

Federalism

The Coast Guard analyzed this rule under the principles and criteria contained in Executive Order 12612 and determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule amends user fees for vessel inspection and examination services to cap fees paid for services related to small passenger vessels, and exempts publicly owned ferries from payment of the fees.

Unfunded Mandates

Under the Unfunded Mandates Reform Act (Pub. L. 104-4), the Coast Guard considered whether this final rule will result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million (adjusted annually for inflation). Section 205 of the Unfunded Mandates Reform Act requires the Coast Guard to identify and to consider a reasonable number of regulatory alternates, and from those alternatives, select the least costly, most cost-effective, or least burdensome alternative that achieves the objective of this final rule. This rule does not impose additional costs upon any State, local, and tribal governments as a result of a mandate imposed upon them as a government agency. The completed analysis estimates that this final rule will provide a total savings to vessel owners and operators of approximately \$2.8 million dollars. Publicly owned ferries will no longer have to pay a total of \$428,200 in annual inspection user fees. This rule will, therefore, result in the reduction or elimination of fees paid by State, local, and tribal governments for inspection services provided to the applicable vessels owned by such entities.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(a) of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. Paragraph (34)(a) of that instruction excludes editorial or procedural regulations that clearly do not have any environmental impacts. "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 46 CFR Part 2

Fees, Marine safety, Vessels.
Accordingly, the interim rule amending 46 CFR part 2 which was

published in 62 FR 19229 on April 21, 1997, is adopted as a final rule with the following changes and amendments:

PART 2—VESSELS INSPECTIONS

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

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec 27, 1950, Ch 1155, sections 1, 2, 64 Stat. 1120 [see 46 U.S.C. App. Note prec. 1].

2. In § 2.10-5, revise paragraph (c)(2) to read as follows:

§ 2.10-5 Exemptions.

* * * * *

(c) * * *

(2) The vessel's use for fundraising activities without regard to the age of the participants aboard the vessel, provided revenues raised are for the operation and maintenance of the vessel and that such fundraising activities do not exceed one day of fundraising for each month of the vessel's operating season.

* * * * *

3. In § 2.10-25, revise the definitions of *ferry* and *youth* to read as follows:

§ 2.10-25 Definitions.

* * * * *

Ferry means a vessel that:

- (1) Operates in other than ocean or coastwise service;
- (2) Has provisions only for deck passengers or vehicles, or both;
- (3) Operates on a short run on a frequent schedule between two points over the most direct water route; and
- (4) Offers a public service of a type normally attributed to a bridge or tunnel.

* * * * *

Youth means an individual 21 years of age or younger.

Dated: September 28, 1998.

R.C. North,

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

[FR Doc. 98-29497 Filed 11-3-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-296]

Organization and Delegation of Powers and Duties; Delegation to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is delegating to the Commandant, United States Coast Guard, authority pertaining to the enforcement of various conservation statutes. These statutes include the Atlantic Coastal Fisheries Cooperative Management Act of 1993, Lacey Act Amendments of 1981, Endangered Species Act of 1973, Atlantic Tunas Convention Act of 1975, Eastern Pacific Tuna Licensing Act of 1984, North Pacific Anadromous Stocks Convention Act of 1992, Pacific Salmon Treaty Act of 1985, Fur Seal Act of 1966, Antarctic Conservation Act of 1978, Antarctic Living Marine Resources Convention Act of 1984, North Pacific Halibut Act of 1982, High Seas Fishing Compliance Act of 1995, and the Northwest Atlantic Fisheries Compliance Act of 1995. In order that the Code of Federal Regulations reflect this delegation, a change is necessary.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Gwyneth Radloff, Office of the General Counsel, C-50, (202) 366-9305, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation, as Secretary of the Department in which the Coast Guard is operating, is authorized to enforce each of the above Acts. The Secretary of Transportation is delegating this authority under these Acts to the Commandant of the Coast Guard. Delegation of authority to enforce these statutes is necessary to allow the Coast Guard to enter into cooperative fishery enforcement agreements with the National Marine Fisheries Service and state agencies.

In order to improve the speed and efficiency with which the Coast Guard can meet enforcement obligations, the Secretary is delegating authority to consult with other federal agencies or departments concerning the promulgation of regulations under the authority of the Eastern Pacific Tuna

Licensing Act, Pacific Salmon Treaty Act, and Antarctic Living Marine Resources Convention Act. For this same reason the Secretary is also delegating authority to promulgate regulations needed for enforcement of the Endangered Species Act.

This rule amends 49 CFR 1.46 by adding a new paragraph to reflect the delegation of the Secretary's authority under the aforementioned Acts to the Commandant of the Coast Guard.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 533(b). Furthermore, since this amendment expedites the Coast Guard's ability to meet the needs of its conservation and enforcement obligations, the Secretary for good cause finds, under 5 U.S.C. 553(d)(3), that notice, and public procedure on notice, before the effective date of this rule are unnecessary, and that this rule should be made effective on the date of publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. In § 1.46, paragraph (ppp) is added to read as follows:

§ 1.46 Delegations to the Commandant of the Coast Guard.

* * * * *

(ooo) Carry out the functions and exercise the authority vested in the Secretary by the following statutes:

(1) 16 U.S.C. 5106(h), relating to authorization of a person to enforce a moratorium declared under 16 U.S.C. 5106(c), pursuant to the Atlantic Coastal Fisheries Cooperative Management Act of 1993, as amended, Pub. L. 103-206, 107 Stat. 2447.

(2) 16 U.S.C. 3375(a), relating to the enforcement of the Lacey Act Amendments of 1981, as amended, Pub. L. 97-79, 95 Stat. 1073.

(3) 16 U.S.C. 1540(e) and (f), relating to promulgation of regulations under, and the enforcement of the Endangered Species Act of 1973, as amended, Pub. L. 93-205, 81 Stat. 844.

(4) 16 U.S.C. 971c and 971d, relating to the enforcement of the Atlantic Tunas Convention Act of 1975, as amended, Pub. L. 94-70, 89 Stat. 385.

(5) 16 U.S.C. 972e and 972g, relating to promulgation of regulations under, and enforcement of the Eastern Pacific Tuna Licensing Act of 1984, as amended, Pub. L. 98-445, 98 Stat. 1715.

(6) 16 U.S.C. 5008(a), relating to the enforcement of the North Pacific Anadromous Stocks Convention Act of 1992, as amended, Pub. L. 102-587, 106 Stat. 5098.

(7) 16 U.S.C. 3636 and 3637, relating to promulgation of regulations under, and the enforcement of the Pacific Salmon Treaty Act of 1985, as amended, Pub. L. No. 99-5, 99 Stat. 7.

(8) 16 U.S.C. 1156 and 1172(a), relating to the enforcement of the Fur Seal Act of 1966, as amended, Pub. L. 89-702, 80 Stat. 1091.

(9) 16 U.S.C. 2409, relating to the enforcement of the Antarctic Conservation Act of 1978, as amended, Pub. L. 95-541, 92 Stat. 2048.

(10) 16 U.S.C. 2434(b), 2436, and 2439, relating to conservation measures and promulgation of regulations under, and enforcement of the Antarctic Living Marine Resources Convention Act of 1984, as amended, Pub. L. 98-623, 98 Stat. 3398.

(11) 16 U.S.C. 773i, relating to the enforcement of the North Pacific Halibut Act of 1982, as amended, Pub. L. 97-176, 96 Stat. 78.

(12) 16 U.S.C. 5506, relating to the enforcement of the High Seas Fishing Compliance Act of 1995, as amended, Pub. L. 104-43, 109 Stat. 367.

(13) 16 U.S.C. 5606(e), relating to the enforcement of the Northwest Atlantic Fisheries Compliance Act of 1995, as amended, Pub. L. 104-43, 109 Stat. 377.

Issued in Washington, DC, this 27th day of October, 1998.

Rodney Slater,

Secretary of Transportation.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS-144; Amdt. 195-65]

RIN 2137-AC 78

Risk-Based Alternative to Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines Rule

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule allows operators of older hazardous liquid and carbon dioxide pipelines to elect a risk-based alternative in lieu of the existing rule. The existing rule requires the hydrostatic pressure testing of certain older pipelines. The risk-based alternative would allow operators to elect an approach to evaluating the integrity of these lines that takes into account individual risk factors. This would allow operators to focus resources on higher risk pipelines and effect a greater reduction in the overall risk from pipeline accidents.

DATE: This final rule takes effect November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366-4571, or e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this final rule, or Dockets Unit (202) 366-4046, for copies of this final rule document or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1994, RSPA published a final rule, "Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines," (Amdt. 195-51; 59 FR 29379) to ensure that certain older pipelines have an adequate safety margin between their maximum operating pressure and test pressure. This safety margin is to be provided by pressure testing according to part 195 standards or operation at 80 percent or less of a qualified prior test or operating pressure. The pipelines covered by the rule are steel interstate pipelines constructed before January 8, 1971, steel interstate offshore gathering lines constructed before August 1, 1977, or steel intrastate pipelines constructed before October 21, 1985, that transport hazardous liquids subject to part 195. Also covered are steel carbon dioxide pipelines constructed before July 12, 1991, subject to part 195.

On June 23, 1995, the American Petroleum Institute (API) filed a petition on behalf of many liquid pipeline operators that proposed a risk-based alternative to the required pressure testing rule. API indicated that its proposal would allow operators to focus resources on higher risk pipelines and to effect a greater reduction in the overall risk from pipeline accidents.

In order to determine whether the API proposal had merit, RSPA held a public meeting on March 25, 1996. On May 8 and November 7, 1996, and on May 17, 1997, RSPA briefed the Technical Hazardous Liquid Pipeline Safety