

§ 254.14 Exchange agreement.

\* \* \* \* \*

(b) \* \* \*

(6) In the event of an appeal under 36 CFR part 214 or 215, a decision to approve an exchange proposal pursuant to § 254.13 of this subpart is upheld; and

\* \* \* \* \*

37. In § 254.15, revise the last sentence of paragraph (c)(2) to read as follows:

§ 254.15 Title standards.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* If an agreement cannot be reached, the authorized officer shall consider other alternatives to accommodate the authorized use or shall determine whether there are specific and compelling reasons in the public interest for revoking the authorization for that use pursuant to 36 CFR 251.60.

PART 292—NATIONAL RECREATION AREAS

Subpart C—Sawtooth National Recreation Area—Private Lands

38. The authority citation for part 292, subpart C, continues to read as follows:

Authority: Sec. 4(a), Act of Aug. 22, 1972 (86 Stat. 613).

39. In § 292.15, revise paragraph (l) to read as follows:

§ 292.15 General provisions—procedures.

\* \* \* \* \*

(l) Denial or revocation of a certification of compliance under this subpart is subject to appeal under 36 CFR part 214.

Subpart D—Sawtooth National Recreation Area—Federal Lands

40. The authority citation for part 292, subpart D, is revised to read as follows:

Authority: 16 U.S.C. 460aa–10, 478, 551.

41. In § 292.18, revise paragraph (f) to read as follows:

§ 292.18 Mineral resources.

\* \* \* \* \*

(f) Operating plans—suspension, revocation, or modification. The authorized officer may suspend or revoke authorization to operate in whole or in part where such operations are causing substantial impairment which cannot be mitigated. At any time during operations under an approved operating plan, the operator may be required to modify the operating plan to minimize

or avoid substantial impairment of the values of the SNRA.

\* \* \* \* \*

Dated: September 16, 2011.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2011–24366 Filed 10–7–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 160

[USCG–2010–0048]

RIN 1625–AB46

Lifesaving Equipment: Production Testing and Harmonization With International Standards

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the interim rule addressing lifesaving equipment published in this same issue of the Federal Register to harmonize Coast Guard regulations for inflatable liferafts and inflatable buoyant apparatuses with recently adopted international standards affecting capacity requirements for such lifesaving equipment. The Coast Guard seeks comments on this proposal.

DATES: Comments and related material must either be submitted to our online docket via http://www.regulations.gov on or before November 25, 2011 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0048 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., STOP 7126, Washington, DC 20593–7126 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–372–1385. 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 Mr. Kurt Heinz, Commercial Regulations and Standards Directorate, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–5214), Coast Guard, telephone 202–372–1395, or e-mail Kurt.J.Heinz@uscg.mil. If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard encourages 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–2010–0048), 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. The Coast Guard recommends 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 the Coast Guard can contact you if the Coast Guard has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the “submit a comment” box, which will then become highlighted in blue. Insert “USCG–2010–0048” in the Keyword box, click “Search”, and then click on the balloon shape in the Actions column. 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 them by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments and material received during the comment period and may change this proposed rule in view of 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> at any time, and click on the “read comments” box, which will then become highlighted in blue. Enter the docket number for this rulemaking (USCG–2010–0048) in the Keyword box, 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 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. The Coast Guard has an agreement with the Department of Transportation to use the Docket Management Facility.

### C. Privacy Act

Anyone can search the electronic form of all 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

The Coast Guard does not currently plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If the Coast Guard determines that one would aid this rulemaking, the Coast Guard will hold one at a time and place announced by a later notice in the **Federal Register**.

### II. Abbreviations

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 IMO International Maritime Organization  
 ISO International Organization for Standardization  
 LSA Life-saving Appliance  
 MSC Maritime Safety Committee of the International Maritime Organization  
 NEPA National Environmental Policy Act 1969 (42 U.S.C. 4321–4370f)  
 NPRM Notice of Proposed Rulemaking  
 NTTAA National Technology Transfer and Advancement Act (15 U.S.C. 272 note)  
 OIRA Office of Information and Regulatory Affairs  
 OMB Office of Management and Budget  
 SNPRM Supplemental Notice of Proposed Rulemaking  
 SOLAS International Convention for Safety of Life at Sea, 1974, as amended  
 § Section symbol  
 USCG United States Coast Guard

### III. Regulatory History

On August 31, 2010, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Lifesaving Equipment: Production Testing and Harmonization With International Standards” in the **Federal Register**. See 75 FR 53458. In this same issue of the **Federal Register**, the Coast Guard is publishing an interim rule titled “Lifesaving Equipment: Production Testing and Harmonization with International Standards; Interim Rule” (Interim Rule) making effective changes proposed in the NPRM.

The Coast Guard is issuing this supplemental notice of proposed rulemaking (SNPRM) to address amendments to international standards affecting capacity requirements for inflatable liferaft and inflatable buoyant apparatuses that were recently adopted by the International Maritime Organization (IMO) and will enter into force on January 1, 2012. The IMO

amendments to the international standards affect the Interim Rule, published elsewhere in this issue of the **Federal Register**, regarding inflatable liferafts and inflatable buoyant apparatuses. The IMO amendments affect capacity requirements for such liferafts, and by extension buoyant apparatuses, but do not affect any other part of the Interim Rule.

### IV. Background

As discussed in the “Background” section of the Interim Rule, the Coast Guard is charged with ensuring that lifesaving equipment used on vessels subject to inspection by the United States meets specific design, construction, and performance standards, including those found in the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS), Chapter III “Life-saving appliances and arrangements.” See 46 U.S.C. 3306. The Coast Guard carries out this charge through the approval of lifesaving equipment per 46 CFR part 2, subpart 2.75. The approval process includes: pre-approving lifesaving equipment designs, overseeing prototype construction, witnessing prototype testing, and monitoring production of the equipment for use on U.S. vessels. See 46 CFR part 159. At each phase of the approval process, the Coast Guard sets specific standards to which lifesaving equipment must be built and tested.

The Coast Guard’s specific standards for inflatable liferafts are found in 46 CFR part 160, subparts 160.151 (Inflatable Liferafts (SOLAS)) and 160.051 (Inflatable Liferafts for Domestic Service). The Coast Guard’s specific standards for inflatable buoyant apparatuses are found in 46 CFR part 160, subpart 160.010 (Buoyant Apparatus for Merchant Vessels). Current subpart 160.151 satisfies SOLAS requirements, and current subparts 160.051 and 160.010 require compliance with the standards in subpart 160.151, with some specifically listed exceptions. See 46 CFR 160.051–1 and 160.010–3(a).

Subpart 160.151 implements SOLAS requirements by incorporating by reference the IMO standards referenced by Chapter III of SOLAS. The primary IMO standards referenced by Chapter III of SOLAS are the “Revised recommendation on testing of life-saving appliances” (Recommendation on Testing), IMO Resolution MSC.81(70), and the “International Life-saving Appliance Code” (LSA Code), IMO Resolution MSC.48(66). IMO updates these standards by adopting

MSC resolutions promulgating amendments to these standards.

In the Interim Rule published elsewhere in this issue of the **Federal Register**, the Coast Guard revises subpart 160.151 to, among other revisions, update the version of the Recommendation on Testing incorporated by reference, and incorporate by reference for the first time the LSA Code. Interim 46 CFR 160.151–5(d)(5) incorporates by reference the LSA Code “as amended by resolutions MSC.207(81), MSC.218(82), and MSC.272(85),” and the Recommendation on Testing “as amended by IMO Resolutions MSC.226(82) and MSC.274(85).” Interim subparts 160.051 and 160.010 retain the requirement for compliance with the standards in subpart 160.151, which will now also include the updated versions of the Recommendation on Testing and the LSA Code.

IMO recently adopted two new MSC resolutions further amending the LSA Code and the Recommendation on testing: “Adoption of Amendments to the International Life-Saving Appliance (LSA) Code” (MSC.293(87)) and “Adoption of Amendments to the Revised Recommendation on Testing of Life-Saving Appliances” (MSC.295(87)).

Resolution MSC.293(87) amends the LSA Code, and enters into force on January 1, 2012. This resolution increases the assumed average mass of liferaft occupants from 75 kg to 82.5 kg for inflatable liferaft design and approval testing purposes.<sup>1</sup>

Resolution MSC.295(87) amends the Recommendation on Testing and enters into force on January 1, 2012. This resolution specifies revisions necessary to account for this assumed average mass increase with respect to certain existing tests. The tests required by the Recommendation on Testing, Part 1 (Prototype Tests), affected by Resolution MSC.295(87) are: the jump test, loading and seating test, davit-launched liferaft boarding test, damage test, righting test,

and davit-launched inflatable liferaft strength tests.

The Coast Guard proposes to revise the Interim Rule to include the increased average mass of liferaft occupants and to require liferaft performance under subpart 160.151 to comply with the revisions to tests necessitated by the occupant weight increase. This proposed revision to subpart 160.151 would also, by extension, affect liferaft performance under subpart 160.051 and inflatable buoyant apparatus performance under subpart 160.010.

#### V. Discussion of Proposed Rule

The Coast Guard proposes to revise interim § 160.151–5(d)(5) to incorporate by reference the LSA Code “as amended by resolutions MSC.207(81), MSC.218(82), MSC.272(85), and MSC.293(87),” and the Recommendation on Testing “as amended by IMO Resolutions MSC.226(82), MSC.274(85), and MSC.295(87).” Revising these incorporations by references would affect the tests in interim §§ 160.151–27, 160.151–29, 160.151–31, and 160.151–57, which refer to the Recommendation on Testing. This proposal would require manufacturers to conduct those tests on prototype and production liferafts for Coast Guard approval under subpart 160.151 (SOLAS liferafts) using the new 82.5 kg assumed average mass of liferaft occupants instead of the current 75 kg assumed average mass. This rule would not impact liferafts currently in service. As stated in the NPRM, liferafts in service that were approved under the regulations revised by the interim rule would not have to be replaced, provided that they remain in serviceable condition. However, when they become non-serviceable, and thus must be replaced, they would have to be replaced with a liferaft that conforms to the revised regulations in effect at the time of replacement (i.e. the interim rule, as amended by any final rule resulting from this SNPRM).

The Coast Guard proposes to make this proposed rule effective on January 1, 2012, the same date MSC.293(87) and MSC.295(87) enter into force.

Under this proposed rule, any manufacturer of SOLAS liferafts wanting to continue manufacturing such liferafts under a Certificate of Approval issued under subpart 160.151, or seeking Coast Guard approval under subpart 160.151, would have to provide the Coast Guard, prior to January 1, 2012, documentation that the applicable tests in subpart 160.151 have been successfully conducted taking into account the new 82.5 kg standard. This

requirement can be met by submitting records of new tests based on the increased weight to maintain the current occupancy rating, or by submitting calculations to support a reduced occupancy rating based on the total weight used in the tests performed during initial approval. The Coast Guard would document compliance with Resolutions MSC.293(87) and MSC.295(87) by means of either amended Certificates of Approval under subpart 160.151 or by letter where large numbers of such Certificates of Approval are involved. The Coast Guard seeks comments on this proposal.

The proposal to incorporate by reference Resolutions MSC.293(87) and MSC.295(87) in interim § 160.151–5(d)(5) would also affect interim subparts 160.051 and 160.010. As discussed above, liferafts for Coast Guard approval under subpart 160.051 (domestic service liferafts) and inflatable buoyant apparatuses for Coast Guard approval under subpart 160.010 must meet the requirements in subpart 160.151 with some exceptions specifically listed in subparts 160.051 and 160.010. See § 160.051–5 (“To obtain Coast Guard approval, each Coast Service inflatable liferaft must comply with subpart 160.151, with the following exceptions \* \* \*”) and § 160.051–7 (“To obtain Coast Guard approval, each A and B inflatable liferaft must comply with the requirements in subpart 160.151, with the following exceptions \* \* \*”); and § 160.010–3(a) (“To obtain Coast Guard approval, an inflatable buoyant apparatus must comply with subpart 160.151, with the following exceptions \* \* \*”). None of the specifically listed exemptions address occupant weight or are affected by Resolutions MSC.293(87) and MSC.295(87).

Although incorporating by reference Resolutions MSC.293(87) and MSC.295(87) in interim § 160.151–5(d)(5) would affect interim subparts 160.051 and 160.010, the proposed rule would only affect any new approval sought under subparts 160.051 or 160.010, if this proposal is made final. The language in subparts 160.051 and 160.010 that requires compliance with subpart 160.151 only addresses obtaining Coast Guard approval, and a manufacturer obtains Coast Guard approval when seeking a new approval. Coast Guard approval is evidenced by a Certificate of Approval (COA), which is valid for a period of 5 years. After receiving a COA, the manufacturer must renew the COA before it expires, but renewal of a COA is not considered obtaining Coast Guard approval.

<sup>1</sup> Although the numbers are similar, the assumed average occupant mass of 82.5 kg (181.5 lbs) adopted by IMO for survival craft design and approval testing purposes and the average passenger weight of 185 lbs used in the Coast Guard’s Passenger Weight and Inspected Vessel Stability Requirements Final Rule (75 FR 78064) are not related. The Passenger Weight Final Rule updated regulations that address vessel stability and the assumed average passenger weights that directly affect vessel stability. This rule, however, would use the assumed average occupant mass of 82.5 kg (181.5 lbs) to address safe loading of inflatable liferafts and buoyant apparatuses, and does not address vessel stability. The IMO-adopted assumed average occupant mass is the international consensus standard, and the Coast Guard views this IMO standard as the best standard in this context.

Therefore, under this proposed rule, manufacturers of domestic service liferafts and manufacturers of inflatable buoyant apparatuses seeking a new approval under subpart 160.051 or subpart 160.010 on or after January 1, 2012 would have to conduct the applicable tests taking into account the new 82.5 kg standard. Manufacturers that already have a COA issued under subpart 160.051 or subpart 160.010 prior to January 1, 2012, however, would not have to comply with the new tests required by the Recommendation on Testing, as amended by Resolution MSC.295(87) for those approved products. Those manufacturers of domestic service liferafts approved under subpart 160.051 prior to January 1, 2012, and manufacturers of inflatable buoyant apparatuses approved under subpart 160.010 prior to January 1, 2012, could continue production of such lifesaving equipment using the 75 kg assumed average mass for occupants.

The Coast Guard proposes to permit manufacturers of domestic service liferafts and manufacturers of inflatable buoyant apparatuses with COA issued under subpart 160.051 or subpart 160.010 prior to January 1, 2012, to continue production of such lifesaving equipment using the 75 kg assumed average mass because of the differences between SOLAS liferafts and domestic service liferafts and inflatable buoyant apparatuses. SOLAS liferafts are carried on international voyages and as such must comply with IMO requirements. Domestic service liferafts and inflatable buoyant apparatuses are carried only on coastwise and other non-ocean or non-international routes and are not subject to SOLAS requirements. While the Coast Guard considers the IMO standards for this lifesaving equipment, as discussed above and in the Interim Rule, to be appropriate for all U.S. flag vessels regardless of voyage, the Coast Guard is aware of the burden of re-testing domestic service liferafts and inflatable buoyant apparatuses to address the SOLAS increased assumed average mass for occupants. However, the Coast Guard still desires a consistent standard across lifesaving appliances in keeping with the harmonization goal of the Interim Rule, as reflected in the current requirement that liferafts and inflatable buoyant apparatuses for approval under subparts 160.051 and 160.010 comply with subpart 160.151. To balance the burden of re-testing

domestic service liferafts and inflatable buoyant apparatuses with the Coast Guard's determination that IMO standards for lifesaving equipment are appropriate for all U.S. flag vessels regardless of voyage, the Coast Guard proposes to not affect current production of domestic service liferafts and inflatable buoyant apparatuses already approved under subparts 160.051 or 160.010. Therefore, the proposed rule would retain the current regulatory text in subparts 160.051 and 160.010 to require manufacturers of domestic service liferafts or inflatable buoyant apparatuses to comply with subpart 160.151 when seeking new Coast Guard approval only.

Manufacturers who wish to standardize across their product lines may opt to re-test domestic service liferafts and buoyant apparatuses approved under subparts 160.051 or 160.010 prior to January 1, 2012, to demonstrate compliance with Resolutions MSC.293(87) and MSC.295(87). The Coast Guard would document compliance with Resolutions MSC.293(87) and MSC.295(87) by means of either amended Certificates of Approval under subpart 160.015 or subpart 160.010, as applicable, or by letter where large numbers of such Certificates of Approval are involved.

#### VI. Incorporation by Reference

Material proposed for incorporation by reference appears in proposed 46 CFR 160.151–5. 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 (d) of that section.

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

The Coast Guard developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below, the Coast Guard summarizes these analyses based on 14 of these statutes or executive orders.

##### A. Executive Order 12866 and Executive Order 13563

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory

Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order.

As mentioned previously within this preamble, the Coast Guard is issuing this SNPRM regarding inflatable liferafts and inflatable buoyant apparatuses concurrently with an Interim Rule published elsewhere in this issue of the **Federal Register**.

This SNPRM addresses the change in the international standard for occupant weight used in testing equipment in order to establish the rated capacity of inflatable liferafts and inflatable buoyant apparatuses. The occupant weight or 'assumed average occupant mass' would be revised from the current 75 kg to the new weight standard of 82.5 kg and would, if the Coast Guard finalizes this proposed rule, become effective on January 1, 2012.

The Coast Guard issues a Certificate of Approval for inflatable liferafts and inflatable buoyant apparatuses under the applicable subpart in 46 CFR part 160 after successful testing of those appliances by their manufacturers. A Certificate of Approval specifies the number of occupants (or rated capacity) for which the inflatable liferaft or inflatable buoyant apparatus is designed and has been successfully tested, and the Certificate must be renewed every 5 years. New testing is not required to renew a current Certificate but new approval requests require testing before a Certificate can be issued.

#### Costs

While this proposed rule would require manufacturers to conduct prototype and production tests for inflatable liferafts and inflatable buoyant apparatuses manufactured on or after January 1, 2012 using the new weight standard, it would limit re-testing of currently approved equipment, thus limiting the cost impact of the proposed rule on manufacturers. And, as discussed in *section V. Discussion of Proposed Rule*, this proposed rule would not apply to liferafts currently in service aboard U.S. vessels, thus no vessel would incur replacement costs for liferafts because of this proposed rule. A summary of changes to the baseline testing requirements is shown in Table 1.

TABLE 1—SUMMARY OF CHANGES

Testing type	Existing equipment (approval prior to January 1, 2012)		New equipment (approval after January 1, 2012)	
	Testing	Impacts	Testing	Impacts
<b>SOLAS Inflatable Liferaft (160.151)</b>				
Proto-type testing.	Manufacturers must obtain a new Certificate of Approval certifying rated occupancy using the new weight standard. Manufactures may either re-test or have a certification made using previous test results adjusted for the new weight standard. Testing costs are negligible on a unit cost basis.	Units with rated capacity of less than 6 occupants are ineligible for SOLAS service. Costs of testing unchanged as nature of the test is unchanged.	All tests use the new weight standard to establish occupancy rating. Costs of testing unchanged as nature of the test is unchanged.	Units with rated capacity of less than 6 occupants are ineligible for SOLAS service.
Production Testing.	All tests use the new weight standard to establish occupancy rating.	Costs of testing unchanged as nature of the test is unchanged.	All tests use the new weight standard to establish occupancy rating.	Costs of testing unchanged as nature of the test is unchanged.
<b>Non-SOLAS Inflatable Liferaft (160.051)</b>				
Proto-type testing.	Existing Certificates of Approval may be renewed without re-testing.	No cost or benefit as the use of the new weight standard is optional.	All tests use the new weight standard to establish occupancy rating.	Costs of testing unchanged as nature of the test is unchanged.
Production Testing.	No cost or benefit. The use of the new weight standard is optional for equipment manufactured under an existing Certificate of Approval		All tests use the new weight standard to establish occupancy rating.	Costs of testing unchanged as nature of the test is unchanged.
<b>Inflatable Buoyant Apparatus (160.010)</b>				
Proto-type testing.	Existing Certificates of Approval may be renewed without re-testing.	No cost or benefit as the use of the new weight standard is optional.	All tests use the new weight standard to establish occupancy rating.	Costs of testing unchanged as nature of the test is unchanged.
Production Testing.	No cost or benefit. The use of the new weight standard is optional for equipment manufactured under an existing Certificate of Approval.		All tests use the new weight standard to establish occupancy rating.	Costs of testing unchanged as nature of the test is unchanged.

**SOLAS Inflatable Liferrafts (160.151)**  
 As shown in Table 1, manufacturers of SOLAS inflatable liferafts approved under subpart 160.151 (SOLAS liferafts) manufactured on or after January 1, 2012 would be allowed the option of either re-testing using the new occupant weight standard or requesting certification for a lower rated occupancy (adjusted for the new occupant weight standard) based on the certification testing submitted for their current approval.

The principal cost impact for manufacturers of SOLAS liferafts will be for currently manufactured inflatable liferafts whose rated capacity is six using the current 75 kg occupant weight standard. Since SOLAS requires that inflatable liferafts have a minimum

capacity of six, any SOLAS liferaft currently rated for six occupants would have to be re-tested under the new weight standard and any of these liferafts that did not meet the requirements for six occupants at the new weight standard could no longer be used on SOLAS vessels.

Currently, there are 10 manufacturers that produce 109 models of SOLAS liferafts. Of these, there are 11 liferaft models (from eight manufacturers) whose rated capacity is six (Table 2). These 11 models would be required to re-test to maintain their SOLAS certification. Three of these eight manufacturers are U.S. firms and they each produce one model of inflatable liferaft with a rated occupancy of six occupants. Of those three models, one

model is designed primarily for use in aircraft under a Federal Aviation Administration approval number. The three models produced by U.S. firms and the eight models manufactured by foreign firms would have to be re-tested in order to verify a minimum occupancy rating under the new weight standard to be used on SOLAS vessels. From estimates obtained from industry, we estimate the costs of re-testing for compliance with the new weight standard at approximately \$1,800 for each model.

We estimate the total cost to industry to re-test all current SOLAS liferaft models as \$19,800—\$14,400 for foreign manufacturers and \$5,400 for U.S.-owned manufacturers.

TABLE 2—SOLAS LIFERAFTS

Manufacturer	Number of manufacturers	Total number of models of liferaft produced	Total number of models of liferaft produced with an occupancy rating of 6	Cost to re-test each SOLAS liferaft	Total cost to retest
Foreign owned .....	7	104	8	\$1,800	\$14,400
U.S. owned .....	3	5	3	1,800	5,400
Total .....	10	109	11	1,800	\$19,800

#### Non-SOLAS Inflatable Liferafts (160.051) and Inflatable Buoyant Apparatus (160.010)

As shown in Table 1, manufacturers of domestic service inflatable liferafts under subpart 160.051 (domestic service liferafts) and inflatable buoyant apparatuses under subpart 160.010 manufactured on or after January 1, 2012, under current Certificates of Approval, would have the option of using either the old 75 kg or the new 82.5 kg occupant weight standard. If a manufacturer of domestic service liferafts or a manufacturer of inflatable buoyant apparatuses with current Certificates of Approval chooses to use the new weight standard, it would also have the option of either re-testing using the new occupant weight standard or requesting re-certification for a lower number of occupants (adjusted for the new occupant weight standard). Manufacturers of domestic inflatable liferafts under subpart 160.051 or buoyant apparatuses under 160.010 would be required to use the new occupant weight standard only when testing domestic inflatable liferafts or buoyant apparatuses approved after January 1, 2012.

In terms of the cost of the regulation:

1. While prototype testing for all SOLAS liferafts on or after January 1, 2012, would have to employ the new weight standard, there is no additional cost in performing the required tests due to the change in the testing weight because the nature of the test remains the same.

2. Production testing of all SOLAS liferafts on or after January 1, 2012 would require testing using the new weight standard. As with prototype testing, there is no additional cost in performing the required tests due to the change in the testing weight because the nature of the test remains the same.

3. For production testing of SOLAS liferafts, the manufacturer may either request a certification with a lower maximum occupancy based on the new weight standard or re-test the equipment for certification of its current rated capacity using the new weight standard.

4. The 11 models (three models made by U.S. manufacturers) of SOLAS inflatable liferafts whose current rated capacity is six occupants, would have to verify that they meet the minimum SOLAS requirements for a capacity of six occupants at the new weight standard if they wish to continue their current SOLAS approval status.

5. For both prototype and production testing of domestic service inflatable liferafts and inflatable buoyant apparatuses approved by the Coast Guard prior to January 1, 2012, the manufacturer may test under either the 75 kg or the 82.5 kg occupant weight standard with no change to testing based on the new weight standard.

6. For prototype and production testing of domestic service inflatable liferafts and inflatable buoyant apparatuses approved on or after January 1, 2012, the manufacturer must test under the 82.5 kg occupant weight standard.

For inflatable liferafts approved under subpart 160.051 prior to January 1, 2012 and inflatable buoyant apparatuses approved under subpart 160.010 prior to January 1, 2012, the costs of testing equipment at the higher weight standard would be voluntary, as domestic liferafts and inflatable buoyant apparatuses may be certified using either weight standard. Likewise, equipment manufactured under a current Certificate of Approval would only be required to be re-tested if the manufacturer elected to retain their current rated capacity for their equipment under the higher weight standard. However, manufacturers have the option to reduce the current rated capacities of their equipment to comply with the new weight standard, provided that the resulting capacity does not conflict with the minimum required capacity applicable to that equipment.

Prototype and production testing of all SOLAS liferafts approved under subpart 160.151 would be required using the higher 82.5 kg occupant weight standard. The Coast Guard has no evidence to suggest that testing at the higher weight standard would involve additional testing costs for

manufacturers because the nature of the test remains the same.

#### Benefits

The principal benefit of the proposed rule is the protection of life at sea by establishing capacity standards for inflatable liferafts and inflatable buoyant apparatuses reflecting a global increase in mariner weights. Additionally, the proposed rule ensures compliance with internationally applicable standards for SOLAS adopted by IMO where non-compliance would exclude the use of inflatable liferafts manufactured under part 160.151 aboard SOLAS vessels.

The Coast Guard urges interested parties to submit comments that specifically address the economic impacts of this supplemental rulemaking. Comments can be made as indicated in the **ADDRESSES** section.

#### B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard has considered whether this proposed 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 less than 50,000.

We have identified three U.S.-owned entities involved in the manufacture of SOLAS liferafts manufactured under subpart 160.151. All are business entities, and all are small entities. For these three small entities, the testing requirements using the new weight standard would apply to: prototypes (new designs) submitted after January 1, 2012; production testing of designs submitted after January 1, 2012; and for currently manufactured equipment that manufacturers wish to have certified at their current rated occupancy using the new weight standards (as opposed to certification with a lower occupant capacity based on the higher testing weight). For new prototypes and production of products approved after

January 1, 2012, the Coast Guard has no evidence to suggest that testing at the higher weight standard would involve additional costs for manufacturers. For manufacturers seeking certification of equipment currently approved under subpart 160.151 (SOLAS liferafts), testing to verify compliance with the rated capacity at the higher testing weight would be voluntary for those whose current rated capacity is above six. For manufacturers of these models, there would be the option of testing for certification at the new weight standard, or requesting a revised approval for a reduced capacity based on the results of previously submitted tests. For manufacturers seeking certification of equipment currently approved under subpart 160.151 whose rated capacity is six, re-testing at the higher occupant weight would be required in order to retain their SOLAS approval status since SOLAS inflatable liferafts must have a minimum rated capacity of at least six. For the three models of liferafts currently approved under subpart 160.151, the cost estimates for certification testing, obtained from industry sources, are approximately \$1,800 per liferaft for a total of \$5,400 (3 liferaft models × \$1,800 testing cost per model).

For manufacturers of equipment for domestic service only, we have identified three entities involved in the manufacture of domestic service liferafts and inflatable buoyant apparatus manufactured under subparts 160.051 and 160.010, respectively. All are business entities, and all are small entities. These entities would not be required to re-test equipment to retain Coast Guard approval, and could manufacture equipment under either weight standard with no affect to the rated capacities of their equipment.

Based on this information, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would 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 proposed 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 it qualifies and how and to what degree this proposed rule would 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), the Coast Guard wants to assist small

entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Kurt Heinz, Commercial Regulations and Standards Directorate, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–5214), Coast Guard, telephone 202–372–1395, or e-mail [Kurt.J.Heinz@uscg.mil](mailto:Kurt.J.Heinz@uscg.mil). The Coast Guard will not retaliate against small entities that question or complain about this proposed 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 proposed rule would call 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 it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

The U.S. Supreme Court has long recognized the field preemptive impact of the Federal regulatory regime for inspected vessels. *See, e.g., Kelly v. Washington ex rel Foss*, 302 U.S. 1 (1937) and the consolidated cases of *United States v. Locke and Intertanko v. Locke*, 529 U.S. 89, 113–116 (2000). Therefore, the Coast Guard's view is that regulations issued under the authority of 46 U.S.C. 3306 in the areas of design, construction, alteration, repair, operation, superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, accommodations for passengers and crew, sailing school instructors, sailing school students, lifesaving equipment and its use, firefighting equipment, its

use and precautionary measures to guard against fire, inspections and tests related to these areas and the use of vessel stores and other supplies of a dangerous nature have preemptive effect over State regulation in these fields, regardless of whether the Coast Guard has issued regulations on the subject or not, and regardless of the existence of conflict between the State and Coast Guard regulation.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, as these categories are within a field foreclosed from regulation by the States (see *U.S. v. Locke*, above), the Coast Guard recognizes the key role state and local governments may have in making regulatory determinations. Additionally, Sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard will provide elected officials of affected state and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process. Therefore, we invite affected state and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the docket using one of the methods specified under **ADDRESSES**. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document (1) the extent of the Coast Guard's consultation with State and local officials that submit comments to this proposed rule, (2) a summary of the nature of any concerns raised by state or local governments and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met.

#### 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. This proposed rule would not result in such an expenditure.

### G. Taking of Private Property

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

### H. Civil Justice Reform

This proposed 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

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### J. Indian Tribal Governments

This proposed 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

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Coast Guard has 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.

### L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) 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 proposed rule uses the following voluntary consensus standards:

- International Life-Saving Appliance Code, (IMO Resolution MSC.48(66)), as amended by IMO Resolutions MSC.207(81), MSC.218(82), MSC.272(85), and MSC.293(87);
- IMO Resolution MSC.81(70), Revised recommendation on testing of life-saving appliances, as amended by IMO Resolutions MSC.226(82), MSC.274(85), and MSC.295(87).

The proposed sections that reference these standards and the locations where these standards are available are listed in 46 CFR 160.151–5.

If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you disagree with our analysis and/or identify voluntary consensus standards the Coast Guard has not listed that might apply.

### 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 lifesaving equipment for Coast Guard approval that is required on vessels subject to 46 U.S.C. Subtitle II, Part B, and the Coast Guard has ensured this proposed rule satisfies the requirements of 46 U.S.C. 2118(a), as necessary.

### N. Environment

We have analyzed this proposed rule under Department of Homeland Security 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 do 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 proposed rule involves regulations which are editorial, regulations concerning equipping of vessels, and regulations concerning vessel operation safety standards. This proposed rule is categorically excluded under Section 2.B.2, Figure 2–1, paragraphs (34)(a) and (d) of the Instruction and under paragraph 6(a) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48243, 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 continues 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.

#### Subpart 160.151—Inflatable Liferrafts (SOLAS)

2. Amend § 160.151–5 by adding paragraphs (d)(5) and (d)(6) to read as follows:

#### § 160.151–5 Incorporation by reference.

\* \* \* \* \*

(d) \* \* \*  
(5) Resolution MSC.293(87), Adoption of Amendments to the International Life-Saving Appliance (LSA) Code, (May 21, 2010), IBR approved for §§ 160.151–7, 160.151–15, 160.151–17, 160.151–21, 160.151–29, and 160.151–33 ("Resolution MSC.293(87)").

(6) Resolution MSC.295(87), Adoption of Amendments to the Revised Recommendation on Testing of Life-Saving Appliances (Resolution MSC.81(70)), (May 21, 2010), IBR approved for §§ 160.151–21, 160.151–27, 160.151–29, 160.151–31, and 160.151–57 ("Resolution MSC.295(87)").

\* \* \* \* \*



**§ 160.151-7 [Amended]**

3. Amend § 160.151-7 by removing the words “IMO LSA Code” wherever they appear and adding, in their place, the words “IMO LSA Code, as amended by Resolution MSC.293(87),”.

**§ 160.151-15 [Amended]**

4. Amend § 160.151-15 by removing the words “IMO LSA Code” wherever they appear and adding, in their place, the words “IMO LSA Code, as amended by Resolution MSC.293(87),”.

**§ 160.151-17 [Amended]**

5. Amend § 160.151-17 by removing the words “IMO LSA Code” wherever they appear and adding, in their place, the words “IMO LSA Code, as amended by Resolution MSC.293(87),”.

**§ 160.151-21 [Amended]**

6. Amend § 160.151-21 as follows:  
a. Remove the words “IMO LSA Code” wherever they appear and add, in their place, the words “IMO LSA Code, as amended by Resolution MSC.293(87),”; and

b. In paragraph (f), remove the words “IMO Revised recommendation on testing” and add, in their place, the words “IMO Revised recommendation on testing, as amended by Resolution MSC.295(87),”.

**§ 160.151-27 [Amended]**

7. Amend § 160.151-27 by removing the words “IMO Revised recommendation on testing” wherever they appear and adding, in their place, the words “IMO Revised recommendation on testing, as amended by Resolution MSC.295(87),”.

**§ 160.151-29 [Amended]**

8. Amend § 160.151-29 as follows:  
a. In the introductory text, remove the words “IMO LSA Code” and add, in their place, the words “IMO LSA Code, as amended by Resolution MSC.293(87),”; and

b. In the introductory text, remove the words “IMO Revised recommendation on testing” and add, in their place, the words “IMO Revised recommendation on testing, as amended by Resolution MSC.295(87),”.

**§ 160.151-31 [Amended]**

9. Amend § 160.151-31 by removing the words “IMO Revised recommendation on testing” wherever they appear and adding, in their place, the words “IMO Revised recommendation on testing, as amended by Resolution MSC.295(87),”.

**§ 160.151-33 [Amended]**

10. Amend § 160.151-33 by removing the words “IMO LSA Code” wherever

they appear and adding, in their place, the words “IMO LSA Code, as amended by Resolution MSC.293(87),”.

**§ 160.151-57 [Amended]**

11. Amend § 160.151-57 by removing the words “IMO Revised recommendation on testing” wherever they appear and adding, in their place, the words “IMO Revised recommendation on testing, as amended by Resolution MSC.295(87),”.

Dated: September 22, 2011.

**J.G. Lantz,**

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

[FR Doc. 2011-25032 Filed 10-7-11; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

**[Docket No. FWS-R2-ES-2011-0081; MO92210-0-0008]**

**Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List *Amoreuxia gonzalezii*, *Astragalus hypoxylus*, and *Erigeron piscaticus* as Endangered or Threatened**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list *Amoreuxia gonzalezii* (Santa Rita yellowshow), *Astragalus hypoxylus* (Huachuca milk-vetch), and *Erigeron piscaticus* (Fish Creek fleabane) as endangered or threatened with critical habitat under the Endangered Species Act of 1973, as amended (Act). After review of the best scientific and commercial information available, we find that listing *Amoreuxia gonzalezii*, *Astragalus hypoxylus*, and *Erigeron piscaticus* is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to *Amoreuxia gonzalezii*, *Astragalus hypoxylus*, and *Erigeron piscaticus* or their habitats at any time.

**DATES:** The finding announced in this document was made on October 11, 2011.

**ADDRESSES:** This finding is available on the Internet at <http://www.regulations.gov> at Docket Number FWS-R2-ES-2011-0081. Supporting

documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours by contacting the U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone (602) 242-0210; facsimile (602) 242-2513. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at (800) 877-8339. Please submit any new information, comments, or questions concerning this finding to the above street address.

**FOR FURTHER INFORMATION CONTACT:** Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone (602) 242-0210; facsimile (602) 242-2513. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:****Background**

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Threatened and Endangered Wildlife and Plants that contain substantial scientific or commercial information indicating that listing a species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

**Previous Federal Actions**

*Amoreuxia gonzalezii*, *Astragalus hypoxylus*, and *Erigeron piscaticus* were formerly Category 2 candidate species, which are taxa for which information in our possession indicated that proposing to list was possibly appropriate, but for which persuasive data on biological