

Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 20, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 7, 1997.

Jack W. McGraw,

Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart JJ—North Dakota

2. Section 52.1820 is amended by adding paragraph (c)(29) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(29) The Governor of North Dakota submitted revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules with letters dated August 15, 1995 and January 9, 1996. The revisions address air pollution control rules regarding general provisions; open burning; emissions of particulate matter, certain settleable acids and alkaline substances, and fugitives; air pollution emergency episodes; new source performance standards (NSPS); national emission standards for hazardous air pollutants (NESHAPs); and the minor source construction and operating permit programs. The State's January 9, 1996 submittal also revised SIP Chapter 6, Air Quality Surveillance, to identify current activities regarding visibility monitoring.

(i) Incorporation by reference.

(A) Revisions to the Air Pollution Control Rules as follows: Emissions of Particulate Matter Restricted 33-15-05-03., 33-15-05-03.1., 33-15-05-03.2., and 33-15-05-03.3.; Prevention of Air Pollution Emergency Episodes 33-15-11 Tables 6 and 7; and Fees 33-15-23-01, 33-15-23-02, and 33-15-23-03, effective August 1, 1995.

(B) Revisions to the Air Pollution Control Rules as follows: General Provisions 33-15-01-04; Emission Standards for Hazardous Air Pollutants 33-15-13, except 33-15-13-01-2., Subpart I; Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate 33-15-14-01, 33-15-14-01.1., 33-15-14-02.12., and 33-15-14-03.10.; effective August 1, 1995 and January 1, 1996.

(C) Revisions to the Air Pollution Control Rules as follows: Open Burning Restrictions 33-15-04; Emissions of Certain Settleable Acids and Alkaline Substances Restricted 33-15-09; Standards of Performance for New Stationary Sources 33-15-12; and Restriction of Fugitive Emissions 33-15-17-01 and 33-15-17-02, effective January 1, 1996.

[FR Doc. 97-10126 Filed 4-18-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 2

[CGD 96-067]

RIN 2115-AF40

Vessel Inspection User Fees

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: This rule reduces annual vessel inspection user fees for small passenger vessels and exempts publicly owned ferries from payment of vessel inspection user fees. These changes are required by the Coast Guard Authorization Act of 1996. The rule also revises the existing discretionary exemption criteria to allow additional vessels to qualify for exemption from payment of the annual vessel inspection fee. The Coast Guard requests comments on this interim rule.

DATES: This rule is effective April 21, 1997. Comments must be received on or before August 19, 1997.

ADDRESSES: Comments should be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) [CGD 96-067], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. For inquiries and user fee payment information call, toll free, 1-800-941-3337.

FOR FURTHER INFORMATION CONTACT: Denise Mursch, Budget and Resources Division, Office of Planning and Resources, (G-MRP-2) Marine Safety and Environmental Protection (202) 267-0785.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD 96-067] and the specific section of

this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. 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 this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a public meeting would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

This rule is being published as an interim rule and is being made effective on the date of publication. The reductions in annual vessel inspection fees for small passenger vessels and the exemption of publicly owned ferries from payment of vessel inspection fees are required by the Coast Guard Authorization Act of 1996. The changes to the discretionary exemption criteria will allow more vessels to qualify for exemption from payment of annual vessel inspection fees and will reduce the financial burden on qualified vessels. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(b) (3) (B) and (d) (3), why notice, and public procedure on the notice, before the effective date of this rule are unnecessary and this rule should be made effective in less than 30 days after publication.

Regulatory Background

The Omnibus Budget Reconciliation Act of 1990 amended 46 U.S.C. 2110 and removed long-standing prohibitions against imposing certain fees. As amended, 46 U.S.C. 2110 required the establishment and collection of user fees for Coast Guard services provided under Subtitle II of Title 46, United States Code. The Coast Guard subsequently developed user fees for several Subtitle II services, including marine personnel licensing and documentation services, vessel registration and documentation services, and inspection and examination services provided to U.S. and foreign vessels.

The final rule establishing direct user fees for inspection or examination of U.S. and foreign commercial vessels was published in the **Federal Register** (60 FR 13550) on March 13, 1995. That final rule established fees in accordance with the criteria provided under 31 U.S.C. 9701, known as the General User Fee Statute, based on the costs of providing Coast Guard vessel inspection services. These costs included Coast Guard personnel costs associated with the actual time spent inspecting vessels, as well as training, travel, overhead, and other administrative and collection costs.

The published fees for small passenger vessels ranged from \$450 for DUKW (wheeled amphibious) vessels to \$2,585 for small passenger vessels over 130 feet. The fees for passenger barges less than 100 gross tons (defined as small passenger vessels under 46 CFR 2.10–25) ranged from \$825 for barges carrying fewer than 150 passengers to \$1,110 for barges carrying 150 or more passengers.

Discussion of Rules

Fee Caps

The Coast Guard Authorization Act of 1996 (the Act) limits the amounts of the fees that may be charged for vessel inspection services provided to small passenger vessels as defined in 46 CFR 2.10–25. The Act limits the annual fee for small passenger vessels less than 65 feet in length to not more than \$300 and for small passenger vessels 65 feet or over in length to not more than \$600. Current costs of inspecting small passenger vessels of all lengths exceed the fee limits set by the Act. This rule, therefore, reduces the annual vessel inspection fees for small passenger vessels to the limits established under the Act.

The separate fee categories for DUKW Vessels and Hydrojet Boats were first established because costs for inspecting these vessels were lower than for other small passenger vessel categories. Coast Guard records indicate, however, that all DUKW Vessels and Hydrojet Boats are under 65 feet in length and costs of inspecting these vessels exceed the Act's \$300 cap for small passenger vessels under 65 feet. The separate fee categories for these vessels, therefore, are no longer necessary and DUKW Vessels and Hydrojet Boats are included in the category for small passenger vessels less than 65 feet in length in the final rule.

Publicly Owned Ferries.

The Act prohibits the establishment of a fee or charge for inspection or

examination under Title 46, U.S. Code, of any publicly owned ferry. Small passenger vessels, passenger ships, and passenger barges currently operating as ferries pay the annual vessel inspection fee for the vessel category to which they belong. No fee category was established specifically for ferries. The term *publicly owned ferry* was not defined within existing law or regulation.

This rule amends 46 CFR 2.10–25 to define the terms *publicly owned*, *ferry*, *political subdivision*, *State*, *youth*, and *non-profit organization* for the purposes of these regulations and to exempt publicly owned ferries from the provisions of 46 CFR part 2.

The term *publicly owned* is defined for the purposes of these regulations as owned by the federal government or the government of any State or political subdivision thereunder.

The term *ferry* is defined as a vessel transporting passengers or vehicles on a regular run, over the most direct route between a point of embarkation and a point of debarkation on lands separated by a body of water other than an ocean, or between a point of embarkation and an island within the same State.

The term *political subdivision*, as used within the definition of publicly owned, includes county, district, parish, township, city or similar governmental entities established within a State.

As used within this part, the term *State* in accordance with 46 U.S.C. 2101(1)(36) means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

The term *Youth* is defined for the purposes of these regulations as an individual 18 years of age or younger.

Exemption Criteria

This rule also revises the exemption criteria in 46 CFR 2.10–5 to allow some non-profit organizations that do not meet the current narrowly-drawn exemption criteria to qualify for exemption from payment of fees. Under current regulations, a vessel must be owned or operated by an organization that is (1) charitable in nature, (2) not for profit, and (3) youth oriented and the vessel must be used exclusively for training youth in boating, seamanship, and navigational skills.

Under 46 U.S.C. 2110(g), exemptions from payment of user fees may be granted whenever it is in the public interest to do so. Since May 1, 1995, the Coast Guard has granted exemptions to only 48 vessels, of which 34 are owned or operated by the Outward Bound Organization, two by the Boy Scouts of

America, and the remainder by a variety of other similar organizations.

At least 29 organizations applied for exemptions but did not meet the exemption criteria. Among those organizations denied exemptions was the Floating Hospital in New York, a charitable, non-profit organization providing medical services to inner city residents of New York City at no cost to the patients. The organization did not meet the exemption criteria because it was not youth-oriented, and did not train youth in boating, navigation, or seamanship. Similarly, a non-profit organization that provided enrichment excursions to individuals with a disability, regardless of their age, did not meet the criteria because it was not specifically youth-oriented.

Requests for exemption were also received from several non-profit organizations providing training to youth aboard the vessels, but which offered a curriculum exceeding the criteria specified under current regulation. Typically, these programs are centered around marine environmental awareness and education. The marine environmental awareness training offered to youth aboard these vessels is a goal that is within the public interest to promote. It is necessary, however, to differentiate between a course in marine environmental studies, and environmental vacations consisting of sightseeing, whale watching, or other excursions for the enjoyment or appreciation of nature.

The term *not for profit corporation* is being changed to the more commonly used terminology of *non-profit organization*. Previously, the term had not been defined. This rule defines the term as an *organization under Internal Revenue Code (I.R.C.) section 501(c) which is exempt for the purposes of federal income taxation*. The Internal Revenue Service requires such organizations to be organized and operated exclusively for one or more of the following purposes: (a) religious; (b) charitable; (c) scientific; (d) testing for public safety; (e) literary; (f) educational; (g) prevention of cruelty to children or animals; or (h) to foster national or international sports. This rule removes the words *charitable in nature* from the exemption criteria because it is already included in the broader term *non-profit organization*.

The rule also adds *educating youth in a course of marine environmental studies; providing excursions for individuals with a disability; and providing medical services* to the activities in which a qualified vessel may be engaged. The term *disability*

means a person having a disability as defined by the Americans with Disabilities Act (ADA) [42 U.S.C. 12102(2)].

Regulatory Evaluation

This rule is not a significant regulatory action under section 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 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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard Authorization Act of 1996 (the Act) placed a cap on fees charged for the inspection of small passenger vessels to reduce the economic burden imposed on small businesses. The Act also provided an exemption for publicly-owned ferries from the payment of user fees, which eliminates costs to State, State agencies, and local governments. Implementation of these provisions began on November 1, 1996.

In addition, the current exemption criteria under 46 U.S.C. 2110(g) is being broadened to allow additional exemptions from payments of fees in instances where it is clearly within the public interest to do so.

User fee revenues will be reduced by approximately \$2.8 million dollars as a result of the cap on small passenger vessels, exemption of the publicly-owned ferries, and the broadening of the exemption eligibility criteria under 46 U.S.C. 2110(g). The cap on small passenger vessels will affect 5,880 vessels and reduce revenues to the government and provide savings to the small passenger vessel industry in the amount of \$2.25 million dollars. The exemption of publicly-owned ferries affects 164 vessels and reduces revenues to the government and provides a savings to the industry in the amount of \$480,000 dollars. The broadening of the exemption eligibility is estimated to affect 100 vessels and will reduce revenues to the government and will provide a savings to industry in the amount of \$67,000 dollars.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking

is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields; (2) governmental jurisdictions with populations of less than 50,000; and (3) "small business concern[s]" as defined by section 3 of the Small Business Act [15 U.S.C. 632(a)]. Small businesses are identified under Standard Industrial Classification codes and size standards in the table following 13 CFR 121.201. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Act. Although this rule is exempt, the Coast Guard has reviewed it for potential impact on small entities.

This rule will reduce an existing economic burden on small businesses owning inspected small passenger vessels, or that qualify for the revised exempt status by lowering or eliminating fees they pay for required Coast Guard vessel inspection services. Therefore, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard will provide assistance to small entities to determine how this rule applies to them. If you are a small business and need assistance understanding the provisions of this rule or applying for an exemption under this rule, please contact your local Officer in Charge, Marine Inspection (OCMI) or call, toll free, 1-800-941-3337.

Collection of Information

This rule contains no new collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a

Federalism Assessment. This rule amends user fees for vessel inspection and examination services to cap fees paid for services related to small passenger vessels, and exempts publicly owned ferries from payment of the fees.

Unfunded Mandates

Under the Unfunded Mandates Reform Act (Pub. L. 104-4) (the ACT), the Coast Guard must consider whether this Interim Rule will result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million (adjusted annually for inflation). Section 205 of the Act also that the Coast Guard identify and consider a reasonable number of regulatory alternates, and from those alternatives, select the least costly, most cost-effective, or least burdensome alternative that achieves the objective of this Interim Rule. The rule does not impose additional costs upon any State or local government as a result of a mandate imposed upon them as a government agency. The completed analysis estimates that this Interim rule will provide a total savings of \$2.8 million dollars. This rule will result in the reduction or elimination of fees paid by State, State agencies, and local governments for inspection services provided to these categories of vessels owned by such entities.

Environment

The Coast Guard considered the environmental impact of this rule and has concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Paragraph 2.,B.2 of that instruction excludes administrative actions and procedural regulations and policies that clearly do not have any environmental impacts. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 46 CFR Part 2

Fees, Marine safety, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 2 as follows:

PART 2—VESSELS INSPECTIONS

1. The authority citation for part 2 is revised to read as follows:

TABLE 2.10-101.—ANNUAL VESSEL INSPECTION FEES FOR U.S. AND FOREIGN VESSELS REQUIRING CERTIFICATE OF INSPECTION

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 33 U.S.C. 1903; 43 U.S.C. 1333, 1356; 46 U.S.C. 2110, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec 27, 1950, Ch 1155, sections 1, 2, 64 Stat. 1120 [see 46 U.S.C. App. Note prec. 1].

2. In § 2.10-1, paragraph (b) is revised to read as follows:

§ 2.10-1 Applicability.

* * * * *

(b) The fees in this subpart do not apply to:

- (1) Vessels being inspected for the initial issuance of a Certificate of Inspection;
- (2) Foreign passenger vessels;
- (3) Training vessels operated by State maritime academies;
- (4) Public vessels of the United States except for Maritime Administration vessels; and
- (5) Publicly owned ferries.

3. Section 2.10-5 is revised to read as follows:

§ 2.10-5 Exemptions.

(a) Vessels owned or operated by a non-profit organization may be exempted from payment of the fees required by this subpart, only if the vessel is used exclusively for one or more of the following:

- (1) Training youth in boating, seamanship, or navigation skills;
- (2) Educating youth in a course of marine environmental studies;
- (3) Providing excursions for persons with disabilities as defined under the Americans with Disabilities Act (ADA) [42 U.S.C. 12102(2)]; or
- (4) Providing medical services.

(b) Vessels owned or operated by the Federal government or the government of any State or political subdivision thereunder may be exempted from the fees required by this subpart provided the vessel is used exclusively for one or more of the purposes listed in paragraph (a) of this section.

(c) The term *used exclusively* in paragraphs (a) and (b) of this section does not preclude:

- (1) the carriage of adult volunteers or crew, or
- (2) the vessel's use for fund raising activities without regard to the age of the participants aboard the vessel, provided revenues raised are for the operation and maintenance of the vessel

and that such fund raisers are held no more frequently than once a month.

(d) Vessel owners or operators may submit a written request for exemption to the Officer in Charge, Marine Inspection, of the Marine Inspection Zone in which the vessel normally operates. The exemption request must provide the vessel name, the vessel identification number, and evidence that the organization and the vessel meet the criteria set forth in this section.

4. Section 2.10-25 is amended by adding in alphabetical order new definitions for *Ferry*, *Non-profit organization*, *Political subdivision*, *Publicly owned*, *State* and *Youth*, to read as follows:

§ 2.10-25 Definitions.

* * * * *

Ferry means, a vessel transporting passengers or vehicles on a regular run, over the most direct route between a point of embarkation and a point of debarkation on lands separated by a body of water other than an ocean, or between a point of embarkation and an island within the same State.

* * * * *

Non-profit organization means an organization under Internal Revenue Code (I.R.C.) section 501(c) which is exempt for the purposes of federal income taxation.

* * * * *

Political subdivision means a county, district, parish, township, city or similar governmental entity established within a State.

Publicly owned means, owned by (1) the federal government, or (2) the government of any State or political subdivision thereunder.

* * * * *

State means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands and any other territory or possession of the United States.

* * * * *

Youth means an individual 18 years of age or younger.

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5. In table 2.10-101, the entries for *Passenger Barges* and for *Small Passenger Vessels* are revised to read as follows:

TABLE 2.10-101.—ANNUAL VESSEL INSPECTION FEES FOR U.S. AND FOREIGN VESSELS REQUIRING CERTIFICATE OF INSPECTION—Continued

Less than 100 gross tons and:	
Less than 65 feet in length	300
65 feet or more in length	600
100 gross tons or more and:	
Certified for fewer than 150 passengers	2,215
Certified for 150 or more passengers	2,525
* * * * *	
Small Passenger Vessels:	
Less than 65 feet in length	300
65 feet or more in length	600
* * * * *	

Dated: March 21, 1997.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97-10231 Filed 4-18-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 6

[Docket No. OST-96-1421]

RIN 2105-AB73

Implementation of Equal Access to Justice Act in Agency Proceedings

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation is updating its regulation concerning the Equal Access to Justice Act to reflect current statutory requirements. The change is made on the Department's initiative in response to the President's Regulatory Reinvention Initiative.

DATES: This rule is effective May 21, 1997.

FOR FURTHER INFORMATION CONTACT: Alexander J. Millard, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4102, Washington, DC 20590, telephone (202) 366-9285, or S. Reid Alsop, Office of the Chief Counsel, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4230, Washington, DC 20590, telephone (202) 366-1371.

SUPPLEMENTARY INFORMATION: On June 6, 1996, the Department published a notice of proposed rulemaking (NPRM) in the **Federal Register** (at 61 FR 28831) proposing to update its regulation (49 CFR part 6) providing for the award of

attorney fees and other expenses under the Equal Access to Justice Act to eligible individuals and entities who are parties to certain administrative proceedings before the Department and its various operating administrations. No comments were filed in response to this NPRM. The Department is, therefore, adopting the proposal with only minor editorial corrections in § 6.5.

Regulatory Analyses and Notices

This final rule is considered to be a non-significant rulemaking under DOT's regulatory policies and procedures, 44 FR 11034. The final rule was not subject to review by the Office of Information and Regulatory Affairs pursuant to Executive Order 12866.

The impact of this rule is so minimal that no further regulatory evaluation has been prepared. Indeed, the changes that are being made merely track various statutory changes that have been enacted since the Department's adoption of its original final rule in 1983.

The final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. I certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule is merely updating the regulation to reflect current statutory requirements. Finally, the rule will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year.

List of Subjects in 49 CFR Part 6

Claims, Equal access to justice, Transportation Department.

For the reasons discussed in the preamble, 49 CFR part 6 is hereby amended to read as follows:

PART 6—IMPLEMENTATION OF EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

1. The authority citation for part 6 is revised to read as follows:

Authority: 5 U.S.C. 504; 28 U.S.C. 2412.

§ 6.1 [Amended]

2. Section 6.1 is amended by removing the second sentence.

3. Section 6.3 is revised to read as follows:

§ 6.3 Applicability.

Section 6.9(a) applies to any adversary adjudication pending before the Department on or after October 1, 1981. In addition, applicants for awards must also meet the standards of § 6.9(b) for any adversary adjudication commenced on or after March 29, 1996.

4. In § 6.5, paragraph (a) is revised to read as follows:

§ 6.5 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Department of Transportation. These are adjudications under 5 U.S.C. 554 in which the position of the Department is represented by an attorney or other representative who enters an appearance and participates in the proceeding. Coverage of the Act begins at designation of a proceeding or issuance of a charge sheet. Any proceeding in which the Department may prescribe or establish a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications." For the Department of Transportation, the types of proceedings covered include, but may not be limited to: Coast Guard suspension or revocation of licenses, certificates or documents under 46 U.S.C. 7701 et seq.; Coast Guard class II civil penalty proceedings