

(2) If the 60th day falls on a Saturday, Sunday, or Federal holiday, the time period will end at the close of the business day next following the weekend or holiday;

(3) The 60 day period will be tolled from the time the OIG—

(i) Notifies the requestor that the costs have reached or are likely to exceed the triggering amount until the time when the OIG receives written notice from the requestor to continue processing the request;

(ii) Requests additional information from the requestor until the time the OIG receives the requested information;

(iii) Notifies the requestor of the full amount due until the time the OIG receives payment of the full amount owed; and

(iv) Notifies the requestor of the need for expert advice until the time the OIG receives the expert advice.

(d) After the OIG has notified the requestor of the full amount owed and the OIG has received full payment of that amount, the OIG will issue the advisory opinion and promptly mail it to the requestor by regular first class U.S. mail.

§ 1008.45 Rescission.

Any advice given by the OIG is without prejudice to the right of the OIG to reconsider the questions involved and, where the public interest requires, to rescind or revoke the action. Notice of such rescission or revocation will be given to the requestor so that the individual or entity may discontinue the course of action taken in accordance with the OIG advisory opinion. The OIG will not proceed against the requestor with respect to any action taken in good faith reliance upon the OIG advice under this part, where all the relevant facts were fully, completely and accurately presented to the OIG, and where such action was promptly discontinued upon notification of rescission or revocation of the OIG approval.

§ 1008.47 Disclosure.

(a) Advisory opinions issued and released in accordance with the provisions set forth in this part will be available to the public.

(b) Promptly after the issuance and release of an advisory opinion to the requestor, a copy of the advisory opinion will be available for public inspection between the hours of 10:00 a.m. and 3:00 p.m. on normal business days at the headquarter offices of the OIG and on the DHHS/OIG web site.

(c) Any pre-decisional document, or part of such pre-decisional document, that is prepared in the OIG, DoJ or any

other Department or agency of the United States in connection with an advisory opinion request under the procedures set forth in this part will be exempt from disclosure under 5 U.S.C. 552, and will not be made publicly available.

(d) Documents submitted by the requestor to the OIG in connection with a request for an advisory opinion will be available to the public to the extent authorized by 5 U.S.C. 552, through procedures set forth in 45 CFR part 5.

(e) Nothing in this section will limit the OIG's right, in its discretion, to issue a press release or otherwise publicly disclose the identity of the requesting party or parties, and the nature of the action taken by the OIG upon the request.

Subpart F—Scope and Effect of OIG Advisory Opinions

§ 1008.51 Exclusivity of OIG advisory opinions.

The only method for obtaining a binding advisory opinion regarding any of the subject matters set forth in § 1008.5(a) is through the procedures described in this part. No binding advisory opinion, oral or written, has or may be issued by the OIG regarding the specific matters set forth in § 1008.5(a) except through written opinions issued in accordance with this part.

§ 1008.53 Affected parties.

An advisory opinion issued by the OIG will have no application to any individual or entity that does not join in the request for the opinion. No individual or entity other than the requestor(s) may rely on an advisory opinion.

§ 1008.55 Admissibility of evidence.

(a) The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A or 1128B of the Act.

(b) An advisory opinion not issued to a person may not be introduced into evidence to prove that person did not intend to violate the provisions of sections 1128, 1128A or 1128B of the Act.

§ 1008.59 Range of the advisory opinion.

(a) An advisory opinion will state only the OIG's opinion regarding the subject matter of the request. If the arrangement for which an advisory opinion is requested is subject to approval or regulation by any other agency, such advisory opinion will not be taken to indicate the OIG's views on

the legal or factual issues that may be raised before that agency.

(b) An advisory opinion issued under this part will not bind or obligate any agency other than the Department. It will not affect the requestor's, or anyone else's, obligations to any other agency, or under any statutory or regulatory provision other than that which is the specific subject matter of the advisory opinion.

Dated: December 26, 1996.

June Gibbs Brown,

Inspector General, Department of Health and Human Services.

Approved: January 28, 1997.

Donna E. Shalala,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 199

[CGD 84-069]

RIN 2115-AB72

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Interim rule, partial suspension; request for comments.

SUMMARY: On May 20, 1996 the Coast Guard published an interim rule revising the lifesaving equipment regulations for U.S. inspected vessels. The interim rule included provisions for vessels not on international routes to comply with certain new requirements by October 1, 1997 and October 1, 2001. The Coast Guard has received comments concerning the regulatory analysis for the interim rule which may lead to changes to the lifesaving requirements in the final rule. To prevent any economic expenditures based on the interim rule which might not be necessary under the final rule, the Coast Guard is suspending the implementation requirements for certain provisions in the interim rule. The Coast Guard requests comments on the economic impacts of the lifesaving requirements covered by the partial suspension.

DATES: The suspension of § 199.10(i)(1) (i), (ii) and (iii) is effective February 19, 1997. Comments must be received on or before April 21, 1997.

ADDRESSES: Mail comments to the Executive Secretary, Marine Safety Council (G-LRA) [CGD 84-069], U.S. Coast Guard Headquarters, 2100 Second

Street SW., Washington, DC 20593-0001 or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

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.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Markle, Chief, Lifesaving and Fire Safety Standards Division (G-MSE-4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1444, fax (202) 267-1069, E-mail "rmarkle@comdt.uscg.mil." Normal office hours are between 8 a.m. and 5 p.m.

SUPPLEMENTARY INFORMATION:

Regulatory History

The regulatory history for this rulemaking is set out in the preamble of the interim rule entitled Lifesaving Equipment (61 FR 25272; May 20, 1996).

Reason for Partial Suspension

After publication of the interim rule, the Coast Guard received comments, particularly from the passenger vessel industry, expressing concerns about the new lifesaving requirements for vessels not on international voyages. Passenger vessel industry comments stated that requirements to carry additional lifesaving equipment could not be justified in view of the excellent safety record of these vessels. The comments also questioned the validity of the regulatory analysis supporting these requirements.

The Coast Guard understands that owners of some vessels affected by the new lifesaving requirements may be planning purchases of equipment or changes in manning to meet the October 1, 1997, implementation date and may even be planning modifications to meet the October 1, 2001, implementation date. The review of comments and reassessment of the regulatory evaluation will probably justify some changes in the final rule. To prevent any economic expenditures in reliance on the interim rule which may prove unnecessary upon publication of the final rule, the Coast Guard is suspending the implementation

provisions in §§ 199.10(i)(1) (i) through (iii) until issuance of the final rule. Since the suspended provisions apply only to requirements which were new at the interim rule stage, this partial suspension will effectively leave existing vessels operating in accordance with their existing Certificate of Inspections until the final rule and its implementation schedule are published.

The Coast Guard also received comments questioning the application of lifesaving requirements to passenger vessels built after October 1, 1996. The Coast Guard is also reassessing lifesaving requirements for these new vessels which will be operated on other than international voyages. If you are presently building a new vessel or considering lifesaving equipment requirements for new construction, you are encouraged to contact your local Officer in Charge of Marine Inspection for an appropriate exemption under 46 CFR 199.20(d). You are also encouraged to comment on the application of lifesaving equipment requirements to newly constructed vessels operating on other than international voyages. The Coast Guard will consider all comments received during the comment period. It may change 46 CFR 199.10 based on the comments.

Small Business Compliance Guidance

In accordance with § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, the Coast Guard wants to provide small entities with assistance in understanding this rule so they can better evaluate its effects on them and participate in the rulemaking process.

If you are a small business affected by this rule and have questions concerning its provisions or options for compliance, please contact your local Officer in Charge, Marine Inspection, for assistance.

Request for Comments

The Coast Guard encourages interested persons to submit specific comments limited to the requirements in 46 CFR 199.10 as they apply to new and existing passenger vessels on other than international voyages. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD 84-069] and the specific section of the interim 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 acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard plans no additional public meetings.

Regulatory Process Considerations

Although the interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866, due to its nature, it was reviewed by the Office of Management and Budget (OMB) under that order. This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and 1996 amendments (enacted as Chapter 8 of Title 5, U.S.C.). This interim rule will have no effect on the environment and it is categorically excluded from further environmental documentation in accordance with section 2.B.2.34(e) of the NEPA Implementing Procedures, COMDTINST M16475.1B. If you are a small business affected by the interim rule or this partial suspension, you are encouraged to submit comments to the docket concerning the economic impact of these actions. The final rule will address any economic impacts, including impacts on small businesses, if any.

List of Subjects in 46 CFR Part 199

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard is amending 46 CFR part 199 as follows:

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

1. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 46 CFR 1.46.

§ 199.10 [Amended]

2. In § 199.10 paragraphs (i)(1) (i) through (iii) are suspended.

Dated: February 12, 1997.

J. C. Card,

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

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