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Jean A. Webb,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 84 and 183

46 CFR Part 25

[USCG-1999-6580]

RIN 2115-AF70

Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is requiring domestic manufacturers of vessels to install only certified navigation lights on all newly manufactured uninspected commercial vessels and recreational vessels. This rule aligns the requirements for these lights with those for inspected commercial vessels and with requirements for all other mandatory safety equipment carried on board all vessels. The Coast Guard expects the resulting reduction in the use of noncompliant lights to improve safety on the water.

DATES: This final rule is effective November 1, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 1, 2002.

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-1999-6580 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Randolph J. Doubt, Project Manager, Office of Boating Safety, Coast Guard, by telephone at 202-267-6810 or by e-mail at rdoubt@comdt.uscg.mil. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets,

Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking (NPRM) to establish requirements for approval, certification, installation, and performance of navigation lights on vessels less than 20 meters in length in the **Federal Register** on September 7, 1978 (43 FR 39946), and a supplemental notice on December 29, 1980 (45 FR 85468). It published a notice withdrawing the proposed rulemaking in the **Federal Register** on January 7, 1982 (47 FR 826). The proposed rule was withdrawn because a newly established voluntary standard and Coast Guard enforcement policies were deemed sufficient.

On October 9, 1997, the Coast Guard published in the **Federal Register** (62 FR 52673) a request for comments on whether navigation lights on uninspected commercial vessels and recreational vessels need to be regulated. We received 34 comments. On August 4, 2000, we published a notice of proposed rulemaking (NPRM) entitled Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels in the **Federal Register** (65 FR 47936). We received 11 comments on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

The rule will direct manufacturers of uninspected commercial vessels and recreational vessels to install only navigation lights certified and labeled as meeting the technical requirements of the Navigation Rules. It will standardize the navigation light requirement for uninspected commercial vessels and recreational vessels with the requirement for inspected commercial vessels. This action is consistent with the treatment for all other items of safety equipment.

Previously, only lights specifically manufactured for inspected commercial vessels were regulated. These regulations appear in Title 46 CFR subchapter J-Electrical Engineering, and they state in part that each light must "be certified by an independent laboratory to the requirements of [Underwriters Laboratories, Inc. (UL)] 1104 or an equivalent standard" and be so labeled. The "independent laboratory" must be recognized by the Coast Guard as bonafide and have been placed on a list, which is available from G-MSE-3 at U.S. Coast Guard

Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001.

Rulemakings to establish regulatory controls of navigation lights on uninspected commercial vessels and recreational vessels were proposed in September 1978 and December 1980. They were withdrawn in January 1982 because a newly established voluntary standard and Coast Guard enforcement policies were deemed sufficient to eliminate the need for the regulation. However, by 1997, several entities concerned with recreational boating safety were calling for regulations.

Before April 1997, a manufacturer of navigation lights for uninspected commercial vessel and recreational vessels could voluntarily apply for a "Letter of Acceptance" from the U.S. Coast Guard for its light models. The Coast Guard would compare a laboratory report for each model sent by the manufacturer with the technical requirements of the International and Inland Navigation Rules (together referred to as the "Navigation Rules"). If the reported data indicated that the light met the requirements of the Navigation Rules, the Coast Guard would grant a "Letter of Acceptance," allowing the manufacturer to label the light as "U.S. Coast Guard Accepted." The public often interpreted the acceptance label as meaning that a light was "U.S. Coast Guard Approved."

To eliminate the confusion, the Coast Guard stopped issuing Letters of Acceptance in April 1997. Consequently, vessel manufacturers, owners, surveyors, vessel inspectors, and boarding officials could rely only on a statement from the navigation light manufacturer that a model of light complied with the technical requirements of the Navigation Rules.

In 1997 the National Boating Safety Advisory Council (NBSAC)—representing operators and manufacturers of recreational vessels, State boating officials, and national boating organization—and the National Association of State Boating Law Administrators (NASBLA) passed resolutions asking the Coast Guard to require that navigation lights installed on recreational vessels offered for sale to the public be certified. The Navigation Safety Advisory Council (NAVSAC) passed a similar resolution relating to uninspected commercial vessels. In the report, "Recreational Boat Collision Accident Research," UL recommended that the Coast Guard take stronger measures to ensure that navigation lights installed in recreational vessels meet the requirements established by the Navigation Rules.

A request for comments on the proposed rulemaking was published in the **Federal Register** on October 9, 1997. State law-enforcement personnel, vessel owners, marine professionals (manufacturers and marine surveyors), standard-setting organizations, manufacturers of navigation lights, and a laboratory testing navigation lights submitted comments. Of the 34 respondents, 28 favored the rule. Some expressed concern about installing lights in vessels with bow-high cruising trim angles that tend to obstruct sidelight visibility. While it would not require certification of navigation light installations, the rule will require that the installed lights be certified as compliant with the visibility requirements established by the Navigation Rules. A complete discussion of these comments was included in the NPRM, which may be found in the docket at the locations listed under **ADDRESSES**.

In its response to the October 1997 request for comments, UL stated that during the past 20 years compliance with the Navigation Rules for navigation lights has steadily declined. UL stated that about half of the lights tested have failed to meet minimum performance requirements.

To address this decline in compliance, the rule requires that vessel manufacturers install only lights that are certified. The new requirement will provide evidence of compliance to vessel manufacturers, surveyors, owners, inspectors, and boarding officials. It includes the same requirements as those for navigation lights for inspected commercial vessels; however, the light test requirements are less stringent. It also aligns with the International Navigation Rule requirement (COLREGS) for "Approval" (33 CFR, subchapter D, Annex I.)

The rule does not apply to the replacement of existing navigation lights on vessels completed before the designated effective date.

Discussion of Comments and Changes

Respondents to the NPRM published August 4, 2000, included State law-enforcement officials, a marine safety service, a tug operator, several tug and tow operation companies, and two waterways associations representing the towing industry. Of the nine respondents, four favored the rulemaking.

All opposing comments came from representatives of the towing industry. Some cited the expense of certifying barge mooring lights; however, barge mooring lights are outside the scope of

this rule because they are not generally installed by the builder.

Other comments requested that commercial vessel lights be grandfathered. Although the NPRM did not specify that this rulemaking applied to only newly manufactured vessels, that was the original intent. This has been clarified in the final rule by adding an applicability section to the new subpart 25.10 in 46 CFR. We also added a definition section to the new subpart 25.10. Furthermore, only uninspected commercial vessels and recreational vessels are within the rule's scope, as inspected commercial vessels are covered in other regulations.

Another comment recommended that when non-certified lights need to be replaced that they be replaced with certified lights. The Coast Guard disagrees with this comment. A planned amendment to Navigation Rule 38 will grandfather all existing lights, whether installed or on the shelf, implying that original equipment may be replaced in kind.

Comments also expressed concern about bulb "monopolies" resulting from this rulemaking. The labeling requirements call for "identification of the bulb used in the compliance test." Although "identification" will include bulb make along with specifications regarding wattage, rated voltage, and filament configuration, this rule does not preclude the use of any make bulb that allows the performance requirements of the light to be satisfied.

One towing company cited lack of enforcement of the Navigation Rules as the crux of the problem while another objected to using "pre-focus lamps" (lamps with screened lenses designed to meet the sector requirements) rather than "incandescent rough service lamps." Neither of these comments are within the scope of this rule. However, the intent of this rulemaking is to discourage the use of non-compliant lights on uninspected commercial vessels and recreational vessels as a step in enforcing the Navigation Rules. A requirement for "approval," or third-party certification, has always existed in the International Navigation Rules. The intent to establish a similar requirement in the Inland Rules is evidenced by Inland Rule, Annex I, 84.25 Approval, currently marked "reserved." This rule satisfies that intent.

Additionally, the need for this rule is reflected in a memo from Marine Safety Office, New Orleans to the Executive Director, Navigation Safety Advisory Committee that details problems associated with lights noncompliant with the International Navigation Rules and the Inland Rules and includes

accident examples implicating improper navigation lights. This memo has been placed in the docket for this rulemaking as supplemental information and may be viewed at the locations listed on the **ADDRESSES** section of this document.

Of those favoring the rulemaking, a comment from a State law-enforcement agency reported that a significant number of collisions occur during the hours of darkness or reduced visibility, and that not seeing the other vessel's navigation lights is commonly cited as the cause. The U.S. Coast Guard agrees with this comment and has placed a letter from the City of Fort Lauderdale and the U.S. Coast Guard's response in the docket for this rulemaking as supplemental information. The letter refers to a horrendous nighttime collision in November 1997, which prompted an accident record review that caused city officials to question the adequacy of the navigation lights.

One comment recommended a more stringent labeling requirement. The Coast Guard agrees and has amended the labeling requirement to read that the label must be permanent and indelible and that it be visible without removing or disassembling the light. Another comment favoring the rulemaking stated that UL 1104 is too stringent as a testing standard. The Coast Guard also agrees with this comment. ABYC A-16, the most basic standard, has been substituted for UL 1104.

The aforementioned comments, combined with those received from UL in response to our original request for comments on October 9, 1997, indicate substantial support for the rulemaking. The UL comments state that more than half of the lights for small craft, which are not regulated, do not comply with minimum Navigation Rule requirements, but most regulated lights, that is, those for commercial vessels, do.

The new rule will be placed in Title 33 CFR, Part 183, subpart M, and not subpart I. We noticed after publication of the NPRM that subpart I applies only to gasoline-powered vessels. To ensure that the regulation properly applies to all uninspected commercial and recreational vessels, as originally stated in the preamble to the NPRM (65 FR 47938), we are recodifying the regulation in a new subpart. This has required that we draft new applicability and definitions sections to be placed in subpart M. These additions do not change the rule.

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. The Office of Management and Budget (OMB) has not reviewed this rule under that Order. Since we expect the economic effect of this rule to be very minimal, a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is not necessary.

Costs of the Rule

(1) Manufacturers of navigation lights will incur initial costs for laboratory tests to certify that their lights comply with Navigation Rules. This may result in a minor increase in the market price for certified lights. Navigation light manufacturers will pass these costs on to vessel manufacturers. In turn, the vessel manufacturers will charge consumers more. We conclude that these increases should be so small that their effect on vessel manufacturers and consumers will be negligible.

Most recreational vessel manufacturers install navigation lights on their vessels. We have discovered that eight types of lights are now on the market, and each light manufacturer may make multiple models of each type. Our survey of available lights determined that each manufacturer produces an average of 10 models for each type and introduces 3 new models a year. Certification will require that a representative light of each model pass a performance test before it is marketed. Specifically, we identified nine domestic manufacturers of lights that this rule might affect. To conduct a cost analysis involving these nine manufacturers we must allow a one-year delay in the effective date of this rule. The one-year delay will allow the navigation light manufacturers time to alter their products and procedures to meet certification requirements. Consequently, initial costs will not begin to incur until the year 2002, when

the rule becomes effective. Given that 3 new models are introduced each year, we will set a period of 15 years over which the analysis of the impacts of this rule will span. For the first year, 2002, we have analyzed the cost of certifying currently available models. For the remaining fourteen years, 2003–2016, we analyze the cost of certifying new models.

An e-mail exchange between the Office of Boating Safety and a navigation light manufacturer regarding costs associated with this rule can be found in the docket for this rulemaking.

In conversations with UL and Imanna Laboratory, testing laboratories approved by the Coast Guard, we developed an estimate of \$500 for a performance test of each model. Volume discounts for multiple model tests from these laboratories will decrease the cost of each model to \$400. We can therefore calculate a partial cost of the rule as follows.

Types of light	×	No. of models of lights	×	No. of manufacturers	×	Cost per test for each model	=	Total cost
8		10		9		\$400		\$288,000

To account for the current value of benefits and costs in the future, we determined the present value of this cost to 2001 through discounting. The present value represents the expected value of any benefits or costs—one-time or recurring—discounted by the interest rate compounded over the period of analysis. The Office of Management and Budget requires that all Federal Agencies, including the Department of

Transportation, use a standard discount rate of 7 percent, which we incorporate into our cost analysis. A partial calculation of the total cost of the rule is therefore the following:

$$(\$288,000)/(1.07)^1 = \$269,158.88 = \text{Partial Cost 1}$$

This figure is the one-time testing cost for the total of all existing models of lights occurring during the first year of the regulation. If a manufacturer decides to introduce a new model of light, that

model will also have to be tested by an independent laboratory approved by the Coast Guard before it can be marketed. When calculating costs, we must also account for the three new models of lights that each manufacturer sends yearly to the market. In order to perform this calculation we sum the cost over the remaining 14 years using a discount rate of 7 percent through the following formula:

$$\sum_{n=2}^{15} [(\text{no. of manufacturers}) \times (\text{no. of models}) \times (\text{testing cost per light})] / (1.07)^n$$

We know that the nine manufacturers of navigation lights introduce three new models each year with a testing cost of

\$400 per model. We can say that the cost associated with testing three new models each year can be calculated by

inserting the number of manufacturers, number of models, and testing costs into the above equation,

$$\sum_{n=2}^{15} [(9) \times (3) \times (\$400)] / (1.07)^n = \$88,272.00 = \text{Partial Cost 2}$$

The present value of the total testing over 15 years is therefore:

$$\$269,158.88 + \$88,272.00 = \$357,430.88$$

(2) New labeling requirements for the certified lights will add to the cost of the regulation. Much of the verification will be printable on an insert with the

package, or on a sticker (described in Title 33 CFR 183.810). This rule will not involve modification of the package to accommodate the labeling. Using estimates from labeling companies, we have determined that manufacturers will pay about \$240 for 1,000 labels. Since the Notice of Proposal for

Rulemaking, we have obtained a more accurate cost for labels and have revised our analysis to include \$240 for labeling costs in the formula. When computing labeling costs, we make the following assumptions: each model will need 1000 labels, each of 9 manufacturers produces 10 models of each of 6 light

types, and each manufacturer introduces 3 new models per year. We first compute the one-time cost of

labeling for the 10 models of each type of light.

Types of light	×	No. of models of lights	×	No. of manufacturers	×	Labeling costs for each model	=	Partial labeling cost
8		10		9		\$240		\$172,800

In computing the cost of labeling we must also include a one-time \$45 plate charge for each model. This means that $10 \times 9 \times 8 \times 45 = \$32,400$ must be added

to \$172,800 for obtaining \$205,500 as the labeling cost for the existing ten models. The present value of this cost is $\$205,500/1.07$ or \$192,056.

The cost of labeling for the three new models of lights introduced can be computed as follows:

$$\sum_{n=2}^{15} [(9 \text{ manufacturers} \times 3 \text{ new models} \times \$240)] / (1.07)^n = 52,963.$$

Calculating labeling costs for the three new models would again require us to add the one-time cost of the plate.

$$\sum_{n=2}^{15} [(9 \text{ manufacturers} \times 3 \text{ new models} \times \$45)] / (1.07)^n = \$695.14.$$

The total cost of labeling would therefore be $\$192,056 + 52,963 + 695.14$ or \$245,714.14. This represents Partial Cost 3. Finally we can say that the present value of the total cost of the rule is:

Partial Cost 1 + Partial Cost 2 + Partial Cost 3 = $\$269,158.88 + \$88,272.00 + \$245,714.14 = \$60,3145.02$

Benefits of the Rule

(1) Certification will place navigation lights under regulatory control comparable to that affecting all other items of mandatory safety equipment. This will result in a general improvement in reliability, quality, and effectiveness of domestic and imported lights available to domestic manufacturers of vessels.

(2) This rule will discourage the practice of installing lights, custom-made or other, that are not compliant with the Navigation Rules. Navigation lights are safety equipment with the designated purpose of preventing collisions. According to the 2000 Boating Accident Reporting Database (BARD) statistics collected by the U.S. Coast Guard, accidents due to collisions with another vessel account for 35 percent of all reported boating accidents occurring over the year. These collisions lead to fatalities and injuries as well as property damage. Consequently, fatalities and injuries due to a collision with another vessel comprise around 10 percent of all reported fatalities and 32 percent of all reported injuries arising

from recreational boating accidents. These BARD statistics also indicate that accidents involving a collision with another vessel result in property damages amounting to \$8,735,300. The intent of this regulation is to reduce these numbers and lessen the costs society pays in terms of property damage, lives lost, or injuries when collisions occur.

(3) Lack of compliance with rules for navigation lights has also led to recalls of certain recreational vessels. Under the Federal Boat Safety Act of 1971, the U.S. Coast Guard can declare non-complaint lights as "defective" once they are installed. Recreational boats with defective items are subject to recall completely at the vessel manufacturers' expense. According to U.S Coast Guard data on recalls, recreational vessels of 13 different makes have been recalled as a result of the navigation lights failing to comply with the Navigation Rules since 1990. This regulation would therefore minimize the recall cost burden placed on vessel manufacturers by assuring them that a light meets the Navigation Rules requirements before they begin installation.

(4) Certification will also facilitate exports to countries enforcing the requirement of the COLREGS for approval of navigation lights.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a

significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations independently owned and operated and not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. We identified nine manufacturers who could be affected by this rule. Four out of the nine manufacturers qualify as small businesses by the size standards of the Small Business Association (SBA). However, we observed that the four businesses we identified as small entities offer fewer models of each type of light than their larger competitors. These 4 manufacturers offer between 1 and 5 models of each type, which is well below the average of 10 models each. Therefore, we do not believe that they will bear a disproportionate amount of the burden of this rule. We have found that these four manufacturers have annual revenues of \$2.5m-\$5.0m; \$5.0m-\$10m; \$10m-\$20m; and \$20m-\$50m. The greatest possible cost for testing and labeling incurred by these four light manufacturers would be \$18,000, or \$685 (testing + labeling costs) \times 6 light types \times 5 models per type. In addition to this, if they each test at least two new models per year then they will have to bear an extra \$1,280, or $\$685 \times 2$. A total of \$19,200 is well below 5 percent of the revenue of even the smallest company, indicating that this regulation will have a negligible

effect on revenues to these small businesses. We expect prices in the industry will remain stable allowing companies to competitively enter the industry. 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.

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 the rule so that they could better evaluate its effects on them and participate in the rulemaking.

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).

Collection of Information

This rule would call for a new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520]. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the collections, a description of those who perform them, and an estimate of the total annual burden follow. The estimate covers the time for submitting a new model of light to the third-party certifier and for designing a label for each model of light.

Summary of the Collection of Information

The rule will impose a new burden of collection of information on manufacturers of navigational lights for uninspected commercial vessels and recreational vessels. Each manufacturer of the lights would incur a one-time burden of submitting paperwork to the third-party certifier and of designing labeling for each model of light.

Need and Proposed Use for Information

This collection of information is necessary to accomplish the third-party certification and the labeling. The third-party certifier would use the information to document and test the models of lights. Once the model had

passed performance testing, the manufacturer of the light would design and provide a label for its product so the consumer would know that the product was certified.

Description of Respondents

The collection of information would affect the current manufacturers of navigational lights for recreational and uninspected vessels. It would also affect any future manufacturers that may enter the market.

Number of Respondents

There are nine manufacturers of lights in the market. This collection of information will affect them all.

Frequency of Response

This collection would take place only when a manufacturer undertook to place a new light on the market.

Burden of Response

We estimate that it would take one employee about one hour to prepare the paperwork to submit a light for performance tests. He or she would be an administrative assistant and, as such, would cost around \$24 an hour. If each of these manufacturers submitted three new models of lights for testing each year, the burden for the submitted would be 27 hours and \$648.

We also estimate that it would take one employee about one hour to update the labeling for each new model. He or she, too, would cost around \$24 an hour. The burden for the labeling requirement would likewise be 27 hours and \$648 if each of nine manufacturers submitted 3 new models for testing each year.

Estimate of Total Annual Burden

Using the above estimates, the total burden in hours would be 54 and the total cost would be \$1,296.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 357(d)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The section numbers are 33 CFR part 183 and 46 CFR 25. The corresponding approval number from OMB is OMB Control Number 2115–0645, which expires on September 9, 2003. You are not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

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 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.

Taking of Private Property

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

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(d), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A requirement for certification of navigation lights should not have any environmental impact. A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 183

Incorporation by reference, Marine safety.

46 CFR Part 25

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 84 and 183, and 46 CFR part 25, as follows:

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

1. The citation of authority for part 84 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

2. Add § 84.25 to read as follows:

§ 84.25 Approval.

The construction of lights and shapes and the installation of lights on board the vessel must satisfy the Commandant, U.S. Coast Guard.

PART 183—BOATS AND ASSOCIATED EQUIPMENT

3. The citation of authority for part 183 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

4. Amend § 183.5 (b) by adding in alphabetical order the following standard:

§ 183.5 Incorporation by reference.

* * * * *

(b) * * *

American Boat and Yacht Council, Inc., 3069 Solomons Island Road, Edgewater, Maryland 21037-1416
ABYC A-16 Electric Navigation Lights-1997 § 183.810

* * * * *

5. Add subpart M to part 183 to read as follows:

Subpart M—Navigation Lights

Sec.

183.801 Applicability.

183.803 Definitions.

183.810 Navigation light certification requirements.

§ 183.801 Applicability.

This subpart applies to recreational vessel manufacturers, distributors, and dealers installing such equipment in new recreational vessels constructed after November 1, 2002.

§ 183.803 Definitions.

As used in this subpart:

Dealer means any person who is engaged in the sale and distribution of recreational vessels to purchasers who the seller in good faith believes to be purchasing any such recreational vessel for purposes other than resale.

Distributor means any person engaged in the sale and distribution of recreational vessels for the purpose of resale.

Manufacturer means any person engaged in:

(1) The manufacture, construction, or assembly of recreational vessels, or

(2) The importation of recreational vessels into the United States for subsequent sale.

Navigation lights are those lights prescribed by the Navigation Rules (Commandant Instruction 16672.2 series) to indicate a vessel's presence, type, operation, and relative heading.

§ 183.810 Navigation light certification requirements.

(a) Except as provided by paragraph (b) of this section, each navigation light must—

(1) Meet the technical standards of the applicable Navigation Rules;

(2) Be certified by a laboratory listed by the Coast Guard to the standards of ABYC A-16 (incorporated by reference, see § 183.5) or equivalent, although portable battery-powered lights need only meet the requirements of the standard applicable to them; and

(3) Bear a permanent and indelible label that is visible without removing or disassembling the light and that states the following:

(i) "USCG Approval 33 CFR 183.810."

(ii) "MEETS ____." (Insert the identification name or number of the standard under paragraph (a)(2) of this section, to which the laboratory type-tested.)

(iii) "TESTED BY ____." (Insert the name or registered certification-mark of the laboratory listed by the Coast Guard that tested the fixture to the standard under paragraph (a)(2) of this section.)

(iv) Name of manufacturer.

(v) Number of model.

(vi) Visibility of the light in nautical miles.

(vii) Date on which the light was type-tested.

(viii) Identification and specifications of the bulb used in the compliance test.

(b) If a light is too small to attach the required label—

(1) Place the information from the label in or on the package that contains the light; and

(2) Mark each light "USCG" followed by the certified range of visibility in nautical miles (nm), for example, "USCG 2nm". Once installed, this mark must be visible without removing the light.

46 CFR PART 25—REQUIREMENTS

6. The citation of authority for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4302; 49 CFR 1.46.

7. Amend § 25.01-3(b) by adding the following standard in numerical order to those listed under American Boat and Yacht Council as follows:

§ 25.01–3 Incorporation by reference.

* * * * *

(b) * * *

Standard A–16–97, Electric
Navigation Lights, July 1997 § 25.10–3

* * * * *

8. Add subpart 25.10 to part 25 to
read as follows:**Subpart 25.10—Navigation Lights**

Sec.

25.10–1 Applicability.

25.10–2 Definitions.

25.10–3 Navigation light certification
requirements.**§ 25.10–1 Applicability.**

This subpart applies to vessel manufacturers, distributors, and dealers installing navigation lights on all uninspected commercial vessels, except those completed before November 7, 2002.

§ 25.10–2 Definitions.

As used in this subpart:

Dealer means any person who is engaged in the sale and distribution of vessels to purchasers who the seller in good faith believes to be purchasing any such vessel for purposes other than resale.

Distributor means any person engaged in the sale and distribution of vessels for the purpose of resale.

Manufacturer means any person engaged in:

(1) The manufacture, construction, or assembly of vessels, or

(2) The importation of vessels into the United States for subsequent sale.

Navigation lights are those lights prescribed by the Navigation Rules (Commandant Instruction 16672.2 series) to indicate a vessel's presence, type, operation, and relative heading.

§ 25.10–3 Navigation light certification requirements.

(a) Except as provided by paragraph (b) of this section, each navigation light must—

(1) Meet the technical standards of the applicable Navigation Rules;

(2) Be certified by a laboratory listed by the Coast Guard to the standards of ABYC A–16 (incorporated by reference, see § 25.01–3), or equivalent, although portable battery-powered lights need only meet the requirements of the standard applicable to them; and

(3) Bear a permanent and indelible label stating the following:

(i) “USCG Approval 33 CFR 183.810”

(ii) “MEETS . . .” (Insert the identification name or number of the standard under paragraph (a)(2) of this section, to which the light was type-tested.)

(iii) “TESTED BY . . .” (Insert the name or registered certification-mark of the laboratory listed by the Coast Guard that tested the fixture to the standard under paragraph (a)(2) of this section.)

(iv) Name of Manufacturer.

(v) Number of Model.

(vi) Visibility of the light in nautical miles (nm).

(vii) Date on which the light was type-tested.

(viii) Identification of bulb used in the compliance test.

(b) If a light is too small to attach the required label—

(1) Place the information from the label in or on the package that contains the light; and

(2) Mark each light “USCG” followed by the certified range of visibility in nautical miles, for example, “USCG 2nm.” Once installed, this mark must be visible without removing the light.

Dated: October 4, 2001.

Kenneth T. Venuto,

*Rear Admiral, U.S. Coast Guard, Acting
Assistant Commandant for Operations.*

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DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100****Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Emergency Closures and Adjustments—Yukon River Drainage**

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Emergency closures and adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's in-season management actions to protect chinook and chum salmon escapement in the Yukon River drainage. These regulatory adjustments and the closures provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on February 13, 2001. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2001 regulatory year.

DATES: The twenty-eighth Yukon River drainage action is effective September 10, 2001, through November 9, 2001, for Subdistrict 6A; and September 11, 2001, through November 9, 2001, for Subdistrict 5A. See **SUPPLEMENTARY INFORMATION** for effective dates of the fourth through twenty-seventh Yukon River drainage actions.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:**Previously Effective Dates**

The fourth Yukon River drainage action was effective June 12, 2001, through August 11, 2001, for Districts 1, 2, and 3. The fifth Yukon River drainage action was effective June 13, 2001, through August 12, 2001, for District 4. The sixth Yukon River drainage action was effective June 19, 2001, through August 18, 2001, for the Coastal District; June 21, 2001, through August 18, 2001, for District 1; June 24, 2001, through August 18, 2001, for District 2; and June 27, 2001, through August 18, 2001, for District 3. The seventh Yukon River drainage action was effective June 22, 2001, through July 30, 2001, for District 5. The eighth Yukon River drainage action was effective June 26, 2001, through August 25, 2001, for Districts 1–4. The ninth Yukon River drainage action was effective June 28, 2001, through August 27, 2001, for District 1; July 1, 2001, through August 27, 2001, for District 2; and July 4, 2001, through August 18, 2001, for District 3. The tenth Yukon River drainage action was effective July 1, 2001, through August 30, 2001, for Subdistrict 4A and July 4, 2001, through August 30, 2001, for Subdistricts 4B and 4C. The eleventh Yukon River drainage action was effective July 1, 2001, through August 30, 2001, for Districts 1, 2, 3, and 4 and Subdistricts 5A, 5B, and 5C. The twelfth Yukon River drainage action was effective July 4, 2001, through September 2, 2001, for the Koyukuk River. The thirteenth Yukon River drainage action was effective July 5, 2001, through September 4, 2001, for District 1 and July 6, 2001, through September 4, 2001, for Districts 2 and 3. The fourteenth Yukon River drainage action was effective July 8, 2001, through September 6, 2001, for Subdistrict 4A and July 11, 2001, through September 6, 2001, for