



## Marine Safety Center Technical Note

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MTN 02-05  
16715  
May 23, 2005

Subj: Transfer to U.S. flag under the USCG Alternative Compliance Program, NVIC 2-95

Ref: (a) NVIC 2-95, Change 1  
(b) NVIC 10-81  
(c) NVIC 8-84  
(d) International Association of Classification Societies (IACS)

### 1. Purpose:

The Marine Safety Center is responsible for conducting oversight of plans approved by authorized 3<sup>rd</sup> parties on behalf of the Coast Guard. To facilitate oversight in cases of transfer of flag under the Alternative Compliance Program (ACP), or when both NVIC 2-95 (ACP) and NVIC 10-81 are applied together (ACP/Reflag), this Marine Technical Note provides guidance. Notable exceptions to this guidance involve vessels transferring flag under the national security related Maritime Security Program (MSP), which involves fewer requirements and an expeditious plan review/approval by the Coast Guard.

### 2. Discussion:

#### Process Summary

Transfers to the U.S. flag (reflag) using an authorized 3<sup>rd</sup> party, or Authorized Class Society (ACS), as the Coast Guard's representative (ACP/Reflag) are generally completed no later than 6 months from the time the Coast Guard, Office of Compliance (G-MOC-1), formally accepts the vessel into the process via a letter. The exact completion date for the reflag, however, is dependent upon many factors. For example, the age of vessel, whether the vessel is currently classed by an IACS member, the standards to which the vessel was originally built, the availability of vessel plans in English, the thoroughness of the Gap Analysis<sup>1</sup>, and the extent of "equivalencies," or Gap solutions, are just some of the issues that affect the completion date.

In an ACP/Reflag, the ACS is the single point of contact between the Coast Guard and other parties associated with the vessel, including vessel owners and their representatives, shipyards, vendors, and component manufacturers. In this role, the ACS is the Coast Guard's representative, stepping away from a consultancy role in vessel design. Thus, the ACS is expected to compel compliance with the required standards (i.e. Class Rules + SOLAS + Supplement), arrange any meetings or visits to the vessel or Coast Guard offices, and generally educate vessel owners/submitters regarding the ACP/Reflag process.

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Gap Analysis – Identifies areas not meeting the required standards.

Listed below are steps necessary to complete a reflag within an estimated 4 to 6-month timeframe, as measured from the moment a vessel owner makes the decision to initiate the process – Note: There are exceptions to the steps below for MSP reflags, whereby a vessel is necessarily reflagged in less time, and with fewer steps.

#### General ACP/Reflag Steps

1. The ACS and vessel owner conduct preliminary contact;
2. Vessel owner, or their representative (not the ACS), prepares a Gap Analysis;
3. Vessel owner submits to the ACS the Gap Analysis, statutory certificates, Plan List<sup>2</sup> to be approved, and any other documentation deemed necessary by the ACS.
4. The ACS visits vessel to verify the Gap Analysis;
5. The ACS and owners review Gap Analysis findings and any proposed equivalencies;
6. Owner submits Gap Analysis, proposed equivalencies, Plan List to be approved by the ACS, and Application for Inspection, to Coast Guard;
7. Coast Guard (i.e. G-MOC) notifies both owner and the ACS whether application package is accepted. **The 6-month timeline begins and equivalencies must be formally submitted to the Coast Guard (i.e. Marine Safety Center) within 60 days;**
8. The ACS, owner, and Coast Guard (i.e. Marine Safety Center) meet to review Gap Analysis and proposed equivalencies;
9. After initial meeting, the ACS and owner refine equivalency proposals before formally presenting them to Coast Guard (i.e. Marine Safety Center) for approval;
10. Coast Guard (i.e. Marine Safety Center) formally notifies the ACS which equivalencies are approved;
11. The ACS reviews and stamps “approved,” plans in the Plan List;
12. Coast Guard (i.e. OCMI) conducts Inspection for Certification

#### Statutory Certificates

The following is a list of statutory certificates the Coast Guard expects vessel owners to provide to the ACS in order for a proper review of the vessel to take place. Failure to provide the applicable certificates to the ACS may result in an extension of the 6-month timeline, and possibly affect a vessel’s enrollment in the ACP/Reflag process.

- International Load Line Certificate;
- SOLAS Cargo Ship Safety Equipment Certificate;
- SOLAS Cargo Ship Safety Construction Certificate;
- (MODUs may substitute the relevant SOLAS Safety Certificate in lieu of Cargo Ship Safety Equipment and Safety Construction Certificates;
- International Oil Pollution Prevention Certificate;

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<sup>2</sup> Plan List – A detailed list of plans prepared by the shipyard or designer should be submitted to concerned parties at the beginning of the plan submission stage. The document should note to whom the plan will be submitted for review... and what action by the reviewing party is intended (approval, information only, etc.). NVIC 884

- International Tonnage Certificate;
- International Safety Management Document of Compliance (for the company) and Safety Management Certificate (for each vessel);
- Continuous Synopsis Record;
- International Ship Security Certificate;
- High Speed Craft Safety Certificate;
- International Air Pollution Prevention Certificate;
- Passenger Ship Safety Certificate.

#### Application for Inspection (i.e. enrollment in the process)

The vessel owner submits an Application for Inspection to the Coast Guard as per 46 CFR 2.01-1 using form CG-3752-“Application for Inspection of U.S. Vessel.” In addition, the vessel owner must provide the Gap Analysis, statutory certificates, Plan List, and any equivalency proposals, with the Application for Inspection.

#### Plan Review and Approval

The ACS will review and approve (i.e. stamp) plans identified in the Plan List. The actual wording of the stamp must clearly state that the plan is approved on behalf of the U.S. Coast Guard as per the Alternate Compliance Program. The ACS is free to use an existing stamp, or design, within their inventory provided the stamp is intentionally designed to have items written-in after the plan has been stamped; a special stamp does not have to be created for ACP/Reflags.

It is understood in most cases that reflag vessels have recently been operating and are already classed by an IACS member. Therefore, the Coast Guard expects discretion may be applied as to the level of detail as compared to a new construction project. Nonetheless, the Coast Guard requires that the ACS review and approve plans described above, regardless of the level of review given, just as the Marine Safety Center would do in cases where ACP is not involved (i.e. direct submissions to Coast Guard).

The ACS is typically familiar with its Rules and SOLAS. In addition, the ACS already has an understanding of other IACS members’ Rules due to arrangements under IACS for the transfer of vessels from one class to another. Thus, it is expected that the ACS will need to concentrate on its Supplement during plan review. In these cases, the ACS, not the Coast Guard, decides on the level of review for each plan. – But in cases where the vessel is not classed, or the Class in question is not an IACS member, a complete review of each plan is expected.

#### Critical ACP/Reflag Elements

There are three critical elements to a successful transfer of flag when using NVIC 2-95 and NVIC 10-81 together: (a) a properly completed Gap Analysis at the time of application; (b) a technical comparison, or engineering analysis, of each proposed “equivalency”; (c) adherence to

a timeline from the moment the vessel is accepted by G-MOC into the reflag process. The Gap Analysis identifies items that do not comply with the required standards. A proper standards comparison for each proposed equivalency ensures an acceptable technical analysis, and thus timely review by the Coast Guard. And the timeline provides milestones for parties to observe, and which ultimately gives vessel owners a sense when their vessel will be ready for service under the U.S. flag.

### I. Gap Analysis

The Gap Analysis is the preeminent document used by both the Coast Guard and the ACS in addressing technical issues (i.e. vessel design) in cases of reflags. It represents every gap, or technical issue, between the required standards and the standards the vessel is built to. The Gap Analysis must be submitted to the Coast Guard at time of application and in conjunction with other application material. Therefore, the Gap Analysis must be complete. Otherwise, failure to properly identify gaps may delay application and/or possibly prevent the vessel from entering the ACP/Reflag process.

As a general guide, whenever preparing a Gap Analysis, NVIC 8-84, SOLAS, Supplement, and applicable Class Rules, should be used for identifying vessel systems and standards that should be addressed. For example, within NVIC 8-84 is a list of vessel systems, or plans, which the Coast Guard requires when conducting overall plan review for any new construction, reflag or major conversion. Therefore, at a minimum, the Gap Analysis should discuss each applicable system outlined in NVIC 8-84, as well as any other system unique to the type of vessel in question.

Throughout an ACP/Reflag, the ACS performs its responsibilities as a representative of the Coast Guard. Consequently, to avoid any conflict of interest, the Gap Analysis must be produced by the owner, or the owner's representative, and not by the ACS. Only after the Gap Analysis is prepared can the ACS receive the Gap Analysis and begin its review.

Generally, whenever the ACS or Coast Guard reviews a Gap Analysis, technical issues arise that often require a visual inspection of the vessel. Therefore, as the Coast Guard's representative, the ACS is expected to resolve these questions well before the Gap Analysis is presented to the Coast Guard. – This further helps avoid any surprises when the Coast Guard (i.e. OCMI) visits the vessel in preparation for issuing the Certificate of Inspection. – Where circumstances arise that require on-board inspection of systems, installations, or construction of a vessel, the Coast Guard expects ACS personnel to visit the vessel. Accordingly, vessel owners are expected to accommodate ACS personnel visits well before there is a transfer of flag, and possibly before there is transfer of ownership as well.

When discussing each system within the Gap Analysis, focus should be on those elements that do not comply with the prescribed standard of Class Rules + SOLAS + Supplement. Each gap must be written as a comparison of the required standard versus standards the vessel was originally built to. Exceptions to a standards comparison are allowed in cases where vessel plans

are available and were originally prepared in English. In those cases, the gap discussion can be a comparison between required standards and what is shown on the plan.

## II. Equivalencies

The vessel owner, or their designated representative, is responsible for developing equivalency proposals. Once developed, these proposals are then submitted to the ACS along with the Gap Analysis. The ACS reviews the equivalency proposals in conjunction with the Gap Analysis, ensuring they constitute engineering solutions that will likely satisfy the gaps. Next, the ACS must transmit the equivalency proposal, under cover letter, to the Coast Guard Marine Safety Center – this helps avoid confusing equivalency proposals with other communiqués between the ACS and the Marine Safety Center. – The Marine Safety Center will then notify the ACS within 30 days on the disposition of equivalencies submitted. For equivalencies that are approved, the ACS is expected to oversee the resolution, or implementation, by the vessel owner of the equivalency.

Please note that equivalencies are not waivers, but instead are engineering solutions to gaps between the required standard and the vessel design. Again, equivalency proposals are reviewed and approved by the Marine Safety Center; waivers will be directed to the Coast Guard Office of Compliance (G-MOC).

Equivalencies must be written in the form of an engineering solution. Consequently, each must include an evaluation to the required standard, or technical specifications, and use generally accepted engineering units-of-measure for comparison. For example, if the standard requires mild steel of minimum hull plate thickness, then the equivalency must at least identify hull plate thickness and material in the proposed solution. Moreover, the equivalency would also have to explain how the proposed hull plate thickness is just as safe (i.e. equivalent) as the required plate. Bottom line: equivalencies must demonstrate through engineering measures that a proposed design at least meets the required standard of Class Rules + SOLAS + Supplement.

Finally, much time and frustration will be saved if equivalencies are delivered to the Coast Guard (i.e. Marine Safety Center) through proper channels. Equivalency proposals must be transmitted through the ACS to the Marine Safety Center. Moreover, the ACS is expected to screen equivalencies before transmitting them to the Marine Safety Center, as described on page 2, rejecting those that are not prepared properly and/or not likely to meet the required standard.

## III. Timeline

The following bullets represent the timeline for non-MSP reflags:

- As indicated in the general steps, estimate the reflagging process may take 4-6 months from the owner's decision to do so.
- Barring disruptions to the established timeline (e.g. late equivalency submissions), reflags will be completed within 6 months.

- Equivalencies and their proposed resolutions will be submitted to the MSC within 60 days of enrollment in the ACP/Reflag process.
- Equivalency reviews will require approximately 30 days by the MSC.
- Any equivalency submitted after the initial 60-day window will adversely impact the completion deadline by an amount equal to the tardiness.

For purposes of preparing activity guidance and the establishment of the ACP/Reflag timeline, the ACP/Reflag timeline begins when the Coast Guard, Office of Compliance (G-MOC-1), sends written notification to the vessel owner of acceptance into the process. At that point, the Marine Safety Center (MSC) will expect to receive the Gap Analysis, the Plan List, and preliminary equivalency proposals. Following the reception of this material, the ACS may schedule a joint meeting between the MSC, the ACS and vessel owners.

The primary purpose of the joint meeting with Coast Guard is to discuss equivalencies, timelines, deliverables, and challenges. – It is expected that the ACS will have educated the vessel owner about the overall ACP/Reflag process prior to the meeting. – The meeting serves as an opportunity for Coast Guard to identify problems with certain equivalency proposals submitted with the original application, well before they are formally submitted to the Marine Safety Center. Once an equivalency is formally submitted under cover letter to the MSC, the MSC will review the equivalency in approximately 30 days.

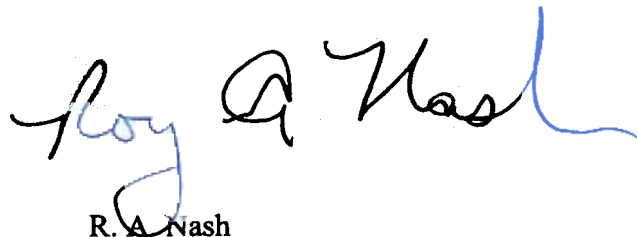
Experience shows that time delays revolve around the resolution of equivalencies. For that reason, members of Coast Guard Headquarters, Office of Standards (G-MSE), may attend the joint meeting in order to understand technical issues and to explain the nuances behind certain Coast Guard requirements. This is done in an effort to help the vessel owner find alternative solutions, or perhaps reconsider whether the solution (e.g. cost, timeline changes, etc.) is economically viable for them.

3. **Applicability:**

This Technical Note applies to plan review and technical work performed by an Authorized Class Society (ACS) on the behalf of the USCG. This is procedural guidance to administrative policy contained in the referenced Navigation and Vessel Inspection Circulars (NVICs).

4. **Action:**

The process described in this Marine Technical Note serves as a recommended practice based on experience. It is intended that this guidance be referenced or included in future updates to the referenced NVICs.



R. A. Nash  
Captain, U.S. Coast Guard  
Commanding Officer  
Marine Safety Center

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