

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*.

Section 1.643(a)–8 also issued under 26 U.S.C. 643(a)(7). \* \* \*

**Par. 2.** Section 1.643(a)–8 is added to read as follows:

**§ 1.643(a)–8 Certain distributions by charitable remainder trusts.**

(a) *Purpose and scope.* This section is intended to prevent the avoidance of the purposes of the charitable remainder trust rules and should be interpreted in a manner consistent with this purpose. This section applies to all charitable remainder trusts described in section 664 and the beneficiaries of such trusts.

(b) *Deemed sale by trust.* (1) For purposes of section 664(b), a charitable remainder trust shall be treated as having sold, in the year for which a distribution of an annuity or unitrust amount from the trust is due, a pro rata portion of the trust assets to the extent that the distribution of the annuity or unitrust amount—

(i) Is not characterized in the hands of the recipient as income from the categories described in section 664(b)(1), (2), or (3), determined without regard to this paragraph (b); and

(ii) Was made from an amount received by the trust that was not—

(A) A return of basis in any asset sold by the trust, determined without regard to this paragraph (b); or

(B) Attributable to cash contributed to the trust with respect to which a deduction was allowable under section 170, 2055, 2106, or 2522.

(2) Any transaction that has the purpose or effect of circumventing the rules in this paragraph (b) shall be disregarded.

(3) For purposes of paragraph (b)(1) of this section, “trust assets” do not include cash or assets purchased with the proceeds of a trust borrowing, forward sale, or similar transaction.

(4) Proper adjustment shall be made to any gain or loss subsequently realized for gain or loss taken into account under paragraph (b)(1) of this section.

(c) *Examples.* The following examples illustrate the rules of paragraph (b) of this section:

*Example 1. Deemed sale by trust.* Donor contributes stock having a fair market value of \$2 million to a charitable remainder unitrust with a unitrust amount of 50 percent of the net fair market value of the trust assets and a two-year term. The stock has a total basis of \$400,000. In Year 1, the trust receives dividend income of \$20,000. As of the valuation date, the trust’s assets have a net fair market value of \$2,020,000 (\$2 million in stock, plus \$20,000 in cash). To obtain additional cash to pay the unitrust amount to the noncharitable beneficiary, the trustee borrows \$990,000 against the value of the stock. The trust then distributes \$1,010,000 to the beneficiary before the end of Year 1. Under section 664(b)(1), \$20,000 of the distribution is characterized in the hands of the beneficiary as dividend income. The rest of the distribution, \$990,000, is attributable to an amount received by the trust that did not represent either a return of basis in any asset sold by the trust (determined without regard to paragraph (b) of this section) or a cash contribution to the trust with respect to which a charitable deduction was allowable. Under paragraph (b)(3) of this section, the stock is a trust asset because it was not purchased with the proceeds of the borrowing. Therefore, in Year 1, under paragraph (b)(1) of this section, the trust is treated as having sold \$990,000 of stock and as having realized \$792,000 of capital gain (the trust’s basis in the shares deemed sold is \$198,000). Thus, in the hands of the beneficiary, \$792,000 of the distribution is characterized as capital gain under section 664(b)(2) and \$198,000 is characterized as a tax-free return of corpus under section 664(b)(4).

*Example 2. Adjustment to trust’s basis in assets deemed sold.* The facts are the same as in *Example 1*. During Year 2, the trust sells the stock for \$2,100,000. The trustee uses a portion of the proceeds of the sale to repay the outstanding loan, plus accrued interest. Under paragraph (b)(4) of this section, the trust’s basis in the stock is \$1,192,000 (\$400,000 plus the \$792,000 of gain recognized in Year 1). Therefore, the trust recognizes capital gain (as described in section 664(b)(2)) in Year 2 of \$908,000.

*Example 3. Distribution of cash contributions.* Upon the death of D, the proceeds of a life insurance policy on D’s life are payable to T, a charitable remainder annuity trust. The terms of the trust provide that, for a period of three years commencing upon D’s death, the trust shall pay an annuity amount equal to \$x annually to A, the child of D. After the expiration of such three-year period, the remainder interest in the trust is to be transferred to charity Z. In Year 1, the trust receives payment of the life insurance proceeds and pays the appropriate pro rata portion of the \$x annuity to A from the insurance proceeds. During Year 1, the trust has no income. Because the entire distribution is attributable to a cash contribution (the insurance proceeds) to the trust for which a charitable deduction was allowable under section 2055 with respect to

the present value of the remainder interest passing to charity, the trust will not be treated as selling a pro rata portion of the trust assets under paragraph (b)(1) of this section. Thus, the distribution is characterized in A’s hands as a tax-free return of corpus under section 664(b)(4).

(d) *Effective date.* This section is applicable to distributions made by a charitable remainder trust after October 18, 1999.

**Par. 3.** Section 1.664–1 is amended as follows:

1. Paragraph (d)(1)(iii) is redesignated as paragraph (d)(1)(iv).

2. New paragraph (d)(1)(iii) is added. The addition reads as follows:

**§ 1.664–1 Charitable remainder trusts.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(iii) *Application of section 643(a)(7).*

For application of the anti-abuse rule of section 643(a)(7) to distributions from charitable remainder trusts, see § 1.643(a)–8.

\* \* \* \* \*

**Charles O. Rossotti,**

*Commissioner of Internal Revenue.*

[FR Doc. 99–27376 Filed 10–18–99; 11:16 am]

BILLING CODE 4830–01–P

**DEPARTMENT OF TRANSPORTATION****Coast Guard****46 CFR Part 15**

[USCG–1999–6097]

RIN 2115–AF90

**Federal Pilotage for Foreign-Trade Vessels in Maryland**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to require that vessels engaged in foreign trade, under way on the navigable waterways within the State of Maryland, be under the direction and control of Federally-licensed pilots when not under the control and direction of State pilots. This measure is necessary to ensure that vessels are navigated by competent, qualified persons, knowledgeable in the local area and accountable to either the State or the Coast Guard. This measure would promote navigational safety by increasing the level of accountability and reducing the risk of marine casualties in the waters of Maryland.

**DATES:** Comments and related material must reach the Docket Management Facility on or before December 20, 1999.

**ADDRESSES:** To make sure your comments and related material do not enter the docket more than once, please submit them (referred to USCG 1999-6097) by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this proposed rule, contact Mr. Timothy Farley, Office of Investigations and Analysis (G-MOA), Coast Guard, 202-267-1414; e-mail [Tfarley@comdt.uscg.mil](mailto:Tfarley@comdt.uscg.mil), or Lieutenant Michael Dreier, Office of Standards, Evaluation and Development (G-MSR), phone 202-267-6490; e-mail [Mdreier@comdt.uscg.mil](mailto:Mdreier@comdt.uscg.mil). For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1999-6097), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the

address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or 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 they reached the Facility, please enclose a self-addressed, stamped postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now 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 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**.

**Background and Purpose**

Under 46 U.S.C. 8503(a) the Secretary of Transportation may require a Federally-licensed pilot to be aboard a self-propelled vessel engaged in foreign trade and operating on the navigable waters of the United States when State law does not require a pilot. 46 U.S.C. 8503(b) provides that Federal authority to require Federally-licensed pilots on vessels engaged in foreign trade terminates when the State having jurisdiction establishes a superseding requirement for a State pilot and notifies the Secretary (in practice, the Coast Guard) of that fact. 46 CFR part 15 requires Federal pilots to be aboard vessels engaged in foreign trade while operating on certain navigable waters within California, Hawaii, Massachusetts, New York and New Jersey, and North Carolina. (On October 27, 1998, we issued a final rule [63 FR 57252] that requires vessels engaged in foreign trade to have Federal pilots aboard when operating in specified waters in North Carolina.)

Commercial vessels transit the navigable waters of the State of Maryland carrying various types of freight, oil, and hazardous substances and materials, as well as large quantities of bunkers. Under Maryland law [General Statutes of Maryland, § 11-501], every foreign vessel and every domestic vessel sailing under register must use a State-licensed pilot, except that the vessel need not use a State-licensed pilot if it is under the control of a docking master while maneuvering with tug assistance during berthing or unberthing, or shifting within a port. Maryland does not license, establish

qualifications for, or regulate the competency of, these docking masters. Although all docking masters now operating in the Port of Baltimore already hold valid Federal pilots' licenses (or pilotage endorsements on Federal licenses), holding these is voluntary and is as yet neither a State nor a Federal requirement. Anyone may serve as docking master, and, by law, no one need demonstrate proficiency or competency to do so. This problem is similar to the one that prevailed in New York Harbor until the adoption in 1995 of 46 CFR 15.1030. Docking masters, many of whom held valid Federal pilots' licenses, provided pilotage. 46 U.S.C. 7703 establishes that a mariner's license is not subject to suspension or revocation unless the mariner is acting under it. (A docking master is acting under his or her Federal pilot's license when directing a tug assisting a ship. The problem has been that he or she may not be acting under it when directing the ship itself, either in the absence of a tug or without reliance on one.) Unless the docking master is operating under the authority of a Federal License (or pilotage endorsement), or the Coast Guard has some other basis for jurisdiction, the Coast Guard cannot suspend or revoke his or her Federal license. This rule would help ensure that a person providing pilotage is operating under the authority of either a valid State or Federal pilot's license, and so would ensure adequate accountability. It would add a new section to Subpart I of 46 CFR Part 15 to require that a foreign-trade vessel be under the direction and control of a Federally-licensed pilot when operating in designated waters of Baltimore Harbor from the Key Bridge to moor, except when under the direction and control of a State-licensed pilot operating under the authority of his or her State license.

We have determined that it is unsafe for certain vessels to undertake intra-port transits, or otherwise navigate in the waters of the State of Maryland, except when under the direction and control of pilots accountable to the State or the Coast Guard. Operating these vessels with docking masters who are either not licensed (or endorsed) as Federal or State pilots or not operating under the authority of pilots' licenses presents an unacceptable risk to human life, property, and the environment. Therefore, we have determined that requiring persons to serve under the authority of Federal first-class pilots' licenses (or endorsements), and so be accountable for their actions and

competency, would increase maritime safety.

Currently, to obtain a Federal first-class pilot's license (or endorsement), a person must pass a comprehensive examination, which includes performing a chart sketch of the area, demonstrating proficiency in the use of navigational aids, and maneuvering and handling ships in high winds, tides, and currents. Further, a person must complete a specific number of transits in the area and demonstrate specialized knowledge of the waters for which the Coast Guard issues the license (or endorsement). Therefore, we propose to require Federal pilots' licenses (or endorsements) for persons acting as docking masters on vessels engaged in foreign trade and operating in the navigable waters of the State of Maryland, unless these vessels are under the direction and control of State-licensed pilots operating under the authority of valid State pilots' licenses.

#### Discussion of Changes

This proposed rule would add a new section to 46 CFR part 15, subpart I, to require that every vessel engaged in foreign trade and operating in the navigable waters of Maryland be under the direction and control of a Federally-licensed pilot except when under the direction and control of a State-licensed pilot operating under the authority of a valid State license.

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040 (February 26, 1979)). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Foreign-trade vessels are normally under the direction and control of docking masters or State pilots when making intra-port transits or transits in congested waters. Although they need not, persons now serving as docking masters within the navigable waters of the State of Maryland do hold Federal pilots' licenses. Therefore, this rule would not impose any immediate costs on those persons. However, persons entering this profession in the future would have to hold Federal first-class

pilots' licenses. Historically, persons filling these vacancies have already obtained Federal first-class pilots' licenses and necessary endorsements in the normal course of advancement in their profession. Nevertheless, this rule would require an initial expense to obtain the license, in addition to a yearly physical and the five-year renewal fees. These costs should be insignificant as those persons currently acting as docking masters already hold, and those likely to enter this profession would already hold, the required license. This rule would promote responsibility and safety by requiring a Federal first-class pilot, where the State requires no pilot. We believe that the benefits of requiring licensed, qualified persons aboard these vessels significantly outweigh the small costs associated with implementing this rule.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 expect that this rule would have minimal economic impact on small entities. Vessels affected by this rule probably are not owned or operated by small entities. The pilots themselves do not qualify as small entities. However, State pilots' associations may qualify as small entities. We understand that those persons now providing pilotage to foreign-trade vessels calling at ports in Maryland already hold Federal first-class pilots' licenses (or endorsements) for those waters. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this 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 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 rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121),

we want 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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Timothy Farley, Office of Investigations and Analysis (G-MOA), Coast Guard, 202-267-1414; e-mail Tfarley@comdt.uscg.mil.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal rules 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).

#### 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].

#### Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Congress, under 46 U.S.C. 8503(a), specifically authorizes the Federal Government to require a Federally-licensed pilot where State law requires no licensed pilot. Maryland permits docking masters, not licensed by the State, to serve as pilots on certain waters within the State. Therefore, the Federal Government may require Federally-licensed pilots on those waters. The Federal authority to require that pilots hold Federal licenses is effective only until the State establishes a superseding requirement that pilots hold State licenses and notifies the Coast Guard of that fact according to 46 U.S.C. 8503(b).

Since this rule aims primarily at requiring Federal pilots to supplement State pilots, we do not believe that the preparation of a Federalism Assessment is warranted. This rule would not impinge upon existing State laws. The Federal statute itself lets Maryland preempt Federal authority. If Maryland adopted superseding legislation requiring foreign and domestic vessels, sailing on registry, to be under the direction and control of State-licensed

pilots, we would withdraw this rule. Still, we specifically seek public comment on the implications of this rule for Federalism.

### Unfunded Mandates Reform Act and Enhancing the Intergovernmental Partnership

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and E.O. 12875, Enhancing the Intergovernmental Partnership (58 FR 58093 (October 28, 1993)) govern the issuance of Federal rules that require unfunded mandates. An unfunded mandate is a rule that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

### Taking of Private Property

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

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(a), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. We have determined that most people now providing pilotage to foreign-trade vessels within the navigable waters of Maryland would continue to provide it since all pilots already hold Federal first-class pilots' licenses for these waters. Therefore, this rule would let affected vessels continue to operate according to current practices in the industry. We also recognize that this rule may minimize the risk of environmental harm that may result from collisions and grounding of

vessels. Nevertheless, this impact should not be significant enough to warrant further documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

### List of Subjects in 46 CFR Part 15

Crewmembers, Marine Safety, Navigation (water), Seamen, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 15 as follows:

### PART 15—MANNING REQUIREMENTS

1. The authority citation for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; 49 CFR 1.45 and 1.46.

2. Add § 15.1060 to read as follows:

#### § 15.1060 Maryland.

All U.S. navigable waters located within the State of Maryland when the vessel is making a transit within a port to include, but not limited to, a movement from a dock to a dock, from a dock to an anchorage, from an anchorage to a dock, or from an anchorage to an anchorage, and the vessel is not under the direction and control of a State-licensed Pilot operating under the authority of a valid State pilot's license.

Dated: October 12, 1999.

#### R.C. North,

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

[FR Doc. 99-27552 Filed 10-20-99; 8:45 am]

BILLING CODE 4910-15-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 99-2085; MM Docket No. 97-156; RM-9110]

#### Radio Broadcasting Services; Greenwood and Abbeville, SC

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal of.

**SUMMARY:** The Commission, at the request of Sutton Radiocasting Corporation, dismisses its petition proposing the substitution of Channel 244C3 for Channel 244A at Greenwood, the reallocation of Channel 244C3 from Greenwood to Abbeville, South Carolina, and the modification of Station WCRS-FM's license

accordingly. See 62 FR 38054, July 16, 1997. A showing of continuing interest is required before a channel can be allotted to a community. It is Commission policy, absent such an expression of interest, to refrain from allotting the channel. With this action, this proceeding is terminated.

#### FOR FURTHER INFORMATION CONTACT:

Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97-156, adopted September 29, 1999, and released October 8, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

#### John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-27525 Filed 10-20-99; 8:45 am]

BILLING CODE 6712-01-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA No. 99-2101; MM Docket No. 99-299, RM-9687]

#### Radio Broadcasting Services; Osceola & Sedalia, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by The Clair Group ("Clair"), licensee of Station KMFC(FM), Centralia, Missouri. Clair requests the substitution of Channel 262A for Channel 222A at Osceola, Missouri, and modification of the license for Station KCVJ to specify operation on Channel 262A and substitution of Channel 222A for Channel 221A at Sedalia, Missouri, and modification of the license for Station KSDL to specify operation on Channel 222A. The substitutions at Osceola and Sedalia will allow Station KMFC(FM), Centralia, to operate on six kilowatts.