

Standard (FMVSS) No. 131, and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Thomas has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.5 of FMVSS No. 131 states that "[t]he stop signal arm shall be automatically extended * * * at a minimum whenever the red signal lamps * * * are activated; except that a device may be installed that prevents the automatic extension of a stop signal arm * * *. While the device is activated, a continuous or intermittent signal audible to the driver shall sound."

Between September 2, 1992, and July 30, 1993, Thomas produced 305 Type A, B, C, and D school buses which were not equipped with a continuous or intermittent signal audible to the driver when the device is activated that prevents the automatic extension of a stop signal. Thus, these school buses do not comply with the standard.

Thomas supports its petition for inconsequential noncompliance with the following:

Delivery of the noncomplying vehicles has been limited to one state, Virginia. That state has had a stop arm requirement since the early 1980's and has required an interrupt switch, wired to the stop arm and crossing gate, since approximately 1986. Drivers use that switch *only* when the vehicle is loading or unloading passengers in the school yard so that buses can be positioned close together without damaging the crossing gate (emphasis original). Bus drivers in Virginia have been accustomed to activating the interrupt switch without an audible signal since the signal was not required prior to the September 2, 1992 (sic) effective date of FMVSS 131.

In Thomas' Defect and Noncompliance Report, it stated that:

All vehicles will be repaired through customer notification by the Thomas distributor in Virginia. Repair parts will be supplied at no charge. The repair will consist of installing a chime, adding a wire to the existing wire harness, and connecting the wire to the chime.

Interested persons are invited to submit written data, views, and arguments on the petition of Thomas, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: December 15, 1993.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on November 9, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-27960 Filed 11-12-93; 8:45 am]
BILLING CODE 4910-59-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "In the Temple of Solomon and the Tomb of Caiaphas" (see list 1), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Smithsonian Institution, Washington, DC, from on or

¹ A copy of this list may be obtained by contacting Mr. Paul W. Manning of the Office of the General Counsel of USIA. The telephone number is 202/619-6827, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

about November 19, 1993 to on or about November 28, 1993, is in the national interest. The action of the United States in this matter and the immunity based on the application of the provisions of the law involved does not imply any view of the United States concerning the ownership of the exhibition objects. Further, it is not based upon and does not represent any change in the position of the United States regarding any issue in the Middle East peace process.

Public Notice of this determination is ordered to be published in the *Federal Register*.

Dated: November 8, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93-27944 Filed 11-12-93; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Lucian Freud: Recent Work" (see list 2), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are important pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about December 14, 1993 to on or about March 13, 1994, is in the national interest.

Public Notice of this determination is ordered to be published in the *Federal Register*.

Dated: November 8, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93-27943 Filed 11-12-93; 8:45 am]

BILLING CODE 8230-01-M

² A copy of this list may be obtained by contacting Mr. Paul W. Manning of the Office of the General Counsel of USIA. The telephone number is 202/619-6827, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register

Vol. 58, No. 218

Monday, November 15, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From November 10th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the November 10, 1993, Open Meeting and previously listed in the Commission's Notice of November 3, 1993.

Item No., Bureau, and Subject

2—Common Carrier—Title: Rules and Policies Regarding Calling Number Identification Service—Caller ID (CC Docket No. 91-281). Summary: The Commission will consider adoption of a *Report and Order and Further Notice of Proposed Rulemaking* establishing federal policies for interstate Caller ID and proposing restrictions on the unauthorized use or resale of calling party information.

Dated: November 9, 1993.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-28069 Filed 11-10-93; 10:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Tuesday, November 9, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to certain insured financial institutions.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the

"Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: November 9, 1993.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Assistant Executive Secretary.

[FR Doc. 93-28050 Filed 11-10-93; 8:54 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, November 16, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Recommendation concerning a proposed amendment to the Compact of Free Association Act of 1985 in regards to the availability of federal deposit insurance to banks in the Freely Associated States of the Republic of the Marshall Islands and the Federated States of Micronesia.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942-3132 (Voice); (202) 942-3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 998-6757.

Dated: November 9, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93-28051 Filed 11-10-93; 8:54 am]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b: DATE AND TIME: November 10, 1993 (following Regular Meeting).

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Marysville Hydro Partners, Project No. 9885.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

The following members of the Commission voted that agency business requires the holding of a closed meeting on the above-described matter on less than the seven days' notice required under the Government in the Sunshine Act:

Chair Moler
Commissioner Bailey
Commissioner Hoecker
Commissioner Massey
Commissioner Santa

Dated: November 10, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28173 Filed 11-10-93; 3:54 pm]

BILLING CODE 6717-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published in the Federal Register on November 10, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Friday, November 12, 1993.

CHANGES IN THE MEETING:

1. Deletion of the following open item from the agenda: Proposed amendments to Regulation O (Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks) regarding (A) increasing the aggregate lending limit for certain small banks (proposed earlier for public comment; Docket No. R-0800); and (B)(i) exceptions to the aggregate insider lending limit; (ii) the

definition of "extension of credit"; and (iii) modifications to the recordkeeping requirements (proposed earlier for public comment; Docket No. R-0809).

2. *Addition of the following open item to the meeting:* Proposed 90-day extension of the interim rule establishing a higher aggregate lending limit under Regulation O (Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks) for certain small banks.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-28036 Filed 11-9-93; 4:42 pm]

BILLING CODE 6210-01-P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, November 18, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the

Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-28174 Filed 11-10-93; 3:54 pm]

BILLING CODE 6210-01-P-M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., November 23, 1993.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Ex Parte No. 347 (Sub-No. 2), *Rate Guidelines—Non-Coal Proceedings.*

AB-33 (Sub-No. 78), *Union Pacific Railroad Company—Abandonment—In Saline, Ottawa, Lincoln, Russell, Osborne and Rooks Counties, KS.*

AB-55 (Sub-No. 469), *CSX Transportation, Inc.—Abandonment—Between South Hardeeville and North Savannah in Jasper County, SC, and Chatham County, GA.*

MC-C-30198, *Advantage Tank Lines, Inc.—Petition for Declaratory Order—Ex-Pipeline Movements.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of External Affairs, Telephone: (202) 927-5350, TDD: (202) 927-5721.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 93-28094 Filed 11-10-93; 12:47 pm]

BILLING CODE 7035-01-P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, December 2, 1993.

PLACE: Hearing Room 965, One Lafayette Centre, 1120—20th Street, N.W., Washington, D.C. 20036-3419.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Oral Argument before the Commission in *McNally Construction and Tunneling, Inc.*

OSHR Docket No. 90-2337

CONTACT PERSON FOR MORE INFORMATION: Patrick Moran, (202) 606-5410.

Dated: November 10, 1993.

Earl R. Ohman, Jr.,
General Counsel.

[FR Doc. 93-2815 Filed 11-10-93; 3:20 pm]

BILLING CODE 7600-01-P-M

Corrections

Federal Register

Vol. 58, No. 218

Monday, November 15, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Parts 209 and 242

Defense Federal Acquisition Regulation Supplement; Contractor Accounting Controls

Correction

In proposed rule document 93-26604 appearing on page 58315 in the issue of Monday, November 1, 1993, in the third column, in SUMMARY, in the third line, "September 14, 1993" should read

"September 24, 1993", and beginning in the fifth line, "October 5, 1993" should read "October 25, 1993".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

48 CFR Part 252

Defense Federal Acquisition Regulation Supplement; Organizational Conflict of Interest

Correction

In proposed rule document 93-26602 beginning on page 58316 in the issue of Monday, November 1, 1993, make the following correction:

252.209-7XXX [Corrected]

1. On page 58316, in the third column, in section 252.209-7XXX, in paragraph (c) of the clause, in the third

line, "in participating" should read "is participating".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1993-25]

Recordkeeping and Reporting by Political Committees: Best Efforts

Correction

In rule document 93-26445 beginning on page 57725 in the issue of Wednesday, October 27, 1993, make the following correction:

§ 104.7 [Corrected]

On page 57729, in the second column, in § 104.7(b)(1), in the first line, "of" should read "in".

BILLING CODE 1505-01-D

Federal Register

**Monday
November 15, 1993**

Part II

Department of Housing and Urban Development

**Office of the Assistant Secretary for
Housing—Federal Housing Commissioner**

**24 CFR Part 200
Changes to the Minimum Property
Standards; Final Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-93-1495; FR-2599-F-02]

RIN 2502-AE64

Changes to the Minimum Property Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Minimum Property Standards (MPS) by removing federal agency standards for thermal insulation, and referencing a model energy code; standardizing requirements to control termites and wood decay, and referencing the latest editions of private sector standards now in the MPS; adding requirements for the restriction of the use of fire retardant treated plywood; and revising the time for periodic changes to the MPS, and making changes of an editorial nature. These changes to the MPS are needed to keep referenced standards current, to eliminate unnecessarily duplicative and confusing federal standards, and to protect the Department's insurance fund.

DATES: Effective Date: This regulation is effective December 15, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1993.

FOR FURTHER INFORMATION CONTACT: Donald Fairman, Manufactured Housing and Regulatory Functions, Standards and Products Branch, Department of Housing and Urban Development, room 3214, L'Enfant Plaza, 490 E, 451 Seventh Street, SW., Mail Room B-133, Washington, DC 20410-8000, telephone, voice: (202) 755-7440; (TDD) (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On November 5, 1990 the Department published in the Federal Register a proposed rule (55 FR 46632) to amend the Minimum Property Standards (MPS) in 24 CFR part 200, subpart S by:

- (1) Removing federal agency standards for thermal insulation, referencing a model agency code;
- (2) Standardizing requirements to control termites and wood decay;
- (3) Referencing the latest editions of private sector standards now in the MPS;

(4) Adding requirements for the restriction of the use of fire retardant treated plywood; and

(5) Revising the time for periodic changes to the MPS and making changes of an editorial nature.

Seventeen public comments were received on the proposed rule. Fifteen of the comments dealt with HUD's proposal to adopt the Council of American Building Officials' (CABO) Model Energy Code (MEC) in lieu of the energy requirements in the current MPS. Eleven were in favor of the adoption and four were opposed.

One commenter opposed adoption of the MEC on the basis that the commenter did not view the 1992 MEC as being cost effective for homes that use natural gas. The commenter urged HUD to continue to use the current standard, and claimed that the proposed rule would encourage the use of electric resistance heating. The commenter contended that the efficiency of gas is almost three times that of electric resistance as a heat source, and that natural gas produces lower levels of carbon dioxide emissions.

Other commenters recommended that HUD use two standards of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE): ASHRAE/IES Standard 90.1-1989 Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings and ASHRAE Standard 90.2 P-Energy Efficient Design of New Low-Rise Residential Buildings. These suggestions were supported by the commenter's data, which will be considered in future Department of Energy and HUD energy studies.

A commenter contended that the use of the MEC for low-rise residential construction would have all the impact associated with a major rule, and homeowners would not "break even" on MEC-mandated energy efficient investments for up to twelve years.

Regarding the contention that adoption of the MEC for low-rise residential construction has the impact of a major rule, there are a number of factors to consider. The basic yardstick for identification of a major rule is an annual effect on the economy of \$100 million or more. HUD's current calculations indicate costs far below the \$100 million threshold. Over the past several years, construction starts for single family homes have been close to one hundred thousand per year. Any change in construction would be associated with a portion of homes with gas heat—which comprise approximately sixty percent of HUD single family home construction. (Requirements for electric resistance

heating are equivalent in the MPS and the MEC.) Preliminary estimates indicate the average per unit cost for changing from MPS to MEC thermal criteria would be \$1000. This would result in a total construction cost of \$60 million. This amount would be further diminished by the number of homes already being constructed to the thermal requirements of the MEC, which is the case in a number of localities where either the MEC or more stringent local requirements already have been adopted. (Where local codes treat the same subject as the MPS, the more stringent local code prevails.) Another important consideration affecting the major rule determination is the net impact of the MEC. The net impact of adoption of the MEC will be energy and life-cycle cost savings. The present value of future reductions in fuel costs significantly exceeds the front-end costs for the energy conservation measures.

One commenter supported adoption of the MEC only if several amendments are made to the MEC in the process. One change the commenter proposed would involve retaining directions for using the MEC for rehabilitation work. This feature of the rule was removed by HUD because the MPS is used only as a standard for new construction. By HUD policy, rehabilitation is governed by local requirements. The Department feels that other changes to the MEC suggested by the commenter should be made through the established code change process.

Section 109 of the National Affordable Housing Act of 1990 (NAHA) states, in part, that:

The Secretary of Housing and Urban Development shall, not later than one year after the date of enactment of this Act, promulgate energy efficiency standards for new construction of public and assisted housing and single-family- and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs.

While the Department finds many of the above-described comments worthy of consideration for future HUD energy studies, the Department has determined that they are not sufficiently persuasive to permit HUD to violate the clearly stated mandate of the Act regarding the promulgation of energy efficiency standards. The Department's consultations with the Department of Energy (DOE) and others indicate that the MEC clearly can be considered a cost-effective standard. The following

studies, focused on various aspects of the MEC, support this position:

- Economic Assessment of Model Energy Code Proposal 87-20, Submitted by MIMI, M. F. McBride, July 9, 1987;
- Impacts of Alternative Residential Energy Standards—Rural Housing Amendments Study, Department of Energy, June 1988;
- Comparison of the Economic Effects of Three Residential Energy Codes on Home Buyers, Battelle PNL, November 1990;
- Assessment of Energy Savings Resulting from Thermal Insulation Use in the Residential Sector, RCG/Hagler, Bailey, Inc., et al., December 1990;
- Better Building Codes for Energy Efficiency, the Alliance to Save Energy, September 1991.

To comply with the mandate of Section 109 of the NAHA which states: "In developing such standards the Secretary shall consult an advisory task force composed of home builders, national, state and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low income housing organizations, and other parties designated by the Secretary." HUD has consulted with many individuals and organizations with interest in energy usage. DOE is involved with a study to identify areas where additional research is needed that will improve energy conservation. As new improved methods and products are developed they will be proposed for changes to the standard.

One comment recommended that several standards from the American Concrete Institute, the American Society of Civil Engineers and the American Society for Testing and Materials be added to Appendix A. The recommended standards, upon examination, were determined either to be outdated or already referenced or listed in the Model Codes that HUD has adopted by reference. Accordingly, the Department has determined that it is not necessary to include them in the MPS.

A commenter opposed the use of the CABO One and Two Family Dwelling Code (OTFDC) 1992 Edition and its errata package for townhouse design because of problems the commenter claimed would be raised involving consistency with fire risk factors, and concerns involving fire retardant treated plywood. Section 200.926(d)(3) has been revised in this final rule to state that fire retardant treated plywood, where approved by a state or local building code, shall not be permitted for use in roof construction unless a technical suitability bulletin has been issued by the Department for that product.

The CABO One and Two Family Dwelling Code was developed for use in all types of One and Two Family dwellings, including townhouses (See Section R-103, Scope). In areas where no building code exists, the CABO code will establish a minimum level of construction requirements. Where a Model, State or local code is in use and it is more stringent than the CABO OTFDC, the more stringent code would apply.

One of the recommendations for fire retardant treated plywood was for a time-delay strength evaluation procedure. It was suggested that this be a part of the approval process for acceptance of this product. It was also recommended that a national standard be developed that would incorporate a method of verifying test results.

Because of the recent history of premature failures of fire retardant treated plywood, its manufacturing durability tests are being reviewed by HUD. Durability and strength tests, after treatment, must be verified before the issuance of any HUD approvals. HUD is currently working with the plywood manufacturers and treaters, the National Forest Products Association and the Forest Products Laboratory to determine future manufacturing and testing procedures. When this work has been completed, HUD will determine how and where this fire retardant treated plywood may be used.

It was recommended by one commenter that the U.S. Department of Agriculture's Home and Garden Bulletin No. 64, "Subterranean Termites, Their Prevention and Control in Buildings," be added to the list of references in Appendix A, as a convenience for builders and building officials. This bulletin is a companion to the Agriculture Handbook for Wood Frame Construction, Handbook No. 73 specified in the proposed rule. Its addition is acceptable to the Department. It was also requested that the design standards for wood construction and P.S. 20-70, the softwood lumber standards, be added to those listed in the appendix. The National Design Specification (NDS) for wood construction is included in the three Model Codes: Uniform, BOCA, and Southern. The Department has determined that it is unnecessary to reference these standards again.

By recognizing the National Design Standards for wood construction, it is not considered necessary to include P.S. 20-70. Soft wood is included in the NDS.

Consistent with section 804(f)(5)(C) of the Fair Housing Act, a new section has been added that references the

Department's Fair Housing Accessibility Guidelines, published in the Federal Register on March 8, 1991 (56 FR 9472). The Guidelines may be used by builders and developers in designing and constructing covered multifamily dwelling units to comply with the Fair Housing Act and 24 CFR 100.205.

The proposed changes to the Minimum Property Standards for Housing (MPS) 4910.1 (Chapters 1 and 6) will be adopted as published in the proposed rule.

A sentence has been added to § 200.925. That section explains the applicability of the MPS. The new sentence clarifies that MPS provisions may be waived to the extent that the eligibility regulations for the specific mortgage insurance program involved may be waived. Single family program regulations are generally waivable. For example, § 203.248 permits waiver of the eligibility requirements in Part 203 that apply to the basic section 203(b) single family program, if the requirements are not required by statute. Among those requirements is § 203.39, which requires that "buildings on the mortgaged property must conform with the standards prescribed by the Commissioner." In order for the authority to waive § 203.39 to be meaningful, waiver of the MPS is also needed since for new construction cases the MPS constitutes the standards referred to in § 203.39. HUD has therefore interpreted the § 203.39 in a case where § 203.39 applies. The rule change will expressly add this interpretation.

The Department has deleted in this final rule Appendix B to Part 200—Standards Incorporated by Reference in the Minimum Property Standards for One- and Two-Family Dwellings.

This final rule does not constitute a "significant regulatory action" as that term is defined in section 3(f) of Executive Order 12866 on Federal Regulations issued by the President on October 4, 1993. The rule does not:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in this Executive order.

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule does not alter the current practice by which housing is designed or constructed. It reduces the burden of compliance which already exists for both small and large entities. In all cases, housing must be built in compliance with local codes.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of Rules Docket Clerk at room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

This rule was listed as item 1523 in the Department's Semiannual Agenda of Regulations published on October 25, 1993 (58 FR 56402, 56427) pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. This rule only revises HUD's Minimum Property Standards, which are harmonized with local codes and local construction practice to the maximum feasible extent. This rule presents no discernible likelihood of any conflict with State or local law.

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have a potentially significant impact on family formation, maintenance and general well-being, and, thus, is not subject to review under the Order. This rule has no significant relationship to family-related issues.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and

recordkeeping requirements, Minimum property standards.

Accordingly, HUD amends 24 CFR part 200 as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1701 through 1715a-18; 42 U.S.C. 3535(d)).

2. Section 200.925 is revised to read as follows:

§ 200.925 Applicability of minimum property standards.

All housing constructed under HUD mortgage insurance and low-rent public housing programs shall meet or exceed HUD Minimum Property Standards, except that this requirement shall be applicable to manufactured homes eligible for insurance pursuant to § 203.43f of this chapter only to the extent provided therein. The Minimum Property Standards may be waived to the same extent as the other regulatory requirements for eligibility for insurance under the specific mortgage insurance program involved.

3. Section 200.925a is amended by revising paragraph (d)(3)(iii) to read as follows:

§ 200.925a Multifamily and care-type minimum property standards.

* * * * *

(d) * * *

(3) * * *

(iii) Each Regional Office will maintain a current list of jurisdictions with accepted building codes and a current list of jurisdictions with partially accepted building codes. The lists will state the most recent date of each code's acceptance or partial acceptance and will be available to any interested party upon request. In addition, the list of jurisdictions whose codes have been partially accepted shall identify those portions of the codes listed at § 200.925c(a) with which the property must comply.

* * * * *

4. Section 200.925b is amended by revising paragraph (k)(1) to read as follows:

§ 200.925b Residential and institutional building code comparison items.

* * * * *

(k) * * *

(1) Reference ASME/ANSI Standard A 17.1-1987; and the ASME/ANSI A 17.1b-1989 Addenda.

* * * * *

5. Section 200.925c is amended by revising paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), and (a)(2); by adding

paragraph (a)(3); by revising paragraphs (c)(1), (c)(2) and (c)(3), and by adding paragraph (c)(4) to read as follows:

§ 200.925c Model codes.

(a) * * *

(1) * * *

(i) *The BOCA National Building Code, 1993 Edition, The BOCA National Plumbing Code, 1993 Edition, and the BOCA National Mechanical Code, 1993 Edition*, excluding Chapter I, Administration, for the Building, Plumbing and Mechanical Codes and the references to fire retardant treated wood and a distance of 4 feet (1219 mm) from the wall in exception number 1 of paragraph 705.6 and 707.5.2 number 2 (Chapter 7) of the Building Code, but including the Appendices of the Code. Available from Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478.

(ii) *Standard Building Code, 1991 Edition, including 1992/1993 revisions. Standard Plumbing Code, 1991 Edition, Standard Mechanical Code, 1991 Edition, including 1992 revisions, and Standard Gas Code, 1991 Edition*, including the 1992 revisions, but excluding Chapter I—Administration from each standard code and the phrase "or fire retardant treated wood" in reference note (a) of table 600 (Chapter 6) of the Standard Building Code, but including Appendices A, C, E, J, K, M, and R. Available from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(iii) *Uniform Building Code, 1991 Edition, including the 1993 Accumulative Supplement*, but excluding Part I—Administrative, and the reference to fire retardant treated plywood in section 2504(c)3 and to fire retardant treated wood in 1-HR type III and V construction referenced in paragraph 4203.2., but including the Appendix of the Code. *Uniform Plumbing Code, 1991 Edition, including the 1992 Code Changes* but excluding Part I—Administration, but including the Appendices of the Code. *Uniform Mechanical Code, 1991 Edition*, including the 1993 Accumulative Supplement but excluding Part I—Administrative, but including the Appendices of the Code. All available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(2) *National Electrical Code, NFPA 70, 1993 Edition*, including appendices. Available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(3) *National Standard Plumbing Code*, 1993 Edition. Available from the National Association of Plumbing-Heating-Cooling Contractors, P.O. Box 6808, Falls Church, Virginia 22046.

(c) * * *

(1) *The BOCA National Building Code, The BOCA National Plumbing Code and The BOCA National Mechanical Code*, 1993 Editions.

(2) *Standard Building Code, Standard Plumbing Code, Standard Mechanical Code and Standard Gas Code*, 1991 Editions, including the revisions specified in paragraph (a)(1)(ii) of this section, and the *National Electrical Code*, 1993 Edition.

(3) *Uniform Building Code, Uniform Plumbing Code and Uniform Mechanical Code*, 1991 Editions, including the 1993 Accumulative Supplements to the Building and Mechanical Codes, and the 1992 Code Changes to the *Uniform Plumbing Code*, and the *National Electrical Code*, NFPA 70, 1993 Edition.

(4) *The National Electrical Code*, NFPA 70, 1993 Edition.

6. Section 200.926 is amended by revising paragraphs (d)(1)(i)(B)(2), (d)(1)(i)(C)(1), and (d)(1)(ii)(B)(2)(ii), and paragraph (d)(3), to read as follows:

§ 200.926 Minimum property standards for one and two family dwellings.

(d) * * *

(1) * * *

(i) * * *

(B) * * *

(2) Those portions of the CABO One and Two Family Dwelling Code designated by the HUD Field Office in accordance with § 200.926c; and

(C) * * *

(1) The CABO One and Two Family Dwelling Code as identified in § 200.926b(a); and

(ii) * * *

(B) * * *

(2) * * *

(ii) Those portions of the CABO One and Two Family Dwelling Code designated by the HUD Field Office in accordance with § 200.926c; and

(d) * * *

(3) *Notification of decision.* (i) Fire retardant treated plywood, where approved by a State or local building code, shall not be permitted for use in roof construction unless a HUD technical suitability bulletin has been issued by the Department for that product.

(ii) The Secretary shall review the material submitted under § 200.926(d). Following that review, the Secretary shall issue a written notice (except where there is a previously accepted or partially accepted code which has not been changed) to the submitting party stating whether the local building code is acceptable, partially acceptable, or not acceptable. Where the local building code is not acceptable, the notice shall also state whether the State code is acceptable, partially acceptable or not acceptable. The notice shall also contain the basis for the Secretary's decision and a notification of the submitting party's right to present its views concerning the denial of acceptance if the code is neither accepted nor partially accepted. The Secretary may, in his or her discretion, permit either an oral or written presentation of views.

7. Section 200.926b is amended by revising paragraphs (a)(1), (a)(2), and (c), to read as follows:

§ 200.926b Model codes.

(a) * * *

(1) *CABO One and Two Family Dwelling Code*, 1992 Edition, including the 1993 amendments, but excluding Chapter I—Administrative, and the phrase "or approved fire retardant wood" contained in the exception of paragraph R-218.2.2(2), but including the Appendices A, B, D, and E of the Code. (Available from the Council of American Building Officials, Suite 708, 5203 Leesburg Pike, Falls Church, VA 22041.)

(2) *Electrical Code for One and Two Family Dwellings*, NFPA 70A, 1990 Edition, including Tables and Examples. Available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(c) *Designation of Model Codes.* When a one or two family dwelling or townhouse is to comply with portions of the model code or the entire model code, the dwelling shall comply with the CABO One and Two Family Dwelling Code 1992 Edition, including the 1993 amendments, or portion thereof as modified by § 200.926e of this part and designated by the HUD Field Office serving a jurisdiction in which a property is located. In addition, the property shall comply with all of the standards which are referenced for any designated portions of the model code, and with the *Electrical Code for One and Two Family Dwellings*, NFPA 70A/1990.

§ 200.926c [Amended]

8. In Section 200.926c, the table is amended by revising the heading for the second column to read, "Portions of the CABO One and Two Family Dwelling Code, 1992 Edition, including the 1993 amendments, with which a property must comply" and by revising the last entry in the second column to read "Electrical code for 1- and 2-family dwellings (NFPA 70A-1990)."

9. Section 200.926d is amended by revising paragraphs (a)(1), (b)(3)(i), (d)(3), and (e), to read as follows:

§ 200.926d Construction requirements.

(a) * * *

(1) *General.* These standards cover the agency requirements for accessibility to physically handicapped people, variations to standards, real estate entity, trespass and utilities, site conditions, access, site design, streets, dedication of utilities, drainage and flood hazard exposure, special construction and product acceptance, thermal requirements, and water supply systems.

(b) * * *

(3) * * *

(i) The property shall be free of those foreseeable hazards and adverse conditions which may affect the health and safety of occupants or the structural soundness of the improvements, or which may impair the customary use and enjoyment of the property. The hazards include toxic chemicals, radioactive materials, other pollution, hazardous activities, potential damage from soil or other differential ground movements, ground water, inadequate surface drainage, flood, erosion, or other hazards located on or off site. The site must meet the standards set forth in 24 CFR part 51, and HUD Handbook 4910.1, section 606 for termite and decay protection.

(d) * * *

(3) *Standard Features.* These features include methods of construction, systems, sub-systems, components, materials and processes which are covered by national society or industry standards. For a list of standards and practices to which compliance is required, see HUD Handbook 4910.1, Appendix C and Appendices E and F, available from HUD, 451 Seventh Street, SW., Attention: Mailroom B-133, Washington, DC 20410.

(e) *Energy efficiency.* All detached one- and two-family dwellings and one-family townhouses not more than three stories in height shall comply with the CABO Model Energy Code, 1992

Edition, Residential Buildings, except for Sections 101.3.1, 101.3.2, 104, and 105, but Section 101.3.2.2, Historic Buildings, shall remain, and including the Appendix, and HUD intermediate MPS Supplement 4930.2 Solar Heating and Domestic Hot Water Systems, 1989 edition.

10. Section 200.929 is amended by revising paragraph (b)(2) and by removing paragraph (b)(3), to read as follows:

§ 200.929 Description and Identification of minimum property standards.

(b) * * *

(2) MPS for Housing 4910.1, 1993 edition. This volume applies to buildings and sites designed and used for normal multifamily occupancy, including both unsubsidized and subsidized insured housing, and to care-type housing insured under the National Housing Act. It also includes, in Appendix K, a reprint of the MPS for One and Two Family Dwellings identified in paragraph (b)(1) of this section.

11. A new § 200.929a is added, to read as follows:

§ 200.929a Fair Housing Accessibility Guidelines.

Builders and developers may use the Department's Fair Housing Accessibility Guideline when designing or constructing covered multifamily dwelling units in order to comply with the Fair Housing Act. The Guidelines may be found in the 24 CFR Chapter I, Subchapter A, Appendix II, titled Fair Housing Accessibility Guidelines—Design Guidelines for Accessible/Adaptable Dwellings.

12. Section 200.933 is amended by revising the first sentence to read as follows:

§ 200.933 Changes in minimum property standards.

Changes in the Minimum Property Standards will generally be made every three years. * * *

13. In § 200.934, paragraphs (b)(1) and (b)(2) are revised to read as follows:

§ 200.934 User fee system for the technical suitability of products program.

(b) *Filing address*—(1) *Applications containing payment*. When applications for correspondence concerning SEBs, MEBs, TCBs, MRs, or program administrator approval contain payment, such applications or correspondence shall be sent to the following address:

U.S. Department of Housing and Urban Development, Technical Suitability of Product Fees, P.O. Box 954199, St. Louis, MO. 63195-4199.

(2) *Other correspondence*. All other correspondence concerning SEBs, MEBs, TCBs, MRs, and program administrator acceptance shall be sent to the following address:

Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Attn: Mail Room B-133, Washington, DC 20410.

14. Appendix A to part 200 is revised to read as follows:

Appendix A to 24 CFR Part 200 Standards incorporated by reference in the Minimum Property Standards for Housing (HUD Handbook 4910.1)

The following publications are incorporated by reference in the HUD Minimum Property Standards (MPS) in 24 CFR part 200. The MPS are available for public inspection and can be obtained for appropriate use at 490 L'Enfant Plaza East, Suite 3214, or at each HUD Regional, Area, and Service Office. Copies are available for inspection at the Office of the Federal Register, 800 North Capital Street, NW., Suite 700, Washington, DC. The individual standards referenced in the MPS are available at the address contained in the following table. They are also available for public inspection at the HUD, Manufactured Housing and Construction Standards Division, Suite 3214, 490 L'Enfant Plaza East, Washington, DC 20024.

Air Conditioning Contractors of America
1513 16th Street, NW., Washington, DC 20036, (202) 483-9370.

Load Calculation for Residential Winter and Summer Air Conditioning, Manual J 1986

Aluminum Association, 900 19th Street, NW., Washington, DC 20006, Telephone (202) 862-5100.

AA-ASM 35-80 Specifications for Aluminum Sheet Metal Work in Building Construction

American Architectural Manufacturers Association, 1540 East Dundee Road, Palatine, IL 60067, Telephone (708) 202-1350.

AAMA-800-92 Voluntary Specifications and Test Methods for Sealants

AAMA-1503.1-88 Voluntary Test Method for Thermal Transmittance and Condensation Resistance of Windows, Doors and Glazed Wall Sections

AAMA 1504-88 Voluntary Standards for Thermal Performance of Windows, Doors and Glazed Wall Sections

American Concrete Institute, P. O. Box 19150, Redford Station, Detroit, Michigan 48219, Telephone (313) 532-2600.

ACI 211.1-89 Standard Practice for Selecting Proportions for Normal, Heavyweight and Mass Concrete

ACI 211.2-91 Standard Practice for Selecting Proportions for Structural Lightweight Concrete

ACI 213R-87 Guide for Structural Lightweight Aggregate Concrete

ACI 301-89 Specifications for Structural Concrete for Buildings

ACI 302.1R-80 Guide for Concrete Floor and Slab Construction

ACI 304R-89 Guide for Measuring, Mixing, Transporting and Placing Concrete

ACI 305R-77 Hot Weather Concreting (Revised 1989)

ACI 306R-78 Cold Weather Concreting (Revised 1988)

ACI 311.4R-80 Guide for Concrete Inspection (Revised 1988)

ACI 315-80 Guide for Detailing of Concrete Reinforcement

ACI 318-89 Building Code Requirements for Reinforced Structural Plain Concrete (Revised 1992)

ACI 322-72 Structural Plain Concrete

ACI 347-78 Recommended Practice for Concrete Formwork (Reapproved 1984)

ACI 504R-77 Guide to Joint Sealants for Concrete Structures

ACI 506-90 Recommended Practice for Shotcreting

ACI 515.1R-79 A Guide to the Use of Waterproofing, Dampproofing, Protective and Decorative Barrier Systems for Concrete (Revised 1985)

ACI 533.1R-69 Quality Standards and Tests for Precast Concrete Wall Panels

ACI 533.2R-69 Selection and Use of Materials for Precast Concrete Wall Panels

ACI 533.3R-70 Fabrication, Handling and Erection of Precast Concrete Wall Panels

American Forest & Paper Association, (formerly National Forest Products Association), 1250 Connecticut Ave., NW., Washington, DC 20036, National Design Specification for Wood Construction—1991.

American National Standards Institute, 11 West 42nd Street, New York, NY 10036, Telephone (212) 642-4900.

ANSI A108.1A-92 Specifications for Installation of Ceramic Tile, in the Wet Set Method with Portland Cement Mortar

ANSI A137.1-1988 Specifications for Ceramic Tile

ANSI/BHMA A156.2-1989 Standard for Bored and Preassembled Locks and Latches

ANSI/NKCA A161.1-1985 Recommended Performance and Construction Standards for Kitchen and Vanity Cabinets (Approved March 18, 1986)

ANSI A208.1-1989 Wood Particleboard

ANSI/AAMA 101-1988 Voluntary Specifications for Aluminum Prime Windows and Sliding Glass Doors

ANSI/AAMA 1002.10-1983 Voluntary Specifications for Aluminum Insulating Storm Products for Windows and Sliding Glass Doors

ANSI/AAMA 1102.7-1989 Voluntary Specifications for Aluminum Storm Doors

ANSI/AAMA 1402-1986 Standard Specifications for Aluminum Siding, Soffit and Fascia (ANSI Approved 1989)

ANSI/ACI 214-77 Recommended Practice for Evaluation of Strength Test Results of Concrete (Reapproved 1983)

ANSI/AHA A135.4-1982 Basic Hardboard (Reaffirmed 1988)

ANSI/AHA A135.6-1990 Hardboard Siding

ANSI/AHA A194.1-1985 Cellulosic Fiber Board

- ANSI/APA 1-1984 Mosaic-Parquet Hardboard Slat Flooring
- ANSI/NSPI-1-91 Standard for Public Swimming Pools
- ANSI Z34.1-1987 American National Standard for Certification, Third-Party Certification Program
- ANSI Z124.5-1989 American National Standard for Plastic Toilet Seats (Water Closet Seats)
- American Society of Civil Engineers, 345 East 47th Street, New York, NY 10017.
- ASCE 7-88 Minimum Design Loads for Buildings and Other Structures (Formerly ANSI A58.1)
- American Society of Mechanical Engineers, 345 E 47th Street, New York, NY 10017.
- ASME/ANSI A17.1-87 Safety Code for Elevators and Escalators Including the A17.1b-89 Addenda
- ASME A 112.18.1M89 Plumbing Fixture Fittings
- American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, Telephone (215) 299-5400.
- ASTM C 12-91 Standard Practice for Installing Vitrified Clay Pipe Lines
- ASTM C 208-72 Insulating Board (Cellulosic Fiber), Structural and Decorative (Reapproved 1982)
- ASTM C 209-84 Standard Methods of Testing Insulating Board (Cellulosic Fiber), Structural and Decorative
- ASTM C 216-91c Standard Specification for Facing Brick (Solid Masonry Units Made from Clay or Shale)
- ASTM C 220-91 Standard Specification for Flat Asbestos-Cement Sheets
- ASTM C 221-91 Standard Specification for Corrugated Asbestos-Cement Sheets
- ASTM C 223-91 Standard Specification for Asbestos-Cement Siding
- ASTM C 509-91 Standard Specification for Elastomeric Cellular Preformed Gasket and Sealing Material
- ASTM C 516-80 Standard Specification for Vermiculite Loose Fill Thermal Insulation (Reapproved 1985)
- ASTM C 549-81 Standard Specification for Perlite Loose Fill Insulation (Reapproved 1986)
- ASTM C 578-92 Standard Specification for Rigid, Cellular Polystyrene Thermal Insulation
- ASTM C 640-83 Standard Specification for Insulation Board, Thermal (Cork)
- ASTM C 726-88 Standard Specification for Mineral Fiber and Roof Insulation Board
- ASTM C 739-91 Standard Specification for Cellulosic Fiber (Wood-Based) Loose-Fill Thermal Insulation
- ASTM C 754-88 Standard Specification for Installation of Steel Framing Members to Receive Screw-Attached Gypsum
- ASTM C 834-91 Standard Specification for Latex Sealants
- ASTM C 841-90 Standard Specification for Installation of Interior Lathing and Furring
- ASTM C 842-85 Standard Specification for Application of Interior Gypsum Plaster (Reapproved 1990)
- ASTM C 843-92 Standard Specification for Application of Gypsum Veneer Plaster
- ASTM C 844-85 Standard Specification for Application of Gypsum Base to Receive Gypsum Veneer Plaster
- ASTM C 846-76 Standard Practice for Application of Structural Insulating Board (Fiberboard) Sheathing (Reapproved 1982)
- ASTM C 864-90 Standard Specification for Dense Elastomeric Compression Seal Gaskets, Setting Blocks and Spacers.
- ASTM C 926-90 Standard Specification for Application of Portland Cement-Based Plaster
- ASTM C 1036-91 Standard Specification for Flat Glass
- ASTM D 1037-89 Standard Test Methods for Evaluating the Properties of Wood-Base Fiber and Particle Panel Materials
- ASTM C 1048-91 Standard Specification for Heat-Treated Flat Glass-Kind HS, Kind FT Coated and Uncoated Glass
- ASTM D 1557-91 Test Method for Laboratory Compaction Characteristics of Soil Using the Modified Method (56,000 ft-lbf/ft³ (2,700 kN-m/m³))
- ASTM D 2316-75 Standard Recommended Practice for Installing Bituminized Fiber Drain and Sewer Pipe (Reapproved 1984)
- ASTM D 2321-89 Standard Practice for Underground Installation of Thermoplastic Pipe for Sewers and Other Gravity-Flow Applications
- ASTM D 3656-89 Standard Specifications for Insect Screening and Louver Cloth Woven From Vinyl-Coated Glass Yarns
- ASTM D 3679-92 Standard Specification for Rigid Poly (Vinyl Chloride) (PVC) Siding
- ASTM E 72-80 Standard Methods of Conducting Strength Tests of Panels for Building Construction
- ASTM E 283-91 Standard Test Method for Determining the Rate of Air Leakage Through Exterior Windows, Curtain Walls, and Doors Under Specified Pressure Differences Across the Spectrum
- ASTM E 330-90 Standard Test Method for Structural Performance of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference
- ASTM E 331-86 Standard Test Method for Water Penetration of Exterior Windows, Curtain Walls, and Doors by Uniform Static Air Pressure Difference
- ASTM E 380-91a Standard Practices for Use of the International Systems of Units (SI) (the Modernized Metric System)
- American Society of Heating, Refrigerating and Air Conditioning Engineers, 1791 Tullie Circle, NE, Atlanta, GA 30329. ASHRAE Handbook—Fundamentals—1989. ASHRAE Cooling and Heating Load Calculation Manual—GRP 158 1979. ASHRAE Handbook—Equipment—1988. ASHRAE Handbook—HVAC Systems and Applications—1987.
- American Welding Society, 550 NW Le Jeune Road, P. O. Box 351040, Miami, FL 33126, Telephone (305) 443-9353. ANSI/AWS D1.1-90 Structural Welding Code—Steel. ANSI/AWS D1.4-79 Structural Welding Code—Reinforcing Steel.
- The Asphalt Institute, Asphalt Institute Building, College Park, MD 20740 Telephone (301) 277-4258.
- MSI-1-81 Thickness Design—Asphalt Pavements for Highways and Streets
- Asphalt Roofing Manufacturers Association, 6288 Montrose Road, Rockville, MD 20852, Telephone (301) 231-9050.
- Residential Asphalt Roofing Manual—1988. Carpet and Rug Institute, 310 Holiday Avenue, Box 2048, Dalton, GA 30722-0048, Telephone (404) 278-3176. How to Specify Commercial Carpet Installation, 1984.
- Council of American Building Officials, Suite 708, 5203 Leesburg Pike, Falls Church, VA 22041, Telephone (703) 931-4533. CABO One and Two Family Dwelling Code 1992 edition with Errata Package and 1993 Amendments. CABO Model Energy Code 1992 edition CABO/ANSI A117.1-92 Accessible and Usable Buildings and Facilities.
- Department of Agriculture, Publications Division, 14th and Independence Avenue, SW., Washington, DC 20050, Telephone (202) 447-3957.
- Agriculture Handbook No. 73, Wood Frame House Construction
- Home and Garden Bulletin No. 64. Subterranean Termites—Their Prevention and Control in Buildings, October 1983
- Home and Garden Bulletin No. 73, Wood Decay in Houses, How to Prevent and Control It, May 1986
- Department of Commerce, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, Telephone (301) 975-4025. PS 1-83 Product Standard for Construction and Industrial Plywood with Typical APA Trademarks. PS 2-92 Performance Standard for Wood-Based Structural-Use Panels.
- Commercial Standards:
- CS 138-55 Insect Wire Screening
- CS 242-62 1 3/4" Steel Doors & Frames
- Department of Defense, Naval Publication and Forms Center, 5801 Taber Road, Philadelphia, PA 19120, Telephone (215) 697-2179.
- Federal Specifications:
- L-S-125B Screening, Insect, Non-metallic February 3, 1972
- L-F-001641 Floor Covering Translucent or Transparent Vinyl Surface with Backing—1971 and Amendment 2—September 24, 1982
- L-F-00450A Flooring, Vinyl Plastic (GSAFSS)—1970 and Amendment 1, August 5, 1975
- L-F-475A Floor Covering Vinyl, Surface Tile and Roll, with Backing including Amendment 2—February 9, 1971
- HH-1-521F Insulation Blankets, Thermal (Mineral Fiber)—for Ambient Temperatures—1980
- HH-1-526C Insulation Board, Thermal (Mineral Fiber)—1968
- HH-1-529B Insulation Board, Thermal (Mineral Aggregate)—1971
- HH-1-530B Insulation Board, Thermal, Unfaced, Polyurethane or Polyisocyanurate and Interim I—1982
- HH-1-551E Insulation Block and Boards, Thermal (Cellular Glass) Fiber, for Ambient Temperatures, 1974
- HH-1-558B Insulation Blocks, Boards, Blankets, Felts Sleeving (Pipe and Tube Covering), and Pipe Fitting Covering, Thermal (Mineral Fiber, Insulation Type) and Amendment 3—1976
- HH-1-574B Insulation, Thermal (Perlite) and Interim Amendment—1976

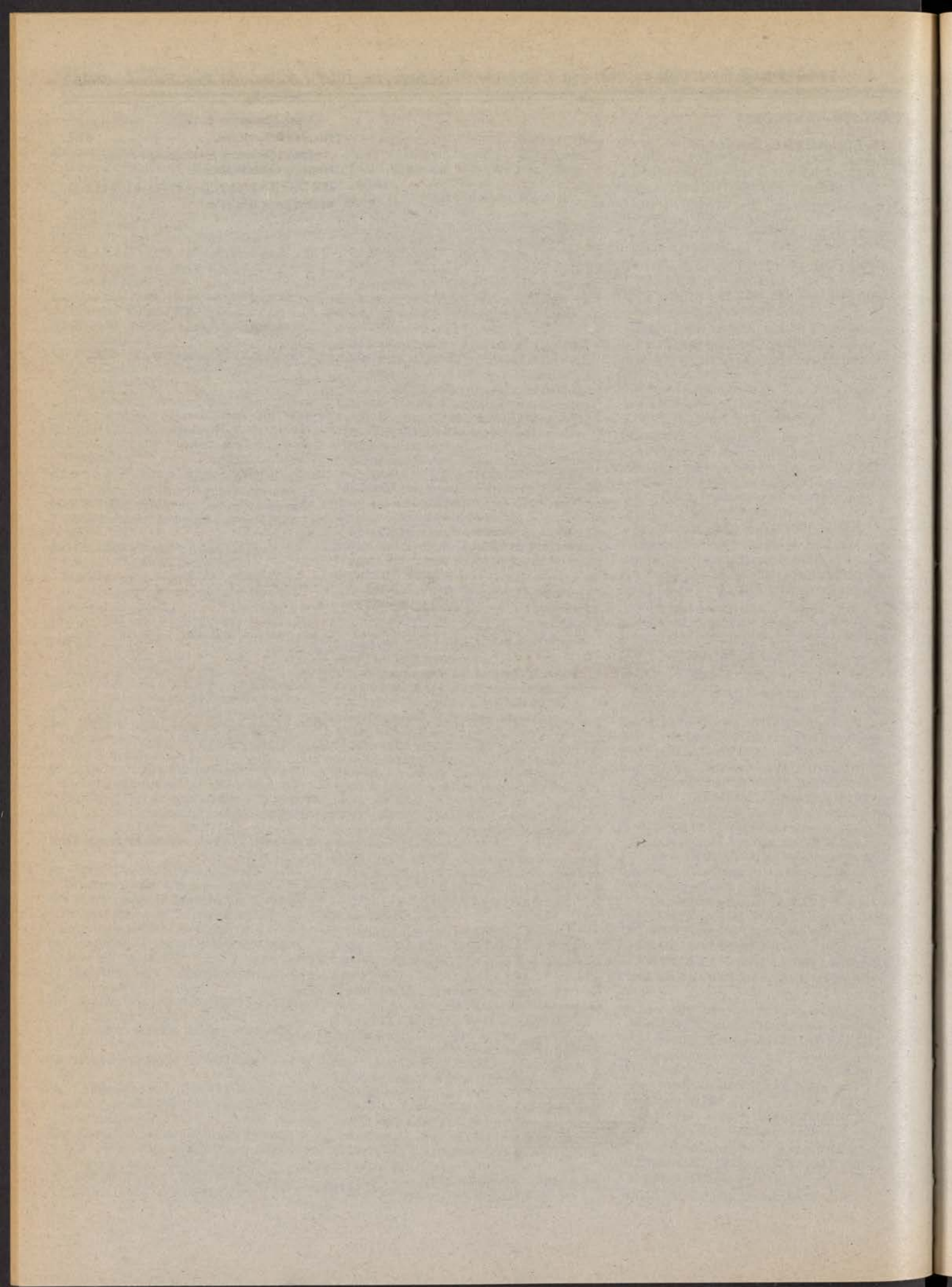
- HH-1-585C Insulation, Thermal (Vermiculite) and Interim Amendment 1—1976
- HH-1-1030B Insulation, Thermal (Mineral Fiber, for Pneumatic or Poured Application)—1980
- HH-1-1252B Insulation, Thermal Reflective, (Aluminum Foil) and Interim Amendment 1—1976
- HH-1-1972 Insulation Board, Thermal, Faced, Gen; 1, 2, 3, Polyurethane and Polyisocyanurate and 4, 5 & 6 Amendments—1985
- LLL-1-535B Insulation Board, Thermal, Cellulosic Fiber, 1977
- SS-S-346C Siding (Shingles, Clapboards, and Sheets) 1968
- SS-T-312B Tile, Floor: Asphalt, Rubber, Vinyl-Composition and Interim Amendment—1979
- Department of Housing and Urban Development, 451 Seventh Street, SW., Mail Room B-133, Washington, DC 20410, Telephone (202) 755-7440.
- Handbooks:
- 4940.2-1973 Minimum Design Standards for Community Water Supply Systems
- 4940.3-1992 Minimum Design Standards for Community Sewerage Systems (Rev. 1-92)
- 4950.1-1988 Technical Suitability of Products Program, Technical and Processing Procedures (Rev. 2 which includes revisions and changes through October 24, 1991)
- 4930.2-1989 HUD Intermediate MPS Supplement, Solar Heating & Domestic Hot Water Systems
- Use of Materials Bulletins:
- 25d Power Driven, Mechanically Driven and Manually Driven Fasteners—9/5/73
- 38h Grademarking of Lumber—7/31/79
- 44c HUD/FHA Standard for Carpet and Carpet Certification Program—2/22/78 (Plus Addendum 1 & 2)
- 48 Labels of Independent Programs for Certifying Pressure-Treated Lumber and Plywood (Plus 5 Supplements—11/15/67)
- 52a Quality Certification and Labeling for Wood Flush Doors—10/7/75
- 58a Acrylic Plastic Sheets for Glazing—9/2/75
- 60 Field Glued Plywood & Wood Frame Structural Floor Systems—12/9/70
- 62a Factory-Applied Laminated Roofing Systems Based on Chlorosulfonated Polyethylene (CPSE)—11/16/72
- 65 Controlled Density Cellular Concrete Floor Fill—10/11/73
- 67 Polycarbonate Plastic Sheets for Glazing—9/3/75
- 70a Particleboard Interior Stair Treads and Certification Program—5/19/82
- 71 Polystyrene Foam Insulation Sheathing Board—1/10/77
- 72 HUD Standard for Carpet Cushion—2/6/80
- 76 Chlorinated Poly (Vinyl Chloride) CPVC and Polybutylene (PB) Hot and Cold Water Distribution—4/25/78
- 77a Cast Iron Sanitary Drainage System with Hubless Pipe and Fittings—3/28/80
- 78 Polyethylene (PE), Acrylonitrile-Butadiene-Styrene (ABS), Poly Vinyl Chloride (PVC) and Polybutylene (PB) Plastic Piping for Domestic Cold Water Service—4/25/78
- 79a Acrylonitrile-Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings—3/7/82
- 80 Spray Applied Cellulosic Thermal Insulation—10/31/79
- 101 HUD Building Product Standards and Certification Program for Exterior Wall Insulation and Finish Systems, July 26, 1993
- Environmental Protection Agency, Office of Drinking Water, 401 M Street, SW., Washington, DC 20460, Telephone (202) 382-5533.
- EPA 570/9-82-004 Manual of Individual Water Supply (NTIS-PB 85242279) Systems (October 1982)
- Flat Glass Marketing Association, White Lakes Professional, Building 3310 Harrison Street, Topeka, KS 66611, Telephone (913) 266-7013. FGMA Glazing Manual—1986.
- FGMA Sealant Manual—1990.
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PART 200—[AMENDED]

15. Appendix B to Part 200 is removed.

Dated: November 3, 1993.

Nicolas P. Retsinas,
*Assistant Secretary for Housing—Federal
Housing Commissioner.*
[FR Doc. 93-27683 Filed 11-12-93; 8:45 am]
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Federal Register

Monday
November 15, 1993

Part III

Department of Transportation

Coast Guard

46 CFR Parts 1 and 67

Documentation of Vessels; Recording of
Instruments; Fees; Final Rule

DEPARTMENT OF TRANSPORTATION**Coast Guard****46 CFR Parts 1 and 67****[CGD 89-007; CGD 89-007a]****RIN 2115-AD60****Documentation of Vessels; Recording of Instruments; Fees****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is establishing new recording practices to fully implement the provisions of the codification of the Ship Mortgage Act. In addition, it is simplifying the procedures for documentation of vessels and establishing new and revised fees for vessel documentation services. This final rule will make the regulations easier to use by the affected public and will more fully implement statutory requirements.

DATES: This rule is effective on January 1, 1994. The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia J. Williams, Chief, Vessel Documentation Section, Vessel Documentation and Tonnage Survey Branch, Merchant Vessel Inspection and Documentation Division, Office of Marine Safety, Security and Environmental Protection, (202) 267-1492.

Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal authors of this regulation are Thomas L. Willis, Project Manager, Lieutenant Commander Don M. Wrye, Attorney Advisor, Vessel Documentation and Tonnage Survey Branch, and C.G. Green, Project Counsel, Office of Chief Counsel.

Regulatory History

On March 26, 1992, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Documentation of Vessels; Recording of Instruments" in the Federal Register (57 FR 15044). That NPRM contained the Coast Guard's proposed revision of 46 CFR part 67, setting forth standards and procedural simplifications for documenting vessels and filing and recording instruments affecting the title of documented vessels. On May 20,

1992, the Coast Guard published an additional NPRM entitled "Documentation of Vessels; Recording of Instruments; Fees" in the Federal Register (57 FR 21546). The additional NPRM set forth proposed fees for services provided based on the revision to part 67 proposed on March 26, 1992 (57 FR 10544).

Comments on both proposals were received from individuals, law firms, commercial vessel documentation services, industry groups, and maritime corporations. The Coast Guard received 41 comments on its proposed standards and procedures, and 40 comments on the proposed fees. Although some comments were received after the close of the comment period, all were considered in promulgating this final rule. No public hearing was requested and none was held.

Following analysis of those comments dealing with proposed rules for submission of citizenship declarations, a final rule entitled "Documentation of Vessels; Recording of Instruments; Citizenship Declarations" was published on September 24, 1992 (57 FR 44126). This final rule partially implemented certain provisions of the Coast Guard's proposal of March 26, 1992, regarding filing a declaration of citizenship (MA-899) in connection with the filing and recording of certain instruments.

In the interest of setting forth documentation regulations as clearly as possible, the Coast Guard has combined its proposals of March 26, 1992 (57 FR 10544), and May 20, 1992 (57 FR 21546), into this single final rule. The comments received in response to both proposals are discussed below. Because this final rule revises all of part 67, the changes made in the final rule of September 24, 1992 (57 FR 44126), concerning citizenship declarations are republished without change in this rule.

Background and Purpose

On November 28, 1988, Congress enacted Public Law 100-710 (the "Codification Act") which amended and codified the Ship Mortgage Act, 1920 into 46 U.S.C. chapter 313; amended the Shipping Act, 1916 (46 U.S.C. app. 808); and eliminated the prohibition against collecting fees for commercial vessel documentation services by amending 46 U.S.C. 2210. The Codification Act was the subject of technical corrections ("Corrections") when Congress enacted Pub. L. 101-225. Both the Codification Act and the Corrections introduced significant changes which are at variance with the former law and with existing Coast Guard regulations.

Most of the provisions of the Codification Act which require changes to the Coast Guard's regulations became effective on January 1, 1989. Certain of the changes were unequivocal and were implemented by an interim final rule published October 12, 1989 (54 FR 41835). The interim final rule was adopted as final in a rulemaking published January 10, 1991 (56 FR 960).

Other statutory revisions, some of which became effective on January 1, 1989, and others which became effective on January 1, 1990, required a more considered approach, including the opportunity for public comment. These latter changes were the subject of the NPRM published March 26, 1992 (57 FR 10544). The intent of the Codification Act and the Corrections was to simplify and streamline the documentation process. Accordingly, the Coast Guard has revised all of its regulations to simplify and clarify the rules and present them in a more orderly fashion.

In addition to requiring changes in the Coast Guard's regulations, the Codification Act also required changes in rules administered by the Maritime Administration affecting the transfer of documented vessels. Those rules, which are set forth in 46 CFR part 221 were the subject of an interim final rule published on February 2, 1989 (54 FR 5382, amended at 54 FR 8195). In addition, the Maritime Administration published a notice of proposed rulemaking on April 13, 1990 (55 FR 14040), and a second interim final rule on July 3, 1991 (56 FR 30656). Following a comment period, the Maritime Administration published a final rule on June 3, 1992 (57 FR 23470). That rule was at variance with the Coast Guard requirements which were then in force with regard to the requirement to file Declarations of Citizenship with certain instruments affecting the title of documented vessels. In order to reduce uncertainty regarding the validity of certain instruments, and to allow the Coast Guard to immediately eliminate a needless paperwork burden on the public estimated at 19,600 hours per year, the Coast Guard published a final rule on September 24, 1992 (57 FR 44126), which conformed the Coast Guard's regulations regarding the filing of Declarations of Citizenship to those of the Maritime Administration.

In addition to the foregoing, the Omnibus Budget Reconciliation Act of 1990 ("Reconciliation Act") (Public Law 101-508) requires the Coast Guard to establish user fees for, among other things, Coast Guard services related to vessel documentation. The user fees required by the Reconciliation Act were the subject of the NPRM published on

May 20, 1992 (57 FR 21546). Prior to the Reconciliation Act, the only vessel documentation fees prescribed by the Coast Guard were for services related to recreational vessels, and several fees prescribed by statute relative to recording instruments affecting the title of documented vessels. As required by the Reconciliation Act, the fees set forth in this rule use the criteria in 31 U.S.C. 9701 and reflect the Coast Guard's current program costs associated with commercial and recreational vessel transactions. By implementing these fees, the Coast Guard will recover current operating and overhead costs associated with vessel documentation and filing and recording activities under 46 U.S.C. chapters 121 and 313. The fees in this rule will be reviewed annually to determine if adjustments or changes are necessary. The Coast Guard will revise these fees when costs change because of inflation, deflation, or changes in the way services are provided. In addition, new statutes may require the Coast Guard to establish new regulations or make substantive amendments to its existing regulations. When this occurs, the Coast Guard will propose appropriate user fees in each rulemaking.

Discussion of Comments and Changes

Some of the comment letters were very detailed in their comments and suggestions, while others raised questions or simply supported or opposed certain sections of the proposed rules without detailed comments or suggestions. Each comment letter received has been considered in the development of this final rule.

Among the comment letters were four requests for an extension of the comment period for the proposal published March 26, 1992 (57 FR 10544). The Coast Guard allowed 90 days for comment instead of the usual 60 days. It is doubtful that any new substantive material would be developed as a result of extending the comment period. Accordingly, the comment period was not extended. The substantive comments received are discussed below.

Four comments were received concerning the definition of acknowledgment. One comment merely expressed support for the proposed change. Three noted that the attestation which the Coast Guard proposed to accept as an acknowledgment was actually a notarization and not a true acknowledgment. One comment observed that not all of the States have adopted one of the uniform acts regarding acknowledgments. It also

noted that the proposed format for a universally acceptable acknowledgment for vessel documentation purposes might not satisfy the legal requirements for an acknowledgment in a given State. In addition, the comment stated that the definition of acknowledgment as a "certificate issued under the Hague Convention Abolishing the Requirement for Legalisation of Public Documents, 1961" needs elaboration. The Coast Guard's sole purpose in providing certain standards for acknowledgments is to define the minimal requirements which must be met in order to make instruments eligible for filing and recording. The proposed definition, which is based upon the statutory definition in 46 U.S.C. 31301, was not intended to be an exhaustive or exclusive list of acceptable forms of acknowledgment. Although the Coast Guard is aware that some States may have additional requirements for acknowledgments, the legislative history of the underlying statute makes clear that the Secretary can prescribe a uniform form of acknowledgment or notarization. (H.R. 100-918) Based on the comments, the definition of *acknowledgment* has been expanded to clarify that acknowledgments or notarizations made pursuant to the laws of any State satisfy the Federal statutory requirements for acknowledgments of instruments. In addition to amending the proposed form of acknowledgment to include the term "acknowledged," there is a fuller discussion of procedures to be fulfilled in affixing certificates or "apostilles" pursuant to the Hague Convention Abolishing the Requirement for Legalisation of Public Documents, 1961.

One comment contended that the words "as defined in this section" in the definition of citizen should be struck as meaningless. The Coast Guard agrees and has made the suggested change.

One comment objected to the inclusion of "passengers" in the definition of coastwise trade, noting that the term "coastwise trade" more appropriately applies to transportation of merchandise. Although the Coast Guard agrees that the comment is technically correct, it is noted that under the statutes administered by the U.S. Customs Service a coastwise endorsement is required for transportation of passengers between points embraced within the coastwise laws of the United States. Therefore, the definition was not changed.

One comment contended that the definitions of the terms coastwise trade and fisheries were not new. Although the terms are not new, their definitions have been revised to conform to

statutory changes. That comment further inquired about the change in the wording of the definition of coastwise trade from "a point in the United States embraced within the coastwise laws" to "points embraced within the coastwise laws of the United States." The change is required because Pub. L. 100-329 expanded the scope of section 27 of the Merchant Marine Act, 1920, (46 U.S.C. app. 883), to include transportation from a point or place in the United States to a point or place in the Exclusive Economic Zone of the United States.

One comment noted that the word "shellfish" had been inadvertently omitted from the definition of *fisheries*. That omission has been corrected.

The definition of hull was characterized by one comment as potentially confusing when read in conjunction with the definition of superstructure. As proposed, it would be possible to conclude that the main deck of a vessel is included in neither its hull nor superstructure. The definition of superstructure has been amended to avoid confusion.

Two comments observed that the Virgin Islands should have been included in the definition of United States. That observation is correct, and the oversight has been corrected.

Section 67.7 has been amended in response to a comment to clearly reflect the requirement that a valid endorsement is required for vessel operation.

Six comments addressed § 67.11. Each comment addressed a slightly different portion of the section, noting the need for consistency between Coast Guard regulations and pertinent Maritime Administration regulations in 46 CFR part 221. Review of the comments revealed that the proposed rulemaking had inadvertently stated that only vessels owned by citizens of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802) require approval of the Maritime Administration prior to transfer to foreign registry or operation under the authority of a foreign country. However, section 9 of the Shipping Act, 1916 (46 U.S.C. app. 808) provides that approval of the Maritime Administration is required for any documented vessel to be transferred to foreign registry or operated under the authority of a foreign country, whether or not the owner is a citizen within the meaning of section 2 of the Shipping Act, 1916. Section 67.11 has been rewritten in this final rule to properly reflect the requirements of the applicable statutes and to conform more closely to the rules of the Maritime Administration.

Two comments expressed the opinion that the cross reference in § 67.12 to 46 CFR subpart 1.03 dealing with the right of appeal is confusing. They suggest that part 67 be expanded to set out the applicable sections of subpart 1.03 or that reference be made to specific applicable sections of subpart 1.03. The Coast Guard does not agree. Complying with those suggestions would require revision of part 67 whenever subpart 1.03 is revised, and would increase the potential for the public to be misled. However, the Coast Guard has decided to amend the procedural appeal provisions in subpart 1.03 to clarify their application to vessel documentation decisions.

One comment suggested that § 67.15 should provide for a temporary Certificate of Documentation for vessels not previously documented, and which are to be used exclusively for recreational purposes. The comment asserts that 46 U.S.C. 12102(b) provides statutory authority for issuing temporary documents to avoid delays caused by a heavy workload. That assertion is a strained reading of the statute. Section 12102(b) was originally enacted as part of the Vessel Documentation Act, 1980, and was intended solely to allow documentation of vessels prior to issuance of tonnage certificates. Although there are no plans at present for issuance of temporary Certificates of Documentation for any purpose, the suggestion will be reviewed in the future.

Two comments noted that in § 67.17, Wake Island had been omitted from the list of places with which a vessel with a registry endorsement may trade. The comments are correct, and the oversight has been corrected.

One comment argued that paragraphs (a) and (b) of § 67.19 should be reworded, by substituting the words "gives a lawful right to a vessel to engage in * * *" for "entitles a vessel to employment in * * *". It is also suggested that a similar change be made in paragraph (d). The purpose of the comment is to support the submitter's contention that the First and Second Provisos of section 27 of the Merchant Marine Act of 1920 ("First Proviso" and "Second Provision") are inapplicable to any vessel which has never actually been documented with a coastwise or a Great Lakes endorsement, and therefore, in the submitter's opinion, has never gained a lawful right to engage in coastwise or Great Lakes trade. The Coast Guard does not agree. Both Coast Guard and the U.S. Customs Service, which was formerly responsible for documentation of vessels under the U.S. flag, have consistently held that a vessel

gains the lawful right to engage in the coastwise trade by virtue of meeting build and ownership requirements, not by virtue of having obtained the endorsement required to engage in that trade. This interpretation is also consistent with the long-held policy of the Coast Guard that the right to engage in the restricted trades is an entitlement that appertains to the vessel and arises as a matter of law upon meeting the requisite conditions. On the other hand, a coastwise endorsement is a license to engage in the coastwise trade. Although a right is not necessarily dependent upon a license or registration, exercising that right may require obtaining a license or other registration. As an example, U.S. citizens have the lawful right to vote, but, in most cases, must register in order to exercise that right. The same comment also recommends changes to § 67.50, 67.57, 67.59, 67.63, 67.177 to make them consistent with the recommended amendment to § 67.19. Because the Coast Guard does not agree with the comment's interpretation of the meaning of the First and Second Provisos of section 27, none of the suggested changes have been adopted.

One comment questioned the propriety of granting coastwise and Great Lakes privileges to any vessel which as the subject of a forfeiture for breach of law of the United States if that vessel had previously lost coastwise privileges by virtue of having been sold foreign. The comment is based on language in the First Proviso which states that any such vessel losing its coastwise trading privileges as discussed shall not thereafter acquire the right to engage in the coastwise trade. (46 U.S.C. app. 883). However, the restriction is not absolute. Congress may, and in fact frequently does, grant special legislative relief from the First Proviso. Further, vessels qualifying under the Wrecked Vessel Statute (46 U.S.C. app. 14) have previously lost trading privileges restored. Likewise, the Coast Guard's long-standing position is that although a vessel loses coastwise trading privileges upon sale foreign, it may regain those privileges if it is subsequently forfeited for breach of law of the United States.

Section 67.31 is not new, as one comment asserted, but is an almost verbatim restatement of existing § 67.03-2. Three comments objected to paragraph (b) which requires that where title to a vessel is held by an entity comprised in whole or in part of other entities which are not individuals, each entity contributing to the stock or equity qualification of the entity holding title must be a citizen eligible in its own right to document the vessel with the

trade endorsement(s) sought. This section has been the subject of litigation, *Conoco, Inc. v. Skinner*, 970 F.2d 1206 (3d Cir. 1992). The Third Circuit Court of Appeals has upheld the regulation from which this section is derived as proper.

Two of the comments addressing § 67.31 also argued for adoption of a "fair inference" rule, which would establish a standard for use by publicly traded corporations to infer the percentage of stock owned by U.S. citizens. The comments indicated that the Coast Guard should adopt such a test to conform its regulations to those of the Maritime Administration. The Coast Guard has consistently declined to adopt a fair inference rule. The standard most often suggested is one based on the address of the stockholders. The Coast Guard will not accept any standard based solely upon the address of the stockholders. In today's business climate of tiered corporate structures and complex equity ownership arrangements it is not unusual to find entities which are not U.S. citizens, but which have a U.S. address, owing significant percentages of the stock in a publicly traded corporation which owns a U.S. vessel.

Vessel-owning corporations are not routinely required to provide supporting evidence that their stock is owned by U.S. citizens, even to establish eligibility for coastwise or fisheries endorsements. The documentation application form (Form CG-1258), requires only that a vessel owner state, within broad ranges, the amount of stock owned by U.S. citizens.

In the past, some corporations were required to provide evidence establishing their eligibility because the Coast Guard had reason to suspect they did not meet stock interest requirements. A presumption in favor of eligibility in those cases would not have precluded the Coast Guard from requiring the additional information. The Coast Guard's experience is that a presumption in favor of eligibility would not serve to further reduce the paperwork burden on the public or make the documentation process any more efficient. The documentation laws are meant to be restrictive and are intended to limit the persons who are eligible to document vessels under U.S. flag and acquire trading privileges. Corporations can make proof of citizenship less difficult, for instance by restricting sale of their stock to U.S. citizens, or using a transfer agent to administer a dual stock certificate system. Of course, any U.S. corporation that is unwilling to subject itself to the possibility of having to prove that it

qualifies for coastwise or fisheries privileges can choose not to seek them. The Coast Guard will not be bound by an presumption or inferences in making eligibility determinations for documentation purposes. Therefore, none have been incorporated into this final rule.

Five comments were received regarding the proposal in § 67.37 which would permit documentation of a vessel by a trust notwithstanding the existence of non-citizen beneficiaries who do not have an enforceable interest in the trust. Four of the comments found the rule too restrictive, noting that the rules concerning trusts have proven troublesome in recreational vessel documentation. The fifth comment supported the rule as written. While it is recognized that restrictive citizenship requirements may prove troublesome in documenting recreational vessels, the Coast Guard's position is that current law prohibits documentation of a vessel owned in a trust arrangement where non-citizens hold an enforceable interest in the trust. The enforceable interest requirement only defines citizenship with respect to the eligibility of a trust to document a vessel under 46 U.S.C. 12102. A trust seeking to document a vessel with a coastwise endorsement must also meet the citizenship requirements of 2 of the Shipping Act, 1916 (46 U.S.C. app. 802).

One comment agreed with the wording of § 67.39, dealing with corporations, but took exception to the Coast Guard's interpretation of the statutory requirement on which the regulation is based. The Coast Guard has consistently held that when a corporation has both a chief executive officer and president, both must be U.S. citizens. That interpretation is consistent with the language of 46 U.S.C. 121102(a)(4), which requires that the "president or other chief executive officer" must be citizens. To be consistent with the requirement that documented vessels be owned by U.S. citizens, it is necessary to read the word "or" as conjunctive, and not as exclusive in nature. Therefore, when a corporation has both a chief executive officer and a president, it is not permissible for merely one or the other to be a citizen. The Coast Guard's interpretation also furthers the general purpose of the statute ensuring that corporate officers with actual or ostensible authority to act on behalf of the corporation be U.S. citizens.

It was correctly noted by one comment that part of § 67.41 was omitted, so that the section failed to state the purpose for which it defines governmental entities as citizens. That

oversight has been corrected so that it now states that "A governmental entity is a citizen for the purpose of obtaining a vessel document * * *."

No comments were received regarding § 67.45, which sets forth the citizenship savings provision for fishing vessels. This section was promulgated in its present form in the Coast Guard's final rule (CGD 88-031) published on December 12, 1990 (55 FR 51244), implementing the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. As was noted in the NPRM of March 26, 1992, this section has been the subject of litigation. In *Southeast Shipyard Assn. v. United States*, No. 90-11142 (D.D.C., April 30, 1991), the District Court decided that the Coast Guard's interpretation of the citizenship savings provision of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 was incorrect. Also as noted the NPRM of March 26, 1992, the decision of the District Court was under appeal. On September 21, 1992, the Coast Guard published an advance notice of proposed rulemaking (57 FR 43432; CGD 88-031a), seeking comments on a number of issues which would need to be addressed in order to develop a rule consistent with the order of the District Court should that order be upheld on appeal. On November 24, 1992, the Circuit Court of Appeals for the District of Columbia reversed the decision of the District Court and upheld the Coast Guard's interpretation of the citizenship savings provision. Therefore, this section is unchanged in this final rule. On March 4, 1993, the Coast Guard published a notice in the Federal Register (58 FR 12352) withdrawing the advance notice of proposed rulemaking published on September 21, 1992. Since the Circuit Court's decision was not appealed, the Coast Guard considers this matter closed.

One comment addressing § 67.50 questioned the omission of a previous requirement for presentation of title evidence upon a change of legal name of the vessel owner. The omission was deliberate since a change of legal name does not actually constitute a change in ownership.

Four comments observed that the simplified methods of establishing title to vessels described in § 67.53 are subject to misuse and fraud, and should not be encouraged. The NPRM merely proposed options whereby owners of certain vessels may use a simplified method to establish title to a vessel. While the simplified method of establishing title may not be foolproof, any title system is vulnerable to fraud. Furthermore, 46 U.S.C. 12104(3)

specifically provides that a Certificate of Documentation is not conclusive evidence of ownership in a proceeding in which ownership is in dispute.

One comment suggested that it would be appropriate to include language in § 67.57 dealing with coastwise trade prohibitions for vessels built with the aid of a construction-differential subsidy under the provisions of Article (sic) V of the Merchant Marine Act of 1936. The Coast Guard does not agree. Title V of that Act (46 U.S.C. app. 1151-1161, as amended), generally limits vessels built with construction differential subsidy funds to foreign trade, and with few exceptions, bars them from "domestic" trade. However, notwithstanding the requirement in sections 1153 and 1154 providing that such vessels must be documented under the laws of the United States, Title V is silent on the issue of coastwise trade. Moreover, any restrictions on vessel operation pursuant to the strictures of Title V arise as a contractual arrangement which is outside the scope of the Coast Guard's responsibilities under the vessel documentation laws.

One comment stated the fact that a chain of title beginning with a Manufacturer's Certificate of Origin is deemed incomplete is a reason to combine the Manufacturer's Certificate (or Statement) of Origin with the Builder's Certification. The two forms serve somewhat different purposes, and while the Coast Guard does not oppose combining the two, it lacks the statutory authority to do so.

One comment noted an error in the cross reference to § 67.13(b) in paragraph (a) of § 67.63. The cross reference should have been to § 67.131(b). That error has been corrected. Paragraph (b) of § 67.63 has also been reworded in order to eliminate the inadvertent suggestion that presentation of title evidence is applicable only to vessels documented pursuant to the Wrecked Vessel Statute (46 U.S.C. app. 14). Presentation of title evidence is also required for vessels documented pursuant to grants of special legislation.

Several comments objected to the provision in § 67.73, permitting use of the reverse of either the Builder's Certification on form CG-1261 or the Manufacturer's Certificate of Origin to transfer undocumented vessels from the party for whom built. The Coast Guard notes that these methods of evidencing transfer of title are permissible, not mandatory, and that parties still have the option to present a bill of sale if desired.

In response to a comment, § 67.79 has been reworded for clarity without substantive change.

Comments received in regard to § 67.83 demonstrated the need for a section devoted to sale of vessels deemed abandoned under State statutes. Accordingly, § 67.91 has been added to address passage of title in this manner. Another comment suggested that only an affidavit from a foreclosing party should be required, that there should be no requirement for submission of the instrument under which foreclosure was made, and that the Coast Guard was placing "undue burden" on itself in requiring demonstration of compliance with the terms of the instrument and any applicable statutes. The Coast Guard disagrees. The requirements of the regulation are the minimum necessary to ensure that there has been actual passage of title, and that the passage of title was in accordance with State law.

One comment urged the Coast Guard to merge the Builder's Certification provided for in § 67.99 with the form used for a Manufacturer's Certificate of Origin. As discussed earlier in this preamble, the Coast Guard does not disagree with this suggestion. However, the Coast Guard has concluded that it does not have the statutory authority to mandate combining the forms. Another comment recommended controlling the issuance of duplicate Builder's Certification. It was suggested that this could be done by requiring any person issuing a Builder's Certification to report that fact to the Coast Guard for inclusion in the "Coast Guard's data bank * * *." While this suggestion may seem simple to implement, the Coast Guard considers it impracticable. There is neither a restriction on who may build a vessel nor a central registry of "data bank" for vessel builders, many of whom may build only one or two vessels. Accordingly, it would be virtually impossible to enforce such a provision.

In response to § 67.101, one comment requested a definition of "competent and persuasive evidence." The term is a standard by which the Coast Guard evaluates evidence of build. Promulgating a regulatory definition of that term may ultimately prove to severely limit the types of evidence which might help to establish the facts of vessel build. The same comment suggested that a statement of a "certified surveyor" should be sufficient to establish the facts of vessel build. That suggestion has not been adopted since surveyors typically are knowledgeable about a vessel's condition and value, but will rarely, if even, know if (a) the

manufacturer fabricated all major components of the vessel's hull or superstructure in the U.S., and (b) the identity of the person(s) for whom the vessel was built, along with the ownership percentage of the vessel vested in each.

One comment stated that the requirements set forth in subpart G "duplicated" measurement requirements in 46 CFR part 69. The Coast Guard does not agree. Subpart of part 67 provides basic information needed by applicants for vessel documentation, and links part 69 by cross reference.

There was general support for identifying the managing owner of a vessel as required in § 67.113, provided that owners of vessels which are currently documented do not have to exchange those documents or make a filing to designate a managing owner. There are no plans to require any such filings or exchanges of documents. However, designation of a managing owner will be required for vessels currently documented whenever the document is required to be exchanged in accordance with § 67.167, or replaced in accordance with § 67.169. One comment objected to allowing the address of the managing owner of a vessel to be based upon "any residence" suggesting that the requirement be restricted to "principal residence." It is asserted that this would assist in determining which documentation office would be most likely to have the records of a particular vessel, and establish a single place at which a vessel owner would be subject to personal jurisdiction as a foreclosure action. Another comment suggested restricting the choices of an individual vessel owner to the owner's "principal residence" or "principal place of business." The Coast Guard does not agree that limiting a vessel owner's options for establishing the port of record would be particularly advantageous in determining which port of documentation would be most likely to have records of a vessel owned by a certain owner, or necessary to establish personal jurisdiction in foreclosure actions. Allowing individuals to establish addresses based upon principal places of business is not considered a good idea since in the event of relocation, the Post Office will generally forward mail addressed to one's residence, but the same service may not be available for mail addressed to an individual at a place of business. The Coast Guard's present computer search capabilities make rigid port choices less important. Moreover, by requiring that all vessels owned by an

owning entity must have the same port of record, there is a greater assurance that all records for a given vessel owner will be found at the same location. Two comments suggested that the Coast Guard continued its past practice of allowing the address of the managing owner to be based upon the address of a long-term bareboat charterer. That practice has proven problematic. Renewal notices, for instance, require an affirmative statement about such things as the vessel owner's citizenship; charterers are rarely able to make such affirmations with any degree of certitude. Moreover, the very practice of having the charterer attend to vessel documentation functions raises questions about the *de facto* ownership of the vessel. Therefore, the suggestion is not adopted.

Comments on relaxation of the rule for choice of hailing port contained in § 67.119 were generally favorable. However, one vessel documentation agent objected based on a perception that this would increase the opportunity for smugglers to confuse authorities. An individual questioned the purpose of a hailing port if the guidelines for choosing that port were liberal. The requirement for a hailing port assists in identifying vessels, particularly since there is no prohibition against many vessels bearing the same name. Moreover, because the hailing port will appear on the Certificate of Documentation upon implementation of these regulations, it will in fact be easier to identify an unauthorized alteration of a vessel's hailing port by smugglers and other miscreants.

Several persons objected to the provision of § 67.120 which would have deemed vessel documents invalid until the vessel was properly marked with its name, hailing port, and official number, noting that such a provision would give rise to questions about the efficacy of a mortgage filed to evidence a security interest in the vessel. The section has been corrected to provide that the vessel's document will not be valid for operation until it is marked in accordance with the regulations found elsewhere in subpart I.

Section 67.123 has been amended in response to a comment to provide marking criteria for certain types of vessels for which the usual marking requirements are impracticable. The same comment queried whether abbreviations of the city and State of the hailing port would be permitted. While generally recognized abbreviations, such as N.Y., N.Y., would be permitted, determinations concerning abbreviations would have to be made on a case-by-case basis. The final authority

to determine the propriety of a given hailing port, including abbreviations in a hailing port, and the proper marking of the vessel is vested in the Officer in Charge, Marine Inspection for the zone in which the vessel is principally operated.

One comment noted that there was no provision in § 67.141 for submission of consent of the vessel mortgagee to certain vessel documentation actions, if applicable. That oversight has been corrected.

Two comments objected to the fact that the prohibition against exchange of a document without mortgagee consent in § 67.145 does not apply to vessels subject only to mortgages filed or recorded before January 1, 1989, and which had not attained preferred status as of that date. The distinction in paragraph (b) of § 67.145 is based upon the provisions of section 301(b) of the Corrections, which limits the applicability of 46 U.S.C. 1211(c)(3) to those mortgages filed or recorded after January 1, 1989, the effective date of the statute, and to those mortgages which had attained preferred status as of that date. Accordingly, no change has been made.

Two comments objected to the requirement for annual renewal of the vessel's endorsement(s) in § 67.163. The Coast Guard considered alternatives to annual renewal. However, experience has shown that where annual renewal is not required, vessel owners often fail to report changes of address and other facts which may require exchange of the Certificate of Documentation. In addition, annual renewal helps the Coast Guard fulfill its statutory responsibility to ensure that vessels engaging in restricted trades remain eligible for those trades. Because the Post Office will forward mail for only one year, it is more expensive to track down vessel owners than to process renewals. The current renewal process requires a minimal effort by the vessel owner, who must merely sign a printed form and return it to the documentation officer. There is no requirement to remove the Certificate from the vessel unless there is a change requiring exchange of the document. One comment requested that renewal notices be sent to bareboat charterers rather than the vessel owner. As noted earlier in this preamble, the bareboat charterer is usually not qualified to make definitive statements about the citizenship of the vessel owner, especially if the owner is a publicly traded corporation.

In accordance with a comment, a cross reference in § 67.165(b)(2) has been corrected. The cross reference

should have been to § 67.171(a) (1) through (8).

One comment espoused the view that requiring exchange of a Certificate of Documentation upon the death of a beneficiary in a family trust was too stringent. While the Coast Guard agrees, the issue is moot. The requirement in § 67.167(c)(2) for exchange applies only when a beneficiary with an enforceable interest in the trust changes by addition or substitution, not when there is a change by deletion. Two comments suggested that the new 30-day "grace period" for exchange of the document is too short under certain circumstances. The Coast Guard disagrees. This change is a significant liberalization of the current regulations which generally provide for immediate invalidation of the Certificate of Documentation. However, paragraph (f) of the section has been corrected to eradicate the erroneous statement that a Certificate of Documentation which becomes invalid under paragraph (b) remains valid for 30 days for the purposes of 46 U.S.C. chapter 313. As amended, paragraph (f) provides that a Certificate of Documentation which becomes invalid under paragraph (c) remains valid for 30 days after it otherwise would have become invalid for the purposes of filing a new mortgage or amendment, assignment, assumption, or subordination agreement.

One comment expressed concern about the provision in § 67.171 for deletion of vessels from documentation for failure to maintain the markings required elsewhere in this part. Markings are essential for proper identification of the vessel. It is incumbent on the vessel owner to maintain required markings in a legible manner.

Section 67.177 was the subject of two comments. The first, addressing paragraph (b), requested substitution of the words "had acquired the lawful right to engage in the coastwise trade * * *" in place of "which has not previously permanently lost * * * privileges * * *". The only purpose which would be served by the suggested change would be to give credence to the submitter's interpretation of the applicability of the Second Proviso of section 27 of the Merchant Marine Act, 1920; that interpretation, as noted earlier in the preamble discussion of § 67.19, has been rejected by the Coast Guard. The second comment requested that the regulation be expanded to include the Coast Guard's interpretation of the rebuilding "grandfather" of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. Since the period during which a rebuilding must

be accomplished has passed, the Coast Guard has determined that it is not necessary to expand the regulation for that purpose.

One comment complained that § 67.200 was too restrictive by limiting the types of instruments which are eligible for filing and recording. It was suggested that the Coast Guard should also record such instruments as conditional sales contracts and charters of a vessel with an option to purchase. The rationale for the suggestion is based on the words of 46 U.S.C. 31321(a)(1), providing for filing and recording of "A bill of sale, conveyance, mortgage, assignment, or related instrument * * *". The purpose of 46 U.S.C. 31321(a)(1) is to provide for filing of instruments for a vessel at the time the application for documentation is submitted. This filing eliminates the gap in validity perceived to exist while the application for documentation is being processed. The legislative history also indicates the intent of Congress that the types of related instruments required to be filed be defined by regulations. There is nothing in the legislative history to indicate that Congress intended in the statute to expand the types of instruments requiring public notice. Furthermore, an expansion as suggested in the comment would raise a potential conflict between the regulations and those provisions in 46 U.S.C. chapter 313 which distinguish between a vessel owner, charterer, or agreed buyer in possession of the vessel. Therefore, the suggestion is not accepted. Another comment notes that there is no provision for recording a Builder's Certification, but that there is a provision for using the Builder's Certification to evidence transfer of title. Builder's Certifications are filed, noted on the General Index or Abstract of Title (form CG-1332) (referred to hereafter in this preamble as the Abstract of Title), and are kept in the vessel file, thereby fulfilling the notice provisions of 46 U.S.C. 31321 without placing them in a separate record book.

One comment suggested that § 67.203(a)(1) would foreclose the possibility of filing instruments when a vessel is undergoing changes, such as vessel lengthening. That understanding is flawed. The new "grace period" established in § 67.167(f) provides for such filings for the first time. Moreover, if the 30-day grace period has passed, it is permissible to submit new filings by filing them with a new application for documentation, provided that application is in substantial compliance with pertinent regulations in this part. Another comment requested that the Coast Guard define the term "material

alteration." The Coast Guard has employed a material alteration standard in accepting instruments for recording for many years. These long years of experience have not revealed any significant difficulty in applying that standard. Therefore, the Coast Guard will not define the term. The Coast Guard also disagrees with concern expressed in one comment that § 67.203 would preclude recording of an instrument when a Certificate of Documentation is deemed invalid because of a Coast Guard clerical error. In such an event, the vessel affected would still be the subject of an application for documentation in substantial compliance with the applicable regulations, thus permitting filing and recording of appropriate instruments.

Section 67.207 was the subject of one comment which noted that although the Coast Guard accepts "as of" dates on instruments, it does not necessarily index the "as of" date on the Abstract of Title. The comment goes on to state that "as long as an instrument bears a date, (the) Coast Guard should accept the instrument and index the date of the instrument, regardless of when it is acknowledged." The present policy of the Coast Guard is to accept instruments with "as of" dates. However, the Coast Guard does not agree that it should accept without reservation instruments bearing any date whatever. It would be improper, for example, to accept an instrument for filing in a situation where the wording and date of the acknowledgement make it apparent that the instrument could not have been signed on the purported date. Moreover, because notices of claim of lien may be recorded only against the record of a vessel subject to a preferred mortgage, the dating of that type of instrument may be absolutely critical to determine the statutory eligibility of the instrument to be filed and recorded.

Six comments were received with regard to the required number of copies set forth in § 67.209. Generally, reaction to reduction in the number of copies required was mixed. However, all six comments, which were from agents who prepare instruments for a fee, objected to language in the preamble in which the Coast Guard proposed a policy to allow mortgagors and mortgagees to jointly certify copies of preferred mortgages. The policy option of allowing the parties to a preferred mortgage to jointly certify copies has been retained.

The discussion of comments received regarding the requirement in § 67.211 for filing a citizenship declaration in connection with certain instruments

was published in the preamble to the Coast Guard's final rule published on September 24, 1992 (57 FR 44126), and is not repeated here.

In response to a comment, the heading of § 67.215 has been amended by eliminating the words "and recording." Another comment noted that paragraph (b) of that section provides that when an instrument whose filing is subject to termination is replaced with a new instrument, the new instrument will receive a new filing date and time. The comment is correct in the observation. When the filing of an instrument is subject to termination, and a second instrument is substituted for that instrument, the filing of the substitute instrument does not "relate back" to the date and time of filing of the instrument being replaced. Rather, the substituted instrument receives a new date and time of filing. This does not, as claimed in the comment, contradict the discussion in the preamble which notes that the original date and time of filing may be retained in those situations where supplemental materials are filed to obviate termination of a filing. Section 67.215 has been reworded to clarify the difference in treatment between supplementing a filing and substituting a new filing.

Two comments took issue with the provisions of paragraph (c)(5) of § 67.217. One stated that vessel owners should be able to permit mortgagees to receive all terminated filings submitted in connection with documentation of the vessel and the filing of the mortgage, and that the mortgagee in turn should be able to authorize an agent on its behalf to receive all terminated filings. Another comment, from a documentation agent asserted that requiring documentation agents to obtain authorization from affected parties to receive instruments whose filing has been terminated is "an excessive burden on the agent". The Coast Guard agrees with the first comment and has clarified the section accordingly. It does not agree with the second comment. For many years, the extant requirement for agents to obtain written authorization from mortgagees in order to receive the original preferred mortgage has neither proven to be nor been portrayed as unduly burdensome.

Two comments were received with regard to § 67.223. Both favored the Coast Guard's proposal to permit the filing of bills of sale in conjunction with an application for deletion from documentation. Accordingly, that section is unchanged.

Three comments were received from documentation agents in response to the provision in § 67.231 for an Optional

Application for Filing. All questioned the appropriateness of such an application. The Coast Guard notes, however, that the legislative history of the Codification Act clearly expresses the intent of Congress that such an application be accepted by the Coast Guard in accordance with the terms in § 67.231.

One comment, submitted on behalf of a legal association, objected to the provision in § 67.233 that mortgages and assumptions will not be deemed eligible for filing and recording if the mortgagor or assuming party did not hold legal title at the time of filing. It is suggested that this may be contrary to the statutory scheme and that the regulations could remain silent on this point. The Coast Guard notes that similar provisions which have been in place for many years, including one adopted in 1989, have not proven unduly burdensome. Moreover, the Coast Guard's position is that such a provision is necessary to ensure orderly administration of its filing and recording system.

In response to a comment, the Coast Guard has removed the word "chattel" from paragraph (a) of § 67.235. The word has also been removed from the heading for subpart Q.

One comment agreed with the proposal to eliminate Certificates of Ownership, but stated that the vessel's Abstract of Title should include addresses. Two comments offered no objection to elimination of Certificates of Ownership, but requested entry of addresses on Abstracts of Title. Five other comments objected outright to elimination of the Certificate of Ownership, noting that Abstracts of Title can be difficult to read, and that Certificates of Ownership provide a beneficial service. Upon consideration of all of the comments, the Coast Guard has decided that it is in the best interest of the maritime community for it to continue to issue Certificates of Ownership upon request. Section 67.305 has been added to implement this decision. The inclusion of addresses on Abstracts of Title will not be adopted since addresses are subject to change without notice and because doing so would pose an undue administrative burden on the documentation system.

Two substantive comments were received regarding §§ 67.315 and 67.317. One requested that a "temporary" certificate of some sort be made available to commercial vessels only to allow for movement of the vessel for repair work, outfitting, or similar functions, either within the confines of a port, or to another port. The Coast Guard notes that unless a vessel is being

operated in a trade, it is not required to be documented. Moreover, the Coast Guard's position is that there is insufficient statutory authority to permit issuance of such "temporary certificates."

Another comment suggested that the requirement to keep the Certificate of Documentation on board should be inapplicable when it has been submitted to a documentation officer in accordance with the requirements of § 67.167. The Coast Guard agrees in part, noting that paragraphs (d) and (e) of § 67.167 provide circumstances under which the endorsements on a Certificate of Documentation remain valid, notwithstanding an application for exchange of the Certificate. However, it is also noted that only documents whose endorsements are invalid for some reason are subject to exchange in accordance with the provisions of paragraphs (a) and (b) of § 67.167. Therefore, except for applications pursuant to paragraphs (d) and (e) of § 67.167, the affected vessel would be ineligible to engage in certain trades under any circumstances until a new Certificate of Documentation bearing the appropriate trade endorsement had been issued. Sections 67.315 and 67.317 have been modified in order to accommodate owners applying for a change in accordance with the provisions of paragraphs (d) and (e) of § 67.167.

Three comments noted the inadvertent omission of the word "invalid" from § 67.331. Actually, the phrase "which have become invalid under subpart M" was erroneously printed as a line in appendix A to part 67. The section has been corrected.

A total of 41 comments were received with regard to the fees proposed in subpart Y. Of those, 13 objected to either increase in fees or imposition of any fees whatever. Three comments found the amounts of the fees acceptable, but requested that the Coast Guard delay their implementation pending an analysis of the overall effect of all user fees affecting vessel owners. One comment requested exemption from fees for tax-exempt organizations such as the Boy Scouts. A comment from the Maritime Administration requested exemption of fees applied to vessels owned by the Federal Government.

The Coast Guard notes that the Reconciliation Act requires it to collect user fees in order to recover the costs associated with providing vessel documentation services. The law does not expressly allow for exemption of tax-exempt institutions or governmental agencies. Nor does the law provide for delayed implementation.

With regard to tax-exempt organizations, such as the Boy Scouts, vessels owned by these entities may be documented with a registry endorsement for sail-training and a recreational endorsement for other youth program purposes. Vessel documentation for these purposes is not required by law, but is permissive. Only when vessels owned by these entities are operated in the coastwise trade, Great Lakes trade, or fisheries does documentation with the requisite endorsement become mandatory. Where vessel documentation services are provided as a matter of convenience, an exemption from user fees will not be allowed. Where vessels owned by these entities compete in the restricted trades, and documentation is required by law, then as a matter of policy and fairness the tax-exempt entity should pay the fees. Therefore, no tax-exempt entity, including the Boy Scouts, is exempted.

As regards governmental entities however, further analysis is required. Underlying the Reconciliation Act, is an attempt to shift part of the cost of the administration of government from taxpayers at large to persons directly receiving a particular service. A fee charged for providing a service to a Federal agency would be directly paid with federally-appropriated funds. These funds might shift among accounts at the Treasury, but would not increase the revenues to the Treasury. Actually, this activity would increase the cost to taxpayers through added bookkeeping costs. Therefore, the purposes of the Reconciliation Act would not be met. Accordingly, when a user fee is applicable for providing documentation services to a Federal agency acting in its own behalf and that agency would have to pay the fee with federally-appropriated funds, the Coast Guard will waive collection of the fee. The Coast Guard does not anticipate waiving collection of a fee where the Federal agency obtains a documentation service for the benefit of a third party who should be obtaining the service and paying the fee directly.

Five comments, including one from an organization representing commercial vessel operators, and one from an officer of a large U.S.-flag shipping company found the fees generally fair and equitable.

Eight comments took exception to the concept of charging fees for different types of trade endorsements. These objections seem to be based on a lack of understanding of the documentation process. Although it is certainly true that the physical act of typing additional endorsements is not onerous, it is more time consuming to carefully evaluate a

vessel's record to ensure that some action in the course of its history has not rendered it ineligible to engage in a restricted trade. The additional time involved in this type of evaluation results in increased costs to the Coast Guard, which in turn requires the Coast Guard to charge a higher fee to recover the costs of its operations.

Eighteen comments objected to a charge of \$41.00 for Abstracts of Title. After careful analysis, the Coast Guard agrees with the comments that this fee is too high, and has reduced the fee to \$25.00. The reduction is based partly on review of the time spent in issuing Abstracts of Title, which in addition to the time spent locating the file and making copies, requires a physical check of all instruments which have been received in the office, but have not yet been indexed. Another factor in the decision is the fact that the proposed fee was based on the projected number of Abstracts of Title to be issued. Although it is expected that the decision to continue to issue Certificates of Ownership will result in a lesser number of Abstracts of Title being issued, the loss of revenue will be offset by the fees the Coast Guard anticipates collecting for issuing Certificates of Ownership. Section 67.537 has been added to provide for the fee to be charged for a Certificate of Ownership, and for attachments for additional vessels with the same ownership and encumbrance information.

The fee summary table in § 67.550 of the NPRM of May 20, 1992 (57 FR 21546), contained three errors. First, the table stated the proposed fee for a Great Lakes endorsement as \$19.00. The correct proposed fee of \$29.00, the same as for Coastwise and Coastwise Bowaters endorsements, appeared in § 67.511. Second, the table stated the proposed fee for renewal of endorsements at a port other than the port of record as \$5.00. The correct proposed fee of \$15.00 appeared in § 67.515. Lastly, the table stated the proposed fee for replacement of a lost or mutilated Certificate as \$49.00. The correct proposed fee of \$50.00 appeared in § 67.507. The table has been corrected in this final rule. In addition, specific fee amounts are now contained only in the table for ease in use and future amendment as needed.

Eight comments suggested that payment of the proposed fees would be less onerous if fees were rounded off to multiples of five or ten dollars. Although the Coast Guard agrees in principle, there are two statutory requirements at work. First, the Coast Guard is barred from charging more than the cost of a particular service.

Second, the Coast Guard is required to recover all costs associated with documentation of recreational vessels. Although the calculation of user fees for services performed at different ports by different people is less than an exact science, the fees calculated for recreational vessels are close enough to prohibit rounding to multiples of five or ten dollars without violating the second statutory mandate. Therefore, to avoid additional confusion that would be caused where there is one fee schedule for transactions involving commercial vessels and another fee schedule for transactions involving recreational vessels, the Coast Guard has endeavored to maintain a universal cost-based fee structure in whole dollar amounts. This system provides for the most equitable and practical approach in keeping with the applicable statutory mandates and restrictions. Although the new fee schedule may initially appear unwieldy, it will be simpler than the present fee structure for recording bills of sale and mortgages, which requires payment of some multiple of 20 cents, determined by the number of words in the instrument and number of copies.

Lastly, section 5213 of the Oceans Act of 1922 (Pub. L. 102-587) added section 12123 to Title 46 U.S.C., authorizing the Coast Guard to deny the issuance or renewal of, or to revoke, the endorsement(s) on a Certificate of Documentation issued to a vessel if the owner of the vessel has failed to pay a civil penalty assessed by the Coast Guard. Section 5213 of the Oceans Act also amended 46 U.S.C. 12110(c) to render a vessel liable to seizure and forfeiture to the United States should the vessel, after its endorsement has been denied or revoked under the authority of 46 U.S.C. 12123, be operated without proper endorsement.

Almost all of the Coast Guard's vessel documentation regulations, and the statutes which authorize them, adhere to the admiralty doctrine of reification—the notion that privileges, duties, liabilities, and restrictions attached to the vessel itself rather than to its owner. However, this new authority departs from that doctrine and relates to vessel ownership, rather than the vessel itself. Therefore, if an owner fails to pay a civil penalty, adverse action may be taken against the endorsement(s) on Certificates of Documentation for any vessels owned by that owner, not just the vessel involved in the incident leading to the assessment of the civil penalty. Further, action against the endorsement(s) need not be limited to the Certificate of one vessel, but rather may be taken against the Certificates of all vessels owned by that owner. All

that is required is that a civil penalty, assessed by the Coast Guard through the civil penalty process, remain unpaid. In order to conform the regulations to this new authority, amendments have been made to appropriate sections relating to application for initial issue, exchange, replacement, or renewal of a Certificate of Documentation, and deletions from documentation that denial or revocation action, as appropriate, may be taken if the vessel owner has an outstanding civil penalty assessed by the Coast Guard.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 67.13 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as listed in that section.

Regulatory Evaluation

This regulation is a significant regulatory action under Executive Order 12866. It is also significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979) because it concerns matters in which there is substantial public interest. The following constitutes the regulatory evaluation for the rulemaking.

This rulemaking simplifies the paperwork and reporting requirements necessary to effect the documentation of a vessel and streamlines internal administrative procedures and requirements. In addition, it revises existing user fees and establishes new fees for services related to vessel documentation activities.

The benefits of documenting a vessel are practical, legal, and financial. The salient practical benefit (and not coincidentally the reason the concept of Federal documentation exists at all) is to ensure unencumbered interstate and international commerce. This practical benefit is intimately related to the legal benefits attendant upon Federal documentation. The existence of a Federal system of documentation serves to preempt State numbering and regulatory schemes such that a vessel operated under a Federal endorsement (e.g., a coastwise endorsement) is ensured access to State waters for various activities. In fact, the Federal documentation statutes, which date to the earliest days of our Republic, are a direct result of dissatisfaction with impediments to the free flow of commerce once imposed by the several States. That Federal documentation continues to provide this benefit is evidenced by the recurring preemption cases in which a vessel owner or

operator invokes the protections of documentation against a State seeking to close its waters to nonresidents for certain activities. In the field of international commerce, documentation establishes the nationality of a vessel and confers the privileges, protections, and immunities contemplated by longstanding international law and custom. Another practical benefit of Federal documentation stems from the preferential customs and tax treatment accorded to "vessels of the United States." Established national policy seeks to promote the existence of an American merchant marine as a resource to be drawn upon in time of emergency or war. To the extent that documentation is a condition precedent to the receipt of preferential customs and tax treatment, it serves as a tool to promote national policy interests. The major financial benefit conferred by documentation is preferred mortgage financing. The availability of capital for maritime financing hinges upon the existence of the preferred mortgage as security for loans against vessels. Since the regulations will make it easier to document a vessel under U.S. law, and will make it easier to file and record instruments, including mortgages, they will enhance the benefits outlined above.

Not all vessels of the requisite size are required by law to be documented. Documentation is not statutorily required for vessels engaging in foreign trade or for those used exclusively for recreational purposes. A registry endorsement is obtained on a voluntary basis for purposes of establishing the nationality of a vessel for the protections of international law or to obtain preferred mortgage financing, or both. Recreational vessels are documented primarily for the purpose of obtaining preferred mortgage financing.

The Reconciliation Act requires the Coast Guard to collect user fees for services provided under Subtitle II of Title 46, U.S. Code. These services include: Vessel documentation, vessel inspection, marine licensing, plan review and equipment approval, and foreign vessel examinations. The bulk of this analysis will describe the vessel documentation fee structure and its cost impacts on industry and the public. Because the services performed under these regulations may impact the same individuals or companies, it is necessary to briefly examine the combined costs of these user fee regulations. Although precise final cost impacts await further study, the total amount to be collected for all services provided under Subtitle II of Title 46

U.S.C. is estimated to be less than \$45 million on an annual basis. This is well below the \$100 million threshold that would make this regulation a major regulation. The Coast Guard has also determined that these regulations will not have a significant impact on inflation, any one industry, geographical region, or international trade.

Estimated annual costs of the user fees associated with this regulation are \$4,779,000 to the recreational boating community, and \$4,156,000 to the commercial vessel industry, totalling \$8,935,000. User fees, albeit at lower rates than imposed in this rule, are already in place for 60 percent of vessel documentation activities, including documentation of recreational vessels, new vessel determinations, wrecked vessel determinations, and recording of bills of sale and mortgages.

Information on the number and type of discrete vessel documentation activities and the number of transactions per activity was provided by the vessel documentation officers and Marine Safety Information System (MSIS) data. The amount of time required to complete each transaction was estimated by vessel documentation officers based on the streamlined procedures detailed herein.

Program costs were computed using COMDTINST 7310.10 dated March 21, 1990, the standard rate instruction. An average billable hourly rate was determined to be \$49.75 per hour, which includes costs attributable to the MSIS computer system in support of the vessel documentation program. The Coast Guard estimates these MSIS costs to be \$1,578,000 per year. Total vessel documentation program costs are estimated to be \$8,935,000. Projected user fee receipts for commercial vessel documentation is based on that fraction of current vessel documentation activities that are for commercial vessels. For a vessel that is primarily used for recreational purposes (greater than 50 percent), the bulk of the projected fee collections would be identified as for the documentation of a "yacht."

The cost of these regulations to a typical owner of a new commercial vessel will be approximately \$157-\$210. These fees are relatively insignificant costs when compared to overall commercial vessel acquisition or operating costs. Daily rental fees for commercial vessels range from several hundred to several thousand dollars. The cost of these regulations for the owner of a new yacht will be approximately \$147. Therefore, yacht owners, whose vessels are typically worth from tens of thousands to

millions of dollars, should be negligibly impacted by these increased fees.

The only new fees which are more costly than the Initial Documentation fee are the fees for Rebuilt and Wrecked Vessel Determinations, which apply to the commercial vessel industry and are relatively uncommon. Of the 215,000 vessels currently documented, an average of only 15 vessels annually are the subject of a rebuilding determination. The owners of those vessels will be required to pay the \$450 fee for the determination. Rebuilding a vessel is often a major financial undertaking, costing tens of thousands to millions of dollars. Comparatively, the financial impact of the Rebuilt Vessel Determination fee on vessel owners will be minimal. A very small number of vessel owners, generally fewer than four per year, will have to pay the \$555 fee for each Wrecked Vessel Determination. Compared to the cost associated with rehabilitating a wrecked vessel, the financial impact of this fee compared to the overall undertaking will be minimal.

Small Entities

The procedural and administrative changes in this rulemaking are largely technical amendments which the affected small entities should have little difficulty understanding or adopting into their business practices. The new user fees and changes in existing user fees reflect the cost to the Coast Guard of providing the related documentation services and, when compared to the cost or value of the vessel, are minimal. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains various collection of information requirements associated with vessel documentation procedures. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 6504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The OMB approval number is OMB Control Number 2115-0110, displayed in § 67.14.

Federalism

The Coast Guard has analyzed this regulation in accordance with the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to

warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. This regulation deals with user fees and procedural matters including reporting and recordkeeping requirements in order to obtain privileges as vessels of the United States and to record title and encumbrance instruments. These regulations are administrative in nature and clearly have no environmental impact. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (government agencies), Reporting and recordkeeping requirements.

46 CFR Part 67

Fees, Incorporation by reference, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 1 and revises 46 CFR part 67 to read as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633, 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01-35 also issued under the authority of 44 U.S.C. 3507.

2. In § 1.03-15, paragraph (h)(1) is revised to read as follows:

§ 1.03-15 General.

* * * * *

(h) * * *

(1) Commandant (G-MVI) for appeals involving vessel inspection issues, vessel documentation issues, or tonnage measurement issues; or

* * * * *

3. Section 1.03-45 is added to read as follows:

§ 1.03-45 Appeals from decisions or actions involving documentation of vessels.

Any person directly affected by a decision or action of an officer or employee of the Coast Guard acting on or in regard to the documentation of a vessel under part 67 of this chapter, may make a formal appeal of that decision or action to the Commandant in accordance with the procedures

contained in §§ 1.03-15 through 1.03-25 of this subpart.

4. Part 67 is revised to read as follows:

PART 67—DOCUMENTATION OF VESSELS

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 - 67.3 Definitions.
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Appendix A to Part 67—Ports of Documentation

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 U.S.C. 322, 49 CFR 1.46.

Subpart A—General

§ 67.1 Purpose.

A Certificate of Documentation is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits a vessel to be subject to preferred mortgages.

§ 67.3 Definitions.

The following definitions are for terms used in this part.

Acknowledgment means:

(a) An acknowledgment or notarization in any form which is in substantial compliance with the Uniform Acknowledgments Act, the Uniform Recognition of Acknowledgments Act, the Uniform Law on Notarial Acts, or the statutes of the State within which it is taken, made before a notary public or other official authorized by a law of a State or the United States to take acknowledgment of deeds;

(b) An acknowledgment or notarization before a notary or other official authorized to take acknowledgments of deeds by the law of a foreign nation which is a party to the Hague Convention Abolishing the Requirement for Legalisation of Public Documents, 1961, provided that the acknowledgment or notarization is accompanied by the certificate described in Article 3 of that Convention; or

(c) Any attestation which is substantially in the following form:

State:
 County:

On [date] the person(s) named above acknowledged execution of the foregoing instrument in their stated capacity(ies) for the purpose therein contained.

Notary Public
 My commission expires: [date]

Captured vessel means a vessel which has been taken by citizens of the United

States during a period of war and is thereafter condemned as a prize by a court of competent jurisdiction.

Certificate of Documentation means form CG-1270.

Citizen, unless expressly provided otherwise, means a person meeting the applicable citizenship requirements of subpart C of this part as a United States citizen.

Coastwise trade includes the transportation of passengers or merchandise between points embraced within the coastwise laws of the United States.

Commandant means the Commandant of the United States Coast Guard.

Note: Submissions and correspondence made to the Commandant pursuant to this part should be addressed to Commandant (G-MVI-5), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001.

Documentation officer means the Coast Guard official who is authorized to process and approve applications made under this part, and record instruments authorized to be filed and recorded under this part.

Documented vessel means a vessel which is the subject of a valid Certificate of Documentation.

Endorsement means an entry which may be made on a Certificate of Documentation, and which, except for a recreational endorsement, is conclusive evidence that a vessel is entitled to engage in a specified trade.

Note: Rulings and interpretations concerning what activities constitute coastwise trade and the fisheries can be obtained from the U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (Attn: Carrier Rulings Branch).

Exclusive Economic Zone (EEZ) means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983 (48 FR 10105, 3 CFR, 1983 Comp., p. 22).

Fisheries includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the Exclusive Economic Zone.

Forfeited vessel means a vessel:

(1) Which has been adjudged forfeited by a Federal District Court to the Federal Government of the United States for a breach of its laws; or

(2) Which has been forfeited under an administrative forfeiture action to the Federal Government of the United States for a breach of its laws; or

(3) Which has been seized by the Federal Government of the United States for a breach of its laws and which

has been sold at an interlocutory sale, the proceeds of which have been adjudged forfeited by a Federal District Court to the Federal Government of the United States. A vessel is considered forfeited within the meaning of this definition even if the proceeds, though adjudged forfeited to the United States, do not actually accrue to the United States.

Hull means the shell, or outer casing, and internal structure below the main deck which provide both the flotation envelope and structural integrity of the vessel in its normal operations. In the case of a submersible vessel, the term includes all structural members of the pressure envelope.

Manufacturer's Certificate of Origin means a certificate issued under the law or regulation of a State, evidencing transfer of a vessel from the manufacturer as defined in 33 CFR part 181 to another person.

New vessel means a vessel:

(1) The hull and superstructure of which are constructed entirely of new materials; or

(2) Which is constructed using structural parts of an existing vessel, which parts have been torn down so that they are no longer advanced to a degree which would commit them to use in the building of a vessel.

Ocean thermal energy conversion facility means any facility which is standing in or moored in or beyond the territorial sea of the United States as defined in 33 CFR 2.05-5, and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work.

Ocean thermal energy conversion plantship means any vessel which is standing in or moored in or beyond the territorial sea of the United States as defined in 33 CFR 2.05-5, and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work.

Officer in Charge, Marine Inspection (OCMI) means the Coast Guard official designated as such by the Commandant, under the superintendence and direction of a Coast Guard District Commander, who is in charge of an inspection zone in accordance with regulations set forth in 46 CFR part 1.

Person means an individual, corporation, partnership, association, joint venture, trust arrangement, the government of the United States, a State or political subdivision thereof, and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Port of documentation means a port which has been designated by the

Commandant as a place which may serve as a port of record for vessel documentation purposes. A documentation office is located in each port of documentation. A list of designated ports of documentation may be found in appendix A to this part.

Port of record means the port of documentation at which the records for a vessel are kept.

Registration means a certificate of number issued pursuant to rules in 33 CFR part 173, a record under the maritime laws of a foreign country, or a certificate issued by a political subdivision of a foreign country.

Secretary means the Secretary of Transportation.

State means a State of the United States or a political subdivision thereof, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Superstructure means the main deck and any other structural part above the main deck.

United States, when used in a geographic sense means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States, except that for purposes of § 67.19(d)(3) trust territories are not considered to be part of the United States.

Vessel includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft. Vessel also includes ocean thermal energy conversion facilities and ocean thermal energy conservation plantships as defined in this section.

Wrecked vessel, under the provisions of 46 U.S.C. app. 14, means a vessel which:

(1) Has incurred substantial damage to its hull or superstructure as a result of natural or accidental causes which occurred in the United States or its adjacent waters; and

(2) Has undergone, in a shipyard in the United States or its possessions, repairs equaling three times the appraised salved value of the vessel.

§ 67.5 Vessels eligible for documentation.

Any vessel of at least five net tons wholly owned by a citizen or citizens of the United States is eligible for documentation under this part. This includes, but is not limited to, vessels used exclusively for recreational purposes and vessels used in foreign trade.

§ 67.7 Vessels requiring documentation.

Any vessel of at least five net tons which engages in the fisheries on the navigable waters of the United States or in the Exclusive Economic Zone, Great Lakes trade, or coastwise trade, unless exempt under § 67.9(c), must have a Certificate of Documentation bearing a valid endorsement appropriate for the activity in which engaged.

§ 67.9 Vessels excluded from or exempt from documentation.

(a) A vessel of less than five net tons is excluded from documentation.

(b) A vessel which does not operate on the navigable waters of the United States or in the fisheries in the Exclusive Economic Zone is exempt from the requirement to have a Certificate of Documentation.

(c) A non-self-propelled vessel, qualified to engage in the coastwise trade is exempt from the requirement to be documented with a coastwise endorsement when engaged in coastwise trade:

- (1) Within a harbor;
- (2) On the rivers or lakes (except the Great Lakes) of the United States; or
- (3) On the internal waters or canals of any State.

(d) A vessel exempt from the requirement to be documented by paragraph (b) or (c) of this section may be documented at the option of the owner, provided it meets the other requirements of this part.

§ 67.11 Restriction on transfer of an interest in documented vessels to foreign persons; foreign registry or operation.

(a) Unless approved by the Maritime Administration—

(1) A documented vessel or a vessel last documented under the laws of the United States may not be placed under foreign registry or operated under the authority of a foreign country.

(2) A documented vessel or a vessel last documented under the laws of the United States owned by a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802), may not be sold, mortgaged, leased, chartered, delivered, or otherwise transferred to any person who is not a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802).

(b) The restrictions in paragraph (a)(2) of this section do not apply to a vessel that has been operated only as:

- (1) A fishing vessel, fish processing vessel, or fish tender vessel as defined in 46 U.S.C. 2101;
- (2) A recreational vessel; or
- (3) Both.

Note: For purposes of carrying out its responsibilities under the provisions of this

part only, the Coast Guard will deem a vessel which has been documented exclusively with a fishery or recreational endorsement or both from the time it was first documented, or for a period of not less than one year prior to foreign transfer or registry, to qualify for the exemption granted in paragraph (b) of this section.

§ 67.12 Right of appeal.

Any person directly affected by a decision or action taken under this part by or on behalf of the Coast Guard may appeal therefrom in accordance with subpart 1.03 of this chapter.

§ 67.13 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. All approved material may be inspected at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC and at the U.S. Coast Guard, Merchant Vessel Inspection and Documentation Division, 2100 Second Street SW., Washington, DC 20593-0001 and is available from the source indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the section affected is as follows:
U.S. Department of Commerce, National Technical Information Service,
Springfield, VA 22181
Federal Information Processing
Standards Publication 55DC,
Guideline: Codes For Named
Populated Places, Primary County
Divisions, And Other Locational
Entities of the United States and
Outlying Areas (1987)—67.119

§ 67.14 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
Part 67	2115-0110
Part 68	2115-0110

Subpart B—Forms of Documentation; Endorsements; Eligibility of Vessel

§ 67.15 Form of document—all endorsements.

(a) The form of document is a Certificate of Documentation, form CG-1270.

(b) Upon application in accordance with subpart K of this part and determination of qualification by the documentation officer with whom the application is filed, a Certificate of Documentation may be issued with a registry, coastwise, Great Lakes, fishery, or recreational endorsement.

(c) A Certificate of Documentation may bear simultaneous endorsements for recreation and more than one trade, including operation under 46 CFR part 68.

Note: Where a vessel possesses a Certificate of Documentation bearing more than one endorsement, the actual use of the vessel determines the endorsement under which it is operating.

§ 67.17 Registry endorsement.

(a) A registry endorsement entitles a vessel to employment in the foreign trade; trade with Guam, American Samoa, Wake, Midway, or Kingman Reef; and any other employment for which a coastwise, Great Lakes, or fishery endorsement is not required.

(b) Any vessel eligible for documentation under § 67.5 is eligible for a registry endorsement.

(c) A vessel otherwise eligible for a registry endorsement for which the Maritime Administration has not given approval for unrestricted transfer pursuant to 46 CFR part 221 loses that eligibility during any period in which it is mortgaged to a person not identified in § 67.233(b).

§ 67.19 Coastwise or Great Lakes endorsement.

(a) A coastwise endorsement entitles a vessel to employment in unrestricted coastwise trade and any other employment for which a registry, fishery, or Great Lakes endorsement is not required.

(b) A Great Lakes endorsement entitles a vessel to employment in the Great Lakes trade and any other employment for which a registry, fishery, or coastwise endorsement is not required.

(c) If eligible for documentation and not restricted from coastwise or Great

Lakes trade by paragraph (d) or (e) of this section, the following vessels are eligible for a coastwise or Great Lakes endorsement or both:

(1) Vessels built in the United States (§ 67.97);

(2) Forfeited vessel (§ 67.131);

(3) Vessels granted coastwise trading privileges by special legislation (§ 67.132);

(4) Wrecked vessels (§ 67.133);

(5) Captured vessels (§ 67.134); and

(6) Vessels purchased, chartered, or leased from the Secretary of Transportation by persons who are citizens of the United States (46 U.S.C. app. 808).

(d) A vessel otherwise eligible for a coastwise or Great Lakes endorsement under paragraph (c) of this section permanently loses that eligibility if:

(1) It is thereafter sold in whole or in part to an owner:

(i) Not a citizen as defined in subpart C of this part, or

(ii) Not a person permitted to document vessels pursuant to 46 CFR part 68;

(2) It is thereafter registered under the laws of a foreign country;

(3) It undergoes rebuilding as defined in § 67.177(a) outside of the United States; or

(4) It is a crude oil tanker of 20,000 deadweight tons or above, and after October 17, 1978, has segregated ballast tanks, a crude oil washing system, or an inert gas system installed outside of the United States as defined in § 67.3.

(e) A vessel otherwise eligible for a coastwise or Great Lakes endorsement under paragraph (c) of this section loses that eligibility, except as provided in paragraph (f) of this section, during any period in which it is:

(1) Owned by a corporation which does not meet the citizenship requirements of § 67.39(b);

(2) Owned by a partnership which does not meet the citizenship requirements of § 67.35(a)(2); or

(2) Mortgaged to a person not identified in § 67.233(b).

(f) The restriction imposed by paragraph (e)(2) of this section does not apply to any vessel for which the Maritime Administration has given approval for unrestricted transfer pursuant to regulations set forth in 46 CFR part 221.

§ 67.21 Fishery endorsement.

(a) A fishery endorsement entitles a vessel to employment in the fisheries as defined in § 67.3, subject to Federal and State laws regulating the fisheries, and in any other employment for which a registry, coastwise, or Great Lakes endorsement is not required. A fishery

endorsement entitles a vessel to land its catch, wherever caught, in the United States.

(b) If eligible for documentation and not restricted from the fisheries by paragraph (c) of this section, the following vessels are eligible for a fishery endorsement:

- (1) Vessels built in the United States (§ 67.97);
- (2) Forfeited vessels (§ 67.131);
- (3) Vessels granted fisheries privileges by special legislation (§ 67.132);
- (4) Wrecked vessels (§ 67.133); and
- (5) Captured vessels (§ 67.134).

(c) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section permanently loses that eligibility if it undergoes rebuilding as defined in § 67.177(a) outside of the United States.

(d) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section and not protected by the savings provision in § 67.45, loses that eligibility during any period in which it is owned by a partnership which does not meet the requisite citizenship requirements of § 67.35(a), or by a corporation which does not meet the citizenship requirements of § 67.39(d).

§ 67.23 Recreational endorsement.

(a) A recreational endorsement entitles a vessel to pleasure use only.

(b) Any vessel eligible for documentation under § 67.5 is eligible for a recreational endorsement.

Note: A vessel having a Certificate of Documentation endorsed only for recreation may be bareboat chartered only for recreational use. Guidance on the elements of a valid bareboat charter should be obtained through private legal counsel.

Subpart C—Citizenship Requirements for Vessel Documentation

§ 67.30 Requirement for citizen owner.

Certificates of Documentation may be issued under this part only to vessels which are wholly owned by United States citizens. Pursuant to extraordinary legislation at 46 U.S.C. app. 883-1 (Bowater Amendment) and 46 U.S.C. 12106(d) (Oil Pollution Act of 1990), Certificates of Documentation with limited endorsements may be issued in accordance with part 68 of this chapter to vessels owned by certain persons who are not citizens as defined in this part.

§ 67.31 Stock or equity interest requirements.

(a) The stock or equity interest requirements for citizenship under this subpart encompass: Title to all classes of stock; title to voting stock; and

ownership of equity. An otherwise qualifying corporation or partnership may fail to meet stock or equity interest requirements because: Stock is subject to trust or fiduciary obligations in favor of non-citizens; non-citizens exercise, directly or indirectly, voting power; or non-citizens, by any means, exercise control over the entity. The applicable stock or equity interest requirement is not met if the amount of stock subject to obligations in favor of non-citizens, non-citizen voting power, or non-citizen control exceeds the percentage of the non-citizen interest permitted.

(b) For the purpose of this section, control includes an absolute right to: Direct corporate or partnership business; limit the actions of or replace the chief executive officer, a majority of the board of directors, or any general partner; direct the transfer or operations of any vessel owned by the corporation or partnership; or otherwise exercise authority over the business of the corporation or partnership. Control does not include the right to simply participate in these activities or the right to receive a financial return, e.g., interest or the equivalent of interest on a loan or other financing obligations.

(c) For purposes of meeting the stock or equity interest requirements for citizenship under this subpart where title to a vessel is held by an entity comprised, in whole or in part, of other entities which are not individuals, each entity contributing to the stock or equity interest qualifications of the entity holding title must be a citizen eligible to document vessels in its own right with the trade endorsement sought.

§ 67.33 Individual.

An individual is a citizen if native-born, naturalized, or a derivative citizen of the United States, or otherwise qualifies as a United States citizen.

§ 67.35 Partnership, association, or joint venture.

(a) A partnership is a citizen if all its general partners are citizens, and:

- (1) For the purpose of obtaining a registry or recreational endorsement, at least 50 percent of the equity interest in the partnership is owned by citizens;
- (2) For the purpose of obtaining a coastwise or Great Lakes endorsement or both, at least 75 percent of the equity interest in the partnership is owned by citizens; or
- (3) For the purpose of obtaining a fishery endorsement, more than 50 percent of the equity interest in the partnership is owned by citizens.

(b) An association is a citizen if each of its members is a citizen.

(c) A joint venture is a citizen if each of its members is a citizen.

§ 67.37 Trust.

A trust arrangement is a citizen if each of its trustees and each beneficiary with an enforceable interest in the trust is a citizen.

§ 67.39 Corporation.

(a) For the purpose of obtaining a registry or a recreational endorsement, a corporation is a citizen if:

- (1) It is incorporated under the laws of the United States or of a State;
- (2) Its chief executive officer, by whatever title, is a citizen;
- (3) Its chairman of the board of directors is a citizen; and
- (4) No more of its directors are non-citizens than a minority of the number necessary to constitute a quorum.

(b) For the purpose of obtaining a coastwise or Great Lakes endorsement or both, a corporation is a citizen if:

- (1) It meets all the requirements of paragraph (a) of this section; and
- (2) At least 75 percent of the stock interest in the corporation is owned by citizens.

(c) A corporation which does not meet the stock interest requirement of paragraph (b) of this section may qualify for limited coastwise trading privileges by meeting the requirements of part 68 of this chapter.

(d) A corporation is a citizen for the purpose of obtaining a fishery endorsement if:

- (1) It meets all the requirements of paragraph (a) of this section; and
- (2) More than 50 percent of the stock interest in the corporation including a majority of voting shares in the corporation is owned by citizens.

§ 67.41 Governmental entity.

A governmental entity is a citizen for the purpose of obtaining a vessel document if it is an entity of the Federal Government of the United States or of the government of a State as defined in § 67.3.

§ 67.43 Evidence of citizenship.

When received by the Coast Guard, a properly completed original Application for Initial Issue, Exchange, or Replacement Certificate of Documentation; or Redocumentation (form CG-1258) establishes a rebuttable presumption that the applicant is a United States citizen.

§ 67.45 Citizenship savings provision for fishing vessels.

An otherwise qualifying partnership or corporation that does not meet the requisite stock interest requirements for a fishery endorsement of §§ 67.35 or 67.39, respectively, may be eligible to obtain a fishery endorsement for a

vessel if, based on evidence submitted by the owner, it is determined that prior to July 28, 1987, the vessel:

(a) Was documented under 46 U.S.C. Chapter 121 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(b) Was contracted for purchase for use as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary or the Secretary's delegate to have been made for the purpose of using the vessel in the fisheries.

§ 67.47 Requirement for Maritime Administration approval.

(a) The following transactions, among others, require approval of the Maritime Administration in accordance with 46 CFR part 221:

(1) Placement of the vessel under foreign registry;

(2) Operation of the vessel under the authority of a foreign country; and

(3) Sale or transfer of an interest in or control of the vessel from a citizen, as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802), to a person not a citizen within the meaning of section 2 of that act.

(b) A Certificate of Documentation may not be issued for a vessel which subsequent to the last issuance of a Certificate of Documentation has undergone any transaction listed in paragraph (a) of this section, even if the owner meets the citizenship requirements of this subpart, unless evidence is provided that the Maritime Administration approved the transaction.

(c) The restriction imposed by paragraph (b) of this section does not apply to a vessel identified in § 67.11(b).

Subpart D—Title Requirements for Vessel Documentation

§ 67.50 Requirement for title evidence.

The owner of a vessel must present title evidence in accordance with one of the methods specified in this subpart:

(a) When application is made for a coastwise or a Great Lakes endorsement for a vessel which has not previously been qualified for such endorsement;

(b) For initial documentation of a vessel;

(c) When the ownership of a documented vessel changes in whole or in part;

(d) When the general partners of a partnership owning a documented

vessel change by addition, deletion, or substitution, without dissolution of the partnership; or

(e) When a vessel which has been deleted from documentation is returned to documentation and there has been an intervening change in ownership.

§ 67.53 Methods of establishing title.

Title to a vessel may be established through one of the following methods:

(a) *Simplified method without evidence of build.* The owner must produce a copy of the last registration of the vessel (State, Federal, or foreign) and evidence which establishes chain of title from that registration to the present owner.

(b) *Simplified method with evidence of build.* The owner must produce a copy of the last registration of the vessel (State, Federal, or foreign) and evidence which establishes chain of title from that registration to the present owner along with evidence of the facts of build in accordance with subpart F of this part.

(c) *Complete chain of title, without evidence of citizenship for each entity in that chain of title.* The owner must provide evidence which establishes:

(1) The facts of build in accordance with subpart F of this part; and

(2) A complete chain of title for the vessel from the person for whom the vessel was built to the present owner.

(d) *Complete chain of title, with evidence of citizenship for each entity in that chain of title.* The owner must provide evidence which establishes:

(1) The facts of build in accordance with subpart F of this part; and

(2) A complete chain of title for the vessel from the person for whom the vessel was built to the present owner, accompanied by competent and persuasive evidence establishing the citizenship of each entity in the chain of title.

§ 67.55 Requirement for removal from foreign registry.

The owner of a vessel must present evidence of removal of the vessel from foreign registry whenever:

(a) The owner applies for initial documentation of a vessel that has at any time been registered under the laws of a foreign country; or

(b) The owner applies for reentry into documentation of a vessel that had been registered under the laws of a foreign country since it was last documented under the laws of the United States.

§ 67.57 Extent of title evidence required for initial documentation.

(a) Vessels never registered under any system:

(1) Where a coastwise or Great Lakes endorsement is sought, the only title evidence required for a vessel being documented by the owner for whom it was built is the certification of the builder (form CG-1261) described in § 67.99. Any other applicant must present title evidence in accordance with § 67.53(d).

(2) Where a fishery endorsement is sought, the only title evidence required for a vessel being documented by the owner for whom it was built is the certification of the builder (form CG-1261) described in § 67.99. Any other applicant must present title evidence in accordance with either paragraph (c) or (d) of § 67.53.

(3) Where a registry or recreational endorsement is sought, the only title evidence required for a vessel being documented by the first owner of the vessel is the certification of the builder (form CG-1261) described in § 67.99, or a Manufacturer's Certificate of Origin. Any other applicant must also present title evidence in accordance with either paragraph (c)(2) or (d)(2) of § 67.53.

Note: Manufacturer's Certificates of Origin are sometimes used as shipping documents for vessels, and may recite as the first owner a person other than the person for which the vessel was built. Therefore, a chain of title which begins with a Certificate of Origin will be deemed incomplete.

(b) Vessels previously registered under the laws of a State or a foreign government:

(1) Where a coastwise or a Great Lakes endorsement is sought, title evidence must be presented in accordance with § 67.53(d).

(2) Where a fishery endorsement is sought, title evidence must be presented in accordance with paragraph (b), (c), or (d) of § 67.53.

(3) Where a registry or recreational endorsement is sought, title evidence must be presented in accordance with paragraph (a), (b), (c), or (d) of § 67.53.

§ 67.59 Extent of title evidence required for change in ownership of a documented vessel.

When the ownership of a documented vessel changes, in whole or in part, the applicant for documentation must present:

(a) Title evidence in accordance with subpart E of this part to reflect all ownership changes subsequent to the last issuance of a Certificate of Documentation; and

(b) Where a registry, fishery, or recreational endorsement is sought, evidence of the citizenship of all owners subsequent to the last owner for whom the vessel was documented except for a vessel:

(1) Identified in § 67.11(b); or

(2) For which the Maritime Administration has granted approval for transfer or sale under 46 CFR part 221.

(c) Where a coastwise or Great Lakes endorsement is sought, evidence establishing the citizenship of all owners subsequent to the last owner for whom the vessel was documented with a coastwise or Great Lakes endorsement, if such evidence is not already on file with the Coast Guard. If the vessel has never been documented with a coastwise or Great Lakes endorsement, evidence must be presented to establish the citizenship of each owner of the vessel for whom such evidence is not already on file with the Coast Guard.

§ 67.61 Extent of title evidence required for vessels returning to documentation.

(a) When the owner of a vessel which has been deleted from documentation applies to have the vessel returned to documentation, the owner must, except as provided in paragraphs (b) and (c) of this section, provide evidence establishing the complete chain of title from the last owner under documentation, and citizenship evidence for all owners in that chain of title.

(b) When a vessel is returned to documentation after having been under foreign registry, the owner must provide a copy of the last foreign registry, the evidence of removal from foreign registry required by § 67.55, and evidence establishing the complete chain of title from the last owner under foreign registry. No citizenship evidence need be provided for owners in that chain of title.

(c) The owner of a vessel identified in § 67.11(b) or for which the Maritime Administration has granted approval for transfer or sale, either by written order or by general approval in 46 CFR part 221, and which was under a State or Federal registration or titling system, must provide a copy of the last registration or title, the evidence of removal from foreign registry required by § 67.55, if applicable, and evidence establishing the complete chain of title from the last owner under such registry or title. No citizenship evidence need be provided for owners in that chain of title.

Note: Although vessels returned to documentation without a complete chain of title are not eligible for coastwise or Great Lakes endorsements, this does not preclude such an endorsement if the chain of title, with citizenship evidence, is completed at a later date.

§ 67.63 Extent of title evidence required for captured, forfeited, special legislation, and wrecked vessels.

(a) In the case of a captured or forfeited vessel, the owner must provide evidence establishing the chain of title from the judicial decree of capture or decree of forfeiture, or the evidence of administrative forfeiture described in § 67.131(b). Citizenship evidence for all owners in the chain of title is required only if a coastwise or Great Lakes endorsement is sought.

(b) In the case of a vessel which is the subject of special legislation or a wrecked vessel, the owner must provide:

(1) For initial documentation of a vessel or return to documentation of a vessel deleted from documentation, a copy of the last Federal, State, or foreign registration, the evidence of removal from foreign registry required by § 67.55, if applicable, and evidence establishing the chain of title from the last registration. If a coastwise or Great Lakes endorsement is sought, the owner must present citizenship evidence for all owners in the chain of title from the grant of special legislation or the determination by the Commandant that the vessel is eligible for documentation under 46 U.S.C. app. 14.

(2) For a documented vessel, the title evidence reflecting all ownership changes subsequent to the last documented owner of record. In addition, unless the vessel qualifies for exemption under § 67.11(b) or the vessel is the subject of Maritime Administration approval for unrestricted transfer, citizenship evidence must be presented for all owners in that chain of title.

Subpart E—Acceptable Title Evidence; Waiver

§ 67.70 Original owner.

The builder's certification described in § 67.99 serves as evidence of the original owner's title to a vessel.

§ 67.73 Transfers prior to documentation.

A transfer of vessel title prior to documentation may be evidenced by:

(a) Completion of the transfer information on the reverse of the builder's certification on form CG-1261;

(b) Completion of the transfer information on the reverse of the Manufacturer's Certificate of Origin; or

(c) A bill of sale which meets the criteria for filing and recording set forth in subpart P of this part.

§ 67.75 Transfers by sale or donation subsequent to documentation.

(a) Except as otherwise provided in this subpart, transfers of vessel title

must be evidenced by a bill of sale which meets the criteria for filing and recording set forth in subpart P of this part. Except as otherwise provided in subpart O of this part, each bill of sale must be accompanied by a declaration of citizenship from the new owner, executed on the appropriate Maritime Administration form described in § 67.211.

(b) The bill of sale form used may be form CG-1340 or form CG-1356, as appropriate.

(c) An applicant for documentation who cannot produce required title evidence in the form of an instrument eligible for filing and recording in accordance with subpart P of this part may apply for a waiver of that requirement in accordance with the provisions of § 67.89.

§ 67.77 Passage of title by court action.

(a) When title to a vessel has passed by court action, that passage must be established by copies of the relevant court order(s) certified by an official of the court.

(b) When authority to transfer a vessel has been conferred by court action, that authority must be established by copies of the relevant court order(s) certified by an official of the court.

§ 67.79 Passage of title without court action following death of owner.

(a) When title to a vessel formerly owned in whole or in part by an individual now deceased passes without court action, an applicant for documentation must present:

(1) When title passes to a surviving joint tenant or tenants or to a tenant by the entirety, a copy of the death certificate, certified by an appropriate State official; or

(2) Where the laws of cognizant jurisdiction permit passage of title without court action, evidence of compliance with applicable State law.

(b) Passage of title subsequent to devolutions such as those described in paragraph (a) of this section, must be established in accordance with the remainder of this subpart.

§ 67.81 Passage of title in conjunction with a corporate merger or similar transaction.

When the title to a vessel has passed as the result of a corporate merger or similar transaction wherein the assets of one corporation have been transferred to another, the passage of title must be established by:

(a) Materials, such as a resolution of the board of directors or shareholders of the corporation which held title to the vessel before the transaction, which either unequivocally transfers all of the

assets of the corporation or which specifically identifies the vessel as being among the assets transferred; and

(b) In jurisdictions where there is an official recognition of corporate mergers and similar transactions, a copy of such official recognition certified by the cognizant official of that jurisdiction.

§ 67.83 Passage of title by extra-judicial repossession and sale.

When title to a documented vessel has passed by reason of an extra-judicial repossession and sale, such passage must be established by:

(a) A copy of the instrument under which foreclosure was made;

(b) An affidavit from the foreclosing party setting forth the reasons for foreclosure, the chronology of foreclosure, the statute(s) under which foreclosure was made, and the steps taken to comply with the relevant instrument and statute(s);

(c) Evidence of substantial compliance with the relevant instrument and statute(s); and

(d) A bill of sale which meets the criteria for filing and recording set forth in subpart P of this part from the foreclosing party as agent for the defaulting owner(s).

§ 67.85 Change in general partners of partnership.

When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution without dissolution of the partnership, the change must be established by a written statement from a surviving general partner detailing the nature of the change.

§ 67.87 Change of legal name of owner.

(a) When the name of a corporation which owns a documented vessel changes, the corporation must present certification from the appropriate governmental agency evidencing registration of the name change.

(b) When the name of an individual who owns a documented vessel changes for any reason, competent and persuasive evidence establishing the change must be provided.

§ 67.89 Waiver of production of a bill of sale eligible for filing and recording.

(a) When the evidence of title passage required by this subpart is a bill of sale which meets the criteria for filing and recording set forth in subpart P of this part, and the applicant is unable to produce a bill of sale meeting those criteria, the applicant may request that the documentation officer at the port where application for documentation, exchange, or redocumentation is made waive that requirement.

(b) No waiver of the requirement to produce a bill of sale eligible for filing and recording may be granted unless the applicant provides:

(1) A written statement detailing the reasons why an instrument meeting the filing and recording criteria of this part cannot be obtained; and

(2) Competent and persuasive evidence of the passage of title.

§ 67.91 Passage of title pursuant to operation of State law.

When title to a documented vessel has passed by operation of State law for reasons other than those specified in this subpart, such passage must be established by:

(a) A copy of the statute permitting transfer of title to the vessel and setting forth procedures to be followed in disposing of the vessel;

(b) An affidavit from the party acting against the vessel, setting forth the basis for selling the vessel, and the steps taken to comply with the requirements of the statute under which title passes;

(c) Evidence of substantial compliance with the relevant statute(s); and

(d) A bill of sale which meets the criteria for filing and recording set forth in subpart P of this part from the acting party as agent for the owner(s) of record.

Note: State law authorizing a marina to dispose of abandoned vessels is an example of passage of title by operation of law contemplated by § 67.91.

Subpart F—Build Requirements for Vessel Documentation

§ 67.95 Requirement for determination.

Evidence that a vessel was built in the United States must be on file for any vessel for which a coastwise, Great Lakes, or fishery endorsement is sought, unless the vessel is otherwise qualified for those endorsements under subpart J of this part.

§ 67.97 United States built.

To be considered built in the United States a vessel must meet both of the following criteria:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States.

§ 67.99 Evidence of build.

(a) Evidence of the facts of build may be either a completed original form CG-1261, or other original document containing the same information, executed by a person having personal knowledge of the facts of build because that person:

(1) Constructed the vessel;

(2) Supervised the actual construction of the vessel; or

(3) Is an officer or employee of the company which built the vessel and has examined the records of the company concerning the facts of build of the vessel.

(b) A vessel owner applying for documentation must file a separate certificate from each builder involved in the construction of the vessel.

(c) A Manufacturer's Certificate of Origin is not evidence of the facts of build.

§ 67.101 Waiver of evidence of build.

(a) A vessel owner applying for documentation unable to obtain the evidence of build required by § 67.99 may apply for a waiver of that requirement to the documentation officer at the port where application for documentation is made.

(b) No waiver of the requirement in § 67.99 to produce evidence of build may be granted unless the applicant provides:

(1) A written request for the waiver, explaining why the evidence required by § 67.99 cannot be furnished; and

(2) Competent and persuasive evidence of the facts of build.

Subpart G—Tonnage and Dimension Requirements for Vessel Documentation

§ 67.105 Requirement for determination.

The gross and net tonnage and dimensions of a vessel must be determined:

(a) For initial documentation;

(b) Whenever there is a change in the gross or net tonnage or dimensions of a documented vessel; or

(c) When the gross or net tonnage of a vessel returning to documentation has changed since the vessel was last documented.

§ 67.107 System of measurement; evidence.

(a) The gross and net tonnage and dimensions of a vessel for purposes of this part are determined in accordance with 46 CFR part 69.

(b) A Certificate of Measurement issued by an authorized official is the only acceptable evidence of the gross and net tonnage of a vessel measured in accordance with subpart B, C, or D of 46 CFR part 69. A Certificate of Measurement is not issued for vessels measured under subpart E of 46 CFR part 69 since the gross and net tonnage are determined as part of the documentation process.

Subpart H—Assignments and Designations Required for Vessel Documentation

§ 67.111 Assignment of official number.

(a) The owner of a vessel must submit an Application for Initial Issue, Exchange, or Replacement Certificate of Documentation; or Redocumentation (form CG-1258) to the documentation officer at the port of record of the vessel assigned in accordance with § 67.115, or the documentation office nearest where the vessel is located, to apply for an official number for the vessel when:

- (1) Application is made for initial documentation of the vessel; or
- (2) An existing vessel has been severed, with two or more vessels resulting. In this case, the official number of the original vessel is retired and the owner of each resulting vessel must apply for designation of a new official number.

(b) Upon receipt of form CG-1258, the documentation officer at the port where application for documentation is made will have an official number assigned to the vessel and furnish it to the vessel owner.

§ 67.113 Managing owner designation; address; requirement to report change of address.

The owner of each vessel must designate a managing owner on the Application for Documentation, Exchange or Replacement of Document; or Redocumentation (CG-1258).

(a) The managing owner of a vessel owned by one person is the owner of the vessel.

(b) The managing owner of a vessel owned by more than one person must be one of the owners. The person designated as managing owner must have an address in the United States except where no owner of the vessel has an address in the United States.

(c) The managing owner of a vessel owned in a trust arrangement must be one of the trustees.

(d) The address of the managing owner must be as follows:

- (1) For an individual, any residence of the managing owner.
- (2) For a partnership, its address:
 - (i) In the State under whose laws it is organized; or
 - (ii) Of its principal place of business.
- (3) For a corporation, its address:
 - (i) For service of process within the State of incorporation; or
 - (ii) Of its principal place of business.

(e) Whenever the address of the managing owner changes, the managing owner shall notify the documentation officer at the port of record of the vessel within 10 days.

§ 67.115 Assignment of port of record.

(a) A port of record is assigned to a vessel:

- (1) Upon initial documentation;
- (2) When there is a change in the ownership of the vessel, in whole or in part; or
- (3) When the owner requests to change the port of record of the vessel in accordance with paragraph (c) of this section. The owner shall not be required to change the port of record of the vessel solely because of a change of address of the managing owner.

(b) The same port of record will be assigned to all vessels owned by the same owner(s).

(c) The port of record of the vessel is:

- (1) Boston, MA, if the address of the managing owner is located within the Boston Marine Inspection Zone, the Portland, ME Marine Inspection Zone, or the Providence Marine Inspection Zone in the First Coast Guard District;
- (2) New York, NY, if the address of the managing owner is located within the New York Marine Inspection Zone in the First Coast Guard District;
- (3) St. Louis, MO, if the address of the managing owner is located in the Second Coast Guard District;
- (4) Philadelphia, PA, if the address of the managing owner is located within the Philadelphia Marine Inspection Zone in the Fifth Coast Guard District;
- (5) Norfolk, VA, if the address of the managing owner is within the Hampton Roads Marine Inspection Zone, the Baltimore Marine Inspection Zone, or the Wilmington Marine Inspection Zone in the Fifth Coast Guard District;
- (6) Miami, FL, if the address of the managing owner is located in the Seventh Coast Guard District;
- (7) New Orleans, LA, if the address of the managing owner is located in a State other than Texas or New Mexico within the Eighth Coast Guard District;
- (8) Houston, TX, if the address of the managing owner is located in Texas or New Mexico within the Eighth Coast Guard District;
- (9) Cleveland, OH, if the address of the managing owner is located in the Ninth Coast Guard District;
- (10) Los Angeles, CA, if the address of the managing owner is located in the Los Angeles-Long Beach Marine Inspection Zone or the San Diego Marine Inspection Zone within the Eleventh Coast Guard District;
- (11) San Francisco, CA, if the address of the managing owner is located within the San Francisco Marine Inspection Zone within the Eleventh Coast Guard District;
- (12) Portland, OR, if the address of the managing owner is located in Oregon or Idaho within the Thirteenth Coast Guard District;

(13) Seattle, WA, if the address of the managing owner is located within the Fourteenth Coast Guard District, or in Washington or Montana within the Thirteenth Coast Guard District; or

(14) Juneau, AK, if the address of the managing owner is located in the Seventeenth Coast Guard District.

Note: Geographical boundaries for the Coast Guard Marine Inspection Zones and Coast Guard Districts referenced in this section can be found in 33 CFR part 3.

(d) For a vessel owned by a State, territory, or possession, any political subdivision of the same, or any agency of a State, territory, possession, or political subdivision, the port of record is the port of documentation serving the address in which the capital of the State, territory, or possession is located.

(e) For a vessel owned by the United States Government the port of record is Norfolk, VA.

(f) If the managing owner does not have an address within the United States the port of record may be any port of documentation.

§ 67.117 Vessel name designation.

(a) The owner of a vessel must designate a name for the vessel on the Application for Initial Issue, Exchange, or Replacement Certificate of Documentation; or Redocumentation (form CG-1258) submitted to the documentation officer at the port of record of the vessel assigned in accordance with § 67.115, or the documentation office nearest where the vessel is located:

- (1) Upon application for initial documentation of the vessel; or
- (2) When the owner elects to change the name of the vessel.

(b) The name designated:

(1) Must be composed of letters of the Latin alphabet or Arabic or Roman numerals;

(2) May not be identical, actually or phonetically, to any word or words used to solicit assistance at sea; and

(3) May not contain nor be phonetically identical to obscene, indecent, or profane language, or to racial or ethnic epithets.

(c) The name of a documented vessel may not be changed without the prior approval of the documentation officer at the port where application for name change is made.

(d) Until such time as the owner of a vessel elects to change the name of a vessel, the provisions of paragraph (b) of this section do not apply to vessels validly documented before January 1, 1994.

§ 67.119 Hailing port designation.

(a) Upon application for any Certificate of Documentation in accordance with subpart K of this part, the owner of a vessel must designate a hailing port to be marked upon the vessel.

(b) The hailing port must be a place in the United States included in the U.S. Department of Commerce's Federal Information Processing Standards Publication 55DC.

(c) The hailing port must include the State, territory, or possession in which it is located.

(d) The OCMI for the port at which application for documentation is made has final authority to settle disputes as to the propriety of the hailing port designated.

(e) Until such time as a port of record assignment is required in accordance with § 67.115, or the owner elects to designate a new hailing port, the provisions of this section do not apply to vessels which were issued a Certificate of Documentation before July 1, 1982.

Subpart I—Marking Requirements for Vessel Documentation**§ 67.120 General requirement.**

No Certificate of Documentation issued under this part will be deemed valid for operation of the vessel until the vessel is marked in accordance with this subpart.

§ 67.121 Official number marking requirement.

The official number of the vessel, preceded by the abbreviation "NO.," must be marked in block-type Arabic numerals not less than three inches in height on some clearly visible interior structural part of the hull. The number must be permanently affixed to the vessel so that alteration, removal, or replacement would be obvious. If the official number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area.

§ 67.123 Name and hailing port marking requirements.

(a) For vessels other than those covered in paragraphs (b) and (c) of this section, the name of the vessel must be marked on some clearly visible exterior part of the port and starboard bow and the stern of the vessel. The hailing port of the vessel must be marked on some clearly visible exterior part of the stern of the vessel.

(b) *Vessels with square bow.* For vessels having a square bow, the name of the vessel must be marked on some

clearly visible exterior part of the bow in a manner to avoid obliteration. The name and hailing port must be marked on some clearly visible exterior part of the stern.

(c) *Recreational vessels.* For vessels documented exclusively for recreation, the name and hailing port must be marked together on some clearly visible exterior part of the hull.

(d) The markings required by paragraphs (a), (b), and (c) of this section, which may be made by the use of any means and materials which result in durable markings, must be made in clearly legible letters of the Latin alphabet or Arabic or Roman numerals not less than four inches in height.

§ 67.125 Disputes.

The OCMI for the zone in which the vessel is principally operated has final authority in any disputes concerning the permanence, durability, legibility, or placement of a vessel's markings.

Subpart J—Application for Special Qualifications for Vessel Documentation**§ 67.130 Submission of applications.**

(a) All applications made under this subpart and all subsequent filings to effect documentation, except as provided in § 67.133(b), must be submitted to the documentation officer at the port of record of the vessel assigned in accordance with § 67.115 or at the documentation office nearest where the vessel is located.

(b) Once a transaction under this subpart has been initiated at a documentation office, all subsequent filings for that transaction must be made at that same documentation office.

§ 67.131 Forfeited vessels.

In addition to any other submissions required by this part, the owner of a forfeited vessel applying for a Certificate of Documentation for that vessel must submit the following:

(a) Where the vessel has been adjudged forfeit, or the proceeds of the sale of the vessel have been adjudged forfeit to the Federal Government of the United States by a Federal District Court, a copy of the court order certified by an official of the court;

(b) Where the vessel was forfeited to the Federal Government of the United States under an administrative forfeiture action, an affidavit from an officer of the agency which performed the forfeiture who has personal knowledge of the particulars of the vessel's forfeiture or a Declaration of Forfeiture issued by the agency which performed the forfeiture.

§ 67.132 Special legislation.

(a) Vessels not otherwise entitled to be operated in the coastwise trade, Great Lakes trade, or in the fisheries may obtain these privileges as a result of special legislation by the Congress of the United States.

(b) In addition to any other submissions required by this part, the owner of a vessel which is entitled to engage in a specified trade because it is the subject of special legislation must include a copy of the legislation to establish the entitlement.

§ 67.133 Wrecked vessels.

(a) A vessel owner requesting a determination that the vessel is wrecked within the meaning of 46 U.S.C. app. 14 must submit the following to the Commandant:

(1) Competent and persuasive evidence of the occasion and location of the casualty. Coast Guard situation or investigation reports are acceptable as casualty evidence. Other competent and persuasive evidence may be accepted in the discretion of the Commandant.

(2) A writing setting forth the physical location of the vessel, containing a guarantee that the requesting party assumes full responsibility for all costs, liabilities, and other expenses that arise in conjunction with the services performed by the board of appraisers, and stating that at the time of documentation the vessel will be owned by a citizen of the United States.

(b) In addition to other submissions required by this part, a vessel owner applying for a Certificate of Documentation for a vessel accorded privileges by the Wrecked Vessel Statute (46 U.S.C. app. 14) must include a copy of the Commandant's determination that the vessel qualifies for documentation under the statute.

Note: The determination of the appraised salvaged value must be made by a board of three appraisers appointed by the Commandant. The board must determine that the repairs made upon the vessel are equal to three times the appraised salvage value. The determination of the appraised salvage value will include consideration of the fact that if the vessel is found in compliance with the Wrecked Vessel Statute it will attain coastwise and fishery privileges. The cost of the board must be borne by the applicant.

§ 67.134 Captured vessels.

In addition to other submissions required by this part, a vessel owner applying for a Certificate of Documentation for a vessel which qualifies as a captured vessel must include a copy of the court order stating that the vessel was lawfully captured and condemned as a prize.

Subpart K—Application for Documentation, Exchange or Replacement of Certificate of Documentation, or Return to Documentation; Mortgagee Consent; Validation

§ 67.141 Application procedure; all cases.

The owner of a vessel applying for an initial Certificate of Documentation, exchange or replacement of a Certificate of Documentation, or return of a vessel to documentation after deletion from documentation must:

(a) Submit the following to the documentation officer at the port of record of the vessel assigned in accordance with § 67.115 or at the documentation office nearest where the vessel is located:

(1) Application for Initial Issue, Exchange, or Replacement Certificate of Documentation; or Redocumentation (form CG-1258);

(2) Title evidence, if applicable;

(3) Mortgagee consent on form CG-4593, if applicable; and

(4) If the application is for replacement of a mutilated document or exchange of documentation, the outstanding Certificate of Documentation.

(b) Upon receipt of the Certificate of Documentation and prior to operation of the vessel, ensure that the vessel is marked in accordance with the requirements set forth in subpart I of this part.

Note: Issuance of endorsements on a Certificate of Documentation may be denied if the vessel owner is the subject of an outstanding civil penalty assessed by the Coast Guard.

§ 67.143 Restriction on withdrawal of application.

A vessel owner making application pursuant to § 67.141 may not withdraw that application without mortgagee consent if a mortgage has been filed against the vessel. Consent of the mortgagee is evidenced by filing a properly completed original Consent of Mortgagee to Exchange of Certificate of Documentation or Withdrawal of Application for Documentation (form CG-4593).

§ 67.145 Restrictions on exchange; requirement and procedure for mortgagee consent.

(a) A Certificate of Documentation issued to a vessel which is the subject of an outstanding mortgage recorded pursuant to subpart Q of this part or predecessor regulations, may not be exchanged for a cause arising under §§ 67.167(a) or 67.167(b) (1) through (6) without the consent of the mortgagee,

except as provided in paragraph (b) of this section.

(b) The provisions of paragraph (a) of this section do not apply to a vessel which is subject only to a mortgage filed or recorded before January 1, 1989, which had not attained preferred status as of that date.

(c) When the owner of a vessel applies for a Certificate of Documentation and the consent of the mortgagee is required under paragraph (a) of this section, the applicant must submit a properly completed original Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG-4593) signed by or on behalf of the mortgagee to the documentation officer at the port where application for exchange is made.

(d) If an application for exchange is made to a documentation officer at a port of documentation other than the port of record, form CG-4593 must be accompanied by a certified copy of the vessel's Abstract of Title (form CG-1332) issued at the vessel's port of record not more than 15 days prior to the date on which the application is made.

§ 67.147 Exchange of Certificate of Documentation; special procedure for change of port of record.

When the owner of a documented vessel elects or is required to change the port of record of a vessel the owner must:

(a) Comply with the requirements of § 67.141;

(b) Comply with the provisions of § 67.145, if applicable; and

(c) In accordance with § 67.301, request that the documentation officer at the vessel's present port of record forward the vessel's General Index or Abstract of Title (form CG-1332) to the new port of record assigned for the vessel in accordance with § 67.115.

Note: In the case of a simultaneous change of owner and port of record, these procedures must be followed by the new owner of the vessel.

§ 67.149 Exchange of Certificate of Documentation; vessel at sea.

(a) When exchange of a Certificate of Documentation issued to a vessel is required pursuant to subpart L of this part and the vessel is at sea, the owner may affect the exchange while the vessel is still at sea by:

(1) Complying with the requirements of § 67.141; and

(2) complying with the requirements of § 67.145, if applicable.

Note: A Certificate of Documentation is issued upon compliance with the applicable

requirements, however, the requirement to mark the vessel with its new name or hailing port in accordance with subpart I of this part, if applicable, is waived until the vessel reaches its first port of call, wherever that may be.

(b) The documentation officer prepares a new Certificate of Documentation and forwards it for delivery to the vessel's next port of call. If the port of call is in the United States, the Certificate is forwarded to the nearest U.S. Coast Guard Marine Safety Office. If the port of call is in a foreign country, the Certificate is forwarded to the nearest American Consulate. The new Certificate is delivered only upon surrender of the old Certificate, which is then forwarded to the port of record of the vessel.

§ 67.151 Replacement of Certificate of Documentation; special procedure for wrongfully withheld document.

When the owner of a documented vessel alleges that the Certificate of Documentation for that vessel is being wrongfully withheld by any person the owner must:

(a) Submit to the Commandant, via the documentation officer at the port of record of the vessel assigned in accordance with § 67.115, or at the documentation office nearest where the vessel is located, a statement setting forth the reasons for the allegation; and

(b) Upon the Commandant's finding that the Certificate is being wrongfully withheld, apply for replacement of the Certificate in accordance with the requirements of § 67.141.

Subpart L—Validity of Certificates of Documentation; Renewal of Endorsement; Requirement for Exchange, Replacement, Deletion, Cancellation

§ 67.161 Validity of Certificate of Documentation.

(a) Notwithstanding any other provision of this subpart, except as provided in paragraph (b) of this section, a Certificate of Documentation but no trade endorsement thereon, issued to a vessel which is the subject of an outstanding mortgage filed or recorded in accordance with subpart Q of this part or any predecessor regulations, remains valid for purposes of:

(1) 46 U.S.C. chapter 125;

(2) 46 U.S.C. chapter 313 for an instrument filed or recorded before the date of invalidation, and an assignment or a notice of claim of lien filed after that date;

(3) Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b)); and

(4) Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242).

(b) The provisions of paragraph (a) of this section do not apply to a vessel which is subject only to a mortgage filed or recorded before January 1, 1989, which had not attained preferred status as of that date.

§ 67.163 Renewal of endorsement.

(a) *Requirement for renewal of endorsement.* Endorsements on Certificates of Documentation are valid for one year. Prior to the expiration of that year, the owner of a vessel which is not exempt from the requirement for documentation under paragraph (c) of § 67.9 must apply for renewal of the endorsement(s) by complying with paragraph (b) of this section. The owner of a vessel exempt from the requirement for documentation under paragraph (c) of § 67.9 must either:

(1) Apply for renewal of the endorsement by complying with paragraph (b) of this section; or
(2) Place the Certificate of Documentation on deposit in accordance with § 67.165.

(b) *Renewal application.* The owner of a vessel must apply for renewal of each endorsement by executing an original Notice of Expiration (CG-1280) or Final Notice After Expiration (CG-1280-B) certifying that the information contained in the Certificate of Documentation and any endorsement(s) thereon remains accurate, and that the Certificate has not been lost, mutilated, or wrongfully withheld. The completed CG-1280 or CG-1280-B must be forwarded to the documentation officer at any port of documentation.

(c) *Requirement to affix decal.* The owner must affix the renewal decal to the Certificate of Documentation. The presence of a current renewal decal is evidence that the endorsement has been renewed.

Note: Renewal of endorsements on a Certificate of Documentation may be denied if the vessel owner is the subject of an outstanding civil penalty assessed by the Coast Guard.

§ 67.165 Deposit of Certificate of Documentation.

(a) *Option for deposit in lieu of renewal of endorsement.* In lieu of renewing the endorsement(s) in accordance with § 67.163, the owner of a vessel which is exempt from the requirement for documentation under paragraph § 67.9(c) may deposit the vessel's outstanding Certificate of Documentation with the documentation officer at the vessel's port of record assigned in accordance with § 67.115.

(b) *Reporting requirement.* The owner of a vessel whose Certificate is on

deposit in accordance with paragraph (a) of this section must make a written report to the documentation officer at the vessel's port of record when:

(1) Exchange of the Certificate is required upon the occurrence of one or more of the events described in § 67.167 (b), (c), or (d); or

(2) The vessel is subject to deletion from the roll of actively documented vessels upon the occurrence of one or more of the events described in § 67.171(a)(1) through (8).

(c) *Validity of document on deposit.* A Certificate of Documentation placed on deposit in accordance with paragraph (a) of this section is valid for the purposes of:

- (1) 46 U.S.C. chapter 125;
- (2) 46 U.S.C. chapter 313;
- (3) Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b)); and
- (4) Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242).

§ 67.167 Requirement for exchange of Certificate of Documentation.

(a) When application for exchange of the Certificate of Documentation is required upon the occurrence of one or more of the events described in paragraphs (b), (c), or (d) of this section, or the owner of the vessel chooses to apply for exchange of the Certificate pursuant to paragraph (e) of this section, the owner must send or deliver the Certificate to the documentation officer at the port of record of the vessel assigned in accordance with § 67.115 or at the documentation office nearest where the vessel is located, and apply for an exchange of the Certificate in accordance with subpart K of this part.

(b) A Certificate of Documentation together with any endorsement(s) thereon becomes invalid immediately, except as provided in § 67.161, when:

- (1) The ownership of the vessel changes in whole or in part;
- (2) The general partners of a partnership change by addition, deletion, or substitution;
- (3) The port of record of the vessel changes;
- (4) The State of incorporation of any corporate owner of the vessel changes;
- (5) The name of the vessel changes;
- (6) The hailing port of the vessel changes; or
- (7) The vessel is placed under the command of a person who is not a citizen of the United States.

(c) A Certificate of Documentation together with any endorsement(s) thereon becomes invalid immediately, except as provided in § 67.161 and in paragraph (f) of this section, if the vessel is not a sea, or upon the vessel's next

arrival in port anywhere in the world if the vessel is at sea, when:

- (1) The gross or net tonnages or dimensions of the vessel change;
- (2) Any beneficiary with an enforceable interest in a trust arrangement owning a vessel changes by addition or substitution;
- (3) The trustee of a trust arrangement owning a vessel changes by addition, substitution, or deletion;
- (4) A tenant by the entirety owning any part of the vessel dies;
- (5) The restrictions imposed on the vessel change by addition or substitution;
- (6) The legal name of any owner of the vessel changes;
- (7) A self-propelled vessel becomes non-self-propelled or a non-self-propelled vessel becomes self-propelled;
- (8) The endorsements for the vessel change by addition, deletion, or substitution; or
- (9) A substantive or clerical error made by the issuing documentation officer is discovered.

(d) Although a Certificate of Documentation and any endorsements thereon remain valid, the owner of a documented vessel must apply for exchange of the Certificate upon an election to designate a new managing owner of the vessel in accordance with § 67.113.

(e) Although a Certificate of Documentation and any endorsement(s) thereon remain valid, the owner may apply for exchange of the Certificate if:

- (1) The restrictions imposed on the vessel change by deletion; or
 - (2) The vessel attains a special entitlement under subpart J of this part.
- (f) A Certificate of Documentation which becomes invalid pursuant to paragraph (c) of this section remains valid for the purposes of filing a new mortgage or amendment, assignment, assumption, or subordination agreement for 30 days after the date it would otherwise have become invalid.

§ 67.169 Requirement for replacement of Certificate of Documentation.

(a) The owner of a documented vessel must make application in accordance with subpart K of this part for replacement of a Certificate of Documentation which is:

- (1) Lost;
- (2) Mutilated; or
- (3) Wrongfully withheld from the vessel owner.

(b) When application for replacement of a Certificate of Documentation is required because the Certificate has been mutilated, the existing Certificate must be physically given up to the documentation officer to whom application is made.

§ 67.171 Deletion; requirement and procedure.

(a) A Certificate of Documentation together with any endorsement(s) thereon is invalid, except as provided in § 67.161, and the vessel is subject to deletion from the roll of actively documented vessels when:

(1) The vessel is placed under foreign flag;

(2) The vessel is sold or transferred in whole or in part to a person who is not a citizen of the United States within the meaning of subpart C of this part;

(3) Any owner of the vessel ceases to be a citizen of the United States within the meaning of subpart C of this part;

(4) The owner no longer elects to document the vessel;

(5) The vessel no longer measures at least five net tons;

(6) The vessel ceases to be capable of transportation by water;

(7) The owner fails to exchange the Certificate as required by § 67.167;

(8) The owner fails to maintain the markings required by subpart I of this part;

(9) The endorsements on the Certificate are revoked because the vessel owner is the subject of an outstanding civil penalty assessed by the Coast Guard; or

(10) The owner fails to:

(i) Renew the endorsement(s) as required by § 67.163; or

(ii) Comply with the provisions of § 67.165.

(b) Where a cause for deletion arises for any reason under paragraphs (a) (1) through (8) of this section, the owner must send or deliver the original Certificate of Documentation to any documentation officer together with a statement setting forth the reason(s) deletion is required.

(c) When a Certificate of Documentation is required to be deleted because the vessel has been placed under foreign flag or has been sold or transferred in whole or in part to a non-citizen of the United States, the owner of that vessel must comply with the requirements of paragraph (b) of this section, and file:

(1) Evidence of the sale or transfer, if any; and

(2) Evidence that the Maritime Administration has consented to the sale or transfer, except for vessels identified in § 67.11(b) and vessels for which the Maritime Administration has granted approval for unrestricted sale or transfer pursuant to regulations set forth in 46 CFR part 221.

(d) A certificate evidencing deletion from U.S. documentation will be issued upon request of the vessel owner upon compliance with the applicable requirements of this subpart.

§ 67.173 Cancellation; requirement and procedure.

A Certificate of Documentation issued to a vessel together with any endorsement(s) thereon is invalid, except as provided in § 67.167, and subject to cancellation upon a determination by the Commandant or a documentation officer that the issuance of the Certificate was improper for any reason. When a Certificate is subject to cancellation, the owner of the vessel upon being notified of such requirement must send or deliver the Certificate to a documentation officer at any port of documentation. The vessel owner may submit an application for exchange in accordance with subpart K of this part to correct the error giving rise to cancellation. If the vessel for which the Certificate was cancelled was previously documented, it remains documented under the previous Certificate of Documentation, unless deleted under the provisions of § 67.171.

Note: Certificates of Documentation which have been canceled are retained at the last port of record of the vessel.

Subpart M—Miscellaneous Applications**§ 67.175 Application for new vessel determination.**

(a) When a vessel has been constructed entirely of new materials, no application for a new vessel determination need be made under this section. Application for initial documentation must be made in accordance with subpart K of this part.

(b) When parts of an existing vessel have been used in the construction of a vessel and the owner wants a determination that the resulting vessel is new in accordance with this part, the owner must file with the Commandant:

(1) A builder's certification, as described in § 67.99;

(2) A written statement describing the extent to which materials from the existing vessel were used in the construction and the extent to which those materials were torn down; and

(3) Accurate sketches or blueprints of the hull and superstructure which must identify, where practicable, components of the old vessel.

§ 67.177 Required application for rebuilt determination.

(a) A vessel is rebuilt when any considerable part of its hull or superstructure is built upon or substantially altered.

(b) The owner of the vessel which has not previously permanently lost coastwise, Great Lakes, or fisheries privileges must file with the

Commandant the items listed in paragraph (c) of this section if:

(1) The vessel is altered outside the United States in a manner which gives rise to a reasonable belief that the vessel is rebuilt; or

(2) A major component of the hull or superstructure not built in the United States is added to the vessel.

(c) The required submissions must consist of:

(1) A written statement outlining the work performed and naming the place where the work was performed; and

(2) Accurate sketches or blueprints describing the work performed.

Subpart N—[Reserved]**Subpart O—Filing and Recording of Instruments—General Provisions****§ 67.200 Instruments eligible for filing and recording.**

Only the following listed instruments are eligible for filing and recording:

(a) Bills of sale and instruments in the nature of bills of sale;

(b) Deeds of gift;

(c) Mortgages and assignments, assumptions, supplements, amendments, subordinations, satisfactions, and releases thereof;

(d) Preferred mortgages and assignments, assumptions, supplements, amendments, subordinations, satisfactions, and releases thereof;

(e) Interlender agreements affecting mortgages, preferred mortgages, and related instruments; and

(f) Notices of claim of lien, assignments, amendments, and satisfactions and releases thereof.

§ 67.203 Restrictions on filing and recording.

(a) No instrument will be accepted for filing unless the vessel to which it pertains is the subject of:

(1) A valid Certificate of Documentation; or

(2) An application for initial documentation, exchange of Certificate of Documentation, return to documentation, or for deletion from documentation, which is in substantial compliance with the applicable regulations, submitted at the port where the filing is made.

(b) An instrument identified as eligible for filing and recording under § 67.200 may not be filed and recorded if it bears a material alteration.

(c) An instrument identified as eligible for filing and recording under § 67.200 (a) or (b) may not be filed and recorded if any vendee or transferee under the instrument is not a citizen of the United States as defined in Section 2 of the Shipping Act, 1916, (46 U.S.C.

app. 802) unless the Maritime Administration has consented to the grant to a non-citizen made under the instrument.

(d) The restriction imposed by paragraph (c) of this section does not apply to a bill of sale or deed of gift conveying an interest in a vessel which was neither documented nor last documented pursuant to these regulations or any predecessor regulations thereto at the time the instrument was executed, nor to an instrument conveying an interest in a vessel identified in § 67.11(b).

(e) An instrument identified as eligible for filing and recording under § 67.200(c) may not be filed or recorded if the mortgagee or assignee is not a person qualifying as a citizen of the United States as defined in the Shipping Act, 1916, as amended, (46 U.S.C. app. Chapter 23) or a trustee as defined in 46 U.S.C. 31328, unless the Maritime Administration has consented to the grant to a non-citizen made under the instrument. This restriction does not apply to an instrument conveying an interest in a vessel identified in § 67.11(b).

(f) An instrument identified as eligible for filing and recording under § 67.200(d) may not be filed or recorded if the mortgagee or assignee is not a person described in 46 U.S.C. 31322(a)(1)(D). This restriction does not apply to an instrument conveying an interest in a vessel identified in § 67.11(b).

§ 67.205 Requirement for vessel identification.

(a) Every instrument presented for filing and recording must contain sufficient information to clearly identify the vessel(s) to which the instrument relates.

(b) Instruments pertaining to vessels which have been documented must contain the vessel's name and official number, or other unique identifier.

(c) Vessels which have never been documented must be identified by one of the following:

(1) The vessel's Hull Identification Number assigned in accordance with 33 CFR 181.25; or

(2) Other descriptive information, which clearly describes the vessel. Such information may include length, breadth, depth, year of build, name of manufacturer, and any numbers which may have been assigned in accordance with 33 CFR part 173.

§ 67.207 Requirement for date and acknowledgment.

(a) Every instrument presented for filing and recording must:

- (1) Bear the date of its execution; and
- (2) Contain an acknowledgment.

(b) No officer or employee of the Coast Guard is authorized to take such acknowledgments unless the instrument is executed on behalf of the Federal Government of the United States.

§ 67.209 Required number of copies.

All instruments presented for filing and recording must be presented in duplicate; at least one copy must bear original signatures.

§ 67.211 Requirement for citizenship declaration.

(a) Instruments in the nature of a bill of sale or deed of gift, mortgages, and assignments of mortgages conveying an interest in a documented vessel are ineligible for filing and recording unless accompanied by a declaration of citizenship, except as provided in paragraph (c) and (d) of this section.

(b) Citizenship declarations must be executed on the form prescribed by the Maritime Administration in 46 CFR part 221. These forms are available from all Coast Guard documentation offices and from the Vessel Transfer and Disposal Officer (MAR-745.1), Maritime Administration, United States Department of Transportation, Washington, DC 20590.

(c) The requirement for presentation of a citizenship declaration does not apply to a transaction conveying an interest in a vessel:

- (1) Described in 46 CFR 221.11(b)(1) (i) through (iv);
- (2) To a person making application for documentation; or
- (3) To an entity of the Federal Government of the United States or of a State or political subdivision thereof, or a corporate entity which is an agency of any such government or political subdivision.

(d) The requirement for presentation of a citizenship declaration is waived when the instrument(s) presented for filing effects a transfer for which:

(1) The Maritime Administration has given general approval in 46 CFR part 221; or

(2) Written approval of the Maritime Administrator has been obtained in accordance with 46 CFR part 221.

(e) If the transfer of interest is one which requires written approval of the Maritime Administrator in accordance with rules in 46 CFR part 221, evidence of that approval must be presented for filing with the instrument effecting the transfer of interest.

Note: If the grantee(s) of an ownership interest in a vessel described in paragraphs (c)(1) or (d) of this section do(es) not make application for documentation, a declaration

of citizenship may be required in order to ensure that the vessel so conveyed retains any coastwise or Great Lakes privileges to which it may be entitled.

§ 67.213 Place of filing and recording.

(a) Instruments submitted for filing and recording at the same time that the vessel owner applies for issuance of or a change to a Certificate of Documentation must be submitted to the documentation officer where the application is made; mortgages filed in conjunction with such applications may be filed at the same port at any time before the Certificate is issued or changed. All other instruments must be submitted for filing and recording at the port of record of the vessel.

(b) All instruments are recorded at the port of record of the vessel(s) affected by the instrument.

(c) Where the port of record of a vessel is being changed, recording is effected at the new port of record.

§ 67.215 Date and time of filing.

(a) An instrument is deemed filed at the actual date and time at which the instrument is received by the documentation officer at the port of documentation where submitted for filing, except as provided in paragraph (b) of this section. Any materials submitted to supplement an instrument after the instrument is filed are deemed part of the original filing and relate back to the date and time of that filing.

(b) If filing of an instrument is subject to termination in accordance with § 67.217(a) and a new instrument is filed as a substitute for the original instrument, the filing of the original instrument will be terminated in accordance with § 67.217(c) and the substitute instrument will be considered a new filing. The substitute instrument will be deemed filed at the actual time and date it is received by the documentation officer at the port of documentation where the original instrument was filed.

§ 67.217 Termination of filing and disposition of instruments.

(a) The filing of an instrument is subject to termination if:

(1) It is determined that the instrument cannot be recorded because the instrument itself is not in substantial compliance with the applicable regulations in this part;

(2) The filing was not made in compliance with the requirements of § 67.213;

(3) The Application for Initial Issue, Exchange, or replacement of Certificate of Documentation; or Redocumentation (form CG-1258) submitted with the instrument(s) was not made in

substantial compliance with the applicable regulations of this part;

(4) The owner of the vessel submits an Application, Consent and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG-4593), with mortgagee consent, if applicable; or

(5) Another instrument is filed evidencing satisfaction or release of the subject instrument and the subject instrument is one described in subpart Q of this part.

(b) Ninety days prior to terminating the filing pursuant to a reason listed in paragraphs (a) (1), (2), or (3) of this section, the documentation officer at the port where the filing was made will send written notice detailing the reasons the filing is subject to termination to the following person(s) and any agent known to be acting on behalf of the same:

(1) The applicant for documentation, if a bill of sale, instrument in the nature of a bill of sale, or a deed of gift;

(2) The mortgagee or assignee, if a mortgage or assignment or amendment thereof;

(3) The claimant, if a notice of claim of lien; or

(4) The lender first named in an interlender agreement affecting a mortgage, preferred mortgage, or related instrument.

(c) If the reason(s) which subject the filing to termination remain uncorrected for a period of 90 days after the notice described in paragraph (b) of this section is sent, or upon receipt of the request for withdrawal described in paragraph (a)(4) of this section, or satisfaction or release as described in paragraph (a)(5) of this section, the instrument will be returned to either:

(1) The applicant for documentation, if a bill of sale, instrument in the nature of a bill of sale, or a deed of gift;

(2) The mortgagee or assignee, if a mortgage or assignment or amendment thereof;

(3) The claimant, if a notice of claim of lien;

(4) The lender first named in an interlender agreement affecting a mortgage, preferred mortgage, or related instrument; or

(5) An agent for any appropriate party, provided that the agent has filed with the Coast Guard a writing bearing the original signature of the appropriate party(ies) clearly identifying the instrument(s) being returned and stating that the instrument(s) may be returned to the agent.

Subpart P—Filing and Recording of Instruments—Bills of Sale and Related Instruments

§ 67.220 Requirements.

An instrument in the nature of a bill of sale or a deed of gift must:

(a) Meet all of the requirements of subpart O of this part;

(b) Be signed by or on behalf of all the seller(s) or donor(s); and

(c) Recite the following:

(1) The name(s) and address(es) of the seller(s) or donor(s) and the interest in the vessel held by the seller(s) or donor(s); and

(2) The name(s) and address(es) of the buyer(s) or donee(s) and the interest in the vessel held by each buyer or donee.

§ 67.223 Filing limitation.

An instrument presented for filing and recording under this subpart may be filed only in conjunction with an application for initial documentation or return to documentation of the vessel or with an application for a change to or deletion of the vessel's outstanding Certificate of Documentation.

Subpart Q—Filing and Recording of Instruments—Mortgages, Preferred Mortgages, and Related Instruments

§ 67.231 General requirements; optional application for filing and recording.

(a) A mortgage or related instrument presented for filing and recording must meet all of the requirements of subpart O of this part in addition to the pertinent section(s) of this subpart.

(b) All instruments supplemental to mortgages must recite information which clearly identifies the mortgage to which the supplemental instrument is applicable. Such information will normally consist of the book and page where that mortgage is recorded and the date and time of filing. If the submission of the supplemental instrument is contemporaneous with submission of the mortgage, the information should include the names of all parties to the mortgage, the date of the mortgage, and the amount of the mortgage.

(c) An Optional Application for Filing (CG-5542) may be attached to a mortgage or related instrument. If form CG-5542 is properly completed with all information required for indexing the instrument and the signature(s) specified thereon, the instrument to which it is attached will be filed and recorded with no further review.

§ 67.233 Restrictions on recording mortgages, preferred mortgages, and related instruments.

(a) A mortgage or assumption of mortgage which otherwise meets the

requirements of this subpart is nonetheless not eligible for filing and recording if:

(1) The mortgagor or assuming party(ies) did not actually hold legal title to the interest in the vessel being mortgaged or covered by the assumption at the time of filing of the mortgage or assumption; or

(2) If the vessel(s) which the mortgage cover(s) is (are) not documented or not the subject of an application for documentation.

(b) Except as provided in paragraph (c) of this section, a mortgage submitted for filing and recording as a preferred mortgage or supplemental instrument thereto which otherwise meets the requirements of this subpart, is eligible for filing and recording only if it results in a mortgage interest being held by:

(1) A State;

(2) The United States Government;

(3) A federally insured depository institution which has not been disapproved by the Secretary;

(4) An individual who is a citizen of the United States;

(5) A person qualifying as a citizen of the United States as defined in 46 U.S.C. app. 802; or

(6) A person approved by the Secretary.

(c) The requirements of paragraph (b) of this section do not apply to the mortgagee of a vessel identified in § 67.11(b) or to any other vessel to which the Maritime Administration has given approval for unrestricted transfer pursuant to regulations in 46 CFR part 221.

Note: Disapproval of a federally insured depository institution as a preferred mortgagee under § 67.233(b)(3), or approval of a person as a preferred mortgagee under § 67.233(b)(6) is determined by the Maritime Administration pursuant to regulations in 46 CFR part 221.

§ 67.235 Requirements for mortgages.

(a) A mortgage presented for filing and recording must:

(1) Be signed by or on behalf of each mortgagor; and

(2) Recite the following:

(i) The name and address of each mortgagor and the interest in the vessel held by the mortgagor(s);

(ii) The name and address of each mortgagee and the interest in the vessel granted by the mortgage; and

(iii) The amount of the direct or contingent obligations that is or may become secured by the mortgage, excluding interest, expenses, and fees. The amount may be recited in one or more units of account as agreed to by the parties.

(b) A mortgage submitted for filing and recording as a preferred mortgage must cover the whole of a vessel.

(c) A mortgage which secures more than one vessel may, at the option of the parties, provide for separate discharge of such vessels.

§ 67.237 Requirements for assignments of mortgages.

An assignment of mortgage presented for filing and recording must:

- (a) Be signed by or on behalf of each assignor; and
- (b) Recite the following:
 - (1) The name and address of each assignor and the interest in the mortgage held by the assignor(s); and
 - (2) The name and address of each assignee and the interest in the mortgage granted to the assignee(s).

§ 67.239 Requirements for assumptions of mortgages.

An assumption of mortgage presented for filing and recording must:

- (a) Be signed by or on behalf of each original mortgagor, each mortgagee, and each assuming party; and
- (b) Recite the following:
 - (1) The name and address of each original mortgagor and the interest in the vessel mortgaged; and
 - (2) The name and address of each assuming party and the interest in the mortgage assumed.

§ 67.241 Requirements for amendments of or supplements to mortgages.

An amendment of or supplement to a mortgage presented for filing and recording must:

- (a) Be signed by or on behalf of each mortgagor and each mortgagee; and
- (b) Recite the following:
 - (1) The name and address of each mortgagor and mortgagee; and
 - (2) The nature of the change effected by the instrument.

§ 67.243 Requirements for instruments subordinating mortgages.

An instrument subordinating a mortgage presented for filing and recording must:

- (a) Be signed by or on behalf of each mortgagee whose mortgage is being subordinated; and
- (b) Recite the following:
 - (1) The name and address of each mortgagee whose mortgage is being subordinated; and
 - (2) The name and address of each party holding an interest in the instrument subordinating the mortgage.

§ 67.245 Requirements for interlender agreements.

An interlender agreement between multiple mortgagees must:

(a) Be signed by or on behalf of all mortgagees who are party to the interlender agreement; and

(b) Recite the names and addresses of all parties to the interlender agreement.

Subpart R—Filing and Recording of Instruments—Notices of Claim of Lien and Supplemental Instruments

§ 67.250 General requirements.

(a) A notice of claim of lien or supplemental instrument thereto submitted for filing and recording must meet all of the requirements of subpart O of this part.

(b) An instrument assigning or amending a notice of claim of lien must recite information which clearly identifies the notice of claim of lien being assigned or amended. Such information will normally consist of the book and page where the notice of claim is recorded and the date and time of filing. If the submission of the assignment or amendment is contemporaneous with submission of the notice of claim of lien, the information should include the name of each original claimant, the date of the notice of claim, and the amount of the claim and other information to adequately identify the notice of claim of lien being assigned or amended.

§ 67.253 Requirements for notices of claim of lien.

A notice of claim of lien must:

- (a) Be signed by or on behalf of each claimant; and
- (b) Recite the following:
 - (1) The name and address of each claimant;
 - (2) The nature of the lien claimed;
 - (3) The date on which the lien was established; and
 - (4) The amount of the lien claimed.

§ 67.255 Restrictions on filing and recording.

A notice of claim of lien is not entitled to filing and recording unless the vessel against which the lien is claimed is covered by a preferred mortgage filed or recorded in accordance with subpart Q of this part or predecessor regulations thereto and which is outstanding at the time the lien is filed and recorded.

§ 67.257 Requirements for assignments of notices of claim of lien.

An assignment of a notice of claim of lien must:

- (a) Be signed by or on behalf of each original claimant or last assignee of record; and
- (b) Recite the following:
 - (1) The name and address of each claimant; and

(2) The name and address of each assignee and the interest in the claim being assigned.

§ 67.259 Requirements for amendments to notice of claim of lien.

An amendment to notice of claim of lien presented for filing and recording must:

- (a) Be signed by or on behalf of each original claimant or last assignee of record; and
- (b) Recite the nature of the change being effected by the instrument.

Subpart S—Removal of Encumbrances

§ 67.261 General requirements.

The filing of an instrument against a vessel in accordance with subparts Q or R of this part may be terminated and, if recorded, removed from the record of that vessel by the filing of:

- (a) A court order, affidavit, or Declaration of Forfeiture described in § 67.263; or
- (b) A satisfaction or release instrument described in § 67.265 which meets the requirements of this part for filing and recording.

§ 67.263 Requirement for removal of encumbrances by court order, affidavit, or Declaration of Forfeiture.

The encumbrances described in subparts Q and R of this part are removed from the record upon filing of:

- (a) A copy of the order from a court of competent jurisdiction certified by an official of the court declaring title to the vessel to be free and clear, or declaring the encumbrance to be of no effect, or ordering the removal of the encumbrance from the record;
- (b) A copy of the order from a Federal District Court in an *in rem* action certified by an official of the court requiring the free and clear sale of the vessel at a Marshal's sale and, where issued under local judicial procedures, a copy of the order confirming such sale certified by an official of the court;
- (c) A copy of an order from a Federal District Court certified by an official of the court declaring the vessel itself or the proceeds of its sale to be forfeited to the Federal Government of the United States for a breach of its laws; or
- (d) Where the vessel was forfeited under an administrative forfeiture action to the Federal Government of the United States, either an affidavit from an officer of the agency which performed the forfeiture, who has personal knowledge of the particulars of the vessel's forfeiture, or a Declaration of Forfeiture issued by the agency which performed the forfeiture.

§ 67.265 Requirements for instruments evidencing satisfaction or release.

An instrument satisfying or releasing a mortgage, a notice of claim of lien, or a preferred mortgage presented for filing and recording must:

- (a) Meet all the requirements of subpart O of this part;
- (b) Be signed by or on behalf of:
 - (1) Each mortgagee if a mortgage; or
 - (2) Each claimant if a notice of claim of lien; and
- (c) Recite the following:
 - (1) The name of each mortgagor, if any, and the name of each mortgagee or claimant;
 - (2) The amount of the mortgage or claim of lien; and
 - (3) Information which clearly identifies the mortgage or claim of lien being satisfied or released. Such information will normally consist of the book and page where that mortgage or claim of lien is recorded. If the recording information cannot be provided because the satisfaction or release is being submitted prior to recording of the mortgage or claim of lien, the instrument must recite other information sufficient to clearly identify the encumbrance being satisfied or released.

Subpart T—General Index, Abstracts of Title, and Certificates of Ownership**§ 67.301 Forwarding of General Index.**

Upon application by a vessel owner for change of port of record, the documentation officer at the existing port of record of the vessel will forward the General Index or Abstract of Title (form CG-1332) of the vessel to the new port of record.

§ 67.303 Issuance of Abstract of Title.

Any person may request the documentation officer at the vessel's port of record to issue a General Index or Abstract of Title (form CG-1332) for a vessel.

§ 67.305 Issuance of Certificate of Ownership.

Any person may request the documentation officer at the vessel's port of record to issue a Certificate of Ownership (form CG-1330) for a vessel.

Subpart U—Special Provisions**§ 67.311 Alteration of Certificate of Documentation.**

Except for affixing a new address label in accordance with the direction of a documentation officer or a renewal decal issued in accordance with § 67.163, no person other than a documentation officer shall intentionally alter a Certificate of Documentation.

§ 67.313 Requirement to have Certificate of Documentation on board.

(a) The person in command of a documented vessel must have on board that vessel the original Certificate of Documentation currently in effect for that vessel.

(b) The requirement of paragraph (a) of this section does not apply:

- (1) To non-self-propelled vessels not engaged in foreign trade;
- (2) When the Certificate of Documentation has been submitted to a documentation officer for exchange in accordance with § 67.167 (d) or (e); or
- (3) When the vessel is in storage or out of the water.

§ 67.315 Requirement to produce Certificate of Documentation.

(a) The person in command of a documented vessel must produce the original Certificate of Documentation currently in effect for that vessel upon the demand of any person acting in an official public capacity.

(b) The requirement of paragraph (a) of this section does not apply:

- (1) To non-self-propelled vessels not engaged in foreign trade;
- (2) When the Certificate of Documentation has been submitted to a documentation officer for exchange in accordance with § 67.167 (d) or (e); or
- (3) When the vessel is in storage or out of the water.

§ 67.317 Requirement to renew endorsements on the Certificate of Documentation.

(a) Except as provided in paragraph (b) of this section, the owner of a documented vessel must annually renew each endorsement upon the current Certificate of Documentation for that vessel in accordance with § 67.163.

(b) The requirement of paragraph (a) of this section does not apply to Certificates of Documentation placed on deposit in accordance with § 67.165.

§ 67.319 Requirement to report change in vessel status and surrender Certificate of Documentation.

The owner of a documented vessel must immediately report any change in vessel status which causes any Certificate of Documentation to become invalid under subpart L of this part and which must be exchanged, replaced, deleted, or canceled, to a documentation officer at any port of documentation. The outstanding Certificate must be surrendered in accordance with the requirements of subparts K and L of this part.

§ 67.321 Requirement to report change of address of managing owner.

The owner of a documented vessel shall immediately report any change in the address of the managing owner.

§ 67.323 Operation without documentation.

No vessel which is required by § 67.7 to be documented may engage in unlimited coastwise trade, the Great Lakes trade, or the fisheries without being documented in accordance with the requirements of this part.

§ 67.325 Violation of endorsement.

A vessel may not be employed in any trade other than a trade endorsed upon the Certificate of Documentation issued for that vessel. A vessel documented exclusively for recreation may not be used for purposes other than pleasure.

§ 67.327 Operation under Certificate of Documentation with invalid endorsement.

Except for vessels identified in § 67.9, no vessel may be operated under a Certificate of Documentation with endorsements which have become invalid under subpart L of this part.

§ 67.329 Unauthorized name change.

The owner of a documented vessel may not change or allow the change of the name of that vessel without exchanging the vessel's Certificate of Documentation in accordance with subpart K of this part. The new name of the vessel must be marked on the vessel upon receipt of the new Certificate of Documentation.

§ 67.331 Improper markings.

The owner of a documented vessel shall not permit the operation of that vessel unless it is marked in accordance with subpart I of this part.

Subpart V—[Reserved]**Subpart W—[Reserved]****Subpart X—[Reserved]****Subpart Y—[Reserved]****§ 67.500 Applicability.**

(a) This subpart specifies documentation services provided for vessels for which fees are applicable. Fees are contained in Table 67.550.

(b) There is no fee for the annual renewal of endorsements upon the Certificate of Documentation, unless renewal is late or renewal is at a port other than the port of record.

(c) There is no fee for replacement of a Certificate of Documentation due to a wrongful withholding.

(d) The Commandant (G-MVI) may waive collection of fees applicable

under this subpart for a service provided to a Federal agency when the fee would be directly paid with federally-appropriated funds by a Federal agency acting in its own behalf.

(e) Application fees under this subpart are not refundable.

§ 67.501 Application for Certificate of Documentation.

An application fee is charged for an initial Certificate of Documentation in accordance with subpart K of this part. If application is made for any trade endorsement, the applicable fee under § 67.511 will be charged in addition to the application fee for the Certificate. The application fee does not include the fee under § 67.527 for filing and recording any required bills of sale or instruments in the nature of a bill of sale, or the application fee under § 67.519 for waivers in accordance with §§ 67.89 or 67.101.

§ 67.503 Application for exchange or replacement of a Certificate of Documentation.

(a) An application fee is charged for exchange or the simultaneous exchange and replacement of a Certificate of Documentation in accordance with subpart K of this part. Only a single application fee will be assessed when two or more reasons for exchange occur simultaneously. If application is made for any trade endorsement, the applicable fee under § 67.511 will be charged in addition to the application fee for the exchange or replacement.

(b) The application fee for exchange or replacement does not apply to:

- (1) Endorsement of a change in the owner's address;
- (2) Exchange or replacement solely by reason of clerical error on the part of a documentation officer; or
- (3) Deletion of a vessel from documentation.

§ 67.505 Application for return of vessel to documentation.

An application fee is charged for a return of a vessel to documentation after deletion in accordance with subpart K of this part. If application is made for any trade endorsement, the applicable fee under § 67.511 will be charged in addition to the application fee for return to documentation.

§ 67.507 Application for replacement of lost or mutilated Certificate of Documentation.

An application fee is charged for replacement of a lost or mutilated Certificate of Documentation in accordance with subpart K of this part.

§ 67.509 Application for approval of exchange of Certificate of Documentation requiring mortgagee consent.

An application fee is charged for approval of exchange of a Certificate of Documentation requiring mortgagee consent in accordance with subpart K of this part.

§ 67.511 Application for trade endorsement(s).

(a) *Coastwise or Great Lakes endorsement.* An application fee is charged for a coastwise or a Great Lakes endorsement, or both, in accordance with subpart B of this part.

(b) *Coastwise Bowaters endorsement.* An application fee is charged for a coastwise Bowaters endorsement in accordance with 46 CFR part 68.

(c) *Fishery endorsement.* An application fee is charged for a fishery endorsement in accordance with subpart B of this part.

(d) *Registry or recreational endorsement.* There is no application fee for a registry or recreational endorsement, or both.

(e) When multiple trade endorsements are requested on the same application, only the single highest applicable endorsement fee will be charged.

§ 67.513 Application for evidence of deletion from documentation.

An application fee is charged for evidence of deletion from documentation in accordance with subpart L of this part.

§ 67.515 Application for renewal at port other than port of record.

An application fee is charged for renewal in accordance with subpart L of this part at a port other than the vessel's port of record.

§ 67.517 Application for late renewal.

An application fee is charged for a late renewal in accordance with subpart L of this part.

§ 67.519 Application for waivers.

An application fee is charged for waiver of original build evidence in accordance with subpart F of this part, or for waiver of bill of sale eligible for filing and recording in accordance with subpart E of this part. In cases where more than one waiver is required, each waiver application is subject to this fee.

§ 67.521 Application for new vessel determination.

An application fee is charged for a new vessel determination in accordance with subpart M of this part.

§ 67.523 Application for wrecked vessel determination.

An application fee is charged for a determination of whether a vessel is entitled to coastwise, Great Lakes, and fisheries privileges as a result of having been wrecked in waters adjacent to the United States and repaired in accordance with subpart J of this part. This fee is in addition to the cost associated with the vessel appraisals.

§ 67.525 Application for determination of rebuild.

An application fee is charged for a determination of whether a vessel has been rebuilt in accordance with subpart M of this part. This fee will be assessed for each request for either a preliminary or final determination submitted in writing by the vessel owner or the vessel owner's representative.

§ 67.527 Application for filing and recording bills of sale and instruments in the nature of a bill of sale.

An application fee is charged for filing and recording bills of sale and instruments in the nature of a bill of sale in accordance with subpart P of this part.

§ 67.529 Application for filing and recording mortgages and related instruments.

An application fee is charged for filing and recording mortgages and related instruments in accordance with subpart Q of this part.

§ 67.531 Application for filing and recording notices of claim of lien.

An application fee is charged for filing and recording notices of claim of lien in accordance with subpart R of this part.

§ 67.533 Application for Certificate of Compliance.

An application fee is charged for a Certificate of Compliance to be issued in accordance with regulations set forth in 46 CFR part 68.

§ 67.535 Issuance of Abstract of Title.

An issuance fee is charged for a General Index or Abstract of Title in accordance with subpart T of this part.

§ 67.537 Issuance of Certificate of Ownership.

An issuance fee is charged for a Certificate of Ownership in accordance with subpart T of this part. A supplemental issuance fee is charged for a Certificate of Ownership attachment for each additional vessel with the same ownership and encumbrance information.

§ 67.539 Copies of instruments and documents.

The fee charged for furnishing a copy of any instrument is calculated in accordance with 49 CFR 7.95.

§ 67.550 Fee table.

The fees charged under subpart Y are as set forth in Table 67.550.

TABLE 67.550.—FEES

Activity	Reference	Fee
Applications:		
Initial certificate of documentation	Subpart K	\$133.00
Exchange of certificate of documentation	do	84.00
Return of vessel to documentation	do	84.00
Replacement of lost or mutilated certificate of documentation	do	50.00
Approval of exchange of certificate of documentation requiring mortgagee consent	do	24.00
Trade endorsement(s):		
Coastwise endorsement	Subpart B	29.00
Coastwise Bowaters endorsement	46 CFR part 68	29.00
Great Lakes endorsement	Subpart B	29.00
Fishery endorsement	do	12.00
Registry endorsement	do	none
Recreational endorsement	do	none
Note: When multiple trade endorsements are requested on the same application, only the single highest applicable endorsement fee will be charged, resulting in a maximum endorsement fee of \$29.00		
Evidence of deletion from documentation	Subpart L	15.00
Renewal at port other than port of record	Subpart L	15.00
Late renewal fee	do	5.00
Waivers:		
Original build evidence	Subpart F	15.00
Bill of sale eligible for filing and recording	Subpart E	15.00
Miscellaneous applications:		
Wrecked vessel determination	Subpart J	555.00
New vessel determination	Subpart M	166.00
Rebuild determination—preliminary or final	do	450.00
Filing and recording:		
Bills of sale and instruments in nature of bills of sale	Subpart P	18.00
Mortgages and related instruments	Subpart Q	14.00
Notice of claim of lien and related instruments	Subpart R	18.00
Certificate of compliance:		
Certificate of compliance	46 CFR part 68	55.00
Miscellaneous:		
Abstract of Title	Subpart T	25.00
Certificate of ownership	do	125.00
Attachment for each additional vessel with same ownership and encumbrance data	do	10.00
Copy of instrument or document	(2)	(2)

¹ Per page.

² Fees will be calculated in accordance with 49 CFR 7.95.

APPENDIX A TO PART 67.—PORTS OF DOCUMENTATION

Regional port of documentation	Location	CG district served
Boston, MA	USCG Marine Safety Office, Boston, MA	First District: Boston, Portland, ME, Providence Marine Inspection Zones.
New York, NY	USCG Marine Inspection Office, New York, NY ...	First District: New York Marine Inspection Zone.
St. Louis, MO	USCG Marine Safety Office, St. Louis, MO	Second District: All.
Norfolk, VA	USCG Marine Safety Office, Hampton Roads, Norfolk, VA.	Fifth District: Hampton Roads, Baltimore, Wilmington Marine Inspection Zones.
Philadelphia, PA	USCG Marine Safety Office, Philadelphia, PA	Fifth District: Philadelphia, Marine Inspection Zone.
Miami, FL	USCG Marine Safety Office, Miami, FL	Seventh District: All.
New Orleans, LA	USCG Marine Safety Office, New Orleans, LA	Eighth District: All except Texas and New Mexico.
Houston, TX	USCG Marine Safety Office, Houston, TX	Eighth District: Texas and Mexico only.
Cleveland, OH	Commander, Ninth Coast Guard District (m)	Ninth District: All.
Los Angeles, CA	USCG Marine Safety Office, Long Beach, CA	Eleventh District: Los Angeles-Long Beach Marine Inspection Zone.
San Francisco, CA	USCG Marine Safety Office, San Francisco, CA ..	Eleventh District: San Francisco Marine Inspection Zone.
Portland, OR	USCG Marine Safety Office, Portland, OR	Thirteenth District: Oregon or Idaho.
Seattle, WA	USCG Marine Safety Office, Seattle, WA	Thirteenth District: Montana or Washington, Fourteenth District: All.
Juneau, AK	USCG Marine Safety Office, Juneau, AK	Seventeenth District: All.

Dated: November 4, 1993.

J. W. Kime,

Admiral, U.S. Coast Guard Commandant.

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