regulatory policies on matters that significantly or uniquely affect their communities.'' Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 02–19441 Filed 8–1–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 221

[Docket No. MARAD–2002–12842]

General Approval of Time Charters

AGENCY: Maritime Administration, DOT.

ACTION: Policy review with request for comments.

SUMMARY: Section 9 of the Shipping Act of 1916 requires prior approval of the Secretary of Transportation of U.S. vessel charters to persons who are not U.S. citizens. In 1992, the Maritime Administration (MARAD, we, us, or our), which is charged with responsibility for administering section 9, issued regulations that granted general prior approval of time charters and other forms of temporary use agreements to persons who are not U.S. citizens.

Pursuant to this notice, we are requesting public comment on whether the policy of granting general approval of time charters should be changed.

DATES: Interested parties are requested to submit comments on or before September 3, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12842. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of

Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Edmund T. Sommer, Jr., Chief, Division of General and International Law, Office of the Chief Counsel, Maritime Administration, Department of Transportation, Room 7228, 400 7th Street SW., Washington, DC 20590, telephone (202) 366–5181.

Comments regarding this policy review should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 7th Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the Shipping Act of 1916, 46 App U.S.C. 808, requires the approval of the Secretary of Transportation (MARAD) for, inter alia, the charter to noncitizens of documented vessels owned by citizens of the United States.

In 1989, as a result in substantial changes in the Ship Mortgage Act and amendments to section 9, MARAD began a rulemaking to amend our regulations at 46 CFR part 221—Regulated Transactions Involving Documented Vessels and other Maritime Interests.

In view of the significant changes in the statutory provisions to which the regulations in part 221 are addressed, the interim final rule published February 2, 1989, (54 FR 5382, amended at 54 FR 8195), adopted a conservative approach to interpretation and application of the new law, pending the opportunity to obtain comments from all interested parties. It therefore continued the preexisting requirement that time charters of vessels to noncitizens for 6 months or longer be submitted for review and approval.

After evaluation of the comments received on the first interim final rule, a number of amendments and clarifications of the rule appeared to be warranted. Mindful of Congress' admonition that MARAD should ''temper the consideration of a transfer in interest or control to a [noncitizen] with a concern that the vessel may be needed in time of war or national emergency'', and in an attempt to balance this national security role with the desire of many that MARAD completely relinquish its regulatory role in these transactions, we proposed in an April 13, 1990, NPRM a regulation that would significantly relax regulation of the financing and transfer of documented vessels. One proposed change was that general approval for all charters (other than demise charters for operation in the coastwise trade) to noncitizens be granted for periods of up to five years, and that certain limited charters, such as space charters, slot charters, drilling contracts, and contracts of affreightment (except where a named vessel is dedicated to the contract), be granted general approval, regardless of their duration. Information copies of all charters granted general approval would have to be filed with MARAD.

In the April 13, 1990 NPRM (55 FR 14040), the views of interested parties were specifically invited with regard to further liberalization of the section which granted general approvals. One possibility on which we asked for comment was general approval for transactions involving transfers of an interest in or control of citizen-owned documented vessels to persons who are noncitizens for purposes of section 2, but who, nevertheless, are eligible to document a vessel pursuant to 46 U.S.C. 12102 (documentation citizens). Another possibility was general approval for transactions under section 9(c)(1) so as to place U.S. citizens on an exact par with documentation citizens, which need not apply for such approvals (section 9(c)(1) applies only to documented vessels *owned by citizens of the United States,* a section 2 test). In all events, we noted, bareboat/demise charters to non-section 2 citizens of vessels operating in coastwise trade would be excepted.

While there were many specific comments on certain issues, commenters generally agreed that MARAD should provide general approval for all transfers short of a change of registry. Their position was that MARAD should recognize the distinction between the two basic classes of section 9 transfer: (1) Those involving transfer of flag for operation (whether or not involving sale to new owners), and (2) other section 9 transactions in which the vessel remains under U.S. flag. In respect to national security, commenters suggested, the two classes present risks very different in kind and degree. In the one, there may be not only a foreign owner and a foreign crew, but a new sovereign whose national interests would have to be respected. As stated by one commenter, ''[i]f the ship is certifiably of present or foreseeable importance for national defense, the case for refusing approval is evidently strong.'' In the other class of transfers, even in the case of a sale, the owner will remain an American corporation subject to American law (including requisition authority in time of emergency), the vessel will and must remain documented under U.S. flag, and the officers and crew will still consist of American citizens. In this case, as was pointed out, national security interests are fully preserved regardless of the form or substance of the transaction. The commenter stated that ''[t]his analysis suggests an order of supervision different for each of these classes (of transfer).''

Upon reexamination of the legislative history of Public Law 100–710 and analysis of the many comments received on this issue, we accepted the argument for different ''order(s) of supervision'' for the two distinct classes of transfer as not inconsistent with that legislative history or with MARAD's national security responsibilities under section 9. Accordingly, in a second interim final rule published July 3, 1991 (56 FR 30654), we provided general approval for all section 9 transactions other than transfer of registry except certain transfers to ''Bowaters'' corporations, sales for scrapping in a foreign country and bareboat charters of vessels operating in the coastwise trade. Consistent with MARAD's national security role, however, that general section 9 approval was not applicable during any period of national emergency nor would it apply to transactions involving certain named countries with whom trade is prohibited. The requirement that information copies of all charters be filed was eliminated, in favor of an ''as requested'' filing requirement.

With the endorsement of many and the objection of none (save those who favored further liberalization), the final rule, published June 3, 1992 (57 FR 23470), incorporated the above changes. Part 221 as now written grants general approval for the sale, mortgage, lease, charter, etc. (but not transfer of registry) of citizen-owned vessels to noncitizens, so long as the country is not at war, there is no Presidential declaration of national emergency invoking Section 37 of the Shipping Act and the noncitizen

is not subject to the control of a country with whom trade is prohibited.

Reinstatement of a requirement for MARAD review and written approval of time charters to noncitizens of documented vessels would require a rulemaking proceeding to amend 46 CFR part 221.

Commenters are requested to specifically address the question of what, if any, economic impact a return to case by case review prior to approval of time charters would cause?

Dated: July 30, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–19593 Filed 8–1–02; 8:45 am]

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