9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 164

46 CFR Part 35

[Docket No. USCG-2015-0926]

RIN 1625-AC27

Tankers—Automatic Pilot Systems

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will permit tankers with automatic pilot systems that meet certain international standards to operate using those systems in shipping safety fairways and traffic separation schemes specified in 33 CFR parts 166 and 167, respectively. This final rule removes the previous regulatory restriction, updates the technical requirements for automatic pilot systems, and promotes the Coast Guard's maritime safety and stewardship (environmental protection) missions by enhancing maritime safety.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may view comments and related material identified by docket

number USCG-2015-0926 using the Federal eRulemaking Portal at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For information about this document or to view material incorporated by reference call or email LCDR Matthew J. Walter, CG-NAV-2, U.S. Coast Guard; telephone 202-372-1565, email *cgnav@uscg.mil*.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

BLS	Bureau of Labor Statistics
COTP	Captain of the Port
ECDIS	Electronic Chart Display and Information System
FR	**Federal Register**
IEC	International Electrotechnical Commission
IMO	International Maritime Organization
INS	Integrated navigation system
LOD	Letter of Deviation
OMB	Office of Management and Budget
PWSA	Ports and Waterways Safety Act

SBA	Small Business Administration
§	Section symbol
TSS	Traffic separation scheme
U.S.C.	United States Code

II. Basis and Purpose, and Regulatory History

Sections 2103 and 3703 of Title 46 U.S.C. provide the legal basis for this rulemaking. Section 2103 gives the Secretary of the department in which the Coast Guard is operating discretionary authority to prescribe regulations to carry out the provisions for tanker carriage of liquid bulk dangerous cargoes. Section 3703 requires the Secretary to prescribe regulations for the operation and equipping of liquid bulk dangerous cargoes and other issues related to these cargoes. Section 4114 of the Oil Pollution Act of 1990 requires the Coast Guard to define the conditions under which a tank vessel may operate in the navigable waters with an autopilot engaged. In Department of Homeland Security Delegation Nos. 0170.1 (II)(70), (92.a), and (92.b) and 5110, Revision 01, the Secretary delegated authority under these statutes to the Commandant of the Coast Guard.

The purpose of this rule is to permit tankers equipped with automatic pilot systems—also generically known as "autopilots"—that meet certain international standards to operate using those systems in shipping safety fairways or traffic separation schemes (TSS) specified in 33 CFR parts 166 and 167, respectively. In 1993, the Coast Guard promulgated 33 CFR 164.13, permitting the use of autopilots. However, that same year, the Coast Guard suspended the final rule provision allowing tankers to use autopilots in concert with an integrated navigation system (INS) in TSS and shipping safety fairways because there was no performance standard for the accuracy, integrity, or reliability of INS (58 FR 36141, July 6, 1993). The suspension had the effect of

prohibiting the use of any autopilot in fairway or TSS waters.

Since then, the International Electrotechnical Commission (IEC), a voluntary industry consensus standards-setting body, has developed standards for heading and track control systems.[1] The International Maritime Organization (IMO) has adopted resolutions endorsing these standards, and has recommended to IMO member states that they adopt performance standards "not inferior to" those the IMO has adopted. The Coast Guard believes that tanker autopilot systems that meet the IEC's standards should be relieved of the regulatory burden that prohibits use of these systems in fairway and TSS waters.

Prohibiting the use of autopilots creates regulatory burdens for both industry and the Coast Guard, as tanker owners and operators must apply for deviations from the prohibition. The Coast Guard grants the deviations on a case-by-case basis and, since 2013, has issued approximately 35 deviations to allow tankers to operate specific IEC and IMO compliant autopilots in fairway or TSS waters within specific Captain of the Port (COTP) zones. To eliminate these unnecessary burdens on industry and the Coast Guard, the Coast Guard published a notice of proposed rulemaking with a request for comments titled "Tankers – Automatic Pilot Systems in Waters" in the **Federal Register** on July 11, 2016 (81 FR 44817).

III. Discussion of the Final Rule

This final rule amends 33 CFR 164.13, which relates to the navigation of tankers

[1] IEC 62065, First Edition, (2002-03), Maritime navigation and radiocommunication equipment and systems – Track control systems – Operational and performance requirements, methods of testing and required test results; and IEC 62065, Edition 2.0, (2014-02). These and all other documents referenced in this rule are available in the docket by following the directions in the **ADDRESSES** section of this preamble.

underway. Specifically, this rule amends 33 CFR 164.13 to allow tankers equipped with specific IEC-compliant autopilots to use those systems in fairway and TSS waters without having to apply to individual COTPs for deviations, and without the need for COTPs to ensure IEC compliance and issue deviations.

This action will eliminate the current burdens on industry applying for deviations and the Coast Guard granting those deviations that are no longer necessary because of advances in technology. Moreover, the Coast Guard expects that this rule will enhance maritime safety because the autopilots in question offer greater precision and navigational safety than conventional autopilots, and arguably, even human steering. Lastly, by incorporating industry standards, this rule is consistent with Executive Order 13609 (Promoting International Regulatory Cooperation), which encourages international regulatory cooperation to reduce, eliminate, or prevent unnecessary difference in regulatory requirements.[2]

For these reasons, the Coast Guard adopts, as final, 33 CFR 164.13 as proposed in the notice of proposed rulemaking. The Coast Guard also makes additional changes described in Section IV of this preamble. These changes respond to public comment requesting clarity on specific terms used in the proposed regulatory text.

Finally, the Coast Guard is removing a cross-reference to 33 CFR 164.13 in 46 CFR 35.20-45. This cross-reference was necessary when the two sections had different information regarding the use of autopilots. However, it is no longer necessary with the changes implemented by this rule.

IV. Discussion of Comments and Changes

[1] (77 FR 26413, May 4, 2013).

During the public comment period, the Coast Guard received comments from 7 commenters, including mariners, a pilots' association, a state board of commissioners of pilots, a company operating tank vessels, and an association of companies engaged in oceangoing shipping. Below we summarize the comments and provide our responses.

Three commenters supported permitting tankers to use autopilots with appropriate safeguards. The Coast Guard concurs, and believes § 164.13 provides adequate safeguards because it requires the continued presence of a qualified helmsman; prohibits the use of autopilot in anchorage grounds or within one-half nautical mile of the U.S. shore; and imposes conditions for the use of autopilots in fairway and TSS waters.

One commenter said that although autopilots have benefited from advances in technology since the initial 1993 rulemaking, maintaining a cross track error of less than 10 meters might not be sufficient in some pilotage waters. For these reasons, and because the notice of proposed rulemaking estimated annual government cost savings of approximately $4,600,[3] the commenter recommended the Coast Guard withdraw the proposed rule.

Regarding a mariner's use of an autopilot, the Coast Guard's position has not changed. As the Coast Guard stated in the 1993 final rule,[4] vessel masters and pilots are in the best position to determine if the use of autopilots is safe based on the local conditions in the waters where the rule allows discretion. This rule does not compel a tanker's master or pilot to use an autopilot, and the Coast Guard is not promoting indiscriminate use of an autopilot. This rule is permissive and recognizes that an autopilot is a navigational tool that, when used by a prudent mariner under appropriate

[3] 81 FR 44821, footnote 24.
[4] 58 FR 27633, 27631 (May 10, 1993).

circumstances, can assist the mariner in the safe transit of a tanker. Because of the improvement in autopilot technology, the discretion of masters within the operational limits of this rule described above, and the fact that this rule is expected to produce net benefits, the Coast Guard is promulgating this rule.

The same commenter suggested that local COTPs should continue to grant case-by-case waivers of autopilot restrictions.

The Coast Guard disagrees. As addressed in the 1993 final rule,[5] it is in the interest of the mariner and Coast Guard to minimize the prospect of a confusing array of rules that may vary from port to port. The Coast Guard finds that a single, national rule will facilitate compliance and not complicate enforcement.

A different commenter disagreed with removing the ban, stating that despite technological advances, computer malfunctions could still lead to major disasters. While the Coast Guard acknowledges that computer malfunctions and errors can lead to major disasters, these systems are hardwired to steering systems and not intended to be connected to a network. Additionally, the IEC standard that we are incorporating conforms to the IMO performance standards for heading monitoring; position monitoring; override functions; manual change over from track control to manual steering; and sensor information validation and failure alarms. Here, a competent person is still required to be present, thereby being made aware (by the system, visual cues and other independent bridge equipment) of a failure or malfunction and potentially averting major disasters.

[5] 58 FR 27628.

A commenter recommended that the rule be redrafted to include language from 46 CFR 35.20-45, which is applicable to a much broader spectrum of ship types. The commenter argued that the "extra precautions" of § 35.20-45 should also apply to tank vessels carrying petroleum or chemical products.

The Coast Guard concurs that requiring a competent person to be ready to change immediately from manual steering to autopilot or vice versa under the supervision of the officer of the watch when operating in areas of high traffic density, restricted visibility, or other hazardous navigational situations is an appropriate restriction for the safe use of autopilots by tank vessels. Currently, when transiting the navigable waters of the United States, tankers are never without officer of the watch supervision, as referenced in 33 CFR 164.13(c), meaning that a competent person who can manually steer the vessel is already on board and ready to take over should the need arise. Accordingly, we reference § 35.20-45 in § 164.13(d)(2) of this rule. The Coast Guard also makes a conforming change to the introductory language of § 35.20-45.

The same commenter suggested that the use of autopilots should not be allowed when operating in restricted visibility. As indicated above, the Coast Guard agrees that the restrictions in § 35.20-45 are appropriate when operating in restricted visibility. However, the Coast Guard does not agree that the prohibition on autopilot during restricted visibility applies to waters not covered under the restrictions or prohibitions of this rule. In waters where the Coast Guard does not have prohibitions or restrictions in place, autopilot use is best determined by vessel masters and pilots as the prevailing conditions dictate.

The same commenter suggested that it should be possible to establish immediate manual control of steering at all times an autopilot is in use. The Coast Guard agrees that immediate manual control of steering at all times an autopilot is in use is necessary, and the rule already requires it. In order for a system to meet the referenced equipment standard, it must be able to accept a signal from the override facilities to terminate track control mode. According to the IMO, this should be possible at any rudder angle, under any condition, including any failure of the track control system. Because the rule requires compliance with the IEC standards, including this prescription as a separate provision in 33 CFR 164.13 would be redundant.

The same commenter also suggested that a person who is competent to steer the vessel manually should be required to be present and ready at all times an autopilot is in use. The Coast Guard agrees, and has modified proposed § 164.13(d)(2) in this rule to clarify that a person should be present and ready "at all times."

The same commenter suggested that the Coast Guard should clarify the meaning of the phrase one-half nautical mile offshore. The commenter asked if the Coast Guard meant one-half mile from the demarcation line or the headlands, or if the text should have read one-half mile from land, the riverbank, or from shoal water.

The Coast Guard agrees with this statement and has updated § 164.13(d)(1) to reference terms defined elsewhere in the CFR.[6]

The Coast Guard received comments from the Board of Commissioners of Pilots of the State of New York in opposition to the Coast Guard's preemption determination and the use of autopilots in New York State pilotage waters, citing the peculiarities of

[6] This includes the definition of territorial sea baseline in 33 CFR 2.20, definition of anchorages per 33 CFR part 110, and the definition of precautionary areas in 33 CFR 167.5.

local waters where special precautionary measures are required. The American Pilots' Association echoed the Board of Commissioners of Pilots of the State of New York in its concern regarding pilotage waters where traffic converges and special precautionary measures are required.

As to the preemption determination, the Coast Guard disagrees that this rule alters a State's authority to regulate pilotage requirements under 46 U.S.C. 8501. This rule does not regulate State pilots. This rule regulates vessel equipment and operations—specifically, navigation equipment. In other words, this rule will not prohibit or otherwise interfere with a State's right to establish state pilotage requirements. The Coast Guard has added clarifying language to its federalism statement in this rule.

As to the use of autopilots within certain waters, the Coast Guard recognizes that precautionary measures are required for areas of special concern. On certain waters, vessel traffic transits along straight corridors as prescribed by charted routing measures (e.g. channels, fairways, lanes, and others). Vessels transiting other charted routing measures (e.g. anchorages, precautionary areas, and others) behave less predictably. At times, vessel convergence areas are in pilotage waters. Therefore, the Coast Guard has added a prohibition on the use of autopilots in precautionary areas, as defined in 33 CFR 167.5, in addition to the prohibition in regulated anchorage areas. We are also adding this prohibition in response to the comment suggesting incorporation of restrictions in 46 CFR 35.20-45, which include limitations when using autopilots in hazardous navigational situations.

Although, as stated, this prohibition is limited to only waters within one-half nautical mile of shore, regulated anchorages, and precautionary areas, it is not an

unfettered endorsement to use track control or heading control systems in all other waters. Vessel operators should always assess the risk of collision, allision, or grounding, and recognize that it may be imprudent to use said systems under certain prevailing circumstances and conditions such as transiting other areas of converging traffic, maneuvering close aboard to other vessels or structures, or other times of maneuvering various courses and speeds.

A commenter asked if it was the Coast Guard's intent to allow autopilots to take voyage inputs, such as position and track information, from systems other than an Electronic Chart Display and Information System (ECDIS).

The Coast Guard understands that some autopilots may receive voyage inputs from systems other than an ECDIS. As long as those other systems are addressed in the referenced IEC 65065 standard, autopilots may take voyage inputs from systems other than an ECDIS. The IEC 65065 standard prescribes which sensors must be interfaced with an autopilot. It further requires those sensors meet an applicable IMO performance standard.

V. Incorporation by Reference

Material incorporated by reference in 33 CFR 164.13 appears in the amendment to 33 CFR 164.03. The Director of the **Federal Register** has approved the material in § 164.03 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. For information about how to view this material, see the **ADDRESSES** section of this preamble. Copies of the material are also available from the sources listed in § 164.03. We incorporated the IEC standard IEC 62065, First Edition (2002-03) and Edition 2.0 (2014-02).

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that "for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process."

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. This rule is considered to be an Executive Order 13771 deregulatory action. *See* OMB's Memorandum titled "Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and

Controlling Regulatory Costs'" (April 5, 2017).

A combined regulatory analysis and Threshold Regulatory Flexibility Analysis follows and provides an evaluation of the economic impacts associated with this rule. The substantive change affecting this analysis from the proposal to the final rule was that the Coast Guard updated its estimates of wage data from 2013 to 2016 data. We calculate that this rule will result in net cost savings of $76,572 (7-percent discount rate) over a 10-year period, with annualized net savings of $10,902 (7-percent discount rate). This cost saving is achieved through a reduction in labor costs associated with requesting letters of deviation (LOD) to use autopilot under the current regulatory scheme. This rule will also result in cost savings for the Coast Guard by reducing the hourly burden costs to process and approve the LOD. The following table provides a summary of the totals for the rule's costs, cost savings, and benefits.

Table 1: Summary of the Impacts of the Final Rule

Category	Summary
Potentially Affected Population	An estimated 9,457 foreign-flagged vessels that are owned by 2,285 companies and 95 U.S.-flagged vessels that are owned by 40 businesses.
Costs (7% discount rate) (costs only accrue in the first year)	$13,072
10-Year Total Quantified Cost Savings (7% discount rate)	$89,644
10-Year Net Cost Savings (7% discount rate)	$76,572
Annualized Net Savings (7% discount rate, 10 years)	$10,902
Unquantified Benefits	* Improve effectiveness without compromising safety. * Prevent inappropriate use of autopilot and misunderstandings on when to use it. * Improved goodwill between regulated public and Coast Guard. * Enhance maritime safety, because the autopilots in question offer far greater precision and navigational safety than conventional autopilots, and arguably, even human steering.

This rule revises the existing regulations regarding navigation on tankers. It updates the regulations to lift the suspension on tanker use of autopilot systems that has

been in place since 1993 and which is no longer needed. Also, this rule updates the performance standard for traditional autopilot systems referenced in 33 CFR 164.13(d). This rule removes an unnecessary regulatory restriction and results in an overall cost savings for the regulated public and the Coast Guard.

Affected Population

Based on the Coast Guard's MISLE database, we estimate that this rule affects approximately 9,457 foreign-flagged vessels and approximately 95 U.S.-flagged vessels. The vessels are owned by 2,285 foreign companies and 40 U.S. companies. No governmental jurisdictions will be impacted.

Costs

The Coast Guard expects this rule to result in one-time costs of $13,072 at a 7-percent discount or an undiscounted cost of $13,987. These costs are derived by regulated entities needing to communicate to their vessel staff information about the change—a regulatory familiarization cost. The Coast Guard estimates that approximately 4 minutes (0.067 hours, rounded)[7] are expended per company to do so; these communications are anticipated to be via electronic bulletin boards or mass distribution email. Labor costs are estimated at $89.79 per hour for an operations manager based on a mean wage rate of $58.70, fully loaded to account for the cost of employee benefits; this estimate is based on the Bureau of Labor Statistics (BLS) Occupational Employment Statistics, Occupational Employment and Wages data, for General and Operations

[7] The duration estimate is based on previous Coast Guard rules including the proposed rule for the Revision of Crane regulations (RIN 1625-AB78, USCG 2011-0992), which had an estimate of 3 minutes to complete a record. The Coast Guard also used "49 CFR Part 40—Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (OMB Control # 2105-0529), which had an estimate of 0.067 hours to write an electronic report. These estimates comport with duration estimates of the proposed and final rules for Vapor Control Systems (RIN 1625-AB37, USCG-1999-5150) for similar tasks. No public comments were received on the estimates during the proposed rule's comment period.

Managers (11-1021, May 2016).[8] From there, the Coast Guard determined that the total cost of compensation per hour worked is $27.61. Of the $27.61, $18.05 is wages, resulting in a load factor of 1.5296399 ($27.61 ÷ $18.05) that the Coast Guard applied to determine the actual cost of employment to employers and industry. The Coast Guard rounded this factor to the nearest hundredth to 1.53 for presentation in this document.[9] As derived by the summation of the equations, the calculations appear as follows: [0.067 hours × $89.79 marine operations manager wage rate × (2,285 foreign-flagged vessel owners/operators + 40 U.S.-flagged vessel owners/operators)] × 7-percent discount rate. Unrounded numbers were used for the calculation. Table 2 presents the estimated cost of compliance with this rule.

Table 2: Total Estimated Cost of Regulatory Familiarization

	Discounted 7%	Discounted 3%	Undiscounted
Year 1	$13,072	$13,580	$13,987
Year 2	$0	$0	$0
Year 3	$0	$0	$0
Year 4	$0	$0	$0
Year 5	$0	$0	$0
Year 6	$0	$0	$0
Year 7	$0	$0	$0
Year 8	$0	$0	$0
Year 9	$0	$0	$0
Year 10	$0	$0	$0
Total	$13,072	$13,580	$13,987
Annualized	$1,861	$1,592	$1,399

No public comments were received on the Coast Guard's estimated duration of

[8] The reader may review the source data at *http://www.bls.gov/oes/2016/may/oes111021.htm*. Also, please see *http://www.bls.gov/oes/2016/may/oes436014.htm* for the wage rate for an administrative assistant. After adding the load factor, the wage rate for an administrative assistant ($17.38) is estimated to be $26.59. The wage rate for an operations manager is estimated to be $89.59, which is derived from the product of the unloaded wage rate ($58.70) as found on the BLS website as noted in this footnote and the load factor (1.53 rounded). Unrounded numbers were used in calculations.

[9] This load factor is calculated specifically for production, transportation, and material moving occupations, All Workers, Private Industry (Series ID: CMU2010000520000D,CMU2010000520000P and CMU2020000520000D,CMU2020000520000P), 2016, 1st Quarter. (Source: *http://www.bls.gov/ncs/ect/data.htm* as accessed on January 4, 2018 and May 3, 2017).

tasks and on its estimated wage rates during the proposed rule's public comment period.

The Coast Guard has not estimated a cost to comply with the documents incorporated by reference (IEC's standards IEC 62065, 2014-02; IMO Resolution MSC.74(69), Annex 2.). The Coast Guard has not estimated a cost for these provisions because manufacturers participate in the development of the standards at IEC and are aware of the changes to standards. As a result, they have been producing equipment to meet the standard already. Typically, manufacturers begin to make manufacturing modifications even before such changes are formally adopted. This rule will not require owners and operators to acquire the standards; they will not need the standard in hand to be in compliance. Owners and operators need to only look for evidence from manufacturers that products meet or exceed the standard before purchase. Such evidence may include product documentation such as user guide and warranty information. For these reasons, the Coast Guard has not included a cost for these provisions.

No equipment is required by this rule. As well, some parts of the affected population will experience no cost increase due to this rule, since some vessels do not use autopilot under the conditions noted in this rule; therefore, they have no costs. No further action is required by these parties. Only 40 U.S.-flagged vessel owners and operators and approximately 2,285 foreign vessel owners and operators are impacted; for these owners and operators, they will incur a cost only if they need to communicate to staff the rule changes on the use of autopilots.

Cost Savings

The rule will result in cost savings for the regulated public and the Coast Guard. The rule will prevent unnecessary inquiries such as phone calls and emails to the Coast

Guard regarding regulations and the filing and Coast Guard's processing of LODs. With regard to the first cost savings, the Coast Guard estimates that it spends a collective 20 hours annually at 1 hour per call on average fielding calls from the regulated public seeking clarification of the intent of the existing regulations. This rule will eliminate this labor cost for the regulated public and the Coast Guard.[10] This time would be better spent on other Coast Guard missions. To estimate these costs, the Coast Guard used publicly available data as found in the Commandant Instruction titled "Reimbursable Standard Rates."[11] Labor costs are estimated for the Coast Guard at $92 for a Lieutenant Commander.[12] This figure represents a wage rate with a fully loaded labor factor of 1.85 for uniformed Coast Guard positions.[13] For the regulated public, the wage rate for a lead engineer is estimated to be $105.81 per hour, based on a load factor applied to the BLS wage data as noted earlier. The unloaded wage rate for an engineering manager is $69.17 and the load factor is 1.53 (rounded).[14] The total cost savings from the elimination of inquiries to Coast Guard is estimated at $1,840 per year and $2,116 annually for the regulated public.

[10] Collectively, 20 hours annually multiplied by wage rate for lead engineer. The Government's cost is estimated by the equation 20 hours annually multiplied by the wage rate for Coast Guard Lieutenant Commander (O-4)

[11] The Instruction is dated March 29, 2017 and is numbered COMDTINST 7310.1R. Enclosure 2 lists the relevant data. The Instruction may be found on *https://www.uscg.mil/Portals/0/NPFC/docs/PDFs/urg/Ch2/2017-CI_7310_1R.pdf?ver=2017-08-15-124924-597*. For the proposed rule, a previous version of the Instruction numbered COMDTINST 7310.1P was used.

[12] See *https://www.uscg.mil/Portals/0/NPFC/docs/PDFs/urg/Ch2/2017-CI_7310_1R.pdf?ver=2017-08-15-124924-597*. See Enclosure 2 for in-government rate of an O-4 officer and a GS-11 employee.

[13] The load factor for uniformed positions was based on the Coast Guard's analysis of compensation and benefits of Coast Guard enlisted and commissioned personnel based on data found in *http://militarypay.defense.gov/Portals/3/Documents/ActiveDutyTables/2018%20Pay%20Table.pdf?ver=2018-02-02-160202-810* and Commandant Instruction R.

[14] This is the wage rate for 11-9041 Architectural and Engineering Managers as found at *http://www.bls.gov/oes/2016/may/oes119041.htm* and as accessed on May 1, 2017. As noted earlier, a load factor of 1.53 was applied.

Coast Guard Cost Savings: $92 Lieutenant Commander × 1 hour × 20 calls per year = $1,840

Regulated Public Cost Savings: $105.81 engineering manager × 1 hour × 20 calls per year = $2,116.

In addition, this rule saves the regulated public and the Coast Guard labor costs associated with the filing and processing of annual LODs. This precludes the need for the regulated public to file an LOD. In doing so, it also precludes the need for the Coast Guard to process the LOD and respond to it. The Coast Guard estimates that each LOD requires a given marine business to expend 1.7 hours of an engineering manager's time and 0.5 hour of an administrative assistant's time to prepare and submit the LOD. These precluded costs will be incurred annually and will be calculated by the sum of the products of the loaded wage rates and labor duration estimates times the number of requests per year (($89.79/hour operations manager's wage rate × 1.7 hours) + ($26.59/hour admin assistant's wage rate × 0.5 hours) × 35 submittals).[15]

In turn, we estimate that the Coast Guard spends 0.6 hours of a Lieutenant Commander's time; and 0.5 hour of an administrative assistant's time to process, review, and respond to each LOD request.[16] The loaded wage rates for these positions are: $92 per hour for a Lieutenant Commander (O-4); $61 per hour for an administrative assistant (GS-11). These wage rates may be found in Commandant Instruction 7310.1R, *Reimbursable Standard Rates*, (in-government rates found in enclosure 2). The wages

[15] Wage data may be found from the U.S. Bureau of Labor Statistics. (*http://www.bls.gov/oes/2016/may/oes111021.htm and http://www.bls.gov/oes/2016/may/oes436014.htm*). The load factor used was 1.53 (rounded). Unrounded numbers were used in the calculation. Please see previous discussion for more information on how the load factor was determined.

[16] The duration estimates are based on existing OMB approved information collection entitled Ports and Waterways Safety – Title 33 CFR Subchapter P (OMB Control number 1625-0043). No public comments were received on these estimates.

for the regulated public were noted earlier in this section.

To estimate these cost savings, we requested data from Coast Guard sectors on their experience with processing LODs. Based on that review, we estimated the number of LOD requests to be approximately 35 annually,[17] which will be precluded by this rule. Coast Guard also reviewed previous Coast Guard regulatory analyses for the labor costs of the regulated public for filing waiver requests. Our estimated durations for labor for the regulated public and for the Coast Guard are based on Coast Guard experience with LOD requests as well as an existing information collection entitled "Ports and Waterways Safety – Title 33 CFR Subchapter P" (RIN 1625-0043, 1625-0043); the Coast Guard's proposed rule for cranes (RIN 1625-AB78, USCG-2011-0992); and the proposed and final rules for Vapor Control Systems (RIN 1625-AB37, USCG-1999-5150). We used the existing information collection 1625-0043 to obtain the estimates of existing tasks; we used the information collections for cranes and vapor control systems to estimate tasks that were not in 1625-0043, but were similar to the tasks of these information collections. Table 3 provides the details.

Table 3: Source of Paperwork Reduction Act estimates

Task in Final Rule	Source	Task	Duration
Prepare paperwork and file an LOD.	1625-0043 Ports and Waterways Safety – Title 33 Subchapter P	Same	1.7 hours
Support by admin staff of preparation of LOD	1625-0043 Ports and Waterways Safety – Title 33 Subchapter P	Same	0.5 hour
Prepare response to LOD request. (USCG)	1625-0043 Ports and Waterways Safety – Title 33 Subchapter P	Same	0.6 hour
Support by admin staff of LOD response. (USCG)	1625-0043 Ports and Waterways Safety – Title 33 Subchapter P	Same	0.5 hour
Write notification of regulatory change.	1625-AB37 Vapor Control Systems	Complete a record; document training	0.12 hour; 0.03 hour
Write notification of regulatory change.	1625-AB78 Cranes	Complete a record; record a test	0.03 hour

[17] This number comports with an estimate provided by the Chamber of Shipping of America to the docket. Readers should see *https://www.regulations.gov/document?D=USCG-2015-0926-0008* as verification.

Write notification of regulatory change.	2105-0529 "49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs"[18]	Write an electronic report; document testing record; write a release	0.067 hour; 0.13 hour; 0.067 hour
Write notification of regulatory change.	1625-AC02 Personal Flotation Devices Labeling and Standards	Communicate regulatory change[19]	0.5 hour
Make inquiries to USCG			1 hour
Respond to public inquiries (USCG)			1 hour

The Coast Guard estimates that the regulated public spends approximately 2.2 hours to prepare the paperwork and to file an LOD. This hourly total is calculated as follows:

35 waivers annually × [1.7 hours × wage rate for engineering manager + 0.5 hour × wage rate for an administrative assistant] = $5,808.

In addition, we estimate that the Coast Guard spends 1.1 hours in total for each LOD. This hourly total is calculated as follows:

35 waivers annually × [0.6 hour × wage rate for Lt. Commander + 0.5 hour × wage rate for Coast Guard administrative assistant] = $3,000.

We received no comments on these estimates during the proposed rule's comment period. The total cost savings from the elimination of the need for an LOD is estimated at $5,808 per year for the regulated public and $3,000 annually for Coast Guard. Adding the costs of preparing and filing an LOD to the costs of inquiries which were noted earlier, the total costs savings per year would be $4,840 for Coast Guard and $7,924 for the regulated public.

Table 4 presents the estimated cost savings of this final rule.

[18] Title 49 CFR sections 40.33(b) through (e), 40.25(a), 40.25(f), 40.33(f)
[19] Preparing an email or electronic bulletin board notice.

Table 4: Total Cost Savings by Year

	Cost Savings to the Regulated Public			Cost Savings to the Government			Total Estimated Cost Savings		
Year	Annualized 7%	Annualized 3%	Undiscounted	Annualized 7%	Annualized 3%	Undiscounted	Annualized 7%	Annualized 3%	Undiscounted
1	-$7,405	-$7,693	-$7,924	-$4,523	-$4,699	-$4,840	-$11,928	-$12,392	-$12,763
2	-$6,921	-$7,469	-$7,924	-$4,227	-$4,562	-$4,840	-$11,148	-$12,031	-$12,763
3	-$6,468	-$7,251	-$7,924	-$3,950	-$4,429	-$4,840	-$10,419	-$11,680	-$12,763
4	-$6,045	-$7,040	-$7,924	-$3,692	-$4,300	-$4,840	-$9,737	-$11,340	-$12,763
5	-$5,650	-$6,835	-$7,924	-$3,450	-$4,175	-$4,840	-$9,100	-$11,010	-$12,763
6	-$5,280	-$6,636	-$7,924	-$3,225	-$4,053	-$4,840	-$8,505	-$10,689	-$12,763
7	-$4,935	-$6,443	-$7,924	-$3,014	-$3,935	-$4,840	-$7,948	-$10,378	-$12,763
8	-$4,612	-$6,255	-$7,924	-$2,817	-$3,820	-$4,840	-$7,428	-$10,075	-$12,763
9	-$4,310	-$6,073	-$7,924	-$2,632	-$3,709	-$4,840	-$6,942	-$9,782	-$12,763
10	-$4,028	-$5,896	-$7,924	-$2,460	-$3,601	-$4,840	-$6,488	-$9,497	-$12,763
10-Year	-$55,654	-$67,592	-$79,238	-$33,991	-$41,282	-$48,395	-$89,644	-$108,874	-$127,633
Annualized	-$7,924	-$7,924	-$7,924	-$4,840	-$4,840	-$4,840	-$12,763	-$12,763	-$12,763

This rule results in a net cost savings of $76,572 (7-percent discount rate for a 10-year period) because the estimated cost savings exceed the costs of the rule. Costs are incurred only in Year 1. The net cost savings of this rule are calculated by subtracting the total cost of the rule ($13,072, 7-percent discount) from the total cost savings ($89,644, 7-percent discount). These cost savings result from precluded labor costs to the regulated public and to Coast Guard as noted earlier. Table 5 presents the net cost savings of this rule.

Table 5: Estimated Net Cost Savings

	Discounted 7%	Discounted 3%	Undiscounted
Year 1	$1,144	$1,188	$1,224
Year 2	-$11,148	-$12,031	-$12,763
Year 3	-$10,419	-$11,680	-$12,763
Year 4	-$9,737	-$11,340	-$12,763
Year 5	-$9,100	-$11,010	-$12,763
Year 6	-$8,505	-$10,689	-$12,763
Year 7	-$7,948	-$10,378	-$12,763
Year 8	-$7,428	-$10,075	-$12,763
Year 9	-$6,942	-$9,782	-$12,763
Year 10	-$6,488	-$9,497	-$12,763
Total	-$76,572	-$95,294	-$113,646
Annualized	-$10,902	-$11,171	-$11,365

Using a perpetual period of analysis, the total annualized discounted cost savings of this rule if it is implemented in 2019, would be $9,672 in 2016 dollars.

Benefits

This rule amends existing regulations to remove the requirements that prohibit tanker use of autopilot systems in waters subject to the shipping safety fairway or traffic separation controls. This rule also updates the performance standard for traditional autopilot systems. The Coast Guard pursued this amendment to existing standards in order to prevent inefficient use of labor and to add clarity to the current system. As noted

in the cost savings discussion earlier, this rule prevents inefficient use of labor and adds clarity to the regulated public as to the need for safety precautions. The changes improve regulatory intent and keep regulations in step with existing technology without compromising the existing level of safety. This rule also promotes maritime safety by eliminating confusion associated with outdated regulations that have not kept pace with technology. Lastly, this rule enhances maritime safety, because the autopilots in question offer far greater precision and navigational safety than conventional autopilots or human steering.

Regulatory Alternatives Considered

In developing this rule, the Coast Guard considered the following alternatives:

(1) Take no action.

(2) Develop a different timetable for small entities.

(3) Provide an exemption for small entities (from this rule or any part thereof).

The first alternative is not preferred because it does not offer solutions to issues identified earlier in the preamble. It would perpetuate an inefficient use of labor on the part of the regulated public and the Coast Guard. The second alternative prevents small entities from benefiting from the efficiencies made possible by this regulation as soon as the larger companies; a delayed effective date for small entities would delay both costs and cost savings. The third alternative would prevent small entities from benefiting from improved efficiency altogether. Because this regulation reduces an unnecessary regulatory restriction, the Coast Guard does not want to restrict its applicability to small entities in any way.

Most entities are expected to experience no additional cost. For those who will incur a cost, the Coast Guard estimates costs to be approximately $6 per entity—as noted earlier, the cost to communicate information is calculated by the equation $89.79 wage rate × 0.067 hour. Cost savings accrue only to those covered by this rule and those who have not already applied for a waiver or who are not in compliance with the existing regulations. An exemption would preclude cost savings to those under the exemption; the Coast Guard estimates that cost savings will be less than $170 per affected entity annually. Labor to make an inquiry is estimated by the following equation:

1.7 hours × $89.79 wage rate for operations manager + 0.5 hour × $26.59 wage rate for an administrative assistant.

For the reasons discussed earlier, we rejected these alternatives in favor of the preferred alternative. The preferred alternative—this rule—amends existing regulations to remove the requirements that prohibit tanker use of autopilot systems in waters subject to the shipping safety fairway or traffic separation controls. The preferred alternative also updates the performance standard for traditional autopilot systems.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, we 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 that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

The Coast Guard expects this rule will not have a significant economic impact on small entities. As described in the "Regulatory Planning and Review" section, the Coast

Guard expects this rule to result in net cost savings to regulated entities. An estimated 67 percent of the regulated entities (a total of 27 businesses) are considered small by the Small Business Administration (SBA) industry size standards. For any company for which we were not able to find SBA size data, we assumed it was a small entity. The compliance costs for this rule, which are only regulatory familiarization costs, will amount to less than 1 percent of revenue for all small entities ($6 per entity) and, therefore, do not represent a significant economic impact on a substantial number of small entities. Costs will be incurred only in the first year of this rule's promulgation. No additional costs for labor or equipment will be incurred in future years. Because the purpose of this rule is to remove an unnecessary regulatory restriction, it is expected to reduce labor costs. These cost savings are estimated to be less than 1 percent of revenue for all small entities. An estimated $170 per year is saved by a given entity that formerly had to perform the now deregulated tasks of the rule. No small governmental jurisdictions are impacted by this rule.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard received no public comments on the proposed rule's impact on small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult

LCDR Matthew J. Walter (*see* the **FOR FURTHER INFORMATION CONTACT** section of this preamble). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520; the rule does not add requirements for recording and recordkeeping to the existing collection titled, Ports and Waterways Safety – Title 33 CFR Subchapter P (OMB control number 1625-0043). However, this rule will revise this collection, reducing the burden of recordkeeping and submission for those 35 tankers granted an LOD. As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The rule does not require additional tasks by the regulated public but eliminates the need for the regulated public to file an LOD under conditions as specified by the rule. The Coast Guard estimates that there will be 35 fewer LODs filed annually because of the rule's changes.

The existing collection of information requires LODs to be submitted to the Coast Guard for various reasons; one of which is for tankers to use autopilot under conditions

noted in this rule. Under this rule, Coast Guard no longer requires an LOD for tankers. The rule precludes the need for 35 or fewer LODs annually to be submitted to the Coast Guard for approval. It also precludes the need for the Coast Guard to process and approve those LODs. The collection of information aids the regulated public in assuring safe practices; however, the Coast Guard has concluded that this particular use of LODs is no longer warranted.

The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Ports and Waterways Safety – Title 33 CFR Subchapter P.

OMB Control Number: 1625-0043.

Summary of the Collection of Information: Certain vessels are subject to a variety of requirements in subchapter P of title 33 of the CFR. Under the existing OMB collection, such tasks includes the District 8 Hurricane Operations Plan and letters of deviation. The regulation allows any person directly affected by these regulations to request a deviation from any of the requirements by an LOD as long as the level of safety is not reduced. Under this rule, the Coast Guard no longer requires an LOD to be submitted under specific conditions as noted in the rule; LODs continue to be required for other existing reasons. The collection of information aids the regulated public in assuring safe practices.

Need for Information: The Coast Guard needs this information to determine whether an entity meets the regulatory requirements.

Use of Information: The Coast Guard uses this information to determine whether an entity request for deviation is justified.

Description of the Respondents: The respondents are owners and operators of vessels which travel in the regulated waterways as noted in the regulatory text.

Number of Respondents: The burden of this rule for this collection of information includes submittal of LODs. This collection of information applies to owners and operators of vessels that travel in the regulated waterways. We estimate the maximum number of respondents for the collection of information to be 876, but there would be 35 fewer LODs per year.

Frequency of Responses: LOD under the conditions noted in this rule are filed once per year. This eliminates the need for this particular use of the LOD. The Coast Guard estimates that 35 fewer LODs will be filed annually because of this rule.

Burden of Response: The burden of response for each LOD is an estimated 2.2 hours.

Estimate of Total Annual Burden: This rule decreases burden hours by 77 hours from the previously approved burden estimate of 2,110 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this rule to OMB for its review of the collection of information.

We invited public comment on the collection of information during the proposed rule's comment period. We received no input to advise us on how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and

clarity of the information; and how we can minimize the burden of collection.

You are not required to respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

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)). This rule is promulgated under Title II of the Ports and Waterways Safety Act[20] (PWSA) (46 U.S.C. section 3703) and amends existing regulations for tank vessels

[20] Public Law 92-340, 86 Stat. 424, as amended; codified at 33 U.S.C. sections 1221 *et seq*. 1232.

regarding certain vessel equipment technical standards and operation. Under the principles discussed in *Locke*, States are foreclosed from regulating within this field. The Coast Guard acknowledges a State's right to set State pilotage requirements in accordance with 46 U.S.C. 8501, and we do not intend this rule to affect a State's ability to regulate State pilotage requirements. However, the Coast Guard does not believe that 46 U.S.C. 8501 can be used to avoid the application of the fundamental federalism principles explained in *Locke* by characterizing a vessel's navigation requirements as "pilotage requirements." A State regulation covering a field—vessel navigation— that the Coast Guard would regulate under PWSA Title I is subject to a *Locke* conflict analysis. To be clear, the Coast Guard views a State prohibition of vessel automatic pilot system use in certain State waters, based on the peculiarities of those waters, to be akin to a regulated navigation area that the Coast Guard would regulate under PWSA Title I. This rule establishes vessel equipment requirements but does not intend to affect a State's ability to regulate vessel navigation requirements in particular State waters. Regardless of this rule, States may not establish navigation equipment standards or their general operational requirements.[21] Thus, this rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. 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 million (adjusted

[21] *Locke*, 529 U.S. at 110 – 114 (confirming the validity of *Ray* v. *Atlantic Richfield Co.* and invalidating three State rules that were field preempted).

for inflation) or more in any one year. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

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

H. 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.

I. 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 will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Tribal Governments

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

K. 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 Executive Order 13211 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.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, 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 uses the following voluntary consensus standards to track control and integrated navigation systems used in vessel automatic pilot systems:

(1) IEC 62065, First Edition, 2002-03, Maritime navigation and radiocommunication equipment and systems – Track control systems – Operational and performance requirements, methods of testing and required test results; and,

(2) IEC 62065, Edition 2.0, 2014-02, Maritime navigation and radiocommunication equipment and systems – Track control systems – Operational and performance requirements, methods of testing and required test results.

These standards provide parameters within which these systems must operate to ensure proper navigational control given the vessel's position, heading, speed, and other factors. The standards were developed by the IEC, an international voluntary consensus standards-setting organization, and the IMO. The sections that reference these standards and the locations where these standards are available are listed in § 164.03 of this rule below. Changes made in the 2014 edition of IEC 62065, while technical in nature, did not render systems conforming to the previous edition unsafe or obsolete. Since, there is no domestic or international requirement to carry this equipment, vessels may still be outfitted with serviceable equipment meeting the 2002 standard. Thus, the Coast Guard saw value in allowing equipment that met either the current or previous edition of IEC 62065.

The Director of the **Federal Register** has approved the material in § 164.03 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in § 164.03.

Consistent with 1 CFR part 51 incorporation by reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from the organization identified in 46 CFR 136.112, or may view a copy by means we have identified in that section.

M. Environment

We have analyzed this rule under Department of Homeland Security Instruction Manual 023-01-001-01, Revision 1 (DHS Instruction Manual 023-01) and Commandant Instruction M16475.lD (COMDTINST M16475.1D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f),

and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. This rule involves regulations concerning tank vessel equipment approval and operation. Thus, this rule is categorically excluded under paragraphs L52, L57, L58 and L62 of Appendix A, Table 1 of DHS Instruction Manual 023–01.

List of Subjects

33 CFR Part 164

Marine, Navigation (water), Reporting and recordkeeping requirements, Waterways, Incorporation by reference.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 164 and 46 CFR part 35 as follows:

Title 33—Navigation and Navigable Waters

PART 164—NAVIGATION SAFETY REGULATIONS

1. The authority citation for part 164 is revised to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703; and E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.46 also issued under 46 U.S.C. 70114 and Sec. 102 of Pub. L. 107-295. Sec. 164.61 also issued under 46 U.S.C. 6101. The Secretary's authority under these sections is delegated to the Coast Guard by Department of Homeland Security Delegation No. 0170.1, para. II (70), (92.a), (92.b), (92.d), (92.f), and (97.j).

2. Amend § 164.03 as follows:

a. In paragraph (a), after the text "Washington, DC 20593-7418,", add the text "telephone 202-372-1565,".

b. Add paragraph (h) to read as follows:

§ 164.03 Incorporation by reference.

* * * * *

(h) International Electrotechnical Commission (IEC), 3, rue de Varembe, Geneva, Switzerland, +41 22 919 02 11, *http://www.iec.ch/*. Email: info@iec.ch.

(1) IEC 62065 (IEC 62065 2002-03), Maritime navigation and radiocommunication equipment and systems – Track control systems – Operational and performance requirements, methods of testing and required test results, First Edition, dated 2002, IBR approved for § 164.13(d).

(2) IEC 62065 (IEC 62065 2014-02), Maritime navigation and radiocommunication equipment and systems – Track control systems – Operational and performance requirements, methods of testing and required test results, Edition 2.0, dated 2014, IBR approved for § 164.13(d).

3. Amend § 164.13 by removing paragraph (e) and revising paragraph (d) to read as follows:

§ 164.13 Navigation underway: Tankers.

*** * * * ***

(d) This paragraph (d) has preemptive effect over State or local regulation within the same field. A tanker may navigate using a heading or track control system only if:

(1) The tanker is at least one-half nautical mile (1,012 yards) beyond the territorial sea baseline, as defined in 33 CFR 2.20;

(i) Not within waters specified in 33 CFR part 110 (anchorages), or;

(ii) Not within waters specified as precautionary areas in 33 CFR part 167, and;

(2) There is a person, competent to steer the vessel, present to assume manual control of the steering station at all times including, but not limited to, the conditions listed in 46 CFR 35.20-45(a) through (c); and

(3) The system meets the heading or track control specifications of either IEC 62065 (2002-03) or IEC 62065 (2014-02) (incorporated by reference, see § 164.03).

Title 46—Shipping

PART 35—OPERATIONS

4. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1225, 1231; 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; and E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

5. Amend § 35.20-45 by revising the introductory text to read as follows:

§ 35.20-40 Use of Auto Pilot—T/ALL.

When the automatic pilot is used in:

* * * * *

Dated: October 30, 2018

J. P. Nadeau,
Rear Admiral, U.S. Coast Guard,
Assistant Commandant for Prevention Policy.
[FR Doc. 2018-24127 Filed: 11/2/2018 8:45 am; Publication Date: 11/5/2018]