

standards (VCS), EPA has no authority to disapprove a delegation request or disapprove a proposed delegation mechanism for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a delegation request or proposed delegation mechanism, to use VCS in place of a delegation request or proposed delegation mechanism that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This action granting delegation authority for implementation and enforcement of existing New Source Performance Standards and approving a delegation mechanism for future NSPS is issued under the authority of sections 101, 110, 111, and 301 of the Clean Air Act, 42 U.S.C. 7401, 7410, 7411, and 7601.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: October 17, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 388

[Docket Number: MARAD-2005-21105]

RIN 2133-AB50

#### Application Fee Increase for Administrative Waivers of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Transportation.

**ACTION:** Final rule.

**SUMMARY:** This final rule increases the application fee for administrative waivers of the coastwise trade laws from \$300 to \$500. The increased fee will align the application fee with the actual cost of processing and issuing each waiver.

**DATES:** This final rule is effective December 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sharon Cassidy, Office of Ports and Domestic Shipping, Maritime Administration, MAR-830, 400 7th St., SW., Rm. 7201 Washington, DC 20590; telephone: (202) 366-5506.

**SUPPLEMENTARY INFORMATION:** Title V of the Independent Offices Appropriations Act of 1952 ("IOAA"; 31 U.S.C. 9701) authorizes Federal agencies to establish and collect user fees. The statute provides that each service or thing of value provided by an agency should be self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, the policy or interest served, and other relevant factors. 31 U.S.C. 9701.

The primary guidance for implementation of the IOAA is Office of Management and Budget (OMB) Circular No. A-25 ("User Charges," July 8, 1993). Circular A-25 directs agencies to assess user charges against identifiable recipients for special benefits derived from Federal activities beyond those received by the general public. Circular A-25, section 6. Circular A-25 further directs agencies, with limited exceptions, to recover the full cost of providing a Government service from the direct recipients of special benefits. Section 6(d) of Circular A-25 defines "full cost" as including "all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service."

Pursuant to these directives, MARAD is proposing to increase the application fee for administrative waivers of the coastwise trade laws under 46 CFR part 388 for eligible small vessels. Under 46 CFR part 388, owners of small passenger vessels may apply for waivers of the U.S.-build requirements of the Passenger Vessel Services Act and section 27 of the Merchant Marine Act, 1920, to allow the carriage of no more than 12 passengers for hire in the coastwise trade. Because waivers under part 388 represent special benefits to identifiable recipients (i.e., vessel owners) that are beyond the benefits and services normally received by the general public, the IOAA and Circular A-25 direct MARAD to assess user fees for providing this service. The current application fee for a waiver is \$300. MARAD proposes to increase this fee to \$500 as set forth below.

Following the principles embodied in Circular A-25, MARAD examined the costs associated with processing and issuing waivers under part 388 to determine if the current \$300 fee recovers the full costs of administering the program. The main cost components of the program include direct and indirect personnel costs and **Federal Register** publication costs. Our review of the program determined that average personnel costs for processing each uncontested application are \$204.50 and

\$1118.50 for each contested application (on average, 7% of all waiver applications are contested, based on the 236 applications sampled for our analysis). Thus, the total average personnel costs are \$268.48 for processing each application. The second main cost component of the program is the cost of publishing notices of waiver applications in the **Federal Register**. The current **Federal Register** publication cost is \$155 per column and the average length of a public notice published for this program is 1.5 columns. Thus, the total average publication cost is \$232.50. The sum total of personnel costs and **Federal Register** publication costs is \$500.98. Therefore, MARAD is proposing to raise the application fee from \$300 to \$500 in order to recover these costs.

On May 12, 2005, MARAD published a notice of proposed rulemaking in the **Federal Register** (70 FR 25010) that sought comments on the proposed fee increase. No comments were received.

#### Regulatory Analyses and Notices

*Executive Order 12866 and DOT Regulatory Policies and Procedures*

This rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not likely to result in an annual effect on the economy of \$100 million or more. This rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and economic impact associated with this rulemaking are considered to be so minimal that no further analysis is necessary.

#### Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Maritime Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. While this rule will affect businesses that qualify as small entities under Small Business Administration guidelines, MARAD does not believe that the modest increase in this one-time, non-recurring fee (unless an applicant must reapply due to a revocation) will result in a significant economic impact on small entities. Further, MARAD is required under Federal directives to assess recipients of special governmental services reasonable charges to recover the costs of providing such services.

### Federalism

We have analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132 (Federalism) and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations have no substantial effects on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among local officials. Therefore, consultation with State and local officials is not necessary.

### Executive Order 13175

MARAD does not believe that this rulemaking will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

### Environmental Impact Statement

We have analyzed this rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions in section 4.05 of Maritime Administrative Order (MAO) 600-1, "Procedures for Considering Environmental Impacts," 50 FR 11606 (March 22, 1985), neither the preparation of an Environmental Assessment, an Environmental Impact Statement, nor a Finding of No Significant Impact for this rulemaking is required.

### Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This rule is the least burdensome alternative that achieves this objective of U.S. policy.

### Paperwork Reduction Act

This rule contains information collection requirements covered by the Office of Management and Budget approval number 2133-0529. The changes have no impact on the reporting burden.

### List of Subjects in 46 CFR 388

Administrative practice and procedure, Maritime carriers, Passenger vessels, Reporting and recordkeeping requirements.

■ Accordingly, the Maritime Administration amends 46 CFR chapter II, subchapter J, by amending part 388 as follows.

### PART 388—ADMINISTRATIVE WAIVERS OF THE COASTWISE TRADE LAWS

■ 1. The authority citation for part 388 continues to read as follows:

**Authority:** 46 App. U.S.C. 1114(b); Pub. L. 105-383, 112 Stat. 3445 (46 U.S.C. 12106 note); 49 CFR 1.66.

■ 2. Amend § 388.3 by revising paragraph (a)(1) and the introductory text of paragraph (a)(2) to read as follows:

#### § 388.3 Application and fee.

(a) \* \* \*

(1) The application form contained on MARAD's Web site at <http://www.marad.dot.gov> may be submitted electronically with credit card or Automated Clearinghouse (ACH) payment of the \$500 application fee.

(2) Alternatively, applicants may send written applications to Small Vessel Waiver Applications, Office of Ports and Domestic Shipping, MAR-830, Room 7201, 400 7th St., SW., Washington, DC 20590. Written applications need not be in any particular format, but must be signed, be accompanied by a check for \$500 made out to the order of "Maritime Administration", and contain the following information:

\* \* \* \* \*

Dated: October 31, 2005.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 05-21924 Filed 11-2-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 051028281-5281-01; I.D. 101705C]

RIN 0648-AT99

### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends current regulatory text regarding boundaries for the essential fish habitat (EFH) closures that were established by Framework 16 to the Atlantic Sea Scallop (Scallop) Fishery Management Plan (FMP) and Framework 39 to the Northeast Multispecies (NE Multispecies) FMP (Joint Frameworks 16/39) in order to reflect recent court orders in *Oceana v. Evans*, vacating such text and reinstating boundaries for EFH closures established by Amendment 10 to the Scallop FMP (Amendment 10). This final rule also revises the Scallop Access Area boundaries to be consistent with the redefined EFH closed areas.

**DATES:** Effective November 3, 2005.

**ADDRESSES:** Copies of Amendment 13 to the NE Multispecies FMP, Amendment 10, Joint Frameworks 16/39, their Regulatory Impact Reviews (RIR), including the Initial Regulatory Flexibility Analyses (IRFA), and the Environmental Assessment and Environmental Impact Statements are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

**FOR FURTHER INFORMATION CONTACT:** Peter W. Christopher, Fishery Policy Analyst, (978) 281-9288; fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** On May 1, 2004, NMFS implemented approved measures in Amendment 13 to the NE Multispecies FMP (Amendment 13), which was developed and recommended by the New England Fishery Management Council (NEFMC) (69 FR 22906, April 27, 2004). Among the implemented measures was a description of boundaries of certain areas of the ocean closed to all mobile fishing gear for the protection of NE multispecies EFH (§ 648.81(h)). Subsequent to the implementation of Amendment 13, on July 23, 2004, NMFS implemented approved measures in Amendment 10, which was also developed and recommended by the NEFMC (69 FR 35194, June 23, 2004). Amendment 10 also included a description of boundaries of certain areas of the ocean closed to scallop fishing for the protection of NE multispecies, and EFH for other species, from the effects of scallop fishing gear (§ 648.61). The Amendment 10 EFH