SUMMARY: The Mine Safety and Health Administration (MSHA) is reopening the rulemaking record for MSHA's existing rule on Refuge Alternatives for the limited purpose of obtaining comments on the frequency for motor task (also known as ''hands-on'' training), decision-making, and expectations training for miners to deploy and use refuge alternatives in underground coal mines. The U.S. Court of Appeals for the District of Columbia Circuit remanded a training provision in the Refuge Alternatives rule, directing MSHA to explain the basis for requiring motor task (hands-on), decision-making, and expectations training annually rather than quarterly or to reopen the record and allow public comment. MSHA published a notice reopening the record on August 8, 2013, with comments due by October 7, 2013. Due to the government shutdown, the public requested additional time to comment. This notice reopens the rulemaking record to provide an additional opportunity for public comment.

DATES: Comments must be received by midnight Eastern Standard Time on December 16, 2013.

ADDRESSES: Submit comments, identified by ''RIN 1219–AB84'', by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: zzMSHA-comments@dol.gov.* Include ''RIN 1219–AB84'' in the subject line of the message.
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.
- *Hand Delivery/Courier:* MSHA, 1100 Wilson Boulevard, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 21st floor.

Instructions: All submissions must include the Agency name ''MSHA'' and ''RIN 1219–AB84'' and will be posted without change on *http://www.regulations.gov* and on *http://www.msha.gov/currentcomments.asp,* including any personal information provided.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov or http://www.msha.gov/currentcomments.asp.* Review the docket in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 21st floor.

Availability of Information: To subscribe to receive an email notification when MSHA publishes rulemaking documents in the **Federal Register**, go to *http://www.msha.gov/subscriptions/subscribe.aspx.*

FOR FURTHER INFORMATION CONTACT: George F. Triebsch, Director, Office of Standards, Regulations, and Variances, MSHA, at *triebsch.george@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: MSHA published a final rule on refuge alternatives on December 31, 2008 (73 FR 80656), establishing requirements for refuge alternatives in underground coal mines. On January 13, 2009, the United Mine Workers of America (UMWA) petitioned the U.S. Court of Appeals for the District of Columbia Circuit (Court) to review MSHA's refuge alternatives final rule. The Court issued its decision on October 26, 2010, holding that the Secretary had not adequately explained the basis for requiring motor task (hands-on), decision-making, and expectations training only annually, rather than quarterly. The Court remanded the training provision and ordered MSHA to either ''provide an explanation . . . or . . . reopen the record, and afford interested parties an opportunity to comment.'' [*United Mine Workers* v. *MSHA,* 626 F.3d 84, 86, and 90–94 (D.C. Cir. 2010)]

In response to the Court's decision, MSHA reopened the record on August 8, 2013 (78 FR 48592) and the comment period closed on October 7, 2013. MSHA received a request from the public that, because of the confusion that occurred during the government shutdown from October 1 to October 17, 2013, the Agency allow additional time to address the issues described in the reopening notice. In support of the request, the requester stated that the public had 7 fewer days to comment. The requester believed that MSHA staff would not be available to receive or verify receipt of the comments.

This notice reopens the record to provide the public an additional opportunity to comment. Please limit your comments to the questions in the notice published on August 8, 2013 (78 FR 48592). MSHA will review the comments to determine an appropriate course of action for the Agency in response to comments. MSHA will publish its response in the **Federal Register** addressing the public comments and either explaining the reason that it is leaving the existing rule unchanged or modifying the rule as the result of the public comment process.

List of Subjects in 30 CFR Part 75

Coal mines, Mine safety and health, Reporting and recordkeeping requirements, Safety, Training programs, Underground mining.

Authority: 30 U.S.C. 811.

Dated: November 12, 2013.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2013–27397 Filed 11–14–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 97 and 160, and 46 CFR Part 97

[Docket No. USCG–2000–7080]

RIN 1625–AA25 [Formerly RIN 2115–AF97]

Cargo Securing Manuals

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes requiring cargo securing manuals (CSMs) on vessels of 500 gross tons or more traveling on international voyages and carrying cargo that is other than solid or liquid bulk cargo. The proposed regulations would authorize recognized classification societies or other approval authorities to review and approve CSMs on behalf of the Coast Guard. They would also prescribe when and how the loss or jettisoning of cargo at sea must be reported. The proposed regulations would help fulfill U.S. treaty obligations and could help prevent or mitigate the consequences of vessel cargo loss. This rulemaking promotes the Coast Guard's maritime safety and stewardship missions.

DATES: Comments and related material must either be submitted to the Coast Guard's online docket via *http://www.regulations.gov* on or before February 13, 2014 or reach the Docket Management Facility by that date. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before February 13, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2000–7080 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

Collection of Information Comments: If you have comments on the collection of information discussed in section VIII.D. of this preamble, you must also send comments to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. To ensure that your comments to OIRA are received on time, the preferred methods are by email to *oira_submission@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for Coast Guard, DHS'' in the subject line of the email) or fax at 202–395–6566. An alternate, though slower, method is by U.S. mail 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.

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Stop 7126, Washington, DC 20593–7126 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–372–1411. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Ken Smith, Project Manager, U.S. Coast Guard, Headquarters, Vessel and Facility Operating Standards Division, Commandant (CG–OES–2); telephone 202–372–1411, email *Ken.A.Smith@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2000–7080), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* and follow the instructions on that Web site. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

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

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* and follow the instructions on that Web site. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

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

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we decide to hold a public meeting, we will announce its time and place in a later notice in the **Federal Register**.

II. Abbreviations

BLS U.S. Bureau of Labor Statistics
CFR Code of Federal Regulations
CSAP Cargo safe access plan
CSM Cargo Securing Manual
CSS Code Code of Safe Practice for Cargo Stowage and Securing
E.O. Executive Order
FR Federal Register
IMO International Maritime Organization
MARAD U.S. Department of Transportation's Maritime Administration
MSC Maritime Safety Committee
MISLE Marine Information for Safety and Law Enforcement
NPRM Notice of proposed rulemaking
NVIC Navigation and Vessel Inspection Circular
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
§ Section symbol
SANS Ship Arrival Notification System
SNPRM Supplemental notice of proposed rulemaking

SOLAS International Convention for the Safety of Life at Sea, 1974 as amended
U.S.C. United States Code

III. Basis and Purpose

Sections 2103 and 3306 of Title 46, U.S. Code, provide the statutory basis for this rulemaking. Section 2103 gives the Secretary of the department in which the Coast Guard is operating general regulatory authority to implement Subtitle II (Chapters 21 through 147) of Title 46, which includes statutory requirements in 46 U.S.C. Chapter 33 for inspecting the vessels to which this rulemaking applies. Section 3306 gives the Secretary authority to regulate an inspected vessel's operation, fittings, equipment, appliances, and other items in the interest of safety. The Secretary's authority under both statutes has been delegated to the Coast Guard in Department of Homeland Security Delegation No. 0170.1(92)(a) and (b). In addition, the Secretary has regulatory authority to implement the International Convention for the Safety of Life at Sea, 1974 (SOLAS), under Executive Order (E.O.) 12234.

The purpose of this rulemaking is to align Coast Guard regulations with SOLAS requirements for cargo securing manuals and apply those requirements to U.S. vessels and foreign vessels in U.S. waters, and to specify when and how the loss or jettisoning of cargo at sea must be reported.

IV. Background and Regulatory History

Improperly secured maritime cargo threatens the safety of life, property, and the environment. Several maritime incidents dating from the early 1990s to the recent past underscore the risk of serious injury or death, vessel loss, property damage, and environmental damage caused by improperly secured cargo aboard vessels. A Coast Guard board of inquiry established to review an incident off the coast of New Jersey in 1992, which involved the loss of 21 containers, 4 of which contained the hazardous material arsenic oxide, revealed that the incident was caused by cargo securing failures and poor operational planning. The Commandant of the Coast Guard approved the board's recommendation that the Coast Guard adopt the International Maritime Organization's (IMO) guidelines on cargo securing manuals. With the support of other IMO member governments, the U.S. led a proposal to include new requirements for CSMs in SOLAS. In 1994, the IMO amended SOLAS in response to the growing international concern over maritime incidents involving improperly secured cargo. The amendments provided that, after 1997, vessels of 500 gross tons or more engaged in international trade and carrying cargo other than solid or liquid bulk material must carry a flag state-approved CSM and load, stow, and secure cargo in compliance with the CSM. Shortly before the SOLAS amendments took effect, the Coast Guard issued Navigation and Vessel Inspection Circular (NVIC) No. 10–97 to provide guidance concerning the SOLAS CSM standards until Coast Guard regulations could be developed. Compliance with NVIC 10–97 is voluntary. In 2009, in response to questions raised about lost containers during a Congressional hearing, the Coast Guard estimated that between 500 and 2,000 containers are lost at sea annually. In a recent paper submitted by the International Organization for Standardization (ISO) to the IMO, ''Development of Measures to Prevent Loss of Containers,'' the ISO notes that 10,000 containers are damaged during sea transport each year, of which 3,000 to 4,000 are lost overboard. The number of damaged and lost containers has risen and continues to rise partly because of the growth in container transports, and partly because of the larger impacts from ever-larger containerships. In addition to the dangers that improperly secured cargo and containers pose to vessels and crewmembers that handle and transport them, they also pose dangers to the environment and vessels at sea when lost overboard.

The SOLAS CSM requirements outline what a CSM must contain and establish strength requirements for securing devices and arrangements. They also describe how to stow and secure containers and other cargo. These SOLAS requirements are not yet mandatory for U.S. vessels or for foreign vessels operating in U.S. waters.

In a notice (64 FR 1648; Jan. 11, 1999) announcing a February 3, 1999, public meeting to discuss the SOLAS CSM requirements and cargo securing issues, we suggested that the SOLAS CSM requirements for vessels in international trade might be beneficial for U.S. vessels in coastwise (domestic) trade as well. Two written comments were submitted at the meeting. You may view them at *http://regulations.gov* under docket number USCG–1998–4951. One commenter offered to review and approve CSMs and the other urged Coast Guard to align any Coast Guard regulations with those of the Occupational Safety and Health Administration (OSHA). Under 29 U.S.C. 653(b)(1), OSHA's authority does not extend to shipboard personnel who are subject to Coast Guard regulations. Nevertheless, the Coast Guard has coordinated with OSHA to ensure alignment of our regulations.

The first publication in this rulemaking was a notice of proposed rulemaking (NPRM) published December 1, 2000 (65 FR 75201) entitled ''Cargo Securing on Vessels Operating in U.S. Waters.'' The NPRM proposed incorporating SOLAS requirements for CSMs into Coast Guard regulations and requested comment on five options for regulating cargo securing on U.S. vessels in coastwise trade. The Coast Guard received 17 letters from industry and labor groups in response to the NPRM. We address these comments in section V of this preamble.

V. Discussion of Comments and Changes

The 2000 NPRM drew comments from 15 sources, with two sources submitting two letters. Twelve commenters were companies or trade associations involved with maritime transportation. Two unions commented, as did a Maritime Administration official. In addition, a Coast Guard memorandum commemorating a meeting between Coast Guard personnel and industry representatives, and the final report of the Towing Safety Advisory Committee's (TSAC's) working group on cargo securing, are treated in the docket as ''public submissions.''

TSAC is a committee that advises the Coast Guard under the Federal Advisory Committee Act. The TSAC working group found that there are few cargo losses from barges, and that the variety of cargo configurations and cargo securing practices in the barge industry make it difficult to apply a single cargo securing standard for those vessels. The working group identified cargo securing best practices used by the barge industry, and recommended that barge operators should voluntarily develop, document, and periodically update cargo securing plans, train personnel in procedures covered by those plans, and audit the results. A barge operator agreed with the working group. An organization representing barge operators, and one other commenter, agreed that cargo loss from barges is extremely rare, and agreed that barge operators should voluntarily develop cargo securing plans. Two other commenters said they agree with the organization representing barge operators. Another commenter said that seagoing barges are generally safe from cargo loss. The relatively low rate of cargo loss in U.S. coastwise trade is a major reason why we have decided not to extend SOLAS-style cargo securing requirements to that trade.

Two transportation companies (and a third company that said it agreed with one of the two) said that the NPRM's proposed regulatory text for 46 CFR 97.210(e) (cargo securing manual contents) and 46 CFR 97.230 (inspection and maintenance of cargo securing devices) would make useful additions to the SOLAS cargo securing requirements. Those provisions have been omitted from this supplemental notice of proposed rulemaking (SNPRM); the SNPRM addresses their topics by requiring CSMs to comply with applicable standards contained in the IMO's 2010 Maritime Safety Committee Circulars (MSC.1/Circ.) 1352 (''Cargo Stowage and Securing (CSS Code) Annex 14 Guidance on Providing Safe Working Conditions for Securing of Containers on Deck'') and 1353 (''Revised Guidelines for the Preparation of the Cargo Securing Manual''). These two commenters also said that following a continuous examination program would ensure good equipment maintenance and be less burdensome than CSM regulatory requirements. Our SNPRM would allow, but not require, operators to follow a continuous examination program. It would describe, in proposed 33 CFR 97.205, when an approved CSM must be amended and re-approved. The two commenters recommended that fixed and portable cargo handling equipment be treated identically for regulatory purposes. Our proposed regulations would not require the use of either fixed or portable equipment. However, if portable equipment is used, it is subject to special provisions set out in the IMO Circulars, and incorporated by reference in proposed 33 CFR 97.110.

Two transportation companies said we needed to ensure that our rulemaking does not create confusion between Coast Guard and OSHA regulations. This topic was also discussed in the Coast Guard's meeting with industry representatives. As discussed in section IV of this preamble, we have aligned our regulations with OSHA's, to minimize confusion.

One transportation company said the NPRM should have approached safety issues relating to lashing cargo to decks. The same company said the NPRM should have addressed vertical tandem loading and cargo lifting devices. It said the Coast Guard should provide guidance to shoreside personnel on segregating damaged or unserviceable cargo equipment, and on dealing with cargo containers on which one of the doors has been removed.

These safety issues were also discussed in the Coast Guard's meeting with industry representatives, at which time the Coast Guard said the issue was beyond the scope of this rulemaking but could become an issue for IMO consideration in the future. Our proposed rule addresses many of the safety issues by incorporating by reference IMO Circulars MSC.1/Circ. 1352 and 1353, which take into account the IMO's 2010 Code of Safe Practice for Cargo Stowage and Securing (CSS Code). The CSS Code contains new provisions for the safety of personnel engaged in lashing operations which includes crew members and dock workers alike.

The same company that raised the safety issues also expressed concern that Coast Guard personnel might be inconsistent, in different locations, in how they apply cargo securing policy guidance. We encourage members of the regulated public who think they are being treated unfairly or arbitrarily by Coast Guard personnel to bring the matter to our attention. The Coast Guard will not retaliate against persons or businesses that question or complain about any policy or action of the Coast Guard.

Another transportation company expressed support for developing cargo securing standards that would apply specifically to seagoing barges. The commenter said the NPRM did not adequately assess the economic impact of applying cargo securing regulations to seagoing barges. The NPRM did not propose specific regulations for those vessels and thus did not calculate any regulatory economic impact on them. Seagoing barges in coastwise trade would not be affected by this SNPRM.

A third transportation company said that most cargo losses result from container structural problems that the vessel operator cannot know about or prevent. To guard against such risks, this commenter said that hazardous material containers should be stowed as low as possible on the deck. We agree that once containers are loaded onto a vessel it is very difficult for a vessel operator to know about or prevent structural problems which have gone undetected. In this regard, much responsibility is placed on personnel associated with activities related to the transportation of the container through the supply chain before delivery of the container at a terminal, including personnel involved in packing the contents and personnel involved in storing and loading containers from shore. These personnel routinely conduct internal and external inspections to ensure that the container is suitable for transporting cargo and being lifted by container handling equipment. These routine periodic inspections help reduce the likelihood that structurally deficient containers will be loaded aboard a vessel. Vessel operators are then responsible for ensuring that the containers are stowed and secured in accordance with the CSM. Vessel operators who identify a structural deficiency in a container after it has been loaded should take whatever action is considered necessary to ensure the container is safely secured, handled, or removed as the specific situation may dictate. Stowage and transportation of hazardous materials on vessels is guided by 49 CFR Part 176 and the IMO Dangerous Goods Code which address hazardous materials according to each specific type of cargo, recognizing that various types of hazardous materials require special levels of handling. Our proposed rule addresses container integrity and stowage as it relates to the securing of cargo for safe transport by sea and incorporates by reference IMO Circulars MSC.1/Circ. 1352 and 1353 concerning that issue.

A fourth transportation company said that no insured company would transport $20 million worth of cargo without first having a qualified surveyor approve how it is lashed to the deck. This commenter also said that many small entities would be affected by domestic CSM regulations. We recognize that the lashing and securing of some types of cargo may receive increased scrutiny because of their overall value, and we recognize that such cargo poses minimal risk for transport by sea. However, since such surveys currently are not required by law, securing arrangements are currently evaluated for only a few types of cargo. We propose requiring CSMs on vessels of 500 gross tons or more traveling on international voyages that are carrying any cargo that is other than solid or liquid bulk cargo. Neither the NPRM nor this SNPRM proposes specific domestic regulations and thus we have not calculated the small entity impact that domestic CSM regulations could have. We request additional public input on the topic and may conduct further analysis based on that input.

A fifth transportation company said that regulatory language suitable for larger ships would be unsuitable for smaller vessels in coastwise trade. This commenter also expressed concern over how much time would be needed for CSM approvals. As noted above, we have decided not to apply SOLAS-style cargo securing requirements to coastwise trade. By facilitating the use of third party organizations to approve CSMs, we hope to avoid lengthy delays. If you are preparing a CSM for approval,

we encourage you to consult with your approval authority upfront to help eliminate unnecessary delays.

A cargo gear company cautioned us against incorporating outdated industry standards in our regulations. This SNPRM proposes incorporating only IMO Circulars MSC.1/Circ. 1352 and 1353, which take into account the IMO's 2010 CSS Code. We invite public comment on that proposal.

The Maritime Administration commenter said our regulations should not apply to Administration-owned ships in the Ready Reserve Force. We provide an exception for those vessels in proposed 33 CFR 97.100(b).

A seagoing barge operator said it was unclear whether the NPRM covers seagoing barges, and whether it relates only to hazardous materials or would cover non-hazardous materials as well. The NPRM discussed the possible extension of SOLAS-style cargo securing requirements to seagoing barges or other vessels in coastwise trade, but we have decided against that extension. The NPRM did not specifically limit its discussion to coastwise vessels carrying hazardous material. This SNPRM proposes regulations that would apply to seagoing barges in international trade. The regulations would also apply to vessels carrying any cargo that is not solely in liquid or solid bulk form.

The NPRM invited comments on five options for extending SOLAS requirements for cargo securing on international voyages to voyages in U.S. coastwise trade. We have decided against such an extension because the cargo loss record of coastwise trade does not justify the regulatory costs that coastwise industry would have to bear. Nevertheless, the following discussion summarizes the public comment on the five options.

Nine commenters commented on Option 1. Option 1 proposed extending SOLAS requirements to coastwise voyages. Two companies and the two unions chose Option 1 as their preferred option. One company said it would prefer a ''compromise'' between Options 1 and 2, with vessel-specific standards that would comply with or exceed SOLAS standards. The cargo gear company criticized Option 1 for not requiring regular CSM review. One company said Option 1 is too restrictive, and another company said it would require too much standardization. A seagoing barge operator said Option 1 would not work for seagoing barges, because no two barge cargoes are the same.

Five commenters commented on Option 2. Option 2 proposed allowing each coastwise voyage vessel to set and document its own standards, subject to Coast Guard approval. The cargo gear company said this option should be evaluated in light of the Coast Guard's experience with continuous examination programs, and noted similarities between Options 2 and 5. One company said Option 2 requires an overly burdensome consideration of too many variables. A seagoing barge operator said Option 2 would not work for seagoing barges, but did not explain the reasons for this statement. Another company said, without explanation, that Option 2 would be its second choice of the options presented. Another company said it would prefer a ''compromise'' between Options 1 and 2, with vessel-specific standards that would comply with or exceed SOLAS standards.

Four commenters commented on Option 3. Option 3 proposed requiring a coastwise voyage vessel to obtain a surveyor's certificate of loading and securing, prior to departure, if the voyage would also be subject to Pipeline and Hazardous Materials Safety Administration regulations in 49 CFR part 176. The cargo gear company said its reaction to Option 3 would depend on the specific standards the Coast Guard would propose for incorporation. A transportation company said the use of surveyors for multiple voyages would not be feasible due to cost and surveyor availability. A seagoing barge operator agreed that it would be difficult or impossible to ensure a surveyor's availability. Another company opposed Option 3 due to the high cost of hiring surveyors.

Four commenters commented on Option 4. Option 4 proposed developing regulations that would allow each coastwise vessel owner to choose from among Options 1, 2, and 3. One commenter opposed Option 4, but did not make its reasons clear. The cargo gear company said Option 4 should be attractive to those who favor cargo securing regulations for domestic voyages, but did not express its own preference or opposition. A seagoing barge operator said the ''menu of options'' provided by Option 4 could cause confusion. A company said it opposes Option 4 because it combines the strengths, but also the weaknesses, of Options 1 through 3.

Four commenters commented on Option 5. Option 5 proposed incorporating yet-to-be-developed coastwise voyage standards that industry might draft in cooperation with TSAC. One company expressed support but did not explain its preference for Option 5. Two companies expressed preference for Option 5 because it would allow for the development of standards that would be appropriate for different types of vessel and operational needs; one of the two said the exact language of Option 5 should be modified. A seagoing barge operator opposed Option 5 because it would not ensure the development of appropriate standards for different vessel types and operational needs.

VI. Discussion of Proposed Rule

We are issuing this SNPRM, rather than proceeding directly to a final rule, for two reasons. First, much of the NPRM focused on the possible extension of SOLAS requirements to coastwise voyages. We wish to make it clear that we are no longer considering that extension, and that our proposed regulations would apply only to international voyages. Second, this SNPRM proposes some regulatory changes that were not discussed in the NPRM. For example, we propose additional language to help clarify what information needs to be reported when a cargo loss or jettisoning event occurs, and what constitutes such an event; and we propose new provisions for the use of classification societies or other third parties in approving CSMs.

This SNPRM proposes incorporating by reference IMO Circulars MSC.1/Circ. 1352 and 1353. These Circulars provide much of the guidance that we attempted to provide in our 2000 NPRM, which was based on the more limited guidance then available from the IMO's 1996 Circular MSC.1/Circ. 745 (''Guidelines for the preparation of the Cargo Securing Manual''). Table 1 shows where the NPRM's proposed regulatory text is paralleled in the SNPRM.

TABLE 1—REGULATORY TEXT COMPARISON, NPRM AND SNPRM

[All references are to proposed sections in 33 CFR, part 97]

NPRM	SNPRM
General, 97.100–97.130	97.100–97.115
Cargo Securing Manual, 97.200–97.280	97.120

TABLE 1—REGULATORY TEXT COMPARISON, NPRM AND SNPRM—Continued

[All references are to proposed sections in 33 CFR, part 97]

NPRM	SNPRM
How will Cargo Securing Manual Requirements be Approved and Enforced?, 97.300–97.350	97.200–97.215
Authorization of an Organization to Act on Behalf of the U.S., 97.400–97.480	97.300–97.320

Reporting loss or jettisoning of cargo. We propose prescribing in 33 CFR parts 97 and 160 when and how the accidental loss or deliberate jettisoning of cargo at sea must be reported. Currently, 33 CFR 160.215 requires a vessel owner or operator to immediately notify the Coast Guard whenever there is a hazardous condition caused by a vessel or its operation. ''Hazardous condition'' is defined in 33 CFR 160.204 as ''any condition that may adversely affect the safety of any vessel or the environmental quality of any port, harbor, or navigable waterway of the United States.'' In our view, any loss or jettisoning of cargo at sea must be considered a hazardous condition because, at a minimum, it poses a navigational hazard by threatening vessel safety. We propose making that explicit in part 97. We would also amend 33 CFR 160.215 by prescribing specific information to be included in the notification if the hazardous condition involves the loss or jettisoning of cargo. This should enhance our ability to identify potential problems with securing equipment, locate and warn mariners about drifting debris before it endangers safe navigation, and assess and respond to any environmental hazard created by the cargo loss.

An additional concern is containers that sink. Sunken containers may no longer be a hazard to navigation, but they may pose long-term threats to the environment. Our proposed reporting and recordkeeping requirements would facilitate the long-term monitoring of sunken containers and any needed salvage or remediation.

Incorporating SOLAS. We propose adding 33 CFR part 97 to incorporate the existing SOLAS requirements for CSMs on vessels of 500 gross tons or more traveling on international voyages and carrying any cargo other than solid or liquid bulk cargo. Smaller vessels would only have to follow those requirements if they so choose—but if they choose to have a CSM they would be bound by these proposed regulations just as if they were vessels of 500 gross tons or more, including the requirement that the CSM would need to be approved by an organization that we have authorized to do so under proposed 33 CFR part 97. As a practical matter, all existing vessels to which proposed 33 CFR part 97 would apply are already in compliance with SOLAS CSM requirements. Most foreign countries are parties to SOLAS and already enforce the SOLAS CSM requirements on their vessels. All U.S. vessels are already in compliance because they need SOLAS certificates to enter foreign ports and, to obtain those certificates, they have voluntarily complied with Coast Guard NVIC 10–97.

NVIC 10–97 was based in part on IMO guidance contained in IMO Circular MSC.1/Circ. 745. That MSC Circular was updated on June 30, 2010, by IMO Circular MSC.1/Circ. 1353, and since that time Coast Guard-approved CSMs have had to meet Circular 1353 guidelines at a minimum. Our proposed regulations would require vessels to meet the Circular 1353 standards. CSMs approved before June 30, 2010 would not need to be updated.

We propose provisions for approving and amending CSMs, and for handling disputes over CSM approval. We would cross-reference those provisions in the bulk solid cargo operations regulations in 46 CFR subpart 97.12.

We propose that, as required by MSC Circular 1352, ''Amendments to the Code of Safe Practice for Cargo Stowage and Securing (CSS Code),'' any container vessel, subject to SOLAS, whose keel is laid on or after January 1, 2015, will need to include a cargo safe access plan that is consistent with chapter 5 of the Annex to IMO Circular MSC.1/Circ. 1353, which in turn references Annex 14 (''Guidance on Providing Safe Working Conditions for the Securing of Containers'') of the IMO 2010 CSS Code. A cargo safe access plan provides detailed information on safe access for persons stowing and securing cargo on container ships that are specifically designed and fitted for the purpose of carrying containers.

Classification societies. Finally, proposed 33 CFR part 97 would provide for our authorization of recognized classification societies and other third party organizations to review and approve CSMs on our behalf.

VII. Incorporation by Reference

Material proposed for incorporation by reference appears in proposed 33 CFR 97.110. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in § 97.110. Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

VIII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and E.O.s related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule is not a significant regulatory action under section 3(f) of E.O. 12866 (as supplemented by E.O. 13563) 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 (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this Regulatory Analysis to be preliminary and subject to change in consideration of public comments. A preliminary regulatory assessment follows.

1. Summary

This proposed rule would amend the CFR by adding the following provisions:

- Requirements for the reporting of lost or jettisoned cargo;
- The CSM requirements of SOLAS and the guidance in NVIC 10–97; and
- Procedures for authorization of third party organizations to review and approve CSMs on the Coast Guard's behalf.

Please reference Table 2 below for a summary of our analysis.

TABLE 2—SUMMARY OF REGULATORY ECONOMIC IMPACTS

Proposed changes	Description	Affected population	Costs (7% discount rate)		Benefits
			Annualized	Total	
1. Reporting of lost or jettisoned cargo.	Codify lost or jettisoned cargo as a hazardous condition and specify data to be reported.	U.S. and foreign-flag vessels engaged in transport to or from a U.S. port.	$1,420	$9,970	Better tracking and response of lost or jettisoned cargo.
2. CSM requirements	Codify SOLAS rules and guidance from NVIC 10–97.	Owners/operators of 7,163 vessels: 26 U.S.-flagged, 7,137 foreign-flagged.	$45,903	$322,403	Increased enforcement authority.
3. Approval of authorized organizations.	Codify guidance from NVIC 10–97.	6 currently approved organizations, others applying for approval status.	$0	$0	Increased enforcement.

Table 3 presents a summary of the 10-year cost schedule, showing total costs on an undiscounted basis and discounted at 7 percent and 3 percent rates.

TABLE 3—SUMMARY OF THE 10-YEAR TOTAL COST TO THE INTERNATIONAL CARGO INDUSTRY AND U.S. GOVERNMENT

Year	Undiscounted			Total, discounted	
	Industry	Government	Total	7%	3%
1	$38,788	$500	$39,288	$36,718	$38,144
2	38,814	520	39,334	34,356	37,076
3	38,854	550	39,404	32,165	36,060
4	46,519	580	47,099	35,932	41,847
5	46,558	610	47,168	33,630	40,688
6	46,598	640	47,238	31,477	39,561
7	54,263	670	54,933	34,210	44,666
8	54,303	700	55,003	32,012	43,420
9	54,342	730	55,072	29,956	42,208
10	62,020	770	62,790	31,919	46,722
Total	481,059	6,270	487,329	332,375	410,392
Annualized				47,323	48,110

2. Affected Population

The applicable population (those vessels subject to the proposed regulation) consists of U.S. and foreign-flagged vessels that:

- Measure 500 gross tons or more,
- Are engaged in international trade as indicated by currently having a SOLAS Cargo Ship Safety Certificate, and
- Carry any cargo other than solid or liquid bulk commodities.

The United States is a signatory state to SOLAS, and U.S.-flagged vessels in international trade must meet SOLAS requirements, including the CSM rules, to receive a SOLAS certificate. An extract from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database identified 26 U.S.-flagged vessels as meeting the above tonnage and cargo criteria.

The applicable foreign-flagged vessels are those that transit U.S. waters. The source for data on these vessels was the Coast Guard's Ship Arrival Notification System (SANS) database. This database contains data on notifications of arrival and departure of vessels to and from U.S. ports and is supplemented by data from MISLE. We extracted from SANS the most recent three full years of data available, 2009 through 2011. This produced a list of 7,137 foreign-flagged vessels that had one or more visits to a U.S. port and met the tonnage and cargo type criteria. Table 4 summarizes the total applicable population data.

TABLE 4—TOTAL APPLICABLE POPULATION, NON-BULK CARGO VESSELS, 500+ GROSS TONS

Flag	Vessels
U.S.	26
Foreign	7,137
Total	7,163

Sources: MISLE & SANS.

3. Economic Analyses

We include an analysis of the costs, benefits, and alternatives for each of the proposed rule's three provisions:

- Requirements for the reporting of lost or jettisoned cargo;
- CSM requirements; and
- Approval of authorized organizations.

a. Requirements for the Reporting of Lost or Jettisoned Cargo

i. Current practices, applicable population, and description of changes and edits. As noted in section VI of this preamble, the current regulations require the Coast Guard to be immediately notified when a hazardous condition is caused by a vessel or its operation. Our interpretation is that incidents of lost or jettisoned cargo [1] should be considered hazardous conditions and must be reported. However, current industry practice does not correspond with that interpretation. Captain James J. McNamara, President of the National Cargo Bureau, wrote: ''When a container or containers are lost overboard, usually there is no news release and seldom is the fact publicized. The loss is only revealed to those in a need-to-know situation, i.e., the ship owner, shipper, receiver and insurer.'' [2] As we will discuss in detail, our research indicates a significant underreporting of lost or jettisoned cargo to the Coast Guard. Coast Guard and other vessels cannot respond to these unreported incidents, so they represent a residual risk to navigation and the marine environment. The underreporting also prevents the Coast Guard and other interested parties from accurately tracking the extent and trends of lost cargo incidents.

In this proposed rule we include requirements for the immediate reporting of lost or jettisoned cargo. We anticipate that adoption of these requirements will correct this underreporting and lead to some increased costs to industry. Table 5 presents the change matrix for modifying the reporting of hazardous conditions and summarizes the specific edit or change, the affected population, and the economic impact.

TABLE 5—CHANGE MATRIX FOR REPORTING OF HAZARDOUS CONDITIONS IN 33 CFR

Reference & description	Affected population	Economic impact
97.100 Applicability		
. . . (a)(1), U.S. vessels	U.S. cargo vessels 500+ GT, non-U.S. cargo vessels in U.S. waters 500+ GT.	None, administrative only.
97.105 Definitions	All vessels and approval organizations	None, administrative only.
97.110 Incorporation by reference, lists IBR references.	All affected vessels and approval organizations.	None, administrative only.
97.115 Situation requiring report, criteria for reporting lost cargo.	Vessels subject to the rule that lose cargo overboard.	Costs for correction of noncompliance with existing requirements.
160.215(a), requirement to report hazardous condition.	Operators of vessels involved in incident resulting in hazardous condition.	No change, new label of existing text.
160.215(b), data to be reported	Operators of vessels involved in incident resulting in hazardous condition.	This requirement references 97.115 and all costs are included there.

Source: Coast Guard analysis.

ii. Affected population and costs. The proposed rule applies to both U.S. and foreign-flagged vessels engaged in transport to or from U.S. ports. Therefore, the costs for reporting the lost or jettisoned cargo must be accounted for throughout the entire applicable population of 7,163 vessels, as reported in Table 4.

For 2009 through 2011 there were only five incidents of containers lost or damaged at sea and reported to the Coast Guard. As previously noted, industry experts assert that many incidents of lost or jettisoned cargo are not reported to the appropriate authorities. In order to test this, we developed an estimate of lost or jettisoned cargo incidents that are subject to Coast Guard rules.

As the base of our estimate we used the annual estimate of 4,000 containers lost at sea worldwide, as reported in the October 2010 issue of the Register Expert, the journal of the Netherlands Institute of Registered Insurance Experts, and cited by the IMO.[3] The report cited by IMO only contained a global estimate; there were no break-outs by route or flag of the vessel. We derived the U.S. share of global container traffic using data reported by the U.S. Department of Transportation's Maritime Administration (MARAD), which reported in 2010 that there were 369,155 container ship visits world-wide [4] and that 22,222 were at U.S. ports.[5] Thus, the U.S. share of global container traffic is 6.0 percent (22,222/369,155).

We used that 6.0 percent share to estimate that about 240 containers in U.S. traffic are lost annually (4,000 containers lost world-wide * U.S. 6.0 percent share of traffic, rounded). The five incidents lost a total of 25 containers, so we estimate on average there were five lost containers per incident. Using those data, we estimate that there will be 50 reports of lost containers to the Coast Guard (240 containers lost/5 containers per incident, rounded to the nearest 10) in the first year the rule would become effective.

The Tioga Group, a freight transportation services consulting firm,[6] in its report [7] on the container market to the port authorities of Los Angeles and Long Beach, presents estimates of 4.9 percent annual compounded growth rate for the U.S. in container traffic from 2010 to 2020. We assume that the number of lost container incidents will grow proportionally with the growth in container trade. We applied the Tioga Group's estimate of 4.9 percent growth rate to the base estimate of 50 lost containers to years 2 through 10 in this

[1] All data and industry reports refer only to containers when describing incidents involving lost or jettisoned cargo. We will assume that containers will continue as the only lost cargo in the future and refer to containers as the generic description of the involved cargo for this analysis.

[2] McNamara, James J., ''Containers and Cargoes Lost Overboard'', National Cargo Bureau; conference of the International Union of Marine Insurers; September 13, 2000, *http://www.iumi.com/images/stories/IUMI/Pictures/Conferences/London2000/Wednesday/02%20mcnamara%20cargo.pdf.*

[3] IMO Maritime Safety Committee report 89/22/11, p. 1. A copy of this report is in the rulemaking docket.

[4] See *http://www.marad.dot.gov/documents/Vessel_Calls_at_US_Ports_Snapshot.pdf,* p. 7, ''Global Vessel Calls by Country, 2011.''

[5] See *http://www.marad.dot.gov/documents/Vessel_Calls_at_US_Ports_Snapshot.pdf,* p. 3. ''Containership Calls at U.S. Ports by Size, 2006–2011.''

[6] For information on The Tioga Group see *www.tiogagroup.com.*

[7] The Tioga Group, Inc. and IHS Global Insight, ''San Pedro Bay Container Forecast Update'', Exhibit 33: Total U.S. Loaded Total TEU and CAGRs, p. 33, *www.portoflosangeles.org/pdf/spb_container_forecast_update_073109.pdf.*

cost analysis. This yields an estimate of 77 incidents by year 10 (the complete series is shown in the ''Estimated Incidents'' column of Table 7).

When cargo is lost or jettisoned, the vessel staff already collects data for company purposes.[8] Thus, the only additional cost for compliance with the proposed rule is the time to report the data to the Coast Guard and for the Coast Guard to record the data. Coast Guard staff who are familiar with vessel operations and incident reporting estimated that it would take 0.25 hours for a Master or other senior ship's officer to compile a report and transmit it to the Coast Guard.

The wage rate for the Master was obtained from the U.S. Bureau of Labor Statistics (BLS), using Occupational Series 53–5021, Captains, Masters, and Pilots of Water Vessels. BLS reports that the hourly rate for a Master is $34.50 per hour.[9] To account for benefits, the load factor, or ratio between total compensation and wages is calculated at 1.52,[10] using BLS data. The fully loaded wage rate for a Master is estimated at $53 per hour ($34.50 base wages * 1.52 load factor, rounded up to capture the entire cost).

Similarly, it would take 0.25 hour for Coast Guard personnel at the E–4 level to record the data. The wage rate for an E–4 rating is $40, per Commandant Instruction 7310.1M.[11] The unit cost for the Coast Guard is $10.00 ($40 per hour * 0.25 hours).

As shown in Table 6, the unit cost for reporting a lost or jettisoned cargo is $23.25.

TABLE 6—UNIT COST FOR REPORTING A LOST CONTAINER OR JETTISONED CARGO

Task	Time (hours)	Wage rate	Cost
Master to report incident	0.25	$53	$13.25
Coast Guard data entry (E4)	0.25	40	10.00
Total			23.25

Sources: BLS, Coast Guard estimates.

The baseline estimate of lost or jettisoned cargo incidents, the growth rate, and the unit cost data provide the inputs into the 10-year cost schedule. Table 7 displays the input data and the resulting cost estimates on an undiscounted basis and discounted at 7 percent and 3 percent interest rates.

TABLE 7—COST SCHEDULE FOR REPORTING LOST OR JETTISONED CARGO

Year	Estimated incidents	Rounded incidents	Industry cost	CG Cost	Total cost	Discounted	
						7%	3%
1	50	50	$663	$500	$1,163	$1,087	$1,129
2	52.45	52	689	520	1,209	1,056	1,140
3	55.02	55	729	550	1,279	1,044	1,170
4	57.72	58	769	580	1,349	1,029	1,199
5	60.55	61	808	610	1,418	1,011	1,223
6	63.52	64	848	640	1,488	992	1,246
7	66.63	67	888	670	1,558	970	1,267
8	69.89	70	928	700	1,628	948	1,285
9	73.31	73	967	730	1,697	923	1,301
10	76.90	77	1,020	770	1,790	910	1,332
Total			8,309	6,270	14,579	9,970	12,292
Annualized						1,420	1,441

To provide a breakout of costs by flag status, we extracted from the Coast Guard's SANS database the vessels calling on U.S. ports in 2011. We divided the vessels into U.S. and foreign-flag status. Table 8 presents the data and shows that in 2011, U.S. flag-vessels accounted for 2.5% of the visits by vessels subject to this rule.

TABLE 8—2011 VISITS TO U.S. PORTS BY FLAG-STATUS OF VESSELS 500 GROSS TONS OR MORE, NON-BULK TRADE

Flag	Visits	Percent
U.S.	514	2.5
Foreign	20,242	97.5
Total	20,756	100.0

Source: USCG, SANS database.

We produced a breakout for U.S. costs of lost or jettisoned cargo by applying the 2.5 percent of visits by U.S. flag vessels from Table 8 to the cost estimates from Table 7. Please note that U.S. costs include both costs to U.S.-flagged vessels and the Coast Guard. Table 9 displays the data for the U.S. costs.

[8] Captain James J. McNamara, ''Containers and Cargo Lost Overboard'', p. 2. National Cargo Bureau; conference of the International Union of Marine Insurers; September 13, 2000, *http://www.iumi.com/images/stories/IUMI/Pictures/Conferences/London2000/Wednesday/02%20mcnamara%20cargo.pdf.*

[9] Mean wage, *http://www.bls.gov/oes/2011/may/oes535021.htm.*

[10] Load Factor calculation, source: *ftp://ftp.bls.gov/pub/special.requests/ocwc/ect/ececqrtn.pdf.*

[11] *http://www.uscg.mil/directives/ci/7000-7999/CI_7310_1M.pdf.*

TABLE 9—SCHEDULE FOR U.S. COSTS FOR REPORTING LOST OR JETTISONED CARGO

Year	Estimated incidents	Rounded incidents	Industry cost	CG cost	Total cost	Discounted	
						7%	3%
1	50	1	$13	$10	$23	$21	$22
2	52.45	1	13	10	23	20	22
3	55.02	1	13	10	23	19	21
4	57.72	1	13	10	23	18	20
5	60.55	1	13	10	23	16	20
6	63.52	2	27	20	47	31	39
7	66.63	2	27	20	47	29	38
8	69.89	2	27	20	47	27	37
9	73.31	2	27	20	47	26	36
10	76.90	2	27	20	47	24	35
Total			200	150	350	231	290
Annualized						33	34

The costs of reporting lost or jettisoned cargo for non-U.S.-flag vessels are obtained by subtracting the U.S. costs, as reported in Table 9, from the costs as displayed in Table 7. Table 10 presents the results of these calculations.

TABLE 10—SCHEDULE FOR NON-U.S. COSTS FOR REPORTING LOST OR JETTISONED CARGO

Year	Estimated incidents	Rounded incidents	Industry cost	CG cost	Total cost	Discounted	
						7%	3%
1	50	49	$649	$490	$1,139	$1,064	$1,106
2	52.45	51	676	510	1,186	1,036	1,118
3	55.02	54	716	540	1,256	1,025	1,149
4	57.72	57	755	570	1,325	1,011	1,177
5	60.55	60	795	600	1,395	995	1,203
6	63.52	62	822	620	1,442	961	1,208
7	66.63	65	861	650	1,511	941	1,229
8	69.89	68	901	680	1,581	920	1,248
9	73.31	71	941	710	1,651	898	1,265
10	76.90	75	994	750	1,744	887	1,298
Total			8,110	6,120	14,230	9,738	12,001
Annualized						1,386	1,407

iii. Benefits. A 2011 news release from the Monterey Bay Aquarium Research Institute (MBARI) [12] stated that containers that fall from ships can ''float at the surface for months, most eventually sink to the seafloor.'' While they float they can present a hazard to navigation. However, sunken containers may pose immediate and long-term threats to the marine environment. The MBARI news release also stated that ''[N]o one knows what happens to these containers once they reach the deep seafloor'' and that ''[p]erhaps 10 percent of shipping containers carry household and industrial chemicals that could be toxic to marine life.'' The small number of MISLE incidents provides additional information. Of the 25 containers, one container contained 22,500 pounds of used batteries and another contained an unspecified hazardous material.

The immediate benefit of the reporting provisions is that they would enhance the Coast Guard's ability to identify potential problems with securing equipment, locate and warn mariners about drifting containers that endanger safe navigation, and assess and respond to any potential environmental hazard created by the cargo loss. In the longer term, having complete and accurate data on lost cargo incidents would enable the Coast Guard and other parties to identify industry trends and track potential long-term threats to the marine environment from sunken containers.

iv. Alternatives. We considered possible alternatives to the proposed rule. One possibility, as suggested in the NPRM, would be to limit the reporting of lost containers to only those containing hazardous materials. However, we consider any overboard container to be a potential hazard to navigation and, as noted above, the contents may pose a long-term threat to the marine environment. To ensure safety of navigation and the marine environment, we believe all lost or jettisoned cargo should be reported.

Another option would be to reduce the amount of information to be sent to the Coast Guard in order to minimize recordkeeping burden. We examined the data specified in the proposed rule and determined that all would be needed by the Coast Guard in order to completely evaluate the situation and determine the appropriate response. Therefore, we believe that the reporting requirements in the proposed rule would provide the Coast Guard with sufficient information to fulfill its missions of maritime safety and protection of the marine environment while minimizing the vessel's recordkeeping and reporting burdens.

b. CSM Requirements

i. Current practices, applicable population, and description of changes and edits. As stated in section IV of this

[12] *http://www.mbari.org/news/news_releases/2011/containers/containers-release.html.*

preamble, current requirements for CSMs are located in SOLAS, with further implementing guidance included in NVIC 10–97. The Coast Guard's current reference for the minimum standards of a CSM is IMO's Circular 1353.

Enforcement in U.S. ports is carried out by the Coast Guard's safety and security vessel examinations program. As part of these examinations, the Coast Guard checks that the subject vessels have a CSM and that the crew follows it. MISLE data show that from 2009 through 2011, the 26 U.S.-flag vessels that are part of the affected population were subject to 176 inspections. In all of these inspections there were no citations for a deficient CSM. MISLE also recorded that in 2009 through 2011, the Coast Guard conducted 11,989 vessel inspections of foreign-flag vessels and found problems relating to CSMs in only 8 instances. These data indicate an ongoing compliance process for both U.S.- and foreign-flagged vessels subject to CSM rules. As a result, the Coast Guard anticipates that the only costs regarding the CSM requirement is that moving the requirements from SOLAS and the implementing guidelines from NVIC 10–97 into the CFR could prompt owners and operators of the few deficient vessels to ensure their CSMs were fully compliant with SOLAS prior to entering U.S. waters.

Tables 11 and 12 present the change matrix for the edits to Title 33 and Title 46 of the CFR, respectively, that relate to the CSM requirements. Each matrix summarizes the specific edit or change, the affected population, and the economic impact.

TABLE 11—CHANGE MATRIX FOR ADDING CSM REQUIREMENTS TO 33 CFR

Reference & description	Affected population	Economic impact
97.100 Applicability		
. . . (a)(1), U.S. vessels	U.S. cargo vessels 500+ GT, non-U.S. cargo vessels in U.S. waters 500+ GT.	None, administrative only.
. . . (a)(2), voluntary compliance	U.S. vessels less than 500 GT requesting coverage.	No change, codifies guidance currently located in NVIC.
. . . (b), exemption for Ready Reserve and public vessels.	Ready Reserve and public vessels	None, these vessels currently exempted.
97.105 Definitions	All vessels and approval organizations	None, administrative only.
97.110 Incorporation by reference, lists IBR references.	All affected vessels and approval organizations.	None, administrative only.
97.120 Cargo Securing Manuals		
. . . (a)(1), CSMs required	SOLAS vessels and non-U.S., non-SOLAS vessels noted with deficient CSMs by Coast Guard.	Cost of developing CSM for noncompliant vessels.
. . . (a)(2), CSAP required after 2015	Non-SOLAS vessels	Edit to close regulatory gap. No costs, no current vessels affected and none expected in future.
. . . (b), authorizes CG enforcement	All U.S. and foreign-flagged vessels subject to the rule.	No cost, provides authority for current CG compliance activities.

Source: Coast Guard analysis.

TABLE 12—CHANGE MATRIX FOR EDITS TO 46 CFR 97 THAT APPLY TO U.S. SOLAS VESSELS

Reference & description	Affected population	Economic impact
97.12–10, Cargo securing manuals, new section to reference new 33 CFR 97.120.	Owners and operators of U.S. SOLAS vessels	Administrative edit, all costs accounted for in 33 CFR 97.120.

Source: Coast Guard analysis.

ii. Affected population and costs. As stated in the preceding section VIII.A.3.i, the Coast Guard's current safety and security examinations include checking to see if a subject vessel has a current CSM and that the crew follows it. The inspection results indicate that U.S.-flagged vessels in international trade currently comply with the SOLAS CSM rules and will continue with those practices. For foreign-flagged vessels that visit U.S. ports, we estimated the costs of compliance based on the following assumptions:

(1) In the absence of the proposed rule, the current deficiency rate for subject foreign-flagged vessels would continue.

(2) Under the proposed rule, the increased enforceability posture from codifying the CSM rules will lead all vessels to comply with the SOLAS standards and NVIC guidance prior to entering U.S. waters. That is, the deficiency rate will be reduced to zero for foreign-flagged vessels.

In the preceding section VIII.A.3.i, we reported that there were 8 deficiencies related to CMS from 2009–2011. These deficiencies are comprised of 4 that were missing sections or certain technical data, 3 that were missing approval from an authorized organization, and 1 that did not have its CSM on the vessel. Table 13 presents the data from 2009 through 2011 for the calculation of a deficiency rates by year and an annual average for the three years.

TABLE 13—ANNUAL CSM DEFICIENCY RATE

Year	Vessel examinations	CSM deficiencies	Deficiency rate (percent)
2009	3,901	3	0.08
2010	4,148	3	0.07
2011	3,930	2	0.05
Total (Sum for examinations and deficiencies, average for rate)	11,979	8	0.07

The population in year 1 of the estimate period is the foreign-flagged component of the affected population—7,137 vessels, as reported in Table 4. In the analysis of the reporting requirements, we cited the Tioga Group's report on the container market that growth in container shipments to the U.S. is expected to increase,[13] so a flat extrapolation of the baseline over years 2 through 10 of the analysis period would result in an underestimate.

We used the Tioga Group's estimate of a 4.9 percent rate for our estimate for growth in our ten-year analysis period. The SANS data used for an estimate of the affected population showed that each vessel averaged 3.5 visits per year to U.S. ports in the three years of data collection, 2009 through 2011.

At this time we do not have detailed information on the current and projected capacity utilization of container ships visiting U.S. ports, so we posited that the trips per year of the affected vessels would remain constant through the analysis period. With that assumption, we applied the 4.9 percent annual growth rate to the fleet of foreign-flagged vessels serving U.S. ports, starting with the baseline population of 7,137 vessels. The resulting estimates are shown in the ''Affected Vessels'' column of Table 14.

The estimate of the number of deficient CSMs in any year equals the estimate of the vessel population that year times the deficiency rate. For example, the estimate for Year 1 is CSMs for 5 new foreign-flagged vessels (7,137 vessels * 0.07 percent).

To obtain a current estimate for the cost of developing a cargo securing manual we contacted industry cargo securing subject matter experts in 2013 [14]. These experts are familiar with the entire development of cargo securing manuals, including vessel survey, evaluation of the cargo securing equipment and procedures, preparing the manuals, and training the crews. From the information they provided, we estimate that the cost to develop a CSM will range between $7,500 and $10,000, depending on factors such as the size and type of vessel. We do not have detailed descriptions of each deficiency, so for the unit cost, we will assume that in order to ensure compliance the company will revise the CSM using an existing survey of the vessel. A recently completed study conducted by ABS Consulting, Inc. for the Coast Guard provided estimates on the costs of a suite of marine engineering and naval architecture services [15]. That study estimates that the average cost of a survey for a freight ship is $1,125. We estimated the unit cost to remedy a deficiency as the average cost of developing a CSM ($8,750 = ($7,500 + $10,000)/2)) less the average cost of a survey. This yields an estimated unit cost of $7,625 ($8,750—$1,125). The total cost for any year is the number of new CSMs to remedy deficiencies, times the unit cost of $7,625. Table 14 presents the cost estimate over the ten-year period at both an undiscounted value and discounted at 7 percent and 3 percent interest rates. As noted, these costs are for noncompliant foreign vessels; all U.S. vessels in international trade are assessed as already complying.

TABLE 14—COST OF UPGRADING DEFICIENT CSMS

[undiscounted and discounted at 7% and 3%]

(A) Year	(B) Affected vessels	(C) Annual deficiency rate (percent)	(D) New CSMs (B*C)	(E) CSM Cost (D*$7,625)	Discounted	
					7%	3%
1	7,137	0.07	5	$38,125	$35,631	$37,015
2	7,487	0.07	5	38,125	33,300	35,936
3	7,854	0.07	5	38,125	31,121	34,890
4	8,239	0.07	6	45,750	34,902	40,648
5	8,643	0.07	6	45,750	32,619	39,464
6	9,067	0.07	6	45,750	30,485	38,315
7	9,511	0.07	7	53,375	33,239	43,399
8	9,977	0.07	7	53,375	31,065	42,135
9	10,466	0.07	7	53,375	29,032	40,907
10	10,979	0.07	8	61,000	31,009	45,390
Total				472,750	322,403	398,099
Annualized					$45,903	$46,669

As shown in Table 14, the total 10-year cost for upgrading CSMs at a 7% discount rate is $45,903. We anticipate that the Coast Guard will continue its current inspection regime, so there are no additional government costs or

[13] See. ''U.S. Port and Inland Waterways Preparing for Post Panamax Vessels'', p. 10—''Forecast and Containerized Cargo'': *http://www.iwr.usace.army.mil/docs/portswaterways/rpt/June_20_U.S._Port_and_Inland_Waterways_Preparing_for_Post_Panamax_Vessels.pdf.*

[14] These sources preferred not to be identified in order to protect proprietary information.

[15] ABS Consulting, Inc, ''Study of Marine Engineering and Naval Architecture Costs for Use in Regulatory Analyses,'' Table 5, p. 26. A copy is included in the docket.

resource impacts to the Coast Guard for new, upgraded or revised CSMs.

iii. Benefits. The benefit of adding the SOLAS requirements and the NVIC guidance on CSMs to the CFR is increased Coast Guard enforcement authority. We previously cited the statistics from the Coast Guard's CSM inspection activities from 2009 through 2011 for both U.S. and foreign-flagged vessels. However, as noted in section IV of this preamble, the only current U.S. implementation of the CSM is via NVIC 10–97, which is unenforceable. Incorporating these rules into the CFR elevates the requirements to regulation status. As described in section III of this preamble, the Coast Guard has existing authorities to inspect vessels; regulate an inspected vessel's operation, fittings, equipment, and appliances; and implement SOLAS. The Coast Guard believes that it can enforce the provisions of the proposed rule under these authorities.

iv. Alternatives. Alternatives were considered in this proposed rule. Alternatives include various ways to apply the requirements to prepare and implement CSMs to U.S.-flagged vessels in coastwise trade. As described in section V of this preamble, the 2000 NPRM presented five options for applying CSM regulations to U.S. domestic voyages. Table 15 presents descriptions of these options and a summary of the comments.

TABLE 15—OPTIONS TO EXTEND CMS REQUIREMENTS TO U.S. DOMESTIC VOYAGES

Option No.	Description	Summary of comments
1	Extend SOLAS requirements to domestic voyages	4 supported, 5 opposed for these reasons: • Preferred compromise of Options 1 & 2 • Not requiring regular reviews • Too restrictive • Require too much standardization • Would not work for seagoing barges as no two barge cargoes are identical
2	Vessel specific standards, Coast Guard approval	1 supported, 5 opposed for these reasons: • Evaluate against experience with continuous examination program and noted similarity with Option 5 • Too many variables causing unneeded burden • Would not work, but did not give specific reasons • Second choice • Preferred compromise of Options 1 and 2
3	Certificate for carrying hazardous materials	One commenter stated its decision would depend on specific requirements and 3 opposed for these reasons: • Surveyors for multiple voyages not feasible for cost and availability • Could not ensure surveyor availability • High costs of surveyors
4	Allow each vessel to choose from among Options 1, 2, and 3	One commenter noted that companies supporting domestic rules would find this attractive, but did not state its own opinion. Another stated that it combined the strengths and weaknesses of the other Options. One opposed for unstated reasons and another was opposed because the ''menu of options'' would cause confusion.
5	Standards developed with industry	3 supported, 1 for unstated reasons and 2 because of its flexibility; and 1 was opposed because it would not ensure meeting needs of different vessel types and operations

The options presented in the NPRM were only outlined and did not have cost estimates. We developed a cost estimate for Option 1 that would extend SOLAS requirements to domestic vessels. We added these details to Option 1 to make the calculations:

• The affected population will be U.S.-flagged vessels of 500 gross tons or more in coastwise trade. The geographic identification was vessels with coastwise route certifications. We identified 675 vessels from MISLE that met these requirements, which is comprised of 215 freight barges, 125 freight ships, and 335 offshore supply vessels.

• In general, the vessels in the U.S. affected population for this alternative are smaller than the foreign-flagged vessels that comprise the affected population of the proposed regulation. Data comparisons for the U.S. fleet shows average gross tons of 8,165 and average length of 326 feet. The comparable data for the foreign-flagged vessels is average gross tonnage of 31,306 and average length of 619 feet. Therefore, we assigned for the unit cost of the U.S. coastwise vessels the low-end value of $7,500 from the range supplied by the subject matter experts we contacted. The recent history of new builds will continue through the ten-year analysis period. MISLE reported 22 new vessels per year from 2009–2012 and we used this in our analysis.

• A phase-in period was not in the NPRM, but we added a three-year phase-in period, to mitigate the burden on both vessel owners and the authorized approval organizations. We assume that vessel owners would distribute the certification of the manuals for their vessels evenly over the phase-in period. This would enable vessel owners and authorized approval organizations to schedule cargo securing approvals in conjunction with vessel down-time, such as scheduled examinations or times of vessel repairs and upgrades.

With these parameters, we developed a 10-year cost schedule for Option 1. As the costs to foreign-flagged vessels would be the same for Option 1 as the preferred alternative, the data presented show the marginal costs for Option 1. The annualized cost, using a 7 percent discount rate would be $759,524. The cost estimates are displayed in Table 16.

TABLE 16—COST ESTIMATE FOR OPTION 1, EXTEND CSM REQUIREMENTS TO DOMESTIC VESSELS

Year	Existing vessels	New vessels	Total vessels	Unit cost	Total cost	Discounted	
						7%	3%
1	225	22	247	$7,500	$1,852,500	$1,731,308	$1,798,544
2	225	22	247	7,500	1,852,500	1,618,045	1,746,159
3	225	22	247	7,500	1,852,500	1,512,192	1,695,300
4	0	22	22	7,500	165,000	125,878	146,600
5	0	22	22	7,500	165,000	117,643	142,330
6	0	22	22	7,500	165,000	109,946	138,185
7	0	22	22	7,500	165,000	102,754	134,160
8	0	22	22	7,500	165,000	96,032	130,253
9	0	22	22	7,500	165,000	89,749	126,459
10	0	22	22	7,500	165,000	83,878	122,775
Total	675	220	895		6,712,500	5,587,425	6,180,765
Annualized						795,524	724,574

The goal of this alternative would be to reduce the occurrence and impacts of lost containers in U.S. coastwise trade. However, the comments to the NPRM indicate that this is not a significant problem. One commenter stated that cargo losses from barges are rare, another stated that seagoing barges ''are generally safe from cargo loss'', and another commenter stated that ''most cargo losses result from container structural problems that the vessel owner operator cannot know about or prevent.'' Recent data from MISLE supports the commenters. Specifically, MISLE has only five incidents from 2009–2011 of lost or damaged containers involving U.S. vessels in coastwise voyages. Additionally, our initial cost estimates, as presented in Table 16, indicate that industry would incur annualized costs, discounted at 7 percent, of nearly $800,000. Therefore, the focus of this rulemaking is exclusively vessels in international trade. However, the Coast Guard can reevaluate this position and initiate another rulemaking for the U.S. coastwise trade if new information indicates either underreporting or upward trend of lost containers.

c. Approval of Authorized Organizations

The Coast Guard authorizes classification societies and other organizations to review and approve CSMs on its behalf. The procedures for these organizations are currently found in NVIC 10–97 and cover selection criteria, information required by organizations applying for authorization status, the Coast Guard's application review procedures, authorization termination, and appeals processes.

Following the procedures in NVIC 10–39, the Coast Guard has authorized these six classification societies to review and approve CSMs: American Bureau of Shipping, Det Norske Veritas, Lloyd's Register of Shipping, Germanischer Lloyd, RINA S.p.A, and ClassNK.[16] We anticipate that no other classification societies will be applying for CSM approval authority in the near future.

However, the NVIC is a guidance document only, and not legally enforceable. The proposed rule would incorporate these procedures from the NVIC into the CFR with only some minor editorial changes. Therefore, we believe there would be no additional regulatory costs associated with the codification of these application procedures. Table 17 presents the change matrix for the codification of the class society approval guidance into the CFR and summarizes the specific edit or change, the affected population, and the economic impact.

TABLE 17—CHANGE MATRIX FOR INCORPORATING CLASS SOCIETY APPROVAL PROCEDURES INTO 46 CFR

Reference & description	Affected population	Economic impact
97.100 Applicability		
. . .(a)(3), organizations applying for CSM approval authority.	New applicants	No impact, codifies application guidance currently prescribed by NVIC.
97.115 Situation requiring report, criteria for reporting lost cargo.	Vessels subject to the rule that lose cargo overboard.	Costs for correction of noncompliance with existing requirements.
97.200 CSM Approval for U.S. Vessels on International Voyages		
. . .(a)(1), authorized applicants include owner, operator, or agent.	Owners, operators, and agents, of new U.S. vessels in international trade.	Administrative change, NVIC only referenced owner.
. . .(a)(2), CG oversight of approval authority applications.	Organizations applying for CSM approval authority.	No change, codifies application guidance currently located in NVIC.
. . .(a)(3), application procedures	U.S. vessels in international trade	No change, codifies application guidance currently located in NVIC.
. . .(a)(4), approval authority retains a copy	Authorized approval organizations	No change, codifies NVIC.
. . .(b), approval letter contents	Authorized approval organizations	No change, codifies NVIC.
. . .(c), disapproval procedures	Authorized approval organizations	No change, codifies application guidance currently located in NVIC.

[16] List of classification societies authorizations: *http://www.uscg.mil/hq/cg5/acp/docs/ClassSocietyAuths29May2013.pdf.*

TABLE 17—CHANGE MATRIX FOR INCORPORATING CLASS SOCIETY APPROVAL PROCEDURES INTO 46 CFR—Continued

Reference & description	Affected population	Economic impact
. . .(d), resubmit procedures	Owners and operators resubmitting a CSM	No change, codifies application guidance currently located in NVIC.
. . .(e), documents kept on vessel	Owners and operators of U.S. vessels subject to the rule.	No change, codifies application guidance currently located in NVIC.
97.205 Requirements for amending an approved CSM, amending procedures.	Owners and operators of U.S. vessels subject to the rule.	No change, codifies application guidance currently located in NVIC.
97.210 Appeals, appeals procedures	Owners and operators of U.S. vessels subject to the rule and authorized approval organizations.	No change, codifies application guidance currently located in NVIC.
97.300 Authorized CSM approval authorities, lists approved organizations.	ABS, Lloyds, Nat'l Cargo Bureau	No change, codifies application guidance currently located in NVIC.
97.305 Requests for authorization, application process.	Organizations seeking to become approved organizations.	No change, codifies application guidance currently located in NVIC.
97.310 Criteria for authorization, evaluation criteria.	CG and organizations seeking to become approved organizations.	No change, codifies application guidance currently located in NVIC.
97.315 Requirements for authorized approval organizations, responsibilities of CG and authorized approval organizations.	CG and authorized approval organizations	No change, rewords and codifies application guidance currently located in NVIC.
97.320 Revocation of authorization, procedures for CG revoking an authorization.	CG and referenced organizations	No change, revises and codifies application guidance currently located in NVIC.

Source: Coast Guard analysis.

We considered alternatives to the proposed changes and edits, however, we concluded that there are no viable alternatives. The procedures in the NVIC provide a complete description of all processes needed for approval and oversight of the subject organizations. Reducing or eliminating any of them, such as the one covering appeals, would leave a gap in the approval or oversight processes. We did not identify any current weaknesses or gaps in the NVIC, other than the proposed editorial changes. We also concluded that the recordkeeping guidance in the NVIC provides complete documentation for all the involved parties—vessel owners, approved organizations. Reducing or eliminating any of the proposed recordkeeping rules would run the risk of producing a gap in the documentation. Conversely, adding additional recordkeeping rules would only increase associated burdens, but not provide any additional useful information.

In summary, the proposed rules governing organizations approved to issue CSMs would codify current procedures with no associated costs to industry or the government. The benefit of these proposed rules is that it would provide a regulatory basis for the Coast Guard's oversight of organizations authorized to approve CSMs.

d. Review of Costs and Benefits. The total cost of the proposed rule is for the two cost elements: (1) Lost or Jettisoned Cargo and (2) CSM Requirements. Table 18 presents the ten-year cost schedule for undiscounted costs and discounted costs at 7 percent and 3 percent rates.

TABLE 18—SUMMARY OF THE 10-YEAR TOTAL COST TO THE INTERNATIONAL CARGO INDUSTRY AND U.S. GOVERNMENT

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
	CSM requirements (1)	Lost or jettisoned cargo (2)		Total industry	Total cost	Discounted	
Year	Industry	Industry	CG	(B+C)	(D+E)	7%	3%
1	$38,125	$663	$500	$38,788	$39,288	$36,718	$38,144
2	38,125	689	520	38,814	39,334	34,356	37,076
3	38,125	729	550	38,854	39,404	32,165	36,060
4	45,750	769	580	46,519	47,099	35,932	41,847
5	45,750	808	610	46,558	47,168	33,630	40,688
6	45,750	848	640	46,598	47,238	31,477	39,561
7	53,375	888	670	54,263	54,933	34,210	44,666
8	53,375	928	700	54,303	55,003	32,012	43,420
9	53,375	967	730	54,342	55,072	29,956	42,208
10	61,000	1,020	770	62,020	62,790	31,919	46,722
Total	472,750	8,309	6,270	481,059	487,329	332,375	410,392
Annualized						47,323	48,110

Table 19 presents the U.S.-based breakout of the 10-year cost data. The CSM plans would affect only foreign-flagged vessels and there are no associated U.S. government costs, so the only inputs to U.S. costs are those associated with the proposed reporting requirements for lost or jettisoned cargo. As described earlier, these requirements would accrue costs to both industry and government. The estimates for both sectors are in Table 18.

TABLE 19—COSTS TO U.S.-FLAGGED VESSELS IN INTERNATIONAL CARGO INDUSTRY AND U.S. GOVERNMENT FOR REPORTING OF LOST OR JETTISONED CARGO

Year	Undiscounted		Total	Discounted	Total
	Industry	Government			7%
1	$13	$500	$513	$479	$498
2	13	520	533	466	502
3	13	550	563	460	515
4	13	580	593	452	527
5	13	610	623	444	537
6	27	640	667	444	559
7	27	670	697	434	567
8	27	700	727	423	574
9	27	730	757	412	580
10	27	770	797	405	593
Total	200	6,270	6,470	4,419	5,452
Annualized				629	639

Table 20 displays the breakout of the 10-year cost schedule for foreign-flagged vessels. These foreign-flagged vessels would incur costs involving both proposed requirements: CSM plans and reporting of lost and jettisoned cargo. Estimates for both requirements and the total cost are included in Table 20.

TABLE 20—COSTS FOR FOREIGN-FLAGGED VESSELS IN INTERNATIONAL CARGO INDUSTRY FOR CSM REQUIREMENTS

Year	Undiscounted			Discounted	
	CSM plans	Reporting of lost or jettisoned cargo	Total	7%	3%
1	$38,125	$649	$38,774	$36,237	$37,645
2	38,125	676	38,801	33,890	36,574
3	38,125	716	38,841	31,706	35,545
4	45,750	755	46,505	35,478	41,319
5	45,750	795	46,545	33,186	40,150
6	45,750	822	46,572	31,033	39,003
7	53,375	861	54,236	33,775	44,099
8	53,375	901	54,276	31,589	42,846
9	53,375	941	54,316	29,544	41,629
10	61,000	994	61,994	31,515	46,129
Total	472,750	8,110	480,860	327,953	404,939
Annualized				46,693	47,471

The primary benefit of this proposed rule is that it would place into the CFR rules and procedures for the cargo securing plans, the approval and oversight of organizations authorized to approve CSMs, and the reporting of lost or jettisoned cargo. Additionally, the reporting requirements for the lost or jettisoned cargo would provide the Coast Guard with additional information to monitor the effects on both navigation and the environment. Overall, the proposed rule would support the Coast Guard's missions of maritime safety and stewardship.

B. Small Entities

1. Summary of Findings

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We determined that this proposed rule affects a variety of large and small businesses, not-for-profit organizations, and governments (see the ''Description of the Potential Number of Small Entities'' section below). We have prepared the following initial regulatory flexibility analysis assessing the impact on small entities from the rule. Based on the information from this analysis, we found:

- There are an estimated 1,217 entities that control the 7,163 vessels that could be economically impacted by the proposed rule. Using size standards from the Small Business Administration, the 26 U.S-flagged vessels are controlled by 18 companies and none of them are small. The 7,137 foreign-flagged vessels are controlled by 1,199 companies. A review of the entities that control these vessels found that one foreign-flagged vessel is controlled by a non-U.S. not-for-profit entity which is not small, 32 foreign-flagged vessels are controlled by government agencies, and the remaining 7,104 foreign-flagged vessels are controlled by businesses. An analysis of a sample of the businesses controlling these vessels indicates that 69 percent are considered small.
- Compliance actions would consist of upgrading deficient CSMs and reporting lost or jettisoned cargo.
- Of the small entities in our sample with revenue information, 60 percent of them had an impact of less than 1 percent and 20 percent had an impact within the 1 percent to 3 percent range.

2. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.''

Under the RFA, we are required to consider if this rule will have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether a rule will have such an impact. If the agency determines that it will, the agency must prepare an initial regulatory flexibility analysis as described in the RFA.

Under Section 603(b) and (c) of the RFA, the initial regulatory flexibility analysis must provide and/or address:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and
- Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

a. A description of the reasons why action by the agency is being considered. Agencies take regulatory action for various reasons. One reason is to harmonize the CFR with requirements and guidance located in other sources. The primary purpose of this proposed rule is to incorporate into the CFR the cargo securing manual rules from SOLAS, as the U.S. is a signatory state to that treaty.

Another of the reasons is the failure of the market to compensate for negative externalities caused by commercial activity. A negative externality can be the by-product of a transaction between two parties that is not accounted for in the transaction. As discussed in the regulatory analysis, this proposed rule is addressing a negative externality, which is that unreported lost or jettisoned cargo could collide with other vessels with hazardous consequences to other vessels, human health, or the environment. The proposed rule mandates that all occurrences of lost or jettisoned cargo must be reported to the Coast Guard.

b. A statement of the objectives of, and legal basis for, the proposed rule. The Coast Guard proposes this rulemaking to align U.S. regulations with the CSM requirements of SOLAS. The provisions of this rulemaking also authorize recognized classification societies to review and approve CSMs on behalf of the Coast Guard, prescribe how other organizations can become CSM approval authorities, and prescribe when and how the loss or jettisoning of cargo must be reported. Enforcing those requirements should help prevent or mitigate the consequences of vessel cargo loss, and promote the Coast Guard strategic goals of maritime safety and environmental protection.

Sections 2103 and 3306 of Title 46, U.S. Code, provide the statutory basis for this rulemaking. Section 2103 gives the Secretary of the department in which the Coast Guard is operating general regulatory authority to implement Subtitle II (Chapters 21 through 147) of Title 46, which includes statutory requirements in 46 U.S.C. Chapter 33 for inspecting the vessels to which this rulemaking applies. Section 3306 gives the Secretary authority to regulate an inspected vessel's operation, fittings, equipment, appliances, and other items in the interest of safety. The Secretary's authority under both statutes has been delegated to the Coast Guard in Department of Homeland Security Delegation No. 0170.1(92)(a) and (b). Additionally, the United States is a party to SOLAS. Where SOLAS must be enforced through U.S. regulations, those regulations are authorized by E.O. 12234.

c. A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.

TABLE 21—NON-U.S. VESSELS BY TYPE OF ENTITY

Entity type	Count	Percent
Business [17]	7,104	99.54
Government	32	0.45
Not-for-Profit	1	0.01
Total	7,137	100.00

All the government entities exceed the threshold for being classified as a small entity as they are either agencies of a foreign government or exceed the 50,000 population threshold. We excluded these government entities from the revenue impact analysis. The single not-for-profit entity is also deemed not small as it is part of an international organization.

To analyze the potential impact on the businesses, we produced a random sample with a 95 percent confidence level and a confidence interval of 5 percent.[18] The resulting sample consisted of 299 businesses. We researched public and proprietary databases for the location of the company, entity type (subsidiary or parent company), primary line of business, employee size, revenue, and other information.[19] During the initial research we found 6 duplicated businesses and an additional one whose business was out of the scope of this rulemaking. Deleting these 7 businesses from our initial sample of 299 resulted in a working sample consisting of 292 businesses. We found that 217 of the companies in our sample are based in countries other than the U.S. We therefore excluded these non-U.S. companies from this revenue impact analysis.

The population for the revenue impact analysis consists of the remaining 75 businesses from the working sample. Of those 75, we found address information that locates 70 of them in the U.S. The remaining five are businesses for whom we could find no information; we assumed that they are located in the U.S. and are small businesses.

[17] A vessel may have a separate owner, operator, and charterer. Operational control may be with any one of these companies, depending on type of owner (i.e., a passive ownership by a financial institution) or the type of operating or chartering contract. Also, the country that the vessel is registered in can be different than the country of the owner.

[18] We selected a statistical sample so we would not need to research and collect employee size and revenue information for the entire affected operator population. We selected the operators in the sample through a random number generator process available in most statistical or spreadsheet software.

[19] We used information and data from Manta (*http://Manta.com*) and ReferenceUSA (*http://www.referenceusa.com*).

We researched and compiled the employee size and revenue data for the 70 U.S. businesses and we compared this information to the Small Business Administration's (SBA) ''Table of Small Business Size Standards'' to determine if an entity is small in its primary line of business as classified in the North American Industry Classification System (NAICS).[20] We determined that 23 businesses exceeded the SBA small business size standards, and 20 businesses are small by the SBA standards. We could not find employee size or revenue data for 27 businesses that are located in the United States and assumed they are small businesses. Thus, 52 businesses, accounting for 69.4% of the sample, are considered to be small. The information on location and size determination is summarized in Table 22.

TABLE 22—U.S. BUSINESS BY SIZE DETERMINATION

Entity type	Location		Count	Percent
	U.S.	Unknown		
Exceed the threshold	23	0	23	30.7
Below the threshold	20	0	20	26.7
Unknown	27	5	32	42.7
Total	70	5	75	100.0

The percentage of entities affected by this rule is distributed among 14 NAICS classified industries. Table 23 lists the frequency, percentage, and size standard, and size threshold of NAICS codes for the 20 small businesses found in the sample.

TABLE 23—NAICS CODES OF IDENTIFIED SMALL BUSINESSES

NAICS code	Industry	Count	Percent	Size standard	Threshold (revenue in $ millions)
423860	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers.	3	15.0	Employees	100
483211	Inland Water Freight Transportation	3	15.0	Employees	500
488510	Freight Transportation Arrangement	2	10.0	Revenue	14
336611	Ship Building and Repairing	1	5.0	Employees	1,000
423310	Lumber & Wood Merchant Whls	1	5.0	Employees	100
423930	Recycling	1	5.0	Employees	100
424910	Farm Supplies Merchant Whls	1	5.0	Employees	100
441222	Boat Dealers	1	5.0	Revenue	30
483111	Deep Sea transportation	1	5.0	Employees	500
484230	Other Specialized Trucking Long-Distance	1	5.0	Revenue	25.5
488210	Support Activities for Rail Transportation	1	5.0	Revenue	14.0
488320	Marine Cargo Handling	1	5.0	Revenue	35.5
541990	All Other Professional & Technical Svcs	1	5.0	Revenue	14
561110	Office Administrative Svcs	1	5.0	Revenue	7
561990	All Other Support Svcs	1	5.0	Revenue	7
Total		20			

Source: *http://www.sba.gov/sites/default/files/files/Size_Standards_Table(1).pdf.*

We selected the three industries that appeared most frequently in the random sample of entities. Businesses from these three industries accounted for approximately 40 percent of the entities in the random sample. Therefore, we can assume that approximately 40 percent of all entities affected by this regulation will be in one of these industries. A brief description of industries affected most by this rule is presented below:

• Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers (423860): This industry comprises establishments primarily engaged in the merchant wholesale distribution of transportation equipment and supplies (except marine pleasure craft and motor vehicles).

• Inland Water Freight Transportation (483211): This U.S. industry comprises establishments primarily engaged in providing inland water transportation of cargo on lakes, rivers, or intracoastal waterways (except on the Great Lakes System).

• Freight Transportation Arrangement (488510): This industry comprises establishments primarily engaged in arranging transportation of freight between shippers and carriers. These establishments are usually known as freight forwarders, marine shipping agents, or customs brokers and offer a combination of services spanning transportation modes.

d. A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. The compliance requirements of the proposed rule consist of upgrading deficient CSMs and reporting lost or

[20] The SBA lists small business size standards for industries described in the North American Industry Classification System. See *http://www.sba.gov/content/table-small-business-size-standards.*

jettisoned cargo. Therefore, this proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Details on the burden estimate associated with this collection is available in section VIII.D of this preamble.

As discussed in section VIII.A, in 2009 through 2011 the Coast Guard conducted 11,989 vessel inspections and found problems relating to CSMs in only 7 instances, or about 0.1 percent of the foreign-flagged vessels were found to have deficient CSMs. We anticipate that the owners and operators of these vessels will upgrade their manuals to meet standards and comply with this rule. We do not have detailed descriptions on each of the deficiency cases. To impute a cost for this compliance action, we apply the estimate of $7,625 develop a new CSM, as used in the Regulatory Analysis.

For reporting lost or jettisoned cargo, we noted in section VIII.A cost discussions that when one of these incidents occurs, the vessel staff already collects the needed information for company purposes. Thus, the only additional cost to the vessel is to report this information to the Coast Guard. We estimate the additional reporting will take 0.25 hours for the vessel's Master or other senior officer to compile and transmit the report to the Coast Guard. We estimate that the loaded wage rate for the senior officer is $53.00 per hour. The cost of reporting is $13.25 (0.25 hours * $53 per hour).

As discussed in section VIII.A, we adjusted the affected population to account for anticipated growth in container traffic. In our ten-year analysis, we estimate that the number of vessels that would need to upgrade their CSM would be 5 in year one each of and increase to 8 in year ten. We also accounted for this growth in container traffic in our estimate of lost or jettisoned cargoes. In the section VIII.A cost discussions we estimate that in the first year the rule would become effective, 50 incidents of lost or jettisoned cargo would occur. We estimate that the affected population in that year consists of 7,163 vessels, yielding an incident rate of 0.7 percent (50 incidents/7,163 vessels). To execute a revenue impact analysis we posited that in any given year each business would have one vessel that would need to upgrade its CSM and that one of their vessels would have an incident of lost or jettisoned cargo. Given these assumptions, the total annual compliance cost for any company is $7,638.25, as shown in Table 24.

TABLE 24—ANNUAL COMPLIANCE COST FOR REVENUE IMPACT ANALYSIS

	Loaded wage	Hours	Total cost
Cost to upgrade 1 CSM	N/A	N/A	$7,625
Cost to report 1 hazardous condition	53	0.25	13.25
Total			7,638.25

For each business in our sample with revenue data, we calculated the impact as the assumed cost of $7,638.25 as a percentage of that business's annual revenue. This produced a range of potential revenue impacts across the sample. Table 25 presents the impact data in ranges of less than 1 percent, 1 to 3 percent, and greater than 3 percent. As shown in Table 25, for 60 percent of the companies, the revenue impact is less than 1 percent of annual revenue and between 1 percent and 3 percent of annual revenue for another 20 percent.

TABLE 25—ESTIMATED REVENUE IMPACT ON SMALL BUSINESSES

Impact class	Count	Percent
<1%	12	60.0
1%–3%	4	20.0
>3%	4	20.0
Total	20	100.0

As shown in Table 18, the highest cost to industry in any one year on an undiscounted basis is $62,790 in year 10. The revenue impact analysis indicates that 60 percent of the affected population would have an impact of less than 1 percent and the other 20 percent would have an impact between 1 percent and 3 percent. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would 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 would economically affect it.

e. An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule. This proposed rule does not duplicate or conflict with other Federal rules. This rulemaking concerns vessel operations and the Coast Guard has sole jurisdiction over this area at the Federal level. States may not regulate in categories reserved for regulation by the Coast Guard, so this proposed rule will not duplicate or conflict with any State regulations.

f. Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Alternatives were considered in this proposed rule and are discussed in section VIII.A of this preamble. Alternatives include various ways to apply the requirements to prepare and implement CSMs to U.S.-flagged vessels in coastwise trade. However, we concluded that standards developed for international trade cannot be economically justified for vessels operating only domestically at this time. Therefore, the focus of this rulemaking is exclusively on vessels in international trade.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Ken Smith using the contact information in **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule would call for a new 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 title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for preparing and reporting for the development of a CSM, revising a CSM, notification of other hazardous conditions, and notification of lost or jettisoned cargo.

This collection of information applies to rulemaking procedures regarding cargo securing manuals. Specific areas covered in this information collection include 33 CFR Part 97, ''Cargo Securing Manuals;'' 33 CFR Part 160, ''Ports and Waterways Safety-General;'' and 46 CFR Part 97, ''Operations.'' This rule would align the CFR with SOLAS.

Title: Cargo Securing Manuals.

OMB Control Number: 1625–NEW

Summary of Collection of Information: The rule would add a new part 97, ''Cargo Securing Manuals'' to chapter 33 of the CFR. The collection of information burden for CSMs derives from one of these three events:

- A SOLAS container vessel built after the rule becomes effective would need to develop and implement a CSM. The new vessel will need an approved CSM.
- If a vessel changes its type, the CSM must be revised. An example of a type change is when a general break-bulk carrier is modified to become a containership.
- If an existing vessel either changes 15 percent of its cargo securing systems or more than 15 percent of its portable securing devices, then the CSM must be revised.

Additionally, the rule would impose burdens for the notification of hazardous conditions. Currently, these notifications are made via VHS radio, satellite radio, cell phones, and other forms of electronic communication. The proposed rule specifically allows for electronic communications and we anticipate this will continue to be how the notifications are transmitted.

Need for Information: Vessel owners and operators need to develop and implement CSMs to fulfill international safety standards established by SOLAS. The Coast Guard needs timely information on hazardous conditions to carry out its missions relating to protecting vessels, their crews and passengers, and the environment.

Proposed Use of Information: For new and modified CSMs, Coast Guard-authorized third party organizations would review these manuals and if found acceptable, approve them. The Coast Guard would use the information from the notification of hazardous conditions to inform other vessel operators/waterway users of the situation and initiate any needed measures to reduce or eliminate the hazard. These actions would lead to a reduction of vessel casualties and pollution.

Description of Respondents: There are two groups of respondents impacted by this rule. The first group consists of owners and operators of U.S.-flagged vessels that need to submit new or revised CSMs to the recognized classification societies. The second group consists of the operators of vessels that would be required to report hazardous conditions.

Number of Respondents: We estimate that there would be 149 respondents affected annually by the proposed CSM requirements. The total is divided into these two classes: (1) 6 related to CSM plans, and (2) 143 for notifications of hazardous conditions, which include lost or jettisoned cargo and other incidents. Table 26 describes the calculations for developing the estimates of each requirement relating to the CSM plans.

TABLE 26—ESTIMATES OF NUMBER OF RESPONDENTS

Class	Requirement	Description	Count	Total
CSM Plans	Develop CSM—new vessel	From U.S. vessel population data of 26 vessels (Table 4), average new builds 2009–2011.	3	
	Revise CSM—change in vessel type	MISLE data shows none of the affected vessels have changed vessel type from 2001–2012.	0	
	Revise CSM—replace CSM systems or equipment.	Annual rate of 11.3% from information supplied by an approved organization. Applied to U.S. population (see Table 4), (26 * 11.3%).	3	
	CSM Total			6
Notifications	Notifications of hazardous condition	From MISLE, average of 2009–2011 notifications.	141	
	Notifications of lost or jettisoned cargo	U.S. notifications, Table 9, year 10	2	
	Notifications Total			143
Grand Total				149

Frequency of Response: A CSM is valid indefinitely, as long as it does not meet any of the conditions for a revision. The reporting of hazardous conditions occurs as needed. In the subsequent ''Number of Respondents'' section, we present annual estimates of the reports.

Burden of Response: The burden hours per requirement is estimated and shown below in Table 27.

TABLE 27—ANNUAL BURDEN HOURS PER REQUEST

Requirement	Hours	Notes
Develop new CSM	48	8 hours to survey the vessel and 40 hours to draft the CSM.
Revise CSM—change in vessel type	48	8 hours to survey the vessel and 40 hours to draft the CSM.
Revise CSM—change in cargo securing systems or equipment	20	20 hours to revise the existing CSM.
Notification of hazardous condition	0.25	0.25 hours for vessel crew to prepare and transmit the notice.
Notification of lost of jettisoned cargo	0.25	0.25 hours for vessel crew to prepare and transmit the notice.

Estimated Total Annual Burden: We estimate that the total annual burden to industry will be 240 hours (rounded). Table 28 displays the total burden hours for each request:

TABLE 28—TOTAL ANNUAL BURDEN HOURS

Requirement	Hours
Develop new CSM	144
Revise CSM—change in vessel type	0
Revise CSM—change in cargo securing systems or equipment	60
Notification of hazardous condition	35.25
Notification of lost of jettisoned cargo	0.5

Reason For Proposed Change: The rule would require collections of information regarding these two activities: (1) development or revision of a CSM, and 2) notification of hazardous conditions, including lost or jettisoned cargo.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this SNPRM to OMB for its review of the collection of information.

We ask for public comment on the proposed 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 collection requirements in this final rule can be enforced, OMB must approve Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under E.O. 13132, Federalism, if it has substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under E.O. 13132 and have determined that it does not have implications for federalism. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, 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 proposed rule on cargo securing falls into the category of vessel operation. Because the States may not regulate within this category, preemption under E.O. 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E. O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under E.O. 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 E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses technical standards other than voluntary consensus standards. It incorporates guidance developed by the IMO, an international organization under United Nations auspices. We are not aware of any voluntary consensus standards that are pertinent to this rule. If you are aware of voluntary consensus standards that might apply, please identify them by sending a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you think the standards might apply.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This action falls under section 2.B.2, figure 2–1, paragraph (34)(a) and involves regulations which are editorial or procedural. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 97

Cargo stowage and securing, Cargo vessels, Hazardous materials, Reporting and recordkeeping requirements, Incorporation by reference.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to add 33 CFR part 97 and amend 33 CFR Part 160 and 46 CFR Part 97 as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

■ 1. Add part 97 to read as follows:

PART 97—RULES FOR THE SAFE OPERATION OF VESSELS, STOWAGE AND SECURING OF CARGOES

Subpart A—CARGO SECURING MANUALS

97.100 Applicability—Electronic documentation.
97.105 Definitions.
97.110 Incorporation by reference.
97.115 Reporting lost or jettisoned cargo.
97.120 Cargo securing manuals.
97.121–97.199 [Reserved]
97.200 Cargo securing manual (CSM) approval for U.S.-flagged vessels on international voyages.
97.205 Requirements for amending an approved cargo securing manual (CSM).
97.210 Appeals.
97.211–97.299 [Reserved]
97.300 *Authorized cargo securing manual (CSM)* approval authorities.
97.305 Requests for authorization *to act as cargo securing manual (CSM) approval authority.*
97.310 Criteria *for* authorization.
97.320 Requirements *for* authorized approval organizations.
97.320 *Revocation of authorization.*

Subpart B—[Reserved]

Authority: 46 U.S.C. 2103, 3306; E.O. 12234; Department of Homeland Security Delegation No. 0170.1(92)(a) and (b).

PART 97—RULES FOR THE SAFE OPERATION OF VESSELS, STOWAGE AND SECURING OF CARGOES

Subpart A—Cargo Securing Manuals

§ 97.100 Applicability—Electronic documentation.

(a) This part applies to—

(1) A vessel of 500 gross tons or more on an international voyage that must comply with Chapter VI/5.6 or Chapter VII/5 of the International Convention for the Safety of Life at Sea, 1974 as amended (SOLAS) and that does not solely carry liquid or solid cargoes in bulk, and that is either a U.S.-flagged cargo vessel, or a foreign-flagged cargo vessel that is operating in waters subject to the jurisdiction of the United States;

(2) A U.S.-flagged cargo vessel that is less than 500 gross tons but that chooses to have this part applied to it by submitting a cargo securing manual for approval in accordance with § 97.200(a)(3);

(3) A foreign-flagged cargo vessel of 500 gross tons or more on an international voyage from a country not signatory to SOLAS that would otherwise be required to comply with Chapter VI/5.6 or Chapter VII/5 of SOLAS and that does not solely carry liquid or solid cargoes in bulk and is operating in waters subject to the jurisdiction of the United States; and

(4) Any organization applying to be selected as a cargo securing manual approval authority.

(b) This part does not apply to a vessel owned by the Maritime Administration that is part of the Ready Reserve Force or the title of which is vested in the United States and which is used for public purposes only.

(c) Any manual, letter, request, appeal, or ruling required by this part may be provided or submitted in electronic form as well as in printed form.

§ 97.105 Definitions.

As used in this part—

Approval authority means a CSM approval authority, as that term is defined in this section.

Cargo means the goods or merchandise conveyed in a vessel, and includes but is not limited to cargo that can be measured as a ''cargo unit'' as that term is used in the International Maritime Organization's Code of Safe Practice for Cargo Stowage and Securing, 2003 edition: ''a vehicle, container, flat, pallet, portable tank, packaged unit, or any other entity, etc., and loading equipment, or any part thereof, which belongs to the ship but is not fixed to the ship . . .''; but it does not include other vessel equipment or the incidental personal possessions of persons on board the vessel.

Cargo safe access plan (CSAP) means a plan included in the cargo securing manual that provides detailed information on safe access for persons engaged in work connected with cargo stowage and securing on ships that are specifically designed and fitted for the purpose of carrying containers.

Cargo securing manual (CSM) means an electronic or printed manual developed to meet the requirements of SOLAS and this part that is used by the master of a vessel to properly stow and

secure cargoes on the vessel for which it is developed.

Cargo securing manual approval authority or *CSM approval authority* means an organization that meets the requirements of this part, and that the Commandant has authorized to conduct certain actions and issue electronic or printed approval letters on behalf of the United States.

Captain of the Port (COTP) means the U.S. Coast Guard officer as described in 33 CFR 6.01–3.

Commandant, except as otherwise specified, means the Chief, Office of Operating and Environmental Standards, whose address is COMDT (CG–OES) 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126 and whose telephone number is 202–372–1404.

Container means an article of transport equipment described in 49 CFR 450.3.

Container vessel means a vessel specifically designed and fitted for the purpose of carrying containers.

International voyage means a voyage between a port or place in one country (or its possessions) and a port or place in another country.

§ 97.110 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the **Federal Register** under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Headquarters, Office of Operating and Environmental Standards (CG–OES), 2100 Second Street SW., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) *International Maritime Organization (IMO), Publications Section,* 4 Albert Embankment, London, SE1 7SR, United Kingdom, +44(0)20 7735 7611, *http://www.imo.org.*

(1) Maritime Safety Committee Circular 1353 (MSC.1/Circ. 1353), Guidelines for the Preparation of the Cargo Securing Manual, June 30, 2010–97, IBR approved for § 97.120.

(2) Maritime Safety Committee Circular 1352 (MSC.1/Circ.1352), Cargo Stowage and Securing (CSS Code) Annex 14 Guidance on Providing Safe Working Conditions for Securing of Containers on Deck, June 30, 2010–97, IBR approved for § 97.120.

(3) Assembly Resolution 739(18) (Res.A.739(18)), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, November 4, 1993–97, IBR approved for § 97.310.

§ 97.115 Reporting lost or jettisoned cargo.

(a) In the event a vessel loses or jettisons at sea any cargo described in paragraph (b)(1) of this section, it must comply with the immediate notification requirements of 33 CFR 160.215, and if the cargo contains hazardous material as defined in paragraph (b)(2) of this section the vessel must also report as soon as possible in accordance with 49 CFR 176.48.

(b)(1) The cargo to which this section applies includes any container, and any other cargo the loss or jettisoning of which could adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States.

(2) As used in this section, ''hazardous material'' means a substance or material designated by the Secretary of Transportation as capable of posing an unreasonable risk to health, safety, and property when transported in commerce. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials as defined in 49 CFR 171.8, materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR part 173.

§ 97.120 Cargo securing manuals.

(a)(1) Any vessel to which this part applies must have a cargo securing manual (CSM) on board that has been approved by the government of the country whose flag the vessel is entitled to fly; and a CSM approved after June 30, 2010 must at a minimum meet the guidelines in Maritime Safety Committee Circular 1353 (MSC.1/Circ. 1353), Guidelines for the Preparation of the Cargo Securing Manual (incorporated by reference, see 33 CFR 97.110).

(2) A container vessel with a keel laid on or after January 1, 2015 must include a cargo safe access plan that at a minimum meets the guidelines in Maritime Safety Committee Circular 1352 (MSC.1/Circ.1352), Cargo Stowage and Securing (CSS Code) Annex 14 Guidance on Providing Safe Working Conditions for Securing of Containers on Deck (incorporated by reference, see 33 CFR 97.110).

(b) While operating in waters under the jurisdiction of the United States, the Coast Guard may board any vessel to which this part applies to determine that the vessel has the document(s) required by paragraph (a) of this section onboard. Any foreign-flagged vessel found not to be in compliance with paragraph (a) may be detained by order of the COTP at the port or terminal where the noncompliance is found until the COTP determines that the vessel can go to sea without presenting an unreasonable threat of harm to the port, the marine environment, the vessel, or its crew.

§§ 97.121–97.199 [Reserved]

§ 97.200 Cargo securing manual (CSM) approval for U.S.-flagged vessels on international voyages.

(a)(1) An applicant for CSM approval may be the owner or operator of the vessel, or a person acting on the owner or operator's behalf.

(2) The Commandant is responsible for overseeing and managing the review and approval of approval authority applications and provides an up-to-date list of organizations authorized to act under this subpart, which is available at *http://www.uscg.mil/hq/cg5/cg522/cg5222* or by requesting it in writing from the Commandant and enclosing a self-addressed, stamped envelope.

(3) The applicant must submit two dated copies of a CSM that meets the requirements of this part to a CSM approval authority for review and approval. If any amendments are submitted they must be dated. The CSM must include a ''change page'' document to ensure continuous documentation of amendments made and the dates they were completed.

(4) The approval authority will retain one copy of the CSM for its records.

(b) If the approval authority completes the review process and approves the CSM, the approval authority will provide a CSM approval letter on its letterhead, containing—

(1) Date of CSM approval;

(2) A subject line reading: ''APPROVAL OF CARGO SECURING MANUAL (AMENDMENT—if applicable) FOR THE M/V ____, OFFICIAL NUMBER ____'';

(3) The following statement: ''This is to certify that the Cargo Securing Manual (Amendment—if applicable) dated ____ for the M/V ____, Official Number ____, has been approved on behalf of the United States. The Cargo

Securing Manual (Amendment—if applicable) was reviewed for compliance with Maritime Safety Committee Circular 1353 (MSC.1/Circ. 1353) for content, and correctness of the calculations on which the approval is based. This approval letter is to be kept with the Cargo Securing Manual, as proof of compliance with regulations VI/5.6 and VII5 of the 2004 amendments to the International Convention for the Safety of Life at Sea (SOLAS) 1974.'';

(4) Signature of the approval authority official responsible for review and approval of the CSM; and

(5) The approval authority's seal or stamp.

(c) If the approval authority completes the review process and disapproves the CSM, the approval authority will provide a letter on its letterhead, containing—

(1) Date of CSM disapproval; and

(2) Explanation of why the CSM was disapproved and what the submitter must do to correct deficiencies.

(d) The submitter of a disapproved CSM may resubmit the CSM with amendments for further review, either to correct deficiencies noted by the approval authority, or to expand the CSM to fully meet the requirements of this part.

(e) The original copy of the CSM approval letter must be kept with the approved CSM and its amendments, together with supporting documents and calculations used in granting the approval, onboard the vessel for review by Coast Guard personnel upon request.

§ 97.205 Requirements for amending an approved cargo securing manual (CSM).

Resubmission and re-approval by a CSM approval authority are required after any event listed in this section.

(a) Reconfiguration of a vessel from one type of cargo carriage to another (e.g., a general break-bulk cargo vessel reconfigured to a container or a roll-on/roll-off vessel).

(b) Reconfiguration or replacement of 15 percent or more of the vessel's fixed cargo securing or tie down systems with different types of devices or systems.

(c) Replacement of 15 percent or more of the vessel's portable cargo securing devices, with different types of devices for securing the cargo not already used aboard the vessel (e.g., wire lashings replaced with turnbuckles or chains).

§ 97.210 Appeals.

(a) A vessel owner or operator, or person acting on their behalf, who disagrees with a decision of a cargo securing manual approval authority may submit a written appeal to the approval authority requesting reconsideration of information in dispute. Within 30 days of receiving the appeal, the approval authority must provide the vessel owner with a final written ruling on the request, with a copy to the Commandant.

(b) A vessel owner who is dissatisfied with the approval authority's final written ruling may appeal directly to the Commandant. The appeal must be made in writing and include the documentation and supporting evidence the owner wants to be considered, and may ask the Commandant to stay the effect of the appealed decision while it is under review by the Commandant.

(c) The Commandant will make a decision on the appeal and send a formal response to the vessel owner and a copy to the approval authority. The Commandant's decision will constitute final agency action on the appeal request.

§§ 97.211–97.299 [Reserved]

§ 97.300 Authorized cargo securing manual (CSM) approval authorities.

(a) The following organizations are authorized to act on behalf of the U.S. for the review and approval of CSMs:

(1) The American Bureau of Shipping, ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–977–5800, *http://www.eagle.org.*

(2) Lloyd's Register of Shipping, 71 Fenchurch Street, London EC3M 4BS, United Kingdom, +44(0)20 7709 9166, *http://www.lr.org.*

(3) Any recognized classification society to which the Coast Guard has delegated issuance of a Cargo Ship Safety Equipment Certificate in accordance with 46 CFR 8.320(b)(4). A list of these organizations can be found at *www.uscg.mil/hq/cg5/cg522/cg5222* in the Alternate Compliance Program site under ''Programs & Services''.

(4) The National Cargo Bureau, Inc., 17 Battery Place, Suite 1232, New York, NY 10004–1110, 212–785–8300, *http://www.natcargo.org.*

(b) Reserved.

§ 97.305 Requests for authorization to act as cargo securing manual (CSM) approval authority.

An organization seeking authorization as a CSM approval authority must make a request to the Commandant for authorization. The request must include, in writing, the items listed in this section or as otherwise specified by the Commandant.

(a) A certified copy of the organization's certificate of incorporation or partnership on file with a U.S. State, including the name and address of the organization, with written statements or documents which show that—

(1) The organization's owners, managers, and employees are free from influence or control by vessel shipbuilders, owners, operators, lessors, or other related commercial interests as evidenced by past and present business practices;

(2) The organization has demonstrated, through other related work, the capability to competently evaluate CSMs for completeness and sufficiency according to the requirements of SOLAS and this part;

(3) The organization has an acceptable degree of financial security, based on recent audits by certified public accountants over the last 5 years; and

(4) The organization maintains a corporate office in the United States that has adequate resources and staff to support all aspects of CSM review, approval, and recordkeeping.

(b) A listing of the names of the organization's principal executives, with titles, telephone and telefax numbers.

(c) A written general description of the organization, covering the ownership, managerial structure, and organization components, including any directly affiliated organizations, and their functions utilized for supporting technical services.

(d) A written list of technical services the organization offers.

(e) A written general description of the geographical area the organization serves.

(f) A written general description of the clients the organization is serving, or intends to serve.

(g) A written general description of similar work performed by the organization in the past, noting the amount and extent of such work performed within the previous 3 years.

(h) A written listing of the names of full-time professional staff employed by the organization and available for technical review and approval of CSMs including:

(1) Naval architects and naval engineers, with copies of their professional credentials, college degrees, and specialized training certificates.

(2) Merchant mariners with Coast Guard-issued credentials, with a summary of their working experience on board cargo vessels (including vessel tonnage and types of cargo).

(3) Written proof of staff competence to perform CSM review and approval, evidenced by detailed summaries of each individual's experience (measured in months) during the past 5 years of evaluating maritime cargo securing

systems. Experience summaries must be documented on company letterhead and endorsed by a company executive who has had direct observation of the individual and quality of his or her work product.

(j) A complete description of the organization's internal quality control processes including written standards used by the organization to ensure consistency in CSM review and approval procedures by qualified professionals.

(k) A description of the organization's training program for assuring continued competency of professional employees performing CSM review and approval who are identified in the application.

(l) Evidence of financial stability over the past 5-year period, such as financial reports completed independently by certified public accountants.

(m) A list of five or more business references, including names, addresses, and telephone numbers of principal executives, who can attest to the organization's competence within the past 2 years.

(n) A statement to the Coast Guard that gives its officials permission to inspect the organization's facilities and records of CSM review and approval on behalf of the U.S. at any time with reasonable advance notice.

(o) Any additional information the organization deems to be pertinent.

§ 97.310 Criteria for authorization.

(a) The Commandant will evaluate the organization's request for authorization and supporting written materials, looking for evidence of—

(1) The organization's clear assignment of management duties;

(2) Ethical standards for managers and cargo securing manual (CSM) reviewers;

(3) Procedures for personnel training, qualification, certification, and re-qualification that are consistent with recognized industry standards;

(4) Acceptable standards available for the organization's internal auditing and management review;

(5) Recordkeeping standards for CSM review and approval;

(6) Methods used to review and certify CSMs;

(7) Experience and knowledge demonstrating competency to evaluate CSMs for completeness and sufficiency according to the requirements of SOLAS;

(8) Methods for handling appeals; and

(9) Overall procedures consistent with IMO Resolution A.739(18), ''Guidelines for the Authorization of Organizations Acting on Behalf of the Administration'' (incorporated by reference, see § 97.110).

(b) After a favorable evaluation of the organization's request, the Commandant may arrange to visit the organization's corporate and port offices for an on-site evaluation of operations.

(c) When a request is approved, the organization and the Coast Guard will enter into the written agreement provided for by 33 CFR 97.315. If the request is not approved, the Commandant will give the organization a written explanation, and the organization may resubmit its request if it corrects any noted deficiencies.

§ 97.315 Requirements for authorized approval organizations.

Approved organizations will enter into a written agreement with the Coast Guard that specifies:

(a) The period the authorization is valid;

(b) Which duties and responsibilities the organization may perform and what approval letters it may issue on behalf of the U.S.;

(c) Reports and information the organization must send to the Commandant;

(d) Actions the organization must take to renew the agreement when it expires; and

(e) Actions the organization must take if the Commandant revokes authorization pursuant to 33 CFR 97.320.

§ 97.320 Revocation of authorization.

The Commandant may revoke a cargo securing manual (CSM) approval authority's authorization and remove it from the list of CSM approval authorities if it fails to maintain acceptable standards. For the purposes of 46 CFR subpart 1.03, such a revocation would be treated as involving the recognition of a classification society and could be appealed pursuant to 46 CFR 1.03–15(h)(4). Upon revocation, the former approval authority must send written notice to each vessel owner whose CSM it approved. The notice must include the current list of CSM approval authorities and state:

(a) That its authorization as a CSM approval authority has been revoked;

(b) The Coast Guard's explanation for the revocation; and

(c) That the vessel's CSM remains valid as long as amendments have not been completed which require it to be re-approved pursuant to 33 CFR 97.200 or 97.205.

Subpart B—[Reserved]

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

■ 2. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 11225 and 46 U.S.C. 3715.

■ 3. Revise § 160.215 to read as follows:

§ 160.215 Notice of hazardous conditions.

(a) Whenever there is a hazardous condition either onboard a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge must immediately notify the nearest Coast Guard Sector Office or Group Office, and in addition submit any report required by 46 CFR 4.05–10.

(b) When the hazardous condition involves cargo loss or jettisoning as described in 33 CFR 97.115, the notification required by paragraph (a) of this section must include—

(1) What was lost, including a description of cargo, substances involved, and types of packages;

(2) How many were lost, including the number of packages and quantity of substances they represent;

(3) When the incident occurred, including the time of the incident or period of time over which the incident occurred;

(4) Where the incident occurred, including the exact or estimated location of the incident, the route the ship was taking, and the weather (wind and sea) conditions at the time or approximate time of the incident; and

(5) How the incident occurred, including the circumstances of the incident, the type of securing equipment that was used, and any other material failures that may have contributed to the incident.

TITLE 46—SHIPPING

PART 97—OPERATIONS

■ 4. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 5. Add § 97.12–10 to read as follows:

§ 97.12–10 Cargo securing manuals.

Each U.S.-flagged vessel that must comply with Chapter VI/5.6 or Chapter VII/5 of the International Convention for

the Safety of Life at Sea, 1974 as amended must have on board a cargo securing manual that meets the requirements of 33 CFR part 97.

Dated: November 1, 2013,

J.G. Lantz,

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

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