

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 66 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1 , i_2 , * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of it are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	
April 19990560	1–20	.0525	>20	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y \leq n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date	Immediate annuity rate (percent)		Deferred annuities (percent)				
		On or after	Before	i_1	i_2	i_3	n_1	n_2
* * *	*	*	*	*	*	*	*	*
66	04–1–99	05–1–99	4.25	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 8th day of March 1999.

David M. Strauss

Executive Director

Pension Benefit Guaranty Corporation

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–151]

RIN 2115–AE84

Regulated Navigation Area: Navigable Waters Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard amends the Regulated Navigation Area (RNA)

within the navigable waters of the First Coast Guard District with respect to the provisions governing the positive control of barges. The Interim Rule allows the Captain of the Port (COTP) to authorize exemptions to the positive control provisions established in the Final Rule that became effective on January 29, 1999, and also reopens the docket for further comments on the positive control provisions and the effect of this Interim Rule on those provisions. The Interim Rule provides additional opportunities for small businesses affected by the RNA both to carry on their businesses and to submit comments on the impact of the RNA. The Interim Rule also allows the Coast Guard an additional opportunity to analyze the impact of the RNA on small business entities.

DATES: *Effective Date:* The Interim Rule is effective March 15, 1999.

Comment Date: Comments are due on or before June 14, 1999.

Public Meeting Date: A public meeting will be held on April 16, 1999, from 10 a.m. to 2 p.m.

ADDRESSES: *Public Meeting:* The Coast Guard will conduct the public meeting at the U.S. Navy/Marine Corps Reserve Center, Classroom 5, 30 Woodward Ave., New Haven, Connecticut, 06512.

Comments: You may mail or deliver comments to Commander (m), First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02210–3350. The Commander, First Coast Guard District, maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at the same address between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Rich Klein, c/o Commander (m), First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02210–3350; telephone 617–223–8243.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in the rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-98-151) and the specific feature of the Rule to which each comment applies, and give a reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change the Rule in view of the comments.

After publication of the Final Rule, a few companies affected by the RNA notified the Coast Guard that, while they had failed to comment during the comment period for the RNA, they were concerned about the impact of the new rule, as they had entered into long-term contracts before promulgation of the new positive control operating requirements. The Coast Guard, therefore, is particularly interested in receiving comments about the impact of the positive control measures on small businesses. We would like to learn more about the number of small businesses affected by the RNA and the specific impacts of the measures on those businesses.

Public Meeting

Persons desiring to attend the public meeting should consult the location listed under **ADDRESSES**. The Coast Guard will conduct the meeting for the purpose of receiving oral opinions and presentations on the Interim Rule. Attendance is open to the public. Persons who are hearing-impaired may request sign translation by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting. Persons wishing to make oral presentations should also notify the person listed under **FOR FURTHER INFORMATION CONTACT** no later than two days before the meeting. Individuals may submit written material before, during, and after the meeting. Persons unable to attend the public meeting should submit written comments as explained previously under **ADDRESSES** and **SUPPLEMENTARY INFORMATION** by June 14, 1999.

Procedural Matters

The Coast Guard finds under 5 U.S.C. 553(b)(B) that there is good cause why

a Notice of Proposed Rulemaking (NPRM) is unnecessary and contrary to the public interest in this instance. First, an NPRM on the RNA was published, before the Final Rule; second, the late information received about the potential impact of the RNA necessitates prompt relief in appropriate circumstances; third, the Interim Rule includes the opportunity for written and oral comment; and finally, the Coast Guard will hold a public meeting.

The Coast Guard finds under 5 U.S.C. 553(d)(1) good cause for making the Interim Rule effective immediately because the Rule provides an opportunity to temporarily relieve a restriction on the commercial opportunities of certain small businesses.

Regulatory History

On October 13, 1998, the Coast Guard published in the **Federal Register** (63 FR 54639) an NPRM entitled "Regulated Navigation Area: Navigable Waters within the First Coast Guard District." On November 13, 1998, Congress enacted the Coast Guard Authorization Act of 1998 (Act). Section 311 of the Act required the Commandant, under authority delegated by the Secretary of Transportation, to promulgate regulations for the safety of towing vessels and tank barges. More specifically, section 311(b)(1)(B) of the Act required the Coast Guard to consider each recommendation from the report of Regional Risk Assessment Team (RRAT), a group comprised of operators of towing vessels and tank barges, environmental groups, state agencies, and Coast Guard officials. After the oil spill resulting from the Tank Barge NORTH CAPE grounding, members of the RRAT reviewed tug and barge operating procedures in the Northeast and recommended actions to minimize safety risks unique to the transportation of petroleum in waters of the First Coast Guard District. On December 30, 1998, the Coast Guard published a Final Rule, in the **Federal Register** (63 FR 71764), creating a Regulated Navigation Area that addressed unique risks that were within the District Commander's authority to regulate.

Background and Purpose

Currently, 33 CFR 1654.100(d)(1)(i) requires that, except for certain small barges in certain confined waters, every single-hull tank barge loaded with petroleum and operating in the navigable waters of the First Coast Guard District either be towed by a tug equipped with twin screws and two engines, or be escorted by a second tug,

while the positive control provision in the RNA is necessary to address the unique hazards associated with operating single-hull tank barges with single screw tugs in First District waters, the current rule provides little flexibility to address, temporarily, special circumstances. The RRAT report, in fact, recommended that the Coast Guard establish a regulatory provision authorizing exemption in limited circumstances. Recognizing the need for flexibility to address special circumstances while companies make arrangements to come into compliance with the new rules, the Interim Rule amends the RNA by revising paragraph (d)(1)(ii) to provide a more general exemption provision.

The amended section allows COTPs to consider requests for exemptions. Upon the operator's demonstrating equivalent measures of safety, COTPs are authorized to grant relief that would permit the continued use of single-screw or single-engine tugs to tow loaded, single-hull tank barges without an escort tug, throughout the navigable waters of the First Coast Guard District. In determining whether to temporarily grant an exemption of the new positive control provisions, a COTP will consider a variety of factors including, but not limited to, the availability of on-call tug assistance, the time of transit, the route, the weather, environmental factors, the amount and grade of cargo, the existence and sufficiency of anchoring and retrieval equipment on manned barges, and the construction of the tank barge, as well as the operator's overall safety record.

Requests for exemptions shall be submitted in writing to each COTP whose zone the barge intend to operate in with a single-screw, single-engine tug. Requests shall be submitted in writing at least seven (7) days before the intended voyage and shall fully explain the equivalent measures that will ensure positive control of the barge. This exemption of the positive control provisions of the RNA will expire after June 30, 2000. The Interim Rule is designed to give affected companies ample time to complete their current contracts, obtain additional vessels that comply with 165.100(d)(1)(i), and submit comments to the docket.

Regulatory Assessment

The Interim Rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget (OMB) under that Order. It is not

significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040 (February 26, 1979)). A Regulatory Assessment of the Final Rule under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Summary of Benefits and Costs

The principal benefits and costs of the Final Rule are discussed at 63 FR 71769–70. Issuance of the Interim Rule does not alter that analysis as the Rule provides a procedural mechanism for companies to demonstrate levels of safety, equivalent to the current requirements. As noted in **SUPPLEMENTARY INFORMATION**, however, the Coast Guard is interested in obtaining comments on the application of the alternatives in this Rule.

Small entities

Acting on the information then available, and on a lack of comments in the docket, the Coast Guard certified in the Final Rule that the Rule would not have a significant economic impact on a substantial number of small entities. Since the publication of that Rule, the Coast Guard has received several letters from businesses or their trade-organizations explaining the impact the RNA could have on them and asking for temporary relief. After receipt of these letters following the effective date of the Final Rule, the Commander, First Coast Guard District met with representatives of the governments of Rhode Island and Massachusetts together with spokespersons for a few of these businesses. At the meeting, the parties also asked the Coast Guard to consider granting exemptions in limited circumstances.

Since no NPRM is being issued for this Interim Rule, regulatory flexibility requirements do not apply. On the other hand, the purpose of regulatory flexibility analysis is to consider, and possibly reduce, impacts on small businesses. Recognizing that we may not have received sufficient information in response to an earlier NPRM, we will reopen the comment period to reassess the impacts of the positive control provisions in light of inquiries received in response to this Interim Rule. Further delay in alleviating the potential burden associated with immediate implementation of the positive control provisions of the RRAT, while issuing an NPRM and performing additional research and analysis might, in fact, harm small businesses. Therefore, we are applying the deferral for emergency provisions of section 4 of the Regulatory

Flexibility Act (5 U.S.C. 608). Further compliance with that Act is deferred until additional comments have been obtained from small businesses about the impact of the measures for positive control of barges and about the provision for alternatives in the Interim Rule.

The Coast Guard is issuing the Interim Rule authorizing exemptions in limited circumstances to provide an additional mechanism for relieving restrictions on those businesses that had long-term contracts or other constraints as of the effective date of the Final Rule. The Interim Rule allows affected companies the opportunity to continue safe operations and additional time to make arrangements to come into compliance with the new rule. Protection of the environment remains of paramount concern. The new provision, therefore, is limited in time, and small businesses should not rely on its being extended.

Small businesses are defined by the Small Business Administration in 13 CFR part 121 by either the number of employees or the amount of receipts in dollars. Businesses engaged in the transportation of freight by sea, such as petroleum barge owners, are generally considered to be small businesses if they employ 500 people or less. Towing and tugboat services are considered to be small businesses if their annual receipts in dollars are \$5 million or less. In addition to obtaining further information on the effect of the RNA on small entities operating in First District waters, answers to the following questions from these businesses would be particularly useful:

- (1) What portions of the transits affected by the positive control measures are completed by either a towing vessel or a barge considered to be operated by a small business?
- (2) What is the financial impact on small businesses of complying with the positive control measures?
- (3) What is the ability of affected small businesses to pass along to customers the increased costs due to the positive control measures?

Assistance for Small Entities

In accordance with section 213(a) of the Small Businesses Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the Final Rule so that they could better evaluate its effects on them and participate in the rulemaking. Commander (m), First Coast Guard District, provided explanatory information to a number of individuals by telephone. If you need assistance understanding either the Final or

Interim Rule, please call LT Rich Klein at 617–223–8243.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about enforcement by Federal agencies. The Ombudsman will annually evaluate enforcement and rate each agency's responsiveness to small business. If you wish to comment on enforcement by the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

The Interim Rule calls for no collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Interim Rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. In the Final Rule, the Coast Guard determined that there would be some preemptive impacts on the Rhode Island Tank Vessel Safety Act, 46 R.I.G.L. § 12.6. See 63 FR 71770. For reasons discussed in that Rule, however, the Coast Guard determined that that Rule did not have sufficient implications federalism to warrant the preparation of a Federalism Assessment. The Interim rule only establishes procedures that do not alter in any meaningful way the previous Federalism analysis.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for rules that contain *Federal mandates*. A Federal mandate is a new or additional enforceable duty imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, the UMRA analysis is required. This Interim Rule would not impose Federal mandates on any State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraphs 34(g) and (i), Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A

"Determination of Categorical Exclusion" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

The new exemption provision in the Interim Rule rests on the premise that an equivalent level of safety exists to protect the environment. The Coast Guard invites comments on this point.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this Interim Rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This Rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This Rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This Rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This Rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

PART 165—[AMENDED]

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

1. The citation of authority for part 165 is revised to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Revise § 165.100(d)(1)(iii) to read as follows:

§ 165.100 Regulated Navigation Area: Navigable Waters within the First Coast Guard District.

* * * *

(d) * * *

(1) * * *

(iii) The cognizant Captain of the Port (COTP), upon written application, may authorize an exemption from the requirements of paragraph (d)(1)(i) of this section for—

(A) Any tank barge with a capacity of less than 25,000 barrels, operating in an area with limited depth or width such as a creek or small river; or

(B) Any tank barge operating on any waters within the COTP Zone, until July 1, 2000, provided the operator demonstrates to the satisfaction of the COTP that the barge employs an equivalent level of safety to that provided by the positive control provisions of this section. Each request for an exemption under this paragraph (d)(1)(iii)(B) must be submitted in writing to the cognizant COTP no later than 7 days before the intended transit.

* * * *

Dated: March 10, 1999.

R.F. Duncan,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 99–6330 Filed 3–12–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY108–9904a; FRL–6307–8]

Approval and Promulgation of Implementation Plans; Kentucky; Approval of Revisions to Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a state implementation plan (SIP) revision submitted on August 27, 1998, by the Commonwealth of Kentucky, through the Kentucky Natural Resources and Environmental Protection Cabinet. This revision modifies the implementation of a basic motor vehicle inspection and maintenance (I/M) program in Jefferson County, Kentucky, to require, beginning January 1, 2001, a check of the On Board Diagnostic (OBD) system of 1996 and newer cars and light duty trucks equipped with the system.

DATES: This final rule is effective May 14, 1999 without further notice, unless EPA receives adverse or critical comments by April 14, 1999. If adverse comment is received EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform

the public that the rule will not take effect.

ADDRESSES: All comments on this action should be addressed to Dale Aspy at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file KY108–9904. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.
Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Dale Aspy, (404) 562–9041.
Kentucky Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. (505) 573–3382.

Jefferson County Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky. (502) 574–6000.

FOR FURTHER INFORMATION CONTACT: Dale Aspy at 404/562–9041.

SUPPLEMENTARY INFORMATION:

I. Background

On August 6, 1996, the U.S. Environmental Protection Agency (EPA) promulgated a final rule that established the minimum requirements for inspecting vehicles equipped with OBD systems. Additionally, the OBD test program component was to begin January 1, 1998. An approved OBD program is required for state and local Inspection/Maintenance (I/M) programs by section 203(m)(3) of the Clean Air Act (CAA). Section 182(a)(2)(B)(ii) of the CAA required a State Implementation Plan (SIP) submission by August 6, 1998, for I/M programs to implement an OBD system check. However, on May 4, 1998, EPA published a final rule that delayed until January 1, 2001, the date by which the OBD test component is required to begin. Although EPA delayed the OBD test component date by three years, the CAA requirement for submitting a SIP two years after promulgation of OBD requirements for vehicle manufacturers was not changed. Therefore, in the May 4, 1998, **Federal Register** preamble to the OBD regulation