third party examiner or whether a conflict of interest could exist. Where such conditions exist, the regulations give the OCMI the authority to deny use of the third party examiner.

One comment suggested that we remove the requirement for a third party examiner in §§ 115.635, 115.640, 115.650, 176.635, 176.640, and 176.650. Instead of removing field inspectors, the comment stated that the Coast Guard should retain third party examiners as an option for when the vessel owner and the Coast Guard deem it necessary. We agree on the importance of retaining Coast Guard inspectors, to build experience and to increase exposure to the marine industry. However, there is little to gain from having a marine inspector on site for several days on end while an underwater survey is conducted. The Coast Guard's needs are better served by placing the marine inspector in an oversight role where only the more critical portions of the AHE process need be observed. This enables the Coast Guard field offices to direct their limited inspection resources to higher risk activities.

One comment recommended the presence of a third party examiner during the entire inspection (including the inspection of hull plating) to increase the integrity of the ROV option. Another comment stated that the rule should address the qualifications of the third party examiner. A third comment stated that ROV operators are not trained to evaluate data in terms of proposing repairs, modifications, or recommending areas for further inspection. A third party examiner can do these things. Without a third party examiner, the Coast Guard inspector will become the de facto quality control person, which is undesirable. The third party examiner is the check and balance between the vessel owner and the diving contractor.

When a Coast Guard accepted underwater ROV is used as the predominant means for the examination of hull plating, the ROV operating team will take the place of the third party examiner. In order to be accepted by the Coast Guard, the underwater ROV process will include a quality control/assurance program, including an appropriate training program for the ROV operating team. As a minimum, the ROV operating team will consist of an ROV operator, a non-destructive testing (NDT) inspector, and an ROV tender/mechanic. The ROV operator will have at least 80 hours of documented field experience in navigating the particular ROV and will possess a thorough working knowledge of the ROV and its support equipment. Additionally, the operator will possess a strong understanding of structural plans and a familiarity with underwater ship structure and respective nomenclature. The NDT inspector will have, as a minimum, Level II NDT certification in accordance with the guidelines of the American Society for Nondestructive Testing or that of an equivalent certification program. With these acceptance criteria in place, we consider it unnecessary to have a third party examiner on site. For those portions of the vessel hull that the ROV is unable to evaluate and divers must be used, a third party examiner may be necessary if the diver obtained data can not be integrated into the data obtained by the ROV. The OCMI will determine whether a third party examiner is needed normally during the pre-survey meeting.

Additionally, it is not necessary that the ROV operating team be qualified to propose repairs or modifications or to recommend areas for further inspection. The job of the ROV operating team is to produce quantifiable data relating to the condition of the vessel hull. It will be the job of the Coast Guard marine inspector and OCMI to determine the suitability of repair or modification proposals. If assistance is needed in developing repair proposals, the vessel owner/operator always has the option to hire an independent marine consultant for this task. As far as recommending areas for further inspection, the marine inspector will retain this responsibility.

Comments on G–MOC/USCG Headquarters: §§ 115.655, 176.630, and 176.655

One comment stated that we should remove the role of the Coast Guard Headquarters' Office of Compliance (G–MOC) regarding the acceptance of specific entities and of inspection results. The comment argued that these are not Coast Guard Headquarters level activities. We agree with this comment, especially in view of the changes made to the regulations to put the AHE on parity with a traditional drydock inspection. To this end we have modified the regulations to allow the OCMI to grant a credit hull exam when warranted vice an extension. Normal extension requests and appeals will still be reviewed by G–MOC.

Comments on the AHE Procedure: §§ 71.50–25(a)(3), 115.645(a)(3), and 176.645(a)(3)

We received five comments on this section. One comment stated that the only inspection activity that the Coast Guard is required to observe is the removal of sea valves. The comment recommended that the wording ''in the presence of a marine inspector'' be removed from these sections to avoid delays.

Another comment stated that the third party inspector should be an alternative to the marine inspector observing the sea valve inspection in order to prevent delays.

A third comment suggested the presence of a third party inspector or adequate video coverage would be sufficient. We disagree with this comment. The removal of sea valves is one of the few evolutions of AHE procedures that involve a degree of risk to the vessel and to persons on board. It is in our best interest to require the

presence of a marine inspector during this evolution.

One comment suggested that the inspection of sea valves at every AHE is onerous. It recommended that the sea valves be inspected every other AHE if divers are used and every AHE if the ROV is used. Inspecting the sea valves is an integral part of the drydock or underwater hull examination. The Coast Guard requires that valves be inspected at 5-year intervals in accordance with 46 CFR 61.20–5(b).

One comment stated that in paragraph (a)(5) of these sections, non-fuel internal tanks should only be made available for internal exam if an external exam reveals a problem, or if the tanks are required to be examined in other regulations. These tanks should only be required to be internally examined once every 5 years. We agree with this comment. We have revised the regulation accordingly and added that sewage tanks need not be examined internally if examined externally and gauging is completed during the AHE.

Comments on NVIC 1–89

One comment stated that paragraph L (2) of NVIC 1–89 contains good information on the value of the contribution of an experienced diver. This should be included into the preamble of the rule. We do refer to NVIC 1–89 in the preamble, and have placed a copy of NVIC 1–89 in the docket for this rulemaking.

Comments on the Underwater Survey Program

Several comments requested that the Coast Guard extend the authority to conduct underwater survey in lieu of drydocking (UWILD) examinations to Offshore Supply Vessels (OSV) inspected under Title 46 Code of Federal Regulation (CFR), chapter I, subchapter L.

OSV's inspected under 46 CFR chapter I, subchapter I currently are authorized to participate in the UWILD program. The Coast Guard believes the UWILD program should be available to OSV's inspected under either subchapter, therefore the Coast Guard is authorizing those vessels inspected under subchapter L to participate in the UWILD program. Entry into this program will be authorized when this Interim Final Rule comes into effect.

One comment stated that the rule does not give incentive for a vessel to use the ROV technology for Underwater Surveys but should do so. The comment suggested, as an incentive, that the Coast Guard waive the initial drydock if the ROV is used. However, the comment also stated that the Coast Guard should not waive the initial drydock for vessels less than 15 years of age using only divers. We believe the regulation provides adequate incentive. Vessels enrolled in the AHE program that use ROV technology do not have to conduct the preliminary hull exam, as well as receiving a greater interval between inspections. Vessels that do not use ROV technology must conduct the preliminary hull examination.

One comment suggested that we revise the definition of drydock to remove references to ''drydock or slipway'' and include ''examination of all accessible parts of the vessel's underwater body and all through-hull fittings, and appurtenances.'' This comment is beyond the scope of this rulemaking. The scope of this rulemaking was limited to allowing the following passenger vessels to enter the underwater survey program: those under 46 CFR, chapter I, Subchapters T, K, and H, and nautical school ships and sailing school vessels under 46 CFR chapter I, Subchapter R. We are unable to make modifications to these regulations without making a wholesale change to the drydock examination regulations for all other commercial vessels.

One comment suggested that during alternate years, using the ROV should be considered equivalent to the traditional drydock for vessels that have completed the pre-survey drydock and underwater survey. This comment is beyond the scope of this rulemaking.

One comment suggested that vessels over 15 years of age should use ROV technology instead of drydock to gauge and determine if there is any appreciable deterioration. This comment is beyond the scope of this rulemaking.

One comment suggested that we develop a need-based system that uses ROV technology to determine whether a drydock is necessary. This comment is beyond the scope of this rulemaking. We are considering making this a part of future rule making, using risked based decision criteria to determine the need to perform traditional drydockings.

One comment suggested that the Coast Guard should create incentives for using ROV's. The comment recommended allowing owners or operators to avoid entry drydocking if ROV inspections are used. The comment also recommended granting consecutive drydock extensions for vessels using the ROV technology. This comment is beyond the scope of this rulemaking.

One comment stated that casualty and deficiency data to support this rulemaking was not provided in the NPRM. The comment stated that the Coast Guard should address this in all rulemakings. Casualty and deficiency data is not necessary in this instance. The changes to the regulations we are making in this rulemaking are designed to provide relief and flexibility rather than increase the burden on vessel owners or the Coast Guard.

One comment stated that under the Regulatory Flexibility Act, this rule would have a significant impact on many diving companies and other small businesses. There is no evidence that ROV inspections cost less than the use of divers. These regulations present the vessel owner/operator with hull examination alternatives. Prior to this rulemaking, drydocking was the only alternative available to passenger vessels. This rulemaking provides the vessel owner/operator with two distinct programs, offering additional hull examination alternatives. That is, the AHE program and the underwater survey program. The Coast Guard has designed these programs so that an equivalent level of safety is provided, regardless of the method chosen. These regulations give the vessel owners or operators the opportunity to weigh the economic impact of each alternative and to choose accordingly.

Discussion of Interim Rule

Alternate Hull Examination (AHE) Program

(a) General

This rule contains organizational and editorial changes to the regulations for the AHE Program.

Sections 71.50–5, 114.400, and 175.400

We are redesignating §§ 71.50–5, 115.600, and 176.612 as §§ 71.50–35, 115.605, and 176.665, respectively. Also, we are redesignating §§ 115.612, 115.630, 115.675, 176.612, 176.630, and 176.670 as §§ 115.665, 115.670, 115.675, 176.665, 176.670, and 176.675 respectively. The rule will add several new sections for the AHE Program and the Underwater Survey Program. These organizational changes will keep similar requirements together.

Sections 71.50–35, 115.665, and 176.665

We are adding the words ''underwater survey'' in the newly redesignated §§ 71.50–35, 115.665, and 176.665. This change will ensure that each vessel will have a plan on board that shows the vessel's scantlings whenever the vessel undergoes an examination, survey, or repairs. Vessel scantlings are dimensions of structural parts such as frames, girders, and plating used in shipbuilding. We are adding the option

of an underwater survey as part of the AHE Program for subchapters H, K, and T.

(b) Definitions

Sections 71.50–1, 114.400, and 175.400

We are amending the definitions for ''drydock examination'' and ''internal structural examination,'' and adding definitions for ''underwater survey,'' ''shallow water,'' ''third party examiner,'' ''ROV operating team,'' and ''alternate hull examination'' in § 71.50–1. We are adding the definitions for ''drydock examination,'' ''internal structural examination,'' ''underwater survey,'' ''shallow water,'' ''third party examiner,'' ''ROV operating team,'' and ''alternate hull examination'' in §§ 114.400, and 175.400. These definitions will apply to subchapters H, K, and T. We are adding the term ''appurtenances'' that was missing from the definition of ''drydock examination.'' The following are examples of appurtenances: sea chests, propellers, rudders, and tailshafts. We are removing the paragraph designations from all definitions within all three sections. We are adding the definition of ''underwater survey'' to introduce and clarify this examination process in our regulations. Lastly, we are adding a definition for ''effective hull protection system'' in all three sections in this heading.

(c) AHE Program Description

Sections 71.50–15, 115.620, and 176.620

We are adding §§ 71.50–15, 115.620, and 176.620 to explain the AHE Program for certain passenger vessels and list the steps of the program: the application process, the preliminary examination (not required for ROV exams), the pre-survey meeting, and the hull examination. The hull examination includes an underwater survey that may be conducted with divers or an underwater remotely operated vehicle (ROV). If divers are exclusively used for the underwater survey portion of the AHE examination process, you may receive a credit hull exam of up to 36 months (3 years). If a Coast Guard-accepted underwater ROV is used, you may receive a credit hull exam of up to 60 months (5 years).

(d) Eligibility Requirements

Sections 71.50–17, 115.625, and 176.625

We are adding §§ 71.50–17, 115.625, and 176.625, which contain eligibility requirements for the AHE Program and include construction, operation, and vessel condition requirements. To qualify for enrollment in the AHE Program, vessels must—

- Be constructed of steel or aluminum;
- Have an adequate hull protection system;
- Have operated exclusively in fresh water since the last drydock examination;
- Operate in rivers or protected lakes; and
- Operate within 0.5 nautical miles from shore, or operate in water shallow enough so the vessel itself can provide adequate safe refuge for all persons on board in the event of a hull breech. To determine whether your vessel can provide adequate safe refuge you must consider its stability and physical space.

In addition, the OCMI must accept the vessel's overall condition, history of hull casualties and deficiencies, and the AHE Program application.

Vessels that meet these criteria face much lower risks compared to vessels that operate in unrestricted salt-water environments.

To clarify paragraph (a)(2) in each of these sections, we have added a definition for ''effective hull protection system'' to the definitions section of each part.

(e) Application requirements

Sections 71.50–19, 115.630, and 176.630

We are adding §§ 71.50–19, 115.630, and 176.630, which contain the AHE Program application requirements for vessels that meet the eligibility criteria for this program. These sections establish when and to whom the vessel owner or operator must submit an application, and what information the application must contain. The application must be in the form of a letter and must include—

- The time and place for conducting the hull examination;
- The names of the diving contractors or the underwater ROV company;
- Plans and drawings of the vessel;
- Information on the condition of the vessel;
- Plans for conducting the hull examination;
- Plans for conducting preventative hull maintenance; and
- The name and qualifications of third party examiners (if applicable).

The annual hull condition assessment is required to ensure periodic evaluation of the vessel's hull condition. It should include an abbreviated survey (spot check) of the vessel's underwater hull, including its protection system and through-hull fittings and appurtenances, any repairs that have been made, and any suspect areas of the hull. This will also provide an opportunity to complete any necessary preventative maintenance such as replacement of zincs and repair of hull coatings.

The AHE Program is recognized to be time and resource intensive for the Coast Guard when compared to the traditional drydock examination process, particularly when divers are used exclusively for the underwater hull survey. We introduce the ''third party examiner'' in this rulemaking (as allowed in 46 U.S.C. 3103) to enable the Coast Guard to use its resources more effectively. The third party examiner is an individual who has been hired by the vessel owner or operator, and accepted by the OCMI, to oversee the entire examination process under the AHE Program. This person must be familiar with the inspection procedures and his or her responsibilities under this program.

(f) Preliminary Examination Requirements

Sections 71.50–21, 115.635, and 176.635

We are adding §§ 71.50–21, 115.635, and 176.635, which contain requirements regarding the preliminary examination (if required) and the presence of the third party examiner. During this exam, divers must assess the overall condition of the vessel's hull and identify specific concerns to be addressed during the underwater hull examination. The preliminary examination is not required when an underwater ROV is used.

(g) Pre-survey Meeting

Sections 71.50–23, 115.640, and 176.640

We are adding §§ 71.50–23, 115.640, and 176.640, which contain requirements for the pre-survey meeting in which the details of the examination process of the AHE Program are discussed with the OCMI. A vessel owner or operator must request this meeting in writing at least 30 days in advance of the proposed examination date. The pre-survey meeting must take place 2 weeks before the examination.

(h) AHE procedure

Sections 71.50–25, 115.645, and 176.645

We are adding §§ 71.50–25, 115.645, and 176.645, which contain requirements for conducting the underwater survey. To complete the underwater survey you must—

- Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;
- Measure rudder and tailshaft bearing clearances and examine all sea chests, if required by 46 CFR part 61;

• Remove and inspect all sea valves in the presence of a marine inspector;

• Remove all passengers from the vessel when the sea valves are being examined, if required by the Officer in Charge, Marine Inspection;

• Allow access to all internal areas of the hull for examination; and

• Meet the procedural requirements for divers or underwater ROV's in §§ 71.50–27, 115.650, and 176.650.

In paragraph (a)(4) of §§ 71.50–25, 115.645, and 176.645, the OCMI may require removal of all passengers from the vessel during the examination of sea valves. Removal of passengers is likely to occur if there is a risk to the watertight integrity of the hull or an inability to keep the essential machinery in operation. The marine inspector may examine any areas of the vessel the OCMI deems necessary to ensure the safety of passengers and crew. In the event that damage or potential problems are found, the OCMI may require the vessel to be taken out of service or dry-docked. For example, if the vessel had a grounding, an allision, or a collision, or if structural damage was suspected for any reason, the OCMI may require the vessel to be dry-docked to examine and, if necessary, repair the damage.

(i) AHE Program Options: Divers or Underwater ROV

Sections 71.50–27, 115.650, and 176.650

We are adding §§ 71.50–27, 115.650, and 176.650, which include the requirements of the two options, divers or an underwater ROV, to conduct the underwater survey.

This rule requires the use of a third party examiner when divers are used exclusively for the underwater examination of hull plating. This rule also requires appropriate underwater audio and video equipment to record the examination when divers are used. We recommend a maximum water velocity of 1 knot for safe dive operations unless divers are line-tended as provided for in 46 CFR 197.430.

If divers are used exclusively for the underwater survey portion of the AHE Program, a third party examiner must observe the entire examination process. By requiring the use of a third party examiner, Coast Guard marine inspectors must be present only during critical portions of the examination process such as—

• Examination of critical welds, propeller, rudder, other hull appurtenances, sea chests, and sea valves;

• Plugging of sea chests and the removal of sea valves;

• Gauging of rudder and tailshaft bearings, if required by 46 CFR part 61; and

• Any other portions deemed necessary by the OCMI.

Since the entire underwater survey is recorded on video, the OCMI may review, as necessary, any details that were not observed at the time of survey in order to support his or her decision to grant a credit hull exam.

If an underwater ROV is used for the examination of hull plating, the presence of a third party examiner is not required because the ROV operator will take the place of a third party examiner during the underwater survey, which is the most time-intensive portion of the AHE examination process. We recognize that divers will be used for the portions of the underwater survey that the underwater ROV is incapable of covering. Depending on the vessel's hull configuration, the underwater ROV may not be able to access as much as 10 to 20 percent of the vessel's hull plating. In addition, divers will be used to examine sea valves, sea chests, hull appurtenances, and rudders. A third party examiner will be present at the time when a diver is used during the examination if the data collected can not be integrated into the data collected with the ROV.

Current ROV technology available to the marine industry includes underwater inspection vehicles with integrated non-destructive testing (NDT) sensors, high-resolution video systems, acoustic navigation and positioning systems, and data management systems with digital recording. Such systems are capable of capturing detailed, quantifiable data on hull plating thickness, coating thickness, coating condition, cathodic protection field, plating discontinuities (crack detection), and hull form analysis. With the use of acoustic navigation and positioning systems, all survey data can be correlated to an exact position (within a few inches) on the vessel's hull, which provide permanent, repeatable results for long-term trend analysis. Along with video imaging of the survey, inspection reports generated by digital data analysis can include color visualizations (maps) of the vessel's hull that indicate plating thickness (or wastage), coating thickness, and cathodic protection.

If you choose to use an underwater ROV, the design, equipment specifications, results-reporting capabilities, operator qualifications, and quality assurance methods must be accepted by the OCMI. Additionally, the underwater ROV must undergo at least one operational test before acceptance.

Because modern underwater ROV technology offers a hull examination process far superior to traditional underwater survey methods, and at least equivalent to hull examinations conducted in drydock, we are establishing a 60-month (5-year) hull examination interval when an Underwater ROV is used in the AHE process. A 5-year interval is in line with the current drydock examination interval required by regulations for passenger vessels operating in fresh water.

(j) Reports

Sections 71.50–29, 115.655, and 176.655

We are adding §§ 71.50–29, 115.655, and 176.655, which provide requirements for the hull examination report. The OCMI will evaluate the hull examination report and use it as an element in assessing the overall condition of the vessel.

If divers are used exclusively to examine the underwater hull plating, you must provide a written report to the OCMI. This report must include thickness-gauging results, bearing clearances if required, 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. By signing the report, the third party examiner confirms that the results of the report are true and accurate. If you used divers exclusively to examine the hull plating and the report is approved, you could receive credit up to 36 months (3 years). Underwater surveys are required to be conducted twice every 60 months (5 years). If your report is not approved, the OCMI may require your vessel to be dry-docked to ensure passenger safety.

When an underwater ROV is used to examine the hull plating, you must provide a report to the OCMI in an acceptable format. If the underwater ROV report is approved, you will receive a credit up to 60 months (5 years). If your report is not approved the OCMI may require your vessel to be drydocked to ensure passenger safety.

(k) Continued Participation

Sections 71.50–31, 115.660, and 176.660

We are adding §§ 71.50–31, 115.660, and 176.660, which establish the requirements for continued participation in the AHE Program. To continue to participate in the AHE Program, the rule will require you to—

(1) Conduct an annual hull condition assessment that evaluates your vessel's hull, through-hull fittings and

appurtenances and provides ultrasonic test results of high risk areas of the vessel's hull if the AHE was performed exclusively by divers or if deemed necessary by the OCMI;

(2) Conduct preventive maintenance which must include—

- Inspection and replacement (as needed) of zinc anodes;
- Inspection and cleaning (as needed) of the underwater hull;
- Inspection and maintenance of the rudder and shaft seals;
- Inspection and operational testing of sea valves; and
- Flushing of sea chests and sea strainers; and

(3) Submit the results of your preventive maintenance plan and hull condition assessment report to the Officer in Charge, Marine Inspection, annually. These reports must conform to the plans submitted in the application and may be in the form of reports or checklists, whichever format is more effective.

Participating in the AHE Program is entirely voluntary. Once a vessel enters the program, it may receive credit for a hull exam; however, the OCMI may require it to be dry-docked if the examination process of the AHE Program is deemed inadequate for evaluating its hull condition or if out-of-water repairs are necessary.

Underwater Survey Program

(a) General

This rule contains organizational and editorial changes to the regulations for the Underwater Survey Program.

Sections 167.15–35 and 169.230

We are adding the term ''underwater survey'' to §§ 167.15–35 and 169.230. This change will require each vessel and barge to have a plan on board showing the vessel's scantlings during each underwater survey.

(b) Definitions

Sections 125.160, 167.15–27 and 169.231

We are adding the definition of ''underwater survey'' in §§ 125.160, 167.15–27 and 169.231. We are adding the definition of ''underwater survey'' to introduce and clarify this examination process in subchapters L and R.

(c) Examination Intervals

Sections 71.50–3, 115.605, 126.140, 167.15–30, 169.229, and 176.605

In these sections, we are revising the requirements for the drydocking and internal structural examination intervals to allow the option to participate in an underwater survey for qualifying passenger vessels, nautical school ships, OSVs and sailing school vessels. The revisions to §§ 71.50–3, 115.605, and 176.605 provide the underwater survey option for passenger vessels on international voyages and passenger vessels not operated on international voyages. In §§ 126.140 and 167.15–30, the revisions will allow nautical school ships operating in fresh or salt water and OSVs operating in salt water the option to have an underwater survey every other interval instead of drydocking (UWILD). In § 169.229, the revisions will allow sailing school vessels operating in fresh or salt water the option to have an underwater survey instead of drydocking.

(d) Vessel Qualifications and Application

Sections 71.50–5, 115.615, 167.15–33, 169.230, and 176.615

We are adding these sections to establish requirements for vessels to qualify for an underwater survey instead of alternate drydock examination. The OCMI may approve an underwater survey for a vessel if it is less than 15 years of age, and if it meets the structural and operational requirements of these sections. A vessel over 15 years of age may also qualify for an underwater survey if the results of hull gaugings taken at the drydock examination preceding the underwater survey find no appreciable deterioration and the OCMI provides a recommendation to the District Commander. The OCMI will notify the vessel owner or operator of approval. These sections also outline the application contents and submission requirements for an underwater survey.

Difference Between the NPRM and This Interim Rule

The most significant difference between the NPRM and this interim rule is changing the AHE program from one of continuous extensions to establishing an equivalency between a satisfactory AHE exam and a traditional drydock exam allowing an OCMI to give credit for a hull. Another significant difference is the addition of offshore supply vessels to the UWILD program. Other changes are incidental and are described in the comments section.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040; February 26, 1979). A final Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

Alternate Hull Examination (AHE) Program

Certain passenger vessels, operating on restricted inland waterways, experience higher drydocking costs compared to vessels with convenient access to drydock facilities. These costs are related to the hull inspection process and include, as examples, lost revenue during transit to and from drydock facilities and time out of water. However, some of these vessels are at a lower risk for hull-stress due to their limited operating environments. To alleviate this cost burden, we are offering the AHE Program as an option to drydock examinations. These alternatives may, in some cases, be less costly for owners or operators than drydocking. Because the alternatives are 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 for hull inspections of U.S. passenger vessel, nautical school ship, sailing school vessel, and offshore supply vessel owners or operators. This program allows a vessel to undergo an underwater survey instead of a drydock examination every other interval and is currently available to most other classes of inspected vessels.

Due to the success of the UWILD Program with these other vessel types, and the advanced underwater survey technology now available, the Coast Guard will allow passenger vessel and other specific vessel owners or operators the option to alternate between underwater surveys and drydock examinations. 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.

We received one comment stating that under the Regulatory Flexibility Act, this rule would have a significant impact on many diving companies and other small businesses. These regulations present the vessel owner/operator with hull examination alternatives. Prior to this rulemaking, drydocking was the only alternative available to passenger vessels. This rulemaking provides the vessel owner/operator with two distinct programs, offering additional hull examination alternatives. This rule does not impose mandatory costs on any entity, and it will not increase costs to small entities. Instead, it will reduce the burden placed on them by allowing alternative means for conducting a drydock examination. One of those options is the use of divers for underwater surveys.

The anticipated benefits of this rulemaking to small entities are as follows:

AHE Program

These regulatory options reduce the inspection burden for vessels that must travel a great distance to drydock while providing an equivalent level of safety as drydock hull examinations. In cases where it is cost efficient for the vessel owner, these options will greatly decrease the amount of time and resources associated with a traditional drydock inspection and will therefore be beneficial to small entities. Because each vessel owner or operator experiences varying transit distances and financial impact, each owner should assess these factors on an individual basis.

UWILD Program

This voluntary option aligns certain U.S. vessel regulations with international standards. This alignment will help the owners or operators of these U.S. vessels by granting them the same flexibility given to other vessel classes for conducting drydock examinations. By preventing significant delays and revenue loss, this option is expected to be more cost-effective than traditional drydock examinations for small entities that wish to participate in this voluntary option.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. No data is available at this time to determine how many of the vessels affected by this rule are small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule will economically affect it.

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 affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Don Darcy, Office of Standards Evaluation and Development (G–MSR), 202–267–1200.

Small entities 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 collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The titles and descriptions of the collection of information, descriptions of those who must collect the information, and estimates of the total annual burden, follow. Estimates cover the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing the reviewing collection.

The information collection requirements of this rule are addressed in the previously approved OMB collection 2115–0133.

Title: Vessel Inspection Related Forms and Posting Requirements Under Title 46 U.S. Code.

Summary of the Collection of Information: This rule requires vessel owners or operators to send applications, hull exam reports, hull condition assessments, and preventive maintenance plans to the Coast Guard in order to participate in the Alternative Hull Exam and UWILD Programs. Participation in the programs is completely voluntary. The previously approved OMB Collection 2115–0133 is revised and amended by the following sections:

AHE Program. 46 CFR 71.50–19, 29, 31; 115.630, 655, 660 and; 176.630, 655, 660.

UWILD Program. 46 CFR 71.50–5, 115.615, 126.140, 167.15–33, 169.230 and 176.615.

Need for Information

AHE Program. The collection provides the Officer in Charge, Marine Inspection (OCMI) with information necessary to determine the hull condition of a vessel and if it is eligible for the AHE Program. The application includes a preventative maintenance plan and a hull condition assessment plan.

UWILD Program. Depending on the age of the vessel, owners must apply to the OCMI or District Commander for approval of underwater surveys instead of drydock examinations for each vessel. This is a voluntary collection of information, which is intended to allow greater flexibility for owners of vessels.

Proposed Use of Information

AHE Program. The application for an underwater hull inspection provides the OCMI with information necessary to determine if a vessel is eligible for the AHE Program.

UWILD Program. The underwater survey application provides the OCMI information to determine if an underwater survey is sufficient to replace a drydock hull inspection.

Description of the Respondents

AHE Program. The affected respondents are qualifying passenger vessels that operate exclusively on restricted, low-risk environments.

UWILD Program. The affected respondents for this voluntary inspection process are all U.S. vessels that have steel or aluminum hulls and are covered under subchapters H, K, L, R, and T.

Number of Respondents

AHE Program. We anticipate that 51 respondents will take advantage of this program.

UWILD Program. We anticipate that 85 respondents will take advantage of this program.

Frequency of Response

AHE Program. The Coast Guard expects the owners of 20 vessels to apply for participation in the AHE Program annually.

UWILD Program. The Coast Guard expects the owners of 47 vessels to apply for underwater surveys annually.

Burden of Response

AHE Program. We expect 20 AHE applications per year. Each application is expected to place a burden of two hours including research and legal review. Therefore, on average there will be an annual burden of 40 hours (20 applications per year × 2 hours per application).

UWILD Program. We expect 47 applications for underwater surveys per year. Each application will place a burden of two hours including research and legal review. Therefore, on average there will be an annual burden of 94 hours (47 applications per year × 2 hours per application).

Estimate of Totel Annual Burden

There are 134 annual burden hours attributed to this rule with a cost of $7,638 (at the industry wage rate of $57 per hour). Because the actual OMB Collection 2115–0133 entails many other collection requirements not affected by this rule and to maintain accuracy with the Coast Guard's collection burden budget, we are publishing the total hour burden for collection 2115–0133. The new total of burden hours for OMB 2115–0133 is 1,578 hours.

Public Comments on Collection of Information

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES,** by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

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 regulatory actions not specifically required by law. 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, the effects of this rule are discussed 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Consultation and Coordination With Indian Tribal Governments

This proposed rule will not have tribal implications; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, it is exempt from the consultation requirements of Executive Order 13175. If tribal implications are identified during the comment period we will undertake appropriate consultations with the affected Indian tribal officials.

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

This rule deals exclusively with changing inspection intervals and providing voluntary dry-docking alternatives for certain passenger vessels. We considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. 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 Coast Guard is amending 46 CFR parts 71, 114, 115, 125, 126, 167, 169, 175 and 176 as follows:

PART 71—INSPECTION AND CERTIFICATION

1. The authority citation for Part 71 continues 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; 49 CFR 1.46.

2. Revise § 71.50–1 to read as follows:

§ 71.50–1 Definitions relating to hull examinations.

As used in this part—

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 zinc anodes, or an impressed current CP system.

Alternative Hull Examination (AHE) Program means a program in which an eligible vessel may receive an initial and subsequent credit hull examination through a combination of underwater surveys, internal examinations, and annual hull condition assessment.

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings and appurtenances.

Internal structural examination means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo, sewage, or fuel oil tanks.

Remotely operated vehicle (ROV) team, at a minimum, consist of an ROV operator, a non-destructive testing inspector, an ROV tender or mechanic, and a team supervisor who is considered by the Officer in Charge, Marine Inspection (OCMI), to have the appropriate training and experience to perform the survey and to safely operate the ROV in an effective manor. The team must also have a hull-positioning technician present. This position may be assigned to a team member already responsible for another team duty.

Shallow water is an ascertained water depth at which the uppermost deck(s) of a sunken vessel remain above the water's surface. The determination of the water's depth is made by the Officer in Charge, Marine Inspection (OCMI) who considers the vessel's stability (passenger heeling moment), the contour of the hull, the composition of the river bottom, and any other factors that would tend to prevent a vessel from resting an even keel.

Third party examiner means an entity:

(1) With a thorough knowledge of diving operations, including diving limitations as related to diver safety and diver supervision;

(2) Having a familiarity with, but not limited to, the following—

(i) The camera used during the AHE; and

(ii) The NDT equipment used during the AHE, including the effect of water clarity, and marine growth in relation to the quality of the readings obtained;

(3) Having a familiarity with the communications equipment used during the AHE;

(4) Possessing the knowledge of vessel structures, design features, nomenclature, and the applicable AHE regulations; and

(5) Able to present the Officer in Charge, Marine Inspection, with evidence of formal training, demonstrated ability, past acceptance, or a combination of these.

Underwater Survey in Lieu of Drydocking (UWILD) means a program in which an eligible vessel may alternate between an underwater survey and the required drydock examinations.

3. In § 71.50–3 revise the section heading, paragraph (a), the introductory text of paragraph (b), redesignate paragraph (f) as paragraph (g), and add new paragraph (f) to read as follows:

§ 71.50–3 Drydock examination, internal structural examination, underwater survey, and alternate hull exam intervals.

(a) If your vessel is operated on international voyages, it must undergo a drydock and internal structural examination once every 12 months unless it has been approved to undergo an underwater survey per § 71.50–5 of this part.

(b) If your vessel is operated on other than international voyages and does not meet the conditions in paragraphs (c) through (f) of this section, it must undergo a drydock and internal structural examination as follows unless it has been approved to undergo an underwater survey per § 71.50–5 of this part:

* * * * *

(f) For a vessel that is eligible per § 71.50–17 and the owner opts for an alternate hull examination with the underwater survey portion conducted exclusively by divers, the vessel must undergo two alternate hull exams and two internal structural exams within any five-year period. If a vessel completes a satisfactory alternate hull exam, with the underwater survey portion conducted predominantly by an approved underwater ROV, the vessel must undergo one alternate hull and one internal structural exam, within any five-year period. The vessel may undergo a drydock exam to satisfy any of the required alternate hull exams.

§ 71.50–5 [Redesignated as § 71.50–35 and amended]

4. Redesignate § 71.50–5 as § 71.50–35; in paragraph (b), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural

examination, or underwater survey,''; in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, or underwater survey''.

5. Add new § 71.50–5 to read as follows:

§ 71.50–5 Underwater Survey in Lieu of Drydocking (UWILD).

(a) The Officer in Charge, Marine Inspection (OCMI), may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 71.50–3(a) or (b).

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey;

(7) A description of the hull protection system; and

(8) The name and qualifications of any third party examiner.

(c) If your vessel is 15 years old or older, the cognizant District Commander for the area in which the exam is being completed, may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (b)(8) of this section; and

(3) During the vessel's drydock examination that precedes the underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination required in paragraph (c)(3) of this section, the OCMI submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the cognizant District Commander for review.

6. Add § 71.50–15 to read as follows:

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

The Alternative Hull Examination (AHE) Program provides you with an alternative to 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 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 divers are exclusively 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. If an underwater ROV is used as the predominant 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.

7. Add § 71.50–17 to read as follows:

§ 71.50–17 Eligibility requirements for the Alternative Hull Examination (AHE) Program for certain passenger vessels.

(a) Your vessel may be eligible for the AHE Program if—

(1) It is constructed of steel or aluminum;

(2) It has an effective hull protection system;

(3) It has operated exclusively in fresh water since its last drydock examination;

(4) It operates in a reduced risk environment such as a river or the protected waters of a lake; and

(5) It operates exclusively in shallow water or within 0.5 nautical miles from shore.

(b) In addition to the requirements in paragraph (a), the Officer in Charge, Marine Inspection (OCMI), will evaluate the following information when determining your vessel's eligibility for the AHE Program:

(1) The overall condition of the vessel, based on its inspection history;

(2) The vessel's history of hull casualties and hull-related deficiencies; and

(3) The AHE Program application, as described in § 71.50–19 of this part.

(c) When reviewing a vessel's eligibility for the AHE program, the OCMI may modify the standards given by paragraph (a)(5) of this section where it is considered safe and reasonable to do so. In making this determination, the OCMI will consider the vessel's overall condition, its history of safe operation, and any other factors that serve to mitigate overall safety risks.

8. Add § 71.50–19 to read as follows:

§ 71.50–19 The Alternative Hull Examination (AHE) Program application.

If your vessel meets the eligibility criteria in § 71.50–17 of this part, you may apply to the AHE Program. You must submit an application at least 90 days before the requested hull examination date to the Officer in Charge, Marine Inspection (OCMI), who will oversee the hull examination. The application must include—

(a) The proposed time and place for conducting the hull examination;

(b) The name of the participating diving contractor and underwater remotely operated vehicle (ROV) company accepted by the OCMI under § 71.50–27 of this part;

(c) The name and qualifications of the third party examiner. This person must be familiar with the inspection procedures and his or her responsibilities under this program. The OCMI has the discretionary authority to accept or deny use of any third party examiner using the criteria established in § 71.50–1 of this part;

(d) A signed statement from your vessel's master, chief engineer, or the person in charge stating the vessel meets the eligibility criteria of § 71.50–17 of this part and a description of the vessel's overall condition, level of maintenance, known or suspected damage, underwater body cleanliness, and the anticipated draft of the vessel at the time of the examination;

(e) Plans or drawings that illustrate the external details of the hull below the sheer strake;

(f) A detailed plan for conducting the hull examination in accordance with §§ 71.50–25 and 71.50–27 of this part, which must address all safety concerns

related to the removal of sea valves during the inspection; and

(g) A preventative maintenance plan for your vessel's hull, its related systems and equipment.

9. Add § 71.50–21 to read as follows:

§ 71.50–21 Preliminary examination requirements.

(a) If you exclusively use divers to examine the underwater hull plating, you must arrange to have a preliminary examination conducted by a third party examiner, with the assistance of qualified divers. The purpose of the preliminary examination is to assess the overall condition of the vessel's hull and identify any specific concerns to be addressed during the underwater hull examination.

(b) The preliminary examination is required only upon the vessel's entry or reentry into the AHE program.

(c) If you use an underwater ROV as the predominant means to examine your vessel's hull plating, a preliminary examination and the participation of a third party examiner will not be necessary.

10. Add § 71.50–23 to read as follows:

§ 71.50–23 Pre-Survey meeting.

(a) In advance of each AHE, you must conduct a pre-survey meeting to discuss the details of the AHE procedure with the Officer in Charge, Marine Inspection (OCMI). If you exclusively use divers to examine the underwater hull plating, the third party examiner must attend the meeting and you must present the results of the preliminary examination. If you use an underwater remotely operated vehicle (ROV) as the predominant means to examine the vessel's hull plating, then the pre-survey meeting must be attended by a representative of the ROV operating company who is qualified to discuss the ROV's capabilities and limitations of your vessel's hull design and configuration.

(b) A vessel owner, operator, or designated agent must request this meeting in writing at least 30 days in advance of the examination date.

11. Add § 71.50–25 to read as follows:

§ 71.50–25 Alternative Hull Examination (AHE) procedure.

(a) To complete the underwater survey you must—

(1) Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

(2) Examine all sea chests;

(3) Remove and inspect all sea valves in the presence of a marine inspector;

(4) Remove all passengers from the vessel when the sea valves are being examined, if required by the Officer in Charge, Marine Inspection (OCMI);

(5) Allow access to all internal areas of the hull for examination, except internal tanks that carry fuel, sewage, or potable water. Internal tanks that carry fuel must be examined in accordance with § 71.53–1 of this part. Internal sewage and potable water tanks may be examined visually or by non-destructive testing to the satisfaction of the attending marine inspector; and

(6) Meet the requirements in § 71.50–27 of this part.

(b) A marine inspector may examine any other areas deemed necessary by the OCMI.

(c) If the AHE reveals significant deterioration or damage to the vessel's hull plating or structural members, the OCMI must be immediately notified. The OCMI may require the vessel be drydocked or otherwise taken out of service to further assess the extent of damage or to effect permanent repairs if the assessment or repairs cannot be completed to the satisfaction of the OCMI while the vessel is waterborne.

12. Add § 71.50–27 to read as follows:

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

To conduct the underwater survey portion of the AHE, you may use divers or an underwater ROV.

(a) If you use divers to conduct the underwater survey, you must:

(1) Locate the vessel so the divers can work safely under the vessel's keel and around both sides. The water velocity must be safe for dive operations;

(2) Provide permanent hull markings or a temporary underwater grid system to identify the diver's location with respect to the hull, within one foot of accuracy;

(3) Take ultrasonic thickness gaugings at a minimum of 5 points on each plate, evenly spaced;

(4) Take hull plating thickness gaugings along transverse belts at the bow, stern, and midships, as a minimum. Plating thickness gaugings must also be taken along a longitudinal belt at the wind and water strake. Individual gaugings along the transverse and longitudinal belts must be spaced no more than 3 feet apart;

(5) Ensure the third party examiner observes the entire underwater examination process;

(6) Record the entire underwater survey with audio and video recording equipment and ensure that communications between divers and the third party examiner are recorded; and

(7) Use appropriate equipment, such as a clear box, if underwater visibility is poor, to provide the camera with a clear view of the hull.

(b) You may use an underwater ROV to conduct the underwater survey. The underwater ROV operating team, survey process and equipment, quality assurance methods, and the content and format of the survey report must be accepted by the Officer in Charge, Marine Inspection (OCMI) prior to the survey. If you choose this option, you must—

(1) Locate the vessel to ensure that the underwater ROV can operate effectively under the vessel's keel and around all sides;

(2) Employ divers to examine any sections of the hull and appurtenances that the underwater ROV cannot access or is otherwise unable to evaluate; and

(3) If the OCMI determines that the data obtained by the ROV, including non-destructive testing results, readability of the results, and positioning standards, will not integrate into the data obtained by the divers, then a third party examiner must be present during the divers portion of the examination.

13. Add § 71.50–29 to read as follows:

§ 71.50–29 Hull examination reports.

(a) If you exclusively use divers for the underwater survey portion of the Alternate 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 drydock extension. The third party examiner must sign the report and confirm the validity of its contents.

(b) If you use an underwater ROV as the predominant means to examine the vessel's underwater hull plating, you must provide the OCMI with a report in the format that is accepted by the OCMI, per § 71.50–27(b) of this part.

(c) The OCMI will evaluate the hull examination report and grant a credit hull exam if satisfied with the condition of the vessel. If approved and you exclusively use divers to examine the hull plating, you may receive a credit hull exam up to 36 months. (Underwater examinations are required twice every 5 years). If approved and you use an underwater ROV as the predominant means to examine the underwater hull plating, you may receive a credit hull exam up to 60 months (5 years).

14. Add § 71.50–31 to read as follows:

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

(a) If you conducted the AHE Program using divers only and want to continue to participate in the program, you must conduct an annual hull condition assessment. At a minimum, the hull condition assessment must include an internal examination and random hull gaugings taken internally. If the annual hull condition assessment reveals significant damage or corrosion, where temporary repairs have been made, or where other critical areas of concern have been identified, the Officer in Charge, Marine Inspection (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.

(b) If an underwater survey is required for the annual hull condition assessment, the OCMI may require the presence of a third party examiner and a written hull examination report must be submitted to the OCMI. This report must include thickness gauging results, a copy of the audio and video recordings and any other information that will help the OCMI evaluate your vessel for continued participation in the AHE program. The third party examiner must sign the report and confirm the validity of its contents.

(c) You must submit your preventive maintenance reports or checklists on an annual basis to the OCMI. These reports or checklists must conform to the plans you submitted in your application under § 71.50–19 of this part, which the OCMI approved.

(d) Prior to each scheduled annual hull condition assessment—

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

(2) The OCMI may reduce the scope or extend the interval of the assessment if the operational, casualty, and deficiency history of the vessel, along with a recommendation of the vessel's master, indicates that it is warranted.

PART 114—GENERAL PROVISIONS

15. The authority citation for Part 114 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46. Section 114.900 also issued under 44 U.S.C. 3507.

16. Add the following definitions to § 114.400(b) in alphabetical order:

§ 114.400 Definitions of terms used in this subchapter.

* * * * *

(b) * * *

Alternative Hull Examination (AHE) Program means a program in which an eligible vessel may receive an initial and subsequent credit hull examination through a combination of underwater surveys, internal examinations, and annual hull condition assessments.

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 zinc anodes, or an impressed current CP system.

* * * * *

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings and appurtenances.

* * * * *

Internal structural examination means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo, sewage, or fuel oil tanks.

* * * * *

Remotely operated vehicle (ROV) team, at a minimum, consist of an ROV operator, a non-destructive testing inspector, an ROV tender or mechanic, and a team supervisor who is considered by the Officer in Charge, Marine Inspection (OCMI), have the appropriate training and experience to perform the survey and to safely operate the ROV in an effective manor. The team must also have a hull-positioning technician present. This position may be assigned to a team member already responsible for another team duty.

* * * * *

Shallow water is an ascertained water depth at which the uppermost deck(s) of a sunken vessel remain above the water's surface. The determination of the water's depth is made by the Officer in Charge, Marine Inspection (OCMI) who considers the vessel's stability (passenger heeling moment), the contour of the hull, the composition of the river bottom, and any other factors that would tend to prevent a vessel from resting an even keel.

* * * * *

Third party examiner means an entity:

(1) With a thorough knowledge of diving operations, including diving limitations as related to diver safety and diver supervision;

(2) Having a familiarity with, but not limited to, the following—

(i) The camera used during the AHE; and

(ii) The NDT equipment used during the AHE, including the effect of water clarity, and marine growth in relation to the quality of the readings obtained;

(3) Having a familiarity with the communications equipment used during the AHE;

(4) Possessing the knowledge of vessel structures, design features, nomenclature, and the applicable AHE regulations; and

(5) Able to present the Officer in Charge, Marine Inspection, with evidence of formal training, demonstrated ability, past acceptance, or a combination of these.

* * * * *

Underwater Survey in Lieu of Drydocking (UWILD) means a program in which an eligible vessel may alternate between an underwater survey and the required drydock examinations.

* * * * *

PART 115—INSPECTION AND CERTIFICATION

17. The authority citation for Part 115 continues 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; 49 CFR 1.46.

18. In § 115.600—

a. Revise the section heading;

b. Revise paragraph (a);

c. Revise the first sentence of paragraph (b);

d. Revise the introductory text of paragraph (c); and

e. Add paragraph (e) to read as follows:

§ 115.600 Drydock examination, internal structural examination, and underwater survey intervals.

(a) The owner or managing operator shall make a vessel available for drydock examinations, internal structural examinations, and underwater surveys required by this section.

(b) If your vessel is operated on international voyages subject to SOLAS requirements, it must undergo a drydock examination once every 12 months unless it has been approved to undergo an underwater survey (UWILD) per § 115.615 of this part. * * *

(c) If your vessel is operated on other than international voyages and does not meet the conditions in paragraph (d) of

this section, it must undergo a drydock and internal structural examination as follows unless it has been approved to undergo an underwater survey (UWILD) per § 115.615 of this part:

* * * * *

(e) For a vessel that is eligible per § 115.625 of this part and the owner opts for an alternate hull examination with the underwater survey portion conducted exclusively by divers, the vessel must undergo two alternate hull exams and two internal structural exams within any five-year period. If a vessel completes a satisfactory alternate hull exam, with the underwater survey portion conducted predominantly by an approved underwater remotely operated vehicle (ROV), the vessel must undergo one alternate hull and one internal structural exam, within any five-year period. The vessel may undergo a drydock exam to satisfy any of the required alternate hull exams.

§§ 115.612, 115.630, and 115.670 [Redesignated as §§ 115.665, 115.670, and 115.675]

19. Redesignate §§ 115.612, 115.630, and 115.670 as §§ 115.665, 115.670, and 115.675, respectively.

20. Add § 115.615 to read as follows:

§ 115.615 Underwater Survey in Lieu of Drydocking (UWILD).

(a) The Officer in Charge, Marine Inspection (OCMI), may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 115.600(b) or (c) of this part.

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The condition of the vessel, including the anticipated draft of the vessel at the time of survey;

(6) A description of the hull protection system; and

(7) The name and qualifications of any third party examiner.

(c) If your vessel is 15 years old or older, the cognizant District Commander, may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (b)(7) of this section; and

(3) During the vessel's drydock examination, preceding the underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination required by paragraph (c)(3) of this section, the OCMI submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the District Commander for cognizant review.

21. Add § 115.620 to read as follows:

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

The Alternate Hull Examination (AHE) Program provides you with an alternative to 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 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 divers are exclusively 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. If an underwater ROV is used as the predominant 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.

22. Add § 115.625 to read as follows:

§ 115.625 Eligibility requirements for the Alternative Hull Examination (AHE) Program for certain passenger vessels.

(a) Your vessel may be eligible for the AHE Program if—

(1) It is constructed of steel or aluminum;

(2) It has an effective hull protection system;

(3) It has operated exclusively in fresh water since its last drydock examination;

(4) It operates in rivers or protected lakes; and

(5) It operates exclusively in shallow water or within 0.5 nautical miles from shore.

(b) In addition to the requirements in paragraph (a) of this section, the Officer in Charge, Marine Inspection (OCMI) will evaluate the following information when determining your vessel's eligibility for the AHE Program:

(1) The overall condition of the vessel, based on its inspection history;

(2) The vessel's history of hull casualties and hull-related deficiencies; and

(3) The AHE Program application, as described in § 115.630 of this part.

(c) When reviewing a vessel's eligibility for the AHE program, the OCMI may modify the standards given by paragraph (a)(5) of this section where it is considered safe and reasonable to do so. In making this determination, the OCMI will consider the vessel's overall condition, its history of safe operation, and any other factors that serve to mitigate overall safety risks.

23. Add § 115.630 to read as follows:

§ 115.630 The Alternative Hull Examination (AHE) Program application.

If your vessel meets the eligibility criteria in § 115.625 of this part, you may apply to the AHE Program. You must submit an application at least 90 days before the requested hull examination date to the Officer in Charge, Marine Inspection (OCMI) who will oversee the survey. The application must include—

(a) The proposed time and place for conducting the hull examination;

(b) The name of the participating diving contractor and underwater remotely operated vehicle (ROV) company which must be accepted by the OCMI under § 115.650;

(c) The name and qualifications of the third party examiner. This person must be familiar with the inspection procedures and his or her responsibilities under this program. The OCMI has the discretionary authority to accept or deny use of a particular third party examiner using the criteria established in 46 CFR 114.400;

(d) A signed statement from your vessel's master, chief engineer, or the person in charge describing the vessel's overall condition, level of maintenance, known or suspected damage, underwater body cleanliness, and the anticipated draft of the vessel at the time of the examination;

(e) Plans or drawings that illustrate the external details of the hull below the sheer strake;

(f) A detailed plan for conducting the hull examination in accordance with §§ 115.645 and 115.650 of this part, which must address all safety concerns related to the removal of sea valves during the inspection; and

(g) A preventative maintenance plan for your vessel's hull, its related systems and equipment.

24. Add § 115.635 to read as follows:

§ 115.635 Preliminary examination requirements.

(a) If you exclusively use divers to examine the underwater hull plating, you must arrange to have a preliminary examination conducted by a third party examiner, with the assistance of qualified divers. The purpose of the preliminary examination is to assess the overall condition of the vessel's hull and identify any specific concerns to be addressed during the underwater hull examination.

(b) If you use an underwater ROV as the predominate means to examine your vessel's hull plating, a preliminary examination and the participation of a third party examiner will not be necessary.

(c) The preliminary examination is required only upon the vessel's entry or review into the AHE program.

25. Add § 115.640 to read as follows:

§ 115.640 Pre-Survey meeting.

(a) You must conduct a pre-survey meeting to discuss the details of the AHE procedure with the Officer in Charge, Marine Inspection (OCMI). If you exclusively use divers to examine the underwater hull plating, the third party examiner must attend the meeting and you must present the results of the preliminary examination. If you use an underwater remotely operated vehicle (ROV) as the predominate means to examine the vessel's hull plating, then a representative of the ROV operating company must attend the pre-survey meeting and address the underwater ROV's capabilities and limitations related to your vessel's hull design and configuration.

(b) A vessel owner, operator, or designated agent must request this meeting in writing at least 30 days in advance of the examination date.

26. Add § 115.645 to read as follows:

§ 115.645 Alternative Hull Examination (AHE) Procedure.

(a) To complete the underwater survey you must—

(1) Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

(2) Examine all sea chests;

(3) Remove and inspect all sea valves in the presence of a marine inspector;

(4) Remove all passengers from the vessel when the sea valves are being examined, if required by the Officer in Charge, Marine Inspection (OCMI);

(5) Allow access to all internal areas of the hull for examination, except internal tanks that carry fuel (unless damage or deterioration is discovered or suspect), sewage, or potable water. Internal sewage and potable water tanks may be examined visually or by non-destructive testing to the satisfaction of the attending marine inspector; and

(6) Meet the requirements in § 115.650 of this part.

(b) A marine inspector may examine any other areas deemed necessary by the OCMI.

(c) If the AHE reveals significant deterioration or damage to the vessel's hull plating or structural members, the OCMI must be immediately notified. The OCMI may require the vessel be drydocked or otherwise taken out of service to further assess the extent of damage or to effect permanent repairs if the assessment or repairs cannot be completed to the satisfaction of the OCMI while the vessel is waterborne.

27. Add § 115.650 to read as follows:

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

To complete your underwater survey, you may use divers or an underwater remotely operated vehicle (ROV).

(a) If you use divers to conduct the underwater survey, you must—

(1) Locate the vessel so the divers can work safely under the vessel's keel and around both sides. The water velocity must be safe for dive operations;

(2) Provide permanent hull markings or a temporary underwater grid system to identify the diver's location with respect to the hull, within one foot of accuracy;

(3) Take ultrasonic thickness gaugings at a minimum of 5 points on each plate, evenly spaced;

(4) Take hull plating thickness gaugings along transverse belts at the bow, stern, and midships, as a minimum. Plating thickness gaugings must also be taken along a longitudinal belt at the wind and water strake. Individual gaugings along the transverse and longitudinal belts must be spaced no more than 3 feet apart;

(5) Ensure the third party examiner observes the entire underwater examination process;

(6) Record the entire underwater survey with audio and video recording equipment and ensure that communications between divers and the third party examiner are recorded; and

(7) Use appropriate equipment, such as a clear box, if underwater visibility is poor, to provide the camera with a clear view of the hull.

(b) You may use an underwater ROV to conduct the underwater survey. The underwater ROV operating team, survey process and equipment, quality assurance methods, and the content and format of the survey report must be accepted by the Officer in Charge, Marine Inspection (OCMI) prior to conducting the survey. If you choose this option, you must—

(1) Locate the vessel to ensure that the underwater ROV can operate effectively under the vessel's keel and around both sides;

(2) Employ divers to examine any sections of the hull and appurtenances that the underwater ROV cannot access or is otherwise unable to evaluate; and

(3) If the OCMI determines that the data obtained by the ROV, including non-destructive testing results, readability of the results, and positioning standards, will not integrate into the data obtained by the divers, then a third party examiner must be present during the divers portion of the examination.

28. Add § 115.655 to read as follows:

§ 115.655 Hull examination reports.

(a) If you exclusively use divers for the underwater survey portion of the 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 drydock extension. The third party examiner must sign the report and confirm the validity of its contents.

(b) If you use an underwater remotely operated vehicle (ROV) as the predominate means to examine the vessel's underwater hull plating, you must provide the OCMI with a report in a format that is acceptable to the OCMI, per § 115.650(b) of this part.

(c) The OCMI will evaluate the hull examination report and grant a credit

hull exam if satisfied with the condition of the vessel. If approved and you exclusively use divers to examine the hull plating, you may receive a credit hull exam to 36 months. (Underwater examinations are required twice every 5 years). If approved and you use an underwater ROV as the predominant means to examine the underwater hull plating, you may receive a credit hull exam up to 60 months (5 years).

29. Add § 115.660 to read as follows:

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

(a) To continue to participate in the AHE Program, you must conduct an annual hull condition assessment. At a minimum, the hull condition assessment must include an internal examination and random hull gaugings taken internally. If the annual hull condition assessment reveals significant damage or corrosion, where temporary repairs have been made, or where other critical areas of concern have been identified, the Officer in Charge, Marine Inspection (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.

(b) If an underwater survey is required for the annual hull condition assessment, the OCMI may require the presence of a third party examiner and a written hull examination report must be submitted to the OCMI. This report must include thickness gauging results, a copy of the audio and video recordings and any other information that will help the OCMI evaluate your vessel for continued participation in the AHE program. The third party examiner must sign the report and confirm the validity of its contents.

(c) You must submit your preventive maintenance reports or checklists on an annual basis to the OCMI. These reports or checklists must conform to the plans you submitted in your application under § 115.630 of this part, which the OCMI approved.

(d) Prior to each scheduled annual hull condition assessment—

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

(2) The OCMI may reduce the scope or extend the interval of the assessment if the operational, casualty, and deficiency history of the vessel, along with a recommendation of the vessel's master, indicates that it is warranted.

§ 115.665 [Amended]

30. In newly redesignated § 115.665, in paragraph (a), remove ''§ 115.600'' and add, in its place, ''§ 115.605''; and in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, an underwater survey,''.

§ 115.675 [Amended]

31. In newly redesignated § 115.675, remove ''§ 115.600'' and add, in its place, ''§ 115.605''.

PART 125—GENERAL

32. The authority citation for Part 125 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; 49 CFR 1.46.

33. Add the following definition to § 125.160 in alphabetical order:

§ 125.160 Definitions relating to hull examinations.

* * * * *

Underwater survey means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

PART 126—INSPECTION AND CERTIFICATION

34. The authority citation for Part 126 continues to read as follows:

Authority: 46 U.S.C. 3205, 3306, 3307; 33 U.S.C. 1321(j); E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; 49 CFR 1.46.

35. In § 126.140, add paragraphs (f) and (g) to read as follows:

§ 126.140 Drydocking.

* * * * *

(f) Vessels less than 15 years of age (except wooden hull vessels) that are in salt water service with a twice in 5 year drydock interval may be considered for an underwater survey instead of alternate drydock examinations, provided the vessel is fitted with an effective hull protection system. Vessel owners or operators must apply to the Officer in Charge, Marine Inspection (OCMI), for approval of underwater surveys instead of alternate drydock examinations for each vessel. The application must include the following information:

(1) The procedure to be followed in carrying out the underwater survey;

(2) The location where the underwater survey will be accomplished;

(3) The method to be used to accurately determine the diver location relative to the hull;

(4) The means that will be provided for examining through-hull fittings;

(5) The means that will be provided for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of the survey;

(7) A description of the hull protection system; and

(8) The name and qualifications of any third party examiner.

(g) Vessels otherwise qualifying under paragraph (f) of this section, that are 15 years of age or older, may be considered for continued participation in or entry into the underwater survey program on a case-by-case basis if—

(1) Before the vessel's next scheduled drydocking, the owner or operator submits a request for participation or continued participation to the cognizant District Commander;

(2) During the vessel's next drydocking, after the request is submitted, no appreciable hull deterioration is indicated as a result of a complete set of hull gaugings; and

(3) The results of the hull gauging and the results of the Coast Guard drydock examination together with the recommendation of the OCMI, are submitted to Commandant (G–MOC) for final approval.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

36. The authority citation for Part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

37. Add § 167.05–40 to read as follows:

§ 167.05–40 Underwater survey.

Underwater survey means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

38. In § 167.15–30, revise the section heading and paragraphs (a)(1) and (2) to read as follows:

§ 167.15–30 Drydock examination, internal structural examination, and underwater survey intervals.

(a) * * *

(1) If your vessel operates in saltwater, it must undergo two drydock examinations and two internal structural examinations within any 5-year period unless it has been approved to undergo an underwater survey (UWILD) under § 167.15–33 of this part.

No more than three years may elapse between any two examinations.

(2) If your vessel operated in fresh water at least 50 percent of the time since your last drydocking, it must undergo a dry dock and internal structural examination at intervals not to exceed 5 years unless it has been approved to undergo an underwater survey (UWILD) under § 167.15–33 of this part.

* * * * *

39. Add § 167.15–33 to read as follows:

§ 167.15–33 Underwater Survey in Lieu of Drydocking (UWILD).

(a) The Officer in Charge, Marine Inspection (OCMI), may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in 46 CFR 167.15–30(a)(1) or (2).

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey;

(7) A description of the hull protection system; and

(8) The name and qualifications of any third party examiner.

(c) If your vessel is 15 years old or older, the District Commander, may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (b)(8) of this section; and

(3) During the vessel's drydock examination, preceding the underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After the drydock examination required in paragraph (c)(3) of this section, the Officer in Charge, Marine Inspection submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the cognizant District Commander for review.

§ 167.15–35 [Amended]

40. In § 167.15–35, in paragraph (b), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, underwater survey,''; and, in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, underwater survey,''.

PART 169—SAILING SCHOOL VESSELS

41. The authority citation for Part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3307, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

42. In § 169.229, revise the section heading and paragraphs (a)(1) and (2) to read as follows:

§ 169.229 Drydock examination, internal structural examination, and underwater survey intervals.

(a) * * *

(1) If your vessel operates in saltwater, it must undergo two drydock examinations and two internal structural examinations within any 5-year period unless it has been approved to undergo an underwater survey (UWILD) under § 169.230 of this part. No more than 3 years may elapse between any two examinations.

(2) If your vessel operated in fresh water at least 50 percent of the time since your last drydocking, it must undergo a dry dock and internal structural examination at intervals not to exceed 5 years unless it has been approved to undergo an underwater survey (UWILD) under § 169.230 of this part.

* * * * *

43. Add § 169.230 to read as follows:

§ 169.230 Underwater Survey in Lieu of Drydocking (UWILD).

(a) The Officer in Charge, Marine Inspection (OCMI), on a case-by-case basis, may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Listed in § 169.229(a)(1) or (2) of this part.

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The condition of the vessel, including the anticipated draft of the vessel at the time of survey;

(6) A description of the hull protection system; and

(7) The name and qualifications of any third party examiner.

(c) If your vessel is 15 years old or older, the cognizant District Commander, on a case-by-case basis, may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (b)(7) of this section; and

(3) During the vessel's drydock examination, preceding the underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After the drydock examination required by paragraph (c)(3) of this section, the OCMI submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the cognizant District Commander, for review.

44. In § 169.231, redesignate paragraph (b) as (c), and add new paragraph (b) to read as follows:

§ 169.231 Definitions relating to hull examinations.

* * * * *

(b) *Underwater survey* means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

PART 175—GENERAL PROVISIONS

45. The authority citation for Part 175 continues to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3307, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 175.900 also issued under authority of 44 U.S.C. 3507.

46. Add the following definitions to § 175.400 in alphabetical order:

§ 175.400 Definitions of terms used in this subchapter.

* * * * *

Alternative Hull Examination (AHE) Program means a program in which an eligible vessel may receive an initial and subsequent credit hull examination through a combination of underwater surveys, internal examinations and annual hull condition assessment.

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 zinc anodes, or an impressed current CP system.

* * * * *

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings and appurtenances.

* * * * *

Internal structural examination means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo, sewage, or fuel oil tanks.

* * * * *

Remotely operated vehicle (ROV) team, at a minimum, consist of an ROV operator, a non-destructive testing inspector, an ROV tender or mechanic, and a team supervisor who is considered by the Officer in Charge, Marine Inspection (OCMI), have the appropriate training and experience to perform the survey and to safely operate the ROV in an effective manor. The team must also have a hull-positioning technician present. This position may be assigned to a team member already responsible for another team duty.

* * * * *

Shallow water is an ascertained water depth at which the uppermost deck(s) of a sunken vessel remain above the water's surface. The determination of the water's depth is made by the Officer in Charge, Marine Inspection (OCMI) who considers the vessel's stability (passenger heeling moment), the contour of the hull, the composition of the river bottom, and any other factors that would tend to prevent a vessel from resting an even keel.

* * * * *

Third party examiner means an entity:

(1) With a thorough knowledge of diving operations, including diving limitations as related to diver safety and diver supervision;

(2) Having a familiarity with, but not limited to, the following—

(i) The camera used during the AHE; and

(ii) The NDT equipment used during the AHE, including the effect of water clarity, and marine growth in relation to the quality of the readings obtained;

(3) Having a familiarity with the communications equipment used during the AHE;

(4) Possessing the knowledge of vessel structures, design features, nomenclature, and the applicable AHE regulations; and

(5) Able to present the Officer in Charge, Marine Inspection, with evidence of formal training, demonstrated ability, past acceptance, or a combination of these.

* * * * *

Underwater Survey in Lieu of Drydocking (UWILD) means a program in which an eligible vessel may alternate between an underwater survey and the required drydock examinations.

* * * * *

PART 176—INSPECTION AND CERTIFICATION

47. The authority citation for Part 176 continues 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; 49 CFR 1.46.

48. In § 176.600 revise the section heading, paragraph (a), the first sentence of paragraph (b), the introductory text of paragraph (c), and add paragraph (e) to read as follows:

§ 176.600 Drydock examination, internal structural examination, and underwater survey intervals.

(a) The owner or managing operator shall make a vessel available for drydock examinations, internal structural examinations, and underwater surveys (UWILD) required by this section.

(b) If your vessel is operated on international voyages subject to SOLAS requirements, it must undergo a drydock examination once every 12 months unless it has been approved to undergo an underwater survey (UWILD) per § 176.615 of this part. * * *

(c) If your vessel is not operated on international voyages and does not meet the conditions in paragraph (d) of this section, it must undergo a drydock and internal structural examination as follows unless it has been approved to undergo an underwater survey (UWILD) per § 176.615 of this part:

* * * * *

(e) For a vessel that is eligible per § 115.625, and if the owner opts for an alternate hull examination with the underwater survey portion conducted exclusively by divers, the vessel must undergo two alternate hull exams and two internal structural exams within any five-year period. If a vessel completes a satisfactory alternate hull exam, with the underwater survey portion conducted predominantly by an approved underwater remotely operated vehicle (ROV), the vessel must undergo one alternate hull and one internal structural exam, within any five-year period. The vessel may undergo a drydock exam to satisfy any of the required alternate hull exams.

§§ 176.612, 176.630, and 176.670 [Redesignated as §§ 176.665, 176.670, and 176.675]

49. Redesignate §§ 176.612, 176.630, and 176.670 as §§ 176.665, 176.670, and 176.675, respectively.

50. Add § 176.615 to read as follows:

§ 176.615 Underwater Survey in Lieu of Drydocking (UWILD).

(a) The Officer in Charge, Marine Inspection (OCMI), may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 176.600(b) or (c) of this part.

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next

required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The condition of the vessel, including the anticipated draft of the vessel at the time of survey;

(6) A description of the hull protection system; and

(7) The name and qualifications of any third party examiner.

(c) If your vessel is 15 years old or older, the cognizant District Commander, may approve an underwater survey instead of a drydock examination at alternating intervals (UWILD). You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (b)(7) of this section; and

(3) During the vessel's drydock examination, preceding the underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After the drydock examination required by paragraph (c)(3) of this section, the OCMI submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the cognizant District Commander for review.

51. Add § 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 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 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 divers are exclusively 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. If an underwater ROV is used as the predominant 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: The expected hull coverage when using an ROV must be at least 80 percent.

52. Add § 176.625 to read as follows:

§ 176.625 Eligibility requirements for the Alternative Hull Examination (AHE) Program for certain passenger vessels.

(a) Your vessel may be eligible for the AHE Program if—

(1) It is constructed of steel or aluminum;

(2) It has an effective hull protection system;

(3) It has operated exclusively in fresh water since its last drydock examination;

(4) It operates in rivers or protected lakes; and

(5) It operates exclusively in shallow water or within 0.5 nautical miles from shore.

(b) In addition to the requirements in paragraph (a), the Officer in Charge, Marine Inspection (OCMI) will evaluate the following information when determining your vessel's eligibility for the AHE Program:

(1) The overall condition of the vessel, based on its inspection history.

(2) The vessel's history of hull casualties and hull-related deficiencies.

(3) The AHE Program application, as described in § 176.630 of this part.

(c) When reviewing a vessel's eligibility for the AHE program, the OCMI may modify the standards given by paragraph (a)(5) of this section where it is considered safe and reasonable to do so. In making this determination, the OCMI will consider the vessel's overall condition, its history of safe operation, and any other factors that serve to mitigate overall safety risks.

53. Add § 176.630 to read as follows:

§ 176.630 The Alternative Hull Examination (AHE) Program application.

If your vessel meets the eligibility criteria in § 176.625 of this part, you may apply to the AHE Program. You must submit an application at least 90 days before the requested hull examination date to the Officer in Charge, Marine Inspection (OCMI) who will oversee the survey. The application must include—

(a) The proposed time and place for conducting the hull examination;

(b) The name of the participating diving contractor and underwater remotely operated vehicle (ROV) company accepted by the OCMI under § 176.650 of this part;

(c) The name and qualifications of the third party examiner. This person must be familiar with the inspection procedures and his or her responsibilities under this program. The OCMI has the discretionary authority to accept or deny use of a particular third party examiner;

(d) A signed statement from your vessel's master, chief engineer, or the person in charge stating the vessel meets the eligibility criteria of § 176.625 of this part and a description of the vessel's overall condition, level of maintenance, known or suspected damage, underwater body cleanliness, and the anticipated draft of the vessel at the time of the examination;

(e) Plans or drawings that illustrate the external details of the hull below the sheer strake;

(f) A detailed plan for conducting the hull examination in accordance with §§ 176.645 and 176.650 of this part, which must address all safety concerns related to the removal of sea valves during the inspection; and

(g) A preventative maintenance plan for your vessel's hull, its related systems and equipment.

54. Add § 176.635 to read as follows:

§ 176.635 Preliminary examination requirements.

(a) If you exclusively use divers to examine the underwater hull plating, you must arrange to have a preliminary examination conducted by a third party examiner, with the assistance of qualified divers. The purpose of the preliminary examination is to assess the overall condition of the vessel's hull and identify any specific concerns to be addressed during the underwater hull examination.

(b) The preliminary examination is required only upon the vessel's entry or reentry into the AHE program.

(c) If you use an underwater remotely operated vehicle (ROV) as the predominate means to examine your vessel's hull plating, a preliminary examination and the participation of a third party examiner will not be necessary.

55. Add § 176.640 to read as follows:

§ 176.640 Pre-Survey meeting.

(a) In advance of each AHE, you must conduct a pre-survey meeting to discuss the details of the AHE procedure with the Officer in Charge, Marine Inspection (OCMI). If you exclusively use divers to examine the underwater hull plating, the third party examiner must attend the meeting and you must present the results of the preliminary examination. If you use an underwater remotely operated vehicle (ROV) as the predominate means to examine the vessel's hull plating, then the pre-survey meeting must be attended by a representative of the ROV operating company who is qualified to discuss the ROV's capabilities and limitations related to your vessel's hull design and configuration.

(b) A vessel owner, operator, or designated agent must request this meeting in writing at least 30 days in advance of the examination date.

56. Add § 176.645 to read as follows:

§ 176.645 AHE Procedure.

(a) To complete the underwater survey you must—

(1) Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

(2) Examine all sea chests;

(3) Remove and inspect all sea valves in the presence of a marine inspector;

(4) Remove all passengers from the vessel when the sea valves are being examined, if required by the Officer in Charge, Marine Inspection (OCMI);

(5) Allow access to all internal areas of the hull for examination, except internal tanks that carry fuel (unless damage or deterioration is discovered or suspect), sewage, or potable water. Internal sewage and potable water tanks may be examined visually or by non-destructive testing to the satisfaction of the attending marine inspector; and

(6) Meet the requirements in § 176.650 of this part.

(b) A marine inspector may examine any other areas deemed necessary by the OCMI.

(c) If the AHE reveals significant deterioration or damage to the vessel's hull plating or structural members, the OCMI must be immediately notified. The OCMI may require the vessel be drydocked or otherwise taken out of service to further assess the extent of damage or to effect permanent repairs if the assessment or repairs cannot be completed to the satisfaction of the OCMI while the vessel is waterborne.

57. Add § 176.650 to read as follows:

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

To complete the underwater survey portion of the AHE, you may use divers or an underwater remotely operated vehicle (ROV).

(a) If you use divers to conduct the underwater survey, you must—

(1) Locate the vessel so the divers can work safely under the vessel's keel and around both sides. The water velocity must be safe for dive operations;

(2) Provide permanent hull markings or a temporary underwater grid system to identify the diver's location with respect to the hull, within one foot of accuracy;

(3) Take ultrasonic thickness gaugings at a minimum of 5 points on each plate, evenly spaced;

(4) Take hull plating thickness gaugings along transverse belts at the bow, stern, and midships, as a minimum. Plating thickness gaugings must also be taken along a longitudinal belt at the wind and water strake. Individual gaugings along the transverse and longitudinal belts must be spaced no more than 3 feet apart;

(5) Ensure the third party examiner observes the entire underwater examination process;

(6) Record the entire underwater survey with audio and video recording equipment and ensure that communications between divers and the third party examiner are recorded; and

(7) Use appropriate equipment, such as a clear box, if underwater visibility is poor, to provide the camera with a clear view of the hull.

(b) You may use an underwater ROV to conduct the underwater survey. The underwater ROV operating team, survey process and equipment, quality assurance methods, and the content and format of the survey report must be accepted by the Officer in Charge, Marine Inspection (OCMI) prior to the survey. If you choose this option, you must—

(1) Locate the vessel to ensure that the underwater ROV can operate effectively under the vessel's keel and around both sides; and

(2) Employ divers to examine any sections of the hull and appurtenances that the underwater ROV cannot access or is otherwise unable to evaluate.

(3) If the OCMI determines that the data obtained by the ROV, including non-destructive testing results, readability of the results, and positioning standards, will not integrate into the data obtained by the divers, then a third party examiner must be present during the divers portion of the examination.

58. Add § 176.655 to read as follows:

§ 176.655 Hull examination reports.

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

(b) If you use an underwater remotely operated vehicle (ROV) as the predominate means to examine the vessel's underwater hull plating, you must provide the OCMI with a report in a format that is acceptable to the OCMI, per § 176.650(b) of this part.

(c) The OCMI will evaluate the hull examination report and grant a credit hull exam if satisfied with the condition of the vessel. If approved and you exclusively use divers to examine the hull plating, you will receive a credit hull exam of up to 36 months. (Underwater examinations are required twice every 5 years.) If approved and you use an underwater ROV as the predominate means to examine the hull plating, you will receive a credit hull exam of up to 60 months (5 years).

59. Add § 176.660 to read as follows:

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

(a) To continue to participate in the AHE Program, you must conduct an annual hull condition assessment. At a minimum, the hull condition assessment must include an internal examination and random hull gaugings taken internally. If the annual hull condition assessment reveals significant damage or corrosion, where temporary repairs have been made, or where other critical areas of concern have been identified, the Officer in Charge, Marine Inspection (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.

(b) If an underwater survey is required for the annual hull condition assessment, the OCMI may require the presence of a third party examiner and a written hull examination report must be submitted to the OCMI. This report must include thickness gauging results,

a copy of the audio and video recordings and any other information that will help the OCMI evaluate your vessel for continued participation in the AHE program. The third party examiner must sign the report and confirm the validity of its contents.

(c) You must submit your preventive maintenance reports or checklists on an annual basis to the OCMI. These reports or checklists must conform to the plans you submitted in your application under § 176.630 of this part, which the OCMI approved.

(d) Prior to each scheduled annual hull condition assessment—

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

(2) The OCMI may reduce the scope or extend the interval of the assessment if the operational, casualty, and deficiency history of the vessel, along with a recommendation of the vessel's master, indicates that it is warranted.

§ 176.665 [Amended]

60. In newly redesignated § 176.665, in paragraph (a), remove ''§ 176.600'' and add, in its place, ''§ 176.605''; and, in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, or an underwater survey,''.

§ 176.675 [Amended]

61. In newly redesignated § 176.675, remove ''§ 176.600'' and add, in its place, ''§ 176.605''.

Dated: April 12, 2002.

Paul J. Pluta,

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

[FR Doc. 02–9832 Filed 4–26–02; 8:45 am]

BILLING CODE 4910–15–U