

vessels authorized by the Coast Guard Patrol Commander.

(2) The Coast Guard Patrol Commander is a commissioned, warrant, petty officer, or auxiliary of the Coast Guard who has been designated by Commander, Coast Guard Sector Portland. A Coast Guard Auxiliary, when so appointed by the COTP per 14 U.S.C 831, may act as the Patrol Commander. The Patrol Commander is empowered to control movement of vessels in the regulated area and adjoining waters during the hours these regulations are in effect.

(3) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area shall serve as a signal to stop. Vessels or persons signaled shall stop and shall comply with the orders of the patrol vessels. Failure to do so may result in the expulsion from the area, citation, for failure to comply or both.

(4) Any spectator vessel may anchor outside the regulated area specified in paragraph (a) of this section, but may not block a navigable channel.

Dated: May 4, 2007.

**K.S. Cook,**

*Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.*

[FR Doc. 07-2460 Filed 5-15-07; 9:58 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 151

[USCG-2007-28201]

RIN 1625-ZA13

#### **Vessels Carrying Oil, Noxious Liquid Substances, Garbage, Municipal or Commercial Waste, and Ballast Water; Technical, Organizational and Conforming Amendment**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule makes a non-substantive change to Title 33 of the Code of Federal Regulations. The purpose of this rule is to make a conforming amendment and technical correction to a Coast Guard navigation and navigable water regulation. This rule will have no substantive effect on the regulated public.

**DATES:** This final rule is effective May 17, 2007.

**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-2007-28201 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 Mr. Ray Davis, Coast Guard, telephone 202-372-1461. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under both 5 U.S.C. 553(b)(A) and (b)(B), the Coast Guard finds this rule is exempt from notice and comment rulemaking requirements because this change involves agency organization and practices, and good cause exists for not publishing an NPRM for the revision in the rule because it is a non-substantive change. This rule consists only of a technical and conforming amendment. The change will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

##### **Background and Purpose**

This rule, which becomes effective May 17, 2007, makes a technical correction to 33 CFR part 151. This rule does not create any substantive requirements.

##### **Discussion of Rule**

This rule corrects the authority citation in part 151 and amends 33 CFR § 151.2010. When the Coast Guard converted the voluntary ballast water management guidelines in 33 CFR part 151, Subpart D, into a mandatory ballast water management program (69 FR 44952, July 28, 2004), we inadvertently did not make changes to § 151.2010 to reflect several exemptions. Specifically, that crude oil tankers engaged in coastwise trade and Department of Defense and Coast Guard vessels were exempted from the mandatory ballast water management requirements in § 151.2035, which had previously been a voluntary program as stated by

statutory language in the National Invasive Species Act of 1996 (NISA). We discussed this exemption and its reasoning in the preamble of the 2004 final rule, stating, "NISA authorizes specific exemptions for crude oil tankers engaged in coastwise trade, and Department of Defense and Coast Guard vessels. Therefore, we do not currently have the authority to include these vessels in the applicability for the final rule." This statement made clear our intention to carry that exemption forward into the mandatory program.

With respect to the exemptions for vessels operating exclusively within one Captain of the Port (COTP) Zone, the language changed to include only exemptions for §§ 151.2040 and 151.2045, but not § 151.2035. This exemption is not taken from NISA. The Coast Guard established it as a discretionary exercise of its regulatory authority after notice and comment rulemaking. It would be inappropriate to expand the ballast water management requirements exemption beyond those previously granted by means of a technical amendment not subject to a notice and comment rulemaking. These vessels will continue following the requirements in § 151.2035. While this includes the requirements in § 151.2035(b), which calls for ballast water management for vessels operating outside the U.S. EEZ, vessels operating exclusively in a COTP Zone will not operate outside the U.S. EEZ and, therefore, compliance with those particular requirements is not mandatory. These vessels are reminded, however, that they must comply with § 151.2035(a), which calls for ballast water management inside of U.S. waters.

##### **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. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. As this rule involves internal agency practices and procedures and a non-substantive change, it will not impose any costs on the public.

##### **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. This rule does not require a general NPRM and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities and determined that it will not have an impact on small entities.

#### 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 this 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 does not create an environmental risk to health or risk to safety that may 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, paragraphs (34)(a) and (b), of the Instruction from further environmental documentation because this rule involves editorial, procedural, and internal agency functions. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution penalties, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 151 as follows:

#### PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 1. Revise the authority citation for part 151 to read as follows:

**Authority:** 33 U.S.C. 1321, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227, 110 Stat. 304; E.O. 12777, 3 CFR 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 151.2010 to read as follows:

#### § 151.2010 Which vessels are exempt from the mandatory requirements?

(a) Two types of vessels are exempt from the requirements in §§ 151.2035, 151.2040, and 151.2045:

(1) A crude oil tanker engaged in the coastwise trade.

(2) A Department of Defense or Coast Guard vessel subject to the requirements of section 1103 of the Act, or any vessel of the Armed Forces, as defined in the Federal Water Pollution Control Act (33 U.S.C. 1322(a)) that is subject to the “Uniform National Discharge Standards for Vessels of the Armed Forces” (33 U.S.C. 1322(n)).

(b) One type of vessel is exempt from the requirements in §§ 151.2040 and 151.2045:

(1) A vessel that operates exclusively within one Captain of the Port (COTP) Zone.

(2) [Reserved]

Dated: May 11, 2007.

**Stefan G. Vencus,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

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