

d. When the hearing officer determines that a person has failed to obey an order to testify or to produce evidence, and such failure is in knowing and willful disregard of the order, the hearing officer shall so certify.

e. The party or the hearing officer seeking to compel testimony or the production of evidence may, upon the certification provide for in paragraph D.3.d. of this section, file an appropriate action in a court of competent jurisdiction to compel compliance with the hearing officer's order.

4. Hearing Officer's Findings of Fact and Decision

a. The hearing officer shall make written findings of fact and shall issue a decision setting forth the questions presented, the resolution of those questions, and the rationale for the resolution. The hearing officer shall file the findings of fact and decision with the Director, DOHA, with a copy to the parties.

b. The Director, DOHA, shall forward to the Director, DoDDS, or to the Military Department concerned, and to the NAP or the ICC, as appropriate, copies with all personally identifiable information deleted, of the hearing officer's findings of fact and decision or, in cases that are administratively appealed, of the final decision of the DOHA Appeal Board.

c. The hearing officer shall have the authority to impose financial responsibility for early intervention services, educational placements, evaluations, and related services under his or her findings of fact and decision.

d. The findings of fact and decision of the hearing officer shall become final unless a notice of appeal is filed under section F.1. of this Appendix. The DoDDS or the Military Department concerned shall implement a decision as soon as practicable after it becomes final.

E. Determination Without Hearing

1. At the request of a parent of an infant, toddler, or child aged 3 to 21, inclusive, when early intervention or special educational (including related) services are at issue, the requirement for a hearing may be waived, and the case may be submitted to the hearing officer on written documents filed by the parties. The hearing officer shall make findings of fact and issue a decision within the period fixed by paragraph D.1.n., of this Appendix.

2. The DoDDS or the Military Department concerned may oppose a request to waive that hearing. In that event, the hearing officer shall rule on that request.

3. Documents submitted to the hearing officer in a case determined without a hearing shall comply with paragraph D.1.g. of this appendix. A party submitting such documents shall provide copies to all other parties.

F. Appeal

1. A party may appeal the hearing officer's findings of fact and decision by filing a written notice of appeal with the Director, DOHA, within 5 calendar days of receipt of the findings of fact and decision. The notice of appeal must contain the appellant's certification that a copy of the notice of appeal has been provided to all other parties. Filing is complete upon mailing.

2. Within 10 calendar days of the filing the notice of appeal, the appellant shall submit a written statement of issues and arguments to the Director, DOHA, with a copy to the other parties. The other parties shall submit a reply or replies to the Director, DOHA, within 15 calendar days of receiving the statement, and shall deliver a copy of each reply to the appellant. Submission is complete upon mailing.

3. The Director, DOHA, shall refer the matter on appeal to the DOHA Appeal Board. It shall determine the matter, including the making of interlocutory rulings, within 60 calendar days of receiving timely submitted replies under section F.2. of this Appendix. The DOHA Appeal Board may require oral argument at a time and place reasonably convenient to the parties.

4. The determination of the DOHA Appeal Board shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent in whole or in part shall state that the parent has the right under 20 U.S.C. 921 *et seq.* and 20 U.S.C., 1400 *et seq.* to bring a civil action on the matters in dispute in a district court of the United States without regard to the amount in controversy.

5. No provision of this part or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this Appendix before seeking judicial review of a determination made under this Appendix.

G. Publication and Indexing of Final Decisions

The Director, DOHA, shall ensure that final decisions in cases arising under this Enclosure are published and indexed to protect the privacy rights of

the parents who are parties in those cases and the children of such parents, in accordance with 32 CFR part 310.

Dated: May 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Ch. I

46 CFR Ch. I

[CGD 95-022]

Presidential Regulation Review

AGENCY: Coast Guard, DOT.

ACTION: Reopening of comment period.

SUMMARY: The Coast Guard is announcing an initial policy determination on regulatory reform initiatives. The Coast Guard is also reopening the comment period for public comment on the Coast Guard's regulatory process and its response to the President's Regulatory Reinvention Initiative.

DATES: Written comments must be received not later than December 8, 1995.

ADDRESSES: Written comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket ad will be available for inspection or copying at room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce P. Novak, Regulations Coordinator, Oil Pollution Act (OPA 90) Staff, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-6819. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: On March 10, 1995 (60 FR 16423) the Coast Guard announced it would be holding a public meeting in Washington, DC on April 20, 1995, to take comments on the President's recently announced Regulatory Reinvention Initiative and the Coast Guard's regulatory development process. The deadline for

written comments was May 1, 1995. On April 5, 1995 the Coast Guard published a second notice in the **Federal Register** (60 FR 17287) announcing a series of regional public meetings to be held on the same topics. The deadline for written comments in this notice was June 5, 1995.

At the April 20, 1995 public meeting and in written comments to the docket, several commentors requested an extension of the May 1, 1995 comment period. The issues discussed in the notice and at the public meeting are important and require careful thought and evaluation. Since the regulatory reform initiative is an ongoing process, a longer comment period can be accommodated. In addition to receiving comments on the regulatory policy announced in this notice, comments on the issues raised in the two prior notices may be submitted. To provide maximum value on this notice, comments should be received by December 8, 1995. However, late comments will be accepted and evaluated to the extent practicable.

In response to the **Federal Register** notice and public meetings, the Coast Guard has received and is still receiving comments suggesting specific regulations for review and identifying reasons why those regulations should be either amended or eliminated. The Coast Guard will fully evaluate each suggestion and may initiate appropriate rulemaking projects at a later date. However, the Coast Guard has already made a preliminary determination to proceed immediately with at least two regulatory reinvention initiatives. The first is to purge the Code of Federal Regulations of obsolete and out-of-date regulations. A Notice of Proposed Rulemaking (NPRM) proposing a wide range of rescissions was published in the **Federal Register** of May 9, 1995 (60 FR 24748). This first set of obsolete and out-of-date regulations has minimal impact on the public and no controversy or objection is expected. Additional obsolete and out-of-date regulations will be proposed for elimination or revision in later rulemaking documents.

Second, the Coast Guard has established a goal of eliminating any Coast Guard induced differential between requirements that apply to U.S. vessels in international trade and those that apply to similar vessels in international trade that fly the flag of responsible foreign nations. The Coast Guard will carefully evaluate every existing and newly proposed regulation. To the maximum extent possible, requirements that create an unwarranted differential between U.S. and responsible international standards will

be eliminated. There are several new rulemaking projects under development that reflect this new Coast Guard policy.

The U.S. maritime industry conducted several studies, some of which indicated that industry competitiveness has been adversely impacted by the cost differential between building a vessel to U.S. standards and building it to some foreign standards. The industry reported that differential was from 0% to 15% of the total construction cost. However, all of these industry studies were conducted prior to implementation of the 1981 and 1983 amendments to the 1974 Safety of Life at Sea (SOLAS) Convention. The Convention and its amendments have greatly reduced the gap between U.S. and international standards.

The U.S. has sometimes unilaterally adopted more stringent standards than the international regulations promulgated by the International Maritime Organization (IMO), a specialized agency of the United Nations. A Maritime Administration sponsored study conducted in 1979 reported that the portion of the total construction cost differential directly attributable to discretionary requirements imposed by the Coast Guard was less than one-half of one percent. However, even a one-half of one percent differential in construction costs should be avoided if it does not result in needed additional safety or environmental protection.

In the past, international standards were in large part inadequate or nonexistent which required the United States to adopt high quality standards of its own. This situation has changed in recent years. Great strides have been taken by the responsible members of the international community to adopt standards that provide levels of safety and environmental protection that are generally equivalent to U.S. standards. The IMO has adopted a wide range of safety and environmental protection requirements that parallel many of the standards that apply to U.S. vessels. However, the IMO requirements are in some cases general in nature and need amplifying national regulations. In addition, IMO requirements do not constitute a complete ship construction standard. They must be used together with classification society standards and flag state requirements. Responsible foreign flag states and classification societies now have standards that are equivalent to U.S. standards. Because these responsible flag states and classification societies now assure high levels of protection, it is no longer desirable for the United States to apply

different requirements to U.D. vessels. Accordingly, in cooperation with the American Bureau of Shipping, the Coast Guard has identified various U.S. regulations that differ from the best international standards. The Coast Guard is now carefully evaluating each of those regulations to determine if it makes necessary additional safety or environmental protection contributions. Those regulations that do not provide necessary added levels of protection will be proposed for elimination.

Because of the global nature of maritime commerce, it is seldom effective for an individual nation to require substantially different standards for its vessels engaged in international trade. Ships of every nationality call at ports all over the world. Substandard performers pose a risk to their host nations everywhere. For this reason, IMO recently formed the Flag State Implementation Subcommittee (FSI) to develop strong international standards for nations that flag vessels (flag states) and for nations that host vessels (port states). By working closely with the FSI the Coast Guard will assure both a high and a level playing field for U.S. flag vessels in international trade.

The Coast Guard invites comment on this initial regulatory policy.

Dated: May 22, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MN-36-1-6752b; FRL-5020-2]

Approval and Promulgation of Implementation Plans and Designation of Area for Air Quality Planning Purposes: Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the request for redesignation to attainment for particulate matter (PM) in Olmsted County and sulfur dioxide (SO₂) in the Air Quality Control Region (AQCR) 131 Twin Cities and Pine Bend areas (excluding the St. Paul Park area). In addition, USEPA proposes to approve a State Implementation Plan (SIP) revision to the administrative order for PM for Rochester Public Utilities,