

the shoreline ramp on the northeast side of Japonski Island, Sitka, AK.

This final rule will remove the annual safety zone in Crescent Harbor associated with the fireworks display, as it is no longer necessary. The sponsor now uses a shoreline ramp on the northeast side of Japonski Island, thus greatly reducing the hazard to vessels and individuals located in the area previously designated as a safety zone.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of the Executive Order 12866 and does not require an assessment of potential costs and benefits under sections 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). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because lifting the safety zone will allow greater access and mobility to vessels located within Crescent Harbor.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule will 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 less than 50,000. Because the effects of this rule are positive, by allowing greater access and mobility to vessels within Crescent Harbor, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Consultation and Coordination with Indian Tribal Governments

This proposed rule will not have tribal implications; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, it is exempt from the consultation requirements of Executive Order 13175. If tribal implications are identified during the comment period we will undertake appropriate consultations with the affected Indian tribal officials.

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 create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that

require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government’s having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 165 as follows:

PART 165

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

§ 165.1707 [Removed]

2. Remove § 165.1707.

Dated: February 26, 2001.

R.C. Lorigan,

Captain, U.S. Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 01–6903 Filed 3–19–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 187

[USCG–1999–6420]

RIN 2115–AD35

Vessel Identification System

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations on the voluntary Vessel Identification System (VIS). VIS is a nationwide system for collecting information on vessels and vessel ownership to help identify and recover stolen vessels, deter vessel theft, and assist in deterring and discovering security-interest and insurance fraud. These amendments concern the requirements for States electing to participate in VIS. The changes improve the integrity and uniformity of the system and reflect recent statutory changes.

DATES: This final rule is effective April 19, 2001.

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-1999-6420 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: For questions on this rule, call LCDR Nancy Goodridge, Office of Information Resources, Coast Guard, telephone 202-267-0254, electronic mail NGoodridge@comdt.uscg.mil. For questions on viewing or submitting

material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

The following table outlines the regulatory history of this rulemaking project:

Document type	Federal Register cite	Date published	Comments
Advance Notice of Proposed Rulemaking	54 FR 38358	9/15/1989	Requested comments and information on establishing a Vessel Identification System (VIS).
Notice of Proposed Rulemaking	58 FR 51920	10/5/1993	Proposed requirements for States electing to participate in VIS, as required by statute.
Interim Final Rule	60 FR 20310	4/25/1995	Established the requirements for participating in VIS; became effective 4/24/1996, with the exception of 33 CFR part 187, subpart D.
Re-opening of comment period and notice of public hearing.	60 FR 53727	10/17/1995	Reopened the comment period for the Interim Final Rule and scheduled two public hearings.
Change in effective date	61 FR 6943	2/23/1996	Delayed the effective date of 33 CFR part 187 subpart D until 4/24/1998.
Re-opening of comment period	62 FR 54385	10/20/1997	Reopened the comment period for the Interim Final Rule (60 FR 20310).
Change in effective date	63 FR 19657	4/21/1998	Delayed the effective date of 33 CFR part 187 subpart D until 4/24/1999.
Change in effective date	64 FR 19039	4/19/1999	Delayed the effective date of 33 CFR part 187 subpart D until 10/24/1999.
Final Rule (removing subpart D)	64 FR 56965	10/22/1999	Removed 33 CFR part 187 subpart D, which never went into effect.
Supplemental Notice of Proposed Rulemaking	65 FR 7925	02/16/2000	Revised the proposed requirements for States electing to participate in VIS, as required by statute.

Background and Purpose

The Secretary of Transportation is required to establish a Vessel Identification System (VIS) (46 U.S.C. 12501). VIS is a nationwide system for collecting information on vessels and vessel owners and other information that will assist law enforcement officials in their investigations of stolen vessels or other crimes, such as fraud. It benefits consumers, lenders, insurers, the marine industry, and national boating organizations by increasing the probability of recovering stolen vessels and by decreasing the probability of a person unknowingly purchasing a vessel that is stolen or that has a lien or other claim against it. In turn, VIS should decrease the probability of theft. The responsibility for establishing VIS was delegated by the Secretary of Transportation to the Coast Guard (49 CFR 1.46).

This Final Rule concerns the Coast Guard's regulations in 33 CFR part 187 (Vessel Identification System), which—

- (1) Establish minimum requirements for States electing to participate in VIS;
- (2) Prescribe guidelines for State vessel titling systems; and
- (3) Explain how States may obtain certification of compliance with the

vessel titling system guidelines for the purpose of conferring preferred status under 46 U.S.C. 31322(d) on mortgages, instruments, or agreements for State-titled vessels.

State participation in VIS is entirely voluntary; however, to participate, States must comply with certain requirements to ensure the integrity and uniformity of the information provided to VIS.

Most of the information to be included in VIS is already collected by States that number vessels under 33 CFR part 174. This rule amends the requirements in 33 CFR part 187 for States electing to participate in VIS.

This rule also creates a new 33 CFR part 187, subpart D, Guidelines for State Vessel Titling Systems, and clarifies the procedures for obtaining certification of compliance with those guidelines. Under 46 U.S.C. 31322(d)(1), a perfected mortgage covering the whole of a vessel titled in a State that participates in VIS and has a certified vessel titling system will be deemed to be a preferred mortgage. Compliance with the State titling guidelines and requests for certification are entirely voluntary by a State.

Discussion of Comments and Changes to the Proposed Rule

We received a total of fifteen comments to this rulemaking. In the following paragraphs, the Coast Guard discusses the comments received and explains any changes made to the regulations. The Coast Guard first discusses general comments, and secondly discusses comments regarding specific sections of the regulations. A significant number of the changes are the result of comments and recommendations developed jointly by the primary stakeholders in VIS. These stakeholders include representatives of State numbering and titling agencies, the marine lending industry, and the maritime law community.

General Comments

Many of these comments were in response to our proposed changes to the Standard Numbering System (SNS) requirements in 33 CFR part 174. Several commentors believed that the changes to the SNS were more costly than we originally estimated and would potentially impose additional information collection requirements.

The Coast Guard agrees that the issues relating to the SNS should be studied further, prior to making any permanent changes to the regulations in 33 CFR part 174. We have therefore removed this section from the rulemaking and will address those comments in a separate rulemaking. We believe that while VIS is dependent upon the SNS, changes to the SNS can be developed subsequent to this rulemaking without a negative effect on VIS. The comments received regarding the SNS and changes proposed to 33 CFR part 174 will be taken into account and addressed in the SNS rulemaking.

We additionally received several comments regarding VIS and the changes proposed in 33 CFR part 187. All comments received throughout the course of this project were considered in the development of this Final Rule. The issues raised by the comments, and the sections that have been revised or added since the publication of the SNPRM, are discussed.

One comment suggested that the use and acceptance of electronic titles and signatures be considered for the future with VIS.

The Coast Guard believes that the use and acceptance of electronic titles and electronic signatures is beyond the scope of this rulemaking. However, the Coast Guard is committed to utilizing new technology to improve VIS and will consider electronic titles and electronic signatures in any future revisions.

One comment cautioned that there will be redundancy of data created between State databases, and the Coast Guard's database. The comment asked—

- Which agency would be responsible for contacting boat owners with problem certificates of documentation and State titles?
- What will happen to the bank's ship mortgages and/or State liens?
- Who will bear the expense to correct the problems?

VIS will make it easier to detect redundancy across the States' databases. To assist in detecting redundancy, VIS will automatically contact applicable States whenever any redundant data has been detected. This will only happen, however, after a State has submitted the data to VIS. The Coast Guard recommends that States check VIS prior to the issuance of documents to ensure the vessel is not registered in another State and prevent the problems that redundancy can cause. In regards to responsibility, the agency that issues the documentation will continue to be responsible for contacting vessel owners and bearing any expenses incurred with any problems.

The plan to provide for a consolidated builder's certification and certificate of origin is one of the subjects in another rulemaking project. The docket number for that project is USCG 1998-4784. We anticipate that the availability of a single document acceptable to the States for numbering and titling and to the Coast Guard for vessel documentation will encourage manufacturers to use only that document. However, the Coast Guard cautions the commenter that there is no Federal authority to mandate a specific form for the COO. Only the individual States may determine what will be acceptable in their systems.

Procedures for Certification of Compliance With Guidelines for State Vessel Titling Systems Section (§ 187.9)

One comment said that requiring HINs for all recreational vessels seems excessive. A review of the recreational vessels with a Certificate of Number in Connecticut indicates approximately 27,000 vessels have HINs. Recreational vessels constructed before 1972 do not possess a HIN. The State is able to process about 200 HINs annually. The need to process 27,000 is not possible. Therefore, we suggest that only vessels constructed on or after 1972 be required to have a HIN.

The goal is to eventually have a valid HIN on every numbered vessel in the United States without regard to when it may have been built. The Coast Guard agrees that it is not reasonable to expect States to immediately issue HINs to all vessels that currently do not have valid ones. The requirement for a State to assign a HIN to a vessel that does not have a valid one applies only if the vessel is transferred to a new owner (sold within State) or moved into a new State of principal operation. In the meantime, section 187.9(b) provides that the State number or Coast Guard documentation number will be used as the vessel identification number in VIS.

One comment stated there was an issue regarding the resolution of the unique vessel identification number. The National Association of State Boating Law Administrators (NASBLA), and the International Association of Marine Investigators (IAMI) have both gone on record in support of a 17-digit Hull Identification Number (HIN). The rulemaking project to establish that number has dragged on since 1992. The Comment asked—

- What is the Coast Guard's position on the number;
- What does the Coast Guard want; and
- When will the Coast Guard make a final decision?

While the Coast Guard recognizes that the issues are related, the makeup of the HIN is outside the scope of this project. Because of controversy and conflict there is no consensus on the format for an expanded HIN and the Coast Guard lacks sufficient data to demonstrate that the benefits clearly outweigh the costs and burdens, particularly for small entities and builders of high volume, low cost boats. Therefore, the proposal to expand the HIN format was withdrawn on June 29, 2000 (65 FR 40069) and a study was begun to gather data on costs and benefits. We will review the results of the study and decide whether to issue a new regulatory project.

Information To Identify a Vessel Owner (§ 187.101)

One comment said that this section and § 187.103 would require the redesign of Certificate of Number and Certificate of Decal applications. This process is complicated and will take several years. Another comment stated that building additional computer storage capacity, and extensive programming changes would be needed. To build additional computer storage capacity as well as implement extensive programming changes will also take time.

The Coast Guard understands that some changes will need to be made, however, we reiterate that participation in VIS is voluntary. The SNS Rulemaking will address this further with its proposal to give States four years to change applicable Certificates and forms. This will reduce costs and allow any new forms to be redesigned and purchased as supplies of the old forms are depleted.

One comment stated that the regulation should make clear that the information a State must collect to identify a vessel owner in § 187.101 and the information to identify a vessel in § 187.103 must be made available to VIS as is done in § 187.105.

We agree and have added language to those sections, as well as § 187.107, to make clear that this information must be made available to VIS.

Three comments discussed the question of what information should be made available publicly. Two comments said there should be a charge for this information. One comment proposed the addition of two new sections to address this issue.

The Coast Guard will use these comments in a future project when we establish what exactly will be released, to whom, how it will be released, and how much it will cost.

One comment stated that it would be expensive for them to change their system to collect and store residential address information for an owner and each lien holder and that mailing address information should be sufficient.

The Coast Guard understands that systems will require some change, however the residential address information is required for law enforcement purposes.

One comment stated that using the Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN), as unique vessel owner identifiers, would require clear Federal and State authority.

States have the option to provide another unique owner identifier if they are not able, under State law, to collect the SSN or ITIN. The ITIN should not be a Privacy Act issue for corporate owners.

Information To Identify a Vessel (§ 187.103)

One comment suggested that the Coast Guard develop a realistic and uniform definition for the term "charter boat" as it relates to the needs of the National Marine Fisheries Service (NMFS).

The Coast Guard agrees. According to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), "charter fishing" is defined as "fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of Title 46 who is engaged in recreational fishing." The Coast Guard will work closely with stakeholders to develop clear guidance defining the categories and commercial activities identified in VIS.

Another comment stated that the original proposal from NMFS would require several changes to State registration systems. This is unacceptable because it would cost too much.

The only change that is being implemented at the request of NMFS is the addition of "charter fishing" as a category of primary use. Other data requests from NMFS were outside the scope of this rulemaking.

One comment stated that they use the term "homemade" to distinguish between privately constructed vessels from commercially constructed vessels. The commentor requested that they continue to have the ability to use this term.

There is no regulation that defines terms to be used in the manufacture/make field, therefore the term "homemade" is an acceptable term to use.

Information on Titled Vessels (§ 187.105)

One comment recommended requiring that a participating State collect and make available to VIS information concerning the discharge of a security interest or the surrender of a certificate of title.

This issue was discussed in previous notices. Again, we disagree because it would impose an additional burden on the States.

Information To Assist Law Enforcement Officials (§ 187.107)

One comment asked since their respective State does not require non-mechanical vessels to be registered, will this information be required in VIS? The Coast Guard understands that all vessels may not be registered in a State. Therefore if a vessel is not registered, it does not need to be reported in VIS.

One comment stated that it was understood that much of the information listed in § 187.107(b) is noted in the police report, and could be available by requesting it from the reporting enforcement agency.

This information is strictly optional and not required to be reported to VIS.

Participating State Requirements (§ 187.201)

One comment stated that a reference was made to States utilizing microfiche or microfilm or other electronic storage to retain information. However, this is limited to a number of years. The States' data storage cannot compare to what is retained by the Coast Guard, in detail and in length of time. The life of a boat is many more years than most State storage systems. The lack of this information being available greatly jeopardizes the history of a boat. VIS should accommodate keeping essential boat information and not depend on States for this. Another comment also expressed concern about the retention of information for a history of transactions involving a vessel.

We believe there is some confusion as to exactly what information VIS will archive. VIS will archive information on a particular vessel only if the vessel's registration has been inactive for ten years. And archived information will be retained for an additional 50 years. Past transactions, including change of vessel ownership as well as change of State of registration, will be recorded and stored with a particular vessel to track and build its history. The reference to microfiche and microfilm in Part 187.201(d) refers specifically to certificates and other evidence that establish the accuracy of the information, not the information itself.

One comment stated that during the months of February, March, and April hundreds of vessel registrations with changes arrive daily. The DMV will not be able to provide to VIS changes in registration information during these three months.

State personnel will process vessel registrations just as they currently do in the normal course of business. The daily summary of registration changes will be generated automatically by the computer program that is developed when a State initially elects to participate in VIS. Personnel processing daily transactions, require no additional effort. If a State falls behind in processing transactions, that would not affect the viability of VIS.

Dealer and Manufacturer Provisions (§ 187.307)

Two comments stated that States were concerned with whether dealers and manufacturers would support the change to regulate boat dealers.

This requirement applies only to States that choose to seek certification to obtain preferred mortgage status for State-titled vessels. The principal stakeholders in this rulemaking process recommended application of this regulation and we agree. The Coast Guard will consider an amendment if, at a later date, it is determined that the State restrictions on boat dealers and manufacturers participation can be deleted without adversely impacting the effectiveness of VIS.

Surrender of Title for Purposes of Documentation (§ 187.315)

One comment stated that in Subpart D of this section, the amendments included in the Coast Guard Authorization Act of 1998 clearly state that Federal statute now prohibits a vessel from being both documented by the Coast Guard and titled by a State (46 U.S.C. 12124). In the section on Federalism, this Federal Law is referred to concluding that States should consider amending their laws and regulations on this issue. The comment asked whether a State would be accepted into VIS if they do not conform to this Federal law.

The answer is no. At the present time there are several States which require titling of documented vessels. Since those laws are in conflict with Federal law, the Coast Guard strongly recommends that States amend their laws and regulations on this issue to alleviate the conflict. The National Vessel Documentation Center is undertaking a separate rulemaking project to provide for the surrender of

State titles when a vessel is documented under Federal law.

Procedures for Perfection of Security Interests (§ 187.323)

We received two comments pointing out that States employ different procedures for security interest perfection on State boat titles. Some States deem the perfection to have occurred when the State boat title application and necessary fees are delivered to the proper State filing office; other States deem legal perfection to occur when the secured party is actually noted on the certificate of title. A State may make its own choice as to determination of the date and time of perfection. One comment suggested that this issue could be clarified by replacing the word "Delivery" at the beginning of § 187.323(a)(1) with the word "Submission."

We agree and have made the recommended change in both § 187.323(a)(1) and in § 187.323(a)(4).

Regulatory Evaluation

This 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 6(a)(3) of that Order. The Office of Management and Budget under that Order has not reviewed it. 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. This rule imposes zero mandatory costs. For States that choose to participate in VIS, we expect an average one-time cost of \$55,000 per State and an average recurring cost (for correcting inaccurate data entries) equal to \$0.75 times 2 percent of the number of annual registration changes per State.

I. Costs

This rule does not impose mandatory costs on States. A State may elect to participate in VIS but is not compelled to do so. Participation is entirely voluntary. In our estimation of hour and cost burdens, we assumed a 100% participation rate in VIS by 2009.

The total cost of this rulemaking to a State participating in VIS is the sum of the one-time costs and recurring costs. Over the 10-year period of analysis, the present-value total cost of this rule to States that elect to participate in VIS is estimated to be \$2,917,450.

(a) One-Time Costs

The only one-time cost is the cost of developing the VIS/State database interface and update programming at the State level. We estimate the average cost of developing VIS at the State level would be \$55,000 per participant. Assuming a 100% participation rate by the year 2009, we estimate that the total one-time cost of developing VIS, in present-value terms, would be \$2,366,574 in 1999 dollars.

(b) Recurring Costs

There are two recurring costs. The first is the cost to produce a daily summary update of registration changes, which is transmitted to VIS. The second is the cost of correcting data entry errors of registration changes.

The daily summary update of registration changes will be generated automatically by the computer program that is developed when a State initially elects to participate in VIS. Consequently, the Coast Guard estimates that the cost to a State of producing approximately 250 annual summary updates would be zero. If a State improperly enters the data for a change of registration, an error report is generated from VIS. A State that receives an error report will be required to correct the data entry. We estimate 2 percent of a State's registration changes will be improperly entered and generate error reports. In most cases, we expect the error will be limited to a particular field in the data set, and its correction will be quick.

We estimate it would cost an average of \$0.75 to correct a data entry (assuming it takes an average of 3 minutes or 0.05 hours at an average of \$15 per hour to correct an entry). The corrected data entry will then be automatically included in that day's summary update. So, if a State has an average of 100,000 registration changes per year, we would expect an average of 2,000 data entry mistakes and a recurring cost of \$1,500 per year ($100,000 \times 0.02 \times \$0.75 = \$1,500$).

The present-value total recurring cost of this rule to States is estimated to be \$550,876. When added to the estimated present-value total start-up cost to States of \$2,366,574, the present-value total cost of this rule to States over the 10-year period of analysis is \$2,917,450 ($\$550,876 + \$2,366,574 = \$2,917,450$).

The present-value total cost of this rule to States and to the Federal government to support and maintain VIS is estimated to be \$8,688,439 in 1999 dollars (\$2,917,450 to States and \$5,770,989 to the Federal government).

II. Benefits

The primary benefits of VIS will come from its ability to serve as a tracking device for vessels, with the vessel identifier serving much like the Vehicle Identification Number found in automobiles. As a tracking device, the benefits of VIS will be in the—

(1) Improved odds of recovering a stolen or missing vessel, which benefits boat owners and insurers, and local and State law enforcement agencies;

(2) Decreased odds of unknowingly purchasing a stolen vessel, which can be a financial disaster if the rightful owner shows up to claim it; and

(3) Decreased odds of unknowingly purchasing a vessel that has a lien, unpaid taxes, or other claim(s) lodged against it, which can become the responsibility of the new owner.

VIS establishes penalties for those persons who—

(1) Intentionally provide false information to the issuing authority regarding the identification of a vessel; or

(2) Tamper with, remove, or falsify a unique vessel identification number.

Combining those penalties with its feature as a tracking device, a secondary benefit of VIS will be the reduction in theft of vessels. A third benefit of VIS will be the preferred mortgage status of a perfected mortgage covering the whole of a vessel titled in a State that participates in VIS and has a certified vessel titling system.

Collection of Information

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). We submitted a copy of the rule, as required by 44 U.S.C. 3507(d), to the Office of Management and Budget (OMB) for its review of the collection of information. OMB approved the collection. The section numbers are §§ 187.11, 187.13, 187.101, 187.103, 187.105, 187.107, 187.201, and 187.301 and the corresponding approval number is OMB Control Number 2115–0607. You need not respond to a collection of information unless it displays a currently valid control number from OMB.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 affects U.S. States. It imposes zero mandatory costs. According to the U.S. Bureau of the Census, none of the States eligible to participate in VIS has a population less than 50,000. Thus, there are no small entities affected and no impact upon small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking.

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).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that it does not have federalism implications to warrant the preparation of a Federalism Assessment under that Order.

This rule is not expected to infringe upon the rights of States to regulate, or preempt existing State regulations. State participation is entirely voluntary. However, once electing to participate, a State must comply with the requirements to ensure integrity and uniformity of information in both the Standard Numbering System and VIS. Likewise, requesting certification that a State vessel titling system complies with the guidelines is also voluntary. Such certification, for participating States, confers preferred status on mortgages covering the whole of vessels titled in that State.

However, Federal law (46 U.S.C. 12124) prohibits a vessel from being both documented by the Coast Guard and titled by a State. This prohibition applies to all State-titled vessels, whether or not the title-issuing State

participates in VIS or follows the titling guidelines. States that require documented vessels to be titled should consider amending their laws and regulations on this issue.

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 rule will not result in such 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 E.O. 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.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule establishes a nationwide information system for identifying vessels and vessel owners, and guidelines for State vessel titling systems. This action clearly will have no environmental consequences. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 187

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard revises 33 CFR part 187 to read as follows:

PART 187—VESSEL IDENTIFICATION SYSTEM

Subpart A—General

Sec.

- 187.1 Which States are affected by this part?
- 187.3 What vessels are affected by this part?
- 187.5 What are the purposes of this part?
- 187.7 What are the definitions of terms used in this part?
- 187.9 What is a vessel identifier and how is one assigned?
- 187.11 What are the procedures to participate in VIS?
- 187.13 What are the procedures for obtaining certification of compliance with guidelines for State vessel titling systems?
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Appendix A to Part 187—Participating Authorities

Appendix B To Part 187—Participating and Certified Vessel Titling Authorities

Authority: 46 U.S.C. 2103; 49 CFR 1.46.

Subpart A—General

§ 187.1 Which States are affected by this part?

States electing to participate in the Vessel Identification System (VIS) are affected by this part.

§ 187.3 What vessels are affected by this part?

Only vessels numbered or titled by a participating State are affected by this part. Vessels documented under 46 U.S.C. chapter 121 and 46 CFR parts 67 and 68 are not affected.

§ 187.5 What are the purposes of this part?

The purposes of this part are to—

- (a) Establish minimum requirements for States electing to participate in VIS;
- (b) Prescribe guidelines for State vessel titling systems; and
- (c) Explain how to obtain certification of compliance with State guidelines for vessel titling systems for the purpose of conferring preferred status on mortgages, instruments, or agreements under 46 U.S.C. 31322(d).

§ 187.7 What are the definitions of terms used in this part?

As used in this part—

Approved Numbering System means a numbering system approved by the

Secretary of Transportation under 46 U.S.C. Chapter 123.

Certificate of Documentation means the certificate issued by the Coast Guard for a documented vessel under 46 U.S.C. 12103 (Form CG-1270).

Certificate of Origin or *COO* means a document establishing the initial chain of ownership, such as a manufacturer's certificate of origin (MCO) or statement of origin (MSO), an importer's certificate of origin (ICO) or statement of origin (ISO), or a builder's certification (Form CG-1261; see 46 CFR part 67).

Certificate of Ownership means the Certificate of Ownership issued by the Coast Guard under 46 CFR part 67 (Form CG-1330).

Commandant means the Commandant of the United States Coast Guard.

Dealer means any person who engages wholly or in part in the business of buying, selling, or exchanging new or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage or otherwise. A dealer must have an established place of business for the sale, trade, and display of such vessels.

Documented vessel means a vessel documented under 46 U.S.C. chapter 121.

Hull Identification Number or *HIN* means the number assigned to a vessel under subpart C of 33 CFR part 181.

Issuing authority means either a State that has an approved numbering system or the Coast Guard in a State that does not have an approved numbering system.

Manufacturer means any person engaged in the business of manufacturing or importing new vessels for the purpose of sale or trade.

Owner means a person, other than a secured party, having property rights in, or title to, a vessel. "Owner" includes a person entitled to use or possess a vessel subject to a security interest in another person, but does not include a lessee under a lease not intended as security.

Participating State means a State certified by the Commandant as meeting the requirements of subpart C of this part. States meeting this definition will be listed in Appendix A to this part.

Person means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.

Secured party means a lender, seller, or other person in whose favor there is a security interest under applicable law.

Security interest means an interest that is reserved or created by an agreement under applicable law and that secures payment or performance of an obligation.

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

Titled vessel means a vessel titled by a State.

Titling authority means a State whose vessel titling system has been certified by the Commandant under subpart D of this part. Titling authorities participating in VIS will be listed in Appendix B to this part.

Vessel includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Vessel Identification System or *VIS* means a system for collecting information on vessels and vessel ownership as required by 46 U.S.C. 12501.

§ 187.9 What is a vessel identifier and how is one assigned?

(a) The vessel identifier for a vessel having a valid HIN is the HIN.

(b) If a vessel does not have a valid HIN, a vessel identifier is assigned under the following table:

TABLE 187.9(b)—VESSEL IDENTIFIER ASSIGNMENTS

If the vessel is:	And does not have a valid HIN:	Then the vessel identifier is:
(1) Documented		The official number assigned by the Coast Guard under 46 CFR part 67.
(2) Documented	And is transferred to a new owner	The HIN assigned by the Coast Guard.
(3) Undocumented	And must be numbered under 33 CFR parts 173 and 174.	The number issued on a certificate of number by the issuing authority of the State of principal operation, provided the number will not be used in the future to identify a different vessel.
(4) Undocumented	And is transferred to a new owner	The HIN assigned by the issuing authority of the State of principal operation.
(5) Undocumented	And the vessel is required to be numbered or titled in a new State of principal operation.	The HIN assigned by the issuing authority of the State of principal operation.

§ 187.11 What are the procedures to participate in VIS?

(a) A State must submit a written request to the Commandant (G-OPB) certifying that it will comply with the VIS participation requirements in subpart C of this part.

(b) The Commandant will review the request and determine if the State is complying with the VIS participation requirements. If so, the Commandant will certify compliance by listing the State in Appendix A to this part.

(c) Appendix A to this part will list those States certified by the Commandant to participate in VIS. When the Commandant determines that a State is not complying with the participation requirements, it will lose its certification and will be deleted from Appendix A to this part.

§ 187.13 What are the procedures for obtaining certification of compliance with guidelines for State vessel titling systems?

(a) A State must submit a written request to the Commandant (G-OPB). The request must include a copy of the State's titling laws, regulations and administrative procedures, and certify that the State will comply with the VIS participation requirements in subpart C of this part.

(b) The Commandant will review the request and determine if the State is complying with the Guidelines for State Vessel Titling Systems in subpart D of this part. If the State is complying with the guidelines, the Commandant will certify compliance and list the State in Appendix B to this part.

(c) Appendix B to this part will list States certified by the Commandant. When the Commandant determines that a State is not complying with the vessel titling guidelines, it will lose its certification and be deleted from Appendix B to this part.

§ 187.15 When is a mortgage a preferred mortgage?

A mortgage, instrument, or agreement granting a security interest perfected under State law covering the whole of a vessel titled under the law of a participating State is a preferred mortgage if the State is certified under § 187.13.

Subpart B—Information to be Collected by Participating States**§ 187.101 What information must be collected to identify a vessel owner?**

(a) A participating State must collect the following information for a vessel it has numbered or titled when an individual owns the vessel and make it available to VIS:

- (1) Names of all owners.

- (2) Principal residence of one owner.

- (3) Mailing Address, if different from the address in paragraph (a)(2) of this section.

- (4) One of the following unique identifiers for each owner:

- (i) Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN).

- (ii) If the SSN or ITIN is not available, birth date and driver's license number.

- (iii) If the SSN, ITIN, and driver's license number are not available, birth date and other unique identifier prescribed by the State.

(b) A participating State must collect the following information for a vessel that it has numbered or titled when the vessel's owner is not an individual, but a business or other type of organization:

- (1) Names of all businesses or organizations that own the vessel.

- (2) Principal address of one business or organization.

- (3) Mailing address, if different from the address in paragraph (b)(2) of this section.

- (4) Taxpayer Identification Number (TIN) for the principal business or organization.

- (5) If the TIN for the principal business or organization is not available, one of the following unique identifiers for a corporate officer, a partner, or the individual who signed the application for numbering:

- (i) Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN).

- (ii) If the SSN or ITIN is not available, birth date and driver's license number.

- (iii) If the SSN, ITIN, and driver's license number are not available, birth date and other unique identifier prescribed by the State.

§ 187.103 What information must be collected to identify a vessel?

A participating State must collect the following information on a vessel it has numbered or titled and make it available to VIS:

- (a) Manufacturer's hull identification number (HIN), if any.

- (b) Official number, if any, assigned by the Coast Guard or its predecessor.

- (c) Number on certificate number assigned by the issuing authority of the State.

- (d) Expiration date of certificate of number.

- (e) Number previously issued by an issuing authority.

- (f) Name of manufacturer, builder, or make.

- (g) Model year, manufacture year, or year built.

- (h) Overall length.

- (i) Vessel type. Authorized terms are "open motorboat", "cabin motorboat",

"auxiliary sail", "sail only", "personal watercraft", "pontoon", "houseboat", "rowboat", "canoe/kayak", or "other".

- (j) Hull material. Authorized terms are "wood", "aluminum", "steel", "fiberglass", "rigid hull inflatable", "rubber/vinyl/canvas", or "other".

- (k) Propulsion type. Authorized terms are "propeller", "sail", "water jet", "air thrust", or "manual".

- (l) Engine drive type. Authorized terms are "outboard", "inboard", or "inboard/stern drive".

- (m) Fuel. Authorized terms are "gasoline", "diesel", or "electric".

- (n) Primary use. Authorized terms are "pleasure", "rent or lease", "dealer or manufacturer demonstration", "charter fishing", "commercial fishing", "commercial passenger carrying", or "other commercial operation".

§ 187.105 What information on titled vessels must be collected and what may be collected?

(a) A participating State must collect the following information on a vessel it has titled and make it available to VIS:

- (1) Information required under

§ 187.103.

- (2) Title number.

- (3) Issuance date of the most recently issued title or redundant.

- (4) Where evidence may be found on the security interest or lien against the vessel.

- (5) Name of each secured party.

- (6) Address (city and State) of each secured party.

(b) A participating State may collect the following information on a vessel it has titled and make it available to VIS:

- (1) Information concerning the discharge of the security interest.

- (2) Information concerning the surrender of the certificate of title.

§ 187.107 What information must be made available to assist law enforcement officials and what information may be made available?

(a) A participating State must make the following information available to VIS for use by law enforcement officials:

- (1) Vessel identifier(s), as required by § 187.9.

- (2) Notice of law enforcement status.

Authorized terms are "lost", "stolen", "destroyed", "abandoned", or "recovered".

- (3) Date of notice of law enforcement status.

- (4) Point of contact for the agency or official reporting the status.

- (5) National Crime Information Center code for the reporting agency or official.

(b) A participating State may make the following information available to law enforcement officials:

- (1) Notice that the vessel is being sought for a law enforcement purpose

other than a purpose listed in paragraph (a)(2) of this section.

(2) Location of vessel when reported lost, stolen, destroyed, abandoned, or recovered.

(3) Vessel insurance policy number.

(4) Name of insurance company.

(5) Address of insurance company.

(6) Mailing address of insurance company, if different from the address in paragraph (b)(5) of this section.

(7) Telephone number of insurance company.

(8) Date the vessel was recovered.

(9) Location of the vessel when recovered.

(10) Names and telephone numbers of contacts not listed under paragraph (a)(4) of this section.

(11) Request to be notified if vessel is sighted.

(12) Purpose of sighting notification request.

(13) Date and time vessel last sighted.

(14) Location of vessel when last sighted.

Subpart C—Requirements for Participating in VIS

§ 187.201 What are the compliance requirements for a participating State?

A participating State must comply with the following requirements:

(a) Collect the required information listed in subpart B of this part and provide that information to VIS under the applicable Coast Guard-State Memorandum of Agreement.

(b) Obtain specific evidence of ownership, such as the COO or current certificate of title and/or number, to identify a vessel's owner.

(c) Retain previously issued evidence of ownership, such as certificate of number, title, or Certificate of Documentation, and notify the issuing authority or the Coast Guard by mail or electronic message.

(d) Retain information identifying the type of evidence used to establish the accuracy of the information required to be made available to VIS and make it available to the Commandant upon request.

(e) Update the information required to be made available to VIS by providing, within 48 hours, a copy of transactions that enter, modify, or cancel records in the vessel files.

§ 187.203 What are the voluntary provisions for a participating State?

A participating State may—

(a) Provide VIS with the optional information listed in subpart B of this part;

(b) Make available to VIS updated information provided by the vessel

owner, government agency, or secured party about a vessel that has been moved to a non-participating State of principal operation; and

(c) Interact with non-participating States to make information available to, or request information from, VIS concerning a vessel or nationwide statistics.

Subpart D—Guidelines for State Vessel Titling Systems

§ 187.301 What are the eligibility requirements for certification of a State titling system to confer preferred mortgage status?

The Commandant, under 46 U.S.C. 31322(d)(1)(A) and § 187.13, may certify a State vessel titling system that meets the requirements of this subpart as complying with the guidelines for vessel titling systems. This certification is for the purpose of conferring preferred mortgage status on a mortgage, instrument, or agreement granting a security interest perfected under State law, covering the whole of a vessel titled in that State. The State must also comply with the VIS participation requirements of § 187.11 and subpart C of this part and make vessel information it collects available to VIS.

§ 187.303 What terms must a State define?

A State must define the terms “certificate of origin”, “dealer”, “documented vessel”, “issuing authority”, “manufacturer”, “owner”, “person”, “secured party”, “security interest”, “titling authority”, and “vessel” substantially as defined in § 187.7.

§ 187.304 What vessels must be titled?

A State must require that all vessels required to be numbered in the State under 46 U.S.C. chapter 123 be titled only in that State, if that State issues titles to that class of vessels.

§ 187.305 What are the requirements for applying for a title?

(a) A State must require application for a title within a specified period of time, not to exceed 60 days, after a vessel required to be titled is first purchased, ownership is transferred, or there is a change in vessel data listed on the certificate of title.

(b) A State must require disclosure in its titling application form of any secured party holding an unsatisfied security interest in the vessel.

(c) The application must include an entry for identification of the State or country in which the vessel was last numbered, titled, documented, or registered under the laws of a foreign country.

(d) A State must require that a COO for a vessel be submitted together with the application for any new vessel not previously numbered, titled, documented, or registered under the laws of a foreign country.

(e) A State must require that the application include a signed certification that the statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury or similar penalties as prescribed by State law.

§ 187.307 What are dealer and manufacturer provisions?

A State must include the following provisions applicable to any dealer or manufacturer building, buying, acquiring, selling, or transferring a vessel in that State:

(a) Dealers or manufacturers must not be allowed to apply for a certificate of title for a vessel not required to be numbered. Dealers or manufacturers owning a new or used vessel primarily used in their business, held for sale or lease, and required to be numbered may be permitted or required to apply for a certificate of title for the vessel. The State may impose other reporting requirements on dealers or manufacturers.

(b) Dealers or manufacturers transferring a vessel required to be titled in the name of the dealer or manufacturer must be required to assign the title to the new owner or, for a new vessel, assign a COO for a new vessel. Dealers or manufacturers transferring a vessel permitted to be titled in their name must be required to assign to the new owner any certificate of title which has been issued and not surrendered.

(c) Dealers or manufacturers must not be permitted to provide a redundant COO if VIS contains information concerning the vessel.

(d) Dealers or manufacturers must be permitted to provide a redundant COO to the vessel owner only upon receipt of information concerning the original certificate and the circumstances of its loss, theft, mutilation, or destruction and receipt of any recovered original COO or remains from the vessel owner. This information must be declared under penalty of perjury or similar penalties as prescribed by State law. The term “REDUNDANT” must be clearly and permanently marked on the face of a redundant COO.

(e) Dealers or manufacturers must be required to maintain for at least 3 years a record of any vessel bought, sold, exchanged, or received for sale or exchange, and open such records for inspection by the State.

§ 187.309 What are the requirements for transfer of title?

To complete the sale, assignment, or transfer of a titled vessel, a State must require that a manufacturer, dealer, or individual must deliver the vessel's certificate of title to the new owner or new owner's designee, except for transfers by operation of law or order of court.

§ 187.311 What are the application requirements for a certificate of title because of a transfer by operation of law or order of court?

A State must require a new owner to apply for a certificate of title within a specified period of time, not to exceed 60 days, after ownership of a vessel is transferred by operation of law or order of court. This application must include an original or authenticated copy of the legal transfer document.

§ 187.313 Must a State honor a prior State title, Coast Guard documentation, and foreign registry?

(a) A State must honor a title issued by another State as proof of ownership for transfer or sale of a vessel and for applying for a certificate of number or title in the new State of principal operation.

(b) A State must honor a Coast Guard-issued Certificate of Ownership or a Certificate of Deletion as proof of ownership and deletion from documentation.

(c) A State must honor an authenticated copy of a foreign registry, or evidence of deletion from the foreign registry, as proof of ownership and deletion from the foreign registry.

§ 187.315 What happens when a title is surrendered for the purposes of documentation?

A State title is invalid when it is surrendered to the Coast Guard in exchange for a Certificate of Documentation. Upon notification from the Coast Guard of the surrender of a title, a State must process the cancellation of the title.

§ 187.317 What information must be on a certificate of title?

(a) A certificate of title must contain the following information concerning the vessel:

- (1) Names of all owners (individuals, businesses, and organizations).
- (2) Address of one individual, business, or organization owning the vessel.
- (3) Title number.
- (4) Date of issuance of title.
- (5) Vessel identifier under § 187.9.
- (6) Name of manufacturer, builder, or make.

(7) Model year, manufacture year, or year built.

(8) Overall length.

(9) Vessel type. Authorized terms are "open motorboat", "cabin motorboat", "auxiliary sail", "sail only", "personal watercraft", "pontoon", "houseboat", "rowboat", "canoe/kayak", or "other".

(10) Hull material. Authorized terms are "wood", "aluminum", "steel", "fiberglass", "rigid hull inflatable", "rubber/vinyl/canvas", or "other".

(11) Propulsion type. Authorized terms are "propeller", "sail", "water jet", "air thrust", or "manual".

(12) Engine drive type. Authorized terms are "outboard", "inboard", or "inboard/stern drive".

(13) Name of each secured party.

(14) Address (city and State) of each secured party.

(15) Recording or perfection date of new security interest and original recording or perfection date of any security interest outstanding.

(b) Space must be provided on the title form for assignment of interests in the vessel, with a signed certification that the statements made are true and correct to the best of the owner's knowledge, information, and belief, under penalty of perjury or similar penalties as prescribed by State law.

§ 187.319 What are the requirements for applying for a redundant title?

(a) A State must require the holder (owner or secured party) of an original title to apply for a redundant title after the discovery of the loss, theft, mutilation, or destruction of the original.

(b) The holder must provide information, declared under penalty of perjury or similar penalties as prescribed by State law, concerning the original certificate and the circumstances of its loss, theft, mutilation, or destruction.

(c) The holder must surrender to the State any recovered original title or remains.

(d) The State must clearly and permanently mark the face of a redundant certificate of title with the term "REDUNDANT."

§ 187.321 What are the hull identification number (HIN) provisions?

A State must—

(a) Upon proof of ownership, assign an HIN and require that it be affixed to a vessel that does not have an HIN at the time of application for certificate of number or title; and

(b) Prohibit removal or alteration of an HIN without authorization from the Commandant.

§ 187.323 What are the procedures for perfection of security interests?

(a) A State must specify, at a minimum, the following procedures for perfection of a security interest in a vessel titled in that State:

(1) Submission of an application for new or amended certificate of title on which the secured party must be noted.

(2) Surrender of any outstanding certificate of number and any outstanding title issued by another State.

(3) Surrender of the Certificate of Documentation of any documented vessel that is to be numbered and titled by the State.

(4) Submission of an authenticated copy of any foreign registry of the vessel and evidence of deletion from the foreign registry of the vessel that is to be numbered and titled by the State.

(5) Determination of the date of perfection.

(b) A State must recognize, under 46 U.S.C. 31322(e)(1), that, if a vessel is covered by a preferred mortgage when an application for a certificate of title is filed in that State, then the status of the preferred mortgage covering the vessel is determined by the law of the jurisdiction in which the vessel is currently titled or documented.

(c) A State must recognize, under 46 U.S.C. 31322(d)(2), that, if a vessel titled in a State is covered by a preferred mortgage, that mortgage will continue to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, instrument, or agreement granting a security interest perfected under State law became a preferred mortgage.

(d) A State must recognize, under 46 U.S.C. 31322(d)(1), the preferred status of a mortgage, instrument, or agreement granting a security interest perfected under State law covering the whole of a vessel titled in a State after the Commandant has certified that State's titling system and the State participates in VIS with respect to the vessel.

(e) The State must provide that the perfection procedures required to be established under this section do not apply to—

(1) A lien given by statute or rule of law to a supplier of services or materials for the vessel;

(2) A lien given by statute to the United States, a State, or a political subdivision thereof;

(3) A lien arising out of an attachment of a vessel;

(4) A security interest in a vessel created by a dealer or manufacturer who holds the vessel for sale, irrespective of whether the vessel is titled;

(5) A security interest claimed in a vessel's proceeds, as defined in the Uniform Commercial Code in effect in the State, if the security interest in the vessel did not have to be noted on a vessel's title in order to be perfected; or

(6) Any vessel for which a certificate of title is not required in the State.

§ 187.325 Is a State required to specify procedures for the assignment of a security interest?

Yes, a State must specify the procedures that apply to the assignment of a security interest in a vessel titled in that State.

§ 187.327 What are a State's responsibilities concerning a discharge of security interests?

A State must specify the evidence and information that a secured party is required to submit regarding discharge of a security interest and establish procedures for its submission.

§ 187.329 Who prescribes and provides the forms to be used?

A State must prescribe and provide the forms needed to comply with the titling system.

§ 187.331 What information is to be retained by a State?

A State must retain the evidence used to establish the accuracy of the information required for vessel titling purposes and make it available on request to the Coast Guard, participating States, and law enforcement authorities.

Appendix A to Part 187—Participating Authorities

The following States comply with the requirements for participating in VIS:
[Reserved].

Appendix B to Part 187—Participating and Certified Titling Authorities

The following States comply with the requirements for participating in VIS and have a certified titling system: [Reserved].

Dated: November 14, 2000.

R.C. North,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01-6906 Filed 3-19-01; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[TN-T5-2001-01a; FRL-6956-6]

Clean Air Act Full Approval of Operating Permit Program; Tennessee and Memphis-Shelby County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to fully approve the operating permit programs of the Tennessee Department of Environment and Conservation and the Memphis-Shelby County Health Department. The Tennessee and Memphis-Shelby County operating permit programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the Tennessee and Memphis-Shelby County operating permit programs on July 29, 1996. Tennessee and Memphis-Shelby County revised their programs to satisfy the conditions of the interim approval and this action approves those revisions. Other program changes made by Tennessee since the interim approval was granted are also being addressed in this action.

DATES: This direct final rule is effective on May 21, 2001 without further notice unless EPA receives adverse comments in writing by April 19, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect. The public comments will be addressed in a subsequent final rule based on the proposed rule published in this **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Kim Pierce, Regional Title V Program Manager, Air & Radiation Technology Branch, EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8909. Copies of the Tennessee and Memphis-Shelby County submittals, and other supporting documentation relevant to this action, are available for inspection during normal business hours at EPA Region 4, Air & Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8909.

FOR FURTHER INFORMATION CONTACT: Kim Pierce, EPA, EPA Region 4, at (404) 562-9124 or pierce.kim@epa.gov/.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
What is being addressed in this document?
What are the program changes that EPA is approving?
What is involved in this final action?

What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_x), or particulate matter (PM₁₀); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.