

Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

### Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

### List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat 1896 (5 U.S.C.552a).

2. In Section 311.7, add a new paragraph (c)(8) as follows:

#### § 311.7 Procedures for exemptions.

\* \* \* \* \*

(c) *Specific exemptions.* \* \* \*

(8) *System identifier and name-DWHS P29, Personnel Security Adjudications File.*

**Exemption.** Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections (d)(1) through (d)(5).

**Authority.** 5 U.S.C. 552a(k)(5).

**Reasons.** From (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or

specific information would reveal the identity of a source.

\* \* \* \* \*

Dated: June 1, 1995.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense*

[FR Doc. 95-14582 Filed 6-13-95; 8:45 am]

BILLING CODE 5000-04-F

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 1

[CGD 94-105]

RIN 2115-AE99

### Coast Guard Rulemaking Procedures

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to revise the regulations describing its rulemaking procedures to provide for a "direct final rule" process for use with noncontroversial rules. Under the direct final rule procedure, a rule would become effective 60 days after publication in the **Federal Register** unless the Coast Guard receives written adverse comment within thirty days. This new procedure should expedite the promulgation of routine, noncontroversial rules by reducing the time necessary to develop, review, clear, and publish separate proposed and final rules.

**DATES:** Comments must be received on or before July 14, 1995.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 94-105), U.S. Coast Guard Headquarters, 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. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LT R. Goldberg, Staff Attorney, Regulations and Administrative Law Division, Office of Chief Counsel, U.S. Coast Guard Headquarters, (202) 267-6004.

### SUPPLEMENTARY INFORMATION:

#### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94-105) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

This rulemaking informs the public of the Coast Guard's intention to use direct final rulemaking in appropriate cases.

Since this rulemaking would not impose any substantive requirements on the public, a comment period of 30 days is considered sufficient. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

**Drafting Information:** The principal persons involved in drafting this document are LT R. Goldberg, Project Manager, Office of Chief Counsel, and CDR T. Cahill, Project Counsel, Office of Chief Counsel.

#### Discussion of Proposed Rules

The Coast Guard is proposing to establish a new direct final rulemaking procedure for noncontroversial rules. This process is consistent with the goals of the National Performance Review, a recent Presidential initiative to reorganize and streamline the Federal government. The process is also consistent with recommendations of the Administrative Conference of the United States and meets the requirements for providing an opportunity for public notice and comment under the Administrative Procedure Act (APA) (5 U.S.C. 553).

Under this procedure, the Coast Guard would publish direct final rules in the final rule section of the **Federal Register**. The preamble to a direct final rule would indicate that no adverse

comment is anticipated and that the rule would become effective not less than 60 days after publication unless written adverse comment or written intent to submit adverse comment is received within a specified time, usually not less than 30 days. This procedure would ensure that, as required by the APA, the public will be given notice of Coast Guard rulemaking actions and will have an opportunity to participate in the rulemaking by submitting comments.

If no written adverse comment or written notice of intent to submit an adverse comment is received in response to the publication of a direct final rule, the Coast Guard would then publish a notice in the **Federal Register** stating that no adverse comment was received and confirming that the rule will become effective as scheduled. However, if the Coast Guard receives any written adverse comment or any written notice of intent to submit an adverse comment, then the Coast Guard would publish a notice in the final rule section of the **Federal Register** to announce withdrawal of the direct final rule. If adverse comments clearly apply to only part of a rule, and that part is severable from the remaining portions, as for example, a rule that deletes several unrelated regulations, the Coast Guard may adopt as final those parts of the rule on which no adverse comments were received. The part of the rule that was the subject of adverse comment would be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) would be published, unless an exception to the APA requirement for notice and comment applies.

A comment would be considered "adverse" if it objects to the rule as written. A comment submitted in support of a rule would obviously not be considered adverse. Additionally, a comment suggesting that the policy or requirements of the rule should or should not be extended to other Coast Guard programs outside the scope of the rule would not be considered as adverse.

Rules for which the Coast Guard believes that the direct final rulemaking procedures may be appropriate include, but are not limited to, noncontroversial rules that (1) affect internal procedures of the Coast Guard, (2) are nonsubstantive clarifications or corrections to existing rules, (3) govern the internal organization of the Coast Guard, such as spheres of responsibilities, organizational structure, lines of authority and delegation of powers and duties, (6)

make changes to the rules implementing the Privacy Act, (7) adopt technical standards set by outside organizations, (8) are statements of Coast Guard policy, (9) waive navigation and vessel inspection laws and regulations, (10) implement Bridge to Bridge Radiotelephone regulations, (11) govern the regulations of aids to navigation, (12) set out international or inland navigation rules, (13) govern individual regattas and marine parades, (14) regulate or describe anchorage areas, (15) regulate or prescribe shipping safety fairways, (16) regulate or describe offshore traffic separation schemes, (17) delete unnecessary and obsolete regulations, (18) set boundary lines of Coast Guard authority, (19) regulate the compatibility of cargoes, and (20) describe or regulate safety or security zones.

#### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedure of DOT is unnecessary. The proposed change in procedure will not impose any costs on the public. In cases where the rule would result in cost savings, the cost savings would occur sooner with the use of direct final rule procedure.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The Coast Guard has evaluated this proposal under the Regulatory Flexibility Act. If adopted, this proposal will not have substantive impact on the public. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant

economic impact on a substantial number of small entities.

#### Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this proposal is categorically excluded from further environmental documentation as a regulation of a procedural nature. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 1

Administrative practice and procedures, Authority delegations (Government agencies), Coast Guard, Freedom of Information, Penalties.

For the reasons set out in the preamble, the Coast Guard proposes to amend Subpart 1.05 of Part 1 of Title 33, Code of Federal Regulations follows:

#### PART 1—GENERAL REVISIONS

##### Subpart 1.05—[Amended]

1. The authority citation for Subpart 1.05 is revised to read as follows:

**Authority:** 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; 49 CFR 1.4(b), 1.45(b), and 1.46.

2. Section 1.05–35 is added to read as follows:

##### § 1.05–35 Direct final rule.

(a) A direct final rule may be issued to allow speedier finalization of noncontroversial rules that are unlikely to result in adverse public comment.

(b) A direct final rule will be published in the **Federal Register** with an effective date that is generally at least 60 days after the date of publication.

(c) The public will usually be given at least 30 days from the date of publication in which to submit adverse comments or a notice of intent to submit

adverse comments. A comment is considered adverse if it objects to adoption of the rule as written.

(d) If not adverse comments or notice of intent to submit adverse comments are received within the specified period, the Coast Guard will publish a notice in the **Federal Register** to confirm that the rule will go into effect as scheduled.

(e) If the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the **Federal Register** to announce withdrawal of the direct final rule. If adverse comments clearly apply to only part of a rule, and it is possible to remove that part without affecting the remaining portions, the Coast Guard may adopt as final those parts of the rule on which no adverse comments were received. The part of the rule that is the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published unless an exception to the Administrative Procedure Act requirements for notice and comment applies.

Dated: June 2, 1995.

**J.E. Shkor,**

*Rear Admiral, U.S. Coast Guard, Chief Counsel.*

[FR Doc. 95-14554 Filed 6-13-95; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[FRL-5219-4]

#### Request for Opt-Out of the Reformulated Gasoline Program: Jefferson County, Albany and Buffalo, New York; Twenty-Eight Counties in Pennsylvania; and Hancock and Waldo Counties in Maine, General Procedures for Future Opt-Outs and Extension of Stay

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In today's action, EPA is proposing to remove Jefferson County and the Albany and Buffalo areas in New York; twenty-eight counties in Pennsylvania; and Hancock and Waldo counties in Maine from the list of covered areas identified in section 80.70 of the reformulated gasoline rule. This is based on requests from the Governors

of New York, Pennsylvania and Maine that these areas opt out of this federal program. In a separate action signed by the EPA Administrator on December 29, 1994, EPA stayed the application of the reformulated gasoline regulations in Jefferson County and the Albany and Buffalo areas of New York; the twenty-eight opt-in counties in Pennsylvania; and Hancock and Waldo counties in Maine effective January 1, 1995 until July 1, 1995, to allow finalization of this rulemaking. Today's notice also proposes to extend this stay during the pendency of this rulemaking, until the agency takes final action on the proposed opt-out for these areas. This action does not affect the necessity for these areas to comply with the requirements of the anti-dumping program.

EPA is also proposing general rules establishing the criteria and procedures for states to opt-out of the RFG program. **DATES:** Regarding the proposal to extend the stay of the reformulated gasoline regulations in the designated New York, Pennsylvania, and Maine counties, no public hearing will be held. Comments must be received by June 28, 1995.

If a public hearing is held on the opt-out of the designated New York, Pennsylvania, and Maine counties or on the general procedures for future opt-outs, comments must be received by August 4, 1995. If a hearing is not held, comments must be received by July 14, 1995. Please direct all correspondence to the addresses shown below.

The Agency will hold a public hearing on the proposed opt-out of the designated New York, Pennsylvania, and Maine counties or on the general procedures for future opt-outs if one is requested by June 21, 1995. If a public hearing is held, it will take place on July 5, 1995. To request a hearing, or to find if and where a hearing will be held, please call Mark Coryell at (202) 233-9014.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A copy should also be sent to Mr. Mark Coryell at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460.

Materials relevant to this notice have been placed in Docket A-94-68. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M-1500 Waterside Mall. Documents may be inspected from 8:00

a.m. to 4:00 p.m. A reasonable fee may be charged for copying docket material. **FOR FURTHER INFORMATION CONTACT:** Mr. Mark Coryell, U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233-9014.

**SUPPLEMENTARY INFORMATION:** A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919-541-5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

- (M) OMS
- (K) Rulemaking and Reporting
- (3) Fuels
- (9) Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's action will be in the form of a ZIP file and can be identified by the following title: OPTOUT.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

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<D>ownload, <P>rotocol, <E>xamine,
<N>ew, <L>ist, or <H>elp Selection or
<CR> to exit: D filename.zip
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You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

### I. Introduction

This notice describes EPA's proposed action to remove Jefferson County and the Albany and Buffalo areas in New York (a total of nine counties in New York); the twenty-eight opt-in counties in Pennsylvania; and Hancock and Waldo counties in Maine from the list of covered areas defined by § 80.70 of the reformulated gasoline rule per the request of the States of New York, Pennsylvania and Maine. It also