

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 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions, and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

Energy Effects

We have analyzed this rule under Executive Order 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 order because it is not a “significant regulatory action” under Executive Order 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 Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499, Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.843, also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 6 a.m. to 10:30 a.m. on October 1, 2005, in § 117.843 suspend paragraphs (a)(3), (a)(4) and add paragraph (a)(5) to read as follows:

§ 117.843 Trent River.

* * * * *

(a)(5) From 6 a.m. to 10:30 a.m., on October 1, 2005, the U.S. 70 Bridge,

mile 0.0, at New Bern, NC, shall remain closed to navigation.

* * * * *

Dated: September 13, 2005.

S.H. Ratti,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 05–19006 Filed 9–22–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 168

[CGD 91–202; USCG–2003–14734]

RIN 1625–AA05 (Formerly RIN 2115–AE10);
RIN 1625–AA65

Escort Vessels for Certain Tankers— Crash Stop Criteria

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is permanently removing a “crash stop” requirement for tanker escort vessels in Prince William Sound and Puget Sound. The requirement appeared in a final rule published in 1994 under docket number CGD 91–202, but was suspended for safety reasons before it ever went into effect. Removal of the suspended provision is the final action for both the CGD 91–202 and the USCG–2003–14734 rulemakings.

DATES: This final rule is effective October 24, 2005.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2003–14734 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander Samson Stevens, GMSR–2, telephone 202–267–0751, e-mail: SStevens@comdt.uscg.mil. If you have questions on viewing the docket, call Ms. Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 28, 2005, we published in the **Federal Register** a notice of proposed rulemaking (NPRM) entitled **Escort Vessels for Certain Oil Tankers—Crash Stop Criteria** (70 FR 15609). We received no comments on the proposed rule. No public meeting was requested and none was held.

Background and Purpose

This rule addresses “unfinished business” from 1994. On August 19, 1994, we published the final rule entitled **Escort Vessels for Certain Tankers** under docket number CGD 91–202, which adopted 33 CFR part 168 (57 FR 30058). The rule drew on a study to determine the capabilities of escort vessels to control disabled tankers. The study was published in two parts (59 FR 1411, Jan. 10, 1994; 60 FR 6345, Feb. 1, 1995). Preliminary data for the second study became available after publication of the final rule, but before the rule took effect on November 19, 1994. This preliminary data indicated that it might be dangerous to implement the final rule’s crash stop provision, 33 CFR 168.50(b)(2). That provision required an escort vessel to be able to stop a disabled tanker within the same distance that it could “crash-stop,” that is, come to an emergency stop itself by putting its engine into full astern position, from a speed of 6 knots. Therefore, on November 1, 1994 (59 FR 54519), we suspended the crash stop provision before it could take effect with the other provisions of part 168. In 1995, the final results of the study of escort vessel capabilities showed that the crash stop criteria were not an effective performance characteristic for disabled tankers. No further action was taken with respect to the crash stop provision, and it remains suspended today.

As long as the crash stop provision’s suspension remains in effect, we have continued reporting the CGD 91–202 rulemaking on the Uniform Regulatory Agenda of the United States, the Federal Government’s official list of ongoing regulatory projects. CGD 91–202 appears in the most recent edition of the Agenda, under the Department of Homeland Security entries beginning at 70 FR 26892 (May 16, 2005). Twice each year, the Coast Guard spends valuable administrative time maintaining its Uniform Regulatory Agenda reports, whether or not a reported project is active.

For the reasons given under “Removal of Crash Stop Provision,” the Coast Guard maintains the position it first adopted in 1994, that the crash stop

provision should not be implemented. Therefore, we now will permanently remove the crash stop provision. Removal of the crash stop provision also allows us to complete the CGD 91–202 rulemaking.

Since 1998, the Coast Guard has used the Department of Transportation’s Docket Management System (DMS) to make its rulemaking documents widely available to the public. DMS assigns unique docket numbers to each rulemaking, and the format of those docket numbers (*e.g.*, USCG–2003–14734) is not compatible with the format of Coast Guard pre-1998 rulemaking docket numbers (*e.g.*, CGD 91–202). Therefore, in order to complete CGD 91–202 in a way that makes our actions visible to the public through DMS, we opened a DMS-compatible docket number, USCG–2003–14734. Thus, removal of the crash stop provision constitutes the final action for two rulemaking dockets with the same subject matter, CGD 91–202 and USCG–2003–14734.

Removal of Crash Stop Provision

We received two public comments in response to our 1994 notice suspending 33 CFR 168.50(b)(2). We placed both comments in the docket for USCG–2003–14734. One comment supported the suspension. The other forwarded a copy of a technical evaluation of 33 CFR 165.50(b), but did not address the crash stop criteria at all. As noted earlier, in 1995, the final results of the study of escort vessel capabilities showed that the crash stop criteria were not an effective performance characteristic for disabled tankers. Additionally, we noted a significant increase in tractor tug availability in the waters to which part 168 applies, which allows for more effective response and action when a tanker becomes disabled. Taken together, these factors persuaded us to remove the crash stop provision of 33 CFR 168.50(b)(2). Our March 2005 NPRM, proposing removal, elicited no public comments that would alter our decision. Therefore we are proceeding with removal of the crash stop provision. The remainder of part 168 is not affected by this action.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This rule allows us to finalize the status quo and close out CGD 91–202.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), 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.

The application and impact of this rule is limited. First, the escort vessel regulations only apply to laden single hull tankers of 5,000 gross tons or more operating on Prince William Sound or Puget Sound. We estimate the number of these tankers is 18. This figure will diminish over time as these single hull tankers are phased out of service, as required by OPA 90. Second, small entities typically do not own or operate vessels of this size. These vessels are normally owned and operated by larger corporations, including subsidiaries of major oil companies. As the rule finalizes the status quo, we do not believe that we are imposing any new burden on small entities.

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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

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).

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).

Federalism

A rule has implications for federalism under Executive Order 13132,

Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in the preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 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.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 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.

Energy Effects

We have analyzed this rule under Executive Order 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 order because it is not a “significant regulatory action” under Executive Order 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 Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under Figure 2–1, paragraph (34)(i) of the Instruction, from further environmental documentation. An “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 168

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 168 as follows.

PART 168—ESCORT REQUIREMENTS FOR CERTAIN TANKERS

■ 1. The authority citation for part 168 is revised to read as follows:

Authority: Section 4116(c), Pub. L. 101–380, 104 Stat. 520 (46 U.S.C. 3703 note); Department of Homeland Security Delegation No. 170.1, para. 2(82).

§ 168.50 [Amended]

■ 2. In § 168.50, remove and reserve paragraph (b)(2).

Dated: September 15, 2005.

T.H. Gilmour,

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

[FR Doc. 05–19005 Filed 9–22–05; 8:45 am]

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AB31

Records Center Facility Standards

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; correction.

SUMMARY: NARA published the final rule, Records Center Facility Standards, in the August 29, 2005, **Federal Register** (70 FR 50980). In that final rule, we revised § 1228.240(c) entirely, removing subordinate paragraphs §§ 1228.240(c)(1) and (c)(2). Paragraph § 1228.240(d), which was not amended in the rulemaking, currently contains a sentence “For requests submitted under paragraph (c)(2) of this section, NARA also will review the submitted plan to ensure that the plan is realistic.” This correction removes that sentence.

DATES: This rule is effective on September 28, 2005.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301–837–1477 or fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: In FR Doc. 05–17097 appearing on page 50980 in the **Federal Register** of Monday, August 29, 2005, the following correction is made:

PART 1228—[CORRECTED]

§ 1228.240 [Corrected]

■ On page 50988, in the second column, in Part 1228, Disposition of Federal Records, in amendment 9, the instruction “9. Amend § 1228.240 by revising paragraph (c) to read as follows:” and the amended text set forth are corrected to read:

■ “9. Amend § 1228.240 by revising paragraphs (c) and (d) to read as follows: