

reasons stated, the Coast Guard agreed to the relief sought in the lawsuit and temporarily restored the rates that were effective in Area 5 before August 13, 2001. The Coast Guard believes that this measure was in the best interest of the public, and mitigated the effects, if any, of the Coast Guard's disparate treatment of the pilots in District Two, when accounting for hours of delay and detention. These reasons remain just as valid today as they were when the temporary final rule was first published. The Coast Guard sees no benefit to restoring the 2001 rates in Area 5. Therefore, the Coast Guard finds under 5 U.S.C. 553(b)(B) and (d)(3), respectively, that neither notice-and-comment rulemaking nor 30 days' notice of effective date is required.

After the Coast Guard took this action, the District Court issued its ruling in the Lake Pilots Association lawsuit granting partial summary judgment for each side. The Court's decision was made considering a number of factors, including the Coast Guard's action with regard to the pilotage rates in Area 5. The Lake Pilots Association has appealed the District Court decision. Maintaining the current rates in Area 5 while the appeal is pending will facilitate the appellate process.

In addition, the Coast Guard has proposed new pilotage rates for all three Districts, including Area 5 of District Two. Maintaining the current Area 5 rates while that ratemaking project is completed will enable the Coast Guard to devote its scarce resources to establishing new rates for all areas, rather than engaging in a separate rulemaking just for Area 5. We will therefore continue to devote our energy to promulgating an interim rule and/or final rule updating the pilotage rates on the Great Lakes rather than start a separate rulemaking for Area 5.

#### **Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Assessment under the regulatory policies and procedures of the DHS is unnecessary; however, a Regulatory Assessment has been

prepared and may be viewed in the docket for this project.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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. This rule was not preceded by an NPRM and therefore is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

#### **Assistance for Small Entities**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### **Collection of Information**

This temporary final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

#### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions

that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, the effects of this rule are discussed elsewhere in this preamble.

#### **Taking of Private Property**

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

#### **Civil Justice Reform**

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

#### **Protection of Children**

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

#### **Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** [66 FR 36361 (July 11, 2001)] requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### **Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not