

significantly or uniquely impacted by the rule.

EPA believes, as discussed above, that the proposed finding of failure to attain is a factual determination based upon air quality considerations and that the resulting reclassification of the area must occur by operation of law. Thus, the finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

F. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism, and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This finding of failure to attain and reclassification of nonattainment area will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because these actions do not, in-and-of-themselves, impose any new requirements on any sectors of the economy, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of

section 6 of the Executive Order do not apply to these actions.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are not relevant to this action because today's action does not involve the application of new technical standards.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Dated: November 6, 2000.

Charles E. Findley,

Acting Regional Administrator, Region 10.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 205

[Docket No. MARAD-2000-8284]

RIN 2133-AB42

Audit Appeals; Policy and Procedure

AGENCY: Maritime Administration, Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is proposing to update Part 205—Audit Appeals; Policy and Procedure. Part 205 establishes appeal procedures for parties who contract with the Maritime Subsidy Board or MARAD. We propose to: Update these audit procedures to reflect current MARAD practices; and rewrite the regulations in plain language. The intended effect of this rulemaking is to improve our audit appeals process by updating and clarifying part 205.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than January 16, 2001.

ADDRESSES: Your comments should refer to docket number [MARAD 2000-

8284]. You may submit your comments in writing to: Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 7th St., SW, Washington, DC 20590. You may also submit them electronically via the internet at <http://dmses.dot.gov/submit/>. You may call Docket Management at (202) 366-9324 and visit the Docket Room from 10 a.m. to 5 p.m., EST., Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Fred A. Slaugh, Office of Financial Approvals and Rates, (202) 366-5866. You may send mail to Mr. Slaugh at Maritime Administration, Office of Financial and Rate Approvals, Room 8117, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. We encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

How Can I be Sure That my Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Docket Management will return the postcard by mail.

How do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, Maritime Administration, at the address given above under **FOR FURTHER INFORMATION CONTACT**. You should mark "CONFIDENTIAL" on each page of the original document that you would like to keep confidential. In addition, you should submit two copies, from which you have deleted the

claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send comments containing information claimed to be confidential business information, you should include a cover letter setting forth with specificity the basis for any such claim.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket Room are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps: Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>). On that page, click on "search." On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. The docket number for this document is [xxxx]. After typing the docket number, click on "search." On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Background

Part 205—Audit Appeals; Policy and Procedure establishes the policy and procedure for parties to use when seeking redress and appeals of decisions involving contracts with the Maritime Subsidy Board or MARAD. Part 205 applies to all MARAD contracts including the Operating-Differential Subsidy, Construction-Differential Subsidy, Capital Construction Fund, Construction Reserve Fund, and Maritime Security Program.

According to the policy in part 205, any contractor who disagrees with audit findings or decisions of MARAD and who does not reach a negotiation with

the appropriate Coast Director's office may appeal. Any contractor who appeals must do so in writing to the Maritime Administrator within six (6) months following the date of the document notifying the contractor of the audit findings. MARAD will then notify the appellant in writing if a hearing or additional facts are necessary. After the Maritime Administrator renders a decision, MARAD will notify the appellant in writing. When a contract contains a disputes article, the disputes article will govern the bases for dispute and any appeals.

We are proposing revisions to part 205 that reflect our current practices of making audit appeals decisions. Appellants no longer appeal to the appropriate Coast Director's office. In the past, auditors were assigned to regional offices. However, we no longer have these auditors. MARAD headquarters is responsible for overseeing audits as deemed appropriate. Such audits may be performed by the Office of Inspector General.

Plain Language

Executive Order 12866 and the President's memorandum on plain language in government writing of June 1, 1998, require each agency to write all rules in plain language. The Department of Transportation and MARAD are committed to plain language in government writing; therefore, we propose to revise part 205 using plain language to provide easier understanding. Our goal is to improve the clarity of the regulation. We invite your comments on how to make this proposed rule easier to understand.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have reviewed this notice of proposed rulemaking (NPRM) under Executive Order 12866 and have determined that this is not a significant regulatory action. Additionally, this NPRM is not likely to result in an annual effect on the economy of \$100 million or more. The purpose of this NPRM is to propose updates to MARAD's audit procedures to reflect current MARAD practices and to rewrite the regulations in plain language.

This NPRM is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The costs and benefits associated with this rulemaking are considered to be so minimal that no further analysis is necessary. Because

the economic impact, if any, should be minimal, further regulatory evaluation is not necessary.

Regulatory Flexibility Act

This NPRM will not have a significant economic impact on a substantial number of small entities. This NPRM only updates procedures for appealing audit findings and decisions to the Maritime Administrator. Although the number of small entities who appeal audit findings may be substantial, the cost of filing an audit appeal with MARAD is minimal, if any. Therefore, I certify that this NPRM will not have a significant economic impact on a substantial number of small entities.

Federalism

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

Environmental Impact Statement

We have analyzed this NPRM for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order ("MAO") 600-1, "Procedures for Considering Environmental Impacts," 50 FR 11606 (March 22, 1985), the preparation of an Environmental Impact Statement, or a Finding of No Significant Impact for this NPRM is not required. This NPRM involves administrative and procedural regulations that have no environmental impact.

Executive Order 13084

MARAD does not believe that this NPRM will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Unfunded Mandates Reform Act of 1995

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

Paperwork Reduction Act

This NPRM does not contain information collection requirements covered by 5 CFR Part 1320 (specifically 5 CFR 1320.3(c)) in that appellants choose the information to be provided in their appeal and may choose to interpret the collection of information differently.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number is contained in the heading of this document to cross-reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 205

Administrative practice and procedure, Government contracts.

Accordingly, 46 CFR part 205 is proposed to be revised to read as follows:

PART 205—AUDIT APPEALS; POLICY AND PROCEDURE

Sec.

205.1 Purpose.

205.2 Policy.

205.3 Procedure.

205.4 Finality of decisions.

205.5 Contracts containing disputes article.

Authority: Sec. 204, 49 Stat. 1987, 1998, 2004, 2011; 46 U.S.C. 1114, 1155, 1176, 1212.

§ 205.1 Purpose.

This part establishes the policy and procedure for parties to use when seeking redress and appeals of decisions involving contracts with the Maritime Subsidy Board or The Maritime Administration (MARAD, we, our, or us). A party to a contract (you or your) may appeal MARAD's findings, interpretations, or decisions of annual or special audits.

§ 205.2 Policy.

If you disagree with audit findings and fail to settle any differences with the appropriate Office Director, you may ask the appropriate office Associate Administrator to review the audit findings. If you disagree with the Associate Administrator, you may appeal to the Maritime Administrator (Administrator).

§ 205.3 Procedure.

(a) You must submit your appeal in writing to the Administrator within 6 months following the date of the document notifying you of the audit findings, interpretations, or decisions. However, the Administrator may, at his

discretion, extend this time limitation in the case of extenuating circumstances.

(b) We will notify you, in writing, if you must submit additional facts for our consideration of the appeal. We will notify you, in writing, once the Maritime Administrator has made a decision regarding your appeal.

§ 205.4 Finality of decisions.

The Administrator's decision will be final on all questions of fact involved in the appeal, unless:

(a) Otherwise determined by the Secretary of Transportation pursuant to 49 CFR 1.43(a); or

(b) A court of competent jurisdiction determines the findings to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

§ 205.5 Contracts containing disputes article.

When a contract contains a disputes article, the disputes article will govern the bases for negotiating disputes regarding audit findings, interpretations, or decisions made by MARAD and any appeals.

By Order of the Maritime Administrator.

Dated: November 13, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

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