



FEDERAL REGISTER

Vol. 81

Thursday,

No. 62

March 31, 2016

Part II

Department of Homeland Security

Coast Guard

46 CFR Part 69

Tonnage Regulations Amendments; Final Rule

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****46 CFR Part 69**

[Docket No. USCG–2011–0522]

RIN 1625–AB74

Tonnage Regulations Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends its tonnage regulations to implement amendments to the tonnage measurement law made by the 2010 Coast Guard Authorization Act, codify principal technical interpretations, and incorporate administrative, non-substantive clarifications and updates. The Coast Guard believes these changes will lead to a better understanding of regulatory requirements.

DATES: This final rule is effective May 2, 2016.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2011–0522. To view public comments or documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Marcus Akins, Marine Safety Center, Tonnage Division (MSC–4), Coast Guard; telephone 202–795–6787, email Marcus.J.Akins@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

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I. Abbreviations

- BLS Bureau of Labor Statistics
- CFR Code of Federal Regulations
- E.O. Executive Order
- FR Federal Register
- IMO International Maritime Organization
- MSC Marine Safety Center
- MSSC Marine Safety and Security Council
- MTN Marine Safety Center Technical Note
- NAICS North American Industry Classification System
- NPRM Notice of Proposed Rulemaking
- NVIC Navigation and Vessel Inspection Circular
- OMB Office of Management and Budget
- Pub. L. Public Law
- § Section Symbol
- SBA Small Business Administration
- U.S.C. United States Code

II. Regulatory History

We published a notice of proposed rulemaking (NPRM) on April 8, 2014 (79 FR 19420) in the **Federal Register**. This document invited public comment on proposed changes to the tonnage regulations to implement amendments to the tonnage measurement law made by section 303 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281, 124 Stat. 2924 (2010), referred to in this document as the 2010 Coast Guard Authorization Act), to codify principal technical interpretations issued by the Coast Guard, and to incorporate administrative, non-substantive clarifications and updates. We subsequently published a notice of public meeting on May 21, 2014 (79 FR 29149) and held the public meeting on June 5, 2014.

III. Basis and Purpose

The tonnage measurement law, codified in Title 46, United States Code (U.S.C.), Subtitle II, Part J, “Measurement of Vessels,” provides for assignment of gross and net tonnages to any vessel to which a law of the United States applies based on the vessel’s tonnage. The 2010 Coast Guard Authorization Act included amendments which updated, clarified, and eliminated inconsistencies in the tonnage measurement law. Under the authority of 46 U.S.C. 14302, 14512, and 14522, and delegation of that authority to the Coast Guard in Department of

Homeland Security Delegation No. 0170.1 para. 92(j), the Coast Guard administers the implementing regulations for the tonnage measurement law. The regulations are found in title 46, Code of Federal Regulations (CFR), part 69, “Measurement of Vessels,” and referred to as the tonnage regulations.

The purpose of this rule is to implement the changes made to the vessel measurement statutes by the 2010 Coast Guard Authorization Act. This rule also codifies principal policy interpretations, and incorporates additional clarifications and other administrative updates to the tonnage regulations.

IV. Background

In this final rule, we are amending 46 CFR part 69, “Measurement of Vessels.” These regulations are referred to as the “tonnage regulations” and provide for assignment of vessel gross and net tonnages and registered dimensions.

V. Discussion of Comments and Changes*A. Comments*

We received comments on the NPRM from six individuals or entities through submissions to the online docket. We heard from one person whose affiliation or occupation was not disclosed, one naval architect, one shipbuilder, one owner-operator of offshore vessel services, and two industry associations. We received no oral or written comments on the NPRM at the public meeting. A summary of the comments that we received follows, along with our resolution to each.

1. One commenter requested that the Coast Guard clarify the rule with regards to when the owner may, or must, use Convention Measurement System or Regulatory Measurement System tonnage to determine applicability of an international requirement.

While we acknowledge the usefulness of including more detailed information in the regulation on how assigned tonnages are used, we believe that this could result in an overly detailed regulation that would be difficult to keep up to date. We believe that the new section on tonnage applicability, included in the regulatory text, strikes the correct balance between providing limited information on the use of tonnage, as is the case with the existing regulations, and providing extensive detail on the large number of individual tonnage thresholds that appear in international agreements and other laws of the United States.

2. One commenter expressed concern that, absent a clarification from the

Coast Guard, the terminology “vessel that engages on a foreign voyage” could have the effect of broadening the universe of vessels for which Convention Measurement System tonnage must be used to apply international requirements. The commenter cited the distinction between a vessel that is currently engaged on an international voyage and one that is currently engaged on a domestic voyage but also engages on international voyages from time to time.

We disagree and believe the regulatory text in question, as drafted, does not affect how assigned tonnages are used when applying tonnage-based requirements. The regulation comes into play only in determining whether a vessel must be measured under the Convention Measurement System and, if so, whether an International Tonnage Certificate (1969) must be carried onboard. If a U.S. flag vessel of 79 feet or more in length, regardless of keel-laid date, is engaged on a domestic voyage but also engages on foreign voyages from time to time, then Convention measurement is required. However, whether or not the assigned Convention tonnage is used when applying international agreements depends on tonnage applicability language in those agreements. The regulatory text in question only clarifies that requirements for Convention measurement apply at all times to such vessels, and are not exclusively limited to those times when such vessels are engaged on a foreign voyage.

The language in the rule is substantially the same as it is defined in the statute in 46 U.S.C. 14101. We are not permitted to enlarge or reduce the language that is in U.S. statute.

3. One commenter requested that the tonnage regulations clearly pronounce the preclusion from measurement under the Regulatory Measurement System of certain foreign flag vessels.

We know of no practical way to add this single pronouncement without substantively restructuring and expanding the regulatory text to identify other preclusions related to measurement system applicability. For example, whether or not a particular tonnage measurement system applies to a vessel can depend on a number of factors, including the vessel’s flag, length, voyage type, keel laid or substantial alteration date, and whether or not it is self-propelled. Our Navigation and Vessel Inspection Circular (NVIC) 11–93 Change 3, “Applicability of Tonnage Measurement Systems to U.S. Flag Vessels,” presents this kind of information using a matrix approach that cross-references eight

different tables, with each table listing applicable requirements and restrictions. We believe that presenting information in this fashion, while potentially helpful in explaining the requirements, is not suited for inclusion in the tonnage regulations, especially in an expanded form to address foreign flag vessels. Accordingly, we have not incorporated any corresponding change to the regulatory text.

4. One commenter requested changes to the tonnage regulations to make clear that a foreign flag vessel engaged on a foreign voyage between places outside of the United States is effectively outside the jurisdiction of United States law.

We agree that where laws of the United States, including obligations under international agreements, do not apply to a vessel, tonnage measurement requirements under U.S. law similarly do not apply, as in the case the commenter cited. However, along the same lines as our response to the previous comment, we believe that the regulation, as drafted, is sufficiently clear to cover this case, especially in view of the language in §§ 69.3 and 69.11, as amended by this rulemaking, that addresses when tonnage measurement under U.S. law is required.

5. One commenter took issue with the amendment to § 69.17 clarifying that the vessel owner is responsible for submitting applications for measurement. The commenter cited difficulties in identifying the owner in certain cases where, for vessels under construction, ownership may reside in contractual relationships between the yard, prospective owners, and lien holders.

We believe the clarification regarding vessel owner responsibility is appropriate, as the tonnage measurement law and existing regulations provide for owners to exercise certain measurement options. However, we recognize that identifying the specific individual or entity who owns the vessel may be especially problematic early in the construction process, when the current regulation requires application submission. Accordingly, we have amended the associated regulatory text to replace the term “must” with the term “should”, so that early application submission is recommended, rather than mandatory.

6. One commenter stated that portable enclosed spaces should not be included in a vessel’s tonnage, as they effectively serve the function of deck cargo, which is similarly not included. The commenter described the unique mission requirements of offshore

support vessels, noting that they frequently involve the fitting of equipment used to service offshore energy exploration and production facilities and other infrastructure that do not usually form a permanent part of a vessel’s structure. The commenter argued that an offshore support vessel transporting such items was equivalent to a cargo ship transporting deck cargo, and proposed possible mechanisms for evaluating the point at which such installations could be treated as permanent additions to the vessel.

We disagree. Fundamentally, the question of whether or not a space should be included in a vessel’s tonnage depends on whether the enclosed volume in question is treated as part of the vessel. With limited exceptions, national and international measurement systems dating to at least the 18th century have not treated deck cargo as part of the vessel, with deck cargo generally taken to mean freight carried on the weather decks for the purpose of its transport between two separate and distinct locations. Under this historical framework, the relatively recent adaptation for shipboard use of portable quarters units, equipment vans and similar portable spaces that all function as part of the vessel, even for periods of short duration, argues for their treatment as part of the host vessel, as opposed to deck cargo.

7. Two commenters expressed the view that the Convention does not provide for including portable enclosed spaces in tonnage, and therefore, such spaces should not be included under the Convention Measurement System.

While we agree that the matter of portable enclosed spaces is not explicitly addressed in the Convention, we interpret Regulation 2(4) of the Convention to require including their volumes in tonnage, unless they are effectively open to the weather and meet other conditions for treatment as excluded spaces. We consider the side boundaries of portable enclosed spaces to be analogous to the “portable partitions” described in this regulation. Further, we believe that Article 2 of the Convention, which defines gross tonnage as a measure of the vessel’s overall size, supports this interpretation. Accordingly, we maintain that portable enclosed spaces should be accounted for in a similar manner to enclosed spaces that are part of the vessel’s permanent structure, when assigning vessel tonnage under the Convention Measurement System.

8. One commenter stated that other governments do not include portable enclosed-space volumes in tonnage, and therefore, requested that the tonnage

regulations be amended to align with internationally agreed-to requirements on this subject.

We disagree with the requested amendment. We are aware that some governments do not, in general, include the volumes of such spaces in tonnage, although we know of no reliable source of information on how the 156 governments currently party to the Convention treat these spaces. However, we note that during recent correspondence group work at the International Maritime Organization (IMO), the United States was among the majority of those governments that include these volumes in tonnage (see Table 1–4 of Annex 2 to IMO document SDC 1/INF.4 dated October 18, 2013), although international consensus was not obtained on this matter. In addition, we are unaware of any explicit internationally agreed-to requirements, or even guidance, on this subject. IMO recently considered tonnage implications of portable enclosed spaces (referred to as “temporary deck equipment” in IMO documents based on U.S. terminology at the time), but did not address this matter in the updated interpretations of TM.5/Circ.6 dated May 19, 2014 (see Annex 4 to IMO document SDC 1/4 dated October 18, 2013).

9. One commenter expressed the view that including portable enclosed spaces in tonnage under the Standard and Dual Regulatory Measurement Systems appears fair, but only in cases where these items serve as long-term fixtures aboard the vessel. However, the commenter cautioned that such treatment could be especially problematic for certain fixtures (*e.g.*, survival craft or a submersible on a mother ship).

We believe that the operative statutory language for the Standard and Dual Regulatory Measurement Systems supports including such spaces in tonnage, without regard to the duration of their installation on board. Whether or not a portable enclosed space is included in tonnage under these systems should depend on whether the space is permanently closed-in (*e.g.*, the bounding structure itself is of a permanent, rather than a temporary, nature), as opposed to whether it is permanently installed on the vessel. Accordingly, we maintain that the duration of installation has no bearing on a vessel’s tonnage assignment. Also, we note that the Coast Guard treats survival craft and submersibles as separate vessels under the tonnage regulations, and their volumes are not included in the tonnages of the host vessels.

10. Two commenters expressed concern over the impact of including portable enclosed spaces in tonnage with regard to remeasuring a vessel following the installation or removal of such items, with both contending that this is especially problematic for vessels close to tonnage thresholds. One commenter noted that the Coast Guard is not codifying the related remeasurement criteria in this rulemaking.

We currently apply a volumetric remeasurement criterion following vessel changes exceeding 5 percent of the vessel’s tonnage, which includes installation and removal of portable enclosed spaces (see NVIC 11–93, Change 3). This allows the installation and removal of many such items without the need for remeasurement. Also, beginning in 1997, we authorized a maximum allowance for such items, which is reflected in a vessel’s assigned tonnage. This avoids the need to remeasure the vessel following the installation or removal of portable enclosed spaces, provided the maximum allowance is not exceeded. Based on the valuable information exchanged on this subject during the recent IMO work on the Convention, we continue to believe this approach offers the best way to account for the presence of these spaces, consistent with the Convention and the tonnage measurement law. This does not affect our long-standing use of the 5 percent criterion, and as such our policy on that issue remains consistent.

11. One commenter requested that the issue of enforcement be addressed with respect to the installation and removal of portable enclosed spaces, as it may not be obvious to owners and operators that such changes could impact tonnage assignments.

As stated in the NPRM, one of our objectives in codifying principal policy interpretations was to facilitate understanding of, and compliance with, the tonnage regulations. We believe that the codification of the interpretations related to portable enclosed spaces, coupled with our continued use of a 5 percent remeasurement criterion, will reduce those situations where an enforcement action is necessary.

12. One commenter highlighted terminology differences between the definition “portable enclosed space” and the term “temporary deck equipment” used in previous policy documents, noting that the term “not permanent” in the NPRM’s regulatory text, as drafted, significantly differed from the term “semi-permanent” used in policy. The commenter questioned whether the changes were intended to

constitute a substantive amendment to the language.

While we acknowledge the differences between the text in policy documents and the codified regulatory text, as drafted, we believe that the codification makes no substantive changes. When we developed the proposed definitions for the terms “deck cargo” and “portable enclosed space” that appeared in the NPRM, we made adjustments to the policy text for clarity and to better harmonize the definitions. These adjustments included avoiding the use of the term “temporary,” which like the term “semi-permanent,” can be construed in a variety of ways unless accompanied by amplifying text, and omitting the example of the portable aviation fuel (“JP–5”) tank that is treated as either deck cargo or part of the vessel, depending on whether it is offloaded with its contents intact. Instead, we use more general and, in our view, clearer language in the “deck cargo” and “portable enclosed space” definitions, which we believe has the same effect as the language used in current policy.

13. Two commenters expressed the view that portable enclosed spaces should not be classified as superstructure spaces under the tonnage regulations, as the term “superstructure” has a different meaning in other maritime contexts (*e.g.*, it can refer only to permanent structures, and/or only structures that extend from side-to-side).

Although we recognize the benefits of using consistent, universally understood terminology in the tonnage regulations, in this instance we are unaware of any term widely used in the maritime industry that effectively encompasses all manner of above-deck enclosed spaces that are not bounded by the hull. Further, since 1989, when the tonnage regulations were amended to adopt the term “superstructure” to describe such spaces, we are unaware of any instance where using this term resulted in a vessel designer or measurement organization incorrectly applying the tonnage rules. Accordingly, we made no changes to the regulatory text, as drafted, in this regard.

14. One commenter stated the new term “water ballast double bottom” appears unnatural, and suggested that the term “double bottom (water) ballast tank” be used instead.

We agree that the term in the proposed regulatory text, as drafted, could be improved upon for the reason stated. Because the term is applied only when measuring a vessel for which the vessel’s double bottom is solely used for water ballast, we believe the suggested

reference to ballast tanks is unnecessary, and could cause confusion.

Accordingly, we have revised the regulatory text to replace the term “water ballast double bottom” with the term “double bottom for water ballast,” which we believe adds clarity while satisfactorily addressing the commenter’s stated concern.

15. One commenter stated that the proposed regulatory text for the codified interpretation on passenger support spaces could not be found.

The draft text in question was inadvertently omitted from the NPRM during the regulatory development process. In view of the fact that these amendments were fully described in the NPRM, accounted for in its Regulatory Analyses section, and were not the subject of any other comment, we incorporated amendments to add the missing text in 69.117(c)(2) of the final rule. The added text is from the policy document, without change (see Section 69.117(c)(2) of Marine Safety Center Technical Note (MTN) 01–99 Change 7, “Tonnage Technical Policy”).

16. One commenter urged the Coast Guard to amend the size criteria for the treatment of ordinary frame openings being codified in this rulemaking. Specifically, the commenter requested an exception be made to the specified criteria under certain circumstances, to allow the fitting of larger frame openings without a corresponding increase in the vessel’s tonnage. This change would allow for improved access of personnel through the frames for rescue operations, consistent with current classification society and international rules that apply in similar situations. Another commenter expressed support for the main points raised in this comment.

We disagree with the requested exception to the size criteria. The criteria are historically rooted, with their origins dating to the early 20th century, and are based, at least in part, on the concept of impeding movement of personnel and cargo through the frame. We also believe that the magnitude of the requested size increase (more than doubling the effective opening area) could have a significant effect on tonnage assignments of both present vessels and future vessels measured or remeasured under the Standard and Dual Regulatory Measurement Systems. Finally, while we acknowledge the safety benefits of larger openings for rescue operations, it is not clear that such a departure from long-standing practice and policy would have a net positive impact on aggregate safety of U.S. flag vessels, as the relaxation of opening restrictions could

facilitate the construction of larger vessels regulated to lower tonnage-based standards.

17. One commenter stated that by not revising the criteria for measurement treatment of openings consistent with current classification society and international rules, the Coast Guard is forcing an owner to choose between accepting a higher tonnage, or building a smaller, less capable, vessel with the same tonnage.

We disagree. Under the Standard and Dual Regulatory Measurement Systems, designers have wide latitude in incorporating a multitude of design features that serve to artificially reduce a vessel’s tonnage. While the undesirability of some of these features from a cost and efficiency perspective has long been recognized, their use has generally been accepted by the U.S. maritime community, and is common practice. The tonnage regulations, as amended, will not preclude a designer from taking advantage of these features to reduce a vessel’s tonnage to the desired tonnage objective, while simultaneously meeting tank access and other safety requirements. The use or non-use of numerous features that can effectively reduce a vessel’s tonnage is the designer’s, and ultimately the owner’s, choice.

18. One commenter stated that the ordinary frame opening size criteria being codified are arbitrary. In seeking relaxed criteria, the commenter also stated that there is precedent for increasing the minimum opening size.

We disagree with the commenter’s characterization of the size criteria as arbitrary, and we describe the basis of the size criteria in our response to Comment 16. However, from our review of this matter, we concluded that the criteria for the measurement treatment of oval openings, first established by the Coast Guard in 1988 but limited to fuel tanks, could be applied to such openings in other locations, subject to certain restrictions to maintain the principle of impeding personnel and cargo movement. We have amended the regulatory text accordingly. While this does not provide the same degree of relaxation sought by the commenter, it gives designers additional flexibility to fit somewhat larger oval openings in more locations, without tonnage penalty.

19. One commenter questioned the Coast Guard’s legal authority to codify size criteria for the treatment of ordinary frame openings that differ from criteria in classification society rules and international standards that provide for larger “rescue openings” in vertical bulkheads. The commenter claimed that

codifying these criteria will reduce safety.

The Secretary of the department in which the Coast Guard is operating may—and in some cases, must—issue rules and regulations to implement certain statutes. The vessel measurement statutes mandate that the “Secretary shall measure a vessel to which this chapter applies” as per 46 U.S.C. 14302 and 46 U.S.C. 14502. The Secretary has delegated this authority to the Coast Guard.

This rule is not in conflict with the classification society rules or international standards. It does not prevent the placement of larger openings in bulkheads in the cargo area. However, if these larger openings are present, we recognize that a potential tonnage reduction benefit is lost. That is the present situation, and it is unaffected by this rule. The effect of fitting the larger openings could be to raise the vessel’s Regulatory Measurement System tonnage, potentially making the vessel subject to more stringent safety measures that apply to larger vessels. That indirect safety consequence is, in fact, why many maritime rules and standards are tonnage-based.

Assigned tonnages are measures of a vessel’s overall size and/or useful capacity. It is true that certain provisions of the U.S. Regulatory Measurement System can be used to an owner’s benefit to reduce a vessel’s tonnage, as the commenter suggested. However, design features from such provisions are generally not taken into account by classification society rules or international standards. Likewise, classification society rules and international standards are generally not taken into account by the tonnage regulations. To that extent, the commenter’s suggestion that these regulations be amended to reflect classification society rules and international standards is beyond the scope of this rulemaking.

These rules are not intended to change any of the present Coast Guard policies in effect, except those changes required by the 2010 Coast Guard Authorization Act. There is no suggestion in the comment that present policy is not being applied consistently by the Coast Guard. As this rule merely codifies that policy into regulation, this rule maintains the status quo. See the response to Comment 22, below, for further discussion of the cost implications of this rule.

20. Two commenters expressed the view that the tonnage measurement rules should not be at odds with safety-related standards or other requirements.

While acknowledging this view, we note that the tonnage parameters assigned under the measurement rules of the Convention and Regulatory Measurement Systems are size parameters, based on a vessel's geometry and the use of its spaces. There is currently no language in U.S. law that would allow tonnage measurement rules to be modified for consistency with other rules unrelated to tonnage measurement. We are not aware of any conflict between the safety standards and tonnage rules; however, as discussed in our response to the next comment, vessel design features required for compliance with safety standards are still subject to tonnage measurement rules.

21. One commenter requested a new section be added to the tonnage regulations, expressing the fundamental principle that safety-related improvements not be subject to tonnage penalty.

We disagree. Assigned tonnages are used by numerous public and private sector entities for a variety of purposes, including the application of tonnage-based safety, security and environmental protection regulations and standards; the crediting of seafarers for service on vessels depending on their tonnage; and the assessment of taxes and other fees. Consequently, a safety improvement that added considerable volume but was exempted from tonnage might allow the modified vessel to escape more stringent size-based standards that would otherwise apply, and could adversely impact seafarers earning credit for sea service and others who might otherwise benefit from a higher tonnage assignment. Absent any mandate under U.S. law, it would be inappropriate for the Coast Guard to amend the tonnage regulations in the manner requested.

22. Two commenters took issue with the NPRM's "no cost" characterization of the codified interpretation related to the treatment of portable enclosed spaces, expressing a general concern that there would be costs. Similarly, another commenter expressed disagreement with the "no cost" characterization of the codified interpretations related to ordinary frame opening size, citing significant cost impacts should the current criteria continue to be applied.

We acknowledge the concerns raised by the commenters, but believe that the NPRM correctly characterized the codification of these long-standing and frequently applied interpretations as "no cost." These interpretations appear in publicly available policy documents, used by Coast Guard field personnel and

organizations that perform tonnage measurement work on the Coast Guard's behalf. Codifying the interpretations should give vessel owners better access to important information upon which to base business decisions that are tonnage related, and could help avert costly impacts from tonnage assignments that do not meet owners' objectives.

We are not aware of any specific instance in which the interpretations are not being followed due to the lack of their codification in the regulations, and the commenters did not identify any specific instance. The Coast Guard makes its interpretations available to authorized measurement organizations and other stakeholders, and conducts a rigorous oversight program, including audits of tonnage certifications, to ensure these interpretations are correctly applied. Our discussion in this section explains why we believe there is no cost to codifying the interpretations in regulation.

With respect to the ordinary frame opening size, the commenter acknowledges that the present interpretation "continues to be enforced" and is not new or sporadically applied. As we discussed in Comment 16 above, the size criteria are long-standing and rooted in the origins of tonnage measurement. This rule merely codifies the status quo. And, as we discussed in Comments 17 and 19 above, the commenter's position on vessel design options conflates the Regulatory and Convention Measurement Systems to give the appearance of conflict when there is none.

The commenter requests that the rescue opening requirements in international safety conventions such as SOLAS be applied in a manner that does not adversely affect tonnage assignments under our national tonnage rules. However, vessels of 79 feet or more in length that comply with SOLAS in order to engage in international voyages must also have a Convention tonnage measurement; under the International Tonnage Convention the spaces in question would be included in tonnage because the vessel's Convention tonnage is based on its total enclosed volume, not just the volume bounded by the framing. Therefore, a vessel owner may elect to take advantage of tonnage reduction options under the U.S. Regulatory Measurement System, understanding that the limited opening size that is part of this system may conflict with opening size requirements necessary to overseas trade. This design choice is not new, and the considerations weighed when making this choice are not changed by this rule.

We acknowledge that vessels subject to various international requirements must have openings of a certain size, but as a matter of domestic law we neither require nor prevent installation of these openings: The vessel owner may choose.

With respect to portable spaces, existing statute and regulation provide for remeasurement if the vessel or the use of its space is changed.¹ As we described in Comment 10, two current policy provisions help minimize the need for remeasurement. First, we apply a volumetric change threshold of 5 percent for remeasurement, which includes the addition and removal of portable spaces. Second, we authorize a maximum allowance for portable spaces in a vessel's tonnage assignment. This allows for the addition and removal of portable spaces without remeasurement as long as the specified maximum tonnage is not exceeded.

The Coast Guard's current interpretation, which provides for inclusion of portable spaces as we describe in Comments 6 through 13 above, is long-standing and is understood by all authorized measurement organizations. If owners are not contacting authorized measurement organizations prior to changes involving portable spaces, they may be violating 46 CFR 69.19(a). The other possible source of costs would be owners who do contact an authorized measurement organization as required, are informed that the vessel does need to be remeasured due to changes involving portable spaces, but then fail to have it remeasured. We reached out to authorized measurement organizations to inquire about this possibility, but did not learn of any such communications.

To summarize, this final rule codifies current, long-standing interpretations, including provisions for portable spaces and frame openings. Although we received comments related to compliance with these two interpretations, public comments did not indicate that the codification of tonnage interpretations would affect the current compliance level. As such, we conclude that while this rulemaking does not provide relief for current business concerns, it also does not impose additional regulatory costs.

23. One commenter expressed preference for the regulatory alternative discussed in the NPRM of codifying all published Coast Guard interpretations in the tonnage regulations, and not just

¹ 46 U.S.C. 14504(a)(2) ("To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if . . . the vessel or the use of its space is changed in a way that substantially affects its tonnage."); See also 46 CFR 69.19(a).

the principal interpretations as we proposed in the NPRM. This commenter stated that interpretations characterized as “vague” and “flexible” have given rise to a consulting niche known as “tonnage experts” and that the Coast Guard refers requests for interpretations to authorized measurement organizations, rather than issuing uniform interpretations.

We acknowledge the commenter’s stated preference and characterization of published interpretations, but do not find the commenter persuasive in arguing for codifying all interpretations. We exercise considerable care when developing such interpretations, which involves a comprehensive review of all related decisions, rulemakings, legislative history, international interpretations and similar documents. Consequently, once published, the interpretations are not substantively changed, although they may be updated or expanded upon to address new situations that arise. Further, although we routinely refer owners to the measurement organizations for detailed design reviews as part of the tonnage measurement process, the measurement organizations do not have the authority to interpret the tonnage regulations on the Coast Guard’s behalf. Accordingly, we believe that the regulatory approach we are using best serves the public interest, by facilitating our timely publication of interpretations while avoiding compliance difficulties with an overly detailed regulation.

24. One commenter requested an additional public meeting specifically to address two changes in the NPRM — the proposed new tonnage applicability section, and the proposed new section on treatment of novel type vessels under the Simplified Measurement System. This commenter cited general concerns with the policy upon which the new tonnage applicability section is based, and the need to discuss the matter of novel type vessels, taking into consideration related IMO work. The commenter also requested a public meeting prior to any interim rulemaking.

We believe that we provided sufficient opportunity for public input on these sections. This includes our explanation of them and invitation for comments at the public meeting held on

June 5, 2014. As reflected in the meeting synopsis available in the docket, no such concerns were raised. Further, we see no need for an interim rulemaking. Accordingly, and in view of the nature of the other comments we received, we believe that the requested additional public meetings were not warranted, and would have unnecessarily delayed issuance of this final rule.

B. Additional Changes

In the paragraphs below, we discuss additional changes to the NPRM’s proposed regulatory text, which we identified when developing this final rule, along with the reasons for implementing these changes. These changes do not result in any new requirements substantively different from those in the NPRM.

We organized the discussion according to the section number in which each change will appear in the finalized regulatory text. Changes of a strictly clerical nature are not discussed.

§ 69.9 Definitions

To facilitate understanding of the tonnage regulations, we revised the regulatory text to include the new term “Formal Measurement System,” which is used in the tonnage measurement law to describe Standard and Dual measurement. We included Convention measurement in this definition, to allow for differentiation between those measurement systems that employ a detailed computational method using measurements of the entire vessel (*i.e.*, the Convention, Standard, and Dual Measurement Systems) and the Simplified measurement, which employs a simple computational method using hull dimensions as the principal inputs. For clarity and completeness, we also revised the NPRM’s proposed new definition for the term “remeasurement” to reflect that remeasurement includes assigning tonnages or registered dimensions under a different measurement system. This is consistent with the use of this term in the tonnage measurement law and Coast Guard policy.

§ 69.11 Determining the measurement system or systems for a particular vessel

To facilitate understanding of the tonnage regulations, we revised the

regulatory text to include the new term “Formal Measurement System” when referring to the Convention, Standard, and Dual Measurement Systems. We also added the parenthetical phrase “(except a vessel that engages on a foreign voyage)” in the paragraph addressing applicability of the Convention Measurement System to older U.S. flag vessels. This phrase was inadvertently omitted during the regulatory development process, and is necessary to ensure the regulatory text has the same effect as provided for by the tonnage measurement law, and the existing tonnage regulations. Additionally, for clarity we removed the regulatory text regarding voyage types for Simplified measurement of non-self-propelled and pleasure vessels. The tonnage measurement law provides for such measurement without regard to voyage type.

§ 69.17 Application for measurement services

For clarity and completeness, we revised the regulatory text to distinguish between Formal measurement services, which are provided by authorized measurement organizations, and Simplified measurement services, which are provided by the Coast Guard. The revised text identifies where Simplified measurement applications may be obtained, and refers to the appropriate section of the tonnage regulations for requirements on their disposition.

§ 69.19 Remeasurement

For consistency with the changes to § 69.11 described above, we revised the regulatory text to distinguish between reporting requirements for vessels requiring Formal, as opposed to Simplified, measurement services.

C. Change Summary

Table 1 summarizes the changes to the NPRM’s proposed regulatory text made in this final rule, along with the additional changes we made when finalizing the rule excepting those of a strictly clerical nature. The table indicates the type of, and reason for, each change. Except as noted in Table 1, we adopted as final all changes proposed in the NPRM.

TABLE 1—SUMMARY OF CHANGES

Description of change	Reason for change
Subpart A-General	
69.9 Definitions	
Adds the new tonnage measurement term “Formal Measurement System”	Facilitates understanding of the regulations.
Revises the definition for the term “remeasurement” to address measurement under additional systems	Clarity and completeness.
§ 69.11 Determining the measurement system or systems for a particular vessel	
Revises the section to incorporate the term “Formal Measurement System” when referencing the related systems. Adds the omitted parenthetical phrase “(except a vessel that engages on a foreign voyage)” and amends language to clarify that Simplified measurement is not dependent on voyage type.	Facilitates understanding of the regulations.
§ 69.17 Application for measurement services	
Revises the section to distinguish between Formal and Simplified measurement services Amends the requirements to make early submission of applications recommendatory, rather than mandatory.	Clarity and completeness. Response to comment.
§ 69.19 Remeasurement and adjustment of tonnage	
Revises the section to distinguish between Formal and Simplified measurement services	Clarity and completeness.
Subpart C—Standard Regulatory Measurement System	
§ 69.103 Definitions	
Replaces the term “water ballast double bottom” with the term “double bottom for water ballast”	Response to comment.
§ 69.109 Under-deck tonnage	
Replaces the term “water ballast double bottom” with the term “double bottom for water ballast”.	Response to comment.
Revises the criteria related to the measurement treatment of oval-shaped frame openings	Response to comment.
§ 69.117 Spaces exempt from inclusion in tonnage	
Adds the regulatory text on treatment of passenger support spaces, which was inadvertently omitted in the NPRM.	Response to comment.

VI. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and Executive Orders (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 rule has not been designated a “significant regulatory action,” under section 3(f) of

Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

A final regulatory assessment follows. This assessment replicates the regulatory assessment of the NPRM except for changes to reflect amendments to the NPRM’s regulatory text made by this final rule, as summarized in Table 1.

We received comments on economic impacts only for the provisions relating to portable enclosed spaces and openings in ordinary frames. In previous discussions of Comment 22 in section V.A., we respond to these comments and explain our rationale for maintaining the “no cost” characterization for these two provisions. We have no information from either comments or other sources to lead us to change our “no cost” assessment for the other codification provisions. We retain our “no cost” determination from the NPRM.

The primary objective of the final rule is to implement amendments to the

tonnage measurement law made by the 2010 Coast Guard Authorization Act. One amendment precludes the owner of a foreign flag vessel of 79 feet or more in length that engages solely on U.S. domestic voyages from obtaining a future measurement under the Regulatory Measurement System, with an exception allowed for a Canadian flag vessel operating solely on the Great Lakes. The remaining amendments eliminate inconsistencies and incorporate clarifications or updates that are either consistent with long-standing Coast Guard policy or reflective of current Coast Guard practice.

In addition, the Coast Guard seeks to facilitate understanding of, and compliance with, existing tonnage regulations by codifying principal technical interpretations that have been issued by the Coast Guard to keep pace with developments in vessel designs. These interpretations are included in Coast Guard policy documents made available to the public via Coast Guard

Web sites, and are used by authorized measurement organizations that perform

tonnage work on the Coast Guard's behalf.

Table 2 provides a summary of the rule's costs and benefits.

TABLE 2—SUMMARY OF THE RULE'S IMPACTS

Category	Summary
Applicability	U.S. and foreign flag vessels to which a law of the United States applies based on vessel tonnage.
Affected Population	Vessels that will be initially measured or remeasured under the tonnage regulations, estimated at 10,000 vessels per year.
Cost Impacts	No additional costs as changes are consistent with current practice or policy.
Non-quantified Benefits	Adds flexibility to use foreign flag tonnages. Clarifies tonnage measurement requirements. Facilitates understanding of regulations, leading to more effective and efficient tonnage certifications.

Affected Population

The tonnage regulations, as amended by this rule, apply to all U.S. and foreign flag vessels to which the application of a law of the United States depends on the vessel's tonnage. Once assigned initially, tonnages remain valid until a vessel changes flag, or undergoes a change that substantially affects its tonnage.

Because none of the changes are retroactive, the population potentially affected by this rulemaking is limited to vessels that will be measured in the future, including those remeasured following alterations, modifications, or other changes substantially affecting their tonnage. The Coast Guard estimates this population to be approximately 10,000 vessels each year, based on the 8,615 simplified measurement applications and 386 formal measurement applications submitted annually, and our estimate of

approximately 1,000 additional vessels that are measured annually without the submission of a measurement application.²

Cost Impacts

Table 3 details 117 changes to the tonnage regulations in the rule, with an assessment of the cost impacts of each change. A summary follows:

- The single change to implement the statutory amendment that precludes certain foreign flag vessels of 79 feet or more in length from being measured under the Regulatory Measurement System could potentially prevent operation of a future vessel in a similar manner to that of currently operating vessels. No such vessels have been brought into service within the last 10 years. Further, other options to operate similar vessels (e.g., under U.S. flag) are available. Thus, no cost impact from this change is expected.

- The six remaining changes needed for statutory alignment are consistent with current Coast Guard interpretations or industry practice, and will not result in any additional cost as described in the following table.

- The 26 changes related to codification of principal Coast Guard technical interpretations will result in no additional cost, because the interpretations have been used for tonnage work for multiple years.

- The 84 changes labeled "Administrative" are of a non-substantive nature and merely provide clarity and will not result in any additional cost.

- As noted in the resolution to Comment 22 in section V.A., we concluded that this final rule is cost neutral. Accordingly, we retain our "no cost" determination from the NPRM for this final rule.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE

Description of change	Type of change	Cost impact
Subpart A—General		
§ 69.1 Purpose		
Eliminates the disparate treatment of documented and undocumented U.S. flag vessels.	Mandatory statutory alignment	No cost. Consistent with policy in effect since 1993 (NVIC 11–93).
Expands the explanation of the use of tonnage to include environmental and security purposes.	Administrative: Clarification on tonnage usage.	No cost.
Relocates the descriptions of each measurement system to the corresponding definitions in § 69.9.	Administrative: Editorial change to improve usability.	No cost.
§ 69.3 Applicability		
Expands the scope to apply to foreign flag vessels	Mandatory statutory alignment	No cost. Consistent with Coast Guard practice since the 1986 amendments to the tonnage measurement law.
Removes the 5 net ton minimum size restriction	Administrative: Clarification that statutory requirements for measurement apply to vessels of all sizes.	No cost. Consistent with policy in effect since 1993 (NVIC 11–93).

² Refer to Collection of Information 1625–0022 for more comprehensive information on measurement application submissions. The Coast Guard does not

collect information on measurement of vessels for which measurement applications are not submitted, but estimates that on the order of 1,000 such vessels

are measured per year based on the number of inquiries received by the Marine Safety Center from the public and Coast Guard field units.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
§ 69.5 Vessels required or eligible to be measured		
Deletes section to align with revised § 69.3	Administrative: Editorial realignment.	No cost.
§ 69.7 Vessels transiting the Panama and Suez Canals		
Deletes requirement for vessels transiting the Panama and Suez Canals to be measured under the respective Panama and Suez Canal measurement systems.	Administrative: Update to reflect lack of Coast Guard responsibility for canal measurements, consistent with statutory changes.	No cost.
§ 69.9 Definitions		
Adds definitions for certain tonnage measurement terms	Administrative: New definitions	No cost.
Revises existing definitions for certain tonnage measurement terms	Administrative: Clarifications and updates.	No cost.
Changes the term “vessel engaged on a foreign voyage” to “vessel that engages on a foreign voyage”.	Mandatory statutory alignment	No cost. Consistent with current practice.
§ 69.11 Determining the measurement system or systems for a particular vessel		
Eliminates the disparate treatment of documented and undocumented U.S. flag vessels.	Mandatory statutory alignment	No cost. Consistent with policy in effect since 1993 (NVIC 11–93).
Precludes certain foreign flag vessels of 79 feet or more in length from being measured under the Regulatory Measurement System.	Mandatory statutory alignment	No cost. Not retroactive. No such foreign vessels have been brought into service using the regulatory measurement system in recent years.
Relocates “how tonnage thresholds are applied” language to § 69.20	Administrative: Editorial change	No cost.
Establishes new nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Amends language to clarify that Simplified measurement is not dependent on voyage type.	Administrative: Clarification	No cost.
§ 69.13 Deviating from the provisions of a measurement system		
Requires authorized measurement organizations to observe Coast Guard interpretations of the tonnage measurement law and regulations.	Administrative: Clarifies the extent of measurement organization authority.	No cost. Consistent with written agreements with measurement organizations, and policy in effect since 1998 (see MTN 01–98 and MTN 01–99).
Identifies that Coast Guard interpretations may be obtained from the Marine Safety Center.	Administrative: Facilitates public access to interpretive documents.	No cost.
Allows grandfathering of superseded tonnage measurement rules	Administrative: Facilitates transition to codified interpretations.	No cost. Precludes mandatory retroactive application of codified interpretations.
§ 69.15 Authorized measurement organizations		
Establishes new nomenclature consistent with revisions to § 69.9 and § 69.11.	Administrative: Editorial change	No cost.
Deletes information that is repeated in the regulations or is available elsewhere.	Administrative: Editorial change	No cost.
§ 69.17 Application for measurement services		
Identifies that the vessel owner is responsible to apply for vessel measurement or remeasurement.	Administrative: Clarification consistent with current practice.	No cost.
Omits reference to boiler installation as indicator of stage of vessel construction.	Administrative: Update to reflect decreasing use of steam propulsion.	No cost.
Distinguishes between Formal and Simplified measurement services ..	Administrative: Clarification and update.	No cost.
Provides for early submission of applications to be recommendatory, rather than mandatory.	Administrative: Update	No cost.
§ 69.19 Remeasurement and adjustment of tonnage		
Clarifies circumstances under which a vessel must undergo remeasurement.	Administrative: Clarification	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Distinguishes between Formal and Simplified measurement services ..	Administrative: Clarification and update.	No cost.
§ 69.20 Applying tonnage thresholds		
Provides comprehensive requirements on how tonnage thresholds are to be applied.	Administrative: Facilitates public understanding of long-standing statutory requirements.	No cost. Consistent with the tonnage measurement law and policy in effect since 1993 (See NVIC 11–93).
§ 69.25 Penalties		
Updates civil penalty amounts as per the Federal Civil Penalties Inflation Adjustment Act.	Administrative: Update	No cost.
§ 69.27 Delegation of authority to measure vessels		
Revises section to reflect the nomenclature in § 69.11	Administrative: Editorial change	No cost.
Deletes outdated reference to 49 CFR 1.46	Administrative: Update	No cost.
§ 69.28 Acceptance of measurement by a foreign country		
Adds provisions for accepting tonnage assignments for certain foreign flag vessels.	Mandatory statutory alignment	No cost. Provides flexibility to use foreign flag tonnages.
Subpart B—Convention Measurement System		
§ 69.53 Definitions		
Adds definition for tonnage measurement term	Administrative: New definition	No cost.
Revises existing tonnage measurement terms consistent with revisions to § 69.9.	Administrative: Editorial change	No cost.
§ 69.55 Application for measurement services		
Requires the “delivery date” to be specified on a tonnage application instead of the less specific “build date”.	Administrative: Clarification	No cost.
§ 69.57 Gross tonnage ITC		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
§ 69.59 Enclosed spaces		
Incorporates interpretations on the treatment of portable spaces	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 1999 (NVIC 11–93 CH–2 and MTN 01–99).
§ 69.61 Excluded spaces		
Incorporates interpretations on treatment of qualifying spaces as excluded spaces “open to the sea”.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 1999 (MTN 01–99).
§ 69.63 Net tonnage ITC		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
§ 69.65 Calculation of volumes		
Removes language addressing specific calculation methods to ensure that accepted naval architecture practices are used in all cases.	Administrative: Clarification	No cost. Reflects increased use of computer-based computational methods.
§ 69.69 Tonnage certificates		
Incorporates more complete requirements from the 1969 Tonnage Convention for reissuance of an International Tonnage Certificate (1969) under certain circumstances, including the 3-month grace period following flag transfer.	Administrative: Clarification	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Requires issuance of a U.S. Tonnage Certificate as evidence of measurement under the Convention Measurement System under certain circumstances, and that the International Tonnage Certificate (1969) is delivered to the vessel's owner or master.	Mandatory statutory alignment	No cost. Consistent with policy in effect since 1998 (MTN 01–98).
§ 69.71 Change of net tonnage		
Clarifies that the Commandant determines the magnitude of alterations of a major character.	Administrative: Clarification	No cost.
§ 69.73 Treatment of unique or otherwise novel type vessels		
Revises section title and clarifies that submission of plans and sketches is not required in all cases.	Administrative: Clarification	No cost.
§ 69.75 Figures		
Updates the existing figures to resolve minor labeling inconsistencies, and for visual clarity.	Administrative: Clarifications and updates.	No cost.
Subpart C—Standard Regulatory Measurement System		
§ 69.101 Purpose		
Reflects revised title of subpart C	Administrative: Clarification	No cost.
§ 69.103 Definitions		
Adds definitions for tonnage measurement terms	Administrative: New definitions	No cost.
Revises existing definitions for tonnage measurement terms	Administrative: Clarifications and updates.	No cost.
§ 69.105 Application for measurement services		
Requires the “delivery date” to be specified on a tonnage application instead of the less specific “build date”.	Administrative: Clarification	No cost.
§ 69.107 Gross and net register tonnages		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
Clarifies that the U.S. Tonnage Certificate reflects measurement for the Convention and Regulatory Measurement Systems, as applicable, and need not be carried aboard.	Administrative: Clarification	No cost.
§ 69.108 Uppermost complete deck		
Establishes comprehensive requirements related to the “uppermost complete deck”.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–5).
§ 69.109 Under-deck tonnage		
Clarifies that enumerated decks are used to determine the tonnage deck.	Administrative: Clarification	No cost.
Establishes how to determine enumerated decks	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Replaces the phrase “at different levels from stem to stern” with the more commonly used term “stepped”.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Establishes minimum breadth and length criteria for steps used in establishing the line of the tonnage deck.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Reflects that the frames evaluated in determining the tonnage length should be “ordinary frames”.	Administrative: Clarification	No cost.
Deletes the sentence “when a headblock extends . . . thickness of an ordinary side frame and shell plating”.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Provides for a maximum reduction in the tonnage length of 8½ feet ...	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Requires that the under-deck sections, referred to as “tonnage stations,” be sequentially numbered.	Administrative: Clarification	No cost.
Replaces the terms “double bottom” and “cellular double bottom” with “double bottom for water ballast”.	Administrative: Clarification	No cost.
Deletes the existing language regarding outside shaft tunnel exclusions and inserts new “open to the sea” language.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Incorporates the term “uppermost complete deck”	Administrative: Clarification	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Provides requirements on the measurement treatment of ordinary frames in the under-deck, including construction, frame spacing, different sized frames, frame openings, and asymmetrical framing.	Codification: Principal interpretations from policy document, with revised criteria on oval frame openings.	No cost. Interpretations on different sized framing in effect since 1950 (Treasury Decision 52578). Other interpretations in effect since 2002 (MTN 01–99 CH–4). Revised criteria to permit more flexibility for oval openings without tonnage impact.
§ 69.111 Between-deck tonnage		
Replaces the phrase “at different levels from stem to stern” with the more commonly used term “stepped”.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Requires a minimum size for a longitudinal step being used as the basis for establishing the line of the uppermost complete deck.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Replaces the phrase “face of the normal side frames” with the phrase “line of the normal frames”.	Administrative: Clarification	No cost.
§ 69.113 Superstructure tonnage		
Incorporates interpretations on treatment of portable spaces	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 1997 (NVIC 11–93 CH–2).
Clarifies that measurements are to be taken to the “line of the normal frames”.	Administrative: Clarification	No cost.
Defines superstructure tonnage as the tonnage of all superstructure spaces.	Administrative: Clarification	No cost.
§ 69.115 Excess hatchway tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Clarification	No cost.
§ 69.117 Spaces exempt from inclusion in tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Revises the definition of passenger space to preclude passenger support spaces and spaces used by both passengers and crew from being exempted as passenger space.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Establishes the minimum height above the uppermost complete deck for exemptible passenger spaces.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Removes the prohibition of exempting a passenger space as an open space when it has berthing accommodations.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
Establishes requirements on open structure exemptions for structures divided into compartments.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2005 (MTN 01–99 CH–7).
Prohibits the progression of open space vertically between structures and allows a space outside a structure’s boundary bulkhead meeting certain conditions to be considered open to the weather.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Provides end opening and interior space circulation requirements	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Requires compartments from which open space progresses to meet certain opening requirements.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Requires temporary cover plates to be fitted against the weather side of a bulkhead in applying open-to-the-weather criteria.	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Specifies that in applying the size requirements of § 69.117(d)(7), an opening need not also meet the size requirements of § 69.117(d)(2).	Administrative: Clarification	No cost.
Provides for exemption of space in way of opposite side openings	Codification: Principal interpretations from policy document.	No cost. Interpretations in effect since 2003 (MTN 01–99 CH–6).
Replaces the phrase “next lower deck” with the phrase “uppermost complete deck”.	Administrative: Clarification	No cost.
Precludes battening, caulking, seals, or gaskets of any material from being used in association with a middle line opening cover.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–6).
Deletes the requirement to provide calculations in a specific format	Administrative: Update	No cost. Reflects increased use of computer-based computational methods.
Requires use of the zone of influence method to ensure accuracy and consistency in calculating volumes of exempted under-deck spaces.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–6).
§ 69.119 Spaces deducted from tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
§ 69.121 Engine room deduction		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.123 Figures		
Updates the existing figures to resolve minor labeling inconsistencies, and for visual clarity.	Administrative: Clarifications and updates.	No cost.
Subpart D—Dual Regulatory Measurement System		
§ 69.151 Purpose		
Reflects the revised title of subpart D	Administrative: Clarification	No cost.
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.153 Application of other laws		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.155 Measurement requirements		
Revises nomenclature consistent with revisions to § 69.9 and deletes reference to the “Dual Measurement System”.	Administrative: Editorial change	No cost.
§ 69.157 Definitions		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.159 Application for measurement services		
Deletes reference to the “Standard Measurement System”	Administrative: Editorial change	No cost.
§ 69.161 Gross and net register tonnages		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Clarifies that the U.S. Tonnage Certificate reflects measurement for the Convention and Regulatory Measurement Systems, as applicable, and need not be carried aboard.	Administrative: Clarification	No cost.
§ 69.163 Under-deck tonnage		
Deletes reference to the “Dual Measurement System”	Administrative: Editorial change	No cost.
§ 69.165 Between-deck tonnage		
Deletes reference to the “Dual Measurement System”	Administrative: Editorial change	No cost.
§ 69.167 Superstructure tonnage		
Deletes reference to the “Dual Measurement System”	Administrative: Editorial change	No cost.
§ 69.169 Spaces exempt from inclusion tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.173 Tonnage assignments for vessels with only one deck		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
§ 69.175 Tonnage assignments for vessels with a second deck		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Clarifies that the vessel owner may elect to use the lower set of tonnages when opting for single tonnage assignment under the Dual Measurement System.	Administrative: Clarification	No cost.
Requires a load line to be assigned at a level below the line of the second deck.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
§ 69.177 Markings		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.

TABLE 3—ASSESSMENT OF THE COST IMPACTS OF THIS RULE—Continued

Description of change	Type of change	Cost impact
Adds exception to allow the line of the second deck to be marked on the side of the vessel if the second deck is the actual freeboard deck for purposes of load line assignment.	Codification: Principal interpretation from policy document.	No cost. Interpretation in effect since 2003 (MTN 01–99 CH–5).
§ 69.181 Locating the line of the second deck		
Updates the existing examples for visual clarity	Administrative: Clarifications and updates.	No cost.
§ 69.183 Figures		
Updates the existing figures to resolve minor labeling inconsistencies, and for visual clarity.	Administrative: Clarifications and updates.	No cost.
Subpart E—Simplified Regulatory Measurement System		
§ 69.201 Purpose		
Reflects revised title of subpart E	Administrative: Clarification	No cost.
§ 69.205 Application for measurement services		
Specifies how vessel owners not seeking documentation should process an application for simplified measurement.	Administrative: Clarification	No cost. Provides additional guidance.
Specifies that a completed application for simplified measurement serves as evidence of measurement under the Simplified system.	Administrative: Clarification	No cost.
Specifies the vessel information required to be provided by the owner when completing the Application for Simplified Measurement.	Administrative: Clarification	No cost.
Deletes reference to a specific section of the Builders Certificate and First Transfer of Title form (CG–1261) to allow for revisions to this form without the need to revise regulations.	Administrative: Removes an unneeded requirement from the regulations.	No cost.
§ 69.207 Measurements		
Relaxes measurement tolerances consistent with current practice	Administrative: Update	No cost.
§ 69.209 Gross and net register tonnage		
Revises nomenclature consistent with revisions to § 69.9	Administrative: Editorial change	No cost.
Specifies that a vessel's Certificate of Documentation serves as evidence of measurement under the Simplified system.	Administrative: Clarification	No cost.
§ 69.211 Treatment of unique or otherwise novel type vessels		
Identifies the Coast Guard office to contact for questions on a vessel for which the Simplified measurement rules may not readily be applied.	Administrative: Facilitates resolutions of questions from the public.	No cost.

Benefits

Part 69, subpart A (Sections 69.1–69.29):

The revisions to 46 CFR part 69, subpart A, will clarify and update general tonnage measurement requirements, consistent with the changes mandated by the 2010 Coast Guard Authorization Act, and codify certain interpretations affecting vessels measured under the four U.S. measurement systems. These changes are expected to benefit the public

through increased regulatory clarity and by adding flexibility to use foreign flag tonnages.

Part 69, subparts B, C, and D (Sections 69.51–69.183):

The revisions to 46 CFR part 69, subparts B, C, and D, clarify and update tonnage measurement requirements, and codify principal interpretations of the tonnage technical rules. These changes benefit the public through increased regulatory clarity and by facilitating understanding of the tonnage

regulations, which could help avert costs and delays associated with bringing vessels into regulatory compliance.

Part 69, subpart E (Sections 69.201–69.209):

The revisions to 46 CFR part 69, subpart E, clarify and update tonnage measurement requirements, and are expected to benefit the public through increased regulatory clarity.

Table 4 summarizes the benefits of the final rule.

TABLE 4—SUMMARY OF BENEFITS

Requirement	Benefit
Part 69, Subpart A (Sections 69.1–69.29)	<ul style="list-style-type: none"> Clarifies tonnage measurement requirements. Add flexibility to use of foreign flag tonnages.
Part 69, Subparts B, C, and D (Sections 69.51–69.183)	<ul style="list-style-type: none"> Clarifies tonnage measurement requirements.

TABLE 4—SUMMARY OF BENEFITS—Continued

Requirement	Benefit
Part 69, Subpart E (Sections 69.201–69.209)	<ul style="list-style-type: none"> • Facilitates the understanding of tonnage measurement requirements to allow more effective and efficient tonnage certifications. • Clarifies tonnage measurement requirements.

Alternatives

The Coast Guard concluded that some changes to the existing tonnage regulations are required to implement changes to the tonnage measurement law made by the 2010 Coast Guard Authorization Act. Based on the preceding discussion, we further concluded that the additional changes to the tonnage regulations described above could provide a net benefit to the public, and should also be made.

In arriving at these conclusions, the Coast Guard considered two alternatives to the final rule’s selected approach in order to maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Alternative 1—Codify All Interpretations

Alternative 1 would revise the tonnage regulations to incorporate not only the changes and principal interpretations of the selected alternative, but to also include all published Coast Guard interpretations. This would consolidate all tonnage interpretative information into one source. Unlike the selected alternative, Alternative 1 would induce an additional cost and burden to both industry and government due to a lack of flexibility in applying regulations.

Initially, we believed this alternative, when compared to the current situation of a regulation not reflective of published interpretations, would produce some additional benefit due to the increased visibility of both the principal and secondary interpretations. We concluded that, over time, new technologies and vessel construction practices would lead to difficulties in complying with an overly detailed regulation. This would likely lead to additional requests for clarifications and interpretations and additional rulemakings, potentially causing tonnage certification delays and negatively impact design innovations. Based on these considerations, we did not accept Alternative 1.

Alternative 2—Incorporate Only Mandatory Changes

Alternative 2 would amend the tonnage regulations to only incorporate

changes that reflect the tonnage technical amendments of the 2010 Coast Guard Authorization Act, while continuing the Coast Guard’s practice of communicating tonnage regulation interpretations to industry via policy documents. This would sustain the Coast Guard’s current flexibility in applying tonnage measurement interpretations and preclude additional costs to industry. However, it would not clarify tonnage measurement requirements or increase the understanding of the tonnage measurement regulations. Based on this consideration, we did not accept Alternative 2.

B. Small Entities

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) (RFA) and Executive Order 13272 require a review of proposed and final rules to assess their impacts on small entities. An agency must prepare an initial regulatory flexibility analysis (IRFA) unless it determines and certifies that a rule, if promulgated, would not have a significant impact on a substantial number of small entities.

Under the Regulatory Flexibility Act we have considered whether this 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.

For all vessels our economic analysis concludes that this final rule will have no cost impact and will not affect the small entities described above that own and operate these vessels.

During the NPRM stage, we certified that this rulemaking will not have a significant economic impact on a substantial number of small entities. All interested parties were invited to submit data and information regarding the potential economic impact that would result from adoption of the proposals in the NPRM. We received comments on two provisions in our cost analysis, but after review of the issues raised, we retained our no cost determination. We received no comment relative to the certification. Therefore, the Coast Guard

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

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, we offered to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The current OMB approval number for this part, 1625–0022, remains unchanged and effective.

E. Federalism

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect 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 rule under that E.O. and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132. Our analysis is explained below.

It is well settled that States may not regulate in fields reserved for regulation by the Coast Guard. Under 46 U.S.C., Subtitle II, Part J, “Measurement of Vessels,” Congress specifically

mandated that certain vessels be measured in accordance with Chapters 141 and 143, as applicable. Congress provided this exclusive measurement authority to the Secretary. The authority to carry out these functions was specifically delegated to the Coast Guard by the Secretary. As this rulemaking implements amendments to the tonnage measurement law, as well as incorporates technical interpretations and administrative clarifications of existing tonnage regulations, it falls within the scope of authority Congress granted exclusively to the Secretary and States may not regulate within this field. Therefore, the rule is consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process.

The Coast Guard invited State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the NPRM. In accordance with Executive Order 13132, Federalism, the Coast Guard provides this federalism impact statement:

(1) There were no comments submitted by State or local governments to the NPRM published in the **Federal Register** on April 8, 2014 (79 FR 19420).

(2) There were no concerns expressed by State or local governments.

(3) As no concerns were expressed or comments received from State or local government, there is no statement required to document the extent to which any concerns were met.

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 final rule will not result in such an expenditure, we do discuss the effects of this final rule elsewhere in this preamble.

G. Taking of Private Property

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

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this final 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 E.O. 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 OMB, with an explanation of why using these standards will 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a final 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 final environmental analysis checklist supporting this determination is available in docket number USCG–2011–0522 at the Federal eRulemaking Portal online at <http://www.regulations.gov>.

This action falls under section 2.B.2, figure 2–1, paragraphs (34)(a) and (d) of the Instruction and involves regulations, which are editorial or procedural and regulations concerning admeasurement of vessels.

List of Subjects in 46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 69 as follows:

PART 69—MEASUREMENT OF VESSELS

■ 1. The authority citation for part 69 is revised to read as follows:

Authority: 46 U.S.C. 2301, 14103, 14104; Department of Homeland Security Delegation No. 0170.1.

Subpart A—General

■ 2. Revise § 69.1 to read as follows:

§ 69.1 Purpose.

This part implements legislation concerning the measurement of vessels to determine their tonnage (part J of 46 U.S.C. subtitle II). Tonnage is used for a variety of purposes, including the application of vessel safety, security, and environmental protection regulations and the assessment of taxes and fees. This part indicates the particular measurement system or

systems under which the vessel is required or eligible to be measured, describes the measurement rules and procedures for each system, identifies the organizations authorized to measure vessels under this part, and provides for the appeal of measurement organizations' decisions.

■ 3. Revise § 69.3 to read as follows:

§ 69.3 Applicability.

This part applies to any vessel for which the application of an international agreement or other law of the United States to the vessel depends on the vessel's tonnage.

§ 69.5 [Removed and Reserved]

■ 4. Remove and reserve § 69.5.

■ 5. Revise § 69.7 to read as follows:

§ 69.7 Vessels transiting the Panama and Suez Canals.

For vessels that will transit the Panama Canal and/or Suez Canal, the respective canal authorities may require special tonnage certificates in addition to those issued under this part. These special certificates may be issued by measurement organizations who have received appropriate authorization from the respective canal authorities.

■ 6. Revise § 69.9 to read as follows:

§ 69.9 Definitions.

As used in this part:

Authorized measurement organization means an entity that is authorized to measure vessels under this part.

Commandant means Commandant of the Coast Guard at the following address: Commanding Officer, Marine Safety Center (MSC-4), U.S. Coast Guard Stop 7430, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593-7430.

Convention means the International Convention on Tonnage Measurement of Ships, 1969.

Convention Measurement System means the measurement system under subpart B of this part, which is based on the rules of the Convention. This Formal Measurement System uses the vessel's total enclosed volume as the principal input for tonnage calculations along with other characteristics related to the vessel's carrying capacity, including the volume of cargo spaces and number of passengers. Tonnages assigned under this system are expressed in terms of gross tonnage ITC (GT ITC) or net tonnage ITC (NT ITC).

Deck cargo means freight carried on the weather decks of a vessel for the purpose of its transport between two separate and distinct locations, and which is off-loaded from the vessel in

its original container (if applicable) without undergoing any processing or other use while onboard the vessel.

Dual Regulatory Measurement System means the measurement system under subpart D of this part, which is one of three sub-systems of the Regulatory Measurement System. This Formal Measurement System is based on the rules of the Standard Regulatory Measurement System, with adjustments that allow for the assignment of two sets of Regulatory Measurement System tonnages whose use depends on the loading condition of the vessel.

Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Foreign flag vessel means a vessel that is not a U.S. flag vessel.

Formal Measurement System means a measurement system that employs a detailed computational method using measurements of the entire vessel, and which also takes into account the use of vessel spaces. The measurement systems prescribed under subparts B, C, and D of this part are Formal Measurement Systems.

Great Lakes means the Great Lakes of North America and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island, and, on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

Gross register tonnage (GRT) means the gross tonnage measurement of the vessel under the Regulatory Measurement System. Refer to § 69.20 for information on applying tonnage thresholds expressed in terms of gross register tons (also referred to as GRT).

Gross tonnage ITC (GT ITC) means the gross tonnage measurement of the vessel under the Convention Measurement System. In international conventions, this parameter may be referred to as "gross tonnage (GT)." Refer to § 69.20 for information on applying tonnage thresholds expressed in terms of gross tonnage ITC.

National Vessel Documentation Center means the organizational unit designated by the Commandant to process vessel documentation transactions and maintain vessel documentation records.

Net register tonnage (NRT) means the net tonnage measurement of the vessel under the Regulatory Measurement System. Refer to § 69.20 for information on applying tonnage thresholds expressed in terms of net register tons.

Non-self-propelled vessel means a vessel that is not a self-propelled vessel.

Overall length means the horizontal distance of the vessel's hull between the foremost part of a vessel's stem to the

aftermost part of its stern, excluding fittings and attachments.

Portable enclosed space means an enclosed space that is not deck cargo, and whose method of attachment to the vessel is not permanent in nature. Examples of portable enclosed spaces include modular living quarters, housed portable machinery spaces, and deck tanks used in support of shipboard industrial processes.

Register ton means a unit of volume equal to 100 cubic feet.

Regulatory Measurement System means the measurement system that comprises subparts C, D, and E of this part (Standard, Dual, and Simplified Regulatory Measurement Systems, respectively), and is sometimes referred to as the national measurement system of the United States. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Remeasurement means the process by which tonnages or registered dimensions of a vessel that was previously measured are assigned or reassigned to that vessel, or are verified to be correct, as appropriate. This includes assignment of tonnages or registered dimensions under a different measurement system.

Self-propelled vessel means a vessel with a means of self-propulsion, including sails.

Simplified Regulatory Measurement System means the measurement system under subpart E of this part, which is one of three sub-systems of the Regulatory Measurement System. It is based on the rules of the Standard Regulatory Measurement System but employs a simplified computational method using hull dimensions as the principal inputs. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Standard Regulatory Measurement System means the measurement system under subpart C of this part, which is one of three sub-systems of the Regulatory Measurement System. This Formal Measurement System is based on the rules of the British Merchant Shipping Act of 1854 and uses volumes of internal spaces as the principal inputs for tonnage calculations, allowing for exemptions or deductions of qualifying spaces according to their location and use. Tonnages assigned under this system are expressed in terms of gross register tons (GRT) or net register tons (NRT).

Tonnage means the volume of a vessel's spaces, including portable enclosed spaces, as calculated under a measurement system in this part, and is

categorized as either gross or net. Gross tonnage refers to the volumetric measure of the overall size of a vessel. Net tonnage refers to the volumetric measure of the useful capacity of the vessel. Deck cargo is not included in tonnage.

Tonnage threshold means a delimitating tonnage value specified in an international convention or a Federal statute or regulation.

U.S. flag vessel means a vessel of United States registry or nationality, or one operated under the authority of the United States.

Vessel of war means "vessel of war" as defined in 46 U.S.C. 2101.

Vessel that engages on a foreign voyage means a vessel:

(1) That arrives at a place under the jurisdiction of the United States from a place in a foreign country;

(2) That makes a voyage between places outside of the United States;

(3) That departs from a place under the jurisdiction of the United States for a place in a foreign country; or

(4) That makes a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

■ 7. Revise § 69.11 to read as follows:

§ 69.11 Determining the measurement system or systems for a particular vessel.

(a) *Convention Measurement System (subpart B of this part)*. (1) Except as otherwise provided in this section, this Formal Measurement System applies to any vessel for which the application of an international agreement or other law of the United States to the vessel depends on the vessel's tonnage.

(2) This system does not apply to the following vessels:

(i) A vessel of war, unless the government of the country to which the vessel belongs elects to measure the vessel under this part.

(ii) A vessel of less than 79 feet in overall length.

(iii) A U.S. flag vessel, or one of Canadian registry or nationality, or operated under the authority of Canada, and that is operating only on the Great Lakes, unless the vessel owner requests.

(iv) A U.S. flag vessel (except a vessel that engages on a foreign voyage), the keel of which was laid or was at a similar stage of construction before January 1, 1986, unless the vessel owner requests or unless the vessel subsequently undergoes a change that the Commandant finds substantially affects the gross tonnage.

(v) A non-self-propelled U.S. flag vessel (except a non-self-propelled

vessel that engages on a foreign voyage), unless the vessel owner requests the application.

(b) *Standard Regulatory Measurement System (subpart C of this part)*. This Formal Measurement System applies to a vessel not measured under the Convention Measurement System for which the application of an international agreement or other law of the United States to the vessel depends on the vessel's tonnage. Upon request of the vessel owner, this system also applies to a U.S. flag vessel that is also measured under the Convention Measurement System.

(c) *Dual Regulatory Measurement System (subpart D of this part)*. This Formal Measurement System may be applied, at the vessel owner's option, instead of the Standard Regulatory Measurement System.

(d) *Simplified Regulatory Measurement System (subpart E of this part)*. This system may be applied, at the vessel owner's option, instead of the Standard Regulatory Measurement System to the following vessels:

(1) A vessel that is under 79 feet in overall length.

(2) A vessel of any length that is non-self-propelled.

(3) A vessel of any length that is operated only for pleasure.

■ 8. Revise § 69.13 to read as follows:

§ 69.13 Applying provisions of a measurement system.

(a) Except as noted under paragraph (c) of this section, all provisions of a measurement system as prescribed in this part that are applicable to the vessel must be observed. Coast Guard interpretations of these provisions are published by, and may be obtained from, Commanding Officer, Marine Safety Center (MSC-4).

(b) The provisions of more than one measurement system must not be applied interchangeably or combined, except where specifically authorized under this part.

(c) Unless otherwise provided for by law, the tonnage measurement rules and procedures that immediately predate the rules and procedures prescribed in this part may be applied, at the option of the vessel owner, to the following vessels:

(1) A vessel which has not been measured and which was contracted for on or before May 2, 2016.

(2) A vessel which has been measured, but which has undergone modifications contracted for on or before May 2, 2016.

■ 9. Amend § 69.15 as follows:

■ a. Revise paragraphs (a), (b), (c), and (e); and

■ b. In paragraph (d), remove the words "to determine its tonnage" and add, in their place, the words "under this part".

The revisions read as follows:

§ 69.15 Authorized measurement organizations.

(a) Except as noted under paragraphs (c) and (d) of this section, measurement or remeasurement of all vessels under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems must be performed by an authorized measurement organization meeting the requirements of § 69.27. A current listing of authorized measurement organizations may be obtained from the Commanding Officer, Marine Safety Center (MSC-4).

(b) Measurement or remeasurement of all vessels under subpart E of this part must be performed by the Coast Guard.

(c) Measurement or remeasurement of all U.S. Coast Guard vessels and all U.S. Navy vessels of war must be performed by the Coast Guard.

* * * * *

(e) The appropriate tonnage certificate, as provided for under this part, is issued by the authorized measurement organization as evidence of the vessel's measurement under this part.

■ 10. Amend § 69.17 as follows:

■ a. Revise paragraph (a); and

■ b. In paragraph (c):

■ i. Following the words "the application", remove the word "must" and add, in its place, the word "should"; and

■ ii. Following the words "of encumbrances," remove the words "engine and boilers" and add, in their place, the word "engines".

The revision reads as follows:

§ 69.17 Application for measurement services.

(a) The vessel owner is responsible for having the vessel measured or remeasured under this part. Applications for Formal Measurement may be obtained from any measurement organization and, once completed, are submitted to the authorized measurement organization that will perform the measurement services. Applications for Simplified Measurement may be obtained from the Commanding Officer, Marine Safety Center (MSC-4) and, once completed, are submitted or retained as described in § 69.205. The contents of the application are described in this part under the requirements for each system.

* * * * *

■ 11. Revise § 69.19 to read as follows:

§ 69.19 Remeasurement.

(a) If a vessel that is already measured is to undergo a structural alteration, a change to its service, or if the use of its space is to be changed, a remeasurement may be required. For vessels measured under a Formal Measurement System, owners must report immediately to an authorized measurement organization any intent to structurally alter the vessel or to change its service or the use of its space. The measurement organization advises the owner if remeasurement is necessary. For all other vessels, owners must report the intent to structurally alter the vessel to Commanding Officer, Marine Safety Center (MSC-4), for a remeasurement determination. Remeasurement is initiated by completing and submitting, where applicable, the appropriate application for measurement services. Spaces not affected by the alteration or change need not be remeasured.

(b) Remeasurement must also be performed as follows:

(1) When there is a perceived error in the application of this part, the vessel owner should contact the responsible measurement organization, or Commanding Officer, Marine Safety Center (MSC-4), as appropriate. Remeasurement is performed to the extent necessary to verify and correct the error.

(2) At the vessel owner's option, to reflect the latest tonnage measurement rules and associated interpretations under this part.

(c) For vessels measured under a Formal Measurement System, if a remeasurement or adjustment of tonnage is required, the authorized measurement organization will issue a new tonnage certificate. For all other vessels, Commanding Officer, Marine Safety Center (MSC-4) will take action, as appropriate.

(d) A vessel of less than 79 feet in overall length measured under a Formal Measurement System may be remeasured at the owner's request under the Simplified Regulatory Measurement System.

■ 12. Add § 69.20 to read as follows:

§ 69.20 Applying tonnage thresholds.

(a) *General.* Tonnage thresholds are applied using the vessel's tonnage assigned under this part, and as provided for by paragraphs (b) through (d) of this section. In general, and except as under paragraphs (b) and (c) of this section, tonnage thresholds expressed in terms of "gross tonnage," "gross tonnage ITC," or "GT ITC" are applied using Convention Measurement System tonnage (if assigned) and thresholds expressed in terms of "gross tons,"

"registered gross tons," or "GRT" are applied using the Regulatory Measurement System tonnage (if assigned). Similarly, in general, and except as under paragraphs (b) and (c) of this section, tonnage thresholds expressed in terms of "net tonnage," "net tonnage ITC," or "NT ITC" are applied using Convention Measurement System tonnage (if assigned) and thresholds expressed in terms of "net tons," "registered net tons," or "NRT" are applied using the Regulatory Measurement System tonnage (if assigned).

(b) *Thresholds found in international conventions.* Unless otherwise provided for by law, apply tonnage thresholds in international conventions as follows:

(1) For vessels measured under the Convention Measurement System, apply all tonnage thresholds using Convention Measurement System tonnage, except as provided for under the following international tonnage grandfathering provisions, which may be applied at the option of the vessel owner:

(i) Under *Article 3(2)(d) of the Convention*:

(A) For a U.S. flag vessel, this Article allows associated tonnage thresholds in effect on or before July 18, 1994 to be applied, at the vessel owner's option, using Regulatory Measurement System tonnage to a vessel whose keel was laid on or before July 18, 1982, and which did not subsequently undergo alterations resulting in a change in its tonnage of a magnitude deemed by the Commandant to constitute a substantial variation in its tonnage.

(B) For a foreign flag vessel, this Article allows associated tonnage thresholds in effect on or before July 18, 1994, to be applied, at the vessel owner's option, using the foreign country's national measurement system tonnage to a vessel whose keel was laid on or before July 18, 1982, and which did not subsequently undergo alterations resulting in a change in its tonnage of a magnitude deemed by that country to constitute a substantial variation in its tonnage.

(ii) Under *International Maritime Organization (IMO) Resolutions A.494 (XII) of November 19, 1981 and A.541 (XIII) of November 17, 1983*:

(A) For a U.S. flag vessel, these resolutions allow tonnage thresholds in effect on July 18, 1994 to be applied using the gross register tonnage (Regulatory Measurement System), to a vessel whose keel was laid on or after July 18, 1982 but before July 19, 1994, and which did not subsequently undergo alterations resulting in a change substantially affecting its tonnage as deemed by the Commandant.

(B) For a foreign flag vessel, these resolutions allow tonnage thresholds in effect on July 18, 1994 to be applied, at the vessel owner's option, using the foreign country's national measurement system tonnage, to a vessel whose keel was laid on or after July 18, 1982, but on or before July 18, 1994, and which did not undergo alterations after July 18, 1994 of a magnitude deemed by that country to constitute a substantial variation in its tonnage subject to the provisions of these resolutions.

(iii) Any other international grandfathering provisions as authorized under appropriate International Maritime Organization instruments to which the United States is a party, or which are otherwise recognized or accepted by the United States.

(2) For all other vessels, apply all tonnage thresholds using Regulatory Measurement System tonnage.

(c) *Thresholds found in Federal statutes and regulations.* Unless otherwise provided for by law, apply tonnage thresholds in Federal statutes and regulations as follows:

(1) For vessels measured under the Convention Measurement System only, apply all thresholds using Convention Measurement System tonnage.

(2) For vessels measured under the Regulatory Measurement System only, apply all thresholds using Regulatory Measurement System tonnage.

(3) For all other vessels, apply thresholds in effect before July 19, 1994 using the vessel's Regulatory Measurement System tonnage, and all other thresholds using the vessel's Convention Measurement System tonnage.

(d) *Alternate tonnage thresholds.* 46 U.S.C. 14104 authorizes the Coast Guard to establish tonnage thresholds based on the Convention Measurement System as an alternative to tonnage thresholds based on the Regulatory Measurement System. Although 46 U.S.C. 14104 addresses only thresholds in Federal statutes, it does not preclude establishing alternate tonnage thresholds for Federal regulations that currently specify thresholds that were based on the Regulatory Measurement System, where appropriate.

(1) If an alternate tonnage threshold is prescribed or authorized by Federal statute or regulation, apply the alternate tonnage threshold using the Convention Measurement System tonnage.

(2) A vessel regulated under paragraph (d) of this section must not be measured under the Regulatory Measurement System.

§ 69.25 [Amended]

■ 13. Amend § 69.25 as follows:

■ a. In paragraph (a), remove the words “The owner”, add, in their place, the words “The vessel owner”; and

■ b. In paragraphs (a) and (b), remove the figure “\$20,000”, and add, in its place, the figure “\$30,000”.

■ 14. Amend § 69.27 as follows:

■ a. Revise paragraphs (a), (b) introductory text, and (b)(4) and (5); and

■ b. In paragraph (c)(3), remove the text “Convention, Standard, and Dual Measurement Systems” and add, in its place, the text “Convention Measurement System and Standard and Dual Regulatory Measurement Systems”; and

■ c. In paragraph (c)(4), remove the text “Convention, Standard, or Dual Measurement Systems” and add, in its place, the text “Convention Measurement System or Standard or Dual Regulatory Measurement Systems”.

The revisions read as follows:

§ 69.27 Delegation of authority to measure vessels.

(a) Under 46 U.S.C. 14103, the Coast Guard is authorized to delegate to a “qualified person” the authority to measure and certify U.S. flag vessels under this part.

(b) Authority to measure and certify U.S. flag vessels under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems may be delegated to an organization that—

* * * * *

(4) Is capable of providing all measurement services under the Convention Measurement System and Standard and Dual Regulatory Measurement Systems for vessels domestically and internationally;

(5) Maintains a tonnage measurement staff that has practical experience in measuring U.S. flag vessels under the Convention Measurement System and

Standard and Dual Regulatory Measurement Systems; and

* * * * *

■ 15. Add § 69.28 to read as follows:

§ 69.28 Acceptance of measurement by a foreign country.

(a) The Commandant must accept the measurement of a foreign flag vessel by a foreign country as complying with subpart B of this part if:

(1) The vessel was measured under the terms of the Convention and the foreign country is party to the Convention; or

(2) The Commandant finds that the laws and regulations of that country related to measurement are similar to those of subpart B of this part.

(b) The Commandant may accept the measurement of a foreign flag vessel by a foreign country as complying with subpart C, D, or E of this part if the Commandant finds that the laws and regulations of that country related to measurement are substantially similar to those of subpart C, D, or E, respectively, of this part.

Subpart B—Convention Measurement System

■ 16. Amend § 69.53 by removing the definitions of “Gross tonnage” and “Net tonnage” and adding the definition of “Boundary bulkhead” in alphabetical order to read as follows:

§ 69.53 Definitions.

* * * * *

Boundary bulkhead means the bulkhead or partition that separates an enclosed interior space from the surrounding weather. In general, the exterior bulkhead of a deck structure is the boundary bulkhead.

* * * * *

§ 69.55 [Amended]

■ 17. Amend § 69.55(d) by:

■ a. Removing the words “and year”; and

■ b. After the word “built”, adding the words “and delivery date (or scheduled delivery date)”.

§ 69.57 [Amended]

■ 18. Amend § 69.57 as follows:

■ a. In the section heading, add the text “ITC” after the text “Gross tonnage”;

■ b. After the text “Gross tonnage” and “(GT”, add the text “ITC”;

■ c. Following the text “following formula GT”, add the text “ITC”.

■ 19. Amend § 69.59 by adding a sentence at the end of the paragraph to read as follows:

§ 69.59 Enclosed spaces.

* * * Portable enclosed spaces, regardless of method of attachment to the vessel, are treated as enclosed spaces as defined in this paragraph.

■ 20. Amend § 69.61 as follows:

■ a. Revise paragraph (a); and

■ b. In paragraph (g), remove the words “paragraphs (b) through (f)” and add, in their place, the words “paragraphs (a) through (f)”.

The revision reads as follows:

§ 69.61 Excluded spaces.

(a) *Excluded space* means an enclosed space which is excluded from the total volume of all enclosed spaces (V) in calculating gross tonnage ITC. Spaces that are below the upper deck and open to the sea, as well as those spaces listed in paragraphs (b) through (f) of this section, are excluded spaces, except as under paragraph (g) of this section.

* * * * *

■ 21. Revise § 69.63 to read as follows:

§ 69.63 Net tonnage ITC.

Net tonnage ITC (NT ITC) is determined by the formula:

$$NT\ ITC = K_2 V_c \left(\frac{4d}{3D} \right)^2 + K_3 \left(N_1 + \frac{N_2}{10} \right)$$

in which:

V_c = total volume of cargo spaces in cubic meters.

$$K_2 = 0.2 + 0.02 \log_{10} V_c$$

$$K_3 = 1.25 \left(\frac{GT\ ITC + 10,000}{10,000} \right)$$

D = molded depth amidships in meters, as "molded depth" is defined in § 69.53.

d = molded draft amidships in meters, as "molded draft" is defined in § 69.53.

N_1 = number of passengers in cabins with not more than eight berths, as "passenger" is defined in § 69.53.

N_2 = number of other passengers, as "passenger" is defined in § 69.53.

GT ITC = gross tonnage ITC as determined under § 69.57.

N_1 plus N_2 must equal the total number of passengers the vessel is permitted to carry as indicated on the ship's Passenger Certificate. If N_1 plus N_2 is less than 13, both N_1 and N_2 are zero.

$\left(\frac{4d}{3D} \right)^2$ must not be greater than unity.

$K_2 V_c \left(\frac{4d}{3D} \right)^2$ must not be less than 0.25 GT ITC.

NT ITC must not be less than 0.30 GT ITC.

- 22. Revise § 69.65 to read as follows:

§ 69.65 Calculation of volumes.

(a) Volumes V and V_c used in calculating gross tonnage ITC and net tonnage ITC, respectively, must be measured and calculated according to accepted naval architectural practices for the spaces concerned.

(b) Measurements must be taken, regardless of the fitting of insulation or the like, to the inner side of the shell or structural boundary plating in vessels constructed of metal, and to the outer surface of the shell or to the inner side of structural boundary surfaces in all other vessels.

- 23. Revise § 69.69 to read as follows:

§ 69.69 Tonnage certificates.

(a) On request of the vessel owner, the authorized measurement organization must issue an International Tonnage Certificate (1969) as evidence of the vessel's measurement under this subpart for a vessel that is 24 meters (79.0 feet) or more in registered length, will engage on a foreign voyage, and is not a vessel

of war. The Certificate is delivered to the vessel owner or master and must be maintained on board the vessel when it is engaged on a foreign voyage. For a vessel for which a remeasurement under § 69.71 resulted in a net tonnage ITC decrease due to changes other than alterations or modifications to the vessel deemed by the Commandant to be of a major character, an International Tonnage Certificate (1969) reflecting the decreased net tonnage ITC will not be reissued until 12 months have elapsed from the date of measurement indicated on the current certificate.

(b) If an International Tonnage Certificate (1969) is not issued for a vessel measured under this part, the measurement organization must issue a U.S. Tonnage Certificate as evidence of the vessel's measurement under this subpart, which must also indicate the vessel's measurement under any other subpart of this part. There is no requirement to maintain the U.S. Tonnage Certificate on board the vessel.

(c) For a vessel that transfers flag to a foreign country that is party to the

Convention, the International Tonnage Certificate (1969) remains valid for a period not to exceed 3 months after the flag transfer, or until an International Tonnage Certificate (1969) is issued under authority of the foreign country to replace it, whichever is earlier.

§ 69.71 [Amended]

■ 24. In § 69.71(c)(2), remove the words "Coast Guard" and, in their place, add the word "Commandant".

■ 25. In § 69.73, revise the section heading and paragraph (b) to read as follows:

§ 69.73 Treatment of novel type vessels.

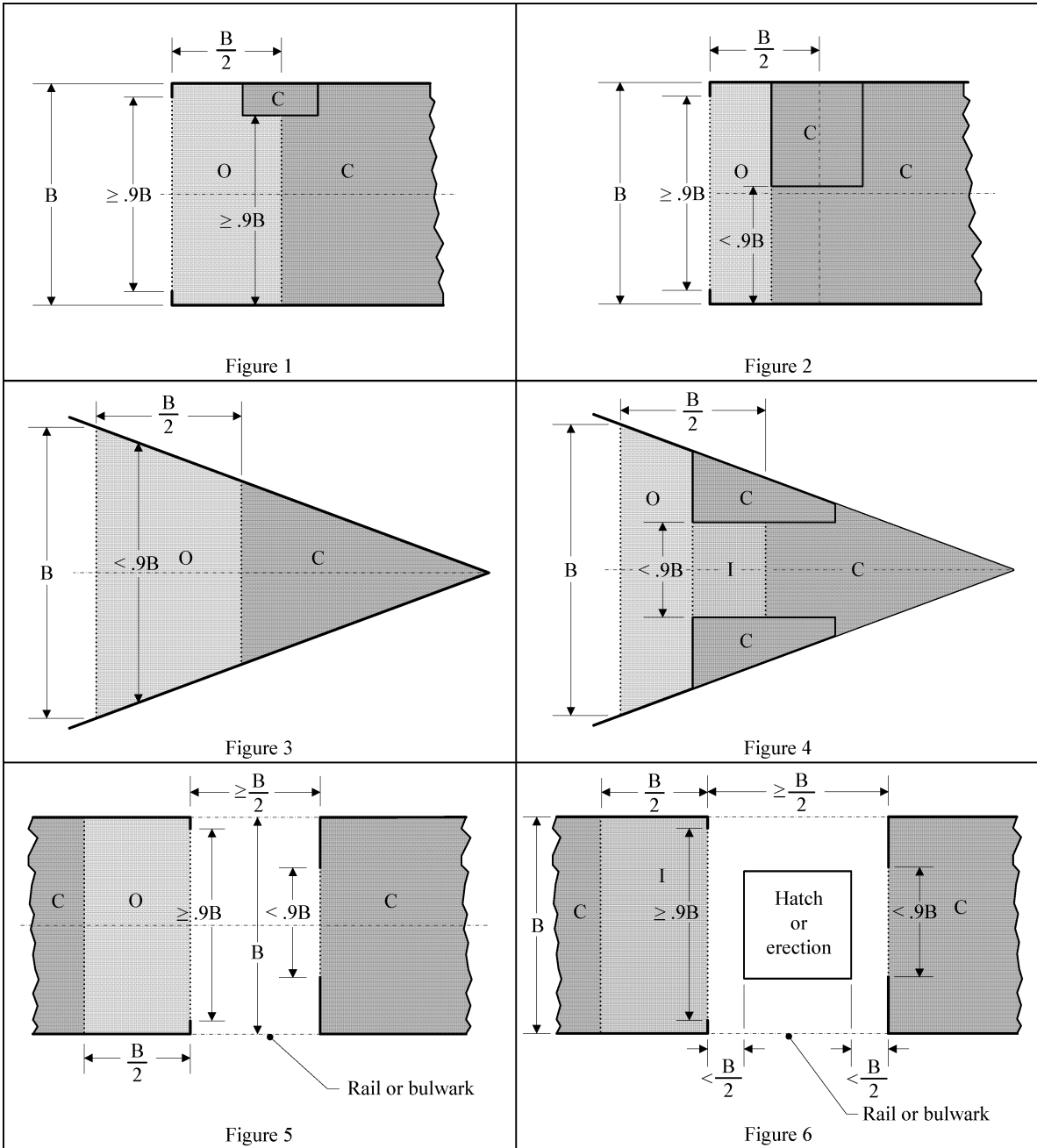
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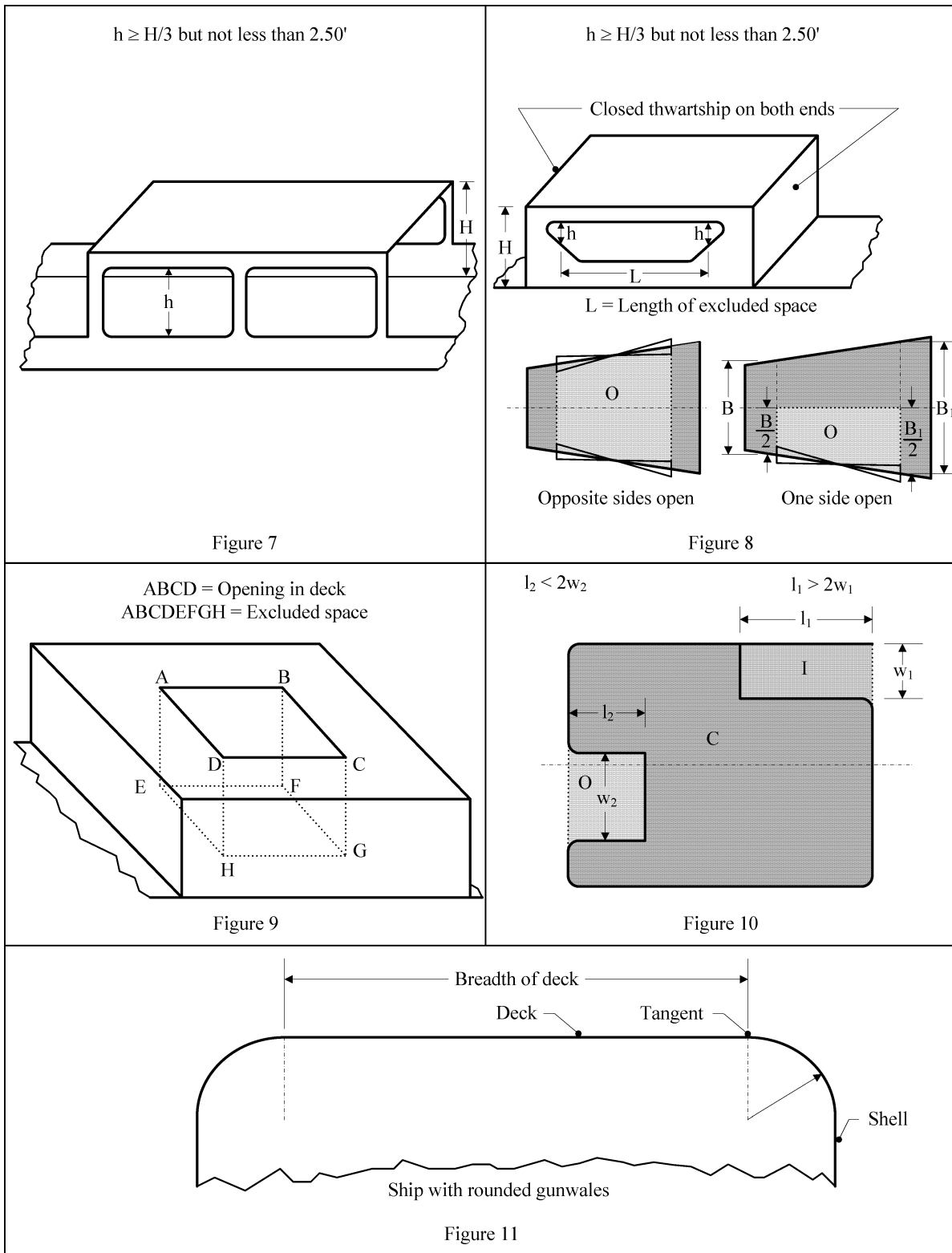
(b) Requests for a determination must be submitted to the Commandant, explaining the reasons for seeking a determination, and including a description of the spaces in question, if applicable.

■ 26. Revise § 69.75 to read as follows:

§ 69.75 Figures.

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$h \geq H/3$ but not less than 2.50'

$h \geq H/3$ but not less than 2.50'

ABCD = Opening in deck
 ABCDEFGH = Excluded space

$l_2 < 2w_2$

$l_1 > 2w_1$

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■ 27. Revise the heading for subpart C to read as follows:

Subpart C—Standard Regulatory Measurement System

§ 69.101 [Amended]

■ 28. In § 69.101, after the word “Standard”, add the word “Regulatory”.

■ 29. Amend § 69.103 as follows:

■ a. In the definition of “Gross tonnage”, after the word “Gross”, add the word “register”;

■ b. Add, in alphabetical order, the definitions of “Double bottom for water ballast”, “Line of the normal frames”, “Line of the ordinary frames”, “Normal

frame”, “Ordinary frame”, “Tonnage interval”, “Tonnage station”, and “Zone of influence method”;

■ c. In the definition of “Net tonnage”, after the word “Net”, add the word “register”; and

■ d. Revise the definitions of “Superstructure” and “Uppermost complete deck”.

The additions and revisions read as follows:

§ 69.103 Definitions.

* * * * *

Double bottom for water ballast means a space at the bottom of a vessel between the inner and outer bottom plating, used solely for water ballast.

* * * * *

Line of the normal frames means the imaginary horizontal line that connects the inboard faces of the smallest normal frames.

Line of the ordinary frames means the line of intersection of the imaginary surface or surfaces tangent to the inboard faces of the ordinary frames (or the inside of the vessel’s skin, if there are no ordinary frames), and the imaginary plane running transversely through the vessel at the tonnage station of interest.

* * * * *

Normal frame means a frame, regardless of size, used to stiffen a structure.

Ordinary frame means a primary side or bottom frame or floor used for strengthening the hull.

* * * * *

Superstructure means all permanently closed-in structures, including all portable enclosed spaces, on or above the line of the uppermost complete deck or, if the vessel has a shelter deck, on or above the line of the shelter deck. Examples of superstructure spaces include forecastles, bridges, poops, deckhouses, breaks, portable tanks, and modular quarters units.

* * * * *

Tonnage interval means the longitudinal distance between transverse sections of a vessel’s under-deck, between-deck, or superstructure when divided into an even number of equal parts for purposes of volume integration.

* * * * *

Tonnage station means the longitudinal location of each transverse section where breadth and depth measurements are taken when calculating under-deck volumes under this subpart. Tonnage stations are numbered consecutively from fore to aft, beginning with the number one.

Uppermost complete deck is defined in § 69.108.

Zone of influence method means a Simpson’s first rule integration method for determining volumes of under-deck spaces that limits the sectional areas associated with these spaces to the sectional areas at adjacent under-deck tonnage stations, depending on their proximity to those stations. For stations for which the under-deck sectional areas are multiplied by four, the zone of influence extends two-thirds of a tonnage interval on either side of the under-deck station, and for the remaining stations, the zone of influence extends one-third of a tonnage interval on either side of the station.

§ 69.105 [Amended]

■ 30. Amend § 69.105(d) by:

■ a. Removing the words “and year”; and

■ b. After the word “built”, adding the words “and delivery date (or scheduled delivery date)”.

■ 31. Amend § 69.107 as follows:

■ a. Revise the section heading and paragraphs (a) introductory text and (b); and

■ b. Add paragraph (c).

The revisions and addition read as follows:

§ 69.107 Gross and net register tonnage.

(a) The vessel’s gross register tonnage is the sum of the following tonnages, less the tonnages of certain spaces exempt under § 69.117:

* * * * *

(b) The vessel’s net register tonnage is the gross register tonnage less deductions under §§ 69.119 and 69.121.

(c) The authorized measurement organization must issue a U.S. Tonnage Certificate as evidence of a vessel’s measurement under this subpart, which must also indicate the vessel’s measurement under the Convention Measurement System in subpart B of this part, if applicable. There is no requirement to maintain the U.S. Tonnage Certificate on board the vessel.

■ 32. Add § 69.108 to read as follows:

§ 69.108 Uppermost complete deck.

(a) *Defined*. “Uppermost complete deck” means the uppermost deck which extends from stem to stern and from side to side at all points of its length and is bound by the vessel’s hull.

(b) *Restrictions*. The uppermost complete deck must not:

(1) Extend above any space exempted as open space under paragraph (d) of § 69.117;

(2) Extend below the design waterline, except in the case of vessels such as submersibles, where the entire

uppermost complete deck is submerged during normal operations; or

(3) Rest directly on consecutive or alternating ordinary bottom frames or floors for a distance of over one-half of the tonnage length.

(c) *Deck discontinuities*. Decking athwartships of the following deck discontinuities is not considered to be part of the uppermost complete deck:

(1) Through-deck openings that are not protected from the sea and the weather, such as would be provided by hatch covers or a surrounding superstructure that encloses the opening and whose area is more than 10 percent of the total deck area from stem to stern as viewed from above.

(2) Middle line openings conforming to the requirements of § 69.117(e)(2).

(3) Deck recesses that are not through-hull for which the depth of the deck recess at its deepest point is more than five feet below adjacent portions of the deck, and whose area (as viewed from above) is more than 10 percent of the total deck area from stem to stern, as viewed from above.

(4) Notches bounded by a deck below that wrap around from the ends to the sides of the vessel for which the depth at the deepest point is more than five feet below adjacent portions of the deck, the area is more than one percent of the total deck area from stem to stern as viewed from above, the length of the notch in the direction of the vessel’s longitudinal axis exceeds 10 feet at any point across its width, and the width of the notch in the direction of the vessel’s longitudinal axis exceeds two feet at any point along its length.

■ 33. Amend § 69.109 as follows:

■ a. In paragraph (c), after the words “two or less”, “more than two”, and “is the second”, add the word “enumerated”;

■ b. Revise paragraphs (d), (e)(2), (f)(2), (n), and (o)(1);

■ c. Add paragraphs (f)(4) and (p);

■ d. In paragraph (f)(1), after the words “inboard face of the”, add the word “ordinary”;

■ e. In paragraph (g)(2), after the words “division of the tonnage length” add the words “, whose location is referred to as a tonnage station, and assigned sequential tonnage station numbers, beginning at the stem”;

■ f. In paragraph (h)(1):

■ i. Remove the word “cellular”; and

■ ii. Add, after the words “double bottom”, the words “for water ballast”;

■ g. In paragraphs (h)(2) and (3), after the words “double bottom”, add the words “for water ballast”;

■ h. In paragraph (i)(3), after the words “double bottom”, add the words “for water ballast”; and

■ i. In the heading of paragraph (m) and paragraph (m)(1), after the words “double bottom”, add the words “for water ballast”.

The revisions and additions read as follows:

§ 69.109 Under-deck tonnage.

* * * * *

(d) *Enumerating the decks to identify the second deck from the keel.* The uppermost complete deck is an enumerated deck. Decks below the uppermost complete deck that extend from stem to stern and side to side at all points along their lengths are also enumerated, provided they are not disqualified by either of the following deck discontinuities:

(1) A through-deck opening that is not fitted with a cover (or equivalent) and whose area is more than 10 percent of the total deck area, as viewed from above.

(2) A deck recess that is not through-hull for which the depth at its deepest point is more than five feet below adjacent portions of the deck and whose area as viewed from above is more than 10 percent of the total deck area from stem to stern, as viewed from above.

(e) * * *

(2) If the tonnage deck is stepped, the line of the tonnage deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. Steps that do not extend from side to side or are less than three feet in length are ignored when establishing the line of the tonnage deck. (See § 69.123, figures 1 and 2.) Spaces between the line of the tonnage deck and the higher portions of that deck are not included in under-deck tonnage.

(f) * * *

(2) For a vessel having a headblock or square end with framing which extends from the tonnage deck to the bottom of the vessel, the tonnage length terminates on the inboard face of the headblock or ordinary end frames. (See § 69.123, figure 4.)

* * * * *

(4) The forward and after termini of the tonnage length must be a distance of no more than eight and one-half feet from the associated inboard surface of the skin of the hull at the bow and stern as measured at the centerline of the vessel, and the after terminus must not be forward of the centerline of the rudderstock.

* * * * *

(n) *Spaces open to the sea.* In calculating the tonnage of spaces below the uppermost complete deck, subtract from each breadth measurement the

portion of that measurement that spans a space, or a portion thereof, that is open to the sea.

(o) * * *

(1) An open vessel is a vessel without an uppermost complete deck.

* * * * *

(p) *General requirements on ordinary frames—(1) Construction.* An ordinary frame must not be penetrated by an intersecting frame used to strengthen the vessel’s hull, except in a vessel of wooden construction. Ordinary frames must be of the same material, or have the same material properties, as the adjacent hull, and attach to the adjacent hull to at least the same extent as adjacent ordinary and normal frames. If comprised of different elements, the elements must be joined to each other to the same extent that the frame is joined to the hull. The frame, or portions thereof, not meeting these requirements must be treated as if not there when establishing the line of the ordinary frames.

(2) *Frame spacing and extension.* Ordinary frames used to establish the line of the ordinary frames must be spaced on centers that are a maximum of four feet apart. These frames must extend for a length of at least one tonnage interval that begins at, ends at, or crosses the associated tonnage station. For a longitudinally-framed vessel, the frames must begin and end at a transverse ordinary frame or at the vessel’s hull.

(3) *Different sized framing.* When an ordinary frame has a different depth of frame than an adjacent ordinary frame, the line of the ordinary frames is established using the set of alternating frames that yields the smallest sectional area at the associated tonnage station, with the sectional area based on the frame with the smallest depth of frame in the chosen alternating set.

(4) *Frame openings.* If an opening in an ordinary frame is oversized, or is penetrated by a frame other than an ordinary frame, the line of the ordinary frames is established as if the frame material above and inboard of the opening is not there. Similarly, frame material separating adjacent openings that are within the longest linear dimension of either opening must be treated as if not there when establishing the line of the ordinary frames. An opening is oversized if the opening is:

(i) Circular in shape with a diameter exceeding 18 inches;

(ii) Oval in shape of a size greater than 15 × 23 inches (*i.e.*, either the minor axis exceeds 15 inches or the major axis exceeds 23 inches, and the oval’s area exceeds 255 square inches (345 square inches in a fuel tank)); or

(iii) Any shape other than circular or oval, whose area exceeds 255 square inches (345 square inches in a fuel tank).

(5) *Asymmetrical framing.* Where ordinary frames are configured such that the line of the ordinary frames would be asymmetrical about the centerline of the vessel, breadth measurements are determined by taking half-breadths on the side of the vessel that yields the greatest sectional area at the associated tonnage station, and multiplying those half-breadths by a factor of two to yield the full breadths.

■ 34. Amend § 69.111 as follows:

■ a. Revise paragraph (b)(2);

■ b. In paragraph (c)(1), remove the words “inboard face of the normal side frames” and add, in their place, the words “normal frames”; and

■ c. In paragraph (c)(3):

■ i. Remove the words “between the faces of the normal side frames”; and

■ ii. After the words “of the space”, add the words “to the line of the normal frames”.

The revision reads as follows:

§ 69.111 Between-deck tonnage.

* * * * *

(b) * * *

(2) If the uppermost complete deck is stepped, the line of the uppermost complete deck is the longitudinal line of the underside of the lowest portion of that deck parallel with the upper portions of that deck. Steps that do not extend from side to side or are less than three feet in length are ignored when establishing the line of the uppermost complete deck. Spaces between the line of the uppermost complete deck and the higher portions of the deck are included in superstructure tonnage.

* * * * *

■ 35. Amend § 69.113 as follows:

■ a. Revise paragraphs (a) and (b)(1);

■ b. In paragraph (b)(3), after the words “inside breadth”, add the words “to the line of the normal frames”; and

■ c. In paragraph (f), add a sentence at the end of the paragraph.

The revisions and addition read as follows:

§ 69.113 Superstructure tonnage.

(a) *Defined.* “Superstructure tonnage” means the tonnage of all superstructure spaces.

(b) * * *

(1) Measure the length of each structure along its centerline at mid-height to the line of the normal frames. (See § 69.123, figure 11.)

* * * * *

(f) * * * All measurements are terminated at the line of the normal frames.

■ 36. Revise § 69.115(c) to read as follows:

§ 69.115 Excess hatchway tonnage.

* * * * *

(c) From the sum of the tonnage of the hatchways under this section, subtract one-half of one percent of the vessel's gross register tonnage exclusive of the hatchway tonnage. The remainder is added as excess hatchway tonnage in calculating the gross register tonnage.

■ 37. Amend § 69.117 as follows:

- a. Revise the section heading and paragraphs (c)(2) and (3), (d)(1), (d)(2) introductory text, and (d)(2)(i);
- b. In paragraph (a), remove the word "gross";
- c. Remove paragraphs (c)(4) and (f)(4)(iii);
- d. Redesignate paragraphs (f)(4)(iv) through (ix) as paragraphs (f)(4)(iii) through (viii), respectively;
- e. In paragraph (d)(3):
- i. Remove the text "through (d)(2)(iii)" and add, in its place, the text "and (iii)"; and
- ii. Add a sentence at the end of the paragraph;
- f. Add paragraphs (d)(3)(i) and (ii) and (d)(8);
- g. In paragraphs (d)(5)(ii) and (d)(6)(iii), after the words "tightly against the", add the words "weather side of the";
- h. In paragraph (d)(7), remove the initial word "A" and add, in its place, the words "Notwithstanding the opening size requirements of paragraph (d)(2) of this section, a";
- i. In the heading of paragraph (e), remove the words "next lower deck" and add, in their place, the words "uppermost complete deck";
- j. In paragraph (e)(1):
- i. Remove the words "next lower deck" and add, in their place, the words "uppermost complete deck"; and
- ii. After the words "exempt from", remove the word "gross";
- k. In paragraph (e)(2)(v), add a sentence at the end of the paragraph;
- l. In paragraph (f) introductory text, following the words "be exempt from", remove the word "gross";
- m. In paragraph (f)(4):
- i. After the words "to be exempted from", remove the word "gross"; and
- ii. After the words "percent of the vessel's gross", add the word "register";
- n. In paragraph (f)(5), add a sentence at the end of the paragraph; and
- o. In paragraph (g)(3), after the words "under-deck was divided", add the words ", and the zone of influence method must be applied if the ordinary frames upon which the under-deck breadth measurements are based do not have the same depth of frame".

The revisions and additions read as follows:

§ 69.117 Spaces exempt from inclusion in tonnage.

- * * * * *
- (c) * * *
- (2) As used in this section, "passenger space" means a space reserved exclusively for the use of passengers and includes, but is not limited to, berthing areas, staterooms, bathrooms, toilets, libraries, writing rooms, lounges, dining rooms, saloons, smoking rooms, and recreational rooms. The space need not be part of or adjacent to a berthing area to be considered a passenger space. Spaces used by both passengers and crew members (*e.g.*, first aid stations), or used for passenger support but not accessible to passengers at all times (*e.g.*, vaults on a gaming vessel) cannot be exempted as passenger space.
- (3) A passenger space located on, or above the first deck above the uppermost complete deck is exempt from tonnage. To qualify as the first deck above the uppermost complete deck, the deck must be at least six inches above the uppermost complete deck at all points along its length.
- (d) * * *
- (1) Structures that are located on or above the line of the uppermost complete deck that are under cover (sheltered), but open to the weather are exempt from tonnage as open space. The following additional requirements apply:
- (i) If a structure is divided into compartments, only those compartments which are open to the weather are exempt from tonnage under the provisions of this section.
- (ii) Open space cannot progress vertically through openings in a deck within the structure.
- (iii) A space that is outside a structure's boundary bulkhead as defined in § 69.53 is considered open to the weather provided the space is eligible to be treated as an excluded space under the provisions of § 69.61, regardless of whether or not the space is fitted with means designed for securing cargo or stores.
- (2) A structure is considered open to the weather when an exterior end bulkhead of the structure is open and, except as provided in paragraphs (d)(4), (5), and (6) of this section, is not fitted with any means of closing. To be considered open to the weather, the end bulkhead must not have a coaming height of more than two feet in way of any required opening nor any permanent obstruction within two and one-half feet of the opening, it must be fitted with a deck or platform that is a

minimum of two and one-half feet wide on the exterior side of the opening, and it must have one of the following:

- (i) Two openings, each at least three feet wide and at least four feet high in the clear, one on each side of the centerline of the structure. If the openings lead to two separate interior compartments, there must be circulation of open space between the two compartments via a single such opening, or series of such openings, in the intermediate bulkhead(s).

* * * * *

(3) * * * The following additional requirements apply:

- (i) For the interior compartment to be considered open to the weather, any compartment or series of compartments from which the open space progresses must have an opening or openings meeting the requirements for end bulkhead openings, except that the opening(s) need not be located in the forward or after end of the compartment.

(ii) Open space may not progress from a space that is open under the provisions of paragraph (d)(1)(iii) of this section unless the space may also be considered open under another provision of this section.

* * * * *

(8) A structure is considered open to the weather if:

- (i) Both sides of the structure are open and not fitted with any means of closing other than temporary covers meeting the requirements of paragraphs (d)(4), (5), and (6) of this section;

(ii) The openings are directly across from each other, are not separated by a bulkhead or bulkheads, and do not have any permanent obstruction within two and one-half feet of either opening; and

(iii) The openings have a continuous height of at least three feet, or the full height of the structure, whichever is less, and either extend the full length of the structure or each have an area of 60 square feet.

(e) * * *

(2) * * *

(v) * * * Battening, caulking, seals, or gaskets of any material may not be used in association with any middle line opening cover.

* * * * *

(f) * * *

(5) * * * Changes in vessel service must also be reported if a water ballast justification was required to be submitted for the vessel.

* * * * *

■ 38. Amend § 69.119 as follows:

- a. Revise the section heading and paragraph (a); and

■ b. In paragraphs (d) and (m), after the word “gross”, wherever it appears, add the word “register”.

The revisions read as follows:

§ 69.119 Spaces deducted from tonnage.

(a) *Purpose.* This section lists the requirements for spaces (other than propelling machinery spaces under § 69.121) which, though included in calculating gross register tonnage (*i.e.*, are not exempt under § 69.117), are deducted from tonnage in deriving net register tonnage.

* * * * *

■ 39. Amend § 69.121 as follows:

■ a. In paragraphs (a), (b)(2)(vii), (d)(3), (e)(1), (e)(2)(i) through (iii), and (e)(3)(i) through (iii), after the word “gross”,

wherever it appears, add the word “register”; and

■ b. In paragraphs (e)(2)(iii) and (e)(3)(iii), remove the words “vessel’s owner” and add, in their place, the words “vessel owner”;

■ c. In paragraph (b)(1), following the words “spaces exempt from”, remove the word “gross”; and

■ d. Revise paragraph (d)(1).

The revision reads as follows:

§ 69.121 Engine room deduction.

* * * * *

(d) * * *

(1) Under § 69.117(b)(4), framed-in spaces located above the line of the uppermost complete deck and used for propelling machinery or for admitting

light or air to a propelling machinery space are exempt from inclusion in tonnage. However, upon written request to a measurement organization listed in § 69.15, the vessel owner may elect to have these spaces included in calculating the gross register tonnage, then deducted from the gross register tonnage as propelling machinery spaces under paragraph (b)(2)(viii) of this section when calculating the net register tonnage.

* * * * *

■ 40. In § 69.123, revise Figures 1 through 12 to read as follows:

§ 69.123 Figures.

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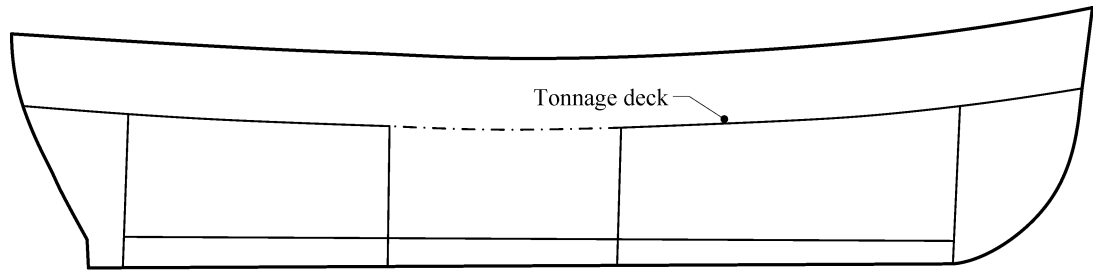


Figure 1

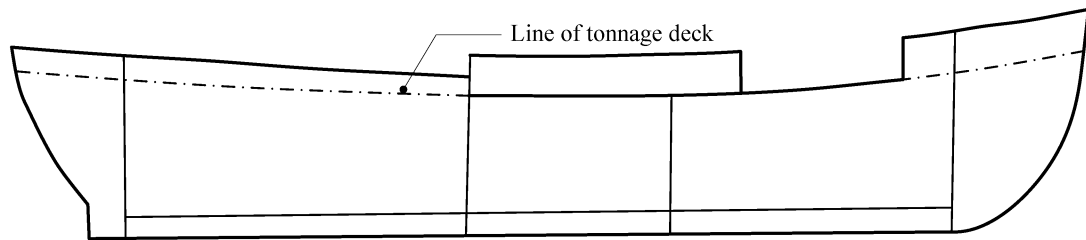


Figure 2

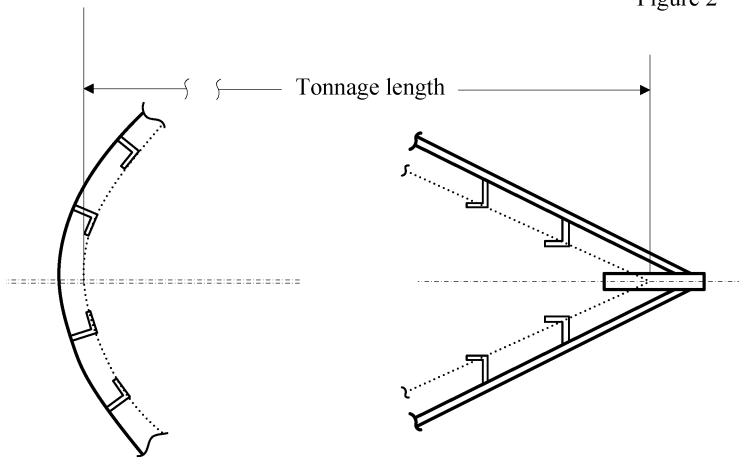


Figure 3

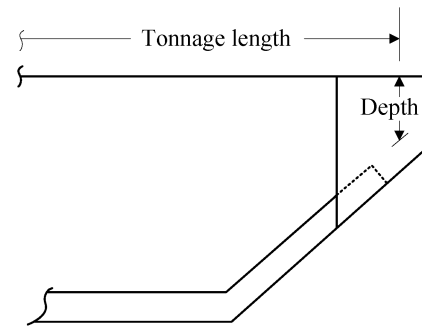


Figure 4

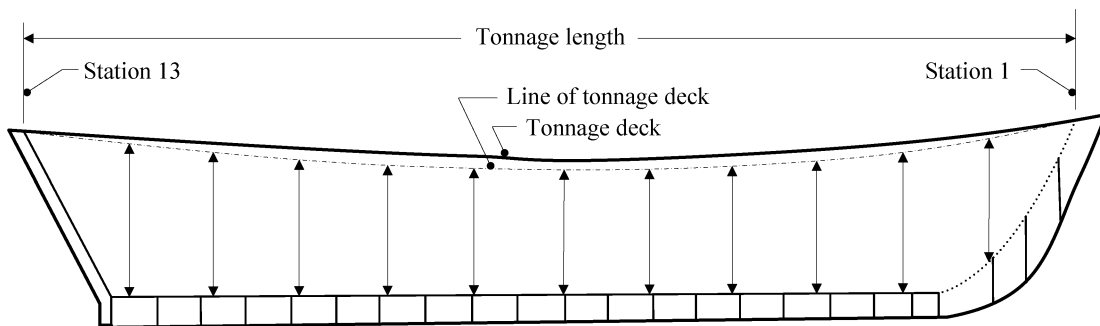


Figure 5

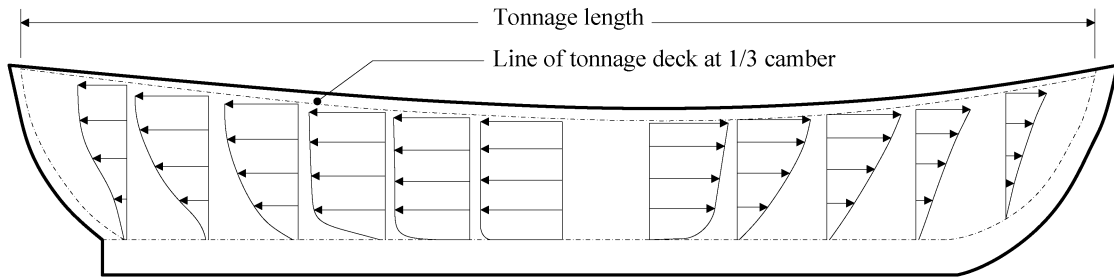


Figure 6

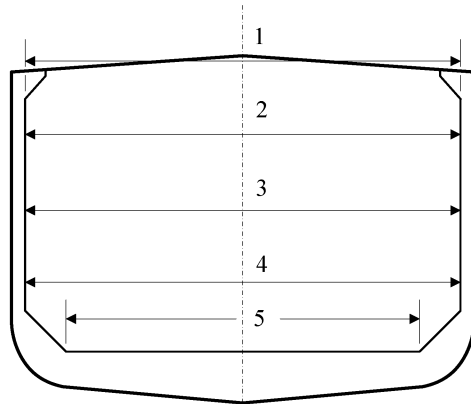


Figure 7

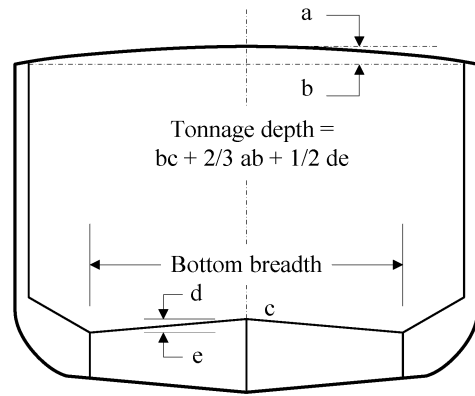


Figure 8

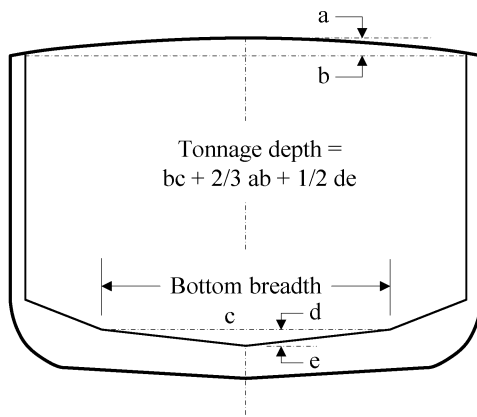


Figure 9

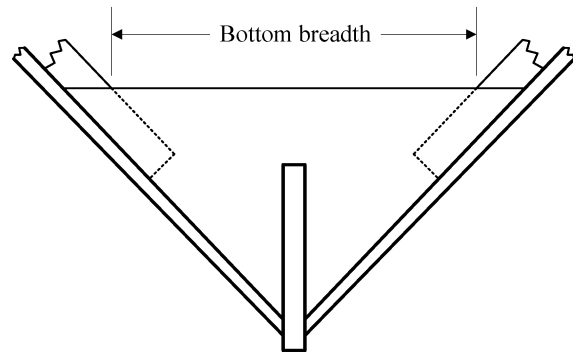


Figure 10

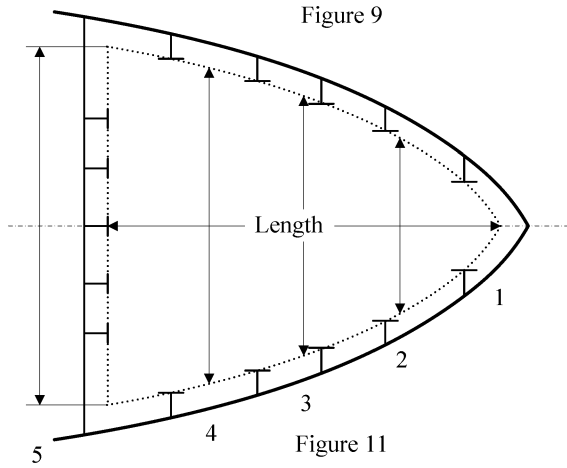


Figure 11

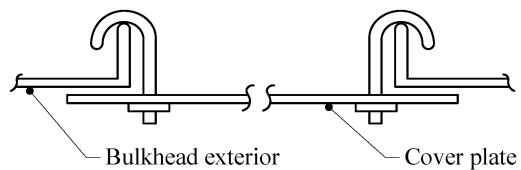


Figure 12

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■ 41. Revise the heading for subpart D to read as follows:

Subpart D—Dual Regulatory Measurement System

§ 69.151 [Amended]

■ 42. In § 69.151:

- a. After the words “one net” and “two net”, add the word “register”; and
- b. Remove the words “the Dual Measurement System” and add, in their place, the words “this subpart”.

§ 69.153 [Amended]

■ 43. In § 69.153(a), after the words “two gross” and “higher gross”, add the word “register”.

§ 69.155 [Amended]

■ 44. In § 69.155:

- a. After the word “Standard”, add the word “Regulatory”; and
- b. Remove the words “the Dual Measurement System” and add, in their place, the words “this subpart”.

§ 69.157 [Amended]

■ 45. In § 69.157, in the definitions of “Gross tonnage” and “Net tonnage”, before the word “tonnage”, add the word “register”.

§ 69.159 [Amended]

■ 46. In § 69.159, remove the words “for the Standard Measurement System”.

■ 47. Amend § 69.161 as follows:

- a. Revise the section heading;
- b. In paragraph (a) introductory text, after the word “Gross”, add the word “register”;
- c. In paragraphs (a)(5) and (b), after the word “gross”, add the word “register”;

■ d. In paragraph (b), after the word “Net” add the word “register”; and

■ e. Add paragraph (c).

The revision and addition read as follows:

§ 69.161 Gross and net register tonnages.

* * * * *

(c) The authorized measurement organization must issue a U.S. Tonnage Certificate as evidence of a vessel’s measurement under this subpart, which must also indicate the vessel’s measurement under the Convention Measurement System in subpart B of this part, if applicable. There is no requirement to maintain the U.S. Tonnage Certificate on board the vessel.

§ 69.163 [Amended]

■ 48. In § 69.163, remove the words “the Dual Measurement System” and add, in their place, the words “this subpart”.

§ 69.165 [Amended]

■ 49. In § 69.165, remove the words “the Dual Measurement System” and add, in their place, the words “this subpart”.

§ 69.167 [Amended]

■ 50. In § 69.167, remove the words “the Dual Measurement System” and add, in their place, the words “this subpart”.

§ 69.169 [Amended]

■ 51. In § 69.169, in the section heading and the introductory text, remove the word “gross”.

§ 69.173 [Amended]

■ 52. In § 69.173, before the word “tonnage”, wherever it appears, add the word “register”.

§ 69.175 [Amended]

■ 53. Amend § 69.175 as follows:

- a. In paragraph (a):
 - i. After the words “two net”, add the word “register”; and
 - ii. Remove the words “one net tonnage”, and add, in their place, the words “one net register tonnage corresponding to the lower gross and net register tonnages”;
- b. In paragraph (b), after the words “two net”, add the word “register”; and
- c. In paragraph (c):
 - i. After the words “low net”, add the word “register”; and
 - ii. After the words “On these vessels,” add the words “a load line must be assigned at a level below the line of the second deck, and”.

§ 69.177 [Amended]

■ 54. Amend § 69.177 as follows:

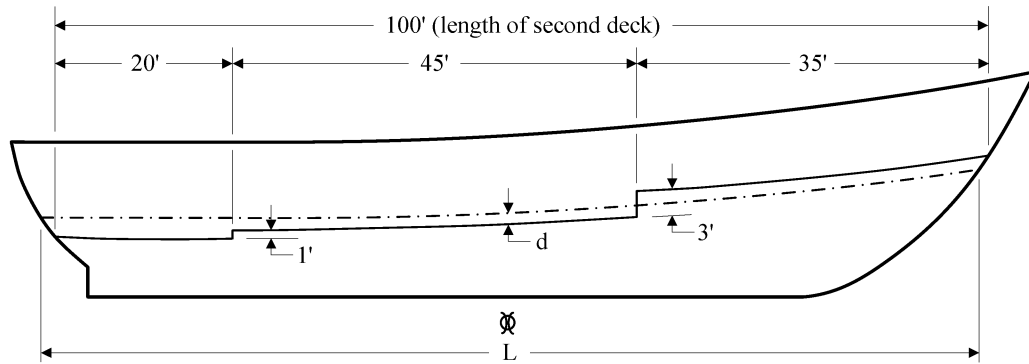
- a. In paragraph (a)(1), remove the words “the Dual Measurement System” and add, in their place, the words “this subpart”;
- b. In paragraph (a)(6)(i), after the words “one net”, add the word “register”;
- c. In paragraph (c), after the word “two net”, add the word “register”; and
- d. In paragraph (d), after the words “side of the vessel” add the words “, except in the case of a freeboard deck line mark placed at the location of the second deck if the second deck is the actual freeboard deck for purposes of a vessel’s load line assignment”.

■ 55. In § 69.181, revise Examples (1) and (2) to read as follows:

§ 69.181 Locating the line of the second deck.

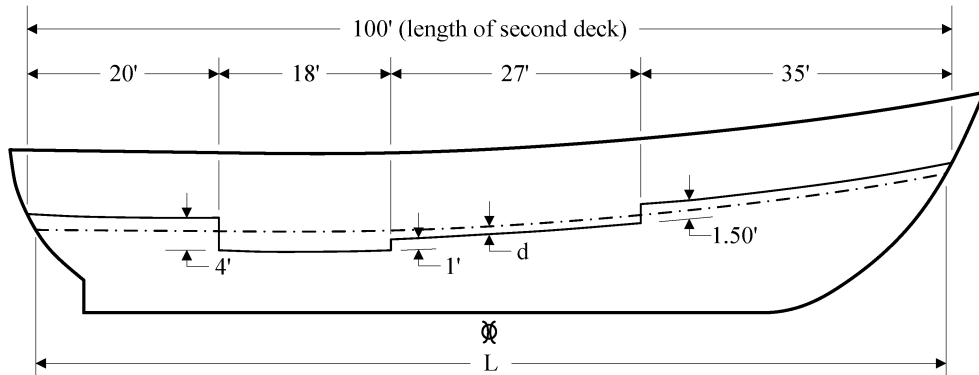
* * * * *

Example: (1)



L = Length of the line of the second deck.
 d = Distance from amidship portion of second deck to line of second deck.
 $d = \frac{35 \times 3}{100} - \frac{20 \times 1}{100} = +0.85$ feet.

Example: (2)

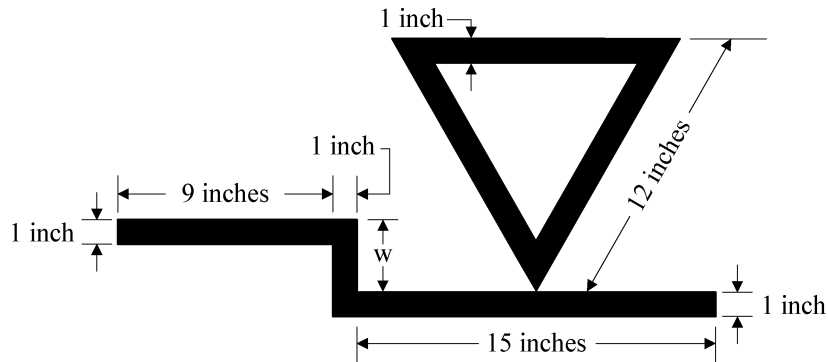


$d = \frac{20 \times 3}{100} + \frac{35 \times 1.5}{100} - \frac{18 \times 1}{100} = +0.945$ feet.

■ 56. In § 69.183, in paragraphs (a), (b), and (c), revise the images to read as follows:

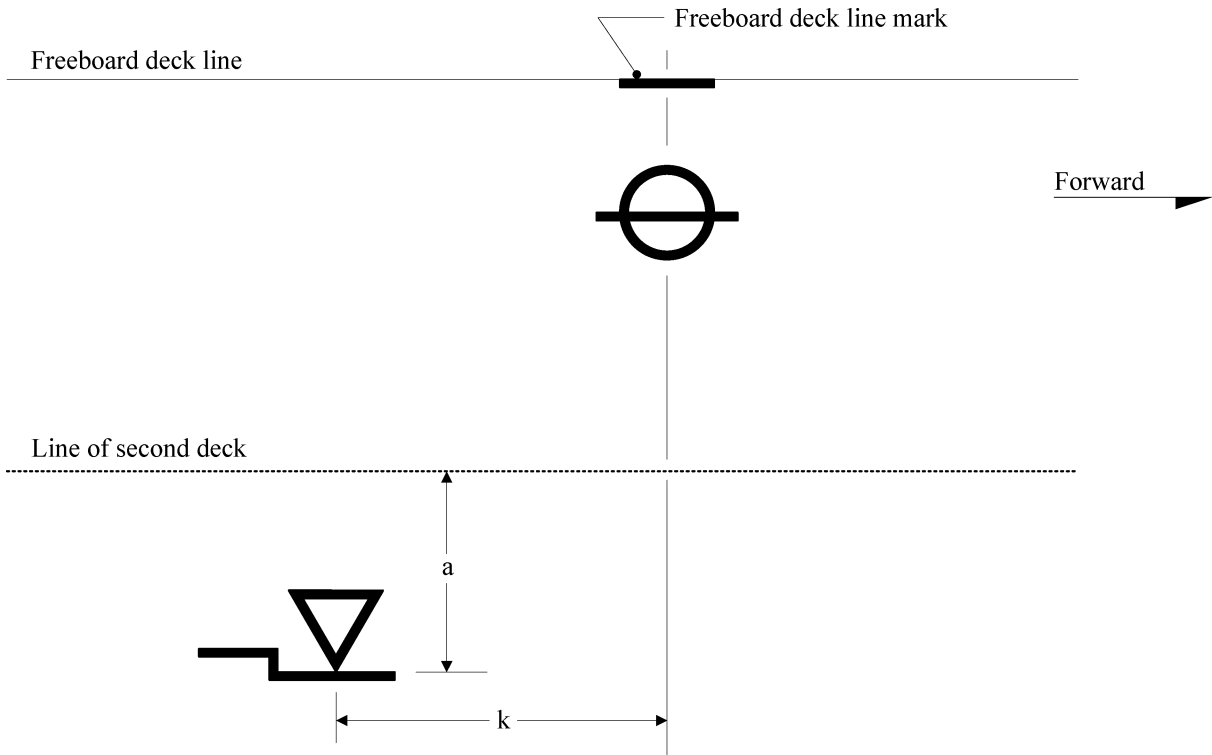
§ 69.183 Figures.

(a) * * *



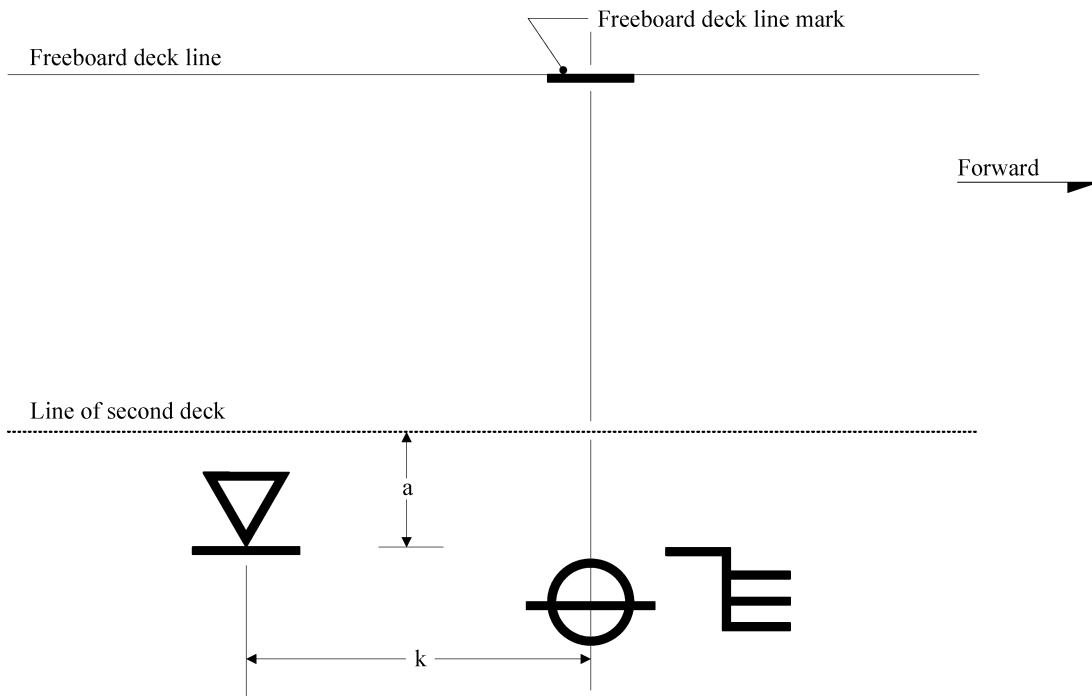
* * * * *

(b) * * *



* * * * *

(c) * * * *



* * * * *

■ 57. Revise the heading to subpart E to read as follows:

Subpart E—Simplified Regulatory Measurement System

§ 69.201 [Amended]

■ 58. In § 69.201, after the word “Simplified”, add the word “Regulatory”.

■ 59. Revise § 69.205 to read as follows:

§ 69.205 Application for measurement services.

(a) Except as noted under paragraph (c) of this section, to apply for measurement under this subpart, the vessel owner must complete an

Application for Simplified Measurement (form CG–5397). If the vessel is documented, or intended to be documented, as a vessel of the United States under part 67 of this chapter, the vessel owner must submit the application form to the National Vessel Documentation Center. Otherwise, the form is not further processed, but may be retained, at the vessel owner's option, as evidence of the tonnage measurement under this part.

(b) The Application for Simplified Measurement (form CG–5397) must include the following information:

(1) Vessel's name and number (*e.g.*, official number, International Maritime Organization (IMO) number, or Coast Guard number).

(2) Vessel hull identification number or other number assigned by builder.

(3) Hull material.

(4) Hull shape.

(5) Overall length, breadth, and depth of vessel and each of the vessel's individual hulls.

(6) Location of any propelling machinery (*e.g.*, inside or outside of the hull).

(7) Dimensions of the principal deck structure, if its volume exceeds the volume of the hull.

(c) At the vessel owner's option, a Builder's Certification and First Transfer of Title (form CG–1261), which includes the same information specified in paragraph (b) of this section may be submitted to the National Vessel Documentation Center instead of the Application for Simplified Measurement for a vessel that is documented, or intended to be documented, as a vessel of the United States under part 67 of this chapter.

§ 69.207 [Amended]

■ 60. In § 69.207(a):

■ a. Remove the word “half”; and

■ b. Remove the text “.05” and add, in its place, the word “tenth”.

■ 61. Amend § 69.209 as follows:

■ a. Revise the section heading;

■ b. In heading of paragraph (a), after the word “Gross”, add the word “register”;

■ c. In paragraph (a), after the word “gross”, wherever it appears, add the word “register”;

■ d. In the heading of paragraph (b), after the words “Net”, add the word “register”;

■ e. In paragraphs (b)(1) and (2), after the words “net” and “gross”, wherever they appear, add the word “register”;

■ f. Add paragraph (c).

The revision reads as follows:

§ 69.209 Gross and net register tonnages.

* * * * *

(c) *Certification of measurement.* For a vessel that is documented as a vessel of the United States under part 67 of this chapter, the vessel's Certificate of Documentation serves as evidence of measurement under this subpart. For all other vessels, a completed Application for Simplified Measurement (form CG–5397) serves as evidence of the tonnage measurement under this part.

■ 62. Add § 69.211 to read as follows:

§ 69.211 Treatment of novel type vessels.

Refer questions regarding the application of the tonnage measurement rules under this subpart to novel type vessels to the Commandant.

Dated: March 8, 2016.

J.G. Lantz,

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

[FR Doc. 2016–05623 Filed 3–30–16; 8:45 am]

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