

Dated: February 27, 2012.

**Michael F. White, Jr.,**

*Captain, U.S. Coast Guard, Captain of the Port Charleston.*

[FR Doc. 2012-7963 Filed 4-2-12; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2012-0250]

#### Drawbridge Operation Regulation; Mile 21.6, Illinois Waterway, Hardin, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Hardin Drawbridge across the Illinois Waterway, mile 21.6, at Hardin, Illinois. The deviation is necessary to replace the main gear case that operates the lift span. The gear case has been making noise indicating possible failure. This deviation allows the bridge to remain in the closed position while the existing gear box is replaced with one recently fabricated.

**DATES:** This deviation is effective from 7 a.m. on April 3, 2012 through 7 p.m. on April 5, 2012.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2012-0250 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0250 in the "Keyword" box and then clicking "Search". They are also 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard 314-269-2378, email [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Illinois Department of Transportation requested a temporary deviation for the Hardin Drawbridge, across the Illinois

Waterway, mile 21.6, at Hardin, Illinois to remain in the closed-to-navigation position for a two and one half day period while the main gear case is replaced. The closure period will start at 7 a.m. on or about April 3, 2012 and end at 7 p.m. on April 5, 2012.

Once the existing gear case is removed, the lift span will not be able to open, even for emergencies, until the replacement gear box is installed.

The Hardin Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridges shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Illinois Waterway. The Hardin Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 25.9 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with the waterway users.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 22, 2012.

**Eric A. Washburn,**

*Bridge Administrator, Western Rivers.*

[FR Doc. 2012-7922 Filed 4-2-12; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 160

[Docket No. USCG-2011-0076]

**RIN 1625-AB60**

#### Inflatable Personal Flotation Devices

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is harmonizing structural and performance standards for inflatable recreational personal flotation devices (PFDs) with current voluntary industry consensus standards. The Coast Guard is also slightly modifying regulatory text in anticipation of a future rulemaking addressing the population for which inflatable recreational PFDs are approved, but is not changing the current affected population.

**DATES:** This rule is effective May 3, 2012. The Director of the Federal Register has approved the incorporation by reference of certain publications listed in this rule as of May 3, 2012.

**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-2011-0076 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 by going to <http://www.regulations.gov>, inserting USCG-2011-0076 in the "Keyword" box, and then clicking "Search."

*Viewing incorporation by reference material.* You may inspect the material incorporated by reference at Lifesaving and Fire Safety Division (CG-5214), U.S. Coast Guard Headquarters, 2100 Second Street SW., Stop 7126, Washington, DC 20593-7126 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-372-1394. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Ms. Brandi Baldwin, Lifesaving and Fire Safety Division (CG-5214), U.S. Coast Guard, telephone 202-372-1394, email

[Brandi.A.Baldwin@uscg.mil](mailto:Brandi.A.Baldwin@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

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## I. Abbreviations

ANSI American National Standards Institute  
 CFR Code of Federal Regulations  
 CGMIX Coast Guard Marine Information Exchange  
 DHS Department of Homeland Security  
 NEPA National Environmental Policy Act of 1969  
 NPRM Notice of proposed rulemaking  
 NTTAA National Technology Transfer and Advancement Act  
 OMB Office of Management and Budget  
 PFD Personal flotation device  
 STP Standards Technical Panel  
 UL Underwriters Laboratories  
 USCG United States Coast Guard

## II. Regulatory History

On March 30, 2011, the Coast Guard published a direct final rule entitled “Inflatable Personal Flotation Devices” in the **Federal Register**. 76 FR 17561. We received three submissions in response to the direct final rule: one supportive of the rulemaking generally, one which raised questions about a revision to one of the standards incorporated by reference, and one adverse comment related to the deletion of the words “approved for use by adults only” from the regulations. Because we received an adverse comment, on September 13, 2011, the Coast Guard withdrew the direct final rule in a notice of withdrawal. 76 FR 56294. On September 29, 2011, the Coast Guard issued a notice of proposed rulemaking (NPRM) proposing the same content as the direct final rule, with one change to update a version of an industry standard proposed for incorporation by reference. 76 FR 60405. The NPRM also summarized and sought comment on the comments received in response to the direct final rule.

## III. Basis and Purpose

The Coast Guard is charged with establishing minimum safety standards, and procedures and tests required to measure conformance with those standards, for recreational vessels and associated equipment. See 46 U.S.C. 4302, and Homeland Security Delegation No. 0170.1, section II, paragraph (92)(b). Under this authority, in 1995, the Coast Guard promulgated regulations establishing structural and performance standards for inflatable recreational PFDs, and procedures and tests necessary for Coast Guard approval of PFDs meeting those standards. See 46 CFR part 160, subpart 160.076 (Inflatable Recreational Personal Flotation Devices); 60 FR 32836 (June 23, 1995). Subpart 160.076 incorporates by reference three Underwriters Laboratories (UL) Standards: UL 1180,

“Fully Inflatable Recreational Personal Flotation Devices” (First Edition); UL 1191, “Components for Personal Flotation Devices” (Second Edition); and UL 1123, “Marine Buoyant Devices” (Fifth Edition). 46 CFR 160.076–11.

The editions of these UL Standards currently incorporated by reference into subpart 160.076 were current when the Coast Guard promulgated subpart 160.076 in 1995. However, UL has since published newer editions of these standards that the Coast Guard considers to contain technological and safety developments since 1995 that are important to codify in subpart 160.076. In this rule, the Coast Guard is updating the editions of the UL Standards incorporated by reference in subpart 160.076.

In this final rule, the Coast Guard is also facilitating and encouraging the continuation of the industry consensus standards development process by signaling that the Coast Guard will consider, as part of a possible future rulemaking, the appropriateness of inflatable PFDs for wearers under 16 years of age and any new industry consensus standard addressing inflatable PFDs for wearers under 16 years of age. This rulemaking, however, does not constitute approval of the use of inflatable PFDs for users under 16 years of age or a proposal for such approval, nor does it resolve any technical issues regarding use of inflatable PFDs by persons under 16 years of age.

## IV. Discussion of Comments and Changes

The Coast Guard is revising 46 CFR part 160, subpart 160.076 to update the editions of the UL Standards incorporated by reference and to make necessary conforming changes resulting from incorporating the updated standards. The conforming changes include removing test methods, acceptance criteria, and other standards currently contained in subpart 160.076 that are made redundant by the newer editions of the UL Standards. The Coast Guard is also making minor, non-substantive editorial revisions to regulatory text in subpart 160.076. A complete discussion of these changes is available in the NPRM, published September 29, 2011. 76 FR 60405.

In response to the direct final rule, which included the same content as proposed in the NPRM, the Coast Guard received three submissions: one supportive of the rulemaking generally, one that raised questions about a revision to one of the standards incorporated by reference, and one

adverse comment related to the deletion of the words “approved for use by adults only” from the regulations. The commenter who expressed support cited the removal of barriers to the development of innovative inflatable PFDs as leading to an expected improvement in the quality and variety of inflatable lifejackets available to the public. The Coast Guard appreciates the support.

The comment raising questions about a revision to one of the standards was resolved by a subsequent revision to UL 1191 following publication of the direct final rule which addressed that commenter’s concern. In the NPRM, the Coast Guard proposed incorporating by reference the revised UL 1191.

The adverse comment expressed concern that deleting the words “approved for use by adults only” would create a perception that inflatable PFDs for youth would be available on the date the rule went into effect, would facilitate teens using existing inflatable PFDs, and would enable marketing of existing inflatable PFDs to youth.

The Coast Guard does not agree. This rulemaking does not affect the population for which inflatable PFDs are approved, and thus does not affect the availability, use, or marketing of existing PFDs to or by the youth population, or sizing requirements. As stated in the direct final rule, inflatable PFDs will not be approved for persons under 16 years of age until such time as the Coast Guard identifies, and incorporates by reference into Coast Guard regulations through a possible future rulemaking, a suitable industry standard that addresses the needs of younger wearers.

Since there is no prohibition on manufacturing or marketing any inflatable PFD that is not approved by the Coast Guard (provided that it is not marked as Coast Guard-approved), this final rule has no effect on what PFDs are available or to whom they are marketed. Moreover, as noted in the direct final rule and in the NPRM, the removal of the words “approved for adults only” has no substantive effect on Coast Guard approval of inflatable PFDs. UL Standard 1180 limits the approval of inflatable PFDs to persons of at least 16 years of age, and thus this final rule, which incorporates by reference a newer version of UL Standard 1180 (the Fourth Edition), continues to set the age limit for approved users of inflatable PFDs at 16 years of age. By removing the words “approved for use by adults only,” this final rule eliminates a regulatory redundancy specifying that inflatable PFDs approved by the Coast Guard are for use by adults only; after all, the

minimum age for use at 16 years of age is already specified in the standard incorporated by reference. Additionally, included within UL 1180 (both the currently-incorporated First Edition and the Fourth Edition incorporated by this final rule) is the marking and labeling required for all Coast Guard-approved inflatable PFDs. Specifically, both editions of UL 1180 require a marking stating that the device is “USCG [a]pproved for use only on recreational boats by persons at least 16 years of age.” As this marking appears on all currently approved inflatable PFDs, it is not reasonable to believe that these devices would be marketed to persons under 16 years of age.

The adverse comment also expressed concern that this rulemaking is premature in light of work that still needs to be done to evaluate sizing requirements for infant or child PFDs. While the Coast Guard agrees that there is benefit to conducting additional research into the anatomical requirements for children and infants, this rulemaking is not premature because it does not make any changes based on current research. As noted in the direct final rule and the NPRM, this rulemaking does not resolve technical issues regarding use of inflatable PFDs by persons under 16 years of age. In fact, this final rule removes a perceived regulatory barrier to completing the necessary research and taking the steps to develop appropriate design, construction and testing standards for inflatable PFDs for persons under 16 years of age. The UL Standards Technical Panel (STP) views the words “approved for use by adults only” as prohibiting the development of a standard regarding use of inflatable PFDs by persons under 16 years of age. By removing these words, the Coast Guard is signaling that we will consider, as part of a possible future rulemaking, the appropriateness of inflatable PFDs for persons under 16 years of age, and any new industry consensus standard addressing such inflatable PFDs. The Coast Guard recognizes that there are technical issues still to be resolved regarding use of inflatable PFDs by persons under 16 years of age, and this rulemaking demonstrates the Coast Guard’s commitment to supporting industry and the STP in pursuing resolution of those issues.

In the NPRM, the Coast Guard sought comment on the comments to the direct final rule, as well as comments on the rule in general. In response to the NPRM, the Coast Guard received 181 submissions.

The majority of commenters misinterpreted this rulemaking as either

proposing the approval or use of inflatable PFDs for persons under 16 years of age, or proposing PFD use requirements, generally. As described above, this rulemaking makes no substantive change to the current age or weight requirements for Coast Guard approval of inflatable PFDs or the population for which they are approved. Additionally, this rulemaking does not address any requirements for PFD use or wear. As such, the majority of comments are outside the scope of this rulemaking. If the Coast Guard identifies a suitable standard for the approval of inflatable PFDs for persons under 16 years of age, and initiates a separate rulemaking, the Coast Guard will consider the comments addressing use of inflatable PFDs submitted to this rulemaking’s docket as part of that separate, future rulemaking.

Other commenters provided suggestions for revising PFD requirements generally, or revising carriage requirements, or expressed other concerns relating to PFDs generally. These comments also are beyond the scope of this rulemaking since this rulemaking only addresses Coast Guard approval of inflatable PFDs for persons 16 years of age and older.

The comments addressing the substance of this rule were generally supportive. Several of these commenters also provided direct responses to the adverse comment. The Coast Guard appreciates this support and agrees with the responses to the adverse comment for the same reasons the Coast Guard disagrees with the substance of the adverse comment, as discussed above.

One commenter suggested that the regulatory text should be revised to limit the use of inflatable PFDs to users ages 13 and up rather than leave the establishment of a lower age limit to the standards development organization. The Coast Guard does not agree. The Coast Guard is in fact establishing a lower age limit—which is 16 years of age—consistent with the current age limit. The Coast Guard is establishing this age limit not through specific regulatory text, but by incorporating by reference UL 1180 (Fourth Edition), which retains the age limit of 16 years of age in the currently-incorporated UL 1180 (First Edition).

Several commenters noted that the UL STP has already set the appropriate performance criteria to ensure that inflatable PFDs are safe, and other commenters indicated potential confusion over the role of the STP in developing industry consensus standards and the Coast Guard’s role in incorporating those standards into its regulations. The Coast Guard agrees that

the STP, of which the Coast Guard is a member, is the appropriate consensus body to develop these standards, and the Coast Guard supports its work. The Coast Guard clarifies that the STP, an independent, consensus industry group, is the forum for developing the appropriate standards for the design, construction, and testing of inflatable PFDs, and the Coast Guard encourages all interested parties to participate in the standards development process via the STP. Once the STP has developed and adopted any new standard, the Coast Guard will consider whether it is appropriate to incorporate the standard into Coast Guard rules. If so, the Coast Guard will initiate a rulemaking to solicit public input on its determination.

Some commenters encouraged the Coast Guard to set a new limit of 13 years of age to guide or limit the STP’s work in developing a new industry consensus standard. This rulemaking does not address use of inflatable PFDs by persons under 16 years of age, and the Coast Guard does not agree that it should guide or limit the work of the STP, which is an independent, consensus industry group. The Coast Guard is only one of over 20 members of this group that is designed to have a balanced membership. The STP should develop and adopt a standard that the STP membership considers to meet the goals of the STP, and the Coast Guard will separately decide whether to incorporate the STP-adopted standard into Coast Guard regulations. In the event that the STP develops a standard which does not achieve all of the criteria that the Coast Guard determines—on its own or based on public comment during the rulemaking—are necessary to ensure the safety of these devices, the Coast Guard may impose additional restrictions via regulations to ensure public safety. Additionally, any restrictions on the STP’s work, such as an age limit, could ultimately become or lead to a barrier to innovation.

Several commenters expressed concerns regarding development of consensus standards without sufficient research. The Coast Guard acknowledges these concerns but notes that development of consensus standards regarding inflatable PFDs is done by the STP. The Coast Guard considers the appropriateness of standards for incorporation into Coast Guard regulations, which could include consideration of the basis for the standard. As stated previously, although one of the purposes of this rulemaking is to allow for continued discussion of the technical matters relative to

development of a standard regarding use of inflatable PFDs for persons under 16 years of age, this rulemaking does not have any substantive effect on the requirements for Coast Guard approval of inflatable PFDs.

One commenter referred to Coast Guard approval as a “seal of safety.” The Coast Guard points out that this is not an accurate statement. Coast Guard approval does not indicate or affect which PFDs may be manufactured and sold to the public. Coast Guard approval of any lifesaving or marine equipment, including PFDs, is available only for, and applicable only to, that equipment required by U.S. or international regulations to be carried or installed onboard vessels. 46 CFR 2.75–1. Coast Guard approval simply indicates that the specified equipment satisfies U.S. carriage requirements, and does not in any way confer an endorsement of the product. Likewise, the absence of Coast Guard approval on a product does not imply that the product is unsafe; it only indicates that product has not been demonstrated to satisfy the relevant standards for approval. This final rule with updated standards does not affect inflatable PFDs previously approved by Coast Guard.

One commenter supported the use of additional laboratories in the testing of PFDs for approval. The Coast Guard clarifies that this rulemaking does not affect the requirements for recognition of independent labs in accordance with 46 CFR 159.010, but rather identifies a more suitable means for providing the public with the list of labs recognized for this purpose. Prior to the availability of a web-based searchable list of labs, such as that contained on the Coast Guard Marine Information Exchange (CGMIX) Web site, all recognized laboratories were listed directly in the regulatory text, and a rulemaking was required to update the list when the information changed. By replacing the list in the regulations with a reference to CGMIX, the public has access to the complete list, in real time, without the Coast Guard having to initiate a rulemaking to update the list. This approach is consistent with the other subparts in subchapter Q that address Coast Guard approval of marine equipment. *See, e.g.*, 45 CFR subparts 160.115, 160.132, 160.133, and 160.135.

One commenter indicated concern about the availability of technical specifications and standards being incorporated by reference. The Coast Guard notes that the direct final rule and NPRM provided a summary of the changes between the editions of the UL Standards currently contained in 46 CFR part 160, subpart 160.076 and the

newer editions being incorporated by reference, in order to provide notice of the changes in technical specifications in Coast Guard regulations. The Coast Guard also notes that the direct final rule and the NPRM specified that the UL standards incorporated by reference in this rule are available from UL and provided necessary contact information.

One commenter pointed out typos in the NPRM preamble where 160.076 was mistakenly referred to as 160.067. The Coast Guard appreciates the input and confirms that those references apply to subpart 160.076.

In response to these comments, the Coast Guard made only non-substantive changes to format and to fix any typographical errors in the rule.

#### V. Incorporation by Reference

The Director of the Federal Register has approved the material in 46 CFR 160.076–11 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in paragraph (b) of § 160.076–11.

#### VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

##### A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the final rule has not been reviewed by the Office of Management and Budget.

We received no comments that would alter our assessment of impacts in the NPRM. We have found no additional data or information that would change our assessment of the impacts in the NPRM. We have adopted the analysis in

the NPRM for this rule as final. A summary of the analysis follows:

The Coast Guard does not expect this rule to result in additional costs to industry, as manufacturers of Coast Guard-approved inflatable PFDs already follow the editions of the UL Standards being incorporated by reference into 46 CFR part 160, subpart 160.076 by this rule. The Coast Guard requires approval tests to be performed by an independent laboratory recognized by the Coast Guard under 46 CFR part 159, subpart 159.010. Currently, UL is the only recognized independent laboratory for inflatable PFDs, and UL requires manufacturers to conform to its most current standards, which are the editions being incorporated by reference into subpart 160.076. Additionally, UL offers a certification for those recreational inflatable PFDs that conform to UL’s most current standards. The UL certification provides a product liability benefit to manufacturers, and obtaining the UL certification has become an industry custom for manufacturers of commercially-sold recreational inflatable PFDs.

As described above, industry is currently following the editions of the UL Standards incorporated by reference into subpart 160.076 in this rule, and PFD manufacturers will adhere to these standards regardless of whether this rule is promulgated. Therefore, this modification to 46 CFR part 160, subpart 160.076 is not expected to impose a burden on industry.

In addition, the Coast Guard does not expect that removing the language “approved for use by adults only” in 46 CFR 160.076–1 will have a substantive impact because the standards approved by this rulemaking retain with the current age and weight limitations. As discussed above in the “Discussion of the Rule” section in this preamble, the age and weight limitations found in editions of the UL Standards long incorporated in subpart 160.076 are retained in the newer editions of the UL Standards incorporated by reference into subpart 160.076. The remaining changes to subpart 160.076 are minor editorial updates. For additional details, please see the “Discussion of the Rule” section in the NPRM, published September 29, 2011. 76 FR 60405.

The primary benefit of this rule is the increase in regulatory efficiencies in the maritime community by harmonizing Coast Guard regulations in 46 CFR part 160, subpart 160.076 with current voluntary industry consensus standards. This rule will result in greater consistency between Coast Guard regulations and consensus standards and will reduce burdens on

manufacturers who currently have to maintain multiple editions of the UL Standards to comply with Coast Guard regulations, to use UL as an independent laboratory to perform required tests, and to obtain the UL certification. This rule will also result in better compliance with the National Technology Transfer and Advancement Act (NTTAA), which directs agencies to use voluntary consensus standards in their regulatory activities.

Because the rule harmonizes subpart 160.076 with existing UL Standards, ambiguity associated with inflatable PFD standards will be reduced. Harmonization of these standards is important to fulfill the Coast Guard's mission of establishing minimum safety standards, and procedures and tests required to measure conformance with those standards, for recreational vessels and associated equipment.

#### *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 people.

In the NPRM, we certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. We received no public comments that would alter our certification in the NPRM. We have found no additional data or information that would change our findings in the NPRM.

The Coast Guard estimates that this rule will not have an impact on small entities. As described in the “Regulatory Planning and Review” subsection, we do not expect this rule to result in additional costs to industry. However, this rule will improve efficiency by providing consistency between Coast Guard regulations and UL Standards. 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 offered to assist small entities in understanding the rule so that they could better evaluate its effects on them

and participate in the rulemaking process. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy action of the Coast Guard.

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).

#### *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 the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### *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 (adjusted for inflation) 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.

#### *G. Taking of Private Property*

This rule will not cause 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 the 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 will 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 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.

#### *L. Technical Standards*

The 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 uses the following voluntary consensus standards: UL 1123, “UL Standard for Safety for Marine Buoyant Devices”; UL 1180, “UL Standard for Safety for Fully Inflatable Recreational Personal Flotation Devices”; and UL 1191, “UL Standard for Safety for Components for Personal Flotation Devices.” The section that references

these standards and the locations where these standards are available are listed in 46 CFR 160.076–11.

*M. 2010 Coast Guard Authorization Act Sec. 608 (46 U.S.C. 2118(a))*

Section 608 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281) adds new section 2118 to 46 U.S.C. Subtitle II (Vessels and Seamen), Chapter 21 (General). New section 2118(a) sets forth requirements for standards established for approved equipment required on vessels subject to 46 U.S.C. Subtitle II (Vessels and Seamen), Part B (Inspection and Regulation of Vessels). Those standards must be “(1) based on performance using the best available technology that is economically achievable; and (2) operationally practical.” See 46 U.S.C. 2118(a). This rule addresses inflatable recreational PFDs for Coast Guard approval that are required on vessels subject to 46 U.S.C. Subtitle II, Part B, and the Coast Guard has ensured that this rule satisfies the requirements of 46 U.S.C. 2118(a), as necessary.

*N. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 that does not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under section 6(a) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48243, July 23, 2002). This rule involves inflatable PFD standards and falls under regulations concerning safety equipment. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

**List of Subjects in 46 CFR Part 160**

Marine safety, Incorporation by reference, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 160 as follows:

**PART 160—LIFESAVING EQUIPMENT**

■ 1. The authority citation for part 160 is revised to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 160.076–1(b) to read as follows:

**§ 160.076–1 Scope.**

\* \* \* \* \*

(b) Inflatable PFDs approved under this subpart rely entirely upon inflation for buoyancy.

**§ 160.076–7 [Amended]**

■ 3. Amend § 160.076–7(b) by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1180”.

**§ 160.076–9 [Amended]**

■ 4. Amend § 160.076–9(b) by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1180”.

■ 5. Amend § 160.076–11 as follows:

■ a. In paragraph (a), after the words “one listed in”, remove the words “paragraph (b) of”; and

■ b. Revise paragraph (b) to read as follows:

**§ 160.076–11 Incorporation by reference.**

\* \* \* \* \*

(b) Underwriters Laboratories (UL) *Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062–2096 (Phone (847) 272–8800; Facsimile: (847) 272–8129; Web site: www.ul.com).*

(1) UL 1123, UL Standard for Safety for Marine Buoyant Devices, Seventh Edition including revisions through February 14, 2011, (dated October 1, 2008), (“UL 1123”), incorporation by reference approved for § 160.076–35.

(2) UL 1180, UL Standard for Safety for Fully Inflatable Recreational Personal Flotation Devices, Second Edition including revisions through December 3, 2010, (dated February 13, 2009), (“UL 1180”), incorporation by reference approved for §§ 160.076–7; 160.076–9; 160.076–21; 160.076–23; 160.076–25; 160.076–31; 160.076–37; and 160.076–39.

(3) UL 1191, UL Standard for Safety for Components for Personal Flotation Devices, Fourth Edition including revisions through August 24, 2011, (dated December 12, 2008), (“UL 1191”), incorporation by reference approved for §§ 160.076–21; 160.076–25; 160.076–29; and 160.076–31.

■ 6. Revise § 160.076–19 to read as follows:

**§ 160.076–19 Recognized laboratories.**

The approval and production oversight functions that this subpart requires to be conducted by a

recognized laboratory must be conducted by an independent laboratory recognized by the Coast Guard under subpart 159.010 of part 159 of this chapter to perform such functions. A list of recognized independent laboratories is available from the Commandant and online at <http://cgmix.uscg.mil>.

■ 7. Revise § 160.076–21 to read as follows:

**§ 160.076–21 Component materials.**

Each component material used in the manufacture of an inflatable PFD must—

(a) Meet the applicable requirements of subpart 164.019 of this chapter, UL 1191 and UL 1180 (incorporated by reference, see § 160.076–11), and this section; and

(b) Be of good quality and suitable for the purpose intended.

**§ 160.076–23 [Amended]**

■ 8. Amend § 160.076–23(a)(1) by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1180”.

■ 9. Amend § 160.076–25 as follows:

■ a. In paragraph (a), after the words “UL 1180”, add the words

“(incorporated by reference, see § 160.076–11)”;

■ b. Remove and reserve paragraph (c); and

■ c. Revise paragraph (d) to read as follows:

**§ 160.076–25 Approval testing.**

\* \* \* \* \*

(d) Each PFD design must be visually examined for compliance with the construction and performance requirements of §§ 160.076–21 and 160.076–23 and UL 1180 and UL 1191 (incorporated by reference, see § 160.076–11).

\* \* \* \* \*

■ 10. Amend § 160.076–29 as follows:

■ a. In paragraph (d), remove the words “in accordance with UL 1180”; and

■ b. Revise paragraph (e)(4)(i) to read as follows:

**§ 160.076–29 Production oversight.**

\* \* \* \* \*

(e) \* \* \*

(4) \* \* \*

(i) Samples must be selected from each lot of incoming material. Unless otherwise specified, Table 29.1 of UL 1191 (incorporated by reference, see § 160.076–11) prescribes the number of samples to select.

\* \* \* \* \*

**§ 160.076–31 [Amended]**

■ 11. Amend § 160.076–31 as follows:

■ a. In paragraph (c)(1), remove the words “The average and individual results of testing the minimum number of samples prescribed by § 160.076–25(d)(2)” and add, in their place, the words “The materials in each inflatable chamber”; and remove the words “§ 160.076–21(b) and (c)” and add, in their place, the words “Table 29.1 of UL 1191 (incorporated by reference, see § 160.076–11)”;

■ b. In paragraph (c)(2), remove the words “§ 160.076–21(d)(2)(iv). The results for each inflation chamber must be at least 90% of the results obtained in approval testing” and add, in their place, the words “Table 29.1 of UL 1191”;

■ c. In paragraph (c)(3), after the words “UL 1180”, add the words “(incorporated by reference, see § 160.076–11)”, and remove the number “7.15”, and add, in its place, the number “41”;

■ d. In paragraph (c)(4), after the words “UL 1180 section”, remove the number “7.16”, and add, in its place, the number “42”;

■ e. In paragraph (c)(5), after the words “UL 1180 section”, remove the words “7.2.2–7.2.10, except 7.2.5” and add, in their place, the number “29”; and

■ f. In paragraph (c)(6), after the words “UL 1180 section”, remove the words “7.4.1 and .2” and add, in their place, the number “31”.

#### § 160.076–35 [Amended]

■ 12. Amend § 160.076–35 by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1123”.

#### § 160.076–37 [Amended]

■ 13. Amend § 160.076–37(b) by removing the words “section 11 of” after the words “specified in” and by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1180”.

#### § 160.076–39 [Amended]

■ 14. Amend § 160.076–39 as follows:

■ a. In paragraph (a), remove the words “section 10” and add, in their place, the words “(incorporated by reference, see § 160.076–11)”; and

■ b. Remove paragraph (e).

Dated: March 22, 2012.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2012–7791 Filed 4–2–12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 10

[Docket No. DOT–OST–1996–1437]

RIN 2105–AD85

#### Privacy Act of 1974: Implementation of Exemptions; DOT/ALL 24—Departmental Office of Civil Rights System System of Records

**AGENCY:** Department of Transportation (DOT), Office of the Secretary (OST).

**ACTION:** Final rule.

**SUMMARY:** The Department of Transportation is issuing a final rule to amend its regulations to exempt portions of a newly established or updated and reissued system of records titled, “DOT/ALL 24—Departmental Office of Civil Rights System” from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the “DOT/ALL 24—Departmental Office of Civil Rights System” from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

**DATES:** This final rule is effective April 3, 2012.

**FOR FURTHER INFORMATION CONTACT:** Claire W. Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 or [privacy@dot.gov](mailto:privacy@dot.gov) or (202) 366–8135.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department of Transportation (DOT), Office of the Secretary (OST) published a notice of proposed rulemaking in the **Federal Register** (76 FR 71930) November 21, 2011, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records that is the subject of the notice of proposed rulemaking is the DOT/ALL 24—Departmental Office of Civil Rights System of Records. The DOT/ALL 24—Departmental Office of Civil Rights System system of records notice was published in the **Federal Register** (76 FR 71108) November 16, 2011, and comments were invited on both the Notice of Proposed Rulemaking (NPRM) and System of Records Notice (SORN). The notice of proposed rulemaking was inadvertently published under RIN 2105–AD11, and was entitled

“Maintenance of and Access to Records Pertaining to Individuals; Proposed Exemption.” In addition, the notice of proposed rulemaking indicated that the proposed rule would add a new paragraph 8 to Part II.A of the Appendix to Part 10. The notice of proposed rulemaking should have stated that the proposed rule would add a new paragraph 9 to Part II.A of the Appendix to Part 10. The final rule has been revised accordingly.

#### Public Comments

DOT received no comments on the NPRM and no comments on the SORN.

#### Regulatory Analysis and Notices

This final rule is not a “significant regulatory action” within the meaning of Executive Order 12886. It is also not significant within the definition in DOT’s Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this rule does not have a significant economic impact on a substantial number of small entities, because the reporting requirements, themselves, are not changed and because it applies only to information on individuals that is maintained by the Federal Government.

This rule does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (“Consultation and Coordination with Indian Tribal Governments”). Because it has no effect on Indian Tribal Governments, the funding and consultation requirements of Executive Order 13084 do not apply.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities.

This rule imposes no new information reporting or record keeping necessitating clearance by the Office of