

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: January 28, 2000.

**Michael J. Armstrong,**  
*Associate Director for Mitigation.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Parts 110 and 111

[USCG-1999-6096]

RIN 2115-AF89

#### Marine Shipboard Electrical Cable Standards

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its electrical engineering regulations for merchant vessels by adding alternate cable standards that are equivalent to the existing standards. Our intent is to revise requirements that create an unwarranted difference between domestic rules and international standards for marine cable.

**DATES:** Comments and related material must reach the Docket Management Facility on or before May 8, 2000.

**ADDRESSES:** To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-1999-6096), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand 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>.

You may inspect the material proposed for incorporation by reference at room 1300, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-0658. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** For questions on this proposed rule, call Ms. Dolores Mercier, Project Manager, Office of Design and Engineering Standards (G-MSE), Coast Guard, telephone 202-267-0658. 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-1999-6096), 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, hand 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 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 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. 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 a public meeting 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

Since the last revision of our electrical engineering regulations in 46 CFR chapter I, subchapter J, (62 FR 23894, May 1, 1997), we have received a number of letters concerning the construction requirements in 46 CFR 111.60-1 and 111.60-3 for cable used on merchant vessels. Sections 111.60-1 and 111.60-3 allow the use of cables meeting certain industry standards listed in those sections. The letters suggest that there are other cable standards beside those listed in the two sections that would provide a level of performance and safety equivalent to the listed standards. The Coast Guard reviewed these standards and found them to be equivalent. Therefore, the purpose for this notice of proposed rulemaking is to gather your comments on whether you agree that these standards do provide an equivalent level of performance and safety for cable used on merchant vessels. The Coast Guard completed equivalency determinations on UL 1309 (1995); IEC 92-350, 1988, amendment 1 (1994); and IEC 92-353 (1995-01). We believe that these standards offer an equivalent level of performance and safety to those standards already listed. These equivalency determinations have been placed in the public docket for the rulemaking.

In the text of the Transportation and Infrastructure Committee report accompanying HR 820, the committee stated that the Coast Guard should undertake a formal rulemaking process before deciding whether IEC 92-350, IEC 92-353, and UL 1309 are approved for use.

The Coast Guard encourages public comment on all aspects of this rulemaking initiative.

#### *Discussion of Proposed Rule*

The title and edition of the standards referred to in this discussion are found in proposed § 110.10-1(b) or in existing 46 CFR 110.10-1(b).

#### *Proposed § 111.60-1(a)*

This paragraph would be amended to allow the use of marine shipboard cable meeting UL 1309, IEC 92-350, or IEC 92-353, as well as cable meeting one of the standards presently listed.

#### *Proposed § 111.60-1(b)*

This paragraph would be amended to specify the flammability requirements for cable meeting IEC 92-350 or IEC 92-353.

*Proposed § 111.60–1(c)*

This paragraph would be amended to also allow the use of type T/N cable as listed in UL 1309.

*Proposed § 111.60–3(a)*

This paragraph would be amended to allow the use of marine shipboard cable meeting UL 1309, IEC 92–350, or IEC 92–353, as well as cable meeting one of the standards presently listed.

*Proposed § 111.60–3(b)*

This paragraph would be amended to also allow the use of type T/N cable as listed in UL 1309.

This rulemaking is intended to further reduce the regulatory burden on the industry, eliminate misinterpretation of the regulations by all affected parties, and bring the regulations in line with the current technology in the industry as well as with standards accepted by the international maritime community.

**Incorporation by Reference**

Material proposed for incorporation by reference appears in 46 CFR 110.10–1(b). 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 § 110.10–1(b).

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

**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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The proposed rule would provide a greater choice in the type of shipboard cables by allowing the use of cables made to standards other than those specified in the current regulations. This should increase the number of choices for vessel owners without increasing costs. In addition, it might benefit vessel owners by enhancing competition within the cable industry.

**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.

As discussed in the Regulatory Evaluation section of this preamble, there are no costs associated with it this proposed rule. Therefore, 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 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.

**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 Summary Impact Statement**

We have analyzed this proposed rule under Executive Order 13132, Federalism. This rule would amend the regulations on vessel design and construction. In particular, it would provide vessel owners with additional options in the choice of cable used on their vessels.

It is well settled that States are precluded from regulating in the categories of vessel design, construction, and equipment—categories that are reserved for regulation by the Coast Guard under 46 U.S.C. 3306 and 3703(a). See *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1978), which clearly evidences Congressional intent to preempt State law, because the exercise of State authority would conflict with the exercise of Federal authority under Federal statute. Also see *International Association of Independent Tank Vessel Owners (Intertanko) v. Locke*, 148 F.3d 1053 (9th Cir. 1998). Further, it is the position of the United States that all of the categories covered in 46 U.S.C. 3306 and 3703(a), 7101, and 8101 (e.g., design, construction, alteration, repair,

maintenance, operation, equipping, personnel qualification, and manning of vessels) are within the field foreclosed from State regulation. See the Brief for the United States at 26, *United States v. Locke; Intertanko v. Locke* (Nos. 98–1701 and 98–1706) (cert. granted 120 S. Ct. 133), available in LEXIS, Genfed Library, Briefs file. This entire rule falls into the field encompassed by 46 CFR 3306 and 3703(a), where, by operation of law, State regulation is precluded. For this reason, consultation under section 6 of the Executive Order would not be meaningful and, therefore, is unnecessary.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation 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, paragraphs (34)(d) and (e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule concerns the equipping of, and carriage requirements for, vessels. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

**List of Subjects****46 CFR Part 110**

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

**46 CFR Part 111**

Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 110 and 111 as follows:

**PART 110—GENERAL PROVISIONS**

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 110.01–2 also issued under 44 U.S.C. 3507.

2. In § 110.10–1(b), in the entries for “International Electrotechnical Commission” and “Underwriters Laboratories, Inc.,” revise the introductory text and add, in numerical order, new standards IEC 92–350, IEC 92–353, and UL 1309 to read as follows:

**§ 110.10–1 Incorporation by reference.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

*International Electrotechnical Commission (IEC), 3 Rue de Varembe, Geneva, Switzerland. (Also available from ANSI).*

IEC 92–350, Electrical Installations in Ships, Part 350: Low Voltage Shipboard Power Cables—General Construction and Test Requirements, 1988 amendment 1 (1994).	111.60–1
* * * * *	

IEC 92–353, Electrical Installations in Ships, Part 353: Single and Multicore Non-radial Field Power Cables with Extruded Solid Insulation for Rated Voltages 1kV and 3kV, 1995–01.	111.60–1; 111.60–3
* * * * *	

*Underwriters Laboratories, Inc. (UL), 12 Laboratory Drive, Research Triangle Park, NC 27709–3995.*

UL 1309, Standard for Marine Shipboard Cables, 1995.	111.60–1; 111.60–3
* * * * *	

**PART 111—ELECTRIC SYSTEMS—GENERAL REQUIREMENTS**

3. The authority citation for part 111 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; 49 CFR 1.46.

4. In § 111.60–1, revise paragraphs (a) and (b) and the introductory text of paragraph (c) to read as follows:

**§ 111.60–1 Cable construction and testing.**

(a) Each marine shipboard cable must meet all of the construction and

identification requirements of either IEEE Std 45, IEC 92–3, IEC 92–350, IEC 92–353, UL 1309, MIL–C–24640A, or MIL–C–24643A and the respective flammability test contained in them and be of a copper stranded type.

**Note to Paragraph (a):** MIL–C–915 cable is acceptable only for repairs and replacements in kind. MIL–C–915 cable is no longer acceptable for alterations, modifications, conversions, or new construction. (See § 110.01–3 of this chapter).

(b) Each cable constructed to IEC 92–3 or IEC 92–353 must meet the flammability requirements of IEC 332–3, Category A.

(c) Electrical cable that has a polyvinyl chloride insulation with a nylon jacket (Type T/N) must meet UL 1309 or, must meet the requirements for polyvinyl chloride insulated cable in section 18 of IEEE Std 45, except—

\* \* \* \* \*

5. In § 111.60–3, revise paragraphs (a) and (b) to read as follows:

**§ 111.60–3 Cable application.**

(a) Cable constructed in accordance with IEEE Std 45 must meet the cable application provisions of section 19 of IEEE Std 45. Cable constructed in accordance with IEC 92–3, IEC 92–353, or UL 1309 must meet the provisions of section 19 of IEEE Std 45, except 19.6.1, 19.6.4, and 19.8. Cable constructed in accordance with IEC 92–3 and IEC 92–353 must comply with the ampacity values of IEC 92–352, Table 1.

(b) Type T/N cables must meet section 19 of IEEE Std 45 for Type T insulation or the provisions listed in UL 1309.

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Dated: February 2, 2000.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00–2821 Filed 2–7–00; 8:45 am]

**BILLING CODE 4910–15–U**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 1**

[WT Docket No. 97–82; FCC 99–384]

**Communication Between Applicants in Commission Spectrum Auctions**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the regulation of the Federal Communications Commission (FCC) regarding communications between applicants in FCC spectrum auctions.

The Commission proposes to require any auction applicant that makes or receives a prohibited communication of bids or bidding strategies to report promptly such a communication to the Commission. The information reported to the FCC would facilitate the Commission's monitoring and investigation of unlawful activity during Commission spectrum auctions.

**DATES:** Comments are due on or before April 10, 2000. Reply comments are due on or before June 7, 2000. Written comments by the public on the proposed information collections are due April 10, 2000. The Office of Management and Budget (OMB) must submit written comments on the proposed information collection(s) on or before April 10, 2000.

**ADDRESSES:** An original and four copies of each filing must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, TW–A306, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. If you want each Commissioner to receive a copy of your comments, you must file an original plus eleven copies. Alternatively, comments and reply comments may be filed with the FCC using the Commission's Electronic Comment Filing System (“ECFS”), via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998).

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to <[jboley@fcc.gov](mailto:jboley@fcc.gov)>, and to Virginia Huth, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, DC 20503 or via the Internet to <[vhuth@omb.eop.gov](mailto:vhuth@omb.eop.gov)>.

**FOR FURTHER INFORMATION CONTACT:**

Richard Arsenault, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 418–0920, or via the Internet at <[rarsenau@fcc.gov](mailto:rarsenau@fcc.gov)>. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at <[jboley@fcc.gov](mailto:jboley@fcc.gov)>.

**SUPPLEMENTARY INFORMATION:** 1. In the subject Notice of Proposed Rulemaking (NPRM), the FCC proposes to amend its regulation, 47 CFR 1.2105(c)(1), regarding communications between applicants in FCC spectrum auctions. The Commission proposes to amend