

we do discuss the effects of this rule elsewhere in this preamble.

#### 7. 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.

#### 8. 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.

#### 9. 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.

#### 10. 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.

#### 11. Energy Effects

This action is not a "significant energy action" under Executive order 13211, Actions Concerns Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 12. 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.

#### 13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule was tested from May 1, 2009 through October 26, 2009. Satisfactory results were received from the test insofar as there were no adverse impacts to navigation. In addition, we received no objection to the operation schedule during or after the test period ended and found that the operation schedule met the reasonable needs of navigation. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

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; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.213 to read as follows:

#### § 117.213 New Haven Harbor, Quinnipiac and Mill Rivers.

The draws of the Tomlinson Bridge, mile 0.0, the Ferry Street Bridge, mile 0.7, and the Grand Avenue Bridge, mile 1.3, across the Quinnipiac River, and the Chapel Street Bridge, mile 0.4, across the Mill River, shall operate as follows:

(a) The draw of the Tomlinson Bridge at mile 0.0, across the Quinnipiac River shall open on signal; except that, from 7:30 a.m. to 8:30 a.m., noon to 12:15 p.m., 12:45 p.m. to 1 p.m., and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic.

(b) The draw of the Ferry Street Bridge at mile 0.7, across Quinnipiac

River, shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one-hour advance notice is given by calling the number posted at the bridge.

(c) The draw of the Grand Avenue Bridge at mile 1.3, across the Quinnipiac River shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one-hour advance notice is given by calling the number posted at the bridge.

(d) The draw of the Chapel Street Bridge at mile 0.4, across the Mill River shall open on signal; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

Dated: February 14, 2013.

**Daniel B. Abel,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 2013-04621 Filed 2-27-13; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 151

[Docket No. USCG-2012-1049]

RIN 1625-AB97

#### Implementation of MARPOL Annex V Amendments

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard is publishing an interim rule with request for comments to conform regulations to the adopted MARPOL Annex V amendments which entered into force on January 1, 2013. The International Convention for the Prevention of Pollution from Ships (MARPOL) Annex V (Garbage) amendments prohibiting the discharge of garbage from vessels unless expressly allowed were adopted by the International Maritime Organization's Marine Environmental Protection

Committee in July 2011 and implemented domestically through the Act to Prevent Pollution from Ships. Under this rule, the only allowed discharges will be certain food wastes, cargo residues, cleaning agents and additives in wash waters, and animal carcasses.

**DATES:** This interim rule is effective April 1, 2013. Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before May 29, 2013 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–1049 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, email or call LCDR Rodney Wert, Coast Guard; email [rodney.wert@uscg.mil](mailto:rodney.wert@uscg.mil), telephone 202–372–1434. If you have questions on viewing or submitting material to the docket, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents for Preamble**

- I. Public Participation and Request for Comments
  - A. Submitting Comments
  - B. Viewing Comments and Documents
  - C. Privacy Act
  - D. Public Meeting
- II. Abbreviations
- III. Regulatory History
- IV. Basis and Purpose
- V. Discussion of the Interim Rule
- VI. Regulatory Analyses
  - A. Regulatory Planning and Review
  - B. Small Entities
  - C. Assistance for Small Entities
  - D. Collection of Information
  - E. Federalism
  - F. Unfunded Mandates Reform Act
  - G. Taking of Private Property

- H. Civil Justice Reform
- I. Protection of Children
- J. Indian Tribal Governments
- K. Energy Effects
- L. Technical Standards
- M. Environment

#### **I. Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

##### *A. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–1049), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and insert “USCG–2012–1049” in the “Search” box. Click on “Submit a Comment” then in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

##### *B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, insert “USCG–2012–1049” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### *C. Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

This rule also edits § 151.57, “Garbage management plans.” However, these edits do not change any of the specific information that is currently required. Therefore, there will be no change to the collection burden, as estimated in the Information Collection Review (ICR) “Waste Management Plans, Refuse Discharge Logs, and Letters of Instruction for Certain Persons-in-Charge (PIC) and Great Lakes Dry Cargo Residue Recordkeeping.” This ICR was approved by the Office of Management and Budget under control number 1625–0072 and it expires on July 31, 2014. Prior to the expiration, the Coast Guard will publish requests for comments. Information received from the public in that comment period may be used to update the ICR.

##### *D. Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### **II. Abbreviations**

- APPS The Act to Prevent Pollution From Ships
- DHS Department of Homeland Security
- E.O. Executive Order
- FR **Federal Register**
- IMO International Maritime Organization
- IR Interim Rule
- ISM International Safety Management System
- MARPOL The International Convention for the Prevention of Pollution from Ships
- MEPC Marine Environment Protection Committee
- NPRM Notice of proposed rulemaking
- U.S.C. United States Code
- WCR Wider Caribbean Region

#### **III. Regulatory History**

The Coast Guard is issuing this interim rule without prior notice and

opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the International Convention for the Prevention of Pollution from Ships (MARPOL) Annex V (Garbage) restrictions on the discharge of garbage have already been implemented by the Act to Prevent Pollution from Ships (APPS). Publishing an NPRM and delaying the effective date of the change to 33 CFR part 151 is unnecessary because the change is a conforming amendment required by existing authority and because an opportunity for public comment has already been provided.

This rulemaking restates a legal responsibility already in effect under MARPOL and APPS (33 U.S.C. 1901, et seq.), which is the U.S. authority for implementing MARPOL. Through APPS, the United States accepts all modifications and amendments made to Annex V as domestic law upon the amendments’ entry into force ((33 U.S.C. 1901(a)(5)); see also section 1907(a) (requiring compliance with MARPOL)). This rulemaking will revise domestic regulations at 33 CFR part 151 to accurately reflect U.S. requirements under MARPOL Annex V.

The public has had several opportunities to comment on the MARPOL Annex V amendments that will be incorporated in Coast Guard regulations under this rulemaking. Beginning in 2006, the United States worked with the 170 member states of the International Maritime Organization (IMO) Marine Environmental Protection Committee (MEPC) for over 5 years to amend MARPOL Annex V and greatly reduce the discharge of ship-generated garbage into the sea. A Coast Guard

official serves as head of the United States Delegation to the MEPC. The Coast Guard held a public meeting in Washington, DC prior to each MEPC meeting to present the United States’ position(s) on the amendments and to receive public comments which would be taken into consideration when finalizing the U.S. negotiating positions. There were no adverse public comments received prior to the July 2011 MEPC 62 (the meeting where the amendments were formally adopted by MEPC). Previous MARPOL Annex V-related regulatory projects, including the Wider Caribbean Region (WCR) special area regulation, similarly did not receive any adverse comments (77 FR 19537, April 2, 2012).

Additionally, the original APPS regulations in 33 CFR parts 151, 155, and 158 were implemented through a full informal rulemaking process, including an Advance Notice of Proposed Rulemaking (ANPRM) (53 FR 23884, June 24, 1988), an Interim Rule (IR) with Request for Comments (54 FR 18384, April 28, 1989), and a Final Rule (55 FR 35986, September 4, 1990).

**IV. Basis and Purpose**

MARPOL consists of 20 articles and Annexes I through VI. The subject of this rulemaking, MARPOL Annex V, regulates the discharge of garbage from ships. APPS implements MARPOL into domestic law, requiring the Secretary of the Department in which the Coast Guard is operating to administer and enforce the various Annexes of MARPOL. Through APPS, the United States accepts any modifications or amendments to MARPOL as domestic law (33 U.S.C. 1901(a)(5), see also section 1907(a) (requiring compliance with MARPOL)). In July 2011, the IMO MEPC adopted amendments to MARPOL Annex V which entered into force January 1, 2013.

MARPOL applies to the oceangoing vessels of all signatory flag administrations. Domestically, APPS requires all vessels subject to MARPOL to be in compliance with its provisions while in U.S. navigable waters. APPS goes further and specifically applies the

provisions of Annex V to U.S. navigable waters as well as all other waters and vessels over which the United States has jurisdiction, including U.S. vessels in U.S. internal waters (33 U.S.C. 1901(b)).

Because APPS implements MARPOL and any modifications or amendments thereto, regulations are not required in order to carry out the provisions of MARPOL on signatory flag state vessels in U.S. waters. MARPOL, however, requires signatory states to apply the requirements equally to all vessels so no more favorable treatment is given to non-signatory vessels (MARPOL, Article 5(4)). Under MARPOL, as implemented by APPS, federal regulations must be promulgated to ensure compliance of non-signatory vessels to MARPOL standards while in U.S. navigable waters. This rulemaking meets this U.S. obligation under MARPOL as implemented by APPS and revises 33 CFR part 151 accordingly.

**V. Discussion of the Interim Rule**

MARPOL provisions, as implemented through APPS, are key elements of the Coast Guard’s prevention and compliance programs. The domestic Annex V conforming regulations are located in 33 CFR part 151.

In July 2011, the IMO MEPC adopted amendments to MARPOL Annex V which entered into force January 1, 2013. The United States played a lead role at MEPC over the last several years in the development of the amendments to Annex V. These amendments reduce the types of garbage that can be discharged into the sea by establishing a general prohibition on discharges of garbage into the sea. Under prescribed conditions, exceptions are provided for food wastes, cargo residues, cleaning agents and additives in wash waters, and animal carcasses.

Part 151 of Title 33 of the CFR will be revised to conform to the amendments. The primary revisions as the subject of this rulemaking are (1) Updating operational requirements, (2) adding new definitions, and (3) replacing placards. Table 1 presents a summary of the changes to garbage discharge practices.

**TABLE 1—SUMMARY OF CHANGES TO GARBAGE DISCHARGE PRACTICES**

| Topic                                      | Summary of change  | Type of change (see list above) |
|--|--|---------------------------------|
| Discharge of garbage .....                 | Prohibition on the discharge of garbage, with proscribed exceptions. | (1) Operational.                |
| Garbage, edit definition of the term ..... | Added plastics, discharge of plastics currently prohibited anywhere. | (2) New definition.             |
|  | Added cargo wastes .....   | (2) New definition.             |
|  | Added cooking oils .....   | (1) Operational.                |
|  | Added fishing gear .....   | (2) New definition.             |

TABLE 1—SUMMARY OF CHANGES TO GARBAGE DISCHARGE PRACTICES—Continued

| Topic                                  | Summary of change  | Type of change (see list above)         |
|--|--|---|
| Food wastes inside special areas ..... | Added animal carcasses .....<br>Removed WCR exemption to align with the 2012 WCR rulemaking.                     | (1) Operational.<br>(2) New definition. |
| Cleaning agents .....                  | All food wastes must be comminuted .....<br>Cleaning agents may be discharged if not harmful to the environment. | (1) Operational.<br>(1) Operational.    |
| Placards .....                         | Change minimum size .....<br>Remove 1997 grandfathering .....  | (3) Replacing placards.                 |

*Operational Requirements*

This rulemaking aligns the CFR with MARPOL Annex V, and incorporates the general prohibition on discharges of garbage into the sea. Also included in this rulemaking are exceptions, under prescribed conditions, that are provided in MARPOL Annex V for food wastes, cargo residues, cleaning agents and additives in wash waters, and animal carcasses. Conditions for discharge contain references to operational requirements, such as that the vessel

must be en route and a minimum distance from land or ice shelves, or technical requirements, such as cleaning agents must not be harmful to the marine environment.

*Definitional Changes*

This rulemaking revises the definitions in 33 CFR 151.05 to align with the MARPOL V amendments and provide clarity. In Table 2 we list the revised terms and put them into three categories:

- *New Definitions:* Terms that are added to conform to the MARPOL Annex V amendments.
- *Revised Definitions:* Terms that already exist in the CFR, but the definitions are revised to conform to the MARPOL Annex V amendments to the requirements and provide consistency within the regulatory text.
- *Reorganized Definitions:* The definitions of these terms are unchanged, but they are now included in definitions of other terms.

TABLE 2—SUMMARY OF DEFINITIONAL CHANGES

| New term   | Old term                      | Remarks                          |
|--|-------------------------------|----------------------------------|
| Cargo .....  | Cargo .....                   | Revised definition.              |
| Cargo Residues .....                                       | N/A .....                     | New definition.                  |
| Cooking Oil .....  | N/A .....                     | New definition.                  |
| Domestic Wastes .....                                      | Domestic Wastes .....         | Revised definition.              |
| En Route .....   | N/A .....                     | New definition.                  |
| Fishing Gear .....   | N/A .....                     | New definition.                  |
| Fixed or floating drilling rig or other platform .....     | N/A .....                     | New definition.                  |
| Food Wastes .....  | Victual Wastes .....          | Revised definition.              |
| Garbage .....  | Garbage .....                 | Revised definition.              |
| Graywater .....  | Graywater .....               | Revised definition.              |
| Harmful to the marine environment .....                    | N/A .....                     | New definition.                  |
| Incinerator Ashes .....                                    | N/A .....                     | New definition.                  |
| International Maritime Organization (IMO) Guidelines ..... | N/A .....                     | New definition.                  |
| MARPOL .....   | MARPOL 73/78 .....            | Revised definition.              |
| Nearest Land .....   | Nearest Land .....            | Revised definition.              |
| Operational Wastes .....                                   | Cargo Associated Wastes ..... | Revised definition. <sup>1</sup> |
|  | Maintenance Wastes .....      |                                  |
|  | Oil Rags .....                |                                  |
| Plastics .....   | Plastics .....                | Revised definition.              |
| Recycling .....  | N/A .....                     | New definition.                  |

<sup>1</sup> Formerly separate definitions of “Cargo Associated Wastes,” “Maintenance Wastes,” and “Oil Rags,” now included in “Operational Wastes.”

*Replacing Placards*

Section 151.59 contains the requirements for the posting of placards that summarize the garbage restrictions of Annex V. Revisions to placard regulatory requirements include:

- Moving the applicability requirements of § 151.59(a) to § 151.51, *Applicability*, for ease of reference;
- Revising applicability to include non-U.S.-flagged vessels that are 40 ft (12 m) or more;
- Changing the size of the placard to at least 20 cm (8 in) by 12.5 cm (5 in);

- Revising § 151.59(e)(2)(ii) to remove the grandfathering provision for placards installed on vessels prior to May 7, 1997; and
- Various technical edits made to align with revisions to terminology and to clarify requirements.

**VI. Regulatory Analyses**

We developed this interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 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 IR has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the IR has not been reviewed by the Office of Management and Budget. A draft Regulatory Assessment follows:

As stated in section IV., “Basis and Purpose,” this rulemaking is non-discretionary and intended to meet our

obligations as a signatory to MARPOL, as implemented by APPS. This rulemaking meets the requirement of ensuring compliance of non-signatory vessels to MARPOL standards while operating in U.S. navigable waters. See MARPOL, Article 5(4). Additionally, this rulemaking is necessary to conform Coast Guard regulations to the MARPOL Annex V amendments. As described in the “Operational Requirements” part of section V., “Discussion of the Interim

Rule”, the Annex V amendments reduce the types of garbage that can be discharged into the sea by establishing a general prohibition on discharges of garbage from ships into the sea with exceptions for certain types of garbage under prescribed conditions. Affected vessels will be required to replace their garbage discharge placards with new ones that reference the amendments. Table 3 displays a summary of our analysis.

TABLE 3—SUMMARY OF AFFECTED POPULATION, COST SAVINGS, AND BENEFITS

| Category   | Estimate  |
|--|---|
| Affected Population .....                                | Owners and operators of 12,277,662 commercial and recreational vessels.   |
| Costs discounted at 7% interest rate 10 year total ..... | \$2,878,879   |
| Annualized .....   | \$409,888   |
| Benefits .....   | <ul style="list-style-type: none"> <li>Align Coast Guard regulations with APPS implementation of MARPOL Annex V amendment of 2011.</li> <li>Fulfill treaty obligations as signatory to MARPOL.</li> <li>Improve enforcement posture to maintain and enhance environmental quality.</li> </ul> |

**Affected Population**

This rulemaking is applicable to all U.S.-flagged vessels, wherever they operate, and non-U.S.-flagged vessels operating in the navigable waters or Exclusive Economic Zone of the United States, with limited exceptions. We divided the U.S.-flagged population into those in domestic and international trade. The domestic population consists of four groups: recreational, commercial, passenger, and public/research/school. The recreational population is approximately 12,173,935 vessels.<sup>1</sup> Data

on non-recreational vessels were extracted from the Coast Guard’s Marine Information for Safety and Law Enforcement (MISLE) database and are described below:

- Domestic Commercial—86,871 vessels: Container ships, freight ships, tank vessels, offshore supply vessels, commercial fishing vessels, and other similar vessels that carry cargo or support the shipping industry.
- Domestic Passenger—15,855 vessels: Passenger vessels, both self-propelled and barges.

- Domestic Public/Research/School—1,001 vessels: Vessels used by public institutions, research organizations, and sailing schools.

- International: Using MISLE’s SOLAS certificate history data, we identified 146 U.S.-flagged vessels engaged in international trade.

Table 4 shows the U.S.-flagged portion of the affected population by trade type and vessel service group within the domestic trade type.

TABLE 4—AFFECTED POPULATION—U.S.-FLAGGED VESSELS BY VESSEL SERVICE GROUP

| Trade type          | Service group                | Vessels    |            |
|---------------------|------------------------------|------------|------------|
| Domestic .....      | Commercial .....             | 86,871     |            |
|                     | Passenger .....              | 15,855     |            |
|                     | Public/Research/School ..... | 1,001      |            |
|                     | Recreational .....           | 12,173,789 |            |
|                     | Total .....                  |            | 12,277,516 |
| International ..... | Total .....                  |            | 146        |
| Total .....         |                              |            | 12,277,662 |

Source: U.S. Coast Guard Current Practices

This rulemaking does not affect the existing prohibition under APPS on discharge of all types of garbage within three nautical miles of land. The prohibition covers all manned vessels,

commercial and recreational, that transit U.S. inland waterways and near-shore waters.

Much of the maritime community has developed voluntary garbage management procedures that are consistent with the Annex V amendments. The regulatory analysis

for the Wider Caribbean Region (WCR) rulemaking analyzed current garbage management and discharge practices across sectors (77 FR 19537, April 2, 2012). A summary of these findings follows:

- Cruise Line Sector. Using guidelines published by the Cruise Line

<sup>1</sup> U.S. Coast Guard, Boating Safety Division, 2011 Boating Statistics Report, Table 37, Registration

Data, page 56 (<http://www.uscgboating.org/assets/1/Publications/2011BoatingStatisticsreport.pdf>).

International Association, this industry has incorporated garbage and waste management practices into cruise ships' safety management systems that meet or exceed the requirements of MARPOL and U.S. regulations.

- *Commercial Fishing Vessel Sector.* Commercial Fishing Vessels are covered by MARPOL. However, due to their operations, in that they do not carry freight and passengers, most of the requirements of Annex V, such as those regarding dunnage, and paper, will not be applicable to this sector. One amendment adds fishing gear to the definition of garbage, but the industry was informed about this requirement in the guidelines published by IMO in 2006. The requirements for other types of garbage, such as plastics and unground food wastes, are unchanged. Thus, we anticipate that commercial fishing vessels are already in compliance with this rulemaking.

- *Other Commercial Vessels.* The 146 vessels known to be engaged in international trade are already subject to the strict restrictions that apply when transiting the Special Areas designated by MARPOL and the waste management requirements of the IMO's International Safety Management System (ISM) Code. Within the Gulf of Mexico Special Area,

U.S. vessels subject to this rulemaking, along with all other vessels transiting the Area, already need to comply with its restrictions. Compliance with these MARPOL V amendments is further reinforced through the use of safety management systems (SMSs) such as the ISM or the Responsible Carrier Program of the American Waterways Operators. These SMSs have as their base requirement compliance with all federal and state regulations, and then impose additional requirements for safety, health, and environmental protection. Compliance with the SMSs is determined via company and third-party audits.

- *Recreational Vessels.* The voyages of recreational vessels usually are of short duration and occur in the inland and coastal waters of the United States, where discharge of garbage is prohibited. This long-standing regulatory prohibition is reinforced by education programs of various state and local governments, and by boating associations. The Boat U.S. Foundation's "Stash the Trash" program is a leading example. Recreational vessels in general do not generate large amounts of garbage and the standard practice is to retain garbage on board until returning to port where the garbage

is deposited in trash receptacles on shore. As these practices meet requirements of this rule, we anticipate that owners and operators of recreational vessels will incur no additional costs.

The regulatory analysis for the WCR rulemaking concluded that current practices by industry and the recreational boating community as they operate in waters under the jurisdiction of the U.S. exceed regulatory minimums, and that implementing the WCR would not result in any additional costs. In summary, the Coast Guard concludes that the maritime community has a longstanding knowledge of the provisions contained in the MARPOL Annex V amendments and many sectors have already taken actions to meet or exceed those requirements.

**Costs**

Cost analyses of the three areas of changes follow.

**Operational Requirements**

Certain provisions of the IR directly address on-board practices and operations. Table 5 expands upon the summary of changes provided in Table 1, adding a brief description of the economic impact.

TABLE 5—CHANGES AND ECONOMIC IMPACTS

| Topic                                      | Summary of change  | Economic impact   |
|--|--|---|
| Discharge of garbage .....                 | Prohibition on the discharge of garbage, with proscribed exceptions. | No cost. Align with MARPOL V amendments.  |
| Garbage, edit definition of the term ..... | Added plastics .....   | No cost, current practice.  |
|  | Added cargo wastes, cooking oils .....                               | No cost, technical edits. Clarify text.   |
|  | Added fishing gear .....   | No cost, current practice.  |
|  | Added animal carcasses .....   | Impacted vessels are those in certain international trade routes. No cost to affected population.   |
| Food wastes inside special areas .....     | Removed WCR exemption .....  | No cost; align with WCR special area rule.  |
|  | All food wastes must be comminuted .....                             | No cost, current practice.  |
| Cleaning agents .....                      | Cleaning agents may be discharged if not harmful to the environment. | No cost, markets have already responded. <sup>2</sup>   |
| Placards .....                             | Change minimum size. Remove 1997 grandfathering.                     | Cost to replace placards, discounted at 7 percent: \$2,878,878 over 10 years; \$409,888 annualized. |

**Definitional Changes**

As described in section "V. Discussion of the Interim Rule," 33 CFR 151.05, *Definitions*, is revised to include new definitions and revisions to existing definitions to align with the amendments to MARPOL Annex V. The editorial changes produce no additional costs to the affected population. They

<sup>2</sup> As examples, see [www.drew-marine.com/cleaning-coatings.html](http://www.drew-marine.com/cleaning-coatings.html), [www.wcisupplies.com/nibio/nibio.html](http://www.wcisupplies.com/nibio/nibio.html), and [www.wilhelmsen.com/services/maritime/companies/buss/marinechemicals/products/Pages/products.aspx](http://www.wilhelmsen.com/services/maritime/companies/buss/marinechemicals/products/Pages/products.aspx).

have the qualitative benefit of adding clarity and consistency to the regulatory text.

**Replacing Placards**

The current version of MARPOL Annex V (§ 151.59(d)(6)) states that: "[P]lacards installed on vessels before May 7, 1997, need not be replaced; and existing stocks of placards, containing previous language, may be used." The new amendments remove this exemption, so all subject vessels will need new placards. The current version of § 151.59 states that placards are

required on U.S.-flagged vessels that are 26 feet or more in length. The amendments move the text that defines applicability to § 151.51(e), but they do not change the minimum vessel length threshold of 26 feet.

When the MARPOL Annex V amendments became effective on January 1, 2013, the owners and operators of non-U.S.-flagged vessels in international trade joined the affected population that needs new placards. However, they will need the new placards to remain in compliance with MARPOL, regardless of whether they

visit the U.S. or any other country. Therefore, the cost of the replacement placards for non-U.S.-flagged vessels is outside the scope of this analysis. The 146 U.S.-flagged vessels known to be engaged in international trade also need to comply with the placard requirement of MARPOL Annex V. As stated earlier, we believe that these vessels are currently in compliance with MARPOL V, regardless of the status of this rulemaking. We therefore did not include the costs of placards on these vessels as part of the costs of this IR.

In addition, other vessels within the scope of this costs analysis are U.S.-flagged vessels that engage in domestic trade or travel only, that are 26 feet or more in length. As described previously, the application of MARPOL Annex V to domestic vessels in domestic trade is not a discretionary action on the part of the Coast Guard as APPS specifically applies the provisions of Annex V to U.S. navigable waters, as well as to all other waters and vessels over which the U.S. has jurisdiction, including U.S. vessels in U.S. internal waters (33 U.S.C. 1901(b)).

To obtain the number of vessels subject to the placard requirement, that is, those 26 feet or longer, we used the

same Coast Guard sources used to produce the domestic population of 12,277,516 vessels listed in Table 3. The 2011 Boating Statistics Report contains a break-out by various categories of lengths.<sup>3</sup> Aggregating the ones 26 feet or more produced a count of 918,875 recreational vessels. The MISLE extract on non-recreational vessels contained length data for each vessel. We used this length data to identify 100,095 non-recreational vessels 26 feet or more in length by service group. Together, there are 1,018,970 U.S.-flagged vessels subject to the placard requirement, as shown in Table 6.

TABLE 6—POPULATION OF VESSELS SUBJECT TO PLACARD REQUIREMENT, BY SERVICE GROUP

| Vessel group                 | Vessels   |
|------------------------------|-----------|
| Commercial .....             | 83,545    |
| Passenger .....              | 15,573    |
| Public/Research/School ..... | 977       |
| Recreational .....           | 918,875   |
| Total .....                  | 1,018,970 |

These vessels can have many areas where garbage is generated and may need multiple placards. Based on

information from Coast Guard personnel who have inspected, examined, or observed these vessel types, we estimated the number of placards for these vessels by constructing the following categories, based on length. Table 7 shows the assignment of placards by vessel length category.

TABLE 7—ESTIMATE OF PLACARDS BY VESSEL LENGTH

| Vessel length            | Placards |
|--------------------------|----------|
| Less than 100 feet ..... | 1        |
| 100–199.9 feet .....     | 2        |
| 200–299.9 feet .....     | 3        |
| 300 feet or more .....   | 4        |

For each vessel in the subject population, we assigned the number of placards using the same vessel length variable used to determine if it qualified to be in the subject population. The results of these calculations were aggregated by service group and are displayed in Table 8. To obtain the number of vessels in a service group requiring a particular number of placards, one must divide the entry (number of placards per service group) by the number of placards.

TABLE 8—COUNT OF VESSELS AND PLACARDS

| Service group                | Vessel count | Number of placards per service group |        |       |     | Total placards |
|------------------------------|--------------|--------------------------------------|--------|-------|-----|----------------|
|                              |              | 1                                    | 2      | 3     | 4   |                |
| Commercial .....             | 83,545       | 77,865                               | 9,544  | 2,610 | 152 | 90,171         |
| Passenger .....              | 15,573       | 14,889                               | 1,060  | 279   | 244 | 16,472         |
| Public/Research/School ..... | 977          | 778                                  | 230    | 186   | 88  | 1,282          |
| Recreational .....           | 918,875      | 918,875                              | 0      | 0     | 0   | 918,875        |
| Total .....                  | 1,018,970    | 1,012,407                            | 10,834 | 3,075 | 484 | 1,026,800      |

• This count includes 934 vessels with recorded length of 0. This apparently marks missing data and to include them in the analysis we assigned them in the 1 placard group.

The data indicates that 99% of the vessels (1,012,407 out of 1,018,970) in the subject population are less than 100

feet in length and will need only one placard.

Based on data from an Internet search, we derived a unit cost of \$3 per

placard.<sup>4</sup> Table 9 displays the population, cost input, and total costs.

TABLE 9—COST OF REPLACING PLACARDS

| Service group                | Vessels   | Placards  | Cost      |
|------------------------------|-----------|-----------|-----------|
| Commercial .....             | 83,545    | 90,171    | \$270,513 |
| Passenger .....              | 15,573    | 16,472    | 49,416    |
| Public/Research/School ..... | 977       | 1,282     | 3,846     |
| Recreational .....           | 918,875   | 918,875   | 2,756,625 |
| Total .....                  | 1,018,970 | 1,026,800 | 3,080,400 |

<sup>3</sup> U.S. Coast Guard, Boating Safety Division, 2011 Boating Statistics Report, Table 37, Registration Data, page 56 (<http://www.uscgboating.org/assets/1/Publications/2011BoatingStatisticsreport.pdf>).

<sup>4</sup> We are not aware of new placards yet on the market. West Marine ([www.westmarine.com](http://www.westmarine.com), enter part # 8788986 in the search tool) has a set of 3 MARPOL placards, including one for Annex V,

with soon to be obsolete language, for example \$6.99. We use that to estimate per unit cost of a new placard at \$6.99/3=\$2.33, rounded up to \$3.00.

Please note that any vessels built in subsequent years are required to have a placard under the current regulation. Therefore, the only cost associated with

this IR is the one-time cost for existing vessels to replace their placards. Table 10 displays the 10-year cost analysis, showing undiscounted costs and

discounted costs at 7 percent and 3 percent rates.

TABLE 10—10-YEAR COST SCHEDULE, UNDISCOUNTED AND DISCOUNTED COSTS

| Year             | Undiscounted costs | Discounted costs |             |
|------------------|--------------------|------------------|-------------|
|                  |                    | 7%               | 3%          |
| 1 .....          | \$3,080,400        | \$2,878,879      | \$2,990,680 |
| 2–10 .....       | 0                  | 0                | 0           |
| Total .....      | 3,080,400          | 2,878,879        | 2,990,680   |
| Annualized ..... |                    | 409,888          | 350,599     |

In summary, this rulemaking is mandated under APPS to incorporate the MARPOL Annex V amendments into Coast Guard regulations. Our regulatory analysis identified the only cost item as the replacement of existing placards. The placards must be replaced as they contain language that is inconsistent with the MARPOL Annex V amendments. The implementation of this IR will align the text of the placards and the CFR with the MARPOL Annex V amendments, as implemented by APPS. No further costs are incurred and no alternatives are available to avoid modifying the placards that would enable vessels to comply with APPS and by extension MARPOL. This IR therefore, is the least cost alternative for the Coast Guard to fulfill the statutory requirements of APPS.

**Benefits**

The MARPOL Annex V amendments came into effect January 1, 2013 and are automatically implemented by APPS. After this date, Coast Guard regulations regarding MARPOL V became outdated and inconsistent with our international obligations and APPS.

The primary benefit of this rulemaking is to fulfill the U.S. treaty obligation as a signatory to MARPOL, and to align the CFR with MARPOL Annex V as implemented by APPS. This will improve the Coast Guard’s ability to carry out its maritime stewardship mission to maintain and enhance environmental quality.

**Alternatives**

APPS implements MARPOL in U.S. law and under APPS, the amendments to Annex V will take effect in January 2013, regardless of any regulatory action. The only alternative to the action taken in this Interim Rule would be to keep the current version of 33 CFR part 151 in place after January 2013. This would establish a conflict between the requirements in APPS and MARPOL Annex V, as compared to the language

in the CFR. Therefore, the alternative of maintaining the status quo is not ideal, as it could create confusion among the regulated population, who are required to follow the requirements in APPS and MARPOL Annex V whether or not the CFR language is corrected. As noted above, E.O. 13563 places value in harmonizing requirements, therefore this alternative was rejected.

As presented in section “III. Regulatory History,” the Coast Guard’s preferred alternative is to publish this IR without prior notice and opportunity to comment pursuant to authority under § 4(a) of the APA (5 U.S.C. 553(b)(B)).

**B. Small Entities**

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. However, when an agency is not required to publish an NPRM for a rule, the RFA does not require an agency to prepare a regulatory flexibility analysis. The Coast Guard was not required to publish an NPRM for this rule for the reasons stated in section III. “Regulatory History” and therefore is not required to publish a regulatory flexibility analysis. However, the Coast Guard did consider the economic impact of this rule on small entities. We estimate that the maximum costs to any vessel will be \$12 for four placards whether the vessel owner is considered a small entity or not. Comments submitted will be evaluated under the criteria in the “Regulatory Information” section of this preamble.

**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 this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the interim rule would affect your small business, organization, or

governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Rodney Wert at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice. 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.

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 (PRA) of 1995 (44 U.S.C. 3501–3520). The placard discloses information supplied by the Federal government to the recipient for the purpose of disclosure to the public. Therefore, the cost of the replacement placards is exempted from the PRA and is not considered a collection of information (5 CFR 1320.3(a)(c)(2)).

**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. States do not have the authority to regulate the management and discharge of garbage under MARPOL Annex V.



Therefore, we have determined that the final rule 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 interim rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### G. Taking of Private Property

This interim rule would 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 interim 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 interim 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.

#### J. Indian Tribal Governments

This interim 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.

#### K. Energy Effects

We have analyzed this interim 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.

#### 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 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 interim rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### M. Environment

We have analyzed this interim 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 made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. An environmental analysis checklist supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. This action falls under section 2.B.2, figure 2–1, paragraph (34)(d) of the Instruction and under section 6(b) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48244, July 23, 2002). Section 6(b) refers to actions that are mandated by Congressional action, and this action falls into that category. We seek any comments or information that may lead to the discovery of a significant environmental impact from this interim rule.

#### 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:

#### Title 33—Navigation and Navigable Waters

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

■ 1. The authority citation for part 151 continues to read as follows:

**Authority:** 33 U.S.C. 1321, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); E.O. 12777, 3 CFR, 1991 Comp. p. 351; Department of Homeland Security Delegation No. 170.1.

■ 2. Amend § 151.05 as follows:

■ a. Remove the words “MARPOL 73/78”, wherever they appear, and add in their place, the word “MARPOL”;

■ b. Remove the definitions of the terms “Cargo associated wastes”, “Maintenance waste”, “MARPOL 73/78”, “Oily rags” and “Victual waste”;

■ c. Add, in alphabetical order, the definitions of the terms “Captain of the Port (COTP)”, “Cargo residues”, “Cooking oil”, “En route”, “Fishing gear”, “Fixed or floating drilling rig or other platform”, “Food wastes”, “Harmful to the marine environment”, “Incinerator ashes”, “International Maritime Organization (IMO) guidelines”, “MARPOL”, “Navigable waters”, and “Recycling” to read as follows; and

■ d. Revise the definitions of the terms “Domestic wastes”, “Garbage”, “Graywater”, “Nearest land”, “Operational wastes”, and “Plastic” to read as follows:

#### § 151.05 Definitions.

\* \* \* \* \*

*Captain of the Port (COTP)* means the Coast Guard officer designated by the Commandant to command a COTP Zone as described in part 3 of this chapter.

*Cargo residues* means the remnants of any cargo which are not covered by other MARPOL Annexes and which remain on the deck or in holds following loading or unloading, including loading and unloading excess or spillage, whether in wet or dry condition or entrained in wash water, but does not include cargo dust remaining on the deck after sweeping or dust on the external surfaces of the ship.

\* \* \* \* \*

*Cooking oil* means any type of edible oil or animal fat used or intended to be used for the preparation or cooking of

food, but does not include the food itself that is prepared using these oils.

\* \* \* \* \*

*Domestic wastes* means all types of wastes not covered by other MARPOL annexes that are generated in the accommodation spaces on board the ship. Domestic wastes do not include graywater.

*En route* means that the ship is underway at sea on a course or courses, including deviation from the shortest direct route, which as far as practicable for navigational purposes, will cause any discharge to be spread over as great an area of the sea as is reasonable and practicable.

\* \* \* \* \*

*Fishing gear* means any physical device or part thereof or combination of items that may be placed on or in the water or on the sea-bed with the intended purpose of capturing, or controlling for subsequent capture or harvesting, marine or fresh water organisms.

*Fixed or floating drilling rig or other platform* means a fixed or floating structure located at sea which is engaged in the exploration, exploitation, or associated offshore processing of seabed mineral resources.

*Food wastes* means any spoiled or unspoiled food substances and includes fruits, vegetables, dairy products, poultry, meat products and food scraps generated aboard ship.

\* \* \* \* \*

*Garbage* means all kinds of food wastes, domestic wastes and operational wastes, all plastics, cargo residues, cooking oil, fishing gear, and animal carcasses generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances which are defined or listed in other Annexes to the present Convention. Garbage does not include fresh fish and parts thereof generated as a result of fishing activities undertaken during the voyage, or as a result of aquaculture activities which involve the transport of fish including shellfish for placement in the aquaculture facility and the transport of harvested fish including shellfish from such facilities to shore for processing.

\* \* \* \* \*

*Graywater* means drainage from dishwater, shower, laundry, bath, and washbasin drains. It does not include drainage from toilets, urinals, hospitals, animal spaces, and cargo spaces.

\* \* \* \* \*

*Harmful to the marine environment* in relation to the discharge of:

(1) Cargo residues means residues of solid bulk substances which are

classified according to the criteria of the United Nations Globally Harmonized System for Classification and Labeling of Chemicals (UN GHS) meeting the following parameters:

(i) Acute Aquatic Toxicity Category 1; and/or

(ii) Chronic Aquatic Toxicity Category 1 or 2; and/or

(iii) Carcinogenicity Category 1A or 1B combined with not being rapidly degradable and having high bioaccumulation; and/or

(iv) Mutagenicity Category 1A or 1B combined with not being rapidly degradable and having high bioaccumulation; and/or

(v) Reproductive Toxicity Category 1A or 1B combined with not being rapidly degradable and having high bioaccumulation; and/or

(vi) Specific Target Organ Toxicity Repeated Exposure Category 1 combined with not being rapidly degradable and having high bioaccumulation; and/or

(vii) Solid bulk cargoes containing or consisting of synthetic polymers, rubber, plastics, or plastic feedstock pellets (this includes materials that are shredded, milled, chopped, or macerated or similar materials).

(2) Cleaning agents or additives means a cleaning agent or additive that is:

(i) A "harmful substance" in accordance with the criteria in MARPOL Annex III; and/or

(ii) Contains any components which are known to be carcinogenic, mutagenic, or reprotoxic.

Notes to definition of *Harmful to the marine environment*:

1. These criteria are based on UN GHS, fourth revised edition (2011). For specific products (e.g., metals and inorganic metal compounds), guidance available in UN GHS, annexes 9 and 10 is essential for proper interpretation of the criteria and classification and should be followed.

2. These are products with a hazard statement classification for Carcinogenicity, Mutagenicity, Reproductive Toxicity, or Specific Target Organ Toxicity Repeated Exposure for oral hazards, dermal hazards, or without specification of the exposure route.

\* \* \* \* \*

*Incinerator ashes* means ash and clinkers resulting from shipboard incinerators used for the incineration of garbage.

\* \* \* \* \*

*International Maritime Organization (IMO) guidelines* means the guidelines for the Implementation of MARPOL Annex V (IMO Resolution

MEPC.219(63), adopted March 2, 2012) and other garbage pollution related guidance approved or adopted by the IMO.

\* \* \* \* \*

*MARPOL* means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocols of 1978 and 1997 relating to that Convention. A copy of MARPOL is available from the International Maritime Organization, 4 Albert Embankment, London, SE1, 7SR, United Kingdom.

\* \* \* \* \*

*Navigable waters* means the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States.

*Nearest land.* The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law, except that, for the purposes of these regulations, "from the nearest land" off the northeastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in—latitude 11°00' South, longitude 142°08' East to a point in—latitude 10°35' South, longitude 141°55' East, thence to a point—latitude 10°00' South, longitude 142°00' East, thence to a point—latitude 9°10' South, longitude 143°52' East, thence to a point—latitude 9°00' South, longitude 144°30' East, thence to a point—latitude 10°41' South, longitude 145°00' East, thence to a point—latitude 13°00' South, longitude 145°00' East, thence to a point—latitude 15°00' South, longitude 146°00' East, thence to a point—latitude 17°30' South, longitude 147°00' East, thence to a point—latitude 21°00' South, longitude 152°55' East, thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East.

\* \* \* \* \*

*Operational wastes* means all solid wastes (including slurries) not covered by other MARPOL Annexes that are collected on board during normal maintenance or operations of a ship, or used for cargo stowage and handling. Operational wastes also include cleaning agents and additives contained in cargo hold and external wash water. Operational wastes does not include discharges essential to the operation of a ship, including but not limited to graywater, bilge water, ballast water, controllable pitch propeller and thruster hydraulic fluid and other oil to sea interfaces (e.g., thruster bearings, stabilizers, rudder bearings, etc.), deck washdown and runoff and above water

line hull cleaning (not harmful to the marine environment), firemain systems water, gas turbine wash water, and/or non-oily machinery wastewater.

\* \* \* \* \*

*Plastic* means a solid material, which contains as an essential ingredient one or more high molecular mass polymers, and which is formed (shaped) during either the manufacture of the polymer or the fabrication into a finished product by heat and/or pressure. Plastics have material properties ranging from hard and brittle to soft and elastic. For the purposes of these regulations, "all plastics" means all garbage that consists of or includes plastic in any form, including synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products.

\* \* \* \* \*

*Recycling* means the activity of segregating and recovering components and materials for reprocessing.

\* \* \* \* \*

■ 3. Revise § 151.51 to read as follows:

**§ 151.51 Applicability.**

(a) Except as provided in paragraphs (b) through (f) of this section, §§ 151.51 through 151.77 apply to each ship that—

(1) Is of United States registry or nationality, or one operated under the authority of the United States, including recreational vessels defined in 46 U.S.C. 2101(25) and uninspected vessels defined in 46 U.S.C. 2101(43), wherever located; or

(2) Is operated under the authority of a country other than the United States while in the navigable waters or the Exclusive Economic Zone of the United States.

(b) Sections 151.51 through 151.77 do not apply to—

(1) A warship, naval auxiliary, or other ship owned or operated by a country when engaged in noncommercial service; or

(2) Any other ship specifically excluded by MARPOL.

(c) Section 151.55 (Recordkeeping) applies to—

(1) A manned oceangoing ship (other than a fixed or floating drilling rig or other platform) of 400 gross tons and above that is documented under the laws of the United States or numbered by a State;

(2) A manned oceangoing ship (other than a fixed or floating drilling rig or other platform) of 400 gross tons and above that is operated under the authority of a country other than the United States while in the navigable waters or the Exclusive Economic Zone of the United States;

(3) A manned fixed or floating drilling rig or other platform subject to the jurisdiction of the United States; or

(4) A manned ship that is certified to carry 15 or more persons engaged in international voyages.

(d) Section 151.57 (Garbage Management Plans) applies to—

(1) A manned oceangoing ship (other than a fixed or floating drilling rig or other platform) of 40 feet or more in length that is documented under the laws of the United States or numbered by a state and that either is engaged in commerce or is equipped with a galley and berthing;

(2) A manned fixed or floating drilling rig or other platform subject to the jurisdiction of the United States; or

(3) A manned ship of 100 gross tons or more that is operated under the authority of a country other than the United States while in the navigable waters or the Exclusive Economic Zone of the United States.

(e) Section 151.59 (Placards) applies to—

(1) A manned U.S. ship (other than a fixed or floating drilling rig or other platform) that is 26 feet or more in length;

(2) A manned floating drilling rig or other platform in transit that is subject to the jurisdiction of the United States; or

(3) A manned ship of 40 feet or more in length that is operated under the authority of a country other than the United States while in the navigable waters or the Exclusive Economic Zone of the United States.

(f) Section 151.73 (Discharge of Garbage from Fixed or Floating platforms) only applies to a fixed or floating drilling rig or other platform subject to the jurisdiction of the United States.

**Note to § 151.51:** The Exclusive Economic Zone extends from the baseline of the territorial sea seaward 200 miles as defined in the Presidential Proclamation 5030 of March 10, 1983 (3 CFR, 1983 Comp., p. 22).

**§ 151.53 [Amended]**

■ 4. Amend § 151.53 as follows:

■ a. Remove the text "MARPOL 73/78", wherever it appears, and add, in its place, the text "MARPOL"; and

■ b. In paragraph (b), remove the text "(4)(b)", and add, in its place, the number "3.2"; and following the words "of Regulation", remove the number "5", and add, in its place, the number "8".

■ 5. Revise § 151.55 to read as follows:

**§ 151.55 Recordkeeping requirements.**

(a) The master or person in charge of a ship to which this section applies

shall ensure that a written record is maintained on the ship of each of the following garbage discharge or disposal operations:

(1) Discharge to a reception facility or to another ship;

(2) Incineration on the ship;

(3) Discharge into the sea; and/or

(4) Accidental or other exceptional discharges.

(b) When garbage is discharged to a reception facility or to another ship, the record under paragraph (a) of this section must contain the following information:

(1) The date and time of the discharge;

(2) If the operation was conducted at a port, the name of the port;

(3) If the operation was not conducted at a port, the latitude and longitude of the location where the operation was conducted, and if the operation involved off-loading to another ship, the name and official number of the receiving ship;

(4) The categories of garbage involved; and

(5) The estimated amount of each category of garbage discharged, described by volume in cubic meters.

(c) When garbage is incinerated on the ship, the record under paragraph (a) of this section must contain the following information:

(1) The date and time of the starting and stopping of the incineration;

(2) The latitude and longitude of the ship at the starting and stopping of the incineration;

(3) The categories of the garbage involved; and

(4) The estimated amount of each category of garbage involved, described by volume in cubic meters.

(d) When garbage which is allowed into the sea is discharged overboard, the record under paragraph (a) of this section must contain the following information:

(1) The date and time of the discharge;

(2) The latitude and longitude of the ship;

(3) The categories of the garbage involved; and

(4) The estimated amount of each category of garbage involved, described by volume in cubic meters.

(e) For the record under paragraph (a) of this section, the categories of garbage are

(1) Plastics,

(2) Food wastes,

(3) Domestic wastes,

(4) Cooking oil,

(5) Incinerator ashes,

(6) Operational wastes,

(7) Cargo residues,

(8) Animal carcasses, and

(9) Fishing gear.

(f) The record under paragraph (a) of this section must be prepared at the time of the operation, certified as correct by the master or person in charge of the ship, maintained on the ship for 2 years following the operation, and made available for inspection by the Coast Guard.

■ 6. Revise § 151.57 to read as follows:

**§ 151.57 Garbage management plans.**

(a) The master or person in charge of a ship to which this section applies shall ensure that the ship is not operated unless a garbage management plan meeting paragraph (b) of this section is on the ship and that each person handling garbage follows the plan.

(b) Each garbage management plan under paragraph (a) of this section must be in writing and—

(1) Provide for the discharge of garbage by means that meet Annex V of MARPOL, the Act, and §§ 151.51 through 151.77;

(2) Describe procedures for minimizing, collecting, processing, storing, and discharging garbage; and

(3) Designate the person who is in charge of carrying out the plan.

(Approved by the Office of Management and Budget under control number 1625–0072)

■ 7. Revise § 151.59 to read as follows:

**§ 151.59 Placards.**

(a) The master or person in charge of a ship, including a drilling rig or platform, to which this section applies shall ensure that one or more placards meeting the requirements of this section are displayed in prominent locations and in sufficient numbers so that they can be read by the crew and passengers. These locations must be readily accessible to the intended reader and may include embarkation points, food service facilities, garbage handling spaces, living spaces, and common areas on deck. If the Captain of the Port (COTP) determines that the number or location of the placards is insufficient to adequately inform crew and passengers, the COTP may require additional placards and may specify their locations.

(b) Each placard must be at least 20 cm (8 in) wide by 12½ cm (5 in) high, made of a durable material, and legible.

(c) At a minimum, each placard must notify the reader of the operating requirements contained in §§ 151.67 through 151.73 as they apply to that ship. The following requirements should also be prominently stated:

(1) The discharge of all garbage is prohibited into the navigable waters of

the United States and into all other waters except as specifically allowed;

(2) The discharge of all forms of plastic into all waters is prohibited;

(3) A person who violates the above requirements is liable for civil and/or criminal penalties; and

(4) Regional, state, and local restrictions on garbage discharges also may apply.

(d) For ships while operating on the Great Lakes or their connecting or tributary waters, the placard must—

(1) Notify the reader of the information in paragraph (c) of this section; or

(2) Notify the reader of the following:

(i) Except as allowed by § 151.66, the discharge of all garbage into the Great Lakes or their connecting or tributary waters is prohibited; and

(ii) A person who violates the above requirements is liable for a civil penalty for each violation, and the criminal penalties of a class D felony.

**§ 151.61 [Amended]**

■ 8. Amend § 151.61 as follows:

■ a. In paragraph (b), after the words “Annex V of MARPOL”, remove the text “73/78”; and

■ b. In paragraph (d,) after the word “A”, remove the word “waste” and add, in its place, the word “garbage”.

**§ 151.63 [Amended]**

■ 9. In § 151.63(b)(4), after the word “shipboard”, remove the word “waste”, and add, in its place, the word “garbage”.

**§ 151.65 [Amended]**

■ 10. Amend § 151.65 as follows:

■ a. At the end of paragraph (a), remove the text “.”, and add, in its place, the text “;”;

■ b. In paragraph (b), remove the text “.”, and add, in its place, the text “; or”.

■ 11. Amend § 151.66 as follows:

■ a. Revise the heading of § 151.66;

■ b. Redesignate paragraphs (b) and (c) as paragraphs (c) and (d) respectively;

■ c. Add new paragraph (b); and

■ d. In newly designated paragraph (c), revise the definition of the term “Bulk dry cargo residues” as follows:

**§ 151.66 Operating requirements: Discharge of garbage in the Great Lakes and other navigable waters of the United States.**

\* \* \* \* \*

(b) Cleaning agents or additives contained in deck and external surfaces wash water may be discharged only if these substances are not harmful to the marine environment.

(c) \* \* \*

\* \* \* \* \*

*Bulk dry cargo residues* in relation to the Great Lakes means non-hazardous and non-toxic residues of dry cargo carried in bulk, including limestone and other clean stone, iron ore, coal, salt, and cement. It does not include residues of any substance known to be toxic or hazardous, such as, nickel, copper, zinc, lead, or materials classified as hazardous in provisions of law or treaty;

\* \* \* \* \*

■ 12. Revise § 151.69 to read as follows:

**§ 151.69 Operating requirements: Discharge of garbage outside special areas.**

(a) Except for ships operating in the Great Lakes which must comply with section 151.66, when a ship is operating outside of a special area specified in § 151.53, no person may discharge garbage into the sea, except as allowed in paragraphs (b) through (d) of this section.

(b) The following allowed discharges of garbage shall only be conducted while the ship is en route and as far as practicable from the nearest land, but never less than—

(1) 12 nautical miles for food wastes, except that, such food wastes may be discharged outside of 3 nautical miles from nearest land after they have been processed with a grinder or comminuter specified in § 151.75;

(2) 12 nautical miles for cargo residues that cannot be recovered using commonly available methods for unloading. The discharged cargo residues must not be harmful to the marine environment; and

(3) 100 nautical miles and the maximum water depth possible for animal carcasses. Discharge shall be conducted in accordance with the applicable International Maritime Organization guidelines.

(c) Cleaning agents or additives contained in cargo hold, deck, and external surfaces wash water may be discharged only if these substances are not harmful to the marine environment.

(d) Mixtures of garbage having different discharge requirements must be:

(1) Retained on board for later disposal ashore; or

(2) Discharged in accordance with the more stringent requirement prescribed by paragraphs (a) through (c) of this section.

■ 13. Revise § 151.71 to read as follows:

**§ 151.71 Operating requirements: Discharge of garbage within special areas.**

(a) When a ship is located within a special area referenced in § 151.53 of this part, no person may discharge garbage into the water, except as allowed in this section.

(b) Food wastes shall only be discharged while the ship is en route and—

(1) As far as practicable from the nearest land or nearest ice shelf, but not less than 12 nautical miles from the nearest land or nearest ice shelf;

(2) After having been processed with a grinder or comminuter specified in § 151.75; and

(3) Not contaminated by any other garbage type.

(4) The discharge of introduced avian products, including poultry and poultry parts, is not permitted in the Antarctic area unless it has been treated to be made sterile.

(c) Cargo residues that cannot be recovered using commonly available methods for unloading may be discharged where all the following conditions are satisfied:

(1) The cargo residues, cleaning agents or additives contained in the cargo hold washing water do not contain any substances that are harmful to the marine environment.

(2) Both the port of departure and the next port of destination must be within the special area and the ship will not transit outside of the special area when moving between those ports.

(3) No adequate reception facilities are available at those ports.

(4) When the conditions of paragraphs (c)(1) through (c)(3) of this section have been fulfilled, discharge of cargo hold washing water containing residues shall be made as far as practicable from the nearest land or the nearest ice shelf and not less than 12 nautical miles from the nearest land or the nearest ice shelf.

(d) Cleaning agents or additives contained in deck and external surfaces wash water may be discharged only if those substances are not harmful to the marine environment.

(e) Mixtures of garbage having different discharge requirements must be:

(1) Retained on board for later disposal ashore; or

(2) Discharged in accordance with the more stringent requirement prescribed by paragraphs (b) through (d) of this section.

■ 14. Revise § 151.73(b) to read as follows:

**§ 151.73 Operating requirements: Discharge of garbage from fixed or floating platforms.**

\* \* \* \* \*

(b) Food waste may be discharged into the surrounding waters from a ship or fixed or floating platform regulated by paragraph (a) of this section if—

(1) It is processed with a grinder or comminuter meeting the standards in § 151.75; and

(2) That ship or fixed or floating drilling rig or platform is beyond 12 nautical miles from nearest land.

**§ 151.75 [Amended]**

■ 15. Amend § 151.75 by removing the text “§ 151.69(a)(2)” and adding, in its place, the text “§ 151.69(b)(1), § 151.71(b)(2),”.

■ 16. Revise § 151.77 to read as follows:

**§ 151.77 Exceptions for emergencies and health risks.**

Sections 151.67, 151.69, 151.71, and 151.73 do not apply to the following:

(a) Discharges of garbage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea.

(b) The accidental loss of garbage resulting from damage to a ship or its equipment, provided that all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimize the accidental loss.

(c) The accidental loss of fishing gear from a ship, provided all reasonable precautions have been taken to prevent such loss.

(d) The discharge of fishing gear from a ship for the protection of the marine environment or for the safety of that ship or its crew.

(e) The en route requirements of §§ 151.69 and 151.71 do not apply to the discharge of food wastes when it is clear the retention on board of these food wastes present an imminent health risk to the people on board.

■ 17. Remove Appendix A to §§ 151.51 through 151.77—Summary of Garbage Discharge Restrictions.

Dated: February 20, 2013.

**J.G. Lantz,**

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

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2012-0378; FRL-9783-8]**

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to Allegheny County Regulations for Prevention of Significant Deterioration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision

submitted by the Commonwealth of Pennsylvania. This revision pertains to the Air Pollution Control portion of the Allegheny County Health Department (ACHD) Rules and Regulations, relating to ACHD's Prevention of Significant Deterioration (PSD) program. Additionally, EPA is also approving this revision for the purpose of determining that ACHD has met its statutory obligations with respect to the infrastructure requirements of the Clean Air Act (CAA) which relate to ACHD's PSD permitting program and are necessary to implement, maintain, and enforce the 1997 ozone National Ambient Air Quality Standard (NAAQS) as well as the 1997 and 2006 NAAQS for particulate matter less than 2.5 microns (PM<sub>2.5</sub>). EPA is approving these revisions that incorporate by reference the Federal PSD program in its entirety in accordance with the requirements of the CAA.

**DATES:** This final rule is effective on April 1, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2012-0378. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Wentworth, (215) 814-2183, or by email at [wentworth.paul@epa.gov](mailto:wentworth.paul@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 11, 2012 (77 FR 34300), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The