

removes regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances for handlers and proposed handlers of naloxegol. Accordingly, it has the potential for some economic impact in the form of cost savings.

Naloxegol is a new molecular entity and is not currently available or marketed in any country. According to publicly available information reviewed by the DEA, naloxegol is anticipated to enjoy patent protection for an extended period of time before generic equivalents may be manufactured and marketed in the United States. Although the number of manufacturers of naloxegol may initially be limited, there is potential for numerous handlers in various business activities, *e.g.*, distributors, hospitals/clinics, pharmacies, practitioners, etc.

This rule will affect all persons who would handle, or propose to handle, naloxegol. Due to the wide variety of unidentifiable and unquantifiable variables that potentially could influence the distribution and dispensing rates of new molecular entities, the DEA is unable to determine the number of entities and small entities which might handle naloxegol.

However, the DEA estimates that all persons who would handle, or propose to handle, naloxegol are currently registered with the DEA to handle schedule II controlled substances. Therefore, the 1.5 million (1,469,418 as of September 2014) controlled substance registrations, representing approximately 426,714 entities, would be the maximum number of entities affected by this rule. The DEA estimates that 417,302 (97.8%) of 426,714 affected entities are "small entities" in accordance with the RFA and Small Business Administration size standards.

The DEA estimates all controlled substances registrants handle both controlled and non-controlled substances and these registrants are expected to handle naloxegol. Additionally, since prospective naloxegol handlers are likely to handle other schedule II controlled substances, the cost savings they would receive as a result of the de-control of naloxegol would be nominal. As naloxegol handlers are likely to handle other schedule II controlled substances, they will need to maintain their DEA registration and keep the same security, reporting, and recordkeeping processes, equipment, and facilities in place and would experience only a nominal reduction in security, reporting, inventory, recordkeeping, and labeling costs.

While the DEA does not have a basis to estimate the number of affected entities, the DEA estimates that the maximum number of affected entities is 426,714 of which 417,302 are estimated to be small entities. Since the affected entities are expected to handle other schedule II controlled substances and maintain security, reporting, and recordkeeping facilities and processes consistent with schedule II controlled substances handling requirements, the DEA estimates any economic impact (cost savings) will be nominal. Because of these facts, this rule will not result in a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

On the basis of information contained in the "Regulatory Flexibility Act" section above, the DEA has determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.*, that this action would not result in any federal mandate that may result "in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted for inflation) in any one year \* \* \*." Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

#### *Paperwork Reduction Act*

This action does not impose a new collection of information requirement under the Paperwork Reduction Act, 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *Congressional Review Act*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This rule will not result in: an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy

of this final rule to both Houses of Congress and to the Comptroller General.

#### **List of Subjects in 21 CFR Part 1308**

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended to read as follows:

#### **PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES**

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.12, revise the introductory text of paragraph (b)(1) to read as follows:

#### **§ 1308.12 Schedule II.**

\* \* \* \* \*

(b) \* \* \*

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextroprhan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but including the following:

\* \* \* \* \*

Dated: January 16, 2015.

**Michele M. Leonhart,**  
*Administrator.*

[FR Doc. 2015–01172 Filed 1–22–15; 8:45 am]

**BILLING CODE 4410–09–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 5**

[Docket No. USCG–1999–6712]

RIN 1625–AB66

#### **Revision of Auxiliary Regulations**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending and reorganizing the regulations that govern the operation and administration of the Coast Guard Auxiliary, a uniformed, volunteer, non-military organization chartered by Congress. The amendments conform the regulatory language to changes in the laws governing the Coast Guard Auxiliary; clarify the Auxiliary's organization, status, and role in Coast Guard

operations; and update provisions on liability protection for Auxiliary members assigned to Coast Guard duty.

**DATES:** This final rule is effective February 23, 2015.

**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–1999–6712 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–1999–6712 in the “Search” box, and then clicking “Search.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Stephen Minutolo, CG–BSX–11, U.S. Coast Guard Headquarters, Stop 7501, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7501; telephone 202 372–1267; email [hqs-dg-m-cgauxregs@uscg.mil](mailto:hqs-dg-m-cgauxregs@uscg.mil). If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

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**I. Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of Proposed Rulemaking  
 OMB Office of Management and Budget  
 Pub. L. Public Law  
 § Section symbol  
 U.S.C. United States Code

**II. Regulatory History**

The Coast Guard published a Notice of Proposed Rulemaking (NPRM) on May 10, 2013 (78 FR 27321). Six

members of the public submitted comments on the proposed rule. Our responses to these submissions are set out in section V, below.

**III. Basis and Purpose**

The purpose of this final rule is to revise and reorganize the regulations governing the Coast Guard Auxiliary. The basis of this action is the Coast Guard’s statutory authority to administer the Coast Guard Auxiliary in 14 U.S.C. chapters 23 and 25.

**IV. Background**

This final rule revises and reorganizes the regulations governing the Coast Guard Auxiliary. The Coast Guard Auxiliary regulations were last updated in 2003 (68 FR 9534, Feb 28, 2003) and 1996 (61 FR 33662, June 28, 1996), but these changes did not address all of the legislative changes being addressed in this final rule. Through this final rule, the Coast Guard updates the regulations in accordance with recent legislation; clarifies Auxiliary powers, duties, and organization; amends provisions regarding Auxiliary membership; and addresses other administrative matters. These changes address several problems common to Auxiliary units. For a more complete list of problems this rulemaking is intended to address, see section III, “Background” in the NPRM, which is located in the docket.

**V. Discussion of Comments and Changes**

The Coast Guard received six submissions from members of the public about the NPRM. The Coast Guard appreciates the commenters’ time and effort to submit comments and will address each comment received. We have incorporated some of the comments into this final rule.

We have divided the comments we received into two groups: Comments from members of the public that resulted in changes to the final rule and comments from members of the public that did not result in changes to the final rule. We have also included a group that discusses administrative changes made to the rule by the Coast Guard.

*Comments From Members of the Public Resulting in Changes to the Final Rule*

Three commenters requested that the Coast Guard not use the term “disenrolled” for members who have died. The Coast Guard understands that the term “disenrolled” may have a negative connotation for some people. The Coast Guard respects and appreciates the contributions of every Auxiliary member who has completed

their service honorably. We have removed the words “upon death” in § 5.19 of the final rule text relating to reasons for which a member may be disenrolled.

One commenter supported the Coast Guard’s proposal to remove the 25 percent minimum ownership interest in a motorboat, yacht, aircraft, or radio station. The Coast Guard agrees that requiring a minimum ownership interest is unnecessary. The 25 percent minimum ownership interest requirement is being removed in this final rule. The remaining criteria for Auxiliary membership are set out in the Auxiliary Manual (COMDTINST M16790.1(series)).

*Comments From Members of the Public Not Resulting in Changes to the Final Rule*

This section addresses comments from the public requesting changes to the proposed regulatory text that the Coast Guard has decided not to adopt. For a number of the comments we received, the Coast Guard’s response is that the issue is best handled in Coast Guard policy, for the reasons discussed below.

The Coast Guard received one comment suggesting that the Coast Guard clarify the restriction on Auxiliary participation in direct law enforcement. We agree that “direct law enforcement” should be defined as clearly and unambiguously as possible. However, the dynamic nature of Auxiliary operations and the need to amend operations policy suggest that the Auxiliary manual, not the Code of Federal Regulations (CFR), is the best place to define “law enforcement operations.” The Coast Guard is responsible for ensuring that Auxiliary operations are conducted safely and within the bounds of the Coast Guard and the Auxiliary’s authority. The scope and nature of Auxiliary operations are constantly evolving, sometimes rapidly. Missions which would have been unimaginable just a few years ago, such as port security and air intercept training, are now part of everyday Auxiliary operations. In addition, new operational restrictions sometimes come into place very quickly. In 2001, the Auxiliary suffered an aviation mishap with the loss of two lives. To minimize the chance of future mishaps, the Coast Guard and Auxiliary adopted new restrictions for Auxiliary aviation missions within weeks of the mishap. Because of the dynamic nature of Coast Guard and Auxiliary operations and the need for the rules governing operations to be responsive, the proper place to define “direct law enforcement” is the

Auxiliary Operations Policy Manual (COMDTINST M16798.3(series)), not the CFR.

We received one comment requesting clarification of the term “personal property of the Auxiliary”, particularly as it relates to licensing and insurance. “Personal property of the Auxiliary” is property that is owned by or under the administrative control of an Auxiliary unit and used for Auxiliary purposes. Coast Guard policy in this area is set out in the Auxiliary Manual, ALCOAST 600/05, and other Coast Guard Directives. The CFR is not the appropriate venue for addressing this matter because the rules about property owned by the Auxiliary are a matter of agency management and not subject to the Administrative Procedure Act. Therefore, we will not be incorporating the relevant Coast Guard policies into this final rule.

Two commenters expressed concern that Auxiliary membership should not be open to persons under the age of 17. Current regulations restrict Auxiliary membership to persons 17 years of age or older. The Coast Guard does not anticipate opening membership in the Auxiliary to persons under the age of 17. We proposed to remove that restriction from the CFR because minimum age for membership is a matter best addressed in Coast Guard policy. Detailed criteria for Auxiliary membership are set out in the Auxiliary Manual. This regulation change will not change the membership requirements in Section 3.A of the Auxiliary Manual.

One commenter encouraged the Coast Guard to reimburse members for travel expenses and per diem. The Coast Guard supports the maximum reimbursement allowed by law and appropriations. This final rule does not change the travel and per diem reimbursement policies of the Coast Guard.

The Coast Guard received two comments about compensation for an Auxiliarist who is injured or dies in the line of duty. One commenter noted that compensation for injury or death in the line of duty should be the same as for active duty members. This final rule continues the Coast Guard policy of providing the maximum compensation allowed by law for Auxiliary members who die or are injured in the line of duty. Another commenter suggested that the final rule specify the grade and step at which auxiliary members are compensated for injuries sustained in the line of duty. Paragraph 5.K.6.a. of the Auxiliary Manual and 14 U.S.C. 707(a) provide that members who are injured or die in the performance of duty are compensated at a rate equal to

the minimum rate of basic pay in effect for grade GS-9 of the General Schedule. The Coast Guard believes this policy addresses the commenter's concern without changing the regulation.

We received two comments about membership requirements. One commenter noted that the requirements for Auxiliary membership should not be more stringent than those for membership in the active duty Coast Guard. The Coast Guard agrees. Requirements for Auxiliary membership are driven by operational need and are not more stringent than for membership in the active duty Coast Guard. One commenter requested that the Coast Guard consider admitting members who have a reenlistment code of “RE-4” (not eligible to reenlist). This is a policy set out in paragraph 3.A.6.g of the Auxiliary Manual, and this rulemaking does not change that policy.

One commenter suggested that the regulations on eligibility for membership include a caveat that Auxiliary membership does not entitle a permanent resident alien to expedited naturalization processing. The Coast Guard disagrees that a caveat is necessary. The commenter's concern is already addressed by 14 U.S.C. 893, which provides that Auxiliary membership does not entitle a person to additional rights or benefits except as provided by law.

One commenter expressed support for Auxiliary members acting as docents and tour guides for the Coast Guard and other federal and state property. The Coast Guard agrees. This mission has long been considered an authorized Auxiliary activity.

#### *Changes Made by the Coast Guard*

The Coast Guard is also making a limited number of changes to the proposed regulatory text.

The Coast Guard is making three changes to proposed § 5.40. First, the Coast Guard is amending § 5.40(a) to clarify that the regulations are a restatement of policy already established by Coast Guard directives. Second, the Coast Guard is amending § 5.40(b)(2) to include a description of the markings authorized on vessels, aircraft, motorized vehicles, trailers, and radio stations, which are personal property of the Auxiliary. These markings are already authorized by the U.S. Coast Guard Heraldry Manual (COMDTINST M5200.14 (series)) and paragraph 3.F.1 of the Auxiliary Operations Policy Manual. The third change is to § 5.40(b) (and in §§ 5.45, 5.46, and 5.47, which mirror the language of § 5.40). This change clarifies the rules regarding the required display

of the National Ensign, the patrol sign, the patrol ensign, and the Coast Guard ensign on vessels which have been accepted as facilities. The proposed rule required that these markings be displayed when the vessel was “assigned to Coast Guard duty.” The final rule requires these markings be displayed when the vessel is “on patrol.” A strict reading of the Auxiliary Operations Policy Manual could lead a member to believe that a vessel is “assigned to duty” (and must display the national ensign) as soon as written orders are issued, which is not the intent of this rule. The final rule requires display of the required markings when a vessel is on patrol, which is defined in the Auxiliary Operations Policy Manual as the time from getting underway until return to the dock or launch ramp.

The Coast Guard corrected a description in § 5.44 regarding the Auxiliary facility decal, which described the slash as rising toward the hoist. A decal does not usually hang from a hoist, so the Coast Guard changed the description of the Auxiliary facility decal to read “rising toward the viewer's right.” There is no substantive difference in the appearance of the decal and this change will not impact the observer.

The Coast Guard is changing the definition of the term “vessel” in 33 CFR 5.1 to conform to the definition in the Inland Navigation Rules, 33 CFR 83.03(a). Prior to this final rule, 33 CFR 1.05 defined vessel as “a motorboat or yacht.” This final rule expands the definition of vessel to include small craft such as kayaks, canoes, and personal watercraft. These small craft are already being used in support of Auxiliary missions. All vessels under the current regulations will continue to meet the definition of vessel in this final rule.

The Coast Guard is amending the definition of the term “motorboat” in 33 CFR 5.1 to include vessels longer than 65 feet. This change allows (but does not require) the Coast Guard to accept as a facility a motorboat longer than 65 feet. All vessels meeting the definition of motorboat in the current regulations will still be considered vessels under the new rule.

The Coast Guard is amending proposed §§ 5.12 and 5.14. The purpose of this change is to clarify the proposed rule related to Auxiliary organization, including offices, titles, designations, and qualifications as ordered by the Commandant. Auxiliary members may wear the uniforms, uniform insignia, and awards that they are authorized to wear, but Auxiliary uniform insignia are

a separate system from the insignia associated with military rank. This change is a clarification of the proposed regulatory text and reflects a long-standing policy.

The Coast Guard is making these changes to §§ 5.01, 5.12, 5.14, 5.40, 5.44, 5.45, 5.46, and 5.47 without further notice and opportunity to comment because these changes are within the scope of the NPRM. All of subpart E of the proposed 33 CFR part 5 is a restatement of policy which already exists in the Heraldry Manual and the Auxiliary Operations Policy Manual and was proposed in the NPRM. The changes to the definitions in § 5.1 and the rules for uniforms and insignia in §§ 5.12 and 5.14 are in sections where changes were proposed in the NPRM. Furthermore, these changes do not change the effect of the rule proposed in the NPRM.

In addition to revisions discussed above, this final rule changes two sections of the proposed rule for clarity. Because these changes only clarify existing or proposed text and will have no substantive effect on the public, notice and comment procedures are unnecessary. Therefore, the Coast Guard finds good cause exists under 5 U.S.C. 553 for forgoing an NPRM with respect to these administrative changes. These changes are described below.

In § 5.30(b)(3), the paragraph heading of the proposed rule referred to the status of “Public vessels,” when the section applies to vessels, aircraft, and radio stations which are owned by, in the custody of, or under the administrative jurisdiction of the Auxiliary. This section interprets 14 U.S.C. 827, 828 and 829, which provide protection against third-party damage claims to Auxiliary facilities and equipment. The paragraph heading of the final rule was revised to accurately reflect the scope of the statutory protection.

Section 5.36(a) deals with the loan of vessels, aircraft, radio stations, motorized vehicles, trailers, and other equipment. The words “aircraft, radio station, motorized vehicle, and other equipment” were left out of the fourth sentence and are added in the final rule.

## VI. Regulatory Analyses

We developed this 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 final rule is not 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.

The NPRM was published in the **Federal Register** on May 10, 2013 (78 FR 27321). We received no public comments that change the substance of the requirements or the regulatory analysis embedded in that published NPRM, nor any specifics to that regulatory analysis. Therefore, we adopt the NPRM regulatory analysis as final without any changes. The NPRM regulatory analysis is replicated here for the final rule.

The final rule conforms regulatory language to statutes, codifies many existing practices, clarifies procedures, increases procedural flexibility for the Coast Guard and Auxiliarists, increases overall efficiency in the process, and reorganizes content to improve clarity. There are no costs to either the federal government or the private sector associated with these proposed changes.

This final rule applies to members and prospective members of the Coast Guard Auxiliary and people and companies that interact with the Auxiliary. The Auxiliary is a Congressionally-chartered component of

the Coast Guard made up of uniformed volunteers. Auxiliary units (“flotillas”) are neither corporations nor charities and often encounter administrative trouble with banks, insurance companies, and businesses. This rulemaking clarifies for the public the nature, organization, and purpose of the Auxiliary, and conforms the regulatory language to the Auxiliary statutes, as amended by legislative changes. Many of these changes are already reflected in Coast Guard policies and manuals. For example, the financial aspects of these regulations, such as reimbursement of expenses, including the Standard Auxiliary Maintenance Allowance (SAMA), incorporate already existing practices and authorities, as detailed in the Auxiliary Manual, chapter 9 and the Auxiliary Operations Policy Manual, chapter 3 and section B–2.

These changes update our regulations to capture our current practices regarding reimbursement of Auxiliary facility expenses and maintenance costs. The payment of death gratuities to the representatives of Auxiliarists who die in the performance of duty while assigned to duty is currently funded pursuant to legislative authorization and supported by Commandant policy (COMDTINST 12550.21A, CG Death Gratuity Payment), enabling Auxiliarists to be regarded as Coast Guard employees for the purpose of death gratuity payments.

The primary benefit of this final rule is to conform regulatory language to the legislative changes described in section III, Background. This rulemaking makes it easier and more efficient for Auxiliarists to interact with banks, insurance agents, and the Coast Guard. Banks help process reimbursements (via direct deposit) for operations and other missions requiring Auxiliarists to incur an initial expense from their personal funds. Insurance agents’ relationships are also important, as Auxiliarists may be reimbursed for damages to their vessels when those vessels are engaged in waterborne or airborne operational patrols.

We have classified the proposed changes into categories, as listed in Table 1. There are no costs associated with the changes.

TABLE 1—33 CFR PART 5 CATEGORIES AND DISCUSSION OF CHANGES

Proposed section	Category of change	Cost impact	Discussion of changes
§ 5.1 .....	Revise section ...	None—Administrative revisions made consistent with statutory changes.	Revises the definition of “Act” to “Auxiliary Act” and to include recent statutory amendments, including the Coast Guard Authorization Act of 1996 (Pub. L. 104–324), the 2002 amendment contained in the Maritime Transportation Security Act of 2002 (Pub. L. 107–295), the 2004 amendment contained in the Coast Guard and Maritime Transportation Security Act of 2004 (Pub. L. 108–293), the 2006 amendments contained in the Coast Guard and Maritime Transportation Act of 2006 (Pub. L. 109–241) and the 2012 amendments contained in the Coast Guard and Maritime Transportation Act of 2012 (Pub. L. 112–213). Added parts or completed definitions for “Personal property of the Auxiliary” and “Direct law enforcement”. Amended definition for “Facility or facilities”, “radio station”, “vessel”, “motorboat”, and “Secretary”.
§ 5.3 .....	Revise section ...	None—Administrative revisions made consistent with statutory changes.	Discusses Auxiliary purpose and scope of activities to conform to language in 14 U.S.C. 822, as amended in 1996.
§ 5.5 .....	Revise and expand section.	None—Clarification of existing law	Added to clarify non-military nature of Auxiliary and composition of elected and appointed officers.
§ 5.7 .....	Revise section ...	None .....	Describes Commandant’s authority to redelegate to the Auxiliary and existing delegations.
§ 5.9 .....	Revise section ...	None—Reorganization and revision to reflect current practice.	Existing contents covered in new § 5.10. New content establishes various Coast Guard directives and publications as appropriate references. Provides details of Auxiliary activities through Source 1: Auxiliary Manual and Source 2: Auxiliary Operations Policy Manual.
§ 5.10 .....	Add section .....	None—Removes Barrier to Entry	New content moved from § 5.9 and revised. Eliminates minimum age and ownership requirements to remove unnecessary barriers to entry into Auxiliary. Reflects recent legislative change that authorizes eligibility for Auxiliary members to include United States nationals and aliens lawfully admitted for permanent residence.
§ 5.11 .....	Revise section ...	None—Reorganization .....	Existing content removed as redundant of 14 U.S.C. 825; new content moved with minor edits from § 5.25.
§ 5.12 .....	Add section .....	None—Reorganization .....	New content moved with minor edits from § 5.21.
§ 5.13 .....	Revise section ...	None—Reorganization .....	Existing content covered by § 5.10 and published in the Auxiliary Manual, Chapter 3A. New content moved with minor edits from § 5.23.
§ 5.14 .....	Add section .....	None—Reorganization .....	New content moved from § 5.61—Uniforms and § 5.63—Insignia and combined. See Source 1 for additional background.
§ 5.15 .....	Reserved .....	None—Reorganization and Clarification.	Existing content moved to § 5.10 and revised for clarity.
§ 5.16 .....	Add section .....	None—Reorganization .....	New content moved from § 5.55—Compensation and § 5.57—Traveling expenses and per diem and combined with minor edit.
§ 5.17 .....	Revise section ...	None—Reorganization and Clarification of Current Practice consistent with statute.	Existing content moved to § 5.19. New content added to clarify the status of Auxiliarists as Federal employees only as provided for by 14 U.S.C. 823a.
§ 5.18 .....	Add section .....	None—Clarification of Current Practice.	Added to clarify the benefits paid in case of injury or death while assigned to duty. In general, these benefits are currently covered in AFC–08 account for civilian pay. Procedures already in place. See Source 1, Chapter 5 Section K: Claims, Injury, or Death while Assigned to Duty and K.6.: Death of an Auxiliarist while Assigned to Duty. No new cost to the Coast Guard or Auxiliary as this is current practice.
§ 5.19 .....	Revise section ...	None—Reorganization .....	Existing content moved to § 5.26(b); new content moved from current § 5.17.
§ 5.20 .....	Add section .....	None—Reorganization, revisions to reflect current practice.	Moved from § 5.31. The Coast Guard amends this section to remove the word “specific”. It also implements current policy on exclusion from law enforcement responsibilities and authority of Auxiliarists and recognition that status and authority of Auxiliarists in various duty assignments may be limited compared to their Coast Guard counterparts.
§ 5.22 .....	Remove § 5.21 ... Add section .....	None—Reorganization .....	Moved to § 5.12. Existing content moved to § 5.12. New content moved from § 5.27 and 5.29 with minimal edits.
§ 5.24 .....	Remove § 5.23 ... Add section .....	None—Reorganization .....	Moved to § 5.13. Added to include information about procedures for assignment to duty of Auxiliarists and their facilities. This section codifies the language in the Auxiliary Manual.
§ 5.26 .....	Remove § 5.25 ... Add section .....	None—Reorganization .....	Moved to § 5.11. New content moved from § 5.33. Added minor edited item from § 5.19.
	Remove § 5.27 ...	None—Reorganization .....	Moved to § 5.22.

TABLE 1—33 CFR PART 5 CATEGORIES AND DISCUSSION OF CHANGES—Continued

Proposed section	Category of change	Cost impact	Discussion of changes
§ 5.30 .....	Remove § 5.29 ...	None—Reorganization .....	Moved to § 5.22.
	Add section .....	None—Clarification of current practice.	New section with clarification of facilities' duty status. Clarification of facilities' liability status, in accordance with 14 U.S.C. 821(d)(2). New section to clarify expense reimbursement using concepts from current § 5.49.
§ 5.32 .....	Remove § 5.31 ...	None—Reorganization .....	Moved to § 5.20.
	Add section .....	None—Reorganization .....	Incorporates provisions of § 5.41.
§ 5.34 .....	Remove § 5.33 ...	None—Reorganization .....	Moved to § 5.26.
	Add section .....	None—Clarification of current practice consistent with statute.	This section is added to address offers of use personal property of the Auxiliary, pursuant to 14 U.S.C. 821. Incorporates provisions of § 5.41.
§ 5.36 .....	Remove § 5.35 ...	None—Reorganization .....	Incorporated into § 5.36.
	Add section .....	None—Clarification of current practice.	New provision on how member-owned or unit-owned property can be loaned to the Coast Guard (no Auxiliarists onboard). Incorporates provisions from current §§ 5.35, 5.37, 5.39, 5.41, and 5.45.
§ 5.40 .....	Remove § 5.37 ...	None—Reorganization .....	Incorporated into § 5.36.
	Remove § 5.39 ...	None—Reorganization .....	Moved without change to § 5.36(b).
	Add section .....	None—Clarification of current practice.	Added this new section on facility markings to ensure clarity for both the Auxiliary and public regarding the identification of Auxiliary vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment when assigned to Coast Guard duty.
§ 5.41 .....	Revise section ...	None—Clarification of current practice.	Concept of existing section moved to §§ 5.32(c), 5.34(c), and 5.36(c). Added language to describe the Auxiliary emblem and discuss when it can be worn and used. Paragraph (b) moved from section § 5.47(c).
§ 5.42 .....	Add section .....	None—Clarification of current practice.	Content moved from § 5.47. Prescribes the use of the Auxiliary ensign in accordance with Auxiliary policy.
§ 5.43 .....	Revise section ...	None—Current practice .....	Existing content moved to § 5.30. Codifies the description of the Auxiliary mark from the Auxiliary Manual.
§ 5.44 .....	Add section .....	None—Clarification of current practice.	Added to prescribe the use of the Auxiliary facility decal as a distinctive marking for vessels, aircraft, and radio stations that have been offered, inspected, and accepted for Coast Guard use.
§ 5.45 .....	Revise section ...	None—Reorganization and clarification of current practice.	Concept of existing section moved to § 5.36(a). Added new content to describe the use of Auxiliary patrol signs as distinctive markings for vessels, motorized vehicles, and trailers when assigned to duty.
§ 5.46 .....	Add section .....	None—Clarification of current practice.	Added to address the proper use of the Auxiliary patrol ensign. Moved part of § 5.48 to this location.
§ 5.47 .....	Revise section ...	None—Reorganization and Current practice.	Existing content moved to §§ 5.40, 5.41, and 5.42. Codifies the display of the Coast Guard ensign as described in Auxiliary policy.
§ 5.48 .....	Revise section ...	None—Reorganization and clarification of current practice.	Existing content moved to §§ 5.40 and 5.46. New content added to address the additional markings of Auxiliary aircraft and reflect the allowance for Auxiliary aircraft to display the Auxiliary facility decal.
	Remove § 5.49 ...	None—Reorganization .....	Concept moved to § 5.30.
	Remove § 5.55 ...	None—Reorganization .....	Moved to § 5.16.
	Remove § 5.57 ...	None—Reorganization .....	Moved to § 5.16.
	Remove § 5.59 ...	None—Reorganization .....	Moved to § 5.18(b) and (c) and revised.
	Remove § 5.61 ...	None—Reorganization .....	Moved to § 5.14.
	Remove § 5.63 ...	None—Reorganization .....	Moved to § 5.14.
	Remove § 5.65 ...	None—Current Practice .....	Internal policy in Auxiliary Manual Chapter 11, and in Coast Guard Medals and Awards Manual, COMDTINST M1650.25. See also 14 U.S.C. 502.
	Remove § 5.69 ...	None—Duplicative .....	Duplicative of 14 U.S.C. 893.

Source 1 Auxiliary Manual COMDTINST M16790.1 (series).  
 Source 2 Auxiliary Operations Policy Manual COMDTINST M16798.3 (series).

*B. Small Entities*

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule imposes no direct costs; consequently, there are no impacts on small entities to consider. 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, Public Law 104–121, we offered to assist small entities

in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. 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 final 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 Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. This rule revises and reorganizes Coast Guard regulations governing the Coast Guard Auxiliary. The rule is an exercise of authority specifically granted to the Coast Guard in chapters 23 and 25 of Title 14 (Coast Guard), U.S.C., and is a matter of internal administration. It does not prevent states from establishing local law enforcement, public safety, or response capabilities. Therefore, this rule does not have implications for federalism under Executive Order 13132.

#### 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 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 would not create an environmental risk to health or risk to safety that might 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 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 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, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, 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.

#### M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID (National Environmental Policy Act Implementing Procedures and Policy For Considering Environmental Impacts Manual), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4370f, and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the operation and administration of the Coast Guard Auxiliary and falls under section 2.B.2, figure 2-1, paragraphs (34)(a), (b), (c), and (d) of the Instruction. These paragraphs exempt regulations which are editorial or procedural, concern internal agency functions or organization, concern the training and qualifying of maritime personnel, and concern the inspection of vessels, respectively. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 5

Volunteers.

For the reasons discussed in the preamble, the Coast Guard revises 33 CFR part 5 to read as follows:

#### PART 5—COAST GUARD AUXILIARY

##### Subpart A—General

Sec.

- 5.1 Definitions.
- 5.3 Purpose.
- 5.5 Organization, officers, and leadership.
- 5.7 Administration, specific authorizations.
- 5.9 References.

##### Subpart B—Membership

- 5.10 Eligibility for membership.
- 5.11 Honorary members.
- 5.12 Offices, titles, designations, qualifications, and recognition.
- 5.13 Advancement.
- 5.14 Uniforms and insignia.
- 5.15 [Reserved]
- 5.16 Compensation and travel expenses.
- 5.17 Status of members as Federal employees.
- 5.18 Injury or death in the line of duty.
- 5.19 Disenrollment.

**Subpart C—Activities, Operations, and Training**

- 5.20 Authority.  
 5.22 Assignment to duties.  
 5.24 Procedure for assignment to duty.  
 5.26 Training, examination, and assignment.

**Subpart D—Facilities and Other Equipment**

- 5.30 Facilities and other equipment.  
 5.32 Offer of member-owned vessels, aircraft, radio stations, motorized vehicles, trailers, and other equipment for use as a facility.  
 5.34 Offers of personal property of the Auxiliary for use as a facility.  
 5.36 Loan of vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment to the Coast Guard.

**Subpart E—Auxiliary Markings**

- 5.40 Distinctive markings for vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment.  
 5.41 Auxiliary emblem.  
 5.42 Auxiliary ensign.  
 5.43 Auxiliary mark.  
 5.44 Auxiliary facility decal.  
 5.45 Patrol sign.  
 5.46 Auxiliary patrol ensign.  
 5.47 Coast Guard ensign.  
 5.48 Marking of aircraft.

**Authority:** 14 U.S.C. 633, 821, 822, 823, 823a, 824, 826, 827, 828, 829, 830, 831, 832, 892.

**Subpart A—General****§ 5.1 Definitions.**

Certain terms used in this part are defined as follows:

*Aircraft* means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

*Auxiliary* means the United States Coast Guard Auxiliary established pursuant to the Auxiliary Act.

*Auxiliary Act* means the laws governing the Coast Guard Auxiliary, codified in chapters 23 and 25 of Title 14, United States Code (14 U.S.C. 821–894).

*Commandant* means the Commandant of the United States Coast Guard.

*Direct Law Enforcement* includes boarding a vessel for law enforcement purposes, carrying firearms or law enforcement equipment (handcuffs, pepper spray, etc.), investigating complaints of negligent operations, serving subpoenas, and covert operations. For more details see Chapter 4.E. of the Auxiliary Operations Policy Manual, COMDTINST M16798.3 (series).

*Facility* means a vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment accepted for use by the Coast Guard.

*Member* means any person who is a member of the Auxiliary.

*Motorboat* means any documented or numbered vessel propelled by machinery.

*Personal property of the Auxiliary* means a vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment owned by, or under the administrative jurisdiction of, the Coast Guard Auxiliary or an Auxiliary unit, and that is used solely for Auxiliary purposes and in accordance with the Auxiliary Act.

*Radio station* means any equipment (including a building, recreational vehicle, trailer, or other motorized vehicle which houses such equipment) used for radio communication or direction finding.

*Secretary* means the Secretary of the Department in which the Coast Guard is operating.

*Vessel* means any water craft, including non-displacement craft and seaplanes, used, or capable of being used, as a means of transportation on water.

*Yacht* means either—

- (1) Any documented or numbered vessel used exclusively for pleasure; or
- (2) Any sailboat used exclusively for pleasure more than 16 feet in length measured end-to-end over the deck, excluding sheer.

**§ 5.3 Purpose.**

(a) The Auxiliary is a uniformed, volunteer, non-military organization administered by the Commandant under the direction of the Secretary.

(b) The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(c) Auxiliary units assist the Coast Guard in maintenance and upkeep, and in conducting tours of Coast Guard and other Federal- or State-owned structures and property.

(d) The Auxiliary assist Federal, State, and municipal agencies, as authorized by the Commandant.

**§ 5.5 Organization, officers, and leadership.**

(a) The Coast Guard Auxiliary is organized pursuant to the Auxiliary Act and Coast Guard regulations. Organizational elements include a national board and staff, national leadership, areas, districts, regions, divisions, and flotillas. A flotilla is the basic organizational unit of the Auxiliary.

(b) The Auxiliary has elected and appointed officers.

(1) Elected officers are in charge of Auxiliary units and elements at both the national and local levels of the

Auxiliary organization. The Unit Leader is the senior elected officer at each level of the Auxiliary organization: Flotilla Commanders, Division Commanders, District Commodores, and the National Commodore are unit leaders.

(2) Appointed officers are appointed by elected officers and hold staff positions in Auxiliary units at both the national and local levels of the Auxiliary organization.

(c) For all Auxiliary units, the Unit Leader is the person authorized to exercise the authority set forth in § 5.7 on behalf of his or her unit, and may delegate that authority.

(d) For all Auxiliary units, the Finance Officer is the person authorized to handle, transfer and disburse bank accounts, monies, stocks, bonds, and other items of intangible personal property on behalf of his or her Auxiliary Unit.

**§ 5.7 Administration, specific authorizations.**

(a) The Commandant may delegate any authority vested in him or her by the Auxiliary Act or by this part to personnel of the Coast Guard and members of the Auxiliary in the manner and to the extent as the Commandant deems necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) The Commandant has authorized Auxiliary Unit Leaders to take the following actions in furtherance of the authorized missions of the Auxiliary. This is not an exclusive list—

(1) Acquire, own, hold, use, and dispose of vessels, aircraft, motorized vehicles, trailers, radio stations, electronic equipment and other items of tangible, personal property;

(2) Accept ownership, custody, or use of vessels, boats, aircraft, radio stations, motorized vehicles, trailers, electronic equipment, and other tangible property from the Coast Guard, from other Federal, State, or municipal agencies, or from private or non-profit groups;

(3) Create and manage bank accounts, monies, stocks, bonds, and other financial instruments;

(4) Accept and use gifts, grants, legacies, and bequests;

(5) Accept funds, materials, services, and the use of facilities from public and private entities and Federal, State, or municipal agencies;

(6) Enter into licenses, leases, contracts, memoranda of agreement, or understanding, and other agreements; and

(7) Enter into cooperative agreements and grant agreements with the Coast Guard and other Federal, State, or municipal agencies.



(c) The national board of the Auxiliary may form a corporation under State law and Coast Guard policy to manage the Auxiliary's fiscal affairs. The national corporation may—

- (1) Hold copyrights, trademarks, and titles to Auxiliary property;
  - (2) Contract with the Coast Guard and other Federal, State, and municipal agencies to procure such goods and services;
  - (3) Receive grants, gifts, and other items on behalf of the Auxiliary; and
  - (4) Conduct other activities as may be authorized by the Commandant.
- (d) An Auxiliary district or region may form a corporation under State law and Coast Guard policy.

#### **§ 5.9 References.**

Further guidance on Auxiliary missions and activities may be found in Coast Guard directives and publications, including the Auxiliary Manual (Commandant Instruction M16790.1(series)) and the Auxiliary Operations Policy Manual (Commandant Instruction M16798.3(series)). Those directives and publications can be found online at <http://www.uscg.mil/auxiliary/publications/comdtinst/>.

### **Subpart B—Membership**

#### **§ 5.10 Eligibility for membership.**

(a) To be eligible for membership in the Auxiliary, a person must—

- (1) Be a United States citizen, a national of the United States or of its Territories and possessions, or an alien lawfully admitted for permanent residence; and
- (2) Meet the standards for enrollment, retention, and conduct established by the Commandant.

(b) An applicant who is accepted for membership will be enrolled in the Auxiliary and will be issued a membership certificate and identification card. Possession of a membership certificate or identification card does not entitle a person to any rights or privileges of the Coast Guard or the Coast Guard Reserve except as authorized by the Commandant.

#### **§ 5.11 Honorary members.**

The Commandant may grant any person honorary membership in the Auxiliary. An honorary member of the Auxiliary, solely by reason of such honorary membership, is not entitled to any of the rights, benefits, privileges, duties, or obligations of Auxiliary membership.

#### **§ 5.12 Offices, titles, designations, qualifications, and recognition.**

Members of the Auxiliary will have such offices, titles, designations, qualifications, and recognition for achievements as prescribed by the Commandant.

#### **§ 5.13 Advancement.**

The Commandant will prescribe the circumstances and qualifications under which members of the Auxiliary may be advanced in offices and programs.

#### **§ 5.14 Uniforms and insignia.**

(a) Members of the Auxiliary are authorized to wear uniforms, uniform insignia, and awards as prescribed by the Commandant. Auxiliary uniform insignia indicate, and are solely associated with, Auxiliary offices, titles, designations, qualifications, and achievements. Auxiliary uniform insignia do not indicate rank in any military service or government agency.

(b) Members of the Auxiliary may purchase from the Coast Guard such uniforms, insignia, and awards as may be authorized by the Commandant.

#### **§ 5.15 [Reserved]**

#### **§ 5.16 Compensation and travel expenses.**

(a) Except as provided in paragraph (b) of this section, no member of the Auxiliary will receive any compensation for services as a member of the Auxiliary.

(b) A member of the Auxiliary may be paid actual necessary travelling expenses, including a per diem allowance.

#### **§ 5.17 Status of members as Federal employees.**

Members of the Auxiliary are not considered Federal employees except as provided by 14 U.S.C. 823a or other provisions of law.

#### **§ 5.18 Injury or death in the line of duty.**

(a) The performance of duty, as the term is used in this part, includes time spent in the performance of duty, travel between duty locations, and travel between a place of assigned duty and either the Auxiliarist's permanent residence or other appropriate non-duty destination.

(b) A member of the Auxiliary who incurs physical injury or contracts sickness or disease in the performance of duty is entitled to medical and dental care until the resulting impairment cannot be materially improved by further hospitalization or treatment. A member of the Auxiliary who incurs physical injury or contracts sickness or disease in the performance of duty is entitled to obtain medical care from the

Coast Guard, including through Coast Guard arrangements with a contract provider, the Public Health Service, the Department of Defense, or a Veterans' Administration facility.

(c) If a member of the Auxiliary is physically injured or dies as a result of physical injury, and the injury is incurred in the performance of duty, the member or the member's beneficiaries are authorized to receive compensation in accordance with 14 U.S.C. 707, 5 U.S.C. 8133 and 8134 and section 651 of Public Law 104–208 (5 U.S.C. 8133 Note).

#### **§ 5.19 Disenrollment.**

A member of the Auxiliary will be disenrolled on the member's request, upon ceasing to possess the qualifications for membership, for cause, or upon direction of the Commandant.

### **Subpart C—Activities, Operations, and Training**

#### **§ 5.20 Authority.**

(a) Except as provided in paragraphs (b) and (c) of this section, or otherwise limited by the Commandant, members of the Auxiliary assigned to duty will have the same authority in that duty's execution as a member of the Coast Guard who is assigned to a similar duty.

(b) Members of the Auxiliary are not authorized to engage in direct law enforcement or military missions.

(c) Members of the Auxiliary are not authorized to enforce limited access areas, regulated navigation areas, or special local regulations. Members of the Auxiliary assigned to patrol limited access areas, regulated navigation areas, or areas regulated under special local regulations may advise the public regarding compliance with the limited access area, regulated navigation area, or areas regulated by special local regulations.

#### **§ 5.22 Assignment to duties.**

Members of the Auxiliary will not be assigned duties until they have been found to be competent to perform such duties and have been designated by authority of the Commandant to perform such duties.

#### **§ 5.24 Procedure for assignment to duty.**

Members and facilities may be assigned to duty by any of the following procedures:

- (a) Verbal or written orders issued by competent Coast Guard authority;
- (b) The actual performance of an authorized activity or mission by a qualified member of the Auxiliary; or
- (c) Other procedures as designated by the Commandant.

**§ 5.26 Training, examination, and assignment.**

(a) The Commandant will prescribe, through the Coast Guard Auxiliary directives referenced in § 5.9, the type of training, qualifications, and examinations required before a member of the Auxiliary will be deemed qualified to perform certain duties, and will prescribe the circumstances and manner in which members of the Auxiliary will be authorized to perform regular and emergency duties.

(b) The Commandant may authorize members of the Auxiliary to pursue correspondence courses and distance-learning courses conducted by the Coast Guard Institute or other authorized Coast Guard providers and to attend other courses and training available to members of the Coast Guard or Coast Guard Reserve.

**Subpart D—Facilities and Other Equipment****§ 5.30 Facilities and other equipment.**

(a) This subpart contains regulations related to the facilities and other equipment used by the Auxiliary or loaned by the Auxiliary to the Coast Guard.

(b) *Status*—(1) *Duty*. Personal property of the Auxiliary, except when used for other than Auxiliary purposes in accordance with 14 U.S.C. 822, will be considered assigned to authorized Coast Guard duty at all times.

(2) *Liability*. Personal property of the Auxiliary, except when used for other than Auxiliary purposes in accordance with 14 U.S.C. 822, will be treated as property of the United States for the purposes of the Federal Tort Claims Act, the Military Claims Act, the Public Vessels Act, the Suits in Admiralty Act, the Admiralty Extension Act, and other matters related to non-contractual civil liability. Personal property of the Auxiliary is not normally covered for damage to the property itself.

(3) *Federal status of facilities and other equipment*. A vessel, aircraft, or radio station owned by, in the custody of, or under the administrative jurisdiction of the Auxiliary will be considered a public vessel of the United States, public vessel of the Coast Guard, public aircraft, Coast Guard aircraft, and/or government station, in accordance with federal law.

(c) *Expenses*. (1) The Coast Guard may reimburse expenses related to the use, operation, or maintenance of a facility.

(2) The Coast Guard may reimburse expenses for damage or loss to or by a facility, including remediation, restoration, repair, replacement, or salvage costs.

(3) The Coast Guard may provide an allowance for the maintenance of a facility.

**§ 5.32 Offers of member-owned vessels, aircraft, radio stations, motorized vehicles, trailers, and other equipment for use as a facility.**

(a) Members of the Auxiliary wishing to offer vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment for use as a facility must follow the procedures set forth in the Auxiliary Operations Policy Manual referenced in § 5.9.

(b) Upon acceptance of the vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment as a facility, the Coast Guard will issue to the member the appropriate numbers and decals identifying the facility as a Coast Guard Auxiliary facility.

(c) In an emergency, vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment may be accepted by the Coast Guard without an inventory or the use of the prescribed forms.

**§ 5.34 Offers of personal property of the Auxiliary for use as a facility.**

(a) Auxiliary units wishing to offer personal property of the Auxiliary (usually unit-owned property) for use as a facility must follow the procedures set forth in the Auxiliary Operations Policy Manual referenced in § 5.9.

(b) Upon acceptance of the personal property of the Auxiliary as a facility, the Coast Guard will issue to the Auxiliary unit the appropriate numbers and decals identifying the facility as a Coast Guard Auxiliary facility.

(c) In an emergency, personal property of the Auxiliary may be accepted by the Coast Guard without an inventory or the use of prescribed forms.

**§ 5.36 Loan of vessels, aircraft, radio stations, motorized vehicles, trailers, or other equipment to the Coast Guard.**

(a) A vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment may be loaned to the Coast Guard for a specific period, and must be returned at the expiration of that period, unless circumstances or an emergency make the return impracticable at that time. The Commandant will determine the method, time, and documents to be exchanged upon the return to the owner of any facility. The property will be re-inventoried as of the time, date, and place of re-delivery, and mutually settled by the owner and the Coast Guard representative. If the vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment was accepted during an emergency, any claim for lost equipment or stores must

be supported by invoices showing the date of purchase and the cost thereof by the person submitting the claim. The Coast Guard representative will take all proper precautions to protect the owner's interest, as well as that of the United States.

(b) Except as permitted in paragraph (c) of this section, no vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment will be deemed loaned to the Coast Guard until an acceptance, on the prescribed form, has been signed on behalf of the Coast Guard by a person authorized by the Commandant to sign such an acceptance and a complete inventory of consumable and expendable stores and equipment has been made and mutually settled by the owner and the Coast Guard representative.

(c) In an emergency, a vessel, aircraft, radio station, motorized vehicle, trailer, or other equipment may be loaned to Coast Guard without an inventory or the use of the prescribed form.

**Subpart E—Auxiliary Markings****§ 5.40 Distinctive markings for vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment.**

(a) This subpart describes the design and display of distinctive markings used by Auxiliary vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment. These markings are established in the directives referenced in § 5.9 and the U.S. Coast Guard Heraldry Manual (COMDTINST M5200.14(series)).

(b) *Auxiliary markings on vessels, aircraft, motorized vehicles, trailers, radio stations and other equipment*. (1) Vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment which are owned by Auxiliary members, or are personal property of the Auxiliary, or are otherwise affiliated with the Auxiliary may display the Auxiliary emblem (§ 5.41), the Auxiliary ensign (§ 5.42), and/or the Auxiliary mark (§ 5.43).

(2) Vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment which are personal property of the Auxiliary may be marked "U.S. COAST GUARD AUXILIARY", "U.S. COAST GUARD AUX", or "USCGAUX" in accordance with Coast Guard policy.

(3) Vessels, aircraft, motorized vehicles, trailers, radio stations, and other equipment which have been accepted as facilities shall display the Auxiliary facility decal (§ 5.44).

(4) Vessels that have been accepted as facilities and are on patrol, whether or not they are underway, shall display the

National Ensign, the patrol sign (§ 5.45) and either the patrol ensign (§ 5.46) or the Coast Guard ensign (§ 5.47) as appropriate and able.

(5) Vessels that have been accepted as facilities and are on patrol, whether or not they are underway, and have a Coast Guard commissioned, warrant, or non-commissioned officer onboard shall display the Coast Guard ensign in place of the patrol ensign.

(c)(1) Any person who desires to reproduce Coast Guard Auxiliary markings for non-Coast Guard Auxiliary use must obtain approval from Commandant (CG-BSX-11), Attn: Auxiliary Division, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593-7501.

(2) Unauthorized use of Auxiliary markings is subject to the penalties of 14 U.S.C. 638, 639 and 892.

#### § 5.41 Auxiliary emblem.

(a) *Description.* The Auxiliary emblem consists of a disk with the shield of the Coat of Arms of the United States circumscribed by an annulet edged and inscribed "U.S. COAST GUARD AUXILIARY", all in front of two crossed anchors.

(b) *Display.* The Auxiliary emblem is used as identification on Auxiliary ensigns, flags, pennants, decals, and patrol signs. The emblem is used on Auxiliary insignia, such as the member collar device, cap device, and Auxiliary aviator, coxswain, and Auxiliary Operator (AUXOP) devices, and on publications, stationery, clothing, and jewelry.

#### § 5.42 Auxiliary ensign.

(a) *Description.* The field of the Auxiliary ensign is medium blue (Coast Guard blue) with a broad diagonal white slash upon which a matching blue Coast Guard Auxiliary emblem is centered. The white slash must be at a 70 degree angle, rising away from the hoist.

(b) *Display.* The Auxiliary ensign may be displayed by any member of the Auxiliary on a vessel, aircraft, radio station, building, or other location at any time, under such conditions as the Commandant may direct.

#### § 5.43 Auxiliary mark.

(a) *Description.* The Auxiliary mark consists of a broad diagonal blue stripe followed (to the left or aft) by two narrow stripes—first a white stripe, and then a red stripe. The Auxiliary emblem, as described in § 5.41, is centered in the diagonal blue stripe.

(b) *Display.* The Auxiliary mark is used to identify personal property of the Auxiliary and on Coast Guard Auxiliary authorized publications, stationery, jewelry, and similar items.

#### § 5.44 Auxiliary facility decal.

(a) *Description.* The Auxiliary facility decal is composed of two parts. The upper part is a conventional white shield with a medium blue (Coast Guard blue) Coast Guard Auxiliary emblem centered on a broad diagonal red (Coast Guard red) slash which is at a 70 degree angle, rising toward the viewer's right. The red (Coast Guard red) slash is followed, on the viewer's left, by two narrow, parallel stripes—first a white stripe, and then a medium blue (Coast Guard blue) stripe. The entire design is centered on the shield. The lower part displays two laterally radiating wreath branches centered immediately beneath the shield. A broad diagonal red (Coast Guard red) slash, which is at a 70 degree angle, rising toward the viewer's right and followed, on the viewer's left, by two narrow, parallel stripes, first a white stripe and then a medium blue (Coast Guard blue) stripe, is displayed on the wreath's right-hand branch.

(b) *Display.* Vessels, aircraft, motorized vehicles, trailers, radio stations and other equipment accepted for use by the Coast Guard must display the Auxiliary facility decal as authorized in the Auxiliary Operations Policy Manual referenced in § 5.9.

(1) On vessels, the decal must be displayed on the port side of the vessel so as to be visible by another vessel when meeting such vessel in a port-to-port situation.

(2) On aircraft, the decal must be displayed on the pilot's side of the forward half of the aircraft.

(3) On radio facilities, the miniature decal must be displayed on the radio, and the full-size decal must be displayed on the exterior or interior of the building or trailer in which the radio is housed, or, in the case of mobile radios, on any legal place on the motor vehicle in which the radio is contained.

(4) On motorized vehicles, trailers and other equipment, the decal must be displayed on a clearly visible exterior location.

#### § 5.45 Patrol sign.

(a) *Description.* The Auxiliary facility patrol sign has the words "Coast Guard Auxiliary Patrol" in black or dark blue lettering and must contain the Auxiliary emblem, as described in this subpart, centered within the confines of a broad diagonal red (Coast Guard red) stripe which is at a 70 degree angle rising toward the bow of the vessel. The red (Coast Guard red) stripe is followed, away from the bow, by two narrow, parallel stripes—first a white stripe, and then a medium blue (Coast Guard blue) stripe. The background of the sign must be white.

(b) *Display.* (1) The patrol sign must be displayed by vessels while on patrol, whether or not the vessel is underway.

(2) The patrol sign must be displayed on the forward half of each side and may be displayed on the stern of the vessel.

(3) The patrol sign may be displayed on each side of a motorized vehicle or trailer containing a mobile radio or radio direction finding unit while assigned to Coast Guard duty. Normally, they will be placed in any legal position on the upper half of both sides of the vehicle.

#### § 5.46 Auxiliary patrol ensign.

(a) *Description.* The field of the Auxiliary patrol ensign is white. A medium blue (Coast Guard blue) Coast Guard Auxiliary emblem is centered on a broad diagonal red (Coast Guard red) slash which is at a 70 degree angle, rising toward the hoist. The red (Coast Guard red) slash is followed, away from the hoist, by two narrow, parallel stripes—first a white stripe, and then a medium blue (Coast Guard blue) stripe. The entire design is centered on the ensign.

(b) *Display.* Vessels that have been accepted as facilities shall display the Auxiliary patrol ensign when on patrol, whether or not the vessel is underway. The Auxiliary patrol ensign must be displayed at the mast head or from the most conspicuous hoist.

#### § 5.47 Coast Guard ensign.

(a) *Description.* The Coast Guard ensign is described in 33 CFR 23.15.

(b) *Display.* Vessels that have been accepted as facilities and that have a Coast Guard commissioned, warrant or non-commissioned officer onboard shall display the Coast Guard ensign in place of the Auxiliary patrol ensign while on patrol, whether or not the vessel is underway. The Coast Guard ensign must be displayed at the mast head or from the most conspicuous hoist.

#### § 5.48 Marking of aircraft.

(a) Aircraft owned by members of the Auxiliary or that are personal property of the Auxiliary may also display the Auxiliary emblem on both sides of the vertical stabilizer (outside of the stabilizer for twin tail aircraft) or on both sides of the fuselage aft of the wing.

(b) Aircraft which are accepted as facilities may be marked with the Auxiliary mark (§ 5.43) and/or the word "RESCUE" on the underside of the wing or fuselage for easier identification from the ground.

Dated: January 16, 2015.

**J.C. Burton,**

*Captain, U.S. Coast Guard, Director of Inspections and Compliance.*

[FR Doc. 2015-01045 Filed 1-22-15; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2013-0226; FRL-9914-77]

### Flupyradifurone; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of flupyradifurone in or on multiple commodities which are identified and discussed later in this document. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective January 23, 2015. Objections and requests for hearings must be received on or before March 24, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the

#### SUPPLEMENTARY INFORMATION).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2013-0226, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDPRNotices@epa.gov](mailto:RDPRNotices@epa.gov).

#### SUPPLEMENTARY INFORMATION:

## I. General Information

### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl). To access the OCSPP test guidelines referenced in this document electronically, please go to <http://www.epa.gov/ocspp> and select "Test Methods and Guidelines."

### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2013-0226 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 24, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-

2013-0226, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 5, 2013 (78 FR 33785) (FRL-9386-2), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F8101) by Bayer CropScience LP, 2 T.W. Alexander Dr., P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of flupyradifurone, 4-[[[6-chloro-3-pyridinyl)methyl]](2,2-difluoroethyl)amino]-2(5H)-furanone, and its metabolites, difluoro acetic acid (DFA) and 4-[[[2,2-difluoroethyl)amino]furan-2(5H)-one (DFEAF), in or on the following commodities: Aspirated grains fractions at 40 parts per million (ppm); root vegetables except sugar beets (crop subgroup 1B) at 1.5 ppm; tuberous and corm vegetables (crop subgroup 1C) at 0.5 ppm; onion, bulb, subgroup, (crop subgroup 3-07A) at 0.3 ppm; onion, green, subgroup, (crop subgroup 3-07B) at 3 ppm; leafy vegetable, except *Brassica* vegetables (crop group 4) at 40 ppm; taro leaves at 40 ppm; head and stem *Brassica* (crop subgroup 5A) at 6 ppm; leafy *Brassica* greens (crop subgroup 5B) at 40 ppm; turnip greens at 40 ppm; edible-podded legume vegetables (crop subgroup 6A) at 5 ppm; succulent, shelled pea and bean (crop subgroup 6B) at 4 ppm; dried, shelled pea and bean (except soybean) (crop subgroups 6C) at 6 ppm; foliage of legume vegetables, including soybeans (crop group 7), forage, green vines at 40 ppm; foliage of legume vegetables, including soybeans (crop group 7), hay at 50 ppm; soybean, seed at 4 ppm;