

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 174 and 187****[USCG-1999-6420]****RIN 2115-AD35****Vessel Identification System****AGENCY:** Coast Guard, DOT.**ACTION:** Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend 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 amendments would improve the integrity and uniformity of the system and reflect recent statutory changes.

DATES: Comments and related material must reach the Docket Management Facility on or before May 16, 2000. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before April 17, 2000.

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

(1) By mail to the Docket Management Facility, (USCG-1999-6420), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand delivery to room PL-401 on the Plaza level of the Nassif Building,

400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call ENS Christopher Williammee, Office of Information Resources, Coast Guard, telephone 202-267-6989, electronic mail CWilliammee@comdt.uscg.mil. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:**Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related

material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1999-6420), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know when they were received, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of the comments.

Public Meeting

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

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 Rule-making.	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.

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 Supplemental Notice of Proposed Rulemaking (SNPRM) 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 SNPRM proposes to amend the requirements in 33 CFR part 187 for States electing to participate in VIS and makes corresponding changes to the standard numbering system regulations in §§ 174.17 and 174.19.

This notice also proposes 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 120 comments from April 25, 1995, through December 4, 1997. All comments received, during the two public hearings and in writing, were considered in the development of this SNPRM. The issues raised by the comments, and the sections that have been revised or added since publication of the interim final rule, are discussed. For clarity, some sections were revised or reorganized. For example, existing § 187.1 (Applicability) would be separated into proposed §§ 187.1, 187.3, and 187.5 addressing both applicability and purpose.

A significant number of the changes, including changes to the standard numbering system regulations in §§ 174.17 and 174.19, 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. Some additions and deletions to the information that must be provided to VIS have been made.

Sections 174.17, Contents of Application for Certificate of Number, and 174.19, Contents of a Certificate of Number

Several comments recommended that the information used to identify vessels in VIS be consistent with the information required for a certificate of number and that it be updated to meet current needs. We aligned proposed §§ 174.17(a) and 174.19(a) with the changes to part 187, which use the terms in the Boating Accident Report Database (BARD) for identifying vessels. The recommendations are discussed in more detail under the discussion of § 187.103. The remaining paragraphs in §§ 174.17 and 174.19 have been rewritten in plainer language without substantive change.

Section 187.1, Which States Are Affected by This Part?, and Section 187.3, What Vessels Are Affected by This Part?

Part 187 applies to all States that choose to participate in VIS and covers vessels that are numbered or titled under the laws of those States. For vessels documented by the Coast Guard, we will continue to collect information pertaining to them under current vessel documentation regulations in 46 CFR part 67.

1. One comment suggested that information concerning any mortgage

and any notice of a claim of a lien on file with respect to a documented vessel should be made available through VIS. The comment further noted that this is of critical importance to members of the public dealing with documented vessels.

VIS will provide the same access to information on vessels documented by the Coast Guard that is available on State-titled vessels. Specifically, we will provide an indicator whether a security interest is recorded against the vessel and where additional information can be obtained.

2. One comment suggested that the final rule specifically include barges in VIS.

The Abandoned Barge Act of 1992 amended 46 U.S.C. 12301 to require the numbering of undocumented barges greater than 100 gross tons. We published a notice on October 18, 1994, (59 FR 52646) seeking comments on the development of a numbering system for barges. Currently, barges are not numbered and the Coast Guard is considering a mandatory numbering system under a separate rulemaking. This proposed rule applies only to vessels numbered or titled under the laws of a State. Therefore, VIS does not cover barges. However, when we establish a barge numbering system, the information will be made available through VIS.

Section 187.5, What Are the Purposes of This Part?

This new section is derived from existing § 187.1(a) and is added for clarity without substantive change.

Section 187.7, What Are the Definitions of Terms Used in This Part?

Based on comments received, some definitions in the current rule would be amended for clarification or deleted and new ones added to reflect the proposed changes in the regulations. For example, we deleted the definition of "lienholder" and replaced it with a definition of "secured party" to reflect the meaning of that term as defined in the Uniform Commercial Code (UCC) in effect in the States.

Section 187.9, What Is a Vessel Identifier and How Is One Assigned?

1. Revisions to this section clarify that the vessel identifier for a vessel having a valid hull identification number (HIN) is the HIN and further delineate the priority of other possible vessel identifiers for vessels without an HIN. Circumstances are specifically enumerated where the Official Number assigned to a documented vessel or the State certificate of number for

undocumented vessels would be used as a vessel identifier. If a vessel does not have a valid HIN and is transferred to a new owner or moved to a new State of principal operation, then the vessel would be assigned an HIN by the issuing authority for the State in which the vessel is principally operated or by the Coast Guard if the vessel is documented.

To ensure the unique character of a State number as a vessel identifier if there is no HIN, the number issued to a vessel cannot later be reissued by the State to a different vessel. This requirement is addressed in proposed §§ 174.23(c) and 187.9.

2. Several comments suggested that the HIN be submitted with each application for documentation of a vessel for which an HIN is required. They also suggested that the HIN for all vessels in VIS, including documented vessels also identified by their official number, should be made available to users of VIS. The comments further stated that having the HIN available in both the Federal documented vessel and the State vessel registration data banks is essential in making VIS more useful.

The Coast Guard has determined that this recommendation is outside the scope of this rulemaking and should be addressed in amendments to the regulations governing the documentation of vessels.

Section 187.11, What Are the Procedures To Participate in VIS?

Changes in this section clarify the process for State certification if it complies with the VIS participation requirements in subpart C of part 187. These changes are not substantive in nature.

Section 187.13, What Are the Procedures for Obtaining Certification of Compliance With Guidelines for State Vessel Titling Systems?

Changes in this section clarify the procedures for State certification if it complies with the titling guidelines in subpart D of part 187. These changes are not substantive in nature.

Section 187.15, When Is a Mortgage a Preferred Mortgage?

This section has been separated from § 187.13 to define a preferred mortgage. This change is not substantive in nature.

Section 187.101, What Information Must Be Collected To Identify a Vessel owner?

Several comments from the marine lending industry stressed their need for access to vessel ownership information and suggested that we revise our VIS regulations to address ownership

concerns, rather than just law enforcement concerns. Some comments indicated opposition to the availability of this information to the general public.

According to the Coast Guard's notice under the Privacy Act of 1974 (5 U.S.C. 552a)(63 FR 2171, January, 14, 1998), we will provide the information in VIS only to authorized persons. We will control access to specific vessel and vessel owner information in VIS through user accounts and passwords established by our Operating Systems Center.

In identifying who should have access to the information in VIS, we must consider the legislative history of the statute requiring establishment of VIS. In debate on the floor of the House of Representatives during consideration of the legislation, the sponsors of the bill clearly stated several times that the purpose for collecting the information is not only to allow law enforcement officers to track interstate movement of stolen boats, but also to allow purchasers to obtain complete information before buying. To meet this legislative intent, it is necessary to provide information from VIS to potential buyers, lenders, and others in the maritime community having business with the vessel in question. Data subject to the Privacy Act may be deleted from information to be made available publicly, as distinct from information to be made available to State agencies, in order to prevent unwarranted invasion of privacy. The Coast Guard solicits comments as to what information should be made available publicly (e.g., to potential buyers and lenders) and what information should not be disclosed to the public.

To disclose information, other than to participating States that provide information to or request information from VIS, we may charge a fee under 31 U.S.C. 9701 and 46 U.S.C. 12505. We will establish fees by a separate regulatory project; however, comments submitted in response to this SNPRM that suggest what fees should be charged to members of the public will be considered during development of the project to establish such fees.

Section 187.103, What Information Must Be Collected To Identify a Vessel?

1. Several comments suggested that collecting the information regarding a vessel's propulsion type, fuel type, type of operation, and number previously issued by another issuing authority would be overly burdensome to the States.

We disagree because the States with approved numbering systems under 33

CFR part 174 are already required to collect this information. The inclusion of this information in VIS should cause no additional information collection requirements for the States.

2. Several comments recommended that information to identify vessels in VIS should be consistent with the information required for a certificate of number and that some categories of information should be updated to meet current needs. The National Association of State Boating Law Administrators (NASBLA), the National Marine Bankers Association (NMBA), and individual States recommended that the information to identify a vessel in various systems should be consistent to the greatest extent possible. In particular, it was recommended that the information required for a certificate of number and for VIS be consistent, to the maximum extent possible, with the information used to identify vessels in the Boating Accident Report Database (BARD).

We agree. Not only should the information collected be consistent but it also should be updated to reflect changes in the boating industry. One example is the inclusion of the term "personal watercraft" as a type of vessel.

Over the past several years, we have worked closely with State agencies responsible for recreational boating safety programs to develop BARD. The data collected for BARD is essential to identify the causes of boating accidents and steps that can be taken to reduce the number and severity of accidents. Boating safety professionals, after careful consideration, defined the terms needed to describe vessels in BARD. We agree that the terms for type of vessel, hull material, propulsion, engine and fuel used in BARD should be adopted for purposes of certificates of number for undocumented vessels and VIS and have amended §§ 174.17, 174.19, and 187.103 accordingly.

To further update the regulations, we also propose to include "charter fishing" as a new category under "primary use" of a vessel. The National Marine Fisheries Service (NMFS) has a statutory requirement to establish a fishing vessel registration system and fisheries information system. To meet that mandate, NMFS proposes to get its basic information about fishing vessels and their owners from the VIS and has requested that we include the term "charter fishing" as a category under "primary use" of a vessel. The addition of this classification of use is similar to adding the term "personal watercraft" as a type of vessel and is considered a reasonable update to the numbering

system regulations to reflect current needs.

We realize that States would need to revise their forms for applications and certificates of number to comply with the proposed changes in the information required to be collected by their vessel numbering systems. The maximum period for which a certificate of number can be valid is 3 years. Therefore, while recommending that States adopt the changes as soon as possible, we propose to allow States a maximum of 4 years to come into compliance. During this period, VIS will accept vessel information from the States as currently required in §§ 174.17 and 174.19.

Section 187.105, What Information on Titled Vessels Must Be Collected and What May Be Collected?

1. The comments generally agreed on the information on titled vessels that must or may be collected by a participating State. We propose to revise this section to show that a State that titles vessels must provide, in addition to the information required for numbered vessels—

- (a) The title number;
- (b) The issuance date of the most recently issued title or duplicate; and
- (c) Information on where evidence may be found of a security interest or lien against a vessel titled in that State, together with the name and address (city and State) of each secured party.

2. Comments suggested that existing paragraph (b) of this section should also be revised to reflect additional information that may be made available to VIS if the information is recorded by the titling authority in a State. The information provided would be useful for purposes of confirming the status of a security interest against the vessel, such as information on—

- (a) Any assignment of a security interest;
- (b) The date of discharge of a security interest;
- (c) The surrender of the certificate of title issued by the titling authority in that State; and
- (d) Additional mailing addresses and telephone numbers of any secured party.

As currently designed, VIS can only accept information on the date of discharge of a security interest and the surrender of a certificate of title. Persons seeking other information will need to contact the State in which the vessel is titled. The name and telephone number to contact are available through VIS.

Section 187.107, What Information Must Be Made Available To Assist Law Enforcement Officials and What Information May Be Made Available?

We propose to amend this section to add “Date of notice of law enforcement status” and “National Crime Information Center code” to the list of information that must be made available to law enforcement officials. Also, we would add language to allow law enforcement officials the option of providing notice that a vessel is being sought for law enforcement purposes other than those described by the usual terms of “lost,” “stolen,” “destroyed,” “abandoned,” or “recovered.”

Section 187.201, What Are the Compliance Requirements for a Participating State?

1. This section would require a State to collect previous certificates of documentation, number, and title when issuing new certificates of number or title. One comment stated that the documentation process would encounter a VIS-caused delay by returning a surrendered certificate of documentation to the Coast Guard. The comment added that retaining and making available the evidence establishing the accuracy of data would require another database.

We understand that most States retain information collected in the application process on microfiche, microfilm, or other electronic storage. This meets the requirement of the regulation. A State may retain or dispose of the previous documents as it sees fit. Because a State is free to dispose of the actual documents, we do not agree that the provision is overly burdensome and have retained the provision.

2. One comment stated that retaining a record on line for the purpose of marking it inactive or transferred to another State would be costly and overly burdensome.

We modified the requirement to provide that States must notify VIS of any transactions that enter, modify, or cancel records in the States’ vessel files. After notification, VIS will maintain the information and States may delete or archive the information if they wish to do so.

3. We changed this section to clarify that a participating State may receive a certificate of documentation for a documented vessel, as well as a certificate of number or a certificate of title. The State must notify the issuing authority or the Coast Guard by mail or electronic message of the receipt of the document.

Additionally, the participating State must 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 of that State. These provisions will ensure that a vessel may pass from the Federal documentation system to a VIS participating State Vessel Titling System without jeopardizing the accuracy of vessel ownership information, the legal perfection of the preferred mortgage, or the security interest in the vessel held by a secured party. Transactions received by the State must be made available to VIS on a prompt basis, affording the secured party an opportunity to learn of the change.

Section 187.203, What Are the Voluntary Provisions for a Participating State?

One comment stated that requiring a participating State to provide data for a vessel not in its system (*i.e.*, a vessel numbered in another State that does not participate in VIS) would be unrealistic. This provision is voluntary, and States are not required to do so.

Subpart D, Guidelines for State Vessel Titling Systems

Based on comments received from the States, the marine lending industry, and maritime law interests, subpart D is the most amended portion of the proposed part 187. Several comments suggested that we should petition Congress to amend the statutes that govern VIS to address concerns of the maritime lending and legal communities regarding Coast Guard-documented and/or State-titled vessels. The marine lending industry requested such amendments be enacted by Congress and they were included in the Coast Guard Authorization Act of 1998 (Pub. L. 105-383). Under those amendments, Federal statute now prohibits a vessel being both documented by the Coast Guard and titled by a State (46 U.S.C. 12124).

Section 187.301, What Are the Eligibility Requirements for Certification of a State Titling System To Confer Preferred Mortgage Status?

One comment questioned how preferred mortgage status can transcend to State jurisdiction and how the mechanics of enforcing State laws will be handled when there are maritime liens. The comment expressed concern that costly litigation may ensue and suggested that admiralty and maritime counsel be consulted regarding the practicality of enforcing a preferred ship mortgage on a State-titled vessel.

For preferred mortgage status, 46 U.S.C. 31322(d)(1)(A) and (B) state that

a mortgage perfected under State law, covering the whole of a vessel, is deemed to be a preferred mortgage if the State's titling system is certified to be in compliance with the titling guidelines issued by the Secretary of Transportation and if the information on the vessel covered by the mortgage is made available to VIS.

Section 187.303, What Terms Must a State Define?

We made changes to this section to clarify that a State must define the listed terms substantially as we defined them in § 187.7.

Section 187.304, What Vessels Must Be Titled

We added this section to clarify that a State must require that all vessels numbered in that State under 46 U.S.C. chapter 123 be titled only by that State's titling authority if the State issues titles to vessels of that class. Thus, a State numbering a vessel may not permit the vessel to be titled in another State if the numbering State issues titles to vessels of that class. If a State issues titles to a certain class of vessels, it should be clear that the vessel is principally operated and numbered in that State, and also that no other State should issue a title for that vessel.

Section 187.305, What Are the Requirements for Applying for a Title?

1. One comment suggested that VIS must require disclosure that a vessel may have been registered in a foreign country immediately prior to the application for a title in a State complying with subpart D.

We agree and changed paragraph (c) of this section to require such disclosure.

2. One comment suggested that VIS must require submission of the Certificate of Origin (COO) for a vessel not previously numbered, titled, documented or registered under the laws of a foreign country.

We agree and added a new paragraph (d) to this section to require submission of the COO for a vessel not previously numbered, titled, documented or registered under the laws of a foreign country. We re-designated the current paragraph (d) as paragraph (e).

3. One comment stated that requiring individuals to disclose existing indebtedness, or the State or country in which the vessel was last numbered or titled, would be overly burdensome.

We do not agree that capturing this data would be overly burdensome. The data is needed to help prevent the fraudulent re-titling of vessels in a new

State without disclosing an unsatisfied security interest.

4. One State commented that the phrase "under penalty of perjury" is not used on its application form and would like to ensure that the States retain latitude with regard to the wording that is used to state that false statements carry penalties.

We agree that States should have such latitude; the requirement only ensures that there are legal penalties for false statements on applications for title.

Section 187.307, What Are Dealer and Manufacturer Provisions?

1. We made changes to this section to address the concerns applicable to dealers and manufacturers who may own a vessel only for resale, or who may own a vessel for use in their businesses. Dealers and manufacturers must not be allowed to apply for a certificate of title for a vessel not required to be numbered in a State. Dealers and manufacturers owning a new or used vessel primarily used in their businesses and held for sale or lease and that otherwise is required to be numbered in the State, may be either permitted or required to apply for a certificate of title for the vessel. The State is free to impose other reporting requirements on dealers and manufacturers in the State. The changes to this section require that dealers and manufacturers, transferring a vessel required to be titled, must transfer any COO for the vessel or any certificate of title that has been issued and not surrendered.

2. One comment suggested that, if a dealer applies for a title for a new unnumbered vessel in Ohio, the COO must be surrendered to the County Clerk issuing the title. Therefore, if the dealer titled the new unnumbered vessel, the dealer could not provide a COO to the vessel owner to initiate a chain of title. The comment further explained that allowing a dealer to title a new vessel and have it remain unnumbered would not work in some States. Some States' numbering and titling authorities commented that requiring dealers to report the acquisition of used numbered vessels for resale would not serve any worthwhile purpose for their programs and, further, that it would be administratively burdensome. Additionally, the option that dealers must apply for a certificate of title would be in direct conflict with most States' laws, which now exempt dealers from the titling requirement.

We changed paragraph (d) of this section to ensure that a dealer or manufacturer must not provide a duplicate COO to the vessel owner without receipt of information, declared

under penalties of perjury, concerning the original COO and the circumstances of its loss, theft, mutilation or destruction, together with any recovered original COO or remains from the vessel owner. The term "DUPLICATE" must be clearly and permanently marked on the face of any duplicate COO.

Section 187.309, What Are the Requirements for Transfer of Title?

Amendments to this section are for clarification and are not substantive.

Section 187.311, What Are the Application Requirements for a Certificate of Title Because of a Transfer by Operation of Law or Order of Court?

Amendments to this section are for clarification and are not substantive.

Section 187.313, Must a State Honor a Prior State Title, Coast Guard Documentation, and Foreign Registry?

This section would be amended to address, in separate paragraphs, the requirement that a State must honor (1) a current and valid title issued by another State, (2) a Certificate of Ownership or a Certificate of Deletion issued by the Coast Guard, and (3) an authenticated copy of a foreign registry or evidence of deletion from a foreign registry.

Section 187.315, What Happens When a Title Is Surrendered for the Purposes of Documentation?

We wish to emphasize that the statutory prohibition in 46 U.S.C. 12124 against a vessel being documented by the Coast Guard and titled by a State applies to all State-titled vessels, whether or not the title-issuing State participates in VIS or follows these titling guidelines. If a recreational vessel owner has obtained a State title for purposes of convenience or as required by State law and also has a Certificate of Documentation (COD), then the owner must surrender either the State title or the COD.

For a vessel engaged in a trade for which documentation is required under Federal law, the owner cannot choose to relinquish the COD and continue to employ the vessel in trade. Three States (Iowa, New Jersey, and Vermont) require that a vessel receive a State title if its owner resides in the State or if it is principally used in the State, whether or not the Coast Guard documents the vessel. Federal documentation laws in 46 U.S.C. chapter 121 preempt State titling requirements. The COD of a vessel engaged in trade will remain valid and its State title will be void, even if State law requires the title.

This preemption does not extend to recreational vessels, which are not required by Federal law to be documented, unless the vessels are covered by a preferred mortgage. A recreational vessel that is Federally documented is ineligible for State titling, and the vessel owner will have to surrender either the title to the issuing State authority or the COD to the Coast Guard. However, an owner cannot surrender the COD of a vessel covered by a preferred mortgage. States that require titling of Coast Guard-documented vessels may wish to review their titling requirements and make statutory or regulatory changes.

If a title issued by a State is surrendered to us for vessel documentation purposes, we will notify the State titling authority of that fact and the State must administratively process the cancellation of the title.

Section 187.317, What Information Must Be on a Certificate of Title?

One comment argued against including the name and addresses of additional lienholders. None of the States that commented collect this information. One State commented that when a lien is recorded, it electronically enters the date the lien was recorded, not the date of the recording by the lienholder. The date the State records the lien is part of the batch number and does not appear on the certificate of title. Printing the date the State records the lien on the title document would entail extensive system and title document changes. Another comment stated that satisfaction of lien and transfer of lien information is recorded on a separate form (Notice of Recorded Lien, MV-901). The comment also noted that to incorporate this information on the certificate of title would necessitate extensive changes to forms, procedures, and data processing programs with no benefit to a State's system.

Lien information is specifically required to be included in VIS under 46 U.S.C. 12501(b)(5). Lien information is very important in the development of the integrated vessel information and titling system envisioned by Congress. Therefore, we retained in this rulemaking the requirement to include lien information on the certificate of title for States that elect to seek certification under these regulations.

Section 187.319, What Are the Requirements for Applying for a Duplicate Title?

Amendments to this section are for clarity and are not substantive.

Section 187.321, What Are the Hull Identification Number (HIN) Provisions?

Amendments to this section are for clarity and are not substantive.

Section 187.323, What Are the Procedures for Perfection of Security Interests?

Changes to this section are based on the substantial input of marine banking and maritime law interests. Changes to paragraph (a) of this section include specific provisions for perfection of a security interest in a vessel titled in a State. These provisions must be specified by that State and include—

- Delivery of an application for a new or amended certificate of title on which the secured party shall be noted;
- Surrender of any outstanding certificate of number and/or title issued by another State;
- Surrender of a certificate of documentation of any documented vessel that is to be numbered and titled by the State;
- Delivery of an authenticated foreign registry of the vessel or evidence of deletion from the foreign registry of any foreign-registered vessel that is to be numbered and titled by the State; and
- Determination of the date of perfection.

Paragraphs (b), (c), and (d) of this section clarify requirements of 46 U.S.C. 31322(d) and (e), which must be recognized by a State. Paragraph (e) of this section states that a State must provide that certain liens must not be perfected by notation on the title of the vessel. These include, but are not limited to, a security interest in a vessel created by a dealer or manufacturer who holds the vessel for sale, whether or not the vessel is titled, and a security interest claimed in a vessel's proceeds, if the security interest does not have to be noted on the vessel's title in order to be perfected.

Section 187.325, Is a State Required To Specify Procedures for the Assignment of a Security Interest?

We propose to change this section to show the assumption that a security interest may be assigned, in place of the assumption that the assignment necessarily must be perfected. The perfection of the assignment of security interests in vessels is an issue on which States' laws vary.

Section 187.327, What Are a State's Responsibilities Concerning a Discharge of Security Interests?

We propose to change this section to show that a security interest may be discharged as a matter of record, notwithstanding that the debt secured is necessarily satisfied.

Section 187.329, Who Prescribes and Provides the Forms To Be Used?

We propose to change this section to show that a State must prescribe forms necessary to comply with its titling system provisions, without enumeration of those forms.

Section 187.331, What Information Is To Be Retained by a State?

We removed the 3-year requirement to retain and make available the information required for vessel titling purposes. A 3-year time limit is inappropriate in circumstances where the security interest deemed to be a preferred mortgage in a vessel might continue much longer than three years.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would impose zero mandatory costs. For States that choose to participate in VIS, it is expected to impose 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 rulemaking does not impose mandatory costs on States. A State may elect to participate in the Standard Numbering System (SNS) or VIS but is not compelled to do so. Participation is entirely voluntary. All States except Alaska currently participate in the Standard Numbering System. 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 (and SNS) 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.

There are two one-time costs. The largest 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.

The second one-time cost is the cost to comply with the proposed data revisions in the Standard Numbering System. The Coast Guard expects most States would not incur this cost because the required changes to the States' databases would probably be covered under most States' service plans. Consequently, we expect the total SNS one-time cost would be negligible; and we estimate the present value total one-time cost of this rule would be \$2,366,574.

(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 per cent 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

(a) Benefits of the Standard Numbering System.

The benefit of the proposed changes to the Standard Numbering System is consistency among various systems requiring the collection of vessel data—the Standard Numbering System, VIS, and the Boating Accident Report Database. The amendments to the Standard Numbering System regulations, which have not been updated in many years, reflect changes in the boating industry, such as identification of personal watercraft as a type of vessel. These changes more accurately reflect the current boating environment and include information to better identify the recreational boating community and the locations where services such as boating safety education, boating law enforcement, or search and rescue activities may be needed. This information is essential to all facets of the national and State recreational boating safety programs.

(b) Benefits of VIS.

The primary benefits of VIS would 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 would 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 would be the reduction in

theft of vessels. A third benefit of VIS would 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.

(c) Other benefits.

We seek public comment on additional benefits of VIS. We estimate that 10% of stolen vessels are currently recovered. If VIS were to be implemented, how much, if any, would the percentage of recovered vessels increase? In addition to potentially increasing the number of recovered stolen vessels, what other quantifiable benefits would VIS produce?

Collection of Information

This proposed 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. The changes proposed in this SNPRM would have no appreciable effect on the collection of information as approved.

As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule, if adopted, 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 rulemaking 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 proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult ENS Christopher Williammee, Office of Information Resources, Coast Guard, telephone 202-267-6989, electronic mail CWilliammee@comdt.uscg.mil.

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 proposed rule under E.O. 13132 and have determined that this rule 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, as stated earlier in the discussion of section 187.315, 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) 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 costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this proposed rule and concluded that, 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

would have no environmental consequences. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 187

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 174 and 187 as follows:

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

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

Authority: 46 U.S.C. 6101, 12302; 49 CFR 1.46.

2. Revise § 174.17 to read as follows:

§ 174.17 Contents of application for certificate of number.

(a) An application form for a certificate of number must contain the following information:

- (1) Name(s) of owner(s).
- (2) Owner(s)' address.
- (3)–(4) [Reserved]
- (5) State in which the vessel is or will be principally used.
- (6) Number previously issued by an issuing authority.
- (7) Application type—new number, renewal of number, or transfer of ownership.
- (8) Primary use. Authorized terms are "pleasure," "rent or lease," "dealer or manufacturer demonstration," "charter fishing," "commercial fishing," "commercial passenger carrying," or "other commercial operation."
- (9) Manufacturer, builder, or make.
- (10) Model year, manufacture year, or year built.
- (11) Manufacturer's hull identification number, if any.
- (12) Overall length.
- (13) Vessel type. Authorized terms are "open motorboat," "cabin motorboat," "auxiliary sail," "sail only," "personal watercraft," "pontoon," "houseboat," "rowboat," "canoe/kayak," or "other."
- (14) Hull material. Authorized terms are "wood," "aluminum," "steel," "fiberglass," "rigid hull inflatable," "rubber/vinyl/canvas," or "other."
- (15) Propulsion type. Authorized terms are "propeller," "sail," "water jet," "air thrust," or "manual."

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

(17) Fuel type. Authorized terms are "gasoline," "diesel," or "electric."

(18) The signature of the owner.

(b) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit the information under paragraphs (a)(9) through (a)(17) of this section.

(c) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit the information under paragraphs (a)(16) and (a)(17) of this section.

3. Revise § 174.19 to read as follows:

§ 174.19 Contents of a certificate of number.

(a) Except as allowed in paragraphs (b), (c), and (d) of this section, each certificate of number must contain the following information:

(1) Number issued to the vessel.

(2) Expiration date of the certificate.

(3) State of principal use.

(4) Name(s) of owner(s).

(5) Owner(s)' address.

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

(7) Manufacturer's hull identification number, if any.

(8) Manufacturer, builder, or make.

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

(10) Overall length.

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

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

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

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

(15) Fuel type. Authorized terms are "gasoline," "diesel," or "electric."

(b) A certificate of number issued for a vessel that has a valid manufacturer's hull identification number may omit the information under paragraphs (a)(8) through (a)(15) of this section if the hull identification number is plainly marked on the certificate.

(c) A certificate of number issued to a manufacturer or dealer for use on a

vessel for test or demonstration purposes may omit the information under paragraphs (a)(7) through (a)(15) of this section if the word "manufacturer" or "dealer" is plainly marked on the certificate.

(d) A certificate of number issued for a vessel that is to be rented or leased without propulsion machinery may omit paragraphs (a)(14) and (a)(15) of this section if the words "livery vessel" are plainly marked on the certificate.

(e) An issuing authority may print on the certificate of number a quotation of State boating regulations or other boating safety information.

4. In § 174.23, add a new paragraph (c) to read as follows:

§ 174.23 Form of number.

* * * * *

(c) Once issued, a number assigned by an issuing authority to a vessel cannot later be reassigned to a different vessel.

5. Revise 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?

187.15 When is a mortgage a preferred mortgage?

Subpart B—Information To Be Collected by Participating States

187.101 What information must be collected to identify a vessel owner?

187.103 What information must be collected to identify a vessel?

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

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

Subpart C—Requirements for Participating in VIS

187.201 What are the compliance requirements for a participating State?

187.203 What are the voluntary provisions for a participating State?

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?

187.303 What terms must a State define?

187.304 What vessels must be titled?

187.305 What are the requirements for applying for a title?

187.307 What are dealer and manufacturer provisions?

187.309 What are the requirements for transfer of title?

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

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

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

187.317 What information must be on a certificate of title?

187.319 What are the requirements for applying for a duplicate title?

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

187.323 What are the procedures for perfection of security interests?

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

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

187.329 Who prescribes and provides the forms to be used?

187.331 What information is to be retained by a State?

Appendix A to Part 187—Participating Authorities

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

Authority: 46 U.S.C. 2103, 12501; 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 are 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 are 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:

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 lists 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 lists 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:

- (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:

- (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 duplicate.
- (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 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 either 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 duplicate COO if VIS contains information concerning the vessel.

(d) Dealers or manufacturers must be permitted to provide a duplicate 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 “DUPLICATE” must be clearly and permanently marked on the face of a duplicate 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 duplicate title?

(a) A State must require the holder (owner or secured party) of an original title to apply for a duplicate 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 duplicate certificate of title with the term "Duplicate."

§ 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) Delivery 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) Delivery 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: February 9, 2000.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

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