

States concerned about proposed Coast Guard rules

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SEATTLE — As the U.S. Coast Guard moves to assert its federal authority over maritime issues, officials in Washington, Alaska and other states are concerned by what it may mean for states' rights in preventing and preparing for oil spills.

State officials in California, Washington and New York have asked the Coast Guard to withdraw rules it proposed in December. They say the rules would limit the states' role in protecting citizens from vessel accidents and pollution.

In December, the Coast Guard released proposed rules that outline a number of regulations that it says would override state and local law. The proposal clarifies the Coast Guard's federal authority over areas such as vessel safety and inspection, small passenger vessels, marine accident reporting, among matters.

But in comments to the federal agency, some state officials say the rules are too broad and sweeping. The rules would interfere with or create confusion about state-specific laws regarding spill reporting, tug boat escorts or oil spill contingency plans, they say.

For example, Washington state requires tug escorts for all tankers entering the Strait of Juan de Fuca and headed for Washington ports. But under the proposed rules, the state would be prevented from requiring those escorts, said Maia Bellon, the state's Ecology Director. "This is not acceptable to protect our waters," she said at a hearing last month.

In Alaska, officials are worried the proposal would take precedence over state regulations requiring tanker escorts for Prince William Sound.

The rules also create uncertainty about whether state-required oil spill contingency plans for tankers would be pre-empted by federal authority, Larry Hartig, commissioner of the Alaska Department of Environmental Conservation told the Coast Guard in a May letter.

The Coast Guard says it is simply restating its position and clarifying existing law, not creating new regulations. Agency officials say they want to make clear to the public which existing regulations take precedence over state and local law.

"It doesn't create any new regulations that impact the state's ability to regulate and protect their waterways," Capt. Jason Hamilton, staff judge advocate at the U.S. Coast Guard said at a hearing in Seattle last month.

Many states such as Washington have passed additional requirements related to oil spills, including requiring that oil spills be reported immediately to state officials.

“The Coast Guard’s view of existing law fails to respect states’ rights, leaving states with little if any authority to exercise their historical police powers to protect the health and safety of their citizens,” several California state officials told the agency in a May letter.

Environmental groups in Massachusetts, Washington and Alaska have raised concerns, but others say the proposal would bring needed clarity and predictability to maritime rules.

Skip Volkle, vice president and general counsel of Seattle-based Foss Maritime, the largest coastal tug and barge operator in the U.S., backed the Coast Guard’s position.

He said his company operates vessels on a daily basis that travel up and down the West and East coasts.

“We cannot engage in interstate commerce if every state gets to regulate what equipment has to be on our vessels, how long it has to be, how deep it can be, how wide it can be, what materials can be made,” he said at last month’s hearing.