

and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

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

#### Unfunded Mandates Reform Act

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

#### Taking of Private Property

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

#### Civil Justice Reform

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

#### Protection of Children

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

#### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order

13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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 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.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded 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, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation. It has been determined

that this final rule does not significantly impact the environment.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. Section 117.755 is amended by revising paragraph (a) to read as follows:

#### § 117.755 Shrewsbury River.

(a) The Route 36 Bridge, mile 1.8, at Highlands, New Jersey, shall open on signal; except that:

(1) From 11 p.m. to 7 a.m. the draw shall open on signal after at least a 4-hour advance notice is given by calling the number posted at the bridge.

(2) From May 15 through October 15, 7 a.m. to 8 p.m., the draw need only open on the hour and half hour.

(3) From December 1 through March 31, the draw shall open on signal at all times after at least a 4-hour advance notice is given by calling the number posted at the bridge.

(4) The owners of the bridge shall provide and keep in good legible condition, two clearance gauges, with figures not less than eight inches high, designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

\* \* \* \* \*

Dated: March 9, 2005.

**John L. Grenier,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 05-5338 Filed 3-17-05; 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:** Final rule.

**SUMMARY:** This rule expands 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 rule allows any State to impose proof of liability insurance as a condition for obtaining vessel numbering certificates in that State. Currently, States are not prohibited from requiring proof of liability insurance to operate a recreational vessel. However, States are prohibited from using an efficient mechanism, such as vessel registration, to manage and enforce such a requirement.

**DATES:** This final rule is effective April 18, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2003–15708 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 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:** If you have questions on this rule, call Audrey Pickup, Office of Boating Safety, at Coast Guard Headquarters, telephone 202–267–0872. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202–366–0271.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On January 14, 2004, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Terms Imposed by States on Numbering of Vessels, in the *Federal Register* (69 FR 2098). We received ten letters commenting on the proposed rule. No public hearing was requested and none was held.

**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, which primarily include recreational boats and some types of commercial vessels. 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 ownership.

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 requirement as a condition for vessel numbering without going beyond what 33 CFR 174.31 authorizes. As a result, a State imposing a liability insurance requirement as a condition for vessel numbering 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 Federal 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. This rule avoids those results by amending 33 CFR 174.31.

**Discussion of Comments and Changes**

We received 10 sets of comments on this rule. The comments came from 2 State agencies, 2 national associations, 1 group of students, and 5 individuals.

Three comments explicitly expressed support for the rule, which we appreciate.

A State agency commented that most boat dealers who were polled showed strong opposition to the rule, with mild support from others. The State agency's position is that it can support the rule as long as proof of liability insurance is not a mandatory requirement.

*Response:* This rule does not require liability insurance. It simply allows a State to decide whether or not to impose a liability insurance requirement, without risking the loss of Coast Guard approval of its vessel numbering system.

One commenter noted that the rule would give States more flexibility in managing undocumented vessels. The commenter said it would allow States to provide an important assurance that the

damage caused by a boater would be compensated by the boater's insurer, and that this in turn would promote boating safety by deterring unsafe boaters.

*Response:* We agree with this commenter that the rule should provide States with greater flexibility in managing undocumented vessels that operate in their waters. However, we express no opinion on the policy issues raised by the commenter.

Many other commenters took sides on whether or not proof of insurance should be required. Most of them expressed the opinion that such a requirement would not increase public safety. Others felt such a requirement would be worthwhile if one life could benefit from it, and one association reported that its members strongly support an insurance requirement. One commenter asked if any statistics could be presented to demonstrate the impact of insurance on public safety.

*Response:* We express no opinion on the policy issues raised by these commenters. In some states, many people think boaters should carry liability insurance and that it could promote boating safety. However, under current regulations, if a State requires boaters to carry insurance as a condition for vessel numbering, the State could lose Coast Guard approval for its vessel numbering system. A State without a Coast Guard-approved vessel numbering system could lose valuable Federal funding. The only difference this rule makes is that, now, a State will be able to require insurance without losing Coast Guard approval of its numbering system.

One commenter argued that the State-imposed requirements currently permitted by our regulation—proof of ownership and proof of tax payment—are both relevant to the process of numbering a vessel, whereas the vessel's insurance status is not. This commenter stated that States that impose an insurance requirement would be treating vessel ownership and, indirectly, the use of recreational vessels as a privilege and not as a right. Another commenter with a similar position stated that the rule would be forcing another cost on the marine industry.

*Response:* Because this rule does not impose any liability insurance requirement and leaves that decision to States, we take no position on whether or not such a requirement could turn rights into privileges, whether some data might be more directly related to vessel numbering than others, or whether it could force a cost on the marine industry. This rule simply gives

States the ability to make these determinations for themselves, without jeopardizing the approved status of their vessel numbering systems.

One group of students challenged various aspects of our regulatory analysis. They said our environmental checklist wrongly denies that the rule will have an impact on public health or safety; they felt the impact would be positive. Likewise, they challenged our small entities analysis and said the rule would affect local businesses and recreational boat owners, and should be changed to cover foreign boat manufacturers and operators as well. Finally, this group felt we were overlooking the rule's positive impact on protecting children.

*Response:* We acknowledge that some persons believe requiring, or not requiring, boaters to carry liability insurance will have a bearing on the issues raised by this group. However, the Coast Guard takes no position on such a requirement, and the rule itself neither imposes nor prohibits such a requirement. Our only purpose is to allow each State to decide whether or not to impose such a requirement, without risking the loss of Coast Guard approval of its vessel numbering system.

One commenter suggested that the Coast Guard should consider ways to ensure that a liability policy is maintained in force by the boater even after the vessel's certificate is issued.

*Response:* Because this rule does not impose any liability insurance requirement and leaves that decision to States, the details of any such requirement are beyond the scope of this rule.

### Regulatory Evaluation

This final 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 (OMB) has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

### Cost of Rule

This rule would allow States to require proof of liability insurance as a condition for vessel registration. Because this rule simply allows a State to decide whether or not to impose a

liability insurance requirement as a condition for vessel numbering, it would not impose any direct costs on vessel owners in any State.

### Benefits of Rule

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

This rule allows any State to impose proof of liability insurance as a condition for obtaining vessel numbering certificates in that State. It imposes no costs on the public. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

### Collection of Information

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

### Federalism

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

### Unfunded Mandates Reform Act

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

### Taking of Private Property

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

### Civil Justice Reform

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

### Indian Tribal Governments

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

### Energy Effects

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

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with

applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded 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, this rule is categorically excluded, under figure 2–1, paragraph (34)(d), of the Instruction, from further environmental documentation. This rule simply allows a State to decide whether or not to impose a liability insurance requirement as a condition for vessel numbering. An “Environmental Analysis Checklist” and a “Categorical Exclusion Determination” are available in the docket where indicated under

## ADDRESSES.

### List of Subjects in 33 CFR Part 174

Marine safety, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Coast Guard amends 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 title, 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: December 20, 2004.

**R. D. Sirois,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.*

[FR Doc. 05–5337 Filed 3–17–05; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52

[R05–OAR–2005–OH–0001; FRL–7886–7]

### Approval and Promulgation of Maintenance Plan Revisions; Ohio

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving Ohio’s March 1, 2005, submittal of a revision to the Clinton County 1-hour ozone maintenance plan. Ohio held a public hearing on the submittal on February 8, 2005. This maintenance plan revision establishes a new transportation conformity motor vehicle emissions budget (MVEB) for the year 2006. EPA is approving the allocation of a portion of the safety margin for oxides of nitrogen (NO<sub>x</sub>) to the area’s 2006 MVEB for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for volatile organic compounds will remain the same as previously approved in the maintenance plan. In this action, EPA is also correcting the codification for a previous approval action for Cincinnati, Ohio.

**DATES:** This rule is effective on May 2, 2005, unless EPA receives adverse written comments by April 18, 2005. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2005–OH–0001, by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. Agency Web site: <http://docket.epa.gov/rmepub/>. Regional RME, EPA’s electronic public docket and comments system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the on-

line instructions for submitting comments.

E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

Fax: (312) 886–5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R05–OAR–2005–OH–0001. EPA’s policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are “anonymous access” systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>.