

whether to accept a petition based on the stage of the rulemaking process at which the request is made and the merits of the petition. A substantively meritorious petition may be denied if the petition comes so late in the process that adequate notice and comment cannot be accommodated within the statutory time frame of the rulemaking process. The mere fact that an interested party was unaware of this proceeding or of any particular exemptions proposed in this proceeding is not a valid justification for a late submission. If a petition is accepted, the Register will publish the proposal in the **Federal Register** and announce deadlines for comments. If a petition is denied, the Register will set forth the reasons for the denial in a letter to the petitioner. All petitions and responses will become part of the public record in this rulemaking process.

Dated: September 23, 2011.

**Maria A. Pallante,**

*Register of Copyrights.*

[FR Doc. 2011-25106 Filed 9-28-11; 8:45 am]

**BILLING CODE 1410-30-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2011-0561; FRL-9469-2]

#### Revisions to the California State Implementation Plan, Santa Barbara Air Pollution Control District, Sacramento Municipal Air Quality Management District and South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Santa Barbara Air Pollution Control District (SBAPCD), Sacramento Municipal Air Quality Management District (SMAQMD) and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from solvent cleaning machines and solvent cleaning operations and oil and gas production wells. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by October 31, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-

OAR-2011-0561, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Borgia, EPA Region IX, (415) 972-3576, [borgia.adrienne@epa.gov](mailto:borgia.adrienne@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: SBAPCD Rule 321, "Solvent Cleaning Machines and Solvent Cleaning", SMAQMD Rule 466, "Solvent Cleaning", SCAMQD Rule 1171, "Solvent Cleaning Operations" and SCAMQD Rule 1148.1, "Oil and

Gas Production Wells." In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 7, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011-24689 Filed 9-28-11; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 160

[Docket No. USCG-2011-0076]

RIN 1625-AB60

#### Inflatable Personal Flotation Devices

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On March 30, 2011, the Coast Guard published a direct final rule that notified the public of the Coast Guard's intent to harmonize structural and performance standards for inflatable recreational personal flotation devices (PFDs) with current voluntary industry consensus standards, and to slightly modify regulatory text in anticipation of a future rulemaking addressing the population for which inflatable recreational PFDs are approved (76 FR 17561). As discussed below, we have received an adverse comment on the direct final rule, and have withdrawn the direct final rule in a notice of withdrawal published separately in this issue of the **Federal Register**. The Coast Guard seeks comment on the issues raised by the commenters and proposes to make the same changes to the current regulatory text, as modified below.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before November 28, 2011 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–0076 using any one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the

**SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

*Viewing incorporation by reference material:* You may inspect the material proposed for incorporation by reference at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 9 a.m. and 3 p.m. Monday through Friday, except Federal holidays. The telephone number is 202–372–1394. Copies of the material are available as indicated in the “Incorporation by Reference” section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Ms. Brandi Baldwin, Lifesaving and Fire Safety Division (CG–5214), U.S. Coast Guard, telephone 202–372–1394, e-mail [Brandi.A.Baldwin@uscg.mil](mailto:Brandi.A.Baldwin@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

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#### **I. Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### *A. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0076), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and insert “USCG–2011–0076” in the “Keyword” box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

##### *B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then

become highlighted in blue. In the “Keyword” box insert “USCG–2011–0076” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### *C. Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

##### *D. Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### **II. Abbreviations**

ANSI	American National Standards Institute
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
NEPA	National Environmental Policy Act of 1969
NPRM	Notice of proposed rulemaking
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
PFDs	Personal Flotation Devices
STP	Standards Technical Panel
UL	Underwriters Laboratories
USCG	United States Coast Guard

#### **III. Regulatory History**

On March 30, 2011, we published a direct final rule entitled “Inflatable Personal Flotation Devices” in the **Federal Register** (76 FR 17561). The Coast Guard received three submissions in response to the direct final rule: One supportive of the rulemaking generally, one which raised questions about a revision to one of the standards incorporated by reference, and one adverse comment related to the deletion of the words “approved for use by

adults only” from the regulations. Because we received an adverse comment, the Coast Guard is withdrawing the direct final rule in a notice of withdrawal published separately in this issue of the **Federal Register**, and issuing this notice of proposed rulemaking (NPRM) instead.

This NPRM proposes the same content as the direct final rule with one change to update a version of an industry standard proposed for incorporation by reference. The comments received in response to the direct final rule are discussed below under “Discussion of the Proposed Rule.”

#### IV. Background

The Coast Guard is charged with establishing minimum safety standards, and procedures and tests required to measure conformance with those standards, for recreational vessels and associated equipment. See 46 U.S.C. 4302, and Homeland Security Delegation #0170.1, section II, paragraph (92)(b). Under this authority, in 1995 the Coast Guard promulgated regulations establishing structural and performance standards for inflatable recreational PFDs and procedures and tests necessary for Coast Guard approval of such PFDs meeting the standards. See 46 CFR part 160, subpart 160.076 (Inflatable Recreational Personal Flotation Devices); 60 FR 32835 (June 23, 1995). Subpart 160.076 incorporates by reference three Underwriters Laboratories (UL) Standards 1180, “Fully Inflatable Personal Flotation Devices” (First Edition); 1191, “Components for Personal Flotation Devices” (Second Edition); and 1123, “Marine Buoyant Devices” (Fifth Edition).

The editions of these UL Standards currently incorporated by reference into subpart 160.076 were current when the Coast Guard promulgated subpart 160.076 in 1995. However, UL has since published newer editions of these Standards that the Coast Guard considers to contain technological and safety developments since 1995 that are important to codify in subpart 160.076. In this proposed rule, the Coast Guard proposes to update the editions of the UL Standards incorporated by reference in subpart 160.076.

The editions of these UL Standards currently incorporated by reference in subpart 160.076, as well the editions that will replace the currently incorporated versions, limit the use of inflatable PFDs to persons at least 16 years of age and weighing more than 80 pounds. Therefore, the Coast Guard only approves inflatable PFDs with these age

and weight limitations. When the Coast Guard promulgated subpart 160.076, inflatable PFD-technology was relatively new and the appropriateness of these devices for children had not yet been explored. At that time, the Coast Guard stated, “The Coast Guard agrees with those comments that suggested that approval of inflatable PFDs for children is not appropriate at this time. \* \* \* The issue of inflatable PFDs for children can be revisited after more experience is gained with the approval of inflatable PFDs for adults.” 60 FR 32839, 32841. As such, subpart 160.076 currently limits Coast Guard-approved inflatable PFDs to “use by adults only.” 46 CFR 160.076–1(b)(2).

Although the Coast Guard is not yet ready to revisit the issue of inflatable PFDs for children, the industry has begun considering the experience it has gained from adults’ usage of inflatable PFDs during the past 15 years, as well as advances in inflatable PFD technology, to explore the appropriateness of these devices for children and create an appropriate standard.

In 2009, a member of the PFD industry submitted a proposal to the UL Standards Technical Panel (STP) proposing new standards for inflatable PFDs designed for children. The Coast Guard understands that the UL Standards development effort continues to move forward, and there may be other standards addressing inflatable PFDs for children in development. Inflatable PFDs constructed and tested to any new standard adopted by a consensus body, however, would not be eligible for Coast Guard approval until that standard is incorporated by reference into Coast Guard regulations after consideration of the appropriateness of incorporating such a new standard during a rulemaking that includes an opportunity for public comment. The Coast Guard plans to initiate such a rulemaking in the future and is using this rulemaking to prepare for such a rulemaking as discussed below.

This rulemaking does not constitute approval of the use of inflatable PFDs for users under 16 years of age or a proposal for such approval. The newer editions of the UL Standards proposed to be incorporated by reference in this rule retain requirements for inflatable PFDs for adult wearers only. While there are still outstanding concerns relative to the considerations for designing an inflatable PFD intended for use by wearers under the age of 16, the Coast Guard recognizes that these matters are being addressed by UL’s STP through the American National Standards Institute (ANSI)-accredited

standards development process. The Coast Guard actively participates in the STP and continues to work cooperatively with the PFD industry to develop appropriate design, testing, and marking requirements for inflatable PFDs for use by children. This rule would facilitate and encourage the continuation of this process, but is not intended to resolve any technical issues.

#### V. Discussion of the Proposed Rule

The Coast Guard proposes to revise 46 CFR part 160, subpart 160.076 to update the editions of the UL Standards incorporated by reference and to make necessary conforming changes resulting from incorporating the updated standards. The conforming changes would include removing test methods, acceptance criteria, and other standards currently contained in subpart 160.076 that are made redundant by the newer editions of the UL Standards. The Coast Guard also proposes to make minor regulatory text revisions to subpart 160.076 that have a non-substantive effect.

In response to the direct final rule, which included the same content as proposed below, one commenter expressed support, citing the removal of barriers to the development of innovative PFDs as leading to an expected improvement in the quality and variety of inflatable lifejackets available to the public. The Coast Guard appreciates the support and seeks public comment on the proposed rule.

##### A. Incorporations by Reference

The proposal to update the standards incorporated by reference in 46 CFR 160.076–11 is intended to harmonize the requirements for Coast Guard approval of recreational inflatable PFDs with voluntary industry consensus standards.

The updated UL Standards proposed for incorporate by reference are as follows:

- UL 1180, “UL Standard for Safety for Fully Inflatable Recreational Personal Flotation Devices,” is updated from the May 1995 version (First Edition) to the February 2009 version (Second Edition);
- UL 1191, “UL Standard for Safety for Components for Personal Flotation Devices” is updated from the May 1995 version (Second Edition) to the August 2011 version (Fourth Edition); and
- UL 1123, “UL Standard for Safety for Marine Buoyant Devices,” is updated from the February 1995 version (Fifth Edition) to the October 2008 version (Seventh Edition).

These updated versions of the UL Standards include revisions that have

been evaluated and adopted by UL's STP, the ANSI-accredited Standards Development Organization for these standards, and reflect the industry-wide consensus standard for design, manufacturing, and testing of inflatable PFDs and PFD components. As discussed above in the "Background" section, the Coast Guard participated fully in the development of these standards through its representation on the STP.

#### 1. UL 1180

UL 1180, "UL Standard for Safety for Fully Inflatable Recreational Personal Flotation Devices," contains the design, construction, testing, and performance requirements for fully inflatable recreational PFDs for users over 16 years of age and weighing at least 80 pounds. Significant revisions in the Second Edition of UL 1180 from the First Edition include a revision to the temperature cycling test and the addition of testing requirements for an optional buddy line. The revision to the temperature cycle narrows the range of temperature extremes to harmonize with international test methods in the International Organization for Standardization's ISO 12402-9 "Personal flotation devices—Part 9: Test methods." The additional testing requirements for an optional buddy line provides the test procedures and acceptance criteria for an inflatable PFD equipped with a buddy line. This addition only impacts manufacturers who choose to equip inflatable PFDs with the optional buddy line.

In a response to industry seeking approval for inflatable PFD designs not covered by UL 1180 First Edition, the Second Edition also includes four new supplements containing requirements for user-assisted inflatable PFDs, user-convertible manual/automatic inflatable PFDs, manual inflators without cylinder seal indication, and inflatable work vests. The supplements address design innovations that manufacturers developed after publication of the First Edition.

By incorporating by reference UL 1180 Second Edition with these four new supplements, user-assisted inflatable PFDs, user-convertible manual/automatic inflatable PFDs, manual inflators without cylinder seal indication, and inflatable work vests would be able to be approved under proposed 46 CFR part 160, subpart 160.076 setting forth design and performance standards for these types of inflatable PFDs. Currently, in order to review these design innovations for Coast Guard approval, the Coast Guard has been evaluating each submitted

design innovation in accordance with 46 CFR 160.076-16(g)(2) for an equivalent measure of safety to the specific standards in subpart 160.076. Section 160.076-13(g)(2) provides for Coast Guard approval of an inflatable PFD that does not meet the specific standards in subpart 160.076 if the PFD "provides at least the same degree of safety provided by other PFDs that meet the requirements of this subpart." See also 46 CFR 159.005-7(e) (providing for similar "equivalent" approval, not specific to PFDs, for lifesaving equipment that "has equivalent performance characteristics" and "is at least as effective as [equipment] that meets the requirements [in relevant Coast Guard regulations]"). The Coast Guard has been evaluating and approving user-assisted inflatable PFDs, user-convertible manual/automatic inflatable PFDs, manual inflators without cylinder seal indication, and inflatable work vests under 46 CFR 160.076-13(g)(2) because the Coast Guard has determined that they provide at least the same degree of safety that is provided by inflatable PFDs meeting the standards in subpart 160.076. This rulemaking would make this extra evaluation under 46 CFR 160.076-13(g)(2) unnecessary for user-assisted inflatable PFDs, user-convertible manual/automatic inflatable PFDs, manual inflators without cylinder seal indication, and inflatable work vests; these types of PFDs would be reviewed for compliance with the specific standards set forth in the proposed subpart 160.076.

UL 1180 Second Edition also includes the option for the laboratory conducting required performance tests to use youth subjects who fit the necessary size requirements (e.g., weight and chest circumference) in the testing of adult-sized PFDs, where appropriately sized adult subjects are not available. This new option, however, would not affect the Coast Guard approval of inflatable PFDs for use by adults only. Use of youth subjects is limited to performance testing only.

UL 1180 Second Edition also includes editorial changes to correct typos and erroneous internal references. These editorial changes clarify the requirements for the body, primary closure, collar, shoulder, and secondary closure strength tests; revise the format of the labels required by 46 CFR 160.076-39, but do not change the required information; add a definition of "white-water paddling"; move component and material tests from UL 1180 to UL 1191; and renumber the paragraphs in UL 1180. These changes

would have no substantive effect on Coast Guard approval of inflatable PFDs.

#### 2. UL 1191

UL 1191, "UL Standard for Safety for Components for Personal Flotation Devices," contains the construction, testing, and performance requirements for the materials and components used in the construction of PFDs generally. Several revisions in the Fourth Edition of UL 1191 from the Second Edition are not relevant to this rulemaking because the revisions address only inherently buoyant and hybrid PFDs, not inflatable PFDs. This rulemaking only addresses inflatable PFDs, and incorporating by reference the Fourth Edition into 46 CFR part 160, subpart 160.076 only incorporates the portions of UL 1191 pertaining to inflatable PFDs.

In the direct final rule, the Coast Guard intended to incorporate the December 2008 version of the Fourth Edition of UL 1191 (including changes through February 27, 2009). One commenter expressed disagreement with a specific revision made to that version of UL 1191, which increased the tolerance for the minimum gross weight of inflation gas cylinders from 10% to 15%. Following publication of the direct final rule, UL 1191 was revised in August 2011 to return this value to 10%. No other changes were made in the August 2011 revision. The Coast Guard proposes to incorporate the most current version of the Fourth Edition of UL 1191, which includes changes through August 2011, and which contains the revision to the tolerance on the minimum gross weight of inflation gas cylinders.

The other most notable substantive changes in UL 1191 Fourth Edition specific to inflatable PFDs are the addition of testing and performance standards for automatic and convertible manual/automatic inflation systems. When the Coast Guard first promulgated 46 CFR part 160, subpart 160.076 in 1995, the only design for an inflatable PFD involved manual activation of the inflation mechanism. Since then, automatic and convertible manual/automatic inflation systems have been developed, and nearly half of the inflatable PFD designs available in the U.S. market utilize automatic inflation. The addition of testing and performance standards for automatic and convertible manual/automatic inflation systems covers the innovative designs created by manufacturers since the Second Edition. As discussed above, the Coast Guard has been approving inflatable PFDs using automatic or convertible manual/automatic inflation systems under 46 CFR 160.076-13(g)(2) because they

provide at least the same degree of safety provided by inflatable PFDs meeting the standards in 46 CFR part 160, subpart 160.076. By incorporating UL 1191 Fourth Edition, inflatable PFDs using automatic or convertible manual/automatic inflation systems would be approved under the specific standards set forth in proposed subpart 160.076, rather than as equivalent safety devices.

UL 1191 Fourth Edition includes minor substantive changes from the Second Edition that provide greater flexibility to manufacturers in performing required tests or clarify existing requirements. The Fourth Edition eliminates the perchloroethylene exposures during the Operability/Discharge Test because this test was determined not to be representative of the user environment of an inflatable PFD and therefore inapplicable as a safety test. The Fourth Edition also adds Xenon exposure as an optional accelerated weathering method to provide manufacturers another option to choose from for the required weathering tests. The Fourth Edition includes, for the first time, specifications for the water hardness and liquid detergent used for conditioning PFD components and materials to clarify certain test requirements and ensure repeatable test results. The Fourth Edition adds clarifying language to the test procedure for evaluating torsional stiffness of tie tapes.

The Fourth Edition also includes one substantive change to incorporate directly in UL 1191 a portion of the requirements currently contained in subpart 160.076. The Fourth Edition contains the additional marking requirements for inflation systems currently required by 46 CFR 160.067–39(e). Because the Fourth Edition includes the additional marking requirements, these requirements would be deleted from the regulatory text in section 160.067–39(e), as discussed below in the “Conforming Changes” section.

The Fourth Edition also includes editorial changes to correct typos and references to clarify the inflation system discharge test procedure and the maximum crack pressure for the operability test.

### 3. UL 1123

UL 1123, “UL Standard for Safety for Marine Buoyant Devices,” contains the design, construction, testing, and performance requirements for inherently buoyant recreational PFDs. The Coast Guard uses this standard in 46 CFR part 160, subpart 160.076 only to define the format and content of the

informational pamphlet required by 46 CFR 160.076–35. The only revision in UL 1123 Seventh Edition relevant to inflatable PFDs is the removal of the statement in the standard erroneously indicating a sole publisher of the pamphlet. As such, this revision would have no impact on Coast Guard approval of inflatable PFDs.

### B. Conforming Changes

Because of the aforementioned proposed updates to the UL Standards incorporated by reference, the Coast Guard proposes to make several conforming changes to the regulatory text to account for the revisions in the newer editions of the UL Standards.

The Coast Guard proposes to remove regulatory text that addresses requirements for inflatable PFDs that are contained in the UL 1180 Second Edition or UL 1191 Fourth Edition. Specifically, the Coast Guard proposes to delete from 46 CFR 160.076–21(b)–(c) and 160.076–25(d)(2)(i)–(iv) the requirements and acceptance criteria for the grab breaking strength, tear strength, seam strength, and permeability tests for inflation chamber materials, which are included in the UL 1191 Fourth Edition. The Coast Guard also proposes to delete the repacking and rearming test from 45 CFR 160.076–25(c) and the requirements for marking inflation mechanisms from 46 CFR 160.076–21(d) and 160.076–39(e) because these provisions are included in the UL 1180 Second Edition. The deletion of this regulatory text would have no substantive effect on the requirements for Coast Guard approval of recreational inflatable PFDs, because the requirements are retained in the updated UL Standards incorporated by reference in revised 46 CFR 160.076–11. Because incorporating a standard by reference is treated as if the requirements of the standards are published in the CFR, retaining this regulatory text would be redundant.

The Coast Guard also proposes to remove standards currently incorporated by reference in subpart 160.076 that would apply through the newer edition of UL 1191. Because these standards would still apply to inflatable PFDs through the UL 1191 Fourth Edition incorporated by reference in subpart 160.076, it would be redundant to retain the standards in subpart 160.076 text. Specifically, the Coast Guard proposes to remove Federal Test Method Standard No. 191A (Federal Standard for Textile Test Methods), American Society for Testing and Materials’ ASTM D 751–95 (Standard Test Methods for Coated Fabrics), and ASTM D 1434–82 (Standard Test

Method for Determining Gas Permeability Characteristics of Plastic Film and Sheetings), because those standards, or equivalent test methods, are referenced in UL 1191 Fourth Edition.

Finally, for the updated standards, the Coast Guard proposes editorial changes throughout the subpart to resolve references to deleted paragraphs, to update or remove cross-references to specific sections of the UL Standards, and to conform the formatting of incorporated references to current **Federal Register** requirements.

### C. Regulatory Text Revisions

To prepare for a future rulemaking addressing inflatable PFDs for use by children, the Coast Guard proposes to remove from § 160.076–1 (Scope) the words “approved for use by adults only.” This removal, however, would have no substantive effect on Coast Guard approval of inflatable PFDs because the editions of the UL Standards that would replace the editions currently incorporated by reference in subpart 160.076 still limit the use of inflatable PFDs to persons who are at least 16 years of age and weigh more than 80 pounds. Removing these words would prepare subpart 160.076 for a future rulemaking because, if the Coast Guard decides as part of that future rulemaking to extend the use of inflatable PFDs to children, the Coast Guard anticipates it will do so by again updating the standards incorporated by reference, which would be the only place in subpart 160.076 that contains age and weight limitations after the effective date of this proposed rulemaking.

In response to the direct final rule, one commenter expressed concern that deleting the words “approved for use by adults only” would create a perception that inflatable PFDs for youth would be available on the date the rule went into effect, would facilitate teens using existing inflatable PFDs, and would enable marketing of existing inflatable PFDs to youth. The commenter also expressed concern that this rulemaking is premature in light of work that still needs to be done to evaluate sizing requirements for infant or child PFDs. The Coast Guard seeks comment on this issue.

The Coast Guard also proposes revising § 160.076–19 (Recognized laboratories) to replace the reference to Underwriters Laboratories (UL) as the sole recognized laboratory for testing of inflatable PFDs and PFD components with a reference to the Coast Guard’s Marine Information Exchange (CGMIX) Web site, where all Coast Guard-

recognized laboratories are listed. When subpart 160.076 was initially published in 1995, UL was, and currently continues to be, the only laboratory recognized by the Coast Guard for approval testing and production oversight of Coast Guard-approved inflatable PFDs under this subpart. However, additional laboratories may be recognized by the Coast Guard to perform these functions. In order to maintain a listing of recognized laboratories outside of the regulatory text consistent with such listings and information for other types of lifesaving equipment, the Coast Guard proposes to replace the list in subpart 160.076 with the reference to where to find the list on the CGMIX.

#### VI. Incorporation by Reference

Material proposed for incorporation by reference appears in proposed 46 CFR 160.076–11. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in paragraph (b) of § 160.076–11.

Before publishing a binding rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

#### VII. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of 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. This NPRM has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget. A draft regulatory assessment follows:

The Coast Guard does not expect this rulemaking to result in additional costs to industry, as manufacturers of Coast

Guard-approved inflatable PFDs already follow the editions of the UL Standards being incorporated by reference into 46 CFR part 160, subpart 160.076 by this rulemaking. The Coast Guard requires approval tests to be performed by an independent laboratory recognized by the Coast Guard under 46 CFR part 159, subpart 159.010. Currently, UL is the only recognized independent laboratory for inflatable PFDs, and UL requires manufacturers to conform to its most current standards, which are the editions being incorporated by reference into subpart 160.076. Additionally, UL offers a certification for recreational inflatable PFDs that conform to UL’s most current standards. The UL certification provides a product liability benefit to manufacturers, and obtaining the UL certification has become an industry custom for manufacturers of commercially-sold recreational inflatable PFDs.

As described above, industry is currently following the editions of the UL Standards incorporated by reference into subpart 160.076 in this rulemaking, and PFD manufacturers will adhere to these standards regardless of whether this rule is promulgated. Therefore, this modification to 46 CFR part 160, subpart 160.076 is not expected to impose a burden on industry.

In addition, the Coast Guard does not expect removing the language “approved for use by adults only” in 46 CFR 160.076–1 to have a substantive impact because the Coast Guard will continue approving recreational inflatable PFDs with the current age and weight limitations. As discussed above in the “Discussion of the Rule” section, the age and weight limitations are found in current editions of the UL Standards incorporated in subpart 160.076 and are retained in the newer editions of the UL Standards proposed to be incorporated by reference into subpart 160.076 in this rulemaking. The remaining changes to subpart 160.076 are minor editorial updates. Please see the “Discussion of the Rule” section above for additional details.

The primary benefit of this rulemaking would be the increase in regulatory efficiencies in the maritime community by harmonizing Coast Guard regulations in 46 CFR part 160, subpart 160.076 with current voluntary industry consensus standards. This rulemaking would result in greater consistency between Coast Guard regulations and consensus standards and would reduce burdens on manufacturers who currently have to maintain multiple editions of the UL Standards to comply with Coast Guard regulations, to use UL as an independent laboratory to perform

required tests, and to obtain the UL certification. This rulemaking would also result in better compliance with the National Technology Transfer and Advancement Act (NTTAA), which directs agencies to use voluntary consensus standards in their regulatory activities.

Because the rulemaking would harmonize subpart 160.076 with existing UL Standards, any ambiguity associated with inflatable PFD standards would be reduced. Harmonization of these standards is important to fulfill the Coast Guard’s mission of establishing minimum safety standards, and procedures and tests required to measure conformance with those standards, for recreational vessels and associated equipment.

##### B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rulemaking 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 that this rule would not have an impact on small entities. As described in the “Regulatory Planning and Review” section, we do not expect this rule would result in additional costs to industry. However, this rule would improve efficiency by providing consistency between Coast Guard regulations and UL Standards. Therefore, the Coast Guard certifies that under 5 U.S.C. 605(b), this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think your business or organization qualifies, as well as how and to what degree this rule will economically affect it.

##### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can

better evaluate its effects on them and participate in the rulemaking process.

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). 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.

#### 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).

#### E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if the rule 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.

#### 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 \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would 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 would 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 the 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 would not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### J. Indian 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 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.

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

#### L. Technical Standards

The National Technology Transfer and Advancement Act (NTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, 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: UL 1123, "UL Standard for Safety for Marine Buoyant Devices"; UL 1180, "UL Standard for Safety for Fully Inflatable Recreational Personal Flotation Devices"; and UL 1191, "UL Standard for Safety for

Components for Personal Flotation Devices."

#### M. Coast Guard Authorization Act Sec. 608 (46 U.S.C. 2118(a))

Section 608 of the Coast Guard Authorization Act of 2010 (Pub. L. 111-281) adds new section 2118 to 46 U.S.C. Subtitle II (Vessels and Seamen), Chapter 21 (General). New section 2118(a) sets forth requirements for standards established for approved equipment required on vessels subject to 46 U.S.C. Subtitle II (Vessels and Seamen), Part B (Inspection and Regulation of Vessels). Those standards must be "(1) based on performance using the best available technology that is economically achievable; and (2) operationally practical." See 46 U.S.C. 2118(a). This rulemaking addresses inflatable recreational PFDs for Coast Guard approval that are required on vessels subject to 46 U.S.C. Subtitle II, Part B, and the Coast Guard has ensured this rule satisfies the requirements of 46 U.S.C. 2118(a), as necessary.

#### N. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that does not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. This rule involves personal flotation device standards and falls under regulations concerning safety equipment described in section 6(a) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48244, July 23, 2002). We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 46 CFR Part 160

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 160 as follows:

**PART 160—LIFESAVING EQUIPMENT**

1. The authority citation for part 160 is revised to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; and Department of Homeland Security Delegation No. 0170.1.

2. Revise § 160.076–1 to read as follows:

**§ 160.076–1 Scope.**

\* \* \* \* \*

(b) Inflatable PFDs approved under this subpart rely entirely upon inflation for buoyancy.

**§ 160.076–7 [Amended]**

3. Amend § 160.076–7(b) by adding the words “(incorporated by reference, see 160.076–11)” after the words “UL 1180”.

**§ 160.076–9 [Amended]**

4. Amend § 160.076–9(b) by adding the words “(incorporated by reference, see 160.076–11)” after the words “UL 1180”.

5. Amend § 160.076–11 as follows:

a. In paragraph (a), remove the first occurrence of the words “paragraph (b) of”, which appears after the words “one listed in”.

b. Revise paragraph (b) to read as follows:

**§ 160.076–11 Incorporation by reference.**

\* \* \* \* \*

(b) Underwriters Laboratories (UL) *Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062–2096 (Phone (847) 272–8800; Facsimile: (847) 272–8129).*

(1) UL Standard for Safety for Marine Buoyant Devices, UL 1123, Seventh Edition including revisions through February 14, 2011, October 1, 2008, (“UL 1123”), incorporation by reference approved for § 160.076–35.

(2) UL Standard for Safety for Fully Inflatable Recreational Personal Flotation Devices, UL 1180, Second Edition including revisions through December 3, 2010, February 13, 2009, (“UL 1180”), incorporation by reference approved for §§ 160.076–7; 160–076–9; 160.076–21; 160.076–23; 160.076–25; 160.076–31; 160.076–37; and 160.076–39.

(3) UL Standard for Safety for Components for Personal Flotation Devices, UL1191, Fourth Edition including revisions through August 24, 2011, December 12, 2008, (“UL 1191”), incorporation by reference approved for §§ 160.076–21; 160.076–25; 160.076–29; and 160.076–31.

6. Revise § 160.076–19 to read as follows:

**§ 160.076–19 Recognized laboratories.**

The approval and production oversight functions that this subpart requires to be conducted by a recognized laboratory must be conducted by an independent laboratory recognized by the Coast Guard under subpart 159.010 of part 159 of this chapter to perform such functions. A list of recognized independent laboratories is available from the Commandant and online at <http://cgmix.uscg.mil>.

7. Revise § 160.076–21 to read as follows:

**§ 160.076–21 Component materials.**

Each component material used in the manufacture of an inflatable PFD must—

(a) Meet the applicable requirements of subpart 164.019 of this chapter, UL 1191 and UL 1180 (incorporated by reference, see § 160.076–11), and this section; and

(b) Be of good quality and suitable for the purpose intended.

**§ 160.076–23 [Amended]**

8. Amend § 160.076–23 by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1180”.

9. Amend § 160.076–25 as follows:

a. In paragraph (a), after the words “UL 1180”, add the words “(incorporated by reference, see § 160.076–11)”;

b. Remove and reserve paragraph (c); and

c. Revise paragraph (d) to read as follows.

**§ 160.076–25 Approval Testing.**

\* \* \* \* \*

(d) Each PFD design must be visually examined for compliance with the construction and performance requirements of §§ 160.076–21 and 160.076–23 and UL 1180 and UL 1191 (incorporated by reference, see § 160.076–11).

\* \* \* \* \*

10. Amend § 160.076–29 as follows:

a. In paragraph (d), remove the words “in accordance with UL 1180”; and

b. Revise paragraph (e)(4)(i) to read as follows:

**§ 160.076–29 Production oversight.**

\* \* \* \* \*

(e) \* \* \*  
(4) \* \* \*

(i) Samples must be selected from each lot of incoming material. Unless otherwise specified, Table 29.1 of UL 1191 (incorporated by reference, see § 160.076–11) prescribes the number of samples to select.

\* \* \* \* \*

**§ 160.076–31 [Amended]**

11. Amend § 160.076–31 as follows:

a. In paragraph (c)(1), remove the words “The average and individual results of testing the minimum number of samples prescribed by § 160.076–25(d)(2)” and add, in their place, the words “The materials in each inflatable chamber”; and remove the words “§ 160.076–21(b) and (c)” and add, in their place, the words “Table 29.1 of UL 1191 (incorporated by reference, see § 160.076–11)”;

b. In paragraph (c)(2), remove the words “§ 160.076–21(d)(2)(iv). The results for each inflation chamber must be at least 90% of the results obtained in approval testing” and add, in their place, the words “Table 29.1 of UL 1191.”;

c. In paragraph (c)(3), after the words “UL 1180”, add the words “(incorporated by reference, see § 160.076–11)”, and remove the number “7.15”, and add, in its place, the number “41”;

d. In paragraph (c)(4), after the words “UL 1180”, remove the number “7.16”, and add, in its place, the number “42”;

e. In paragraph (c)(5), after the words “UL 1180”, remove the words “7.2.2, 7.2.10, except 7.2.5” and add, in their place, the number “29”; and

f. In paragraph (c)(6), after the words “UL 1180”, remove the words “7.4.1 and .2” and add, in their place, the number “31”.

**§ 160.076–35 [Amended]**

12. Amend § 160.076–35 by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1123”.

**§ 160.076–37 [Amended]**

13. Amend § 160.076–37(b) by removing the words “section 11 of” after the words “specified in” and by adding the words “(incorporated by reference, see § 160.076–11)” after the words “UL 1180”.

**§ 160.076–39 [Amended]**

14. Amend § 160.076–39 as follows:

a. In § 160.076–39(a), remove the words “section 10” after the words “UL 1180” and add, in their place, the words “(incorporated by reference, see § 160.076–11)”;

b. Remove paragraph (e).

Dated: September 23, 2011.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2011–25034 Filed 9–28–11; 8:45 am]

**BILLING CODE 9110–04–P**