

**SUMMARY:** This document corrects a recently published final rule entitled, “Washington, DC Metropolitan Area Special Flight Rules Area.” The rule codified special flight rules and airspace and flight restrictions for certain aircraft operations in the Washington, DC Metropolitan Area. A word in the codified text was incorrect. This document corrects that word.

**DATES:** The final rule and this correction will become effective on February 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ellen Crum, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 16, 2008, the FAA published a final rule entitled, “Washington, DC Metropolitan Area Special Flight Rules Area.” An error appeared in § 93.335 Definitions, in the definition of the term “Washington, DC Metropolitan Area Special Flight Rules Area (DC SFRA).”

**Correction**

In final rule FR Doc. E8-29711, published on December 16, 2008 (73 FR 76195), make the following correction.

**§ 93.335 [Corrected]**

■ On page 76214, in the first column, in the amendment for § 93.335, the definition for “Washington, DC Metropolitan Area Special Flight Rules Area (DC SFRA),” in the 10th line, remove the word “radial” and add in its place the word “radius.”

Issued in Washington, DC, on December 19, 2008.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E8-30730 Filed 12-24-08; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 155 and 156**

[Docket No. USCG-2001-9046]

RIN 1625-AB12

**Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing its regulations for tank level or pressure monitoring (TLPM) devices because devices that satisfy compliance requirements remain unavailable.

**DATES:** This final rule is effective January 28, 2009.

**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-2001-9046 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, 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://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Dolores Pyne-Mercier, Project Manager, Office of Standards Evaluation and Development, Project Development Division (CG-5232), Coast Guard, telephone 202-372-1093, or e-mail address, [Dolores.J.Pyne-Mercier@uscg.mil](mailto:Dolores.J.Pyne-Mercier@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

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**I. Abbreviations**

- FR Federal Register
- NEPA National Environmental Policy Act of 1969
- NPRM Notice of Proposed Rulemaking
- NTTAA National Technology Transfer and Advancement Act
- TLPM Tank Level or Pressure Monitoring

**II. Background**

*A. Regulatory History*

In September 2002, the Coast Guard promulgated tank level or pressure monitoring (TLPM) device regulations located in 33 CFR parts 155 and 156. (67 FR 58515). The Final Rule detailed TLPM performance criteria and described the vessels required to install and use TLPM devices by 2007.

To date, we have identified no devices meeting the performance criteria established in the final rule, and none have been submitted by industry for our evaluation. As a result, in July 2005, we published a Final Rule (70 FR 41614) suspending the regulations for TLPM devices for three years until July 21, 2008. In the final rule, we also solicited public comment on the status of TLPM technology development and alternatives to TLPM devices. In response, we received two comments supporting our suspension of the regulations for TLPM devices and no new information on TLPM devices or alternatives. We published another Final Rule (73 FR 23397) on May 5, 2008, extending the suspension for three additional years until May 5, 2011, to allow time for the current rulemaking process to be completed.

On June 30, 2008, we published a notice of proposed rulemaking entitled “Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo” in the **Federal Register** (73 FR 36825). We received 2 letters commenting on the proposed rule. Both commenters supported the Coast Guard’s decision to remove the TLPM device regulations. No public meeting was requested and none was held.

*B. Purpose*

For a complete discussion of the background for this final rule, see the NPRM published on June 30, 2008 (73 FR 36825, 36826).

The Coast Guard is removing its regulations for TLPM devices because

devices that satisfy compliance requirements remain unavailable. As noted above in section II.A. "Regulatory History," we published a final rule suspending Coast Guard regulations for TLPM devices with a request for public comments on the status of TLPM technology development and other means of detecting leaks from oil cargo tanks into the water. We received two comments supporting our suspension of the regulations for TLPM devices. We received no new information on TLPM devices or alternatives for detecting leaks into the water from single-hull tank vessels carrying oil or oil residue as cargo.

Based on the public response to the suspension, the absence of new information regarding TLPM devices or alternatives, and the results of a Congressionally-mandated study (available in the docket where indicated under **ADDRESSES**), the Coast Guard revisited the feasibility and practicality of retaining regulations for TLPM devices on single-hull tank vessels and concluded that it is appropriate to remove these regulations.

### III. Discussion of Comments and Changes

We received two comments on the NPRM; both were in favor of the removal of the TLPM device requirement from the regulations. The Coast Guard has made no changes from the NPRM, save a minor edit to the authority citation for part 156.

### IV. Regulatory Evaluation

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### A. Executive Order 12866

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.

Public comments on the NPRM are summarized in Part IV of this preamble. We received no public comments that would alter our assessment of impacts in the NPRM. We have adopted the assessment in the NPRM as final. See the "Regulatory Evaluation" section of the NPRM for the complete analysis.

This final rule removes the regulations for TLPM devices—a type of shipboard equipment that does not

currently exist in the marketplace and which has no practical alternative. We conclude this rule will have no impact on industry.

#### B. 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.

We concluded that removing the performance standards for TLPM devices and the requirements for their use will not have a significant economic impact on a substantial number of small entities since industry did not adopt or implement any TLPM provisions. 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.

#### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want 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 of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### D. 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).

#### E. 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.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)). This rule removes previously published rules on performance standards, and the use of TLPM devices falls into the category of vessel equipment and operation. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

#### F. 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 the preamble.

#### G. 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.

#### H. 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.

#### I. 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.

### J. 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.

### K. Energy Effects

We 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.

### L. 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 the 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.

### M. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 0023.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. Therefore, this rule is categorically excluded, under section 2.B.2, Figure 2–1, paragraph 34(d), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the equipping of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

### List of Subjects

#### 33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

#### 33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 155 and 156 as follows:

#### **PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS**

■ 1. The authority citation for 33 CFR Part 155 and the note following citation continue to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380.

**Note to Part 155:** Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR Parts 30 through 40, 150, 151, and 153.

#### **§ 155.200 [Amended]**

■ 2. In § 155.200, remove the definition for “Sea State 5.”

#### **§ 155.490 [Removed and Reserved]**

■ 3. Remove and reserve § 155.490.

#### **PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS**

■ 4. The authority citation for 33 CFR Part 156 is revised to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) is also issued under 46 U.S.C. 3703.

#### **§ 156.120 [Amended]**

■ 5. In § 156.120, remove paragraph (ee).

Dated: December 17, 2008.

**Brian M. Salerno,**

*Assistant Commandant for Marine Safety, Security and Stewardship, U.S. Coast Guard.*  
[FR Doc. E8–30803 Filed 12–24–08; 8:45 am]

**BILLING CODE 4910–15–P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

#### **18 CFR Chapter I**

[Docket No. RM07–9–00]

#### **Review of FERC Form Nos. 6 and 6–Q**

**December 18, 2008.**

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice Terminating Proceeding.

**SUMMARY:** The Federal Energy Regulatory Commission is terminating its notice of inquiry regarding the need for changes or revisions to the Commission’s reporting requirements. This notice specifically addresses FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6–Q (Quarterly Report of Oil Pipeline Companies).

**DATES:** *Effective Date:* December 29, 2008.

#### **FOR FURTHER INFORMATION CONTACT:**

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#### **SUPPLEMENTARY INFORMATION:**

1. On February 15, 2007, the Commission issued a Notice of Inquiry (NOI) in this proceeding, seeking comments from filers and users of various financial forms, including FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6–Q (Quarterly Report of Oil Pipeline Companies), addressing whether the forms should be modified.<sup>1</sup> The FERC Form No. 6 contains data such as a balance sheet, cost-of-service information, income statement, and

<sup>1</sup> *Assessment of Information Requirements for FERC Financial Forms*, FERC Stats. & Regs. ¶ 35,554 (2007).