federal register

Tuesday
August 18, 1998

Part III

Department of Transportation

Coast Guard

49 CFR Part 8

Streamlined Inspection Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 8

[CGD 96–055]

RIN 2115–AF37

Streamlined Inspection Program

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing an optional Streamlined Inspection Program (SIP) to provide owners and operators of U.S. documented or registered vessels an alternative method of complying with Coast Guard inspection requirements. Vessel owners and operators opting to participate in the program will maintain a vessel in compliance with a Vessel Action Plan (VAP) and have their own personnel periodically perform many of the tests and examinations conducted by Coast Guard marine inspectors. Coast Guard inspectors will conduct inspections in accordance with the approved VAP. The Coast Guard expects that participating vessels will continuously meet a higher level of safety and inspection readiness throughout the inspection cycle.

DATES: This final rule is effective September 17, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

FOR FURTHER INFORMATION CONTACT: LT Paul Arnett, Vessel Compliance Division (G–MOC–2), telephone 202–267–0498, fax 202–267–4394.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 8, 1997, the Coast Guard published a notice of proposed rulemaking entitled, ''Streamlined Inspection Program'' in the **Federal Register** (62 FR 17008). The Coast Guard received 27 letters commenting on the proposed rulemaking. No public meeting was requested, and none was held.

Background and Purpose

Section 3306 of title 46 U.S. Code authorizes the Coast Guard to prescribe regulations necessary to carry out the inspection of vessels required to be inspected under 46 U.S.C. 3301. The inspection of vessels identified in 46 U.S.C. 3301 is required by statute; however, the specific procedures for conducting inspections are set out in Coast Guard regulations.

In 1992, as part of its Maritime Regulatory Reform initiative, the Coast Guard considered a number of alternatives for inspection of U.S. documented or registered vessels. Two of these alternatives are the Alternate Compliance Program (ACP)(46 CFR part 8) and the Streamlined Inspection Program (SIP).

The SIP is an optional, alternative inspection program for owners and operators of U.S. documented or registered vessels. The objective of the SIP is to have vessels participate in a constant state of regulatory compliance rather than the traditional cyclical readiness associated with vessels that must undergo Coast Guard periodic inspections. Under this alternative, the vessel owner or operator works with a Coast Guard representative to develop a Company Action Plan (CAP) and a Vessel Action Plan (VAP). A CAP describes the company's organization and its commitment to the SIP. The CAP also details how the company will train its employees on their specific SIP responsibilities. The VAP describes the Coast Guard regulations that apply to the vessel and the company's detailed procedures for its employees to maintain and examine vessel systems to ensure these systems operate safely. To simplify the CAP and the VAP and to provide consistency throughout the country, the Coast Guard will provide specific guidance for prospective SIP participants and Coast Guard personnel for each regulatory subchapter applicable to particular types of vessels (e.g., 46 CFR chapter I, subchapters D, H, I, K, L, O, R, T, and U).

Vessel owners or operators who do not elect to participate in the SIP will continue to have their vessels inspected by the Coast Guard under traditional procedures or, if eligible, may choose to be inspected by a recognized classification society under the ACP.

Discussion of Comments and Changes

The Coast Guard received 27 letters commenting on the notice of proposed rulemaking (NPRM). Fifteen comments generally supported the proposed SIP. The following paragraphs contain a discussion of comments received and an explanation of changes, if any, made to the proposed regulations. General comments on the rulemaking project are discussed first, followed by comments on specific sections of the regulation. Other changes to the proposed rule, not based on comments, are discussed last.

General Comments

- Several comments noted that vessels enrolled in the SIP should have their user fees reduced as an incentive to encourage vessel operators to enroll.

As stated in the preamble to the NPRM, the Coast Guard will consider a regulatory project to revise user fees for enrolled vessels when sufficient cost data is available. Prototype programs have had varying degrees of Coast Guard involvement and therefore cannot be a basis for determining the overall costs or savings of the SIP.

- A number of comments discussed the relationship between the SIP and the ACP. The comments suggested combining the provisions of the two programs and allowing vessels enrolled in the ACP to also enroll in the SIP.

The SIP and the ACP are two separate inspection programs available to vessel owners. The SIP and the ACP are mutually exclusive programs. The SIP is an alternative method for meeting Coast Guard inspection requirements, but all inspections are still done by Coast Guard marine inspectors. The ACP provides for vessel inspections using inspectors employed by a recognized classification society. The ACP is available only to vessels operating on international voyages and classed through a recognized classification society. The SIP alternative is available to any U.S. inspected vessel meeting the eligibility requirements.

- Some comments discussed personnel, staffing, and consistency concerns. The comments suggested using retired Coast Guard marine inspectors as SIP Advisors; expressed concerns that the SIP may cause the Coast Guard to reduce staffing at MSOs; and stated that there should be consistency of SIP determinations among the Officers in Charge, Marine Inspection (OCMI).

Marine safety office (MSO) staffing and allocation of personnel and resources are internal Coast Guard matters that are not part of this rulemaking. The SIP should, in the long run, allow a more effective use of Coast Guard resources in MSO activities. The Office of Compliance, Vessel Compliance Division, is the Coast Guard-wide program manager for the SIP, and the Office of Quality Assurance/Traveling Inspectors will be providing the field oversight of the SIP to ensure national consistency in plan development and inspections.

- One comment from an individual who reviews Port State Information Exchange (PSIX) information to evaluate

vessels for carrying cargo stated that one concern is, ''there will be a notable drop off in 835s [CG–835, the widely used Merchant Marine Inspection Requirement form] issued—indeed in USCG presence generally.''

Under the SIP, the Coast Guard still conducts required inspections, and CG–835s issued as a result of these inspections will still be available in the PSIX. However, repairs made by the company as a result of routine maintenance while complying with its VAP would be corrected in accordance with the VAP and documented in VAP records by the vessel owner. Coast Guard inspectors consider these items during required inspections, but they would not be entered as a CG–835 requirement in PSIX.

• Another comment noted certain portions of the NPRM mentioned vessel classes such as subchapters T and D, but neglected to include subchapter O. The comment asked if the applicability section of this regulation includes vessels inspected under subchapter O.

This regulation does apply to vessels inspected under subchapter O. As previously noted in this preamble under Background and Purpose, the SIP is an alternative for vessels inspected under 46 CFR subchapters D, H, I, K, L, O, R, T, and U.

• A comment disagreed with the philosophy of self-inspection because no other mode of transportation is self-inspected (e.g., airlines and railways).

The SIP is not a self-inspection program. Under the SIP, company personnel will be responsible for conducting regular tests and examinations of various vessel systems and recording their findings and initiating appropriate actions as specified in their OCMI-approved CAP and VAP. The Coast Guard is still required to verify compliance with applicable regulations and the conditions of the company's approved plans. The local OCMI approves the establishment of the company and vessel plans and Coast Guard marine inspectors provide all periodic and follow-on inspections.

• Some comments were concerned with the effects the SIP will have on small passenger vessels. One comment suggested requiring fewer procedures for small passenger vessels because they have fewer staff to do the work. Another comment suggested providing free training and guidance to small passenger vessels to encourage them to enroll in the SIP. The comment also noted that the proposed SIP did not sufficiently target small companies.

Each VAP will be based on the requirements in the inspection subchapter applicable to a particular vessel. The Office of Compliance (G–MOC) and the Director of Field Activities, Quality Assurance Staff (G–MO–1) will provide Coast Guard oversight for the implementation of the SIP throughout the country. As resources are available, local OCMIs will provide training on the SIP to interested vessel owners and operators.

• One comment stated that participation in the program should not mean that the vessel owner would be subject to increased liability.

The Coast Guard will continue to conduct inspections and issue the certificate of inspection (COI), and the vessel owner's compliance with an approved VAP will constitute compliance with applicable vessel inspection laws and regulations. Owner liability is not changed by participation in this program.

• One comment recommended the Coast Guard add language to ensure that this program remains voluntary because many operators do not have the resources, time, or incentive to participate in this program.

The SIP is a voluntary program. If a company does not wish to, or is not eligible to, participate in this alternative inspection program, they will continue to be inspected under the traditional Coast Guard inspection program for compliance with vessel inspection laws and regulations. For clarity, the Coast Guard has placed the word ''voluntary'' in front of the word ''alternative'' in § 8.500(a).

• Some comments discussed the development of the SIP guidance documents. One comment recommended that the Towing Safety Advisory Committee (TSAC) help the Coast Guard to develop the SIP guidance for owners of vessels inspected under subchapter D. The comment also requested separate guidance for owners of tank vessels and tank barges. Another comment asked that the Coast Guard not treat oil spill recovery vessels (OSRV) like tank vessels when the Coast Guard develops the SIP guidance documents.

The Coast Guard is already in contact with TSAC and other advisory committees and organizations concerning development of implementation guidance.

Comments on Specific Sections of the Rule

Scope and applicability (§ 8.505). Three comments suggested dry-dock exams be included in the SIP because the benefits of the SIP can only be fully realized when all vessel inspections are included in the SIP.

As stated in the NPRM, the Coast Guard must evaluate SIP performance data before adding dry-dock examinations to this program.

One comment stated that § 8.505(c) is very specific regarding the inspections that are excluded from the program. The comment asked if the SIP will apply to inspections done under the Critical Area Inspection Program (CAIP).

The CAIP is not a regulatory program. Currently, the Coast Guard is invited to attend CAIP surveys, but we are not required to witness the inspection. The CAIP surveys can be included as part of a CAP or VAP just like any other preventative maintenance program, if approved by the OCMI as part of the plan.

Definitions (§ 8.510). One comment suggested including form CG–835 in the definition of ''documented deficiency.'' A documented deficiency is broader than just a CG–835, and can also include a work list item issued by a marine inspector which was identified during the course of an inspection, re-inspection, or examination, but corrected prior to the issuance of a CG–835. The Coast Guard agrees that both CG–835s and work list items are forms of documented deficiencies. The definition is meant to encompass all forms of Coast Guard-maintained documentation on a vessel's condition, including CG–835s. Therefore, we have not changed the wording in the definition.

One comment recommended the Coast Guard permit the continued use of prototype program nomenclature for definitions in this part and, as an alternative, permit the use of a reference sheet or glossary that would define the nomenclature used in the prototype program in terms of the nomenclature used in the SIP regulation.

Approved plans must be in compliance with the SIP final rule. Companies enrolled in locally-endorsed prototype programs have 3 years to bring their plans into compliance with the national standards. The OCMI has the flexibility and authority to accept revisions to prototype plans. A prototype program already in place that is also in compliance with the final rule with the exception of nomenclature, may include a cross reference glossary or index, as long as the glossary or index allows confirmation of a plan's compliance with the requirements of the national program.

Eligibility (§ 8.515). Several comments expressed the position that newly-constructed vessels and recently-acquired, existing (i.e., new-to-company) vessels should be allowed to enroll in the SIP without regard for the

3-year eligibility requirement. The comment stated that newly-constructed vessels are in the best condition they will ever be in and that is the best time to establish the vessel's base-line for enrollment. For recently-acquired existing vessels, if a company enrolled in the SIP takes the time to bring the vessel into full compliance, then a vessel's performance under the previous operator during the past 3 years should not be determinative of the vessel's eligibility for SIP enrollment with the new owner. The Coast Guard agrees that in many instances these vessels would be suitable for the SIP and companies with one or more vessels already enrolled in the SIP need not meet the 3-year requirement in § 8.515(b)(1) for a newly-constructed or recently-acquired vessel.

One comment recommended that vessels older than 20 years be ineligible for the SIP.

The Coast Guard's experience indicates that the age of a vessel is not the most reliable indicator of its condition or suitability for continued safe operation. Age alone is not, therefore, a singularly disqualifying factor for SIP eligibility. In considering a vessel for enrollment, the OCMI will review all aspects of a vessel's condition, its history, and the operational and management practices relative to the vessel's service.

Two comments recommended that the SIP permit newly-formed companies to participate from the onset of vessel construction to give operating companies greater ownership of the program and better inspection results.

Another comment suggested revising § 8.515 to indicate that a vessel is eligible, if there are no outstanding deficiencies issued within the last 6 months. The eligibility section should recognize that civil penalties vary in degrees of severity, from those that affect the seaworthiness and safety of the vessel to those that involve relatively minor regulatory infractions. The OCMI should have more discretion in determining eligibility and in evaluating civil penalties.

As stated previously, the 3-year history requirements provide the OCMI with a record of a company's commitment to the safe operation of its vessels. Also, in most cases, a 6-month period would not include a re-inspection cycle or an inspection for certification. However, under the waiver provision in the final rule, the OCMI may consider enrolling a company or vessel that does not meet all the eligibility requirements. The OCMI evaluation of the company's eligibility will take into consideration all factors, including the severity of any civil penalties noted by the Coast Guard in the last 3 years.

OCMI review and action (§ 8.525). One comment suggested adding a paragraph that states, if the vessel operates in more than one OCMI zone, all OCMIs must accept the SIP. Another comment suggested that all OCMIs in the area where a vessel operates should agree to an SIP inspection conducted in another OCMI zone.

For companies with vessels in more than one OCMI inspection zone, the CAP will be approved by the cognizant OCMI in the zone where the initial application for the SIP enrollment is made. The same requirements that regulate the operation and inspection of any vessel in more than one OCMI zone apply to the SIP vessels. The Coast Guard's internal implementation guidance will ensure consistent implementation of the SIP.

Plan development and approval (§ 8.530). Four comments suggested allowing the use of a highly experienced surveyor (including the American Bureau of Shipping) to inspect and certify inspected equipment and correct any deficiencies.

The intent of the SIP is to have company personnel conduct examinations to provide a sense of ownership and improve safety awareness. Using a third party surveyor, hired by the Company SIP Agent as a ''designated SIP support person'' is subject to approval by the OCMI. Maintenance or examination of certain shipboard systems may be beyond the expertise of a company's vessel or shoreside personnel. In that case, outside expertise may be appropriate and could be included in the VAP. Section 8.530(a)(4) requires that the CAP identify the responsibilities of those individuals who examine and maintain equipment and how their satisfactory performance will be verified and recorded.

One comment wanted the Coast Guard to incorporate a process into the final rule, allowing companies with vessels that are sufficiently alike in multiple ports to undergo the procedure of developing CAPs and VAPs with a single OCMI. Companies can then use the original CAP and VAP as a model for vessels in other OCMI zones. The comment stated that incorporating this procedure would provide the consistency and standardization required in maintaining and inspecting a large fleet of similar vessels. The comment also stated that developing the CAP and VAP would be simple for a company with a single vessel or multiple vessels that are similar within the same OCMI zone. However, the procedure becomes more complex for companies with similar vessels in multiple OCMI zones.

The Coast Guard agrees that a single OCMI will be able to approve an owner's CAP, however, the VAP is vessel- and area-specific. Companies with multiple vessels in more than one OCMI zone should start their enrollment process with a single vessel, or series of vessels and a single OCMI. Once the CAP has been developed and approved for the first vessel, it can be used as part of the application to the next OCMI zone. Subsequent OCMI review should focus on the revision of the CAP as it pertains to their zone. Section 8.530(a)(3) requires that the CAP contain information on designated SIP support personnel responsible for implementation and oversight of the program. Adding new ports and vessels to a CAP will require revisions to the CAP only as it pertains to operations under the SIP in the new location.

Three comments stated that developing a separate plan for each vessel poses a significant administrative burden for a large barge fleet. The comments suggested that companies develop a VAP for each barge series where the construction, piping, and configuration are consistent. The comment also stated that the Coast Guard should not require VAPs to be maintained on board unmanned barges. Rather, VAPs should be available to the Coast Guard upon request.

The Coast Guard agrees that a single VAP for each barge series may be accepted by the OCMI. However, a VAP needs to be on board an unmanned barge. Inspection certificates and company documents are routinely maintained on board unmanned vessels. Coast Guard inspection documents are required to be on board. The VAP is an inspection document that the company and the Coast Guard may need to access at any time. Having the VAP maintained on board the vessel ensures availability.

One comment questioned if documents and plans created for the Responsible Carrier Program (RCP) could be used as ''credit'' for the CAP since the elements of the CAP are similar to the charter of the RCP and to approved vessel response plans. Another comment suggested allowing vessel owners to use documents developed for the International Safety Management (ISM) Code as CAP and VAP documents.

The Coast Guard agrees that there may be some documentation redundancy between a CAP and other required or voluntary documents and plans. For example, companies with vessels that

are ISM Code compliant should have the necessary documentation developed to apply for the SIP. If ISM Code documents are sufficiently detailed, then they may also be suitable for use in a CAP or VAP. The use of ISM documentation or other documents as part of a CAP or VAP must be approved by the OCMI. In such cases, companies should submit copies of what they already have in place to the OCMI for review and possible use in development of its CAP and VAPs.

One comment stated that the Coast Guard should consider waiving the extensive training requirements for a company that has implemented a recognized quality management program such as an ISM or American Waterways Operators (AWO) RCP.

The OCMI may accept evidence that the training conducted pursuant to an approved quality management program is the same as the training required under the SIP. The Coast Guard doesn't intend to impose a redundant burden on companies that have already implemented a quality management system. For those companies that have such a system in place, the OCMI may consider accepting in the CAP and VAP those quality management components that meet the specific requirements for a CAP and VAP.

One comment asked, to what extent will outside vendors who repair and service certain equipment be able to serve as SIP examiners and under whose training program will they be accredited.

The use of outside vendors is common. The approved VAP should answer these questions on the use of vendors, but the company's SIP Agent will still be responsible for verifying that the work is completed by approved facilities and qualified personnel where required, that the equipment is installed and functioning properly, and the work has been properly documented.

One comment requested that the Coast Guard reword § 8.530(b) to state, ''* * * Each VAP shall include at least the following *or its functional equivalent:*''. The comment noted that the regulations must allow flexibility in the method of documentation. If specific written forms are required by these regulations, companies who develop effective computer-based inspection scheduling systems will then have to maintain a duplicate manual driven system.

The Coast Guard agrees in principle with the comment; however, we made no regulatory changes. The OCMI has the discretion to approve any appropriate recordkeeping system, including computer-based systems, as part of a vessel's VAP. As stated previously in discussing comments to § 8.510, the Coast Guard must be able to verify compliance with the requirements in the final rule and measure the effectiveness of the program.

One comment wanted the Coast Guard to delete the organizational commitment statement in paragraph (a)(2) of § 8.530 in light of the requirements in paragraphs (a)(3) through (a)(5) of this section.

The Coast Guard disagrees with this comment. The need for an organizational commitment statement is not satisfied by the inclusion of the items specified in paragraphs (a)(3) through (a)(5). Instead, it is complemented by those requirements. The commitment statement defines the company's philosophical position and goals. The items in § 8.530, paragraphs (a)(3) through (a)(5), specifically identify how that philosophical commitment will be put into effect.

One comment stated that there is no guidance in § 8.530 for the handling of inspection criteria discrepancies. The comment recommended that in § 8.530, paragraphs (a)(4) and (a)(5) be revised to incorporate the mechanism used in the offshore prototype programs for handling vessel deficiencies. Prototype programs classified deficiencies as ''urgent'' and ''routine,'' and assigned a time for correction of the deficiency.

In § 8.530, paragraph (a)(5) allows for flexibility when determining corrective action. It is up to the company and the OCMI to determine the time frame associated with corrective action. In addition, the implementation guidance provided by the Coast Guard in the inspection criteria references (ICR) includes information on corrective action. The Coast Guard did not make the suggested change to paragraphs (a)(4) and (a)(5).

Another comment stated that paragraph (a)(10) of § 8.530 implies that a CAP must have appendices that contain each approved VAP. For a company with numerous vessels enrolled, this could become a very unwieldy document. The comment recommended this section be revised to require an appendix that lists each VAP approved under the CAP.

The CAP and VAPs are interdependent documents. It is necessary that each VAP be accessible to the company SIP Agent, as well as having a vessel-specific copy maintained on the vessel. Paragraph (a)(10) is not revised in the final rule.

One comment suggested deleting paragraph (b)(2) of § 8.530 because it appears to repeat the requirements of paragraph (a)(5).

The Coast Guard disagrees. The VAP and CAP are separate documents and are not redundant in their function. Paragraph (b)(2) will remain unchanged in the final rule.

Training and operational evaluation (§ 8.535). One comment requested further clarification on what constitutes an SIP training program. Many hours of training and apprenticeship are required for designation as a Coast Guard ''barge inspector.'' There is concern that training expectations may exceed training resource capabilities.

Vessel owners, through their SIP Agent, and the OCMI's SIP Advisor must work closely to develop the SIP training requirements, based on vessel type and operating requirements. Vessel-specific ICRs should be used extensively as training aids to develop and maintain consistent and efficient procedures under the VAP.

One comment discussed manning and crew fatigue. The comment stated that the crew would be required to conduct additional tests and examinations as a result of the SIP. The comment wanted to know how the increase in work would be reflected in the manning scale on the vessel's COI since there are work-hour restrictions and required rest-hour periods mandated by law and international convention.

The regulations governing maximum work hours in a 24-hour period and required rest intervals are not affected by this regulation; they remain unchanged. Part of the CAP and VAP development process will be incorporating the periodic system examinations contained in the VAP into regular vessel routines.

Enrollment in SIP (§ 8.540). One comment suggested that the OCMI enrollment letter be a mandatory requirement.

The Coast Guard agrees and has revised § 8.540 to indicate that once the company and its vessel(s) have successfully completed the training and evaluation phase, and the OCMI concurs with the Coast Guard SIP Advisor's recommendation, the OCMI will issue an enrollment letter and endorse the COI.

Scope of Inspection for Enrolled Vessels (§ 8.545). Four comments discussed an alternative to annual inspections. They recommended that rather than annual inspections, vessels—especially unmanned tank barges—should only be subject to periodic random inspections like the current MARPOL checks.

The SIP is an alternative to traditional Coast Guard inspections. A particular vessel inspection interval is determined by the regulations contained in the applicable subchapter. It is beyond the scope of the SIP rulemaking to adjust inspection intervals. To clarify the inspection interval requirement and allow for any future changes within the inspection subchapters, we have changed the word ''annual'' to ''periodic'' in paragraph (a) of § 8.545.

One comment asked why an approved VAP is needed if the marine inspector might conduct additional tests or examinations of a vessel.

The OCMI remains responsible for ensuring the safe operation of vessels within that inspection zone. Marine inspectors under the SIP will conduct their examinations in accordance with the VAP. The marine inspector will only expand the examination parameters if discrepancies are discovered or there is otherwise cause for concern. These would be instances where the marine inspector believes the vessel is not being operated in complete compliance with the approved VAP. This, if found to be the case, is cause for disenrollment. There is nothing in the SIP that diminishes the OCMI's authority or responsibility to ensure the safety of life, property, the environment, and facilitation of maritime commerce within that zone.

One comment expressed concerns that an audit or a spot check boarding may not focus on compliance with the approved VAP. Once a VAP is approved, that document becomes the primary guide for the owner or operator to follow in determining inspection compliance issues. Coast Guard inspections will focus on the condition of the vessel and maintenance of the vessel in accordance with the VAP.

One comment suggested revising paragraph (b) of § 8.545 to indicate ''A Coast Guard inspector from the OCMI staff'' will conduct the inspection. It should be made clear that the local inspection staff conducts the inspections.

The SIP is designed so that any Coast Guard marine inspector should be able to verify compliance with a VAP, regardless of whether the vessel was enrolled in that particular OCMI zone or not. This regulation establishes a uniform, nationwide program, in which marine inspectors for the OCMI zone where the SIP inspection is scheduled will conduct the examination. Only marine inspectors from ''the OCMI staff'' will be conducting inspections. Therefore, no changes to the regulation have been made.

One comment recommended that § 8.545 be revised to provide guidance regarding the scope of an SIP audit, and that a sample audit be included.

The scope of an SIP inspection is covered in § 8.545, paragraphs (b)(1) through (b)(4). Additional detailed guidance may be provided by the OCMI. The intent of an SIP inspection is for the marine inspector to verify compliance with the VAP.

One comment recommended that the VAP list specific inspections that will be conducted by the qualified crewmember, operators, or Coast Guard inspectors and stated that there are too many critical inspections that require the presence of a marine inspector.

The ICR sheets provide information on the level of inspection required. Since the VAP will contain ICRs, no further clarification is required in the regulation.

Plan review and revisions (§ 8.550). One comment recommended a change from a 2-year to a 5-year review cycle, unless the owner or operator's performance record indicates needed oversight. Annual review is time consuming and costly.

There is no required annual review of SIP documentation by the company unless the company itself has established such an interval. The requirement to review the CAP every 2 years is a quality control measure that ensures that the plan contents are up to date. Properly maintained plans will normally be revised as the need arises. There may, in fact, be no changes necessary at the time of the review—it is simply a company check for accuracy.

Three comments suggested eliminating the mandatory review and revision for ISM compliant companies. The ISM process calls for the continual review and revision of manuals and procedures when non-conformities are identified. The internal and external audit programs required by the ISM system also provide assurance that manuals will not become obsolete.

The Coast Guard agrees that ISM compliant companies will probably be able to prove to the OCMI that their review processes are meeting the regulations. However, this method of continuous compliance needs to be submitted to the cognizant OCMI for approval and incorporation into the VAP during the application and VAP approval process.

One comment stated that requiring a company to submit a revised plan to the OCMI each time that a revision is made could place an unnecessary administrative burden on the local MSOs. The comment also recommended periodic review or audit for operations that are ISM compliant.

The Coast Guard must be kept informed of changes that affect a company's CAP or VAP. The company SIP Agent and OCMI's SIP Advisor should coordinate the manner in which this process is to be accomplished, and the Coast Guard has not changed this requirement in the final rule.

Disenrollment (§ 8.555). In § 8.555(a), one comment suggested adding the words ''that issued the Certificate of Inspection'' after the words ''cognizant OCMI''. The OCMI that issued the COI should be the one that voluntarily disenrolls the vessel.

The Coast Guard does not find this change necessary. As SIP is a nationwide program, disenrollment requests through any cognizant OCMI (defined as the OCMI responsible for the zone in which the vessel is currently operating) will satisfactorily disenroll the vessel.

One comment asked the Coast Guard to clarify the parameters for re-enrollment once a vessel has been disenrolled.

Once a vessel or company has been disenrolled either voluntarily or involuntarily, the company must reapply for enrollment in accordance with subpart E.

Waiver (§ 8.560). One comment had several questions concerning waivers. The comment asked when a waiver can be requested; who can request the waiver, the OCMI or the vessel operator; and is the waiver the equivalent of an appeal for a marine inspection requirement.

A company may request a waiver at any time. The company will request the waiver through its SIP Agent for any procedural requirement in subpart E, such as eligibility. Waiver of substantive inspection requirements should be submitted in accordance with procedures in the subchapter containing the requirement.

One comment recommended that § 8.560 be revised to provide guidance on the discretionary authority of the District Commander to grant waivers. The comment noted that this is necessary because the preamble, which provides an explanation of the regulation will disappear once the regulations are final. Two comments noted the waiver section is a key provision and should be kept as is.

The Coast Guard agrees with these latter comments that no revisions are needed.

Interim approval of prototype company vessel plans (§ 8.570). One comment noted that prototype programs were based on ISM and International

Organization for Standardization (ISO) standards. The comment stated that the SIP regulations must permit companies participating in the SIP some degree of flexibility with respect to the format of the CAP and VAP to allow companies to structure the program for their individual needs. This is consistent with the general provisions of the ISM Code and ISO 9000 standards. The comment also noted that companies with approved prototype programs should not have to revise their CAP and VAP.

For the SIP to be uniformly applied there must be consistency nationwide in its implementation. A prototype program vessel examined in an OCMI zone that did not endorse that prototype program might encounter needless difficulty during the SIP inspection. The extra effort necessary to bring Coast Guard inspectors up to speed with all possible prototype programs would nullify some of the benefits of the SIP. In addition, some prototype programs lack disenrollment and other important criteria. Therefore, companies and vessels in a prototype SIP program will have 3 years from the effective date of the final rule to bring their existing program into full compliance. As discussed previously, the Coast Guard will consider equivalents and appropriate cross-referencing to required documentation. This should provide the needed flexibility for prototype programs to make a smooth transition.

One comment suggested that vessels of unique design only be considered for this program after the 3-year period.

That determination is up to the OCMI. Therefore, the Coast Guard made no changes based on this comment.

Other Changes to the Proposed Regulations

In addition to the changes made to the regulations as a result of the comments, the Coast Guard has revised the definition of Exam Checklists to accommodate a variety of documents. In the revised definition, Exam Checklists may be any document or form approved in the VAP to record the periodic examinations of vessel systems by vessel personnel. For example, copies of the Inspection Schedule and Verification (ISV) sheets could be used as Examination Checklists.

The Coast Guard has also revised the definition of ''prototype vessel plan'' by removing the word ''vessel'' and adding the word ''SIP'' in its place. In addition, the heading and the first sentence in paragraph (a) of § 8.570 has been revised to include prototype SIP company or vessel plans. This will provide consistency and account for prototype SIP company or vessel plans.

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. It has not been reviewed by the Office of Management and Budget 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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard expects this rule to provide an economic benefit to the owners and operators of U.S. documented or registered vessels.

Currently, 11,800 U.S. documented or registered vessels may be eligible to participate in this optional SIP. Entrance into the SIP is voluntary. Because the program is new, it is difficult to estimate how many vessel owners will choose to develop a VAP and seek enrollment. Some Coast Guard offices have been working with company owners on prototype programs that are similar to the SIP.

Over the next 3 years, the Coast Guard estimates that the following number of vessels will voluntarily enroll in the SIP:

- 274 small passenger vessels (subchapter T).
- 78 small passenger vessels (subchapter K).
- 48 large passenger vessels (subchapter H).
- 131 offshore supply vessels (subchapter L).
- 29 cargo vessels (subchapter I).
- 4 tank ships (subchapter D).
- 942 tank barges or OSRVs (subchapter D or O).

These estimates of vessel enrollment reflect both the number of vessels presently in prototype programs similar to the SIP and the number of vessels that could enroll for the first time in the SIP within the next 3 years.

Industry Cost

The Coast Guard based the cost estimates for the SIP on the incremental costs company owners and operators have incurred participating in prototype programs similar to the SIP. Company owners and operators will have different economic impacts from this program depending on the number, class, and size of the vessels that they enroll in the program. The time and resources an owner or operator may spend developing the VAP will vary depending on the vessel's system complexity (simple tank barge systems or multi-faceted large passenger vessel systems), the current company management infrastructure (availability of support staff, system expertise, and strength of organizational policies), and the number of crewmembers or employees involved with the plan's implementation.

For a company to submit the application required to enroll its vessels in the SIP, the Coast Guard estimates that—

- Preparation of the application will take a senior staff official 1 hour at $60 per hour; and
- 401 companies will apply for the program during the first 3 years at an industry cost of $8,040 annually over the first 3 years.

For a company to develop a CAP, the Coast Guard estimates that—

- It will require 80 hours of senior staff time at a cost of $60 per hour; and
- 401 companies will develop CAPs during the first 3 years at an industry cost of $641,580 annually over the first 3 years.

For a company to develop a VAP, the Coast Guard estimates that—

- It will require 40 hours of senior staff time at a cost of $60 per hour; and
- VAPs will be prepared for 1,506 vessels during the first 3 years at an industry cost of $1,204,800 annually over the first 3 years.

For a company to make the required updates to the plans, the Coast Guard estimates that each company will devote 10 hours annually at $60 per hour for an industry cost of $80,220.

Additional costs associated with these plans include $25,100 in printing and copying costs. We estimate the total industry cost associated with plan development and approval to be $1,959,740.

Under this rule, vessel owners and operators will incur some SIP implementation training costs. These costs reflect a slight increase in existing crew or employee training costs to ensure responsible personnel have the skills needed to conduct maintenance and examinations of vessel equipment and systems required by the VAP.

One small passenger vessel owner (regulated under subchapter K) currently in a prototype program estimated that VAP training took approximately 35 hours to train each of four employees to properly conduct and record the tests and examinations under the VAP. Based on an hourly salary of $16 for the trainer and an average hourly salary of $13 for each of the four

employees, we estimate a one-time training cost of $2,380 for a similar passenger vessel.

A tank barge owner currently in a prototype program estimated that VAP training took approximately 40 days to train 16 employees to conduct and record examinations under the VAP for a 200-barge fleet. Based on an 8-hour training day, an hourly salary of $33.65 for the trainer, and an average hourly salary of $25 for each of the employees, we estimate a training cost of $138,770 for a similar size barge fleet.

The Coast Guard estimates that the one-time training costs for personnel on vessels in the SIP will range from $700 ($138,770 divided by a 200-simple-system fleet) to $3,000 (for one large multi-system vessel) per vessel. The Coast Guard assumes that once the VAP is approved and the vessel is enrolled in the SIP, any further training will be incorporated into established company training and vessel maintenance programs at little or no additional cost. Therefore, we did not include recurring training costs in the cost estimates for this rule.

Some owners and operators participating in prototype programs purchased computers and other administrative items to help with collation of plan information. A computer could reduce the administrative time spent developing the VAP; however, this rule does not require a company to have a computer. Because a company could meet all of the SIP criteria without a computer, the Coast Guard did not include equipment costs in the cost estimates for this rule.

Industry Benefits

Benefits from the SIP are expected to vary and are not currently quantifiable. Participants in prototype programs stated that the cost to participate and maintain this type of voluntary program has been partially offset by an increased availability of their vessels for profit-making ventures. Some Coast Guard marine inspectors have noted as much as a 50 percent reduction in their onboard inspection time on vessels participating in a prototype program. Prototype program participants have also reported other benefits. These participants reported that they have experienced the following benefits:

- The vessel's material condition was kept at a consistently high level and there were fewer major repairs.
- The company's cost of maintaining the vessel in regulatory compliance was reduced and expenses were more evenly distributed over time.
- The licensed mariners recognized their role in regulatory compliance and welcomed the empowerment to conduct the procedures specified in the VAP.
- The unlicensed crew experienced more rapid professional growth as they were trained and became familiar with conducting the step-by-step verification procedures.
- The communication between the company and the Coast Guard was open and problem-solving.
- The vessel's working environment was better than it had been under the traditional inspection program.
- There were fewer insurance claims and personnel injuries.
- The vessel's maintenance records provide more information and are better than the records the company required on its own.

There were no monetary estimates for the value of these benefits.

User Fees

The Coast Guard expects that once implemented, the SIP will result in fewer onboard Coast Guard inspection hours required to inspect and certify participating vessels. This rule, however, will not change existing vessel inspection user fees. When sufficient data exists regarding the Coast Guard costs required to administer the new program, the Coast Guard plans to review the existing user fee structure to determine if a reduction in fees is warranted.

Government Costs

This rule has short-term costs to the Coast Guard but, in the long-term, will save resources. In the initial implementation of the SIP, Coast Guard inspectors will need to review company applications, assist companies in plan development, and oversee the operational implementation of the plan. The time required by this program varies depending on the type of vessel and the current company management infrastructure. It may take the Coast Guard as little as 3 hours to verify a tank barge company's eligibility, 18 hours to assist in developing and reviewing its plan, and 8 hours to oversee its operation prior to a favorable assessment of the VAP by the Coast Guard marine inspector. However, the Coast Guard may take significantly more time to assist in developing, reviewing, and overseeing the plans and operation of a large passenger vessel because of its complex onboard systems and the large number of company personnel involved in managing the CAP and VAP. After the initial investment of Coast Guard resources (time and training) to assist vessel personnel with their plans, the Coast Guard expects to reduce the amount of time taken to inspect and certify vessels enrolled in the SIP.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard expects this rule to have a positive economic impact for owners and operators who choose to participate in the SIP. Of the 1,506 vessels which owners may submit for SIP enrollment, we estimate that small entities will own 334 small passenger vessels, 52 offshore supply vessels, and 94 tank barges or OSRVs. Under Section 601 of the Regulatory Flexibility Act, the Coast Guard has provided a flexible approach that meets the needs of each company and its vessels and will benefit any small businesses choosing to enter the program. This rule will have no impact on vessel owners who do not choose to participate in the program.

This rule provides an optional way of complying with existing inspection regulations and will only have an economic impact if the vessel owner enrolls in the SIP instead of the existing Coast Guard scheduled inspection program. For a small entity, plan development may be too large an initial investment recoverable after too long a time for them to see the benefits. To assist small entities in plan development, the Coast Guard will provide detailed guidance tailored to the small passenger vessel operator and to other small entities that operate other vessel types. This rule also provides for one-on-one time with Coast Guard inspectors to assist in plan development. Benefits from the SIP are expected to be especially positive to those small entities with more than one vessel in the program because after developing the first CAP and VAP, costs will be minimal for developing VAP(s) for the remaining vessels.

The SIP is a voluntary program; it provides benefits to small entities willing to invest the time and training needed for enrollment. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact LT Paul Arnett at the numbers listed under **FOR FURTHER INFORMATION CONTACT**.

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

The information collections associated with this rule concern the application for enrollment, development of the VAP, development of the CAP, and updates to the CAP and VAP. The costs and hour-burdens associated with these procedures are outlined in the Industry Costs *section*. A total information collection hour-burden of 32,244 is estimated for this program.

One comment noted that the collection of information section of the NPRM states ''* * * reports must be submitted whenever a company representative performs activities required by the VAP.'' The comment was concerned that this requirement could create a paperwork burden for industry and the Coast Guard. For example, a company may require a deckhand to check void spaces several times a day and record those checks.

Under the frequency of response section of the NPRM, the Coast Guard did not state that all documentation should be sent to the Coast Guard. It is true that if the VAP requires certain activities to be documented, then company personnel will do that documenting. The documentation will be kept by the company or on the vessel and will be made available to the Coast Guard. But these recordkeeping requirements should not be confused with reporting requirements. This rule does not require the documentation to be submitted to the Coast Guard.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. Originally, the Coast Guard submitted to OMB requests for additions to four existing collection-of-information requests—OMB Approval Numbers 2115–0025, 2115–0071, 2115–0578, and 2115–0592. These requests added SIP collection hours to existing programs and all but 2115–0071 were approved by OMB. The Office of Management and Budget did not approve 2115–0071, titled Official Logbook, because a public comment expressed confusion over the inclusion of SIP collection hours in that particular request. To eliminate confusion, the Coast Guard submitted a consolidated, SIP-exclusive, collection-of-information request to OMB. This consolidated request presents the numbers in a form that is easier to understand and makes it easier for the Coast Guard to renew when it expires.

The Office of Management and Budget has approved the consolidated collection. The section numbers are §§ 8.520, 8.530, 8.535, and 8.550, and the corresponding approval number from OMB is OMB Control Number 2115–0633, which expires on July 31, 2001.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

The authority to regulate safety requirements of U.S. vessels is delegated to the Coast Guard by statute. Furthermore, because these vessels tend to move from port to port in the national market place, these safety requirements need to be national in scope to avoid numerous, unreasonable and burdensome variances. Therefore, this action preempts State action addressing the same matter. One comment stated disagreement with the Coast Guard's determination that the regulations would preempt state or local regulations involving inspection of vessels, citing the decisions of the Supreme Court in *Ray* v. *ARCO* and of the District Court for the Western District of Washington in *INTERTANKO* v. *Lowery*, as affirmed in part by the Ninth Circuit Court of Appeals for the premise that Federal preemption is limited to regulations relating solely to the design, equipment, and construction of vessels. The Coast Guard disagrees with this limited interpretation of the Supreme Court precedent in the *Ray* case and the ruling of the Ninth Circuit Court of Appeal in the *INTERTANKO* case that adopts this limited interpretation. The Coast Guard has historically inspected vessels for their compliance with Federal regulations that address the safety of vessels and protection of the marine environment. The certificate of inspection issued to vessels as a result of these inspections indicates that the vessels are safe for the service in which they are engaged. It is the Coast Guard's opinion that the Supremacy Clause preempts state and local regulations that seek to impose different or higher standards governing the inspection of U.S. vessels.

Environment

The Coast Guard 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. This rule is excluded based on its inspection and equipment aspects. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 8

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

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 8 as follows:

PART 8—VESSEL INSPECTION ALTERNATIVES

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

Authority: 46 U.S.C. 3103, 3306, 3316, 3703; 49 CFR 1.46.

2. Subpart E, consisting of §§ 8.500 through 8.570, is added to read as follows:

Subpart E—Streamlined Inspection Program

Sec.

8.500 Purpose.
8.505 Scope and applicability.
8.510 Definitions.
8.515 Eligibility.
8.520 Application.
8.525 OCMI review and action.
8.530 Plan development and approval.
8.535 Training and operational evaluation.
8.540 Enrollment in SIP.
8.545 Scope of inspection for enrolled vessels.
8.550 Plan review and revisions.
8.555 Disenrollment.
8.560 Waiver.
8.565 Appeal.
8.570 Interim approval of prototype SIP company or vessel plans.

Subpart E—Streamlined Inspection Program

§ 8.500 Purpose.

(a) This subpart establishes the Streamlined Inspection Program (SIP) which is a voluntary alternative

inspection program for U.S. documented or registered vessels required to maintain a valid certificate of inspection (COI).

(b) This subpart sets out the eligibility and application requirements and the plan development and approval procedures for enrollment of companies and their vessels in the SIP.

§ 8.505 Scope and applicability.

(a) This subpart applies to U.S. documented or registered vessels that have a valid COI.

(b) A vessel enrolled in the SIP will be inspected in accordance with its approved Vessel Action Plan (VAP).

(c) The SIP includes all inspections required to renew and maintain a valid COI. The SIP does not include dry-dock examinations, unscheduled inspections related to vessel casualties, equipment repair or replacement, or vessel modifications. Those inspections will be conducted in accordance with the subparts applicable to the vessel.

§ 8.510 Definitions.

The following definitions apply to this subpart:

Civil penalty means a final assessment under the provisions of 33 CFR part 1, subpart 1.07 or part 20 of this chapter.

Coast Guard SIP Advisor means the Coast Guard marine inspector assigned by the Officer in Charge, Marine Inspection (OCMI), to assist in the development of an action plan.

Company means the owner of the vessel or any other organization or person, such as the manager or the bareboat charterer, who operates a vessel under the SIP.

Company Action Plan (CAP) means the document describing a company's organization, policies, and responsibilities required for participation in the SIP.

Company SIP Agent means the individual who is responsible for the Company Action Plan and the Vessel Action Plan development and implementation and who has the authority to bind the company to the terms of these plans.

Correction Report means a document which sets out specific vessel deficiencies and is used to record their correction by the company.

Documented deficiency means an incident documented in a Coast Guard record in which the condition of a vessel, its equipment, or its operation was not in compliance with Coast Guard regulations.

Examination Checklist means any document or form approved in the VAP, that may be used by company employees to record the periodic examinations required by the VAP.

Inspection Criteria References (ICR) means the individual pages in the VAP that list each item on the vessel required by regulation to be periodically inspected.

Inspection Schedule and Verification (ISV) means the document that lists the items to be inspected and the intervals for their inspection, and on which is recorded the completion of required examinations and tests conducted by designated company employees.

Prototype SIP plan means the SIP plans developed for a company or vessel participating in a Coast Guard District- or OCMI-endorsed SIP before August 18, 1998.

Reportable casualty means a marine casualty or accident required to be reported under 46 CFR part 4, subpart 4.05 of this chapter.

Streamlined Inspection Program (SIP) means the alternative inspection program set out in this subpart.

Vessel Action Plan (VAP) means the document that prescribes procedures for maintenance, examination, and inspection of a vessel enrolled in the SIP.

§ 8.515 Eligibility.

(a) The company must—

(1) Have owned or operated at least one U.S. documented or registered vessel for a minimum of 3 consecutive years before the SIP application date; and

(2) Have paid all civil penalties and user fees.

(b) Except as allowed by paragraph (c) of this section, each vessel must—

(1) Have been in operation with an eligible owner or operator for at least 3 consecutive years before the SIP application date;

(2) Have had no revocation of its COI during the 3 years before the SIP application date; and

(3) Have no documented deficiency for any of the following in the 3 years before the SIP application date:

(i) Any vessel operation inconsistent with the operating details specified on its COI.

(ii) Operating without the required amount of lifesaving appliances on board the vessel or with inoperable survival craft.

(iii) Operating without the required firefighting equipment on board the vessel or with an inoperable fire pump(s).

(iv) Unauthorized modifications to the vessel's approved systems or structure, such as fixed firefighting systems, pollution prevention arrangements, overcurrent protection devices, or watertight boundary arrangements.

(v) Operating without the required navigation equipment on board the vessel or with inoperable navigation equipment.

(c) A vessel constructed for, or acquired by, a company with one or more vessels enrolled in the SIP need not meet the requirement in paragraph (b)(1) of this section for enrollment in the SIP, provided that the vessel holds a valid COI issued by the OCMI where the vessel will principally operate.

§ 8.520 Application.

To apply for SIP enrollment, a company will submit an application, in writing, to the cognizant OCMI. The application must contain the following:

(a) A statement that the company and prospective vessel(s) meet the requirements of § 8.515.

(b) A summation of the company's current status in relation to § 8.530(a).

(c) The name and official number of the vessel(s) the company intends to enroll in the SIP.

(d) The name and contact information for the Company SIP Agent.

§ 8.525 OCMI review and action.

(a) The cognizant OCMI will review Coast Guard records for the 3 years before the SIP application date to verify the eligibility of the company and each vessel listed in the SIP application.

(b) If the company and one or more of its vessels meets the eligibility requirements contained in § 8.515, the cognizant OCMI will notify the company of its eligibility and assign a Coast Guard SIP Advisor.

(c) If, according to Coast Guard records, a company or vessel does not meet the eligibility requirements contained in § 8.515, the cognizant OCMI will notify the company in writing of its ineligibility stating each reason for not accepting the company or a vessel.

§ 8.530 Plan development and approval.

The Company SIP Agent will develop the CAP and VAP with guidance from the Coast Guard SIP Advisor for OCMI approval.

(a) *Company Action Plan.* The CAP shall include at least the following:

(1) A copy of the OCMI CAP approval letter (once the CAP is approved).

(2) An organization commitment statement.

(3) A company organization chart that includes the name(s) of the designated SIP support personnel who will be responsible for implementation and oversight of the approved CAP and VAP(s).

(4) A statement describing the responsibilities and authorities of personnel involved in the examination and maintenance of the vessel(s) for the company.

(5) A description of the method the company will use to integrate the applicable subpart regulations into its SIP and the method or system used to initiate corrective action.

(6) A description of the company's safety program.

(7) A description of the company's environmental protection program.

(8) A description of the company's training infrastructure, the method used to track and record training for individual employees, and the training required for the designated SIP support personnel to implement the CAP and the VAP.

(9) A master list of all SIP documents and ICRs that the company intends to use in its VAP(s).

(10) Appendices for each approved VAP.

(b) *Vessel Action Plan.* Each VAP shall include at least the following:

(1) A copy of the OCMI VAP approval letter (once the VAP is approved).

(2) A description of the method that will be used to integrate the VAP into the vessel's regular operations.

(3) Vessel-specific ICRs.

(4) Vessel-specific ISV forms.

(5) Vessel-specific examination checklists.

(6) Correction reports.

(c) *Plan Approval.* The Company SIP Agent will submit the CAP and each VAP to the cognizant OCMI for approval. Once approved, a copy of the VAP shall be kept on board the vessel.

§ 8.535 Training and operational evaluation.

When the CAP and VAP(s) have been approved by the cognizant OCMI, the company may begin training and operating under the plans. This evaluation phase includes the following:

(a) The company shall provide the designated SIP support personnel with training as required by the CAP.

(b) The vessel must operate and be examined under the VAP for a period of at least 3 months.

(c) During the operational periods, the Coast Guard SIP Advisor will conduct an ongoing evaluation of the vessel's operation, the training records, and the ability of all designated persons to perform their assigned functions under the VAP. The Coast Guard SIP Advisor will report periodically to the cognizant OCMI and the Company SIP Agent on the vessel's performance, and make recommendations, if needed.

(d) Revisions recommended under paragraph (c) of this section, or any additional operational periods under a revised CAP or VAP as may be required by the cognizant OCMI must be completed prior to enrollment.

§ 8.540 Enrollment in SIP.

Upon successful completion of the training and evaluation phase, the Coast Guard SIP Advisor will recommend to the OCMI that the company or vessel be enrolled in the SIP. If the OCMI concurs with the recommendation, he or she will issue an enrollment letter and endorse the vessel's COI. Subsequent inspections covered under this subpart will be conducted in accordance with the approved VAP.

§ 8.545 Scope of inspection for enrolled vessels.

(a) A Coast Guard marine inspector will conduct required periodic and follow-on inspections necessary to ensure compliance with Coast Guard regulations.

(b) A Coast Guard marine inspector will conduct the inspections in paragraph (a) of this section in accordance with the procedures set out in the VAP. These inspections will normally include the following:

(1) *Administrative review.* This portion of the inspection consists of a review of prior Coast Guard SIP inspection forms, the contents of the VAP, and other certifications of equipment and vessel systems.

(2) *SIP performance review.* This portion of the inspection consists of a review of vessel SIP documentation and records, review of the SIP procedures, and a company evaluation of their SIP.

(3) *Materiel review.* This portion of the inspection consists of a general examination of the vessel, witnessing the examination of selected items under the VAP by company designated SIP support personnel, inspection of selected items, and witnessing crew performance in drills.

(4) *Conclusion and recommendations.* This portion of the inspection contains the Coast Guard marine inspector's evaluation of regulatory compliance of the vessel under its VAP.

(c) A Coast Guard marine inspector may conduct any additional tests or examinations of vessel equipment or systems necessary to ensure compliance with Coast Guard regulations during an inspection covered in paragraph (a) of this section.

§ 8.550 Plan review and revisions.

(a) Mandatory reviews and revisions. The CAP and VAP(s) must be reviewed and revised as follows:

(1) Every 2 years after the plan approval date, the company shall review the CAP and update all information required by § 8.530.

(2) Every 5 years after the plan approval date, the Coast Guard SIP Advisor and the Company SIP Agent will review the VAP.

(3) If a reportable casualty occurs, the cognizant OCMI will review the portions of the VAP related to equipment, training, personnel, and systems involved in the casualty and determine whether revisions to the VAP are appropriate.

(4) When statutes or regulations change, the appropriate sections of the CAP and VAP(s) will be revised.

(b) *Discretionary reviews and revisions.* The CAP and VAP(s) may be reviewed and revised by the company at any time. The revisions must be submitted to the cognizant OCMI for approval.

§ 8.555 Disenrollment.

(a) *Voluntary disenrollment.* A company may request SIP disenrollment (which includes all of its vessels) or may request disenrollment of a specific vessel from the SIP by writing to the cognizant OCMI. The OCMI will then issue a letter disenrolling the vessel or company. Disenrolled vessels will be inspected in accordance with the requirements of 46 CFR part 2, subpart 2.01 of this chapter.

(b) *Company disenrollment.* The OCMI may issue a letter disenrolling the company if the company no longer has at least one enrolled vessel or if the company fails to continue to meet the eligibility requirements in § 8.515.

(c) *Vessel disenrollment.* The OCMI may issue a letter disenrolling a vessel if any one or more of the following occurs:

(1) The sale of the vessel.

(2) A finalized letter of warning or assessment of a civil penalty for—

(i) Operating outside the scope of the vessel's COI or Stability Letter;

(ii) Not reporting a personnel or material casualty required to be reported under 46 CFR part 4; or

(iii) A material deficiency listed in § 8.515(b)(3).

§ 8.560 Waiver.

(a) A Coast Guard District Commander may waive any requirement of this subpart—

(1) If good cause exists for granting a waiver; and

(2) If the safety of the vessel and those on board will not be adversely affected.

(b) Requests for waiver of any requirement of this subpart must be submitted in writing to the cognizant OCMI for review before forwarding to the Coast Guard District Commander for action.

(c) A copy of each waiver granted under this section shall be maintained at all times in the VAP.

§ 8.565 Appeal.

A company may appeal any decision or action taken under this subpart in accordance with 46 CFR part 1, subpart 1.03 of this chapter.

§ 8.570 Interim approval of prototype SIP company or vessel plans.

(a) A company operating under an approved prototype SIP company or vessel plan must apply in writing by November 1, 1998, to the cognizant OCMI for approval to continue operating under the plans while revisions are developed to bring the prototype SIP company or vessel plan into conformance with this subpart. The OCMI may approve the request for a period of up to 3 years.

(b) A company that does not request approval as required by paragraph (a) of this section or does not obtain approval to continue operating under a prototype SIP company or vessel plan by February 1, 1999, may no longer operate under the plans and will be inspected in accordance with the requirements of 46 CFR part 2, subpart 2.01 of this chapter.

Dated: August 5, 1998.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–21549 Filed 8–17–98; 8:45 am]

BILLING CODE 4910–15–P