

### 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.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded 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 is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a security zone. 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 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.1327 to read as follows:

#### § 165.1327 Security Zone; Escorted U.S. Navy Submarines in Sector Seattle Captain of the Port Zone.

(a) *Location.* The following area is a security zone: All waters within 1000 yards of any U.S. Navy submarine that is operating in the Sector Seattle Captain of the Port Zone, as defined in 33 CFR Section 3.65-10, and is being escorted by the Coast Guard.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Section 165, Subpart D, no person or vessel may enter or remain in the security zone created by paragraph (a) of this section unless authorized by the Coast Guard patrol commander. The Coast Guard patrol commander will coordinate with Vessel Traffic System

users on a case-by-case basis to make appropriate passing arrangements under the circumstances. 33 CFR Section 165, Subpart D, contains additional provisions applicable to the security zone created in paragraph (a) of this section.

(c) *Notification.* The Coast Guard security escort will attempt, when necessary and practicable, to notify any persons or vessels inside or in the vicinity of the security zone created in paragraph (a) of this section of its existence via VHF Channel 16 and/or any other means reasonably available.

Dated: April 25, 2010.

**G.T. Blore,**

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

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## POSTAL SERVICE

### 39 CFR Part 232

#### Conduct on Postal Property; Penalties and Other Law

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Postal Service is amending the Code of Federal Regulations to retract an increase in the maximum penalty for violations of the rules concerning conduct on Postal Service property.

**DATES:** *Effective Date:* May 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth P. Martin, General Counsel, Office of Inspector General, (703) 248-2100.

**SUPPLEMENTARY INFORMATION:** On January 27, 2010, the Postal Service published an amendment to the Code of Federal Regulations concerning the maximum penalty for a violation of the rules governing conduct on Postal Service property (75 FR 4273). The former rules had established the maximum penalty for a violation as a fine of not more than \$50 or imprisonment of not more than 30 days, or both. As revised by that notice, the maximum penalty for a violation was increased to a fine of not more than that allowed under title 18 of the United States Code or imprisonment of not more than 30 days, or both.

Since the publication of this amendment, the Postal Service has determined that it is necessary to revisit this matter, and to re-examine the text of the rule for clarity, specificity, and contractual compliance. For this reason, the Postal Service has determined that

it is appropriate to amend the relevant provision once again to re-establish the maximum penalty in effect before the effective date of the previous notice, January 27, 2010.

#### List of Subjects in 39 CFR Part 232

Authority delegations (Government agencies), Crime, Federal buildings and facilities, Government property, Law enforcement officers, Postal Service, Security measures.

■ For the reasons stated in the preamble, the Postal Service amends 39 CFR part 232 as set forth below:

#### PART 232—CONDUCT ON POSTAL PROPERTY

■ 1. The authority citation for part 232 continues to read as follows:

**Authority:** 18 U.S.C. 13, 3061; 21 U.S.C. 802, 844; 39 U.S.C. 401, 403(b)(3), 404(a)(7), 1201(2).

■ 2. In § 232.1, paragraph (p)(2) is revised to read as follows:

##### § 232.1 Conduct on postal property.

\* \* \* \* \*

(p) \* \* \*

(2) Whoever shall be found guilty of violating the rules and regulations in this section while on property under the charge and control of the Postal Service is subject to a fine of not more than \$50 or imprisonment of not more than 30 days, or both. Nothing contained in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated.

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**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 388

[Docket No. MARAD 2010 0012]

RIN 2133-AB76

#### Administrative Waivers of the Coastwise Trade Laws: New Definition for Eligible Vessel

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** The Maritime Administration (MARAD) is changing the definition of

“eligible vessel” to be considered for a waiver of the coastwise laws to operate as small passenger vessels or uninspected passenger vessels authorized to carry no more than 12 passengers for hire. The new definition of “eligible vessel” deletes the requirement that the eligible vessel be five net tons or more. That requirement is not in the enabling statute and is preventing MARAD from considering waiver requests from small vessels. In addition, the mailing address of the agency needs to be updated to reflect the agency’s present address.

**DATES:** This final rule will be effective June 21, 2010.

**Docket:** For access to the docket to read background documents, go to <http://www.regulations.gov> at any time to view docket number 2010-0012 or to Room PL-401 of the Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joann Spittle, Office of Cargo Preference and Domestic Trade, Maritime Administration, MAR-730, Room W21-203, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-5979 or 800-9US-FLAG; e-mail: [Joann.Spittle@dot.gov](mailto:Joann.Spittle@dot.gov).

**SUPPLEMENTARY INFORMATION:** Public Law 105-383 authorized the Secretary of Transportation to grant waivers of the U.S.-build requirement for the smallest of passenger vessels (those carrying 12 or fewer passengers) to operate in the coastwise trade. It also authorized the Secretary of [Homeland Security] to issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel for eligible vessels authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect: (1) United States vessel builders; or (2) the coastwise trade business of any person that employs vessels built in the United States in that business.

Until now, the term “eligible vessel” was understood to mean a vessel eligible for U.S. Coast Guard documentation, which applies to vessels of a minimum size of five net tons. However, under 46 U.S.C. 12102(b), a vessel of less than five net tons may engage in the coastwise trade without documentation, if the vessel otherwise satisfies the requirements to engage in

the trade. An unintended consequence of the current small passenger waiver regulation is that the Maritime Administration is unable to grant waivers to owners of vessels of less than five net tons who want to operate in coastwise trade.

On January 27, 2010, MARAD published a notice of proposed rulemaking providing for a public comment period of 60 days. No comments were received on this proposal. Accordingly, in this final rule, the Maritime Administration adopts the rule, as proposed. The rule extends the eligibility of vessels for its Small Vessel Waiver Program by removing the five net ton minimum requirement.

Vessels eligible for a waiver of the coastwise trade laws will be limited to foreign built or foreign re-built small passenger vessels and uninspected passenger vessels as defined by section 2101 of Title 46, United States Code. Additionally, vessels requested for consideration must be greater than three years old. We will not grant waivers in instances where such waivers will have an unduly adverse effect on U.S. vessel builders or U.S. businesses that use U.S. flag vessels. Under Title V, MARAD also has the authority to revoke coastwise endorsements under the limited circumstances where a foreign-built or foreign-rebuilt passenger vessel, previously allowed into service, is deemed to have obtained such endorsement through fraud. In addition, the final rule changes the mailing address of the agency found at 46 CFR 388.3(a)(2) to reflect the agency’s present address.

#### Rulemaking Analysis and Notices

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not significant under section 3(f) of Executive Order 12866, and as a consequence, OMB did not review the rule. This final rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The costs and benefits associated with this rulemaking are considered to be so minimal that no further regulatory impact analysis is necessary.

##### *Executive Order 1313*

We analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 (“Federalism”) and have determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rule has no substantial