

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 173, 174, 181, and 187

[Docket No. USCG–2003–14963]

RIN 1625–AB45

#### Changes to Standard Numbering System, Vessel Identification System, and Boating Accident Report Database

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending its regulations related to numbering undocumented vessels and reporting boating accidents. These changes align and modernize terminology used in the Standard Numbering System (SNS), the Vessel Identification System, and accident reporting; require verification of vessel hull identification numbers; require SNS vessel owners to provide personally identifiable information; and provide flexibility for States and territories in administering these regulations. Together, the changes are intended to improve boating safety efforts, enhance law enforcement capabilities, clarify requirements for all stakeholders, and promote the Coast Guard strategic goals of maritime safety and security.

**DATES:** This final rule is effective April 27, 2012. The requirements of 33 CFR 173.57(c), 174.16(b), 174.17(c), and 174.19(c) take effect on that date but the Coast Guard may not enforce the collections of information required by those provisions without the approval of the Office of Management and Budget and a subsequent Coast Guard document in the **Federal Register**.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2003–14963 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2003–14963 in the “Keyword” box, and then clicking “Search.”

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#### I. Abbreviations

BARD Boating Accident Report Database  
 DHS Department of Homeland Security  
 FR Federal Register  
 HIN Hull identification number  
 n/a Not applicable  
 NBSAC National Boating Safety Advisory Council  
 NPRM Notice of Proposed Rulemaking  
 OMB Office of Management and Budget  
 PII Personally identifiable information  
 SNS Standard Numbering System  
 UCOTA Uniform Certificate of Title Act  
 U.S.C. United States Code  
 VIS Vessel Identification System

#### II. Regulatory History

On May 7, 2010, we published a notice of proposed rulemaking (NPRM) bearing the same title as this final rule in the **Federal Register** (75 FR 25137). We received 39 comments on the proposed rule. No public meeting was requested, and none was held.

#### III. Basis and Purpose

The Administrative Procedure Act, 5 U.S.C. 553(c), requires each rule to contain a concise statement of its basis and purpose. The remainder of this preamble discusses both in detail, but in summary this final rule’s:

- *Basis* is 46 U.S.C. 2103, authorizing regulations to implement United States Code (U.S.C.), Title 46, Subtitle II, dealing with vessels and seamen; 46 U.S.C. 6101, requiring regulations on marine casualty reporting; 46 U.S.C. 12302, requiring regulations establishing a standard numbering system for certain undocumented vessels; and 46 U.S.C. 12501, requiring regulations establishing an identification system for certain vessels;

authority under all of which sections has been delegated by the Secretary to the Coast Guard in Department of Homeland Security (DHS) Delegation No. 0170.1; and its

- *Purpose* is to improve the information available within and across the Standard Numbering System (SNS), Vessel Identification System, and Boating Accident Report databases by increasing data quality, aligning and modernizing database terminology, requiring verification of hull identification numbers, requiring owners of SNS-numbered vessels to provide unique personal identification information and providing additional administrative flexibility to States and territories.

#### IV. Background

Coast Guard regulations in 33 CFR parts 173 and 174 provide for an SNS that assigns unique identification numbers to undocumented vessels equipped with propulsion machinery of any kind. The SNS is a *Federal* system mandated by 46 U.S.C. 12302, but it permits a *State*<sup>1</sup> to assign numbers to vessels within its jurisdiction if we find that the State’s own vessel numbering system is consistent with SNS. Today, all States maintain Coast Guard-approved numbering systems.

Regulations in 33 CFR parts 173 and 174 also implement 46 U.S.C. 6102, which requires us to establish a uniform reporting system for State vessel casualties, and which requires States to compile and send us reports, information, and statistics on casualties reported to them. Our regulations contain provisions for reporting casualties that involve SNS-numbered undocumented vessels that are equipped with propulsion machinery of any kind, and recreational vessels of any kind (SNS-numbered or not), 33 CFR 173.51, 174.101. We maintain a Boating Accident Report Database (BARD) for this data.

Coast Guard regulations in 33 CFR part 187 help us implement 46 U.S.C. 12501, which requires us to maintain a Vessel Identification System (VIS) covering both documented and undocumented vessels. VIS must contain vessel identification and ownership information (including personally identifiable information, or

<sup>1</sup> “State” is defined in 33 CFR 173.3 as “a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the District of Columbia,” or 56 States and territories. This discussion refers to “State” throughout, but except when specifically noted otherwise, the term “State” should be read as including all 56 States and territories.

PII) which can be used for law enforcement involving vessel-related crimes such as vessel theft and fraud. We developed VIS in coordination with relevant State agencies. Data for documented vessels is added to VIS based on Coast Guard records for those vessels. The part 187 regulations describe how a State can participate in VIS by supplying data for the undocumented vessels numbered and titled within that State. The more comprehensive VIS's undocumented vessel information is, the greater are its benefits: However, State participation in VIS is entirely voluntary, 46 U.S.C. 12503, even though the current universal State participation in SNS means States currently control the titling and numbering of all undocumented vessels. States that do participate in VIS have access to VIS data, 46 U.S.C. 12504. VIS became operational in 2007 and 32 States now participate in it.

SNS, VIS, and BARD data facilitate maritime law enforcement, safety, and security. Because of our leadership position in these areas and our role as the coordinator of the National Recreational Boating Safety Program and our partnership with other Federal and State agencies with similar responsibilities, we continually look for ways to improve the efficiency and effectiveness of SNS, BARD, and VIS, and we analyze our existing regulations to make sure they promote continuous improvement. This final rule is the product of that analysis, and, as described in section VI of this preamble, "Regulatory Analyses," is intended to improve the information available within and across the databases by increasing the ability to cross-reference the information.

The National Boating Safety Advisory Council (NBSAC) initially suggested many of the changes in this final rule. NBSAC operates under the Federal Advisory Committee Act to advise the Coast Guard on recreational boating safety issues. NBSAC's 21 members include seven representatives of State officials responsible for State boating safety programs; seven representatives of recreational vessel manufacturers and associated equipment manufacturers; and seven representatives of national recreational boating organizations and from the general public, at least five of whom must be representatives of national recreational boating organizations. As required by 46 U.S.C. 4302(c)(4) and 13110(c), we have consulted with NBSAC about this rulemaking.

## V. Discussion of Comments and Changes

Our NPRM proposed changes in four areas.

- **Terminology:** Aligning and updating the terminology used by SNS, BARD, and VIS.

These changes conform existing regulations to current statutory language, reflect recent developments in boating practices and technology, and leverage our ability to coordinate data from all three databases;

- **HINs:** Making several changes related to HIN (hull identification number) data. The most significant change requires SNS-administering States to ensure that each SNS-numbered vessel built since 1972, when HIN regulations first took effect, has or obtains valid HINs. HINs are permanently marked on a vessel, and because one of the two required HINs is always in an unexposed location, the presence of these unique identifiers on a vessel may make it less tempting as a target for theft. They also give law enforcement and maritime security personnel a good way to link a vessel with its owner. SNS has collected HIN data for many years but it is not always accurate, either because a vessel has no HIN, or the HIN was incorrectly reported, or the HIN was incorrectly entered into SNS. If we can rely more on the comprehensiveness and accuracy of HIN data, SNS efficiency will be increased (we will more quickly rely on the data), and SNS will more effectively assist law enforcement and maritime security activity.

- **PII:** Requiring SNS-administering States to collect unique personally identifiable information from SNS vessel owners. PII has high value for law enforcement and maritime security purposes. It provides a more reliable way to validate a vessel owner's identity than the owner's name, which in many cases can easily be misspelled or confused with another person's name. We believe the inclusion of PII would make SNS easier to use (more efficient) and more effective. We already collect PII for vessel owners included in our VIS database, but VIS includes PII data for State-numbered vessels only for the 32 States now participating in VIS. By requiring its collection directly for all SNS-numbered vessels, we can obtain PII data for State-numbered vessels in all 56 States that participate in SNS. Moreover, because all 56 States now will need to begin collecting PII, they all will soon have all the data they need to participate voluntarily in VIS, and therefore they may choose to participate in it. Because the value of VIS becomes

greater as the number of voluntary participants increases, expanding participation means all participants will be able to use VIS more effectively.

- **Flexibility:** Providing States with additional administrative flexibility, for example, by removing language from 33 CFR 181.31(c) that required State boating law administrators to assign HINs to individuals. Now, each State will be free to determine for itself which State agency is best positioned to perform that function.

State government officials with recreational boating responsibilities submitted most of the public comments on the NPRM. Two commenters asked us to extend the comment period, which originally closed on August 5, 2010. We subsequently reopened the comment period to accept comments until October 15, 2010 (75 FR 49869, Aug. 16, 2010).

Ten commenters asked us to defer consideration of our rule. A typical comment from this group was that changes not directly associated with harmonizing terminology "should be postponed to accommodate the more comprehensive development and evaluation of regulatory proposals regarding the accident reporting processes and overall system and the information content of the report form" and BARD. Others in this group felt that our rulemaking could be affected by the current national effort to develop a Uniform Certificate of Title Act (UCOTA) for adoption by the States. We are studying the possible need for substantive changes in accident reporting processes and, pending completion of that study, we have withdrawn the NPRM's proposed amendment of 33 CFR 173.59, which would have eliminated the option of reporting a recreational boating accident to the State where the boat is registered rather than to the State where the accident occurred. We are also tracking the development of UCOTA. We are prepared to open new rulemakings to make changes in accident reporting and to align with UCOTA, but the possibility of future changes in these two areas does not require any delay in completing the present rulemaking.

Six commenters said we should avoid changing terminology in ways harmful to the States' ability to analyze historical data or that risk data corruption during database updates. One of these commenters asked if States would need to reissue new certificates of title to vessel owners and those with security interests in those vessels since old title certificates would contain outdated terminology. We do not believe States' ability to analyze historical data will be

adversely affected by this final rule, although date queries might have to be managed by pre- or post-regulation date. We will not require States to reissue new certificates of title as a result of these terminology changes. Those cases will resolve themselves as the vessels are re-titled through sale or relocation.

Eight commenters made suggestions about the terminology used in the NPRM. We agreed with these suggestions and Table 1 shows the sections where we made changes in the final rule accordingly. Many of these commenters said we failed to align terms used in the proposed text of 33 CFR parts 174 and 187. We believe we have addressed that concern by withdrawing the NPRM's proposed changes to accident reporting, and by amending 33 CFR 187.101 so that the personal identification required by part 187 matches what we require in part 174. Some of these commenters also requested that, for better clarity, we substitute "casualty or accident" for "incident" in 33 CFR 173.57, which we have done in this final rule.

Ten commenters objected to our proposal to delay the implementation of some measures for three years, saying we should allow at least five or six years instead. These commenters pointed out that States might need that time to make conforming changes in their laws, to obtain implementation funding, and to train staff to update databases and forms. Another group of nine commenters (which to a large extent overlapped with the group calling for a longer deferral of implementation) cited the high costs of implementation during a difficult economic period as a reason not to proceed with the rulemaking. Most of the changes we are making in this final rule have been under discussion with State officials for many years and we think they are overdue. We are concerned that a five- or six-year delay would have a substantial and undesirable impact on our ability to improve our regulatory performance. Nevertheless, we are mindful of the costs and challenges involved in implementing this final rule and of the current economic climate and we have attempted to balance our responsibility as regulators with our respect for our State partners and their concerns. In the NPRM, we proposed changing the casualty or accident report content requirements of 33 CFR 173.57 effective on January 1 of the "fourth year following the year of the effective date of the final rule." The NPRM proposed delaying the changes to the State numbering system requirements in 33 CFR part 174, subpart B for three years. We now have decided to delay the latter

changes so that these requirements will also be delayed until January 1, 2017—giving the States more than four full years to prepare for their implementation.

Twelve commenters said our proposed requirement for State personnel to affix HINs to vessels was overly burdensome and costly. One of the 12 also said that any new HIN requirement is unnecessary because the problem is not with inaccurate HINs on vessels but with poor data entry controls in some States, resulting in the entry of erroneous HIN information in their databases. We agree that incorrect data entry contributes to HIN data problems, but from our own observations and anecdotal information from State officials we also deduce that these problems arise largely because some vessels never obtained valid HINs, and in some cases vessel owners have misreported their HIN numbers. To improve the quality of the data contained in the databases, we will require verification of the vessel's actual valid HIN or the assignment of such a HIN to the vessel. States can also take additional measures to ensure data quality. We have modified the HIN verification requirement in response to the cost and burden concerns our commenters raised. We will not require State personnel to affix HINs to vessels themselves. Instead, each State may use methods of its choosing to verify that each vessel's owner has affixed a valid primary HIN. Examples of such methods are (1) owner verification, whereby the State could ask the owner of the vessel to visually inspect the visible HIN that is on the boat and report the correct information back to the State and (2) third party verification, whereby a volunteer organization like the Coast Guard Auxiliary would perform the visual inspection of a boat's visible HIN. The HIN requirement has been in place since 1972 and documentation for vessel registration is already required for that long-established process. This is an extra step in the current process to help ensure that the visible HIN on the vessel is properly recorded in the appropriate databases.

Seven commenters objected to our changing "State of principal use" to read "State of principal operation" wherever it occurs. Both terms provide a test for identifying the State responsible for SNS, VIS, or BARD information. One of these commenters said the change "has the potential to create unnecessary confusion and unintended consequences." We are shifting to "State of principal operation" because that is the language used since 1983 in the recreational boating statutes

codified in Title 46 of the U.S. Code. Another of these seven commenters asked us to confirm that the State in whose waters a vessel is moored or stored in readiness for use may be that vessel's State of principal operation. On the contrary, in amending 33 CFR 173.5, this final rule defines "state of principal operation" essentially the same as "state of principal use" was defined prior to 1983: the focus is on where the boat is operated a majority of the time and not on where it is moored or stored. Neither a vessel owner nor the vessel itself has to physically reside in the state where the vessel is numbered.

Two commenters supported our proposed addition of VIS waiver provisions. A third commenter said we could also encourage State participation in VIS by making it clear that States may search the VIS database for information on vessel title and liens. It is true that VIS is statutorily structured to capture title and lien data, if it is voluntarily provided by participating States. At this time, States are not providing those data because they themselves do not collect them. If this situation changes, and States start capturing title and lien data with VIS, those data will be available to all VIS-participating States, as is the case with all other VIS data. Three commenters objected to requiring a vessel owner applying for a certificate of number to present some unique owner identification. They cited the difficulties their States could have in adopting implementing legislation, objected to the burden of collecting the additional information, or questioned its value. The Coast Guard believes that it is important to have some mechanism to differentiate between similar or identical names. The final rule provides flexibility for each State to determine which type of unique identifier best fits its system.

Six commenters made specific requests for additional clarification or modification of terminology. In most cases we have granted those requests, but others—for example, the suggestion that we should require the collection of information for 42 vessel subtypes—are beyond the scope of this rulemaking.

Seven commenters made miscellaneous and minor suggestions for altering the proposed regulatory text. We address most of these in the final rule.

Table 1 lists the regulatory sections affected by this final rule, links each section's changes to one of the four basic issues (terminology, HINs, PII, and flexibility) previously discussed or states "n/a" (not applicable), summarizes what was proposed in the NPRM, and discusses any changes that

we are making in the final rule. It omits discussion of several non-substantive style or format changes made solely to improve the clarity of our regulatory language.

TABLE 1—CHANGES MADE BY THIS RULE

33 CFR section affected	Basic issues	NPRM proposal	Changes from the NPRM for the final rule
Purpose; preemptive effect, § 173.1 .....	n/a .....	Not included in the NPRM .....	Add language describing the basis for and extent of our preemption of State regulatory action, in alignment with the discussions of Federalism contained in the Regulatory Analyses sections of both the NPRM and this final rule.
Definitions, § 173.3 .....	Terminology .....	Add or revise definitions to align with substantive changes.	Add the Title 1 U.S. Code definition of “vessel” and make minor clarifying changes in the definitions of “auxiliary sail,” “cabin motorboat,” “certificate of number,” “hull identification number,” “inboard,” “open motorboat,” “owner,” “personal watercraft,” “State,” and “sterndrive.” Remove definitions of “permitted events,” “towed watersports,” and “whitewater boating” because we are not using those terms in the final rule’s version of amendments to part 173.
Vessel number required, § 173.15 .....	Terminology .....	Substitute “State of principal operation” for “State in which the vessel is principally used” to align with statutory language.	No change.
Other numbers prohibited, § 173.19 .....	Terminology .....	Substitute “operate” for “use” to align with statutory language.	No change.
Certificate of number required, § 173.21 .....	Terminology .....	Substitute “operate” and “operated” for “use” and “used” to align with statutory language.	No change.
Inspection of certificate, § 173.23 .....	Terminology .....	Substitute “operating” for “using” to align with statutory language.	No change.
Location of certificate of number, § 173.25 .....	Terminology .....	Substitute “operate” for “use” to align with statutory language.	No change.
Removal of number, § 173.33 .....	Terminology .....	Substitute “operated” for “used” to align with statutory language.	No change.
Coast Guard validation sticker, § 173.35 .....	Terminology .....	Substitute “operate” for “use” to align with statutory language.	No change.
Applicability, § 173.51 .....	Terminology .....	Substitute “operated” for “used” to align with statutory language.	No change.
Contents of report, § 173.57 .....	Terminology .....	Revise casualty and accident report contents to align terminology with statutory language, modernize terminology, and require additional information about property owners and the use of fire extinguishers; implementation deferred until January 1, 2017.	Eliminate requirements for describing the vessel’s operation and activity at the time of a casualty or accident and whether the vessel was or was not involved in a permitted event and the nature of the casualty or accident (paragraphs (c)(22), (23), (24), and (25) in the NPRM), eliminate the requirement for reporting the telephone numbers of property owners, and in response to a comment, change “incident” to “casualty or accident.” No change in the date of implementation.
Where to report, § 173.59 .....	n/a .....	Require casualty and accident report to be filed with the State where the incident occurred (eliminate current option of filing in the State where the vessel is principally operated or registered).	Withdraw proposed amendment because it is not related to a basic issue.
Application for and issuance of certificate of number, § 173.71 .....	Terminology .....	Authorize issuance of original or duplicate certificates for clarity and modernize terminology.	No change.
Duplicate certificate of number, § 173.73 .....	n/a .....	Remove section and transfer substance to § 173.71.	No change.

TABLE 1—CHANGES MADE BY THIS RULE—Continued

33 CFR section affected	Basic issues	NPRM proposal	Changes from the NPRM for the final rule
Validity of certificate of number, § 173.77.	Terminology .....	Substitute “operated” for “used” to align with statutory language.	No change.
Issuing authorities and reporting authorities 33 CFR part 173, Appendix A.	Terminology .....	Substitute “operation” for “use” to align with statutory language.	No change.
Applicability; preemptive effect, § 174.1	n/a .....	Add preemption language to align with discussion of Federalism.	No change.
Definitions, § 174.3 .....	Terminology .....	Add or revise definitions to align with substantive changes.	For better clarity, add the Title 1 U.S. Code definition of “vessel” and a definition for “operate,” and make minor clarifying changes in the definitions of “auxiliary sail,” “cabin motorboat,” “certificate of number,” “hull identification number,” “in-board,” “open motorboat,” “owner,” “personal watercraft,” and “State.”
Verification of HIN, § 174.16 .....	HINs .....	Require States to verify a vessel’s compliance with HIN requirements or affix valid HIN; 3-year deferral of implementation.	Require States to verify that a vessel has a valid primary HIN, but State personnel will not be required to affix valid HINs themselves. Defer implementation for more than 4 full years, to Jan. 1, 2017, rather than the three years proposed in the NPRM.
Contents of application for certificate of number, § 174.17.	Terminology PII .....	Require unique personal identifier, align and modernize terminology; 3-year deferral of implementation.	Make minor clarifying changes in several terms per commenter suggestions. Restore the ZIP code, which appears in the current regulation but which did not appear in the NPRM, as a required element of the owner’s address information. Defer implementation for more than 4 full years, to Jan. 1, 2017, rather than the three years proposed in the NPRM.
Contents of a certificate of number, § 174.19.	Terminology HINs	To facilitate data verification for law enforcement and maritime security purposes, delete current option for owners of vessels with HINs to omit certain information; align and modernize terminology; 3-year deferral of implementation.	Make minor clarifying changes in several terms per commenter suggestions. Restore the ZIP code, which appears in the current regulation but which did not appear in the NPRM, as a required element of the owner’s address information. Defer implementation for more than 4 full years, to Jan. 1, 2017, rather than the three years proposed in the NPRM.
Temporary certificates, § 174.21 .....	Terminology HINs	Clarify, add HIN as required information, substitute “operated” for “used” to align with statutory language; 3-year deferral of implementation.	Clarify that, as in existing 33 CFR 174.17 and 174.19, vessel length means overall length. Defer implementation for more than 4 full years, to Jan. 1, 2017, rather than the three years proposed in the NPRM.
Forwarding of casualty or accident reports, § 174.121.	Terminology .....	Update address information and add electronic submission option to allow for choices in reporting method and align with Federal e-Government initiatives.	No change.
Coast Guard address, § 174.125 .....	Terminology .....	Update address information .....	No change.
Purpose and applicability; preemptive effect, § 181.1.	n/a .....	Add preemption language to align with discussion of Federalism.	No change.
Definitions, § 181.3 .....	Terminology .....	Add or revise definitions to align with substantive changes.	Change the word order, without altering the sense of, the definition of “manufacturer,” per commenter suggestion.

TABLE 1—CHANGES MADE BY THIS RULE—Continued

33 CFR section affected	Basic issues	NPRM proposal	Changes from the NPRM for the final rule
Hull identification numbers required, § 181.23.	Terminology HINs Flexibility.	Add new (b)(revise and relocate current language from § 181.31(c)), and substitute “agency designated by the issuing authority” for references to the State boating law administrator to provide States with additional administrative flexibility.	Remove requirement for State personnel to affix valid HINs and make minor wording change.
Manufacturer identification code assignment, § 181.31.	n/a .....	Remove (c) (relocated to § 181.23) .....	No change.
How is a State’s participation in VIS documented? § 187.11.	Flexibility .....	Revise section for additional State administrative flexibility.	Make minor style changes.
What information must be collected to identify a vessel owner? § 187.101.	Terminology .....	N/A .....	Make minor clarifying changes in several terms per commenter suggestions.
What information must be collected to identify a vessel? § 187.103.	Terminology .....	Add “of vessel” in (h), and revise (i)–(n) for clarity and modern terminology.	Make minor clarifying changes in several terms per commenter suggestions.

## VI. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

### A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the final rule has not been reviewed by the Office of Management and Budget.

We summarize the public comments we received on the NPRM in the “Discussion of Comments and Changes” section of this preamble. In response to public comments we modified the NPRM proposal as shown in Table 1. We lengthened the deferral period for implementing some changes, like the requirement for State verification of HINs. We modified the proposal for States to affix HIN numbers to vessels; now, State officials will not be required to affix the HIN themselves. We provided additional clarity to terminology and withdrew a change to

the location at which to file a boating accident report.

These changes result in a reduction in the cost of this rule from the initial estimate in the NPRM. Modifying the HIN verification requirement and lengthening the deferral period reduces the present value of the remaining costs, for the period of analysis, from \$38.0 million to \$21.4 million at a 7-percent discount and from \$46.0 million to \$27.4 million at a 3-percent discount.

We have found no additional data or information that further changed our findings of the undiscounted costs for the individual provisions of the rule (the costs of HIN verifications, the cost of changes to boating accident reporting, and the costs to change to Certificates of Number).

Table 2 compares the original regulatory impacts published in the NPRM and the revised impacts of this final rule:

TABLE 2—COMPARISON OF REGULATORY IMPACTS, NPRM AND FINAL RULE, 7 PERCENT DISCOUNT RATE

Category	NPRM	Final rule
Annualized .....	\$5.4	\$3.1
Ten-year .....	38.0	21.4

A combined “Final Regulatory Analysis and Final Regulatory Flexibility Analysis” is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. A summary of the analysis follows:

Coast Guard regulations in 33 CFR parts 173 and 174 implement two statutory mandates relating to undocumented vessels equipped with propulsion machinery of any kind. First,

the regulations provide for an SNS that assigns unique identification numbers to those vessels, as required by 46 U.S.C. 12302. Second, the regulations provide for the uniform reporting by each State of recreational vessel and certain undocumented vessel casualty and accident data, as required by 46 U.S.C. 6102. The Coast Guard maintains a BARD that contains this information.

The Coast Guard is statutorily required to maintain a VIS, which covers not only the undocumented vessels to which SNS applies, but also documented vessels and any vessel titled under State law. The VIS information system comprises data from vessels that the Coast Guard documents and vessel data from 32 voluntarily participating States. The VIS is used for identifying recreational, commercial, and public vessels that are numbered or titled under the laws of a state or territory. VIS includes information to identify vessels, vessel owners, and information to assist law enforcement officials in the investigation of stolen vessels or other legal investigation, such as fraud. That information includes the personally identifiable information that 46 U.S.C. 12501(a)(2) and (b) require.

The Coast Guard is amending its rules to promote uniformity between the SNS, VIS, and BARD.

The changes from this rule will enhance the capabilities of Federal, State, and local boating safety and law enforcement officials. These changes will result in additional costs and benefits. In general, this rule will—

- Require States to verify that a valid primary vessel HIN has been affixed to each vessel for which a certificate of number is being issued, renewed, or upon the transfer of a vessel’s ownership;

- Align terminology used by SNS, BARD, and VIS to describe recreational vessels and certain undocumented vessels and their operations;

- Modernize terminology to reflect statutory usage and current recreational vessel types, operations and equipment. States have until January 1, 2017 to update their systems to use the newer terminology;

- Require the collection of unique identification information for each vessel owner who applies for an SNS number. States have until January 1, 2017 to implement this change; and

- Provide additional administrative flexibility for States, for example, by adding waiver provisions for VIS participation.

We estimate that this rule affects approximately 12.4 million vessels. The harmonization of terminology and the additional questions on the forms used to collect the data for the SNS affects all recreational vessels and certain undocumented vessels. The harmonization of terminology and the additional questions on the forms used to collect information from boating casualties affects those recreational vessels and certain undocumented vessels involved in boating accidents. There are approximately 5,094 boating accidents annually. Approximately 91 percent of recreational boats and certain undocumented vessels that this rule affects appear to be in compliance with the HIN requirement already, leaving 9

percent potentially needing to have HINs verified.<sup>2</sup>

The implementation of these requirements will begin on January 1, 2017. This is a delay in implementation compared to the NPRM, in which it was proposed that implementation would begin on January 1 of Year 4, which would be 2015. Costs will be incurred beginning with the year prior to rule implementation, 2016, due to the need to prepare for the January 1, 2017 implementation.

We estimated the total average costs of this rulemaking over a 10-year period as summarized in Table 3, which compares the costs in this final rule to those in the NPRM, which used a 3-year delay in implementation. Cost estimates are presented at a 7-percent discount.

TABLE 3—SUMMARY OF COSTS  
[Millions of dollars]

Year	Final rule		NPRM	
	7 Percent discount rate	Undiscounted	7 Percent discount rate	Undiscounted
2012 .....	\$0.0	\$0.0	\$0.0	\$0.0
2013 .....	0.0	0.0	0.0	0.0
2014 .....	0.0	0.0	13.5	16.5
2015 .....	0.0	0.0	7.8	10.2
2016 .....	8.4	11.7	5.6	7.9
2017 .....	4.8	7.2	2.5	3.8
2018 .....	3.5	5.7	2.4	3.8
2019 .....	1.7	2.9	2.2	3.8
2020 .....	1.6	2.9	2.1	3.8
2021 .....	1.5	2.9	1.9	3.8
Total * .....	21.4	33.3	38.0	53.6
Annualized .....	3.1	3.3	5.4	5.4

\* Figures may not sum due to rounding.

The main cost driver for this rule is the issuing authority verification of the HIN with documentation or visual inspection of the vessel when no proper record of the HIN exists. The issuing authority, usually the State, has the option to choose the most suitable verification method. Examples of such methods are (1) owner verification, whereby the State could ask the owner of the vessel to visually inspect the visible HIN that is on the boat and report the correct information back to the State and (2) third party verification, whereby a volunteer organization like the Coast Guard Auxiliary would perform the visual inspection of a boats' visible HIN. The HIN requirement has been in place since 1972 and documentation for vessel registration is already required for that long-

established process. This is an extra step in the current process to help ensure that the visible HIN on the vessel is properly recorded in the appropriate databases.

Some of the owners of these vessels will be able to correct any discrepancies easily, but the States may require others to transport the vessel to the issuing authority in order to have the HIN verified. The HIN verification makes up approximately 89 percent (10.5 million, non-discounted) of the first-year cost of implementation and approximately 66 percent (1.9 million, non-discounted) of the annual recurring cost.

The final rule aims to improve the information within various databases by increasing the quality of the information and by harmonizing terminology. This enhanced information and subsequent cross-reference between the databases

are benefits that will accrue to all users of these databases. The Coast Guard and others use the SNS, VIS and BARD information in decision-making situations. These situations include the methodical design of new boating safety initiatives as well as split-second decisions made by law enforcement officers in the field.<sup>3</sup> Some of the benefits of the HIN verification may accrue to the boat owner or other entity associated with the vessel. For example, a verified HIN properly linked to the boat owner can aid in the return of a stolen vessel.

The "Final Regulatory Analysis and Final Regulatory Flexibility Analysis" available in the docket provides additional detail on the costs and benefits of this rulemaking.

<sup>2</sup> We obtained information on boat hull identification numbers from Info-Link, which is the

company that administers the Coast Guard's Vessel Identification System.

<sup>3</sup> See the Collection of Information OMB 1625-0108 supporting documentation for further information.

### B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

A combined “Final Regulatory Analysis and Final Regulatory Flexibility Analysis” discussing the impact of this rule on small entities is available in the docket where indicated under the **ADDRESSES** section of this preamble. A summary of the analysis follows:

The rule regulates recreational vessels and certain undocumented, State-numbered vessels. Individuals, such as the recreational vessel owners regulated by this rule, are not small entities under the definition of a small entity in the Regulatory Flexibility Act (RFA).<sup>4</sup>

We estimate that there are potentially 136,209 owners of certain undocumented vessels used for commercial purposes that may be affected by parts of this rulemaking. Of these, there are potentially 12,259 vessel owners who may have to have their vessel HIN verified.

Based on available data, we determined that over 90 percent of the owners of vessels used for commercial purposes could be small entities according to small entity size standards defined by the Small Business Administration and the Regulatory Flexibility Act. We found that many small entities affected by this rule were owners and operators in the industry categories of engine equipment manufacturing, boat dealers, hotels, business support services and amusement and recreation.

Based on our assessment of the impacts, we determined that all owners or operators affected by this rule will incur a direct cost of compliance of less than 1 percent of revenue.

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

### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered in our NPRM to assist small

entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### D. Collection of Information

This rule affects three collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It will modify existing Office of Management and Budget (OMB) Collection of Information; OMB Control Number 1625–0003, “Coast Guard Boating Accident Report Form”; OMB Control Number 1625–0070, “Vessel Identification System”; and OMB Control Number 1625–0108, “Standard Numbering System for Undocumented Vessels”.

As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

The rule will add to the recordkeeping and reporting requirements of vessel owners and agencies involved in issuing vessel registration and reporting boating accidents.

The issuing authority will have to modify the boating casualty report form, modify the certificate of number application and, in cases where necessary, verify that valid HINs are properly affixed to the vessel and recorded. The owners of recreational vessels and certain undocumented vessels will have to answer more questions when they or their vessels are involved in a boating accident and when applying for a Certificate of Number. Owners of recreational vessels

and certain undocumented vessels will have to have the issuing authority verify a valid HIN upon the issuance, reissue, sale or transfer of a vessel.

For additional detail and information on the burden of this rule, see the final regulatory analysis available in the docket. A summary of each collection amendment and associated burden follows:

Title: Coast Guard Boating Accident Report Form

OMB Control Number: 1625–0003.

*Summary of the Collection of Information:* Federal regulations (33 CFR 173.55) require the operator of any vessel that is numbered or used for recreational purposes to submit an accident report to the issuing authority where the accident occurred.

*Need for Information:* 46 U.S.C. 6102(a) requires a uniform marine casualty reporting system, with regulations prescribing casualties to be reported and the manner of reporting.

*Proposed Use of Information:* The Coast Guard uses accident data and statistical information received from the current collection to establish National Recreational Boating Safety (RBS) Program goals, objectives, strategies and performance measures; report RBS Program performance to Congress in the performance and budget reports; identify possible manufacturer defects in boats or equipment; develop boat manufacturing standards; develop safe boating education and accident prevention programs; and publish accident statistics in accordance with Title 46 U.S.C. 6102.

*Description of Respondents:*

Operators of recreational boats and certain undocumented vessels and governments of States.

*Number of Respondents/Reports:* The estimated number of respondents is 56, both current and revised. The revised estimated number of reports is 5,094, compared to the current estimate of 5,000. The higher number of reports is based on an increase in the average number of reports, not a programmatic change.

*Frequency of Response:* On occasion. Specifically, within 30 days of a State’s receipt of a report as prescribed by 33 CFR 174.121 (Forwarding of casualty or accident reports).

*Burden of Response:* The estimated revised burden is 2,970 hours per year. The current burden is 2,500.

There is an estimated 35-minute burden to a respondent for each report filed for an annual estimated burden of 2,970 hours for the estimated 5,094 reports.

<sup>4</sup> These are individuals that do not use vessels for commercial purposes.



## Title: Vessel Identification System

OMB Control Number: 1625–0070.

*Summary of the Collection of Information:* The Coast Guard established a nationwide vessel identification system (VIS) and centralized certain vessel documentation functions. VIS provides participating States with access to data on vessels numbered by States. Participation in VIS is voluntary.

*Need for Information:* 46 U.S.C. 12501 mandates the establishment of a VIS. 33 CFR part 187 prescribes the requirements of VIS.

*Proposed Use of Information:* This information collection supports the strategic goals of the Department of Homeland Security, the Coast Guard and the Marine Safety, Security and Stewardship Directorate (CG–5).

*Description of Respondents:* Operators of recreational boats and certain undocumented vessels and governments of States.

*Number of Respondents and Responses:* The estimated number of respondents is 56, both revised and current.

*Frequency of Response:* Daily.

*Burden of Response:* The estimated burden remains 5,456 hours a year.

## Title: Standard Numbering System for Undocumented Vessels

OMB Control Number: 1625–0108.

*Summary of the Collection of Information:* The SNS collects information on undocumented vessels and vessel owners. States submit reports annually to the Coast Guard on the number, size, construction, etc., of the vessels they have numbered. The Coast Guard uses that information in the publication of its annual “Boating Statistics” report that 46 U.S.C. 6102(b) requires and in the allocation of Federal funds to assist in carrying out the Recreational Boating Safety (RBS) Program which 46 U.S.C. chapter 131 established.

*Need for Information:* On a daily basis or as warranted, Federal, State, and local law enforcement personnel use SNS information from the States’ numbering systems for enforcement of boating laws or theft and fraud investigations. In addition, information from the SNS increases officer safety by assisting boarding officers in determining how best to approach a vessel suspected of illegal activity.

*Proposed Use of Information:* Federal, State, and local law enforcement personnel use SNS information from the States’ numbering systems for enforcement of boating laws or theft and fraud investigations. The Coast Guard

uses the information in the publication of an annual “Boating Statistics” report that 46 U.S.C. 6102(b) requires and in the allocation of Federal funds to assist States in carrying out the Recreational Boating Safety (RBS) Program, which 46 U.S.C. chapter 131 established.

*Description of Respondents:* Operators of recreational boats and certain undocumented vessels and governments of States.

*Number of Respondents and Responses:* The estimated number of respondents is 56, both revised and current. The revised estimate of the number of responses is 4,644,142 compared to the current 4,333,333.

*Frequency of Response:* Daily as necessary.

*Burden of Response:* The revised estimate of the number of burden hours per year is 385,464, compared to the current burden hours of 286,458.

There are no collection costs to the Federal Government for the SNS because States implement the program.

As required by 44 U.S.C. 3507(d), we submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review of the collections of information. OMB has not yet completed its review of these collections. Therefore, the Coast Guard cannot enforce the collections contained in 33 CFR 173.57(c), 174.16(b), 174.17(c), or 174.19(c) until its information collection requests are approved by OMB. We will publish a document in the **Federal Register** informing the public of OMB’s decision to approve, modify, or disapprove the collection.

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

## E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard.

The regulations in 33 CFR part 173 subparts A, B, and D, and part 174 subparts A, B, and D are issued pursuant to 46 U.S.C. 12301 and 12302 and expressly preempt conflicting State or local regulation. Congress intended these regulations to be preemptive as State numbering systems, once approved by the Secretary, must be consistent with the Federal standard numbering system and must adopt the

definitions of relevant terms prescribed by the Secretary. Should a State amend its numbering system without the approval of the Secretary, or administer its system in an inconsistent manner to the Federal numbering system, the Secretary may withdraw his or her approval. Therefore, since State numbering systems cannot deviate from the Federal numbering system prescribed by the Secretary, the Federal regulations are preemptive. The regulations in 33 CFR part 173 subpart C and part 174 subpart C are issued pursuant to 46 U.S.C. 6101. 46 U.S.C. 6101 states that the “Secretary shall prescribe regulations on the marine casualties to be reported and the manner of reporting.” The statute requires, among other things, the reporting of the death of an individual, serious injury to an individual, material loss of property, material damage affecting the seaworthiness or efficiency of the vessel, and significant harm to the environment.

The Supreme Court has held that “Congress intended that the Coast Guard regulations be the sole source of a vessel’s reporting obligations \* \* \*” and that Coast Guard regulations promulgated pursuant to the authority of 46 U.S.C. 6101 were not intended by Congress “to be cumulative to those enacted by each political subdivision whose jurisdiction a vessel enters.” See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 115–116. Therefore, the Coast Guard’s view is that regulations issued under the authority of 46 U.S.C. 6101 for marine casualty reporting requirements have preemptive effect over State regulation in these fields, except to the extent that Congress requires the Coast Guard to allow State casualty reporting systems pursuant to 46 U.S.C. chapter 131.

The regulations in 33 CFR part 181 are issued pursuant to 46 U.S.C., chapter 43; specifically section 4302. Under another section of that chapter, section 4306, Federal regulations establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, preempt State law, unless the State law is identical to a Federal regulation or a State is specifically provided an exemption to those regulations, or permitted to regulate marine safety articles carried or used to address a hazardous condition or circumstance unique to that State.

The regulations in 33 CFR part 187 are currently issued pursuant to 46

U.S.C. 2103. We are adding 46 U.S.C. 12501 as an additional authority. Because State participation in the VIS is entirely voluntary, the regulations in this part do not have preemptive impact over State regulation in this field. However, once electing to participate, a State must comply with the requirements of this part to ensure integrity and uniformity of information in both the SNS and VIS.

The Coast Guard recognizes the key role State and local governments may have in making regulatory determinations. Additionally, sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard must provide elected officials of affected State and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings and to consult with such officials early in the rulemaking process. Therefore, in the NPRM, we invited affected State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the docket. We received no comments from an elected official or organization that represents such officials, though we did receive many comments from appointed State officials who have responsibility for administering boating safety laws, and from the national organization that represents those officials. We meet regularly with many of these officials and in most cases they have long been aware of our interest in the changes made by this final rule. Their concerns, our position on those concerns, and the actions we have taken to address them, are discussed in detail in part V of this preamble, "Discussion of Comments and Changes."

Additionally, President Obama's Memorandum of May 20, 2009 titled "Preemption," states that "preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States and with a sufficient legal basis for preemption." To that end, when a department or agency intends to preempt State law, it should do so only if justified under legal principles governing preemption, including those outlined in Executive Order 13132, and it should also include preemption provisions in the codified regulation. In accordance with this memorandum, the Coast Guard has included in the final rule regulatory text the statutory provisions granting it preemption authority as well as

language indicating its intent to preempt conflicting state or local regulation, when required.

#### *F. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble. No public comments were received on this subject in response to our NPRM, and we made no changes affecting the subject for the final rule.

#### *G. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No public comments were received on this subject in response to our NPRM, and we made no changes affecting the subject for the final rule.

#### *H. Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No public comments were received on this subject in response to our NPRM, and we made no changes affecting the subject for the final rule.

#### *I. Protection of Children*

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children. No public comments were received on this subject in response to our NPRM, and we made no changes affecting the subject for the final rule.

#### *J. Indian Tribal Governments*

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

or on the distribution of power and responsibilities between the Federal Government and Indian tribes. No public comments were received on this subject in response to our NPRM, and we made no changes affecting the subject for the final rule.

#### *K. Energy Effects*

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. No public comments were received on this subject in response to our NPRM, and we made no changes affecting the subject for the final rule.

#### *L. Technical Standards*

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

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

#### *M. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) and (d) of the Instruction. This rule involves regulations which are editorial or procedural, such as those updating addresses or establishing application

procedures; and regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects

##### 33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

##### 33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

##### 33 CFR Part 181

Labeling, Incorporation by reference, 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 amends 33 CFR parts 173, 174, 181, and 187 as follows:

### PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

- 1. The authority citation for part 173 is revised to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; Department of Homeland Security Delegation No. 0170.1.

- 2. Revise § 173.1 to read as follows:

#### § 173.1 Purpose; preemptive effect.

This part prescribes requirements for numbering vessels and for reporting casualties and accidents to implement sections 6101, 6102, 12301, and 12302 of Title 46, United States Code. The regulations in subparts A, B, and D of this part have preemptive effect over conflicting State or local regulation. The regulations in subpart C of this part have preemptive effect over State or local regulation within the same field, except to the extent that Congress requires the Coast Guard to allow State casualty reporting systems pursuant to 46 U.S.C. chapter 131.

- 3. Revise § 173.3 to read as follows:

#### § 173.3 Definitions.

As used in this part—

*Airboat* means a vessel that is typically flat-bottomed and propelled by an aircraft-type propeller powered by an engine.

*Auxiliary sail* means a vessel with sail as its primary method of propulsion and mechanical propulsion as its secondary method.

*Cabin motorboat* means a vessel propelled by propulsion machinery and providing enclosed spaces inside its structure.

*Certificate of number* means the certificate required by § 173.21 of this part.

*Houseboat* means a motorized vessel that is usually non-planing and designed primarily for multi-purpose accommodation spaces with low freeboard and little or no foredeck or cockpit.

*Hull identification number* or *HIN* means a number required by 33 CFR 181.23.

*Inboard*, in the context of an engine, means an engine mounted inside the confines of a vessel which powers a drive shaft that turns a water jet impeller or that runs through the bottom of the hull and is attached to a propeller at the other end.

*Inflatable boat* means a vessel that uses air-filled flexible fabric for buoyancy.

*Issuing authority* means a State listed in Appendix A of this part as having a numbering system approved by the Coast Guard or the Coast Guard itself when a State numbering system has not been approved.

*Open motorboat* means a vessel equipped with propulsion machinery and having an open load carrying area that does not have a continuous deck to protect it from the entry of water.

*Operate* means use, navigate, or employ.

*Operator* means the person who is in control or in charge of a vessel while it is in operation.

*Outboard*, in the context of an engine, means an engine with propeller or water jet integrally attached, which is usually mounted at the stern of a vessel.

*Owner* means a person, other than a secured party, having property rights in or title to a vessel, including persons entitled to use or possess a vessel subject to a security interest in another person, but excluding lessees under a lease not intended as security.

*Paddlecraft* means a vessel powered only by its occupants, using a single or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, thole pins, crutches, or similar arrangements.

*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.

*Personal watercraft* means a vessel propelled by a water-jet pump or other machinery as its primary source of motive power and designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing within the vessel's hull.

*Pod drive* means an engine mounted in front of the transom of a vessel and attached through the bottom of the hull to a steerable propulsion unit.

*Pontoon boat* means a vessel with a broad, flat deck that is affixed on top of closed cylinders which are used for buoyancy, the basic design of which is usually implemented with two rows of floats as a catamaran or with three rows of floats as a trimaran.

*Reporting authority* means a State listed in Appendix A of this part as having a numbering system approved by the Coast Guard or the Coast Guard itself when a numbering system has not been approved.

*Rowboat* means an open vessel manually propelled by oars.

*Sail only* means a vessel propelled only by sails.

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

*State of principal operation* means the State in whose waters a vessel is or will be operated most during a calendar year.

*Sterndrive* means an engine, powering a propeller through a series of shafts and gears, mounted in front of the transom of a vessel and attached through the transom to a drive unit that is similar to the lower unit of an outboard; and may also be known as an inboard-outdrive or an inboard-outboard.

*Vessel* means every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water.

#### § 173.15 [Amended]

- 4. In § 173.15(a)(1) and (b), remove the words “State in which the vessel is principally used” wherever they occur, and add, in their place, the words “State of principal operation”.

#### § 173.19 [Amended]

- 5. In § 173.19, remove the word “use” and add, in its place, the word “operate”.

#### § 173.21 [Amended]

- 6. Amend § 173.21 as follows:

- a. In paragraph (a) introductory text, remove the word “use” and add, in its place, the word “operate”; and

■ b. In paragraph (a)(1), remove the word “used” and add, in its place, the word “operated”.

**§ 173.23 [Amended]**

■ 7. In § 173.23, remove the word “using” and add, in its place, the word “operating”.

**§ 173.25 [Amended]**

■ 8. In § 173.25, remove the word “use” and add, in its place, the word “operate”.

**§ 173.33 [Amended]**

■ 9. In § 173.33(c), remove the word “used” and add, in its place, the word “operated”.

**§ 173.35 [Amended]**

■ 10. In § 173.35, remove the word “use” and add, in its place, the word “operate”.

**§ 173.51 [Amended]**

■ 11. In § 173.51(a) introductory text and (a)(1), remove the word “used” and add, in its place, the word “operated”.

■ 12. Revise § 173.57 to read as follows:

**§ 173.57 Contents of report.**

(a) Each report required by § 173.55 of this subpart must be in writing, dated upon completion, and signed by the person who prepared it.

(b) Until January 1, 2017, each report must contain, if available, at least the following information about the casualty or accident:

(1) Number and name of each vessel involved;

(2) Name and address of each owner of each vessel involved;

(3) Name of the nearest city or town, the county, the State, and the body of water;

(4) Time and date the casualty or accident occurred;

(5) Location on the water;

(6) Visibility, weather, and water conditions;

(7) Estimated air and water temperatures;

(8) Name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report;

(9) Name and address of each operator of each vessel involved;

(10) Number of persons onboard or towed on skis by each vessel;

(11) Name, address, and date of birth of each person injured or killed;

(12) Cause of each death;

(13) Weather forecasts available to and weather reports used by the operator before and during the use of the vessel;

(14) Name and address of each owner of property involved;

(15) Availability and use of personal flotation devices;

(16) Type and amount of each fire extinguisher used;

(17) Nature and extent of each injury;

(18) Description of all property damage and vessel damage with an estimate of the cost of all repairs;

(19) Description of each equipment failure that caused or contributed to the cause of the casualty;

(20) Description of the vessel casualty or accident;

(21) Type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, explosion, or other);

(22) Opinion of the person making the report as to the cause of the casualty, including whether or not alcohol or drugs, or both, was a cause or contributed to causing the casualty;

(23) Make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year) of the reporting operator's vessel;

(24) Name, address, and telephone number of each witness;

(25) Manufacturer's hull identification number, if any, of the reporting operator's vessel; and

(26) Name, address, and telephone number of the person submitting the report.

(c) As of January 1, 2017, each report must contain, if available, at least the following information about the casualty or accident:

(1) Number and name of each vessel involved;

(2) Name and address of each owner of each vessel involved;

(3) Name of the nearest city or town, the county, the State, and the body of water;

(4) Time and date the casualty or accident occurred;

(5) Location on the water;

(6) Visibility, weather, and water conditions;

(7) Estimated air and water temperatures;

(8) Name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report;

(9) Name and address of each operator of each vessel involved;

(10) Number of persons onboard or towed on skis by each vessel;

(11) Name, address, and date of birth of each person injured or killed;

(12) Cause of each death;

(13) Weather forecasts available to and weather reports used by the operator before and during the use of the vessel;

(14) Name and address of each owner of property involved;

(15) Availability and use of personal flotation devices;

(16) Type and number of each fire extinguisher used;

(17) Nature and extent of each injury;

(18) Description of all property damage and vessel damage with an estimate of the cost of all repairs;

(19) Description of each equipment failure that caused or contributed to the cause of the casualty;

(20) Description of the vessel casualty or accident;

(21) Type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, explosion, or other);

(22) Opinion of the person making the report as to the cause of the casualty, including whether or not alcohol or drugs, or both, was a cause of or contributed to causing the casualty.

(23) Characteristics of the reporting operator's vessel, including—

(i) Make;

(ii) Model;

(iii) Type: authorized terms are “air boat”, “auxiliary sail”, “cabin motorboat”, “houseboat”, “inflatable boat”, “open motorboat”, “paddlecraft”, “personal watercraft”, “pontoon boat”, “rowboat”, “sail only”, or “other”;

(iv) Beam width at widest point;

(v) Overall length of vessel;

(vi) Depth from transom to keel;

(vii) Horsepower;

(viii) Propulsion: authorized terms are “air thrust”, “manual”, “propeller”, “sail”, “water jet”, or “other”;

(ix) Fuel: authorized terms are “electric”, “diesel”, “gas”, or “other”;

(x) Engine drive type: authorized terms are “inboard”, “outboard”, “pod drive”, “sterndrive”, or “other”;

(xi) Hull material: authorized terms are “aluminum”, “fiberglass”, “plastic”, “rubber/vinyl/canvas”, “steel”, “wood”, or “other”; and

(xii) Model year;

(24) Name, address, and telephone number of each witness;

(25) Manufacturer's hull identification number, if any, of the reporting operator's vessel; and

(26) Name, address, and telephone number of the person submitting the report.

■ 13. Revise § 173.71 to read as follows:

**§ 173.71 Application for and issuance of certificate of number.**

(a) The owner of a vessel to which § 173.11 of this part applies and for which a certificate of number is required may apply for that certificate to the issuing authority for the vessel's State of principal operation listed in Appendix A of this part. The application must be made in the manner specified by the issuing authority and must be accompanied by payment of any fee required by the issuing authority.

(b) Upon determination that the owner's application for a certificate of number complies with the requirements of paragraph (a) of this section, the issuing authority may issue a certificate of number.

(c) A duplicate certificate of number may be applied for and issued as provided by paragraphs (a) and (b) of this section upon the owner's statement that the original certificate is lost or destroyed.

**§ 173.73 [Removed and Reserved]**

■ 14. Remove and reserve § 173.73.

**§ 173.77 [Amended]**

■ 15. In § 173.77(d), remove the word "used" and add, in its place, the word "operated".

**Appendix A [Amended]**

■ 16. In Appendix A to part 173, in paragraph (c), remove the word "use" and add, in its place, the word "operation".

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

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

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

■ 18. Revise § 174.1 to read as follows:

**§ 174.1 Applicability; preemptive effect.**

This part establishes a standard numbering system for vessels and a uniform vessel casualty reporting system for vessels by prescribing requirements applicable to the States for the approval of State numbering systems. The regulations in subparts A, B, and D of this part have preemptive effect over conflicting State or local regulation. The regulations in subpart C of this part have preemptive effect over State or local regulation within the same field, except to the extent that Congress requires the Coast Guard to allow State casualty reporting systems pursuant to 46 U.S.C. chapter 131.

■ 19. Revise § 174.3 to read as follows:

**§ 174.3 Definitions.**

As used in this part—

*Airboat* means a vessel that is typically flat-bottomed and propelled by an aircraft-type propeller powered by an engine.

*Auxiliary sail* means a vessel with sail as its primary method of propulsion and mechanical propulsion as its secondary method.

*Cabin motorboat* means a vessel propelled by propulsion machinery and providing enclosed spaces inside its structure.

*Certificate of number* means the certificate required by 33 CFR 173.21.

*Charter fishing* means a vessel carrying a passenger(s) for hire who is (are) engaged in recreational fishing.

*Commercial fishing* means a vessel that commercially engages in the catching, taking, or harvesting of fish which, either in whole or in part, is intended to enter commerce through sale, barter, or trade.

*Houseboat* means a motorized vessel that is usually non-planing and designed primarily for multi-purpose accommodation spaces with low freeboard and little or no foredeck or cockpit.

*Hull identification number* or *HIN* means a number required by 33 CFR 181.23.

*Inboard*, in the context of an engine, means an engine mounted inside the confines of a vessel which powers a drive shaft that turns a water jet impeller or that runs through the bottom of the hull and is attached to a propeller at the other end.

*Inflatable boat* means a vessel that uses air-filled flexible fabric for buoyancy.

*Open motorboat* means a vessel equipped with propulsion machinery and having an open load carrying area that does not have a continuous deck to protect it from the entry of water.

*Operate* means use, navigate, or employ.

*Operator* means the person who is in control or in charge of a vessel while it is in operation.

*Outboard*, in the context of an engine, means an engine with propeller or water jet integrally attached, which is usually mounted at the stern of a vessel.

*Owner* means a person, other than a secured party, having property rights in or title to a vessel, including persons entitled to use or possess a vessel subject to a security interest in another person, but excluding lessees under a lease not intended as security.

*Paddlecraft* means a vessel powered only by its occupants, using a single or double bladed paddle as a lever without the aid of a fulcrum provided by

oarlocks, thole pins, crutches, or similar arrangements.

*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.

*Personal watercraft* means a vessel propelled by a water-jet pump or other machinery as its primary source of motive power and designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing within the vessel's hull.

*Pod drive* means an engine mounted in front of the transom of a vessel and attached through the bottom of the hull to a steerable propulsion unit.

*Pontoon boat* means a vessel with a broad, flat deck that is affixed on top of closed cylinders which are used for buoyancy, the basic design of which is usually implemented with two rows of floats as a catamaran or with three rows of floats as a trimaran.

*Reporting authority* means a State listed in 33 CFR part 173, Appendix A, as having a numbering system approved by the Coast Guard or the Coast Guard itself when a numbering system has not been approved.

*Rowboat* means an open vessel manually propelled by oars.

*Sail only* means a vessel propelled only by sails.

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

*State of principal operation* means the State in whose waters a vessel is or will be operated most during a calendar year.

*Sterndrive* means an engine, powering a propeller using shifts and gears, mounted in front of the transom of a vessel and attached through the transom to a drive unit that is similar to the lower unit of an outboard, which may also be known as an inboard-outdrive or an inboard-outboard.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

■ 20. Add new § 174.16 to read as follows:

**§ 174.16 Verification of hull identification numbers (HINs).**

(a) As used in this section, "action" means an action by an issuing authority listed in 33 CFR part 173, Appendix A, to issue, renew, or update the ownership information for a certificate

of number under this part but does not include the issuance of a temporary certificate under 33 CFR 174.21.

(b) As of January 1, 2017, before taking any action relating to a vessel imported or manufactured on or after November 1, 1972, the issuing authority must determine whether the vessel has a primary HIN meeting the requirements of 33 CFR part 181, subpart C.

(c) If, pursuant to paragraph (b) of this section, the issuing authority determines that the vessel does not have a primary HIN meeting the requirements of 33 CFR part 181, subpart C, then before taking any action the issuing authority must—

(1) Assign such a primary HIN to the vessel; and

(2) Verify that the owner of the vessel has permanently affixed the assigned primary HIN to the vessel in compliance with 33 CFR part 181, subpart C.

■ 21. Revise § 174.17 to read as follows:

**§ 174.17 Contents of application for certificate of number.**

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

(1) Name of owner.

(2) Address of owner, including ZIP code.

(3) Owner identifier, which must be the owner's tax identification number, date of birth together with driver's license number, or date of birth together with other unique number.

(4) State of principal operation.

(5) Number previously issued by an issuing authority.

(6) Application type: Authorized terms are “new number”, “renewal of number”, or “transfer of ownership”.

(7) Primary operation: Authorized terms are, “charter fishing”, “commercial fishing”, “commercial passenger carrying”, “dealer or manufacturer demonstration”, “other commercial operation”, “pleasure”, or “rent or lease”.

(8) Make and model of vessel.

(9) Model year.

(10) Hull identification number, if any.

(11) Overall length of vessel.

(12) Vessel type: Authorized terms are “air boat”, “auxiliary sail”, “cabin motorboat”, “houseboat”, “inflatable boat”, “open motorboat”, “paddlecraft”, “personal watercraft”, “pontoon boat”, “rowboat”, “sail only”, or “other”.

(13) Hull material: Authorized terms are “aluminum”, “fiberglass”, “plastic”, “rubber/vinyl/canvas”, “steel”, “wood”, or “other”.

(14) Propulsion type: Authorized terms are “air thrust”, “manual”, “propeller”, “sail”, “water jet”, or “other”.

(15) Engine drive type: Authorized terms are “inboard”, “outboard”, “pod drive”, “sterndrive”, or “other”.

(16) Fuel: Authorized terms are “electric”, “diesel”, “gas”, or “other”.

(17) Signature of the owner.

(b)(1) 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.

(2) An application made by an owner of a vessel without propulsion machinery may omit the information under paragraphs (a)(16) and (a)(17) of this section.

(c) For an issuing authority listed in 33 CFR part 173, Appendix A on April 27, 2012, the requirements of paragraphs (a) and (b) of this section apply on January 1, 2017. Between April 27, 2012 and January 1, 2017, the issuing authority may continue to accept applications containing the contents required by that reporting authority prior to April 27, 2012.

■ 22. Revise § 174.19 to read as follows:

**§ 174.19 Contents of a certificate of number.**

(a) Except as allowed in paragraph (b) 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 operation.

(4) Name of owner.

(5) Address of owner, including ZIP code.

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

(7) Hull identification number, if any.

(8) Make and model of vessel.

(9) Model year.

(10) Overall length of vessel.

(11) Vessel type: Authorized terms are “air boat”, “auxiliary sail”, “cabin motorboat”, “houseboat”, “inflatable boat”, “open motorboat”, “paddlecraft”, “personal watercraft”, “pontoon boat”, “rowboat”, “sail only”, or “other”.

(12) Hull material: Authorized terms are “aluminum”, “fiberglass”, “plastic”, “rubber/vinyl/canvas”, “steel”, “wood”, or “other”.

(13) Propulsion type: Authorized terms are “air thrust”, “manual”, “propeller”, “sail”, “water jet”, or “other”.

(14) Engine drive type: Authorized terms are “inboard”, “outboard”, “pod drive”, “sterndrive”, or “other”.

(15) Fuel: Authorized terms are “electric”, “diesel”, “gas”, or “other”.

(b)(1) 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.

(2) A certificate of number issued for a vessel without propulsion machinery may omit paragraphs (a)(14) and (a)(15) of this section if the words “manual vessel” are plainly marked on the certificate.

(3) An issuing authority may print on the certificate of number a quotation of State boating regulations or other boating-related information, such as safety reminders, registration, or law enforcement contact information.

(c) For an issuing authority listed in Appendix A of this part on April 27, 2012, the requirements of paragraphs (a) and (b) of this section apply on January 1, 2017. Between April 27, 2012 and January 1, 2017, the issuing authority may continue to issue certificates of number containing the contents in effect on April 27, 2012.

■ 23. Revise § 174.21 to read as follows:

**§ 174.21 Temporary certificates.**

(a) An issuing authority may issue a temporary certificate of number, valid for no more than 60 days from its date of issuance.

(b) Each temporary certificate must contain the following information:

(1) Vessel's hull identification number, if any.

(2) Make of vessel.

(3) Overall length of vessel.

(4) Type of propulsion.

(5) State in which vessel is principally operated.

(6) Name of owner.

(7) Address of owner, including ZIP code.

(8) Signature of owner.

(9) Date of issuance.

(10) Notice to the owner that the temporary certificate is valid for the time it specifies, not to exceed 60 days from the date of issuance.

(c) For an issuing authority listed in 33 CFR part 173, Appendix A on April 27, 2012, the requirements of paragraph (b) of this section apply on January 1, 2017. Between April 27, 2012 and January 1, 2017, the issuing authority may continue to issue temporary certificates containing the contents in effect on April 27, 2012.

■ 24. Revise § 174.121 to read as follows:

**§ 174.121 Forwarding of casualty or accident reports.**

Within 30 days of the receipt of a casualty or accident report, the reporting authority receiving the report must forward a paper or electronic copy of that report to the Commandant (CG-5422), U.S. Coast Guard, 2100 Second St. SW., Stop 7581, Washington, DC 20593-7581.

- 25. Revise § 174.125 to read as follows:

**§ 174.125 Coast Guard address.**

The report required by § 174.123 of this subpart must be sent to the Commandant (CG-5422), U.S. Coast Guard, 2100 Second St. SW., Stop 7581, Washington, DC 20593-7581.

**PART 181—MANUFACTURER REQUIREMENTS**

- 26. The authority citation for part 181 is revised to read as follows:

**Authority:** 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1 (92).

- 27. Revise § 181.1 to read as follows:

**§ 181.1 Purpose and applicability; preemptive effect.**

This part prescribes requirements for the certification of boats and associated equipment and identification of boats to which 46 U.S.C. chapter 43 applies. The regulations in this part have the preemptive effect described in 46 U.S.C. 4306.

- 28. Amend § 181.3 by revising the definition of “Manufacturer” and by adding, in alphabetical order, the definition of “State” to read as follows:

**§ 181.3 Definitions.**

\* \* \* \* \*

*Manufacturer* means any person engaged in—

(1) The manufacture, construction, or assembly of boats or associated equipment; or

(2) The importation of boats, associated equipment, or the components thereof, into the United States for sale.

\* \* \* \* \*

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

- 29. Revise § 181.23 to read as follows:

**§ 181.23 Hull identification numbers required.**

(a) A manufacturer must identify each boat produced or imported with primary and secondary hull identification numbers permanently affixed in accordance with § 181.29 of this subpart.

(b) A person who manufactures or imports a boat for his or her own use and not for sale must obtain the required hull identification number in accordance with the requirements of the issuing authority listed in 33 CFR part 173, Appendix A for the boat’s State of principal operation and permanently affix the HIN to the boat in accordance with § 181.29 of this subpart.

(c) No person may assign the same HIN to more than one boat.

- 30. Revise § 181.31 to read as follows:

**§ 181.31 Manufacturer identification code assignment.**

(a) Each person required by § 181.23(a) of this part to affix hull identifications numbers must request a manufacturer identification code in writing from the Commandant (CG-54223), 2100 Second St. SW., Stop 7581, Washington, DC 20593-7581. The request must indicate the manufacturer’s name and U.S. address along with the general types and lengths of boats that will be manufactured.

(b) For boats manufactured outside of the jurisdiction of the United States, a U.S. importer must obtain a manufacturer identification code as required by paragraph (a) of this section. The request must indicate the importer’s name and U.S. address along with a list of the manufacturers, their addresses, and the general types and sizes of boats that will be imported. If a nation has a hull identification number system which has been accepted by the Coast Guard for the purpose of importing boats, it may be used by the importer instead of the one specified within this subpart. To request a list of those nations having such a numbering system, write to the Commandant (CG-54223), 2100 Second St. SW., Stop 7581, Washington, DC 20593-7581.

**PART 187—VESSEL IDENTIFICATION SYSTEM**

- 31. The authority citation for part 187 is revised to read as follows:

**Authority:** 46 U.S.C. 2103, 12501; Department of Homeland Security Delegation No. 0170.1(92).

- 32. Revise § 187.11 to read as follows:

**§ 187.11 What are the procedures to participate in VIS?**

(a) A State wanting to participate in VIS must inform the Commandant in writing, describing its willingness and ability to comply with each requirement of § 187.201 of this part. If the Commandant is satisfied that the State will comply fully with § 187.201 of this part, the State will be allowed to participate in VIS and will be listed in Appendix A to this part, for as long as the Commandant determines that the State complies fully with § 187.201 of this part.

(b) A State wanting to participate in VIS but unable to comply with one or more requirements of § 187.201 of this part may participate in VIS under one or more waivers, for good cause shown. For purposes of this section, “good cause” includes the existence of State law prohibiting full compliance. A State wanting to participate in VIS under one or more waivers must—

(1) Inform the Commandant in writing;

(2) Describe the requirement or requirements for which waiver is sought and the good cause for noncompliance; and

(3) Describe the steps the State intends to take to remove the good cause and the anticipated time needed to do so.

(c) The Commandant may allow a State to participate in VIS under one or more waivers, pursuant to a memorandum of agreement between the Coast Guard and the State.

(1) The memorandum of agreement recites the information provided by the State under paragraph (b) of this section and is valid for not more than 3 years, during which time the State will be deemed to participate in VIS and be listed in Appendix A to this part.

(2) The State may withdraw from the memorandum of agreement and participation in VIS upon written notice to the Commandant. The Commandant may terminate the memorandum of agreement and the State’s participation in VIS for non-compliance with the terms of the memorandum.

(3) Participation in VIS under one or more waivers beyond the term of the initial memorandum of agreement requires a new memorandum.

(4) If the good cause for waivers is eliminated within the term of the memorandum of agreement, the State may so inform the Commandant in writing. The Commandant may then consider the State to participate in VIS under paragraph (a) of this section.

- 33. Amend § 187.101 as follows:

■ a. Revise paragraphs (a)(4) and (b)(5)(i) to read as follows;



- b. Remove and reserve paragraph (b)(5)(ii); and
- c. Remove paragraph (b)(5)(iii).

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

(a) \* \* \*

(4) Owner identifier, which must be the owner's tax identification number, date of birth together with driver's license number, or date of birth together with other unique number.

(b) \* \* \*

(5) \* \* \*

(i) Owner identifier, which must be the owner's tax identification number, date of birth together with driver's license number, or date of birth together with other unique number.

- 34. Revise § 187.103 to read as follows:

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

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

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

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

(c) Number on certificate of 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) Make and model of vessel.

(g) Model year.

(h) Overall length of vessel.

(i) Vessel type: Authorized terms are "air boat", "auxiliary sail", "cabin motorboat", "houseboat", "inflatable boat", "open motorboat", "paddlecraft", "personal watercraft", "pontoon boat", "rowboat", "sail only", or "other".

(j) Hull material: Authorized terms are "aluminum", "fiberglass", "plastic", "rubber/vinyl/canvas", "steel", "wood", or "other".

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

(l) Engine drive type: Authorized terms are "inboard", "outboard", "pod drive", "sterndrive", or "other".

(m) Fuel: Authorized terms are "electric", "diesel", "gas", or "other".

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

Dated: March 15, 2012.

**Paul F. Thomas,**

*Captain, U.S. Coast Guard, Acting Director of Prevention Policy.*

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**BILLING CODE 9110-04-P**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2011-9]

#### Fees

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office of the Library of Congress is publishing a final rule establishing an additional fee for a particular service: Travel expenses in connection with educational activities.

**DATES:** *Effective Date:* March 28, 2012.

**FOR FURTHER INFORMATION CONTACT:**

David O. Carson, General Counsel, P.O. Box 70400, Washington, DC 20024-0400, Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:**

#### Background

This final rule adjusts Copyright Office's schedule of fees by adding a fee for travel expenses in connection with participation by Copyright Office personnel in various educational activities when participation has been requested by another organization or person and that organization or person has agreed to reimburse the Office for travel expenses. As the office administering the nation's records of copyright ownership and as the advisor to Congress, the federal departments and agencies and the judiciary on national and international issues relating to copyright, the Copyright Office has long considered informing and educating the public on copyright issues to be a strategic goal. In furtherance of that goal, the Office has long engaged in various educational programs to inform the public on copyright issues. The Office performs these activities under its broader authority set forth in 17 U.S.C. 701(b)(4), which directs the Office to "[c]onduct studies and programs regarding copyright, other matters arising under this title, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs

conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations."

Frequently, the Register of Copyrights and other Copyright Office employees are requested to travel to speak to various groups of authors, copyright owners, their representatives, users of copyrighted works, and other members of the public to provide information about the activities of the Copyright Office, including copyright registration and recordation, the statutory licenses, pending and enacted copyright legislation, Copyright Office regulations, international copyright developments, significant copyright litigation matters, etc. Because the Copyright Office has limited travel funds and because various organizations consider it highly beneficial to host presentations by Copyright Office officials, it has been the general practice of the Office to request that the sponsoring organization or person pay the travel expenses of the Copyright Office personnel. More often than not, the Office's limited travel funds would not permit the Office to send anyone to participate in such programs unless the sponsoring organization or person is willing to pay those expenses.

This regulation codifies the authority for payment of those travel expenses. It adds a new paragraph (f) to the Copyright Office fee schedule in § 201.3 of the Code of Federal Regulations, and provides that the Copyright Office shall charge a fee, consistent with the Federal Travel Regulations (FTR) set forth in Chapters 300 through 304 of Title 41 of the Code of Federal Regulations as well as other applicable laws and regulations, to cover the travel expenses of Copyright Office personnel, in connection with Copyright Office educational activities when participation by Copyright Office personnel has been requested by another person or organization which has agreed to pay such expenses. The fee may be no greater than the amount authorized under the FTR.

The Office is also making a technical amendment to paragraph (b)(2) of § 201.3, changing the reference to section 708(a)(10) of title 17 of the U.S. Code. Due to amendments to section 708, that reference has been changed to section 708(a).

Because this regulatory amendment simply codifies a longstanding practice and is necessary in order to permit uninterrupted operation of the Office's ongoing educational activities, the Register concludes that providing notice and opportunity for comment would be impracticable, unnecessary and contrary