

Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 18, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG-2005-22732]

Domestic Vessel Passenger Weights-Voluntary Interim Measures

AGENCY: Coast Guard, DHS.

ACTION: Notice; request for public comments.

SUMMARY: The Coast Guard announces voluntary interim measures for certain domestic vessels to account for increased passenger and vessel weight when determining the number of passengers permitted. The Coast Guard also requests public comments on the interim measures.

DATES: Comments and related material must reach the Docket Management Facility on or before May 26, 2006.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2005-22732 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web Site: <http://dms.dot.gov>.

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

(3) Fax: 202-493-2251.

(4) Delivery: 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Mr. William Peters, Naval Architecture Division, G-PSE-2, Coast Guard, telephone 202-267-2988. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

SUPPLEMENTARY INFORMATION:

Request for Comments

All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice (USCG-2005-22732) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments 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 that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Viewing comments and documents: To view comments, go to <http://dms.dot.gov> at any time, click on "Simple Search," enter the last five digits of the docket number for this rulemaking, and click on "Search." You may also visit the Docket Management Facility in 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.

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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Background and Purpose

Increased Passenger Weight

The total number of persons permitted on a small passenger vessel (inspected and certificated under 46 CFR Subchapters T & K) is limited by a number of different design factors, one of which is stability. Stability characteristics and limitations, including any restrictions on the number of passengers permitted, are provided to the vessel operator most often in a stability letter or a Coast Guard Certificate of Inspection (COI).

The Coast Guard typically evaluates a vessel's stability through rigorous engineering calculations (46 CFR parts 170 and 171 (Subchapter S) stability requirements) or, for vessels not more than 65 feet in length and pontoon vessels, operated in a protected environment, through a performance test conducted by Officers in Charge, Marine Inspection (OCMIs) (46 CFR part 178). This test is either a simplified stability proof test (SST) or a pontoon simplified stability proof test (PSST).

In all cases, an average weight per person is assumed to estimate the anticipated vessel loading (the total weight in the SST and PSST) and its impact on stability. Currently, Coast Guard regulations governing SSTs and PSSTs use an average weight per person of 160 pounds, except that an average weight per person of 140 pounds is used if the vessel operates exclusively on protected waters and the passenger load consists of men, women, and children. These weights were established in the 1960s. A Centers for Disease Control and Prevention (CDC) report issued in October 2004 concluded that, in the United States, the "average weight has increased dramatically in the last 40 years with the greatest increase seen in adults." The increase in passenger and crew weight has an adverse effect on the stability of passenger vessels due to several factors, including increased vertical center of gravity, reduced freeboard, and increased passenger heeling moment.

On March 6, 2004, the small passenger pontoon vessel *Lady D*, carrying 25 persons, capsized in high winds in Baltimore harbor while a small craft warning was in effect. Five persons died and four others suffered serious injuries. Both the Coast Guard and the National Transportation Safety Board (NTSB) launched investigations into the cause of the accident.

On December 20, 2004, the NTSB issued Safety Recommendation M-04-04, which stated that the current 140 pound per person weight allowance for operations on protected waters does not reflect actual loading conditions. The NTSB recommended that the Coast Guard revise its guidance to OCMIs for determining the maximum passenger capacity of small passenger pontoon vessels either by: (1) Dividing the vessel's simplified stability proof test weight by 174 pounds per person, or; (2) restricting at the time of loading the actual cumulative weight of passengers and crew to the vessel's total test weight.

In correspondence to the NTSB dated April 7, 2005, the Coast Guard concurred that the average weight per

person used in SSTs and PSSTs needed to be updated, and noted that an internal Coast Guard study initiated shortly after the *Lady D* incident identified the same issue. The Coast Guard also pointed out that implementation of the needed changes would be more complex than the NTSB recommendation entailed, and that the Coast Guard had chartered a working group to assess the potential impacts of regulatory changes to a higher passenger weight. The assessment of the working group is available in the docket.

In a letter dated July 26, 2005, the NTSB acknowledged the Coast Guard initiated action to revise the passenger weight standard, and classified the Coast Guard's response to Safety Recommendation M-04-04 as acceptable. In order to gather the information and perform the analyses required by law before issuing regulations, the Coast Guard contracted in September 2005 with BMT Designers and Planners to conduct an engineering analysis of the impact of increasing average passenger weight, assess alternative implementation strategies, and conduct an in-depth cost-benefit analysis.

On October 2, 2005, the New York State certified monohull passenger vessel *Ethan Allen* (whose Coast Guard COI expired in 1981, and was not required to be inspected by the Coast Guard), carrying 49 passengers, capsized on Lake George and sank, killing 20 people. The NTSB has indicated that overloading due to increased passenger weight was a potential contributing cause of the accident, but has not yet issued its report.

The Coast Guard is committed to a high priority rulemaking to develop new regulations and interim measures to address increased passenger weight problems, and has established a regulatory team. A notice describing the consultant's ongoing study and the Coast Guard's approach to revising the passenger weight standard was published in the **Federal Register** on October 27, 2005 (70 FR 61987).

On March 7, 2006, the NTSB held a meeting to consider its report on the capsizing of the *Lady D*. In the report's synopsis, the NTSB concluded that the use of an obsolete average weight standard for persons on small passenger vessels caused the *Lady D* to be more susceptible to capsizing on the day of the accident. The combined effects of the excessive load carried and the wind and wave conditions experienced at the time of the accident caused the capsizing, according to the synopsis. In addition to recommendations based on the conclusions summarized above, the

NTSB recommended that the Coast Guard identify a method for determining the maximum safe load condition of a small passenger vessel at the time of loading.

Reasonable Operating Conditions

Coast Guard OCMI's have the authority to impose restrictions on the operating condition of any small passenger vessel in their zones of responsibility. For those vessels which are designed for operation only on protected waters and mild conditions, which include pontoon vessels, the COI usually includes a restriction limiting the vessel's operation to "reasonable operating conditions."

Pontoon Vessels

Pontoon vessels, originally developed for use as recreational boats on small lakes and rivers, over time came to be used as small passenger vessels. Prior to 1996, the Coast Guard published guidance on pontoon vessel stability in its Marine Safety Manual (MSM) <http://www.uscg.mil/hq/g-m/nmc/pubs/msm/>, but there were no Coast Guard regulations specifically for pontoon vessels. The MSM guidance dealt only with vessel heeling due to passenger movement and did so conservatively, but did not include a wind component because passenger pontoon vessels were designed to operate on restricted routes where mild conditions prevail.

Because of the growth in the number of pontoon vessels, the MSM stability guidance was replaced with regulations in CFR Title 46, Subchapter T, in 1996. Those regulations also do not include a wind component because of the reasons outlined above. In contrast, the stability regulations for all other small passenger vessels specify a minimum wind component and a passenger heeling component because those vessels are permitted to operate with fewer restrictions, and are designed to operate in limited wind and wave environments.

Immediate Corrective Actions for Pontoon Vessels

To assess the need for immediate action to protect the safety of passengers and crew on pontoon vessels, a Coast Guard working group, established in March 2004, examined the stability requirements for that vessel category. The group recommended that information be provided to OCMI's around the country to ensure that stability tests and standards were being appropriately and consistently implemented for pontoon vessels. Coast Guard G-MOC Policy Letter 04-10 entitled "Evaluation of Stability &

Subdivision Requirements for Small Passenger Vessels Inspected Under 46 CFR Subchapter T" resulted from the group's efforts. In those instances where the Coast Guard determined that stability standards had been incorrectly applied, it took immediate corrective action.

Analysis of Passenger Weights

One of the two alternatives suggested by the NTSB in Recommendation M-04-04 for determining the maximum number of occupants of small passenger pontoon vessels was to use the per-person weight allowance for a present-day average adult. NTSB recommended use of the per-person weight allowance stipulated in Federal Aviation Administration (FAA) Advisory Circular 120-27D which, for large aircraft, is 174 pounds per person without an allowance for personal effects or carry-on luggage. New Recommendation 1 in the NTSB's March 7, 2006 synopsis of its report on the *Lady D* incident suggests that passenger capacity for domestic passenger vessels be calculated based on a statistically representative average passenger weight standard that is periodically updated.

The CDC National Health and Nutrition Examination Survey (NHANES) program is a widely accepted and authoritative source for weight data on the U.S. population. The 2004 CDC NHANES report on surveys conducted in the United States between 1960 and 2002 stated that "on average, both men and women gained more than 24 pounds between the 1960s and 2002." (See *CDC Advance Data*, Number 347, dated October 27, 2004.) For a 50/50 male/female mix and for adults between 20 and 74 years old, an average weight of 177.7 pounds without clothing is calculated from the data published in the NHANES report. According to this report, the mean weight of children of all ages also increased substantially between 1963 and 2002. Teenage boys and girls aged 12-17 increased 15 and 12 pounds, respectively, to mean weights of 141 and 130 pounds, respectively, between the 1960s and 2002.

Additionally, a 2003 New Zealand Civil Aviation Authority survey of passenger weights reported an average weight without carry-on bags or personal effects of 176.8 pounds. Transport Canada, Canada's federal transportation agency, recommends assuming an average weight of 182.5 pounds per person in summer and 188.5 pounds in winter for small aircraft. Transport Canada's weights included an allowance for clothing but not luggage.

An average weight of approximately 185 pounds is obtained when the most current CDC average weight of 177.7 pounds is added to the FAA average clothing weight of 7.5 pounds. (See FAA Advisory Circular 120-27E, paragraph 201, dated June 10, 2005 (superseding FAA AC 120-27D).) Approximately the same weight is obtained when the CDC average adult weight gain of 24 pounds is added to the 160-pound average established in the 1960s. The accuracy of this result is further confirmed by the weights recommended by government authorities in Canada and New Zealand.

The Coast Guard considered a report by the Coast Guard Passenger Weight Working Group, mentioned above. The report, dated May 19, 2005, used an average passenger weight of 190 pounds to assess the potential impacts of regulatory changes. This average passenger weight was based on the FAA's use in AC 120-27D of an average winter passenger weight of 189 pounds, not including carry-on bags and was noted in the report to be conservative. The current FAA Circular, AC 120-27E, also uses an average winter passenger weight of 189 pounds without carry-on bags, and includes allowances of 10 pounds each for clothing and personal items. (See AC 120-27E, paragraphs 201 and 205, and Tables 2-1 and 2-2.)

The FAA arrived at the standard average passenger weights used in AC 120-27E after performing certain mathematical calculations using the CDC's NHANES data rather than rely on the average weights published by the CDC in *Advance Data* Number 347. (See AC 120-27E, Appendix 2). Based upon the Coast Guard's evaluations of all available weight studies, though, the 185 pound average appears at this time to be the most accurate and appropriate average weight for evaluating the stability of small passenger vessels.

For these reasons, the Coast Guard recommends that, for the purposes of this notice, the assumed weight per person should be 185 pounds for a mix of men and women.

Increased Vessel Weight

Independent of our review of increased passenger weight, the Coast Guard identified vessel weight growth, particularly on pontoon vessels, as a significant factor impacting stability. A vessel must be kept in the same physical condition as when its stability letter was issued in order to remain in compliance with Federal regulations. Vessel operators are required to receive OCMi approval on all vessel alterations for this reason. If a vessel becomes heavier and the operating load of passengers is not similarly reduced, the possibility exists

that operation beyond the vessel's regulatory stability limits will occur. This situation was discovered on some pontoon vessels and, after OCMIs required updated PSSTs, the total persons permitted to be carried had to be reduced between 22 to 43 percent.

Overall, this degree of reduction probably stems from both unrecorded alterations and differences in vessel weight related to inconsistencies and variances in construction, design, outfit, and potential absorption of water by porous vessel materials such as wood or foam. Pontoon vessels are particularly sensitive to weight growth due to their typical round hull geometry. However, weight growth is an important factor to monitor on all passenger vessels. The Coast Guard has already directed the re-evaluation of most pontoon vessels and is considering methods for better tracking of vessel weight.

Advisory and Regulatory Actions

The Coast Guard is currently engaged in a rulemaking that will thoroughly assess the potential consequences of revising stability regulations for all domestic passenger vessels to account for increased passenger and vessel weight. These changes are estimated to affect as many as 7,000 vessels operating nationwide. While the Coast Guard places paramount importance on the safety of passengers and crew, the Coast Guard is required by law to assess the likely effects of such a far-reaching change, including the economic implications for the passenger vessel industry.

Because of the length of the regulatory change process, much of which is mandated by law, and the need for timely action to ensure public safety, the Coast Guard is also committed to institute interim measures to address those vessels at highest risk of stability hazard from increased passenger weight, including small passenger pontoon vessels. The approach of the 2006 summer season makes the need to account for increased passenger weight all the more urgent.

For these reasons, the Coast Guard, through publication of this notice, is advising owners and operators of small passenger vessels of potentially unsafe conditions, including increases in passenger and vessel weight, and voluntary interim measures which may be used to address these conditions and to safeguard the public.

Voluntary Measures for Prudent Operation

The 140 and 160 pound average weights may not reflect actual loading conditions. In addition, some small

passenger vessels may have experienced weight growth since their stability was evaluated. Consequently, the total number of persons permitted to be carried, as stated in the COI, might exceed the anticipated vessel loading of many vessels.

The Coast Guard has, therefore, determined that it would be prudent for owners and operators of all small passenger vessels for which passenger weight is a limiting stability factor to voluntarily re-evaluate the passenger capacity for their vessels. In addition, the Coast Guard expects prudent operators to conscientiously monitor the wind and wave conditions. This notice serves to assist owners and operators of these vessels in complying with the operating requirements of 46 CFR 185.304 or 46 CFR 122.304 and the standards of competence and conduct detailed in 46 CFR part 5.

To assist the prudent owner and operator, the Coast Guard recommends the following:

Vessels Evaluated Using the SST or PSST

Owners and operators of all pontoon vessels, and small passenger vessels not more than 65 feet in length, that met simplified stability requirements using either 140 or 160 pounds, should voluntarily restrict the maximum number of passengers permitted on board by:

- (1) Changing your passenger capacity to a reduced number by dividing the total test weight by 185 pounds; or
- (2) Changing your passenger capacity to a reduced number equal to 140 divided by 185 times the current number of passengers permitted to be carried. If the total test weight was based on 160 pounds per person, the multiplier may be taken as 160 divided by 185; or
- (3) Weighing persons and effects at dockside prior to boarding and limiting the actual load to the total test weight used in the vessel's SST or PSST.

Vessels Whose Stability Has Been Evaluated According to Subchapter S

Owners and operators of small passenger vessels should voluntarily review their stability guidance and ensure that excessive passenger weight is not carried or that an increased average passenger weight of 185 pounds will not reduce stability below Subchapter S requirements.

All Small Passenger Vessels

Owners and operators of all small passenger vessels should:

- (1) For passenger vessels certificated for operation only on protected waters,

voluntarily operate only in "reasonable operating conditions," which, do not include the conditions listed below:

- A small craft advisory is in effect;
- Wind gusts over 30 knots (35 mph);
- Waves over two feet; or
- Sustained winds over 18 knots (21 mph).

(2) Notify the OCMI if any significant structural or equipment changes have been made to the vessel since the stability was evaluated by the owner or operator and approved by the Coast Guard. The OCMI will determine whether to adjust the passenger load accordingly or require a new stability test.

Owners and operators may consider voluntarily re-evaluating the vessel's stability, which may include the performance of a new SST or PSST or a new evaluation according to 46 CFR subchapter S using an assumed weight per person of 185 pounds.

In general, these voluntary interim guidelines reflect NTSB's recommendations dated March 7, 2006, with one exception. The NTSB recommended the use of a method such as a load mark on the hull to determine the maximum safe load condition. The Coast Guard is evaluating these loading marks to determine if they are adequate to accurately assess whether or not the total test weight is exceeded, which could create an overload condition. Additionally, the Coast Guard will consider including a method of periodically updating the average passenger weight as part of the upcoming rule.

The Coast Guard will perform outreach to owners and operators of all such vessels as soon as possible to advise them of this notice. Vessel owners and licensed operators are encouraged to comply with these guidelines until new regulations are promulgated. Local OCMI's are always available for assistance if the need arises.

Upcoming Rule

The Coast Guard is in the process of preparing a rule that would amend its regulations to address the stability issues caused by increases in passenger and vessel weight. This rule would apply to the same group of small vessels covered by the voluntary procedures described above, as well as all pontoon vessels. The Coast Guard tentatively intends that the rule's provisions be, for the most part, similar to those of the voluntary procedures above. The rule may also include provisions explicitly providing for prioritizing stability evaluations among categories of vessels,

including the performance of new SSTs or PSSTs.

Dated: April 20, 2006.

Thomas H. Gilmour,
Rear Admiral, Assistant Commandant for Prevention.

[FR Doc. 06-3926 Filed 4-25-06; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4837-D-59]

Amendment, Consolidated Delegation of Authority for the Office of Community Planning and Development

AGENCY: Office of the Secretary, HUD.

ACTION: Amendment to Consolidated Delegation of Authority for the Office of Community Planning and Development.

SUMMARY: This notice amends the existing Consolidated Delegation of Authority for Community Planning and Development to add the Renewal Communities, urban Empowerment Zones, and urban Enterprise Communities (RC/EZ/EC) Initiative and Technical Assistance Awards to the list of programs delegated to the Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development. This amendment also authorizes the General Deputy Assistant Secretary to further redelegate any of the authority delegated under the Consolidated Delegation of Authority, as amended.

DATES: *Effective Date:* March 27, 2006.

FOR FURTHER INFORMATION CONTACT:

Karen Daly, Director of Policy Development and Coordination, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7240, Washington, DC 20410-7000, (202) 708-1817. This is not a toll-free number. For those needing assistance, this number may be accessed via TTY by calling the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: On September 16, 2003 (68 FR 54238), the Department published a Consolidated Delegation of Authority for Community Planning and Development programs. This notice amends the existing Consolidated Delegation of Authority for Community Planning and Development by adding the Renewal Communities, urban Empowerment Zones, and urban Enterprise Communities (RC/EZ/EC) Initiative and

Technical Assistance Awards to the list of programs delegated to the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development. The Consolidated Delegation authorized the Assistant Secretary to further redelegate any authority included therein, excluding those authorities expressly excepted. This amendment similarly authorizes the General Deputy Assistant Secretary to further redelegate any delegated authority, excluding those expressly excepted. This notice also clarifies the authority excepted from the Consolidated Delegation and updates the list of prior delegations of authority superseded by the Consolidated Delegation. Accordingly, the Secretary amends the Consolidated Delegation of Authority for CPD programs at 68 FR 54238 (September 16, 2003), as follows:

Section A. Amendment to Consolidated Delegation of Authority

At Section A of 68 FR 54238-9 (September 16, 2003), under the heading entitled "Authority":

1. Paragraph 6 is amended to read as follows:

6. The Renewal Communities, urban Empowerment Zones, and urban Enterprise Communities (RC/EZ/EC) Initiative as authorized under title 26, subtitle A, chapter 1, subchapter U of the Internal Revenue Code, as amended, 26 U.S.C. 1391 *et seq.* with respect to urban Empowerment Zones and urban Enterprise Communities and title 26, subtitle A, chapter 1, subchapter X of the Internal Revenue Code, as amended, 26 U.S.C. 1400E *et seq.* with respect to Renewal Communities; and grants for urban Empowerment Zones as provided for in annual HUD appropriations acts (e.g., Consolidated Appropriations Resolution, Fiscal Year 2003, Pub. L. 108-7, 117 Stat. 11, approved February 20, 2003).

2. After paragraph 19(f), a new paragraph is added to the list of programs under which authority is delegated as follows:

20. Technical Assistance Awards as authorized under Section 107(b)(4) of the Housing and Community Development Act of 1974, 42 U.S.C. 5307; Sections 233 and 242 of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 12773 and 12781-83; Section 423 of the Stuart B. McKinney Homeless Assistance Act, 42 U.S.C. 11383 *et seq.*; Title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992, 42 U.S.C. 12899 *et seq.*; and as provided for in annual HUD appropriations acts (e.g., Consolidated