

requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments because it does not significantly or uniquely affect their communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 33, GENERAL SUPERFUND SECTION

State	Site name	City/county
CA .....	Alark Hard Chrome.	Riverside
KS .....	Tri-County Public Airport.	Delavan
MA .....	Nuclear Metals, Inc..	Concord
MA .....	Sutton Brook Disposal Area.	Tewksbury
MO .....	Riverfront ...	New Haven
NJ .....	Diamond Head Oil Refinery Div..	Kearny
OR .....	Portland Harbor.	Portland

Number of Sites Proposed to General Superfund Section: 7.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: July 20, 2000.

**Timothy Fields, Jr.,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 00–18903 Filed 7–26–00; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Part 67

[USCG–1999–6713]

RIN 2115–AF95

#### Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes amending citizenship requirements for fishing vessels of less than 100 feet in length that are eligible for a fishery endorsement, by increasing the percentage of interest in a vessel required to be owned and controlled by U.S. citizens in corporations. The percentage increased will be from more than 50 percent to at least 75 percent. We propose adding provisions making fishery endorsements of documented fishing vessels chartered or leased to a person who is not a citizen or to an entity which is ineligible to own a documented fishing vessel invalid. We also propose prohibiting fishery endorsement for a fishing vessel mortgaged to a trustee if the mortgage interest is issued, assigned, transferred, or held in trust for a person not eligible to own a documented fishing vessel, even if the trustee is eligible to own a documented fishing vessel.

**DATES:** Comments and related material must reach the Docket Management Facility on or before October 25, 2000. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before September 25, 2000.

**ADDRESSES:** To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–1999–6713), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday

through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this proposed rule, call Patricia J. Williams, Coast Guard, telephone 304–271–2400. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–1999–6713), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

The Americanization of the U.S. fishing industry began in 1976 with the passage of the Magnuson Fishery Conservation and Management Act which established a 200 mile Exclusive Economic Zone (EEZ) around the United States coastlines and prioritized access to fishery resources within the EEZ to American citizens. It was an important step in securing American control of the vast fishery resources off our coastlines.

Eleven years later another step was taken to further Americanize U.S. fisheries. The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239) required U.S. citizens to own and control more than 50 percent of any U.S.-flag fishing vessel. As the last of the foreign-flag fishing vessels in U.S. fisheries were being replaced by U.S.-flag vessels in 1986, federal law did not require U.S. fishing vessels to carry U.S. crew members. Federal law also allowed U.S. fishing vessels essentially to be built in foreign shipyards under an existing regulatory definition of "rebuild."

The goals of the 1987 Anti-Reflagging Act were to (1) require U.S. control of fishing vessels that fly the U.S. flag; (2) stop the foreign rebuilding of U.S.-flag vessels under the "rebuild" loophole; and (3) require U.S.-flag fishing vessels to carry U.S. crews. Of these three goals, only the U.S. crew requirement was fully achieved. The Anti-Reflagging Act did not completely stop foreign interest from owning and controlling U.S.-flag fishing vessels because it included grandfather provisions that exempted any existing U.S.-flag fishing vessel from the new ownership standard. The Act also allowed vessels, under contract during specified time frames, to be rebuilt into fishing vessels in foreign shipyards while retaining their U.S. fishing privileges indefinitely. The two grandfather provisions allowed more foreign owned and controlled fishing vessels to remain in U.S. fisheries than had been intended.

The American Fisheries Act (AFA), along with the repeal of the "grandfather" provisions of the Commercial Fishing Industry Vessel

Anti-Reflagging Act of 1987, finally resolves this issue. The AFA requires a real, effective, and enforceable U.S. ownership threshold for U.S.-flag fishing vessels. Under this Act, U.S. citizens must own and control at least 75 percent of the ownership interest in any U.S.-flag fishing vessel. The Act is intended to ensure that vessels with a fishery endorsement are truly controlled by citizens of the U.S. The Act also increases the penalties for fishery endorsement violations and is intended to discourage willful noncompliance with the new requirements.

### Discussion of Proposed Rule

As mandated by the 105th U.S. Congress, we propose revising the regulations outlining fishery endorsement eligibility requirements for fishing vessels less than 100 feet in length. These revisions would remove "grandfather" provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. The rule would increase the percent of interest in a fishing vessel that must be owned and controlled by U.S. citizens in a corporation from more than 50 percent to at least 75 percent. It would also add provisions making a fishery endorsement invalid for a documented fishing vessel chartered or leased to a person who is not a citizen or to an entity which is ineligible to own a documented fishing vessel. It would restrict fishery endorsements for fishing vessels mortgaged through a foreign lender or trustee and establish application procedures and requirements for fishery endorsement exemptions. It would revise the term "control" as it relates to citizenship requirements for stock or equity interest in fishing vessels. This rule would add penalties for falsifying fishery endorsement application materials. Finally this rule would establish petition procedures for an exemption from the citizenship requirements of this rule if you have a foreign vessel less than 75 percent U.S. citizen controlled fishing with a fishery endorsement before October 1, 2001.

### Citizenship Requirements for U.S.-flag Fishing Vessels With a Fishery Endorsement

The American Fisheries Act (AFA) ensures U.S. control of fishery resources within the exclusive economic zone (EEZ) and closes the loophole for foreign rebuilding of U.S.-flag fishing vessels created under the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. Under the AFA, U.S. citizens must own and control at least 75 percent of the ownership interest in

any U.S.-flag fishing vessel. The Act is intended to ensure that vessels with a fishery endorsement, and thus fishing within our EEZ, are truly controlled by citizens of the U.S. The Act also increases the penalties for fishery endorsement violations and is intended to discourage willful noncompliance with new requirements. To achieve the intent of the Act the following changes to 46 CFR part 67 are proposed:

(a) *Removing "grandfather" provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987.* The incorporation of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239) was repealed from the AFA, therefore the rulemaking would remove *Section 67.45 Citizenship savings provision for fishing vessels.*

(b) *Increasing the percent of interest in a fishing vessel required to be owned and controlled by U.S. citizens in corporations, partnerships, associations, and joint ventures.* The eligibility requirements for fishery endorsements of vessels that are less than 100 feet would be revised. 46 CFR 67.35, 67.36, 67.37, 67.39 would be revised to reflect an increase in the percentage of the vessel that must be owned and controlled by a U.S. citizen from more than 50 percent to at least 75 percent. A vessel owned and controlled by a corporation, partnership (including limited liability), association, trust, joint venture, or any other entity, is not eligible for a fishery endorsement under section 12108 of 46 U.S.C. unless at least 75 percent of the vessel's interest is controlled and owned by citizens of the United States. This proposed requirement would apply to each tier of a vessel's ownership and to the vessel ownership in its aggregate.

(c) *Restricting fishing vessel charters and leases.* The proposed rule would add an eligibility restriction for non-citizen controlled fishing vessel charters and leases to § 67.21. Section 67.11 would be amended by removing paragraphs (b)(1) and (3), leaving recreational vessels as the only exemption from restrictions on charters and leases to non-U.S. citizens. These changes will prevent a vessel chartered or leased to an individual who is not a citizen of the United States, or any entity not eligible to own a vessel with a fishery endorsement, from obtaining a fishery endorsement. These revisions would also immediately invalidate fishery endorsements for vessels that do not meet the new 75 percent ownership threshold.

(d) *Restricting fishery endorsement of foreign controlled mortgages of a fishing vessel.* The proposed rule would add

section 67.21(e) reflecting that an individual or entity that is otherwise eligible to own a vessel with a fishery endorsement will become ineligible when a mortgage of the vessel to a trustee eligible to own a fishing vessel with a fishery endorsement is issued, assigned, transferred, or held in trust for a person not eligible to own a vessel with a fishery endorsement.

In order for an owner of a vessel of less than 100 feet to be eligible to obtain a fishery endorsement to the vessel's documentation, it must demonstrate that: (1) At least 75 percent of the interest in the entity that owns the vessel is owned by United States citizens; and (2) at least 75 percent of the control of the entity that owns the vessel is owned by and vested in United States citizens. Evidence of United States citizen ownership of a vessel owning entity is demonstrated through the filing of an affidavit of United States citizenship as provided for in § 356.5. The affidavit of U.S. citizenship requires the owner to provide relevant information to demonstrate that it qualifies as a citizen of the United States within the meaning of 46 App. U.S.C. 12102(c), section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c), and 46 CFR 356.3. The form of this affidavit is substantially the same as the one set forth at 46 CFR part 355.

(e) *Redefining "control" as it relates to citizenship requirements for stock or equity interest in fishing vessels.* The term "control" under § 67.31(b) would be redefined to include having the right to direct the business of the entity that owns the vessel. It would include having the right to limit the actions of or replace the chief executive officer, the majority of the board of directors, any general partner, or any person serving in a management capacity of the entity that owns the vessel. It also would include having the right to direct the transfer, the operation, or the manning of a vessel with a fishery endorsement.

(f) *Adding penalties for falsifying fishery endorsement application materials.* We propose adding § 67.142 establishing penalties for knowingly or unknowingly submitting fishery endorsement application materials with false information. If the vessel owner or an agent of the owner knowingly conceals a material fact or falsely represents the vessel's eligibility for endorsement when initially applying for or renewing a fishery endorsement, the proposed penalties would make the owner of the vessel liable (under 46 U.S.C. 12122(a) through (c)) to the United States Government for a civil penalty of up to \$100,000 for each day

in which the vessel has illegally engaged in fishing within the EEZ of the United States. If the vessel owner or an agent of the owner unknowingly commits the same offense the owner of the vessel is liable to the U.S.

Government for a civil penalty of up to \$10,000 for each day in which the vessel has illegally engaged in fishing within the EEZ of the United States.

(g) *Providing fishery endorsement application procedures for fishing vessels 100 feet and greater in length.*

We propose to add a paragraph to § 67.141 which will direct fishing vessels 100 feet and greater in length to meet MARADs requirements, found in 46 CFR 356, and to submit materials required by § 67.141(a) to NVDC.

(h) *Establishing application procedures and requirements for fishery endorsement exemptions.* We propose adding subpart V entitled "Exemption from Fishery Endorsement Requirements Due to Conflict with International Agreements." Establishing this proposed subpart will allow owners or mortgagees of fishing vessels, which believe that an international agreement or treaty to which the United States is a party conflicts with the regulations set out in 46 CFR part 67, to submit the proper materials as a petition for an exemption from specific or all requirements of this part to the National Vessel Documentation Center (NVDC). If you are an owner or mortgagee of a fishing vessel less than 100 feet in length and believe that there is a conflict between 46 CFR part 67 and any international treaty or agreement to which the United States is a party, you may petition the National Vessel Documentation Center (NVDC) for a ruling that all or sections of part 67 do not apply to you. You may file your petition with the NVDC before October 1, 2001, with respect to international treaties or agreements in effect at the time of your petition which are not scheduled to expire before October 1, 2001. If you are filing a petition for exemption with the NVDC for reasons stated in this paragraph your petition must include:

(1) Department of Transportation, U.S. Coast Guard, form CG-1258 entitled "Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; Redocumentation" as evidence of the ownership structure of the vessel. This form should provide any subsequent changes to the ownership structure of the vessel since its initial certification,

(2) A copy of the provisions of the international agreement or treaty and a written description of how you believe

those provisions conflict with the requirements of this rule,

(3) For all petitions filed after October 1, 2001, a certification that no ownership interest was transferred to a non-U.S. citizen after September 30, 2001.

(4) You must file a separate petition for each vessel requiring an exemption unless the NVDC authorizes consolidated filing. Petitions should include two copies of all required materials and should be sent to the following address: National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Water, West Virginia, 25419.

Upon receipt of a complete petition, the NVDC will review the petition to determine whether the effective international treaty or agreement and the requirements of this part are in conflict. If the NVDC determines that this part conflicts with the effective international treaty or agreement, then the NVDC will inform you of the guidelines and requirements you must meet and maintain to qualify for a fisheries endorsement.

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. However, we have included a summary of the analysis documentation.

The Marine Safety Management System (MSMS) shows that about 36,000 vessels have fishery endorsements. The proposed regulation would impact documented vessels with fishery endorsements that are less than 100 feet. About 35,500 vessels with fishery endorsements are less than 100 feet. Of these, we researched a random sample of 1,010 vessels in order to achieve a 95 percent confidence level. We found that the proposed change to minimum U.S. ownership requirements from "more than 50 percent" to "at least 75 percent" would affect one of the vessels in the random sample. This means that 0.099 percent of the random sample do not meet the proposed requirement. The margin of error is plus

or minus 3.04 percent. Applying this percentage to the population, we expect that the owner of 35 vessels would not meet the proposed change in owner citizenship requirement if current ownership levels in each company remain the same (0.099 percent of 35,500 vessels).

In the random sample, there are 843 vessels (83 percent of the affected population) that are owned by individual persons and 167 vessels (17 percent of the affected population) that are owned by corporations or companies. All individual owners are already required to be U.S. citizens in order to document a vessel. Therefore these vessels and individuals are considered to meet the citizenship requirement, and have 100 percent U.S. ownership. Corporations, partnerships or limited liability companies are required to attest to the level of ownership by U.S. citizens by checking a box in the application for documentation. The "Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; Redocumentation" (CG-1258 (REV.9-97)) has four choices for reporting the level of ownership by U.S. citizens in a corporation. The choices are: Less than 50 percent, at least 50 percent, more than 50 percent but less than 75 percent, and 75 percent or more. One hundred sixty six (166) corporations certified that the ownership level by U.S. citizens is 75 percent or more. One certified that its corporation's percentage of stock owned by U.S. citizens whom are eligible to document vessels was more than 50 percent but less than 75 percent.

**Costs:** For further analysis, we assume that the 35 adversely affected vessel owners have more than 50 but less than 75 percent of stock owned by U.S. citizens. We further assume that each vessel owner prefers to continue fishing in the Exclusive Economic Zone of the United States. Therefore, we expect each vessel owning company would make changes to its U.S. ownership level. The change of U.S. ownership level could entail the following: Adding an additional investor, selling stock to U.S. citizens, adding a partner, or removing a partner.

Once each vessel owning company has met the proposed ownership criteria, the vessel's fishery endorsement would be renewed as it would have been in any other year. Thus, the cost of this proposed rulemaking would be directly associated with the change of U.S. ownership level made by each of the 35 vessel owning companies. We assume that each company would hire a law firm to complete the articles of incorporation or

any other documents needed to reflect the changes to the ownership levels, and that the law firm would charge about \$600 for its services. The one time cost of changing the ownership structure for the 35 companies would be \$21,000.

We do not expect the proposed restriction to leases and charters by non-U.S. citizens to impact any vessel owners. Similarly, we do not expect the restriction on foreign controlled mortgages to impact any vessels. Therefore, these proposed regulations would cause no additional cost to vessel owners, operators, or managers.

**Benefits:** The changes in the law necessitate this proposed rulemaking. The proposed regulation would give U.S. citizens a higher level of ownership in the vessels that harvest fish in the U.S. Exclusive Economic Zone. Consequently more of the profits from the fishery industry will accrue to U.S. citizens.

#### Small Entities

Under the regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed rule would have a significant impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The proposed rule would impact the owners of about 35,500 vessels that are documented with fishery endorsements. These vessels are less than 100 feet in length, and we considered each one to be owned by a small entity. As shown by the sample statistics, we expect 35 entities to be adversely affected by the proposed rulemaking. We do not consider the number of adversely affected entities to be a substantial number for they represent 0.099 percent of all entities that would have to comply with the proposed requirements.

The Small Business Administration has determined that the size standard for small businesses involved in the fishing industry is \$3 million in annual revenues (Standard Industry Codes 0912, 0913, 0919, and 0921). The imposed burden of \$600 would represent 0.02 percent for entities with \$3 million in annual revenues. For entities with \$60,000 and \$30,000 in annual revenues, the burden would represent 1 percent and 2 percent of annual revenues, respectively. We do not consider this cost to create a significant economic impact on the affected entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed

rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

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

#### Collection of Information

The proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

The information collection requirements of the rule are addressed in the previously approved OMB collection titled "Vessel Documentation" (OMB 2115-0110).

**Title:** Vessel Documentation.

**Summary of the Collection of Information:** The proposed rulemaking would add a new collection of information burden to companies that would no longer meet the proposed threshold of at least 75 percent ownership by U.S. citizens. The proposed regulation would allow these companies to apply for an exemption from the proposed U.S. ownership level. The proposed application and related submissions would comprise a new collection of information burden.

*Need for Information:* The proposed subpart V (§§ 67.350 and 67.352) would specify the application procedure for an exemption from the proposed U.S. ownership level to vessel owners that would no longer meet this threshold. The information is needed to document the international treaties on which the claim for exemption is based, and to attest that vessel owners would not change their ownership structure.

*Proposed Use of Information:* The information requested would be used by the Coast Guard's National Vessel Documentation Center to determine the validity of the claim for exemption.

*Description of Respondents:* This collection of information would affect vessel owners who would no longer meet the proposed U.S. ownership level, and wish to apply for exemption.

*Number of Respondents:* We estimate that none of the 35 adversely affected vessel owners would apply for exemption.

*Frequency of Response:* The endorsements on each vessel's certificate of documentation are renewed every year. Vessel owners would have to apply for exemption every time an application for renewal of a fishery endorsement is sent into the National Vessel Documentation Center.

*Burden of Response:* We do not expect the proposed requirement to create any additional burden. Therefore, the additional burden of response attributed to the collection (OMB 2115-0110) would be 0 hours. In the case that a vessel owner applies for exemption, we assume that information gathering and response burden would be two (2) hours per response.

*Estimate of Total Annual Burden:* The additional annual burden attributed to the collection (OMB 2115-0110) would be \$0 because we do not expect any vessel owners to apply for exemption.

*Public Comments on the Collection of Information:* As required by 44 U.S.C. 3507(d), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket

Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

#### **Federalism**

We have analyzed this proposed rule under E.O. 13132 and have determined that it does not have implications for federalism under that Order.

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

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

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

#### **Protection of Children**

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

#### **Environment**

We considered the environmental impact of this proposed rule and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a draft Finding of No Significant Impact are available in the docket where indicated under **ADDRESSES**.

#### **List of Subjects in 46 CFR Part 67**

Citizenship; Fishery endorsements, Fishing vessels, Mortgages, Penalties, Vessel Documentation.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 67 as follows:

#### **PART 67—DOCUMENTATION OF VESSELS**

1. The authority citation for part 67 continues to read as follows:

**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 CFR 1.45, 1.46.

2. Amend § 67.11 by revising paragraph (b) and the Note to read as follows:

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

\* \* \* \* \*

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

**Note:** For purposes of carrying out its responsibilities under the provisions of this part only, the Coast Guard will deem a vessel documented exclusively with a recreational endorsement 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.

3. Amend § 67.21 by revising paragraph (d) and adding paragraph (e) to read as follows:

#### **§ 67.21 Fishery Endorsement.**

\* \* \* \* \*

(d) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section loses that eligibility during any period in which it is:

(1) Owned by a partnership which does not meet the requisite citizenship requirements of § 67.35(b);

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

(3) Chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

(e) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible if an instrument or evidence of indebtedness, secured by a mortgage of the vessel, to a trustee eligible to own a vessel with a fishery endorsement is issued, assigned, transferred, or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Commandant determines that

the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee:

(1) Is organized as a corporation that meets § 67.39(b) of this part, and is doing business under the laws of the United States or of a State;

(2) Is authorized under those laws to exercise corporate trust powers which meet § 67.36(b) of this part;

(3) Is subject to supervision or examination by an official of the United States Government or a State;

(4) Has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

(5) Meets any other requirements prescribed by the Commandant.

4. Revise § 67.31(b) to read as follows:

**§ 67.31 Stock or equity interest requirements.**

\* \* \* \* \*

(b) For the purpose of stock or equity interest requirements for citizenship under this subpart, control means having:

(1) The right to direct the business of the entity that owns the vessel;

(2) The right to limit the actions of or to replace the chief executive officer, the majority of the board of directors, any general partner, or any person serving in a management capacity of the entity that owns the vessel; or

(3) The right to direct the transfer, the operation, or the manning of a vessel with a fishery endorsement.

\* \* \* \* \*

5. In § 67.35, revise the introductory text and paragraph (b) to read as follows:

**§ 67.35 Partnership.**

A partnership meets citizenship requirements if all its general partners are citizens, and:

\* \* \* \* \*

(b) For the purpose of obtaining a fishery endorsement, at least 75 percent of the equity interest in the partnership, at each tier of the partnership and in the aggregate, is owned by citizens.

\* \* \* \* \*

6. Amend § 67.36 by revising the introductory text of paragraphs (a), (b), and (c) and by revising paragraph (b)(2) to read as follows:

**§ 67.36 Trust.**

(a) For the purpose of obtaining a registry or recreational endorsement, a trust arrangement meets citizenship requirements if:

\* \* \* \* \*

(b) For the purpose of obtaining a fishery endorsement, a trust

arrangement meets citizenship requirements if:

\* \* \* \* \*

(2) At least 75 percent of the equity interest in the trust, at each tier of the trust and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise or Great Lake endorsement or both, a trust arrangement meets citizenship requirements if:

\* \* \* \* \*

7. Revise § 67.37 to read as follows:

**§ 67.37 Association or joint venture.**

(a) An association meets citizenship requirements if each of its members is a citizen.

(b) A joint venture meets citizenship requirements if each of its members is a citizen.

8. Amend § 67.39 by revising the introductory text of paragraphs (a), (b), and (c) and by revising paragraph (b)(2) to read as follows:

**§ 67.39 Corporation.**

(a) For the purpose of obtaining a registry or a recreational endorsement, a corporation meets citizenship requirements if:

\* \* \* \* \*

(b) For the purpose of obtaining a fishery endorsement, a corporation meets citizenship requirements if:

\* \* \* \* \*

(2) At least 75 percent of the stock interest in the corporation, at each tier of the corporation and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise or Great Lakes endorsement or both, a corporation meets citizenship requirements if:

\* \* \* \* \*

**§ 67.45 [Removed]**

9. Remove § 67.45.

10. Amend § 67.141 by revising paragraph (b) and adding paragraph (c) to read as follows:

**§ 67.141 Application procedure; all cases.**

\* \* \* \* \*

(b) Each vessel 100 feet and greater in length applying for a fishery endorsement must meet the requirements of 46 CFR part 356 and must submit materials required in paragraph (a) of this section.

(c) Upon receipt of the Certification 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.

11. Add § 67.142 to read as follows:

**§ 67.142 Penalties.**

(a) An owner or operator of a vessel with a fishery endorsement who violates Chapter 121 of Title 46, U.S. Code or any regulation issued thereunder is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate violation.

(b) A fishing vessel and its equipment are liable to seizure and forfeiture to the United States Government—

(i) When the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel;

(ii) When the owner of the fishing vessel, or the representative or agent of the owner, knowingly and fraudulently uses a vessel's certificate of documentation;

(iii) When the fishing vessel engages in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the Exclusive Economic Zone around the United States coastlines after its fishery endorsement has been denied or revoked;

(iv) When a vessel is employed in a trade without an appropriate trade endorsement;

(v) When a documented vessel with only a recreational endorsement operates as a fishing vessel; or

(vi) When a vessel with a fishery endorsement is commanded by a person who is not a citizen of the United States.

(c) In addition to penalties under paragraphs (a) and (b) of this section, the owner of a vessel with a fishery endorsement is liable to the United States Government for a civil penalty of up to \$100,000 for each day in which the vessel has engaged in fishing within the exclusive economic zone of the United States, if the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel.

12. Revise § 67.233(b) to read as follows:

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

\* \* \* \* \*

(b) A mortgage of a vessel 100 feet or greater in length applying for a fishery endorsement is eligible for filing and

recording as a preferred mortgage only if it meets the requirements of this part and the requirements of 46 CFR 356.19.

\* \* \* \* \*

13. Add subpart V to read as follows:

**Subpart V—Exemption from Fishery Endorsement Requirements Due to Conflict With International Agreements**

Sec.

67.350 Conflicts with international agreements.

67.352 Applicability.

**Subpart V—Exemption from Fishery Endorsement Requirements Due to Conflict With International Agreements**

**§ 67.350 Conflicts with international agreements.**

(a) If you are an owner or mortgagee of a fishing vessel less than 100 feet in length and believe that there is a conflict between this part 67 and any international treaty or agreement to which the United States is a party on October 1, 2001, and to which the United States is currently a party, you may petition the National Vessel Documentation Center (NVDC) for a ruling that all or sections of this part 67 do not apply to you with respect to a particular vessel, provided that you had an ownership interest in the vessel or a mortgage on the vessel on October 1, 2001. You may file your petition with the NVDC before October 1, 2001, with respect to international treaties or agreements in effect at the time of your petition which are not scheduled to expire before October 1, 2001.

(b) If you are filing a petition for exemption with the NVDC for reasons stated in paragraph (a) of this section, your petition must include:

(1) Evidence of the ownership structure of the vessel petitioning for an exemption as of October 1, 2001, and any subsequent changes to the ownership structure of the vessel;

(2) A copy of the provisions of the international agreement or treaty that you believe is in conflict with this part;

(3) A detailed description of how the provisions of the international agreement or treaty conflict with this part;

(4) For all petitions filed before October 1, 2001, a certification that the owner intends to transfer no ownership interest in the vessel to a non-U.S. citizen for the following year.

(5) For all petitions filed after October 1, 2001, a certification that no ownership interest was transferred to a non-U.S. citizen after September 30, 2001.

(c) You must file a separate petition for each vessel requiring an exemption unless the NVDC authorizes

consolidated filing. Petitions should include two copies of all required materials and should be sent to the following address: National Vessel Documentation Center, 792 TJ Jackson Drive, Falling Water, West Virginia, 25419.

(d) Upon receipt of a complete petition, the NVDC will review the petition to determine whether the effective international treaty or agreement and the requirements of this part are in conflict. If the NVDC determines that this part conflicts with the effective international treaty or agreement, then the NVDC will inform you of the guidelines and requirements you must meet and maintain to qualify for a fisheries endorsement.

(e) If the vessel is determined through the petition process to be exempt from all or sections of the requirements of this part, then you must annually, from the date of exemption, submit the following evidence of its ownership structure to the NVDC:

(1) The vessel's current ownership structure;

(2) The identity of all non-citizen owners and the percentages of their ownership interest in the vessel;

(3) Any changes in the ownership structure that have occurred since you last submitted evidence of the vessel's ownership structure to the NVDC; and

(4) A statement ensuring that no interest in the vessel was transferred to a non-citizen during the previous year.

**§ 67.352 Applicability.**

The exemption in this subpart shall not be available to:

(a) Owners and mortgagees of a fishing vessel less than 100 feet in length who acquired an interest in the vessel after October 1, 2001; or

(b) Owners of a fishing vessel less than 100 feet in length, if any ownership interest in that vessel is transferred to or otherwise acquired by a non-U.S. citizen after October 1, 2001.

Dated: July 19, 2000.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00-18941 Filed 7-26-00; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**46 CFR Parts 110 and 111**

[USCG-1999-6096]

RIN 2115-AF89

**Marine Shipboard Electrical Cable Standards**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** The Coast Guard is reopening the period for public comment on its notice of proposed rulemaking (NPRM) on Marine Shipboard Electrical Cable Standards. Because of several requests for additional time to comment, the Coast Guard is reopening the comment period for 45 days.

**DATES:** Comments must reach the Coast Guard on or before September 11, 2000.

**ADDRESSES:** Please submit your comments and related material by any one of the following methods (but by only one, to avoid multiple listings in the public docket):

(1) By mail to the Docket Management Facility, [USCG-1999-6096], U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on the substance of the rulemaking, call Dolores Mercier, Project Manager, Office of Design and Engineering Standards, (G-MSE), Coast Guard, telephone 202-267-0658. For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief of Dockets, Department of Transportation, telephone 202-366-9329.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The notice of proposed rulemaking (NPRM) on Marine Shipboard Electrical Cable Standards, published on February 8, 2000 (65 FR 6111), encouraged interested persons to participate in this rulemaking by submitting written data,