

(4) The Captain of the Port may grant a revocable permit to a vessel for a habitual use of an anchorage. Only the vessel that holds the revocable permit may use the anchorage during the period that the permit is in effect.

(5) Upon notification by the Captain of the Port to shift its position, a vessel at anchor shall get underway and shall move to its new designated position within 2 hours after notification.

(6) The Captain of the Port may prescribe specific conditions for vessels anchoring within the anchorages described in this section, including, but not limited to, the number and location of anchors, scope of chain, readiness of engineering plant and equipment, usage of tugs, and requirements for maintaining communication guards on selected radio frequencies.

(7) No vessel at anchor or at a mooring within an anchorage may transfer oil to or from another vessel unless the vessel has given the Captain of the Port the four hours advance notice required by § 156.118 of this title.

(8) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without prior approval of the Captain of the Port.

(d) *Regulations for vessels handling or carrying dangerous cargoes or Class 1 (explosive) materials.* (1) This paragraph applies to every vessel, except a U.S. naval vessel, handling or carrying dangerous cargoes or Class 1 (explosive) materials.

(2) The Captain of the Port may require every person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, to hold either a pass issued by the Captain of the Port or another form of identification prescribed by the Captain of the Port.

(3) Each person having business aboard a vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials while in an anchorage, other than a member of the crew, shall present the pass or other form of identification prescribed by paragraph (d)(2) of this section to any Coast Guard Boarding Officer who requests it.

(4) The Captain of the Port may revoke at any time a pass issued under the authority of paragraph (d)(2) of this section.

(5) Each non-self-propelled vessel handling or carrying dangerous cargoes or Class 1 (explosive) materials must have a tug in attendance at all times while at anchor.

(6) Each vessel handling or carrying dangerous cargoes or Class 1 (explosive)

materials while at anchor must display by day a bravo flag in a prominent location and by night a fixed red light.

(e) *Regulations for Specific Anchorages*—(1) *Anchorage 1.* Except when given permission by the Captain of the Port, a vessel may not anchor in this anchorage for more than 12 hours.

(2) *Anchorage 3.* Except when given permission by the Captain of the Port, a vessel may not anchor in this anchorage for more than 24 hours.

(3) *Anchorage 7.* Dead Ship Anchorage. The primary use of this anchorage is to lay up dead ships. Such use has priority over other uses. A written permit from the Captain of the Port must be obtained prior to the use of this anchorage for more than 72 hours.

Dated: December 18, 2003.

**Sally Brice-O'Hara,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.*

[FR Doc. 04-749 Filed 1-13-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 174

[USCG-2003-15708]

RIN 1625-AA75

#### Terms Imposed by States on Numbering of Vessels

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to expand the number of conditions that a State may require in order for owners to obtain vessel numbering certificates in that State. Current Federal statutes and regulations limit these conditions to proof of ownership or payment of State or local taxes. The proposed rule would allow any State to impose proof of liability insurance as a condition for obtaining vessel numbering certificates in that State.

**DATES:** Comments and related material must reach the Docket Management Facility on or before April 13, 2004.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2003-15708 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

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

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400

Seventh Street SW., Washington, DC 20590-0001.

(3) Fax: 202-493-2251.

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

(5) Federal eRulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Audrey Pickup, Project Manager, Office of Boating Safety, Program Operations Division, Coast Guard, by e-mail at [apickup@comdt.uscg.mil](mailto:apickup@comdt.uscg.mil) or by telephone at 202-267-1077. If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202-366-0271.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

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

*Submitting comments:* If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG-2003-15708), 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 electronic means, mail, fax, or delivery 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 delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

*Viewing comments and documents:* To view comments, as well as

documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

### 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

Title 46 of the United States Code contains provisions, in chapter 123, for the numbering of undocumented vessels equipped with propulsion machinery of any kind. (Undocumented vessels primarily include recreational boats and some types of commercial vessel.) Vessels must carry an identification number issued in compliance with the Standard Numbering System (SNS) maintained by the Coast Guard. States can administer their own numbering programs if those programs comply with SNS requirements and receive Coast Guard approval. SNS requirements include a limitation on the conditions that States can impose on applicants for vessel numbering. A State cannot impose any condition unless it relates to proof of tax payment, or has been sanctioned by Coast Guard regulations. The relevant Coast Guard regulation is 33 CFR 174.31. It permits States to impose only two conditions: Proof of tax payment, and proof of title.

In recent years, States have expressed an interest in imposing an additional condition—proof of liability insurance—which many people think will promote public safety. Currently, however, a State cannot impose such a condition without going beyond what 33 CFR 174.31 authorizes. As a result,

a State imposing a liability insurance condition would not be in compliance with the SNS requirements of Federal law. This could threaten continued Coast Guard approval of the State's numbering system. Loss of that approval could result in decreased funding for the State's recreational boating safety program. The Coast Guard views these as undesirable results in light of the possible public safety benefit that could result from a State's decision to add an insurance condition. To avoid those results, we wish to remove any Coast Guard regulatory barrier to State imposition of an insurance condition. To do that, we must amend 33 CFR 174.31.

### Discussion of Proposed Rule

The proposed rule would amend 33 CFR 174.31 by expanding the number of conditions a State may require in order for owners to obtain vessel numbering certificates in that State. The proposed rule would allow any State to impose proof of liability insurance as a condition for obtaining vessel numbering certificates in that State.

### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. 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 Homeland Security (DHS). A Regulatory Evaluation under the regulatory policies and procedures of DHS follows:

#### *Costs of Rule*

This proposed rule would allow States to require proof of liability insurance as a condition for vessel registration. Because this proposed rule would simply allow, not require, States to incorporate proof of liability as a condition of registration, this rulemaking would not impose any direct costs on vessel owners in any State.

#### *Benefits of Rule*

This proposed rule expands the number of conditions States can consider in administering vessel numbering programs.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have

a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The proposed rule imposes no costs on the public but simply expands the number of conditions States can consider. 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.

### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

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

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this 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 affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with

Constitutionally Protected Property Rights.

### Civil Justice Reform

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

### Protection of Children

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

### Indian Tribal Governments

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

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID (the "Instruction"), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under Figure 2–1, paragraph (34)(d) of the Instruction,

from further environmental documentation. This rule allows States to require proof of liability insurance as a precondition for vessel numbering and therefore concerns documentation of vessels. An "Environmental Analysis Check List" is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

### List of Subjects in 33 CFR Part 174

Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 174 as follows:

### PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

1. The authority citation for part 174 is revised to read as follows:

**Authority:** 46 U.S.C. 6101 and 12302; Department of Homeland Security Delegation No. 0170.1 (92).

2. Amend § 174.31 by revising the section heading, redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to read as follows:

#### § 174.31 Terms imposed by States for numbering of vessels.

\* \* \* \* \*

(b) Proof of liability insurance for a vessel except a recreational-type public vessel of the United States; or

\* \* \* \* \*

Dated: January 8, 2004.

**David S. Belz,**

*Rear Admiral, U.S. Coast Guard, Director of Operations.*

[FR Doc. 04–748 Filed 1–13–04; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Reexamination of Regulatory Mechanisms in Relation to the 1998 Florida Black Bear Petition Finding

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of petition finding.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce a reexamination of regulatory mechanisms in relation to the 1998 finding for a petition to list the Florida black bear (*Ursus americanus floridanus*), under the Endangered Species Act (ESA) of 1973, as amended. Pursuant to a court order, we have reexamined only one factor, the inadequacy of existing regulatory mechanisms in effect at the time of our previous 1998 12-month finding.

**DATES:** The finding announced in this document was made on December 24, 2003.

**ADDRESSES:** The complete file for this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Jacksonville Ecological Services Field Office, 6620 Southpoint Drive South, Jacksonville, FL 32216–0958.

**FOR FURTHER INFORMATION CONTACT:** Dr. John W. Kasbohm (*see ADDRESSES* section), telephone (904) 232–2580; facsimile (904) 232–2404.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Florida black bear (*Ursus americanus floridanus*) is a subspecies of the black bear (*Ursus americanus*), which ranges from northern Alaska and Canada south to northern Mexico. According to Hall (1981), the Florida black bear was primarily restricted to Florida, but also occurred in coastal plain areas of Georgia, Alabama, and extreme southeastern Mississippi. Following extensive human development, the distribution of the Florida black bear has become fragmented and reduced. Population sizes and densities prior to the arrival of the first European colonists are not known; but, the Florida Game and Fresh Water Fish Commission (Commission 1993; now the Florida Fish and Wildlife Conservation Commission) estimated that possibly 11,500 bears once inhabited Florida.

Our involvement with the Florida black bear began with the species' inclusion as a category 2 species in notices of review published on December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), and November 21, 1991 (56 FR 53804). At that time, category 2 species were defined as those for which information in our possession indicated that listing was possibly appropriate, but for which sufficient data on biological vulnerability and threat were not currently available to support proposed