rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 5, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.568 is amended by revising the table in paragraph (b) to read as follows:

§ 180.568 Flumioxazin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Alfalfa, forage ...	0.13	12/31/09
Alfalfa, hay	0.45	12/31/09

* * * * *

[FR Doc. E6–17138 Filed 10–17–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 67 and 68

[USCG–2005–20258]

RIN 1625–AA95

Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends its regulations for documenting lease-financed vessels that have a ''coastwise endorsement'' (i.e., vessels used in trade and passenger service within the U.S. or between U.S. ports and those used in dredging and towing in U.S. waters). The vessels affected by this proposal are owned by foreign owned or controlled U.S. companies, where there is a ''demise charter'' to a U.S. citizen (i.e., an agreement for the charterer to assume responsibility for operating, crewing, and maintaining the vessel as if the charterer owned it).

DATES: This final rule is effective November 17, 2006, except for §§ 68.65, 68.70, 68.75, 68.100, 68.107, and 68.109, which contain certain collection of information requirements that have not

yet been approved by the Office of Management and Budget (OMB). The Coast Guard will publish a document in the **Federal Register** announcing the effective date of those sections.

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–2005–20258 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Patricia Williams, Deputy Director, National Vessel Documentation Center, Coast Guard, telephone 304–271–2506. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Regulatory History
II. Background and Purpose
III. Discussion of Comments and Changes
IV. Regulatory Analysis and Review

I. Regulatory History

On February 15, 2006, we published a notice of proposed rulemaking (proposed rule) entitled ''Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade'' in the **Federal Register** (71 FR 7897). We received 14 letters commenting on the proposed rule. One party requested that the 90-day comment period be extended to 120 days. After consideration of the reasons for the request, we believe that the 90 day comment period was far more than adequate to allow for carefully researched, thoroughly responsive comments and, therefore, deny the request for extension. To do otherwise would be a disservice to those who complied with the published deadline of May 16, 2006, and would unnecessarily delay publication of this final rule. No public meeting was requested and none was held.

II. Background and Purpose

This final rule amends the regulations in title 46, Code of Federal Regulations (CFR), parts 67 and 68, on the documentation of U.S.-built vessels owned by foreign owned or controlled U.S. companies that are lease financed to a U.S. citizen for use in the coastwise trade. Under lease financing, ownership of the vessel is in the name of the owner, with a demise charter to the charterer (i.e., the operator) of the vessel. A demise charter, also known as a bareboat charter, is an agreement in which the charterer assumes the responsibility for operating, crewing, and maintaining the vessel as if the charterer owned it.

This final rule is necessary to align our lease-financing regulations with amendments made by Congress under the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108–293) (the Act) concerning the information needed to determine the eligibility of a vessel owner for a coastwise endorsement under the lease-financing law. As the lease-financing provisions of the Act do not require regulatory action on our part to make them effective, this rule merely aligns our lease-financing regulations with the provisions of the Act. Specifically, the final rule makes the following five changes primarily to align our regulations with the Act:

1. It clarifies the requirements used to determine the eligibility of lease-financed vessels for coastwise endorsements.

2. It permanently grandfathers, from the new statutory requirements, all lease-financed vessels, except for offshore supply vessels documented on or before August 9, 2004.

3. It requires the owners of lease-financed offshore supply vessels with valid coastwise endorsements issued before August 9, 2004, to reapply for a new coastwise endorsement by August 9, 2007.

4. It requires all owners of lease-financed vessels with recently-issued coastwise endorsements (i.e., those issued after August 9, 2004) to certify each year that their ownership and investment status has not changed.

5. It requires entities that enter into a demise sub-charter agreement to file a copy of the sub-charter and amendments to the sub-charter with the Director of the National Vessel Documentation Center (Documentation Center).

III. Discussion of Comments and Changes

By the close of the comment period for the proposed rule, 14 letters were received. Three of the letters were received after the May 16, 2006, deadline. We considered the comments in the late-filed letters, but the comments either were similar to those in the on-time letters or suggested organizational changes that we determined were not suitable for this rulemaking. Thus, we made no changes to the regulatory text as a result of the late-filed letters. The request made by one party for an extension of the comment period is discussed in the ''Regulatory History'' section of this preamble.

1. *Section 68.55.* Two comments requested that paragraph (2) of the definition of the word ''affiliate'' in proposed § 68.55 be changed to include reports submitted to a comparable agency of a foreign government as well as reports submitted to the United States Securities and Exchange Commission (SEC) or the Internal Revenue Service (IRS). They pointed out that not being named as being part of the same consolidated group in any report or other document submitted to the SEC or IRS is not the only proof of non-affiliation. They noted that the affiliation test, as a practical matter, could be applied in cases where the document was not one submitted to the SEC or IRS but to a comparable agency of a foreign government.

Though there is merit to this suggestion, to adopt it would expand the term ''affiliate'' beyond the scope of the definition in the Act. We believe that, in providing a specific definition, Congress expected the Coast Guard to apply that definition.

2. *Section 68.55.* One comment noted that the definition of the term ''passive investment'' in § 68.55, though tracking the language of the Act, needed further clarification. The comment offered no suggestion as to how the definition should be clarified.

We believe that, in providing a specific definition, Congress expected the Coast Guard to apply that definition.

3. *Section 68.55.* One comment requested that we provide a less complicated definition of the term ''qualified proprietary cargo'' than is found in proposed § 68.55. The comment makes no suggestion as to how to improve the definition.

The definition in § 68.55, though lengthy, is identical to the language in the Act. We do not believe that further clarification is necessary or desirable.

4. *Section 68.65(a)(1)(i).* One comment noted that neither the Act nor the proposed rule defines ''leasing company, bank, and financial institution,'' as used in § 68.65(a)(1)(i). They requested that we provide ''a clearer standard for qualification.''

We believe that, by doing so, we could inadvertently and improperly restrict sources of funding. Accordingly, we left the term unchanged.

5. *Section 68.65(a)(2)(vi).* One comment noted a typographical error in

proposed § 68.65(a)(2)(vi), which refers to a non-existent § 68.10.

The correct reference is § 67.20. However, because § 67.20 is removed by this final rule, we revised § 68.65(a)(2)(vi) to read: ''That person owned one or more vessels documented as of August 9, 2004, under § 67.20, as that section was in effect on that date.''

6. *Section 68.70(e).* One comment suggested that, in proposed § 68.70(e), we exclude time charters, voyage charters, and contracts of affreightment from the requirement that they be filed with the Documentation Center.

We disagree. The purpose of § 68.70(e) is to provide for discretionary review by the Documentation Center of these instruments in order to ensure that, regardless of their title, they do not transfer impermissible control of the vessel to a person not qualified to operate vessels in coastwise trade.

7. *Sections 68.70(d) and 68.75(d).* Two comments took issue with the requirement in proposed §§ 68.70(d) and 68.75(d) that sub-charters and amendments to them be filed within 10 days after their effective date. The comments requested that we require sub-charters and amendments to be filed no later than 10 days before their effective date.

Although we understand the concern behind this comment, 46 U.S.C. 12106(e)(2) requires that amendments to charters be filed within 10 days following the filing of an amendment. We believe that all demise charters should be treated equally and that Congress did not intend to place a greater burden on sub-charterers than on the original demise charterer. Therefore, we require both to be filed within 10 days after their effective date.

8. *Section 68.100.* One comment noted that the proposed rule did not account for the special grandfather clause in sections 608(c)(1) and (c)(2) of the Act concerning permanent replacement vessels contracted for purchase or construction not later than December 31, 2004.

We deliberately left these provisions out of our regulations because of the very small universe of vessels to which these provisions apply. Instead, we intend to evaluate applications for these vessels on a case-by-case basis, applying the literal language of the Act.

9. *Section 68.105(b) and (d).* Two comments noted that proposed § 68.105(b) and (d) would extend grandfather provisions to vessels documented before February 4, 2004, instead of those documented before August 9, 2004, as provided by the Act.

We agree and have changed the dates in § 68.105(b) and (d) to August 9, 2004, to align with the Act.

10. *Section 68.111.* Four comments expressed concern that a coastwise endorsement under § 68.111(a)(1) and (b)(1) would be invalidated upon the expiration or termination of a demise charter. The comments noted that, under the Act, vessels documented for coastwise trade under a lease-financing arrangement before August 9, 2004, are ''grandfathered'' and are not subject to regulations published after February 4, 2004.

These provisions are from previous 46 CFR 67.167(c)(10) and (c)(11), which are relocated by this rulemaking, without change, to new § 68.111(a)(1) and (b)(1). We believe that the invalidation of endorsements upon expiration or transfer of a charter is essential to proper management and integrity of the coastwise-documentation process. There are numerous other circumstances under which an endorsement becomes invalid, such as a change in the vessel's tonnage, change of ownership, change of the vessel's name, change of hailing port, or even a failure to renew. However, it has always been our position that vessels documented under 46 U.S.C. 12106(e) before August 9, 2004, will be eligible to apply, under subpart D of part 68, for a new coastwise endorsement. However, because it is probable that other readers may have similar concerns, we have added new paragraph (c) to § 68.111 to clearly state these grandfather rights.

11. A late-filed comment requested that we reorganize the proposed rule to provide a separate subpart for owners of ''certain tank vessels'' specifically addressed in 46 U.S.C. 12106(f)(3). It further requested a new opportunity for comment on the proposed rule following such a reorganization.

We do not believe that a new subpart would be helpful in light of the delay it would cause. The uncertainty engendered by the lack of a final rule while a supplemental notice of proposed rulemaking is being prepared and submitted for comment outweighs any perceived advantage which might be realized through such a reorganization.

12. One late-filed comment requested an extension of the comment period to allow for comments ''within the financial community concerning the desirability of provisions that would allow large non-citizen vessel financing organizations, that might include a single vessel operating affiliate, to qualify on the basis of some form of *de minimis* exception.''

Should we re-open the comment period as suggested, we would not be able to consider this issue because the Act makes no provision for these exceptions. Therefore, we did not adopt this suggestion.

13. *Third-party audits.* Four comments addressed the issue of third-party audits in response to a question in the preamble to the proposed rule (71 FR 7899; February 15, 2006). The proposed rule itself did not contain a third-party-audit provision. The question was: ''Should we require each applicant for a coastwise endorsement issued under lease financing to provide a certification from an independent auditor with expertise in the business of vessel financing and operations?''

All of the comments on third-party-audit question stated that any benefit which might be derived from these audits would be outweighed by the cost of the audits. As explained in the preamble to the proposed rule (71 FR 7899), the same question was asked in an earlier lease-financing rulemaking that was withdrawn on April 13, 2005, before the Act was passed. Though the comments to the withdrawn rulemaking were evenly split between those favoring third-party audits and those opposing it, we believe that the new self-certification requirement in the Act (46 U.S.C. 12106(f)) evidently caused those who favored third-party audits to change their minds. Therefore, we do not intend to further consider the issue of third-party audits.

IV. Regulatory Analysis and Review

Assessment

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review. We expect the economic impact of this rule to be minimal. The supplemental ''Regulatory Analysis'' in the docket for the proposed rule is unchanged for the final rule. There were no comments on the Regulatory Analysis. A summary of the analysis follows:

The Coast Guard amends its regulations on the documentation for U.S.-built vessels owned by foreign-owned or controlled U.S. companies that are lease financed to a U.S. citizen for use in the coastwise trade. This rule addresses amendments provided by Congress under the Act concerning information needed to determine the eligibility of a vessel owner for a coastwise endorsement under the lease-financing law.

This rule will update and provide consistent documentation requirements to determine the eligibility of lease-

financed vessels for coastwise endorsements as discussed under the ''Background and Purpose'' section of this preamble. The rule also implements the Congressionally-mandated permanent grandfathering of all lease-financed vessels, except for offshore supply vessels documented on or before August 9, 2004, from the new requirements.

This rule will make three changes to the existing regulations that will cause additional costs to industry. First, it requires owners of lease-financed offshore supply vessels with valid coastwise endorsements issued before August 9, 2004, to reapply for a new coastwise endorsement by August 9, 2007. Second, it will require all owners of lease-financed vessels with recently issued coastwise endorsements (i.e., those issued after August 9, 2004) to certify each year that their ownership and investment status has not changed. Lastly, it will require entities that enter into a demise sub-charter agreement to file a copy of the sub-charter and amendments to the sub-charter with the Director of the Documentation Center. These changes are additional collection-of-information (paperwork) requirements.

Based on Coast Guard data, we estimate that this rule will affect eight current owners of offshore supply vessels. We also estimate, from the Coast Guard data and information from the Documentation Center, that there will be 25 current and future owners affected by the annual certification requirements of this rule, which includes the eight owners of offshore supply vessels affected by this rule. Based on projections from the Documentation Center, we assume that there will be approximately three demise sub-charter agreements over the next 10 years.

We estimate that the total first-year cost of this rule to industry is $11,059. This first-year cost includes the one-time cost to the affected offshore supply vessel owners to reapply for a new coastwise endorsement, the first year cost of annual certification for the affected vessel owners, and a portion of the cost to affected vessel charterers associated with paperwork submissions of future demise sub-charter agreements. After the first year of implementation, the total annual cost of this rule to industry is $1,621, which is the first-year cost less the one-time cost to the affected offshore supply vessel owners to reapply for a new coastwise endorsement. The estimated 10-year (2006–2015), discounted present value of the total cost of this rule to all affected owners and charterers is $21,623 based on a 7 percent discount rate and $23,684 based on a 3 percent discount rate.

The benefit of this rule is that it updates and provides consistent documentation requirements. These requirements comply with mandates provided by Congress under the Act concerning information and documentation needed to determine the eligibility of a vessel owner. These updated documentation requirements will assist the Coast Guard in determining the eligibility of lease-financed vessels for coastwise endorsements. We need this information to determine whether an entity meets the current statutory requirements. We will use these documentation requirements to issue coastwise endorsements to eligible lease-financed vessels.

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 less than 50,000. This rule will not have a significant economic impact on a substantial number of small entities. The Initial Regulatory Flexibility Analysis in the supplemental ''Regulatory Analysis'' in the docket for the proposed rule is unchanged for the final rule.

This rule will affect owners of lease-financed offshore supply vessels with valid coastwise endorsements issued before August 9, 2004, owners of lease-financed vessels with recently-issued coastwise endorsements, and charterers that enter into a demise sub-charter agreement.

The owners and charterers mentioned above are U.S. subsidiaries or branch companies that are owned or controlled by larger, foreign, corporate affiliates and, therefore, are considered as ''one party with such interests aggregated'' under the small business size regulations (13 CFR 121.103). We determined in the Initial Regulatory Flexibility Analysis whether an owner is a small or large entity using the North American Industry Classification System (NAICS) codes and the small entity revenue or employee size standards provided by the U.S. Small Business Administration (SBA).

Based on our determination in the Initial Regulatory Flexibility Analysis in the docket for the proposed rule, the owners in each NAICS code category exceed the SBA size standard and are classified as large businesses. We received no comments on this initial determination or any potential economic impacts on small entities from this rulemaking.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking. The proposed rule provided small businesses, organizations, and governmental jurisdictions with a Coast Guard contact to handle questions concerning this rule's provisions.

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).

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Under 46 CFR 68.65, 68.70, 68.75, 68.100, 68.107, and 68.109, this rule will amend the collection-of-information requirements for vessel owners and charterers engaging in the coastwise trade under the lease-financing provisions of 46 U.S.C. 12106(e). The Coast Guard needs this information to determine whether an entity meets the statutory requirements. These provisions will modify the burden in the collection previously approved by the Office of Management and Budget (OMB) under OMB Control Number 1625–0027, Vessel Documentation.

We performed an assessment of the additional burden associated with these provisions and published them in the proposed rule and in the supplemental ''Regulatory Analysis'' in the docket. We received no public comment on the assessment of these provisions or the extent they modify the burden in the

previously approved collection. The assessment published in the proposed rule and the supplemental Regulatory Analysis in the docket is unchanged for the final rule.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to OMB for its review of the collection of information. OMB has not yet completed its review of, or approved the changes to, this collection. Therefore, §§ 68.65, 68.70, 68.75, 68.100, 68.107, and 68.109 in this rule will not become effective until this collection is approved by OMB. We will publish a notice in the **Federal Register** announcing OMB's approval and effective date of those sections.

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(d), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 68

Oil pollution, Reporting and recordkeeping requirements, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 67 and 68 as follows:

PART 67—DOCUMENTATION OF VESSELS

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2110; 46 U.S.C. app. 876; Department of Homeland Security Delegation No. 0170.1.

§ 67.3 [Amended]

■ 2. In § 67.3, remove the following terms and their definitions: ''affiliate,'' ''group,'' ''operation or management of vessels,'' ''parent,'' ''primarily engaged in leasing or other financing transactions,'' ''sub-charter,'' and ''subsidiary.''

§ 67.20 [Removed]

■ 3. Remove § 67.20.

§ 67.35 [Amended]

■ 4. In § 67.35(c), remove the words ''§ 67.20'' and add, in their place, the words ''§§ 68.60 or 68.105 of this chapter''.

§ 67.36 [Amended]

■ 5. In § 67.36(c)(2), remove the words ''§ 67.20'' and add, in their place, the words ''§ 68.60 or § 68.105 of this chapter''.

§ 67.39 [Amended]

■ 6. In § 67.39(c)(2), remove the words ''§ 67.20'' and add, in their place, the words ''§ 68.60 or § 68.105 of this chapter''.

§ 67.147 [Removed]

■ 7. Remove § 67.147.

■ 8. In § 67.167, in paragraph (c)(9), following the semicolon, add the word ''and''; revise paragraph (c)(10) to read as shown below; and remove paragraph (c)(11):

§ 67.167 Requirement for exchange of Certificate of Documentation.

* * * * *

(c) * * *

(10) For a vessel with a coastwise endorsement under 46 U.S.C. 12106(e), one of the events in §§ 68.80 or 68.111 of this chapter occurs.

§ 67.179 [Removed]

■ 9. Remove § 67.179.

PART 68—DOCUMENTATION OF VESSELS: EXCEPTIONS TO COASTWISE QUALIFICATION

■ 10. Revise the authority citation for part 68 to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2110; 46 U.S.C. app. 876; Department of Homeland Security Delegation No. 0170.1.

■ 11. Revise the heading to part 68 to read as shown above.

Subpart 68.03 [Removed]

■ 12. Remove subpart 68.03.

■ 13. In part 68—

■ a. Redesignate the subparts and their appendices as shown in the following table:

Old subpart/appendix	New subpart/appendix
Subpart 68.01	Subpart A.
Appendix A to Subpart 68.01 of Part 68	Appendix A to Subpart A of Part 68.
Appendix B to Subpart 68.01 of Part 68	Appendix B to Subpart A of Part 68.
Subpart 68.03	[Removed].
Subpart 68.05	Subpart B.
Appendix A to Subpart 68.05 of Part 68	Appendix A to Subpart B of Part 68.
Appendix B to Subpart 68.05 of Part 68	Appendix B to Subpart B of Part 68.

■ b. In the redesignated subparts, redesignate the sections as shown in the following table:

Old section	New section
68.01–1	68.3
68.01–3	68.5
68.01–5	68.7
68.01–7	68.9
68.01–9	68.11
68.01–11	68.13
68.01–13	68.15
68.01–15	68.17
68.01–17	68.19
68.05–1	68.25
68.05–3	68.27
68.05–5	68.29
68.05–7	68.31
68.05–9	68.33
68.05–11	68.35
68.05–13	68.37

■ c. In the redesignated sections listed in the first column of the following table, the reference in the second column is revised to read as shown in the third column:

New section	Old reference	New reference
68.7	68.01–3	68.5
68.7	68.01–9(a)	68.11(a)
68.9	68.01–1	68.3
68.9	68.01–9(a)	68.11(a)
68.11	68.01–5	68.7
68.11	68.01–3(a)	68.5(a)
68.11	68.01–11	68.13
68.11	68.01–13	68.15
68.11	68.01–7	68.9
68.11	13	68.15
68.13	68.01–15	68.17
68.13	68.01–17	68.19
68.15	68.01–15	68.17
68.15	68.01–1	68.3
68.15	68.01–15(c)	68.17(c)
68.17	68.01–1	68.3
68.19	68.01–5	68.7
68.29	68.05–9	68.33
68.31	68.05–5	68.29
68.35	68.05–13	68.37
68.35	68.05–7(a)	68.31(a)
68.37	68.05–11(a)	68.35(a)
68.37	68.05–5	68.29
68.37	68.05–9	68.33

■ d. The table of contents for part 68 reads as follows:

PART 68—DOCUMENTATION OF VESSELS: EXCEPTIONS TO COASTWISE QUALIFICATION

Subpart A—Regulations for Engaging in Limited Coastwise Trade

Sec.
68.1 Purpose of subpart.
68.3 Definitions for the purposes of this subpart.
68.5 Requirements for citizenship under 46 U.S.C. App. 833–1.
68.7 Qualification as an 883–1 corporation.
68.9 Qualification as a parent or subsidiary.
68.11 Cessation of qualifications.
68.13 Privileges conferred—documentation of vessels.
68.15 Privileges conferred—operation of vessels.
68.17 Restrictions.
68.19 Application by an 883–1 corporation to document a vessel.
Appendix A to Subpart A of Part 68—Oath for the Qualification of Corporation as a Citizen of the United States Under the Act of Sept. 2, 1958 (46 U.S.C. 883–1)
Appendix B to Subpart A of Part 68—Oath of Parent or Subsidiary Corporation Act of September 2, 1958 (46 U.S.C. 883–1)

Subpart B—Documentation of Certain Vessels for Oil Spill Cleanup

68.25 Purpose and scope.
68.27 Definitions for purpose of this subpart.
68.29 Citizenship requirements for limited coastwise endorsement.
68.31 Vessel eligibility requirements for limited coastwise endorsement.
68.33 Privileges of a limited coastwise endorsement.
68.35 Application to document a vessel under this subpart.
68.37 Cessation of qualifications.
Appendix A to Subpart B of Part 68—Oath for Qualification of a Not-For-Profit Oil Spill Response Cooperative
Appendix B to Subpart B of Part 68—Oath for Documentation of Vessels for Use by a Not-For-Profit Oil Spill Response Cooperative

Subpart C—Vessels With a Coastwise Endorsement Issued on or After August 9, 2004, That Are Demised Chartered to Coastwise Qualified Citizens

68.50 Purpose and applicability.
68.55 Definitions.
68.60 Eligibility of a vessel for a coastwise endorsement under this subpart.
68.65 Annual ownership certification.
68.70 Application procedure for vessels other than barges to be operated in coastwise trade without being documented.
68.75 Application procedure for barges to be operated in coastwise trade without being documented.
68.80 Invalidation of a coastwise endorsement.

Subpart D—Vessels With a Coastwise Endorsement Issued Before August 9, 2004, and Their Replacements That Are Demise Chartered to Coastwise Qualified Citizens

68.100 Purpose and applicability.
68.103 Definitions.
68.105 Eligibility of a vessel for a coastwise endorsement under this subpart.
68.107 Application procedure for vessels other than barges to be operated in

coastwise trade without being documented.
68.109 Application procedure for barges to be operated in coastwise trade without being documented.
68.111 Invalidation of a coastwise endorsement.

■ 14. In part 68, revise the heading to subpart A to read as follows:

Subpart A—Regulations for Engaging in Limited Coastwise Trade

■ 15. Add § 68.1 to subpart A to read as follows:

§ 68.1 Purpose of subpart.

This subpart contains citizen ownership requirements and procedures to allow documentation of vessels that do not meet the requirements of part 67 of this chapter. The requirements are for corporations engaged in a manufacturing or mineral industry in the United States.

§ 68.7 [Amended]

■ 16. In § 68.7—
■ a. In paragraph (b), after the redesignated number ''§ 68.11(a)'', remove the words ''of this subpart''; and following the words ''appendix A'', add the words ''of this subpart''.

§ 68.9 [Amended]

■ 17. In § 68.9—
■ a. In paragraph (a), following the words ''appendix B'', add the words ''of this subpart'';
■ b. In paragraph (b), following the words ''appendix B'', add the words ''of this subpart''; and
■ c. In paragraph (c), following the redesignated number ''§ 68.11(a)'', remove the words ''of this subpart''; and, following the words ''appendix B'', add the words ''of this subpart''.

§ 68.11 [Amended]

■ 18. In § 68.11—
■ a. In paragraph (a), after the redesignated number ''§ 68.7'', remove the words ''of this subpart''; and
■ b. In paragraph (b), after the redesignated number ''§ 68.9'', remove the words ''of this subpart''.

Appendix A to Subpart A of Part 68 [Amended]

■ 19. In appendix A—
■ a. In the appendix heading and in the text, remove the words ''(46 U.S.C. 883–1)'' and add, in their place, the words ''(46 U.S.C. app. 883–1)''; and
■ b. Following the word ''§ 67.39(c)'', add the words ''of this chapter''.

Appendix B to Subpart A of Part 68 [Amended]

■ 20. In appendix B, in the appendix heading and in the text, remove the words ''(46 U.S.C. 883–1)'' and add, in their place, the words ''(46 U.S.C. app. 883–1)''.

■ 21. Add new subpart C, consisting of §§ 68.50 through 68.80, to read as follows:

Subpart C—Vessels With a Coastwise Endorsement Issued on or After August 9, 2004, That Are Demised Chartered to Coastwise Qualified Citizens

Sec.
68.50 Purpose and applicability.
68.55 Definitions.
68.60 Eligibility of a vessel for a coastwise endorsement under this subpart.
68.65 Annual ownership certification.
68.70 Application procedure for vessels other than barges to be operated in coastwise trade without being documented.
68.75 Application procedure for barges to be operated in coastwise trade without being documented.
68.80 Invalidation of a coastwise endorsement.

Subpart C—Vessels With a Coastwise Endorsement Issued on or After August 9, 2004, That Are Demised Chartered to Coastwise Qualified Citizens

§ 68.50 Purpose and applicability.

(a) This subpart contains requirements, in addition to those in part 67 of this chapter, for obtaining a coastwise endorsement for a U.S.-built vessel—

(1) That is owned by a person that qualifies as a citizen under §§ 67.35(a), 67.36(a), 67.37, or 67.39(a) of this chapter; and

(2) That is demise chartered to a coastwise qualified citizen under §§ 67.33, 67.35(c), 67.36(c), 67.37, 67.39(c), or 67.41 of this chapter.

(b) This subpart applies to a vessel with a coastwise endorsement issued on or after August 9, 2004. It does not apply to a vessel under subpart D of this part.

§ 68.55 Definitions.

In addition to the terms defined in § 67.3 of this chapter, as used in this subpart—

Affiliate means, with respect to any person, any other person that is—

(1) Directly or indirectly controlled by, under common control with, or controlling that person; or

(2) Named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

Cargo does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of § 68.65(a)(2).

Oil has the meaning given that term in 46 U.S.C. 2101(20).

Operation or management, for vessels, means all activities related to the use of vessels to provide services. These activities include, but are not limited to, ship agency; ship brokerage; activities performed by a vessel operator or demise charterer in exercising direction and control of a vessel, such as crewing, victualing, storing, and maintaining the vessel and ensuring its safe navigation; and activities associated with controlling the use and employment of the vessel under a time charter or other use agreement. It does not include activities directly associated with making financial investments in vessels or the receipt of earnings derived from these investments.

Passive investment means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the use, operation, or management of the asset that is the subject of the investment.

Qualified proprietary cargo means—

(1) Oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who submits to the Director, National Vessel Documentation Center, an application or annual certification under § 68.65(a)(2), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

(2) Oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person who submits to the Director, National Vessel Documentation Center, an application or an annual certification under § 68.65(a)(2), or by an affiliate of that person, but that is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

(3) In the case of a towing vessel associated with a non-self-propelled tank vessel where the two vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas

cargo that is beneficially owned by the person who owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of the two vessels; or

(4) Any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters (about 689 feet) or a tank vessel that is a liquefied natural gas carrier that—

(i) Was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

(ii) Was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

Sub-charter means all types of charters or other contracts for the use of a vessel that are subordinate to a charter. The term includes, but is not limited to, a demise charter, a time charter, a voyage charter, a space charter, and a contract of affreightment.

United States affiliate means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

§ 68.60 Eligibility of a vessel for a coastwise endorsement under this subpart.

(a) To be eligible for a coastwise endorsement under 46 U.S.C. 12106(e) and to operate in coastwise trade under 46 U.S.C. 12106(e) and 12110(b), a vessel must meet the following:

(1) The vessel is eligible for documentation under 46 U.S.C. 12102.

(2) The vessel is eligible for a coastwise endorsement under § 67.19(c) of this chapter and has not lost coastwise eligibility under § 67.19(d) of this chapter.

(3) The person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) makes the certification in § 68.65.

(4) The person that owns the vessel has transferred to a qualified U.S. citizen under 46 U.S.C. app. 802 full possession, control, and command of the vessel through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(5) The charterer must certify to the Director, National Vessel Documentation Center, that the charterer is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(6) The demise charter is for a period of at least 3 years, unless a shorter period is authorized by the Director, National Vessel Documentation Center, under circumstances such as—

(i) When the vessel's remaining life would not support a charter of 3 years; or

(ii) To preserve the use or possession of the vessel.

(b) To apply for a coastwise endorsement for a vessel under a demise charter, see § 68.70 and, for a barge, see § 68.75.

Note to § 68.60: Section 608(b) of Public Law 108–293 provides special requirements for certain vessels in the Alaska trade.

§ 68.65 Annual ownership certification.

(a) At the time of initial application for documentation and at the time for annual renewal of the endorsement as required by § 67.163 of this chapter, the person that owns a vessel with a coastwise endorsement under § 68.60 must certify in writing to the Director, National Vessel Documentation Center—

(1) That the person who owns a vessel with a coastwise endorsement under § 68.60—

(i) Is a leasing company, bank, or financial institution;

(ii) Owns, or holds the beneficial interest in, the vessel solely as a passive investment;

(iii) Does not operate any vessel for hire and is not an affiliate of any person who operates any vessel for hire; and

(iv) Is independent from, and not an affiliate of, any charterer of the vessel or any other person who has the right, directly or indirectly, to control or direct the movement or use of the vessel.

(2) For vessels under paragraph (b) of this section, that—

(i) The aggregate book value of the vessels owned by that person and United States affiliates of that person does not exceed 10 percent of the aggregate book value of all assets owned by that person and its United States affiliates;

(ii) Not more than 10 percent of the aggregate revenues of that person and its United States affiliates is derived from the ownership, operation, or management of vessels;

(iii) At least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by that person and its United States affiliates and documented under 46 U.S.C. 12106 is qualified proprietary cargo;

(iv) Any cargo other than qualified proprietary cargo carried by all vessels owned by that person and its United States affiliates and documented under 46 U.S.C. 12106 consists of oil, petroleum products, petrochemicals, or liquified natural gas;

(v) No vessel owned by that person or any of its United States affiliates and documented under 46 U.S.C. 12106 carries molten sulphur; and

(vi) That person owned one or more vessels documented as of August 9, 2004, under § 67.20, as that section was in effect on that date.

(b) Paragraph (a)(2) of this section applies only to—

(1) A tank vessel having a tonnage of not less than 6,000 gross tons, as measured under 46 U.S.C. 14502 (or an alternative tonnage measured under 46 U.S.C. 14302 as prescribed under 46 U.S.C. 14104); or

(2) A towing vessel associated with a non-self-propelled tank vessel that meets the requirements of paragraph (b)(1) of this section, where the two vessels function as a single self-propelled vessel.

Note to § 68.65: The Secretary of Transportation may waive or reduce the qualified proprietary cargo requirement of § 68.65(a)(2)(iii) for a vessel if the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) notifies the Secretary that circumstances beyond the direct control of the person that owns the vessel or its affiliates prevent, or reasonably threaten to prevent, the person that owns the vessel from satisfying this requirement, and the Secretary does not, with good cause, determine otherwise. The waiver or reduction applies during the period of time that the circumstances exist.

§ 68.70 Application procedure for vessels other than barges to be operated in coastwise trade without being documented.

(a) The person that owns the vessel (other than a barge under § 68.75) and that seeks a coastwise endorsement under § 68.60 must submit the following to the National Vessel Documentation Center:

(1) Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (form CG–1258);

(2) Title evidence, if applicable;

(3) Mortgagee consent on form CG–4593, if applicable;

(4) If the application is for replacement of a mutilated document or for exchange of documentation, the outstanding Certificate of Documentation;

(5) The certification required by § 68.65(a)(1) or, if a vessel under § 68.65(b), the certification required by § 68.65(a)(2);

(6) A certification in the form of an affidavit and, if requested by the Director, National Vessel Documentation Center, supporting documentation establishing the following facts with respect to the transaction from an individual who is authorized to provide certification on behalf of the person that owns the vessel and who is an officer in a corporation, a partner in a partnership, a member of the board of managers in a limited liability company, or their equivalent. The certificate must certify that the person that owns the vessel has transferred to a qualified United States citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built vessel through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(7) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer must submit the following to the National Vessel Documentation Center:

(1) A certificate certifying that the charterer is a citizen of the United States for the purpose of engaging in the coastwise trade under 46 U.S.C. app. 802.

(2) Detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship. The citizenship information may be attached to the form CG–1258 that is submitted under paragraph (a)(1) of this section and must be signed by, or on behalf of, the charterer.

(c) Whenever a charter submitted under paragraph (a)(7) of this section is amended, the vessel owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a vessel under paragraph (a) of this section enters into a sub-charter that is a demise charter with another person for the use of the vessel, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter and the sub-charterer must provide detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship.

(e) Whenever the charterer of a vessel under paragraph (a) of this section enters into a sub-charter other than a demise charter with another person for the use of the vessel, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after a request by the Director to do so.

(f) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122 and 18 U.S.C. 1001.

§ 68.75 Application procedure for barges to be operated in coastwise trade without being documented.

(a) The person that owns a barge qualified to engage in coastwise trade must submit the following to the National Vessel Documentation Center:

(1) The certification required by § 68.65(a)(1) or (a)(2).

(2) A certification in the form of an affidavit and, if requested by the Director, National Vessel Documentation Center, supporting documentation establishing the following facts with respect to the transaction from an individual who is authorized to provide certification on behalf of the person that owns the barge and who is an officer in a corporation, a partner in a partnership, a member of the board of managers in a limited liability company, or their equivalent. The certificate must certify the following:

(i) That the person that owns the barge is organized under the laws of the United States or a State.

(ii) That the person that owns the barge has transferred to a qualified United States citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built barge through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(iii) That the barge is qualified to engage in the coastwise trade and that it is owned by a person eligible to own vessels documented under 46 U.S.C. 12102(e).

(3) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer must submit the following to the National Vessel Documentation Center:

(1) A certificate certifying that the charterer is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(2) Detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship. The citizenship information must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the barge owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a barge under paragraph (a) of this section enters into a sub-charter that is a demise charter with another person for the use of the barge, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter and the sub-charterer must provide detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship.

(e) Whenever the charterer of a barge under paragraph (a) of this section enters into a sub-charter other than a demise charter with another person for the use of the barge, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after a request by the Director to do so.

(f) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122 and 18 U.S.C. 1001.

§ 68.80 Invalidation of a coastwise endorsement.

In addition to the events in § 67.167(c)(1) through (c)(9) of this chapter, a Certificate of Documentation together with a coastwise endorsement under this subpart becomes invalid when—

(a) The owner fails to make the certification required by § 68.65 or ceases to meet the requirements of the certification on file;

(b) The demise charter expires or is transferred to another charterer; or

(c) The citizenship of the charterer or sub-charterer changes to the extent that they are no longer qualified for a coastwise endorsement.

22. Add new subpart D, consisting of §§ 68.100 through 68.111, to read as follows:

Subpart D—Vessels With a Coastwise Endorsement Issued Before August 9, 2004, and Their Replacements That Are Demise Chartered to Coastwise Qualified Citizens

Sec.

68.100 Purpose and applicability.
68.103 Definitions.
68.105 Eligibility of a vessel for a coastwise endorsement under this subpart.
68.107 Application procedure for vessels other than barges to be operated in coastwise trade without being documented.

68.109 Application procedure for barges to be operated in coastwise trade without being documented.
68.111 Invalidation of a coastwise endorsement.

Subpart D—Vessels With a Coastwise Endorsement Issued Before August 9, 2004, and Their Replacements That Are Demised Chartered to Coastwise-Qualified Citizens

§ 68.100 Purpose and applicability.

(a) This subpart contains requirements for the documentation of U.S.-built vessels in the coastwise trade that were granted special rights under the Coast Guard and Maritime Transportation Action of 2004 (Pub. L. 108–293).

(b) This subpart applies to—

(1) A vessel under a demise charter that was eligible for, and received, a document with a coastwise endorsement under § 67.19 of this chapter and 46 U.S.C. 12106(e) before August 9, 2004;

(2) A barge deemed eligible under 46 U.S.C. 12106(e) and 12110(b) to operate in coastwise trade without being documented before August 9, 2004; and

(3) A replacement vessel of a similar size and function for any vessel under paragraphs (b)(1) through (b)(3) of this section.

(c) Except for vessels under paragraph (d) of this section, this subpart applies to a certificate of documentation, or renewal of one, endorsed with a coastwise endorsement for a vessel under 46 U.S.C. 12106(e) or a replacement vessel of a similar size and function that was issued before August 9, 2004, as long as the vessel is owned by the person named in the certificate, or by a subsidiary or affiliate of that person, and the controlling interest in the owner has not been transferred to a person that was not an affiliate of the owner as of August 9, 2004.

(d) With respect to offshore supply vessels with a certificate of documentation endorsed with a coastwise endorsement as of August 9, 2004, this subpart applies until August 9, 2007. On and after August 9, 2007, subpart C of this part applies to these vessels.

§ 68.103 Definitions.

In addition to the terms defined in § 67.3 of this chapter, as used in this subpart—

Affiliate means a person that is less than 50 percent owned or controlled by another person.

Group means the person that owns a vessel, the parent of that person, and all subsidiaries and affiliates of the parent of that person.

Offshore supply vessel means a motor vessel of more than 15 gross tons but less than 500 gross tons as measured under 46 U.S.C. 14502, or an alternate tonnage measured under 46 U.S.C. 14302 as prescribed under 46 U.S.C. 14104, that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

Operation or management of vessels means all activities related to the use of vessels to provide services. These activities include ship agency; ship brokerage; activities performed by a vessel operator or demise charterer in exercising direction and control of a vessel, such as crewing, victualing, storing, and maintaining the vessel and ensuring its safe navigation; and activities associated with controlling the use and employment of the vessel under a time charter or other use agreement. It does not include activities directly associated with making financial investments in vessels or the receipt of earnings derived from these investments.

Parent means any person that directly or indirectly owns or controls at least 50 percent of another person. If an owner's parent is directly or indirectly controlled at least 50 percent by another person, that person is also a parent of the owner. Therefore, an owner may have multiple parents.

Person means an individual; corporation; partnership; limited liability partnership; limited liability company; association; joint venture; trust arrangement; and the government of the United States, a State, or a political subdivision of the United States or a State; and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Primarily engaged in leasing or other financing transactions means lease financing, in which more than 50 percent of the aggregate revenue of a person is derived from banking, investing, lease financing, or other similar transactions.

Replacement vessel means—

(1) A temporary replacement vessel for a period not to exceed 180 days if the vessel described in § 68.50 is unavailable due to an act of God or a marine casualty; or

(2) A permanent replacement vessel if—

(i) The vessel described in § 68.50 is unavailable for more than 180 days due to an act of God or a marine casualty; or

(ii) A contract to purchase or construct a replacement vessel is executed not later than December 31, 2004.

Sub-charter means all types of charters or other contracts for the use of a vessel that are subordinate to a charter. The term includes, but is not limited to, a demise charter, a time charter, a voyage charter, a space charter, and a contract of affreightment.

Subsidiary means a person at least 50 percent of which is directly or indirectly owned or controlled by another person.

§ 68.105 Eligibility of a vessel for a coastwise endorsement under this subpart.

(a) Except as under paragraphs (b) through (e) of this section, to be eligible for a coastwise endorsement under 46 U.S.C. 12106(e) and to operate in coastwise trade under 46 U.S.C. 12106(e) and 12110(b), a vessel under a demise charter must meet the following:

(1) The vessel is eligible for documentation under 46 U.S.C. 12102.

(2) The vessel is eligible for a coastwise endorsement under § 67.19(c) of this chapter, has not lost coastwise eligibility under § 67.19(d) of this chapter, and was financed with lease financing.

(3) The person that owns the vessel, the parent of that person, or a subsidiary of the parent of that person is primarily engaged in leasing or other financing transactions.

(4) The person that owns the vessel is organized under the laws of the United States or of a State.

(5) None of the following is primarily engaged in the direct operation or management of vessels:

(i) The person that owns the vessel.

(ii) The parent of the person that owns the vessel.

(iii) The group of which the person that owns the vessel is a member.

(6) The ownership of the vessel is primarily a financial investment without the ability and intent to directly or indirectly control the vessel's operations by a person not primarily engaged in the direct operation or management of vessels.

(7) The majority of the aggregate revenues of each of the following is not derived from the operation or management of vessels:

(i) The person that owns the vessel.

(ii) The parent of the person that owns the vessel.

(iii) The group of which the person that owns the vessel is a member.

(8) None of the following is primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer:

(i) The person that owns the vessel.

(ii) The parent of the person that owns the vessel.

(iii) The group of which the person that owns the vessel is a member.

(9) The person that owns the vessel has transferred to a qualified U.S. citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built vessel through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(10) The charterer must certify to the Director, National Vessel Documentation Center, that the charterer is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(11) The demise charter is for a period of at least 3 years, unless a shorter period is authorized by the Director, National Vessel Documentation Center, under circumstances such as—

(i) When the vessel's remaining life would not support a charter of 3 years; or

(ii) To preserve the use or possession of the vessel.

(b) A vessel under a demise charter that was eligible for, and received, a document with a coastwise endorsement under § 67.19 of this chapter and 46 U.S.C. 12106(e) before August 9, 2004, may continue to operate under that endorsement on and after that date and may renew the document and endorsement if the certificate of documentation is not subject to—

(1) Exchange under § 67.167(b)(1) through (b)(3) of this chapter;

(2) Deletion under § 67.171(a)(1) through (a)(6) of this chapter; or

(3) Cancellation under § 67.173 of this chapter.

(c) A vessel under a demise charter that was constructed under a building contract that was entered into before February 4, 2004, in reliance on a letter ruling from the Coast Guard issued before February 4, 2004, is eligible for documentation with a coastwise endorsement under § 67.19 of this chapter and 46 U.S.C. 12106(e). The vessel may continue to operate under that endorsement and may renew the document and endorsement if the certificate of documentation is not subject to—

(1) Exchange under § 67.167(b)(1) through (b)(3) of this chapter;

(2) Deletion under § 67.171(a)(1) through (a)(6) of this chapter; or

(3) Cancellation under § 67.173 of this chapter.

(d) A barge deemed eligible under 46 U.S.C. 12106(e) and 12110(b) to operate in coastwise trade before August 9, 2004, may continue to operate in that trade after that date unless—

(1) The ownership of the barge changes in whole or in part;

(2) The general partners of a partnership owning the barge change by addition, deletion, or substitution;

(3) The State of incorporation of any corporate owner of the barge changes;

(4) The barge is placed under foreign flag;

(5) Any owner of the barge ceases to be a citizen within the meaning of part 67, subpart C, of this chapter; or

(6) The barge ceases to be capable of transportation by water.

(e) A barge under a demise charter that was constructed under a building contract that was entered into before February 4, 2004, in reliance on a letter ruling from the Coast Guard issued before February 4, 2004, is eligible to operate in coastwise trade under 46 U.S.C. 12106(e) and 12110(b). The barge may continue to operate in coastwise trade unless—

(1) The ownership of the barge changes in whole or in part;

(2) The general partners of a partnership owning the barge change by addition, deletion, or substitution;

(3) The State of incorporation of any corporate owner of the barge changes;

(4) The barge is placed under foreign flag;

(5) Any owner of the barge ceases to be a citizen within the meaning of subpart C of this part; or

(6) The barge ceases to be capable of transportation by water.

§ 68.107 Application procedure for vessels other than barges to be operated in coastwise trade without being documented.

(a) In addition to the items under § 67.141 of this chapter, the person that owns the vessel (other than a barge under § 68.109) and that seeks a coastwise endorsement under this subpart must submit the following to the National Vessel Documentation Center:

(1) A certification in the form of an affidavit and, if requested by the Director, National Vessel Documentation Center, supporting documentation establishing the following facts with respect to the transaction from an individual who is authorized to provide certification on behalf of the person that owns the vessel and who is an officer in a corporation, a partner in a partnership, a member of the board of managers in a limited liability company, or their equivalent. The certificate must certify the following:

(i) That the person that owns the vessel, the parent of that person, or a subsidiary of a parent of that person is primarily engaged in leasing or other financing transactions.

(ii) That the person that owns the vessel is organized under the laws of the United States or a State.

(iii) That none of the following is primarily engaged in the direct operation or management of vessels:

(A) The person that owns the vessel.

(B) The parent of the person that owns the vessel.

(C) The group of which the person that owns the vessel is a member.

(iv) That ownership of the vessel is primarily a financial investment without the ability and intent to directly or indirectly control the vessel's operations by a person not primarily engaged in the direct operation or management of vessels.

(v) That the majority of the aggregate revenues of each of the following is not derived from the operation or management of vessels:

(A) The person that owns the vessel.

(B) The parent of the person that owns the vessel.

(C) The group of which the person that owns the vessel is a member.

(vi) That none of the following is primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer:

(A) The person that owns the vessel.

(B) The parent of the person that owns the vessel.

(C) The group of which the person that owns the vessel is a member.

(vii) That the person that owns the vessel has transferred to a qualified United States citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built vessel through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(viii) That the vessel is financed with lease financing.

(2) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer must submit the following to the National Vessel Documentation Center:

(1) A certificate certifying that the charterer is a citizen of the United States for the purpose of engaging in the coastwise trade under 46 U.S.C. app. 802.

(2) Detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship. The citizenship information may be attached to the form CG–1258 that is submitted under § 67.141 of this chapter and must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the vessel owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a vessel under paragraph (a) of this section enters into a sub-charter that is a demise charter with another person for the use of the vessel, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter and the sub-charterer must provide detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship.

(e) Whenever the charterer of a vessel under paragraph (a) of this section enters into a sub-charter other than a demise charter with another person for the use of the vessel, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after a request by the Director to do so.

(f) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122 and 18 U.S.C. 1001.

§ 68.109 Application procedure for barges to be operated in coastwise trade without being documented.

(a) The person that owns a barge qualified to engage in coastwise trade under the lease-financing provisions of 46 U.S.C. 12106(e) must submit the following to the National Vessel Documentation Center:

(1) A certification in the form of an affidavit and, if requested by the Director, National Vessel Documentation Center, supporting documentation establishing the following facts with respect to the transaction from an individual who is authorized to provide certification on behalf of the person that owns the barge and who is an officer in a corporation, a partner in a partnership, a member of the board of managers in a limited liability company, or their equivalent. The certificate must certify the following:

(i) That the person that owns the barge, the parent of that person, or a subsidiary of the parent of that person is primarily engaged in leasing or other financing transactions.

(ii) That the person that owns the barge is organized under the laws of the United States or a State.

(iii) That none of the following is primarily engaged in the direct operation or management of vessels:

(A) The person that owns the barge.

(B) The parent of the person that owns the barge.

(C) The group of which the person that owns the barge is a member.

(iv) That ownership of the barge is primarily a financial investment without the ability and intent to directly or indirectly control the barge's operations by a person not primarily engaged in the direct operation or management of the barge.

(v) That the majority of the aggregate revenues of each of the following is not derived from the operation or management of vessels:

(A) The person that owns the barge.

(B) The parent of the person that owns the barge.

(C) The group of which the person that owns the barge is a member.

(vi) That none of the following is primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer:

(A) The person that owns the barge.

(B) The parent of the person that owns the barge.

(C) The group of which the person that owns the barge is a member.

(vii) That the person that owns the barge has transferred to a qualified United States citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built barge through a demise charter in which the demise charterer is considered the owner *pro hac vice* for the term of the charter.

(viii) That the barge is qualified to engage in the coastwise trade and that it is owned by a person eligible to own vessels documented under 46 U.S.C. 12102(e).

(ix) That the barge is financed with lease financing.

(2) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer must submit the following to the National Vessel Documentation Center:

(1) A certificate certifying that the charterer is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(2) Detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship. The citizenship information must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the barge owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a barge under paragraph (a) of this section enters into a sub-charter that is a demise charter with another person for the use of the barge, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter and the sub-charterer must provide detailed citizenship information in the format of form CG–1258, Application for Documentation, section G, citizenship.

(e) Whenever the charterer of a barge under paragraph (a) of this section enters into a sub-charter other than a demise charter with another person for the use of the barge, the charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after a request by the Director to do so.

(f) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122 and 18 U.S.C. 1001.

§ 68.111 Invalidation of a coastwise endorsement.

(a) In addition to the events in § 67.167(c)(1) through (c)(9) of this chapter, a Certificate of Documentation together with a coastwise endorsement in effect before February 4, 2004, becomes invalid when—

(1) The demise charter expires or is transferred to another charterer;

(2) The citizenship of the charterer or sub-charterer changes to the extent that they are no longer qualified for a coastwise endorsement; or

(3) Neither the person that owns the vessel, nor the parent of that person, nor a subsidiary of the parent of that person is primarily engaged in leasing or other financing transactions.

(b) In addition to the events in § 67.167(c)(1) through (c)(9) of this chapter, a Certificate of Documentation together with a coastwise endorsement in effect on or after February 4, 2004, and before August 9, 2004, becomes invalid when—

(1) The demise charter expires or is transferred to another charterer;

(2) The citizenship of the charterer or sub-charterer changes to the extent that they are no longer qualified for a coastwise endorsement;

(3) Neither the person that owns the vessel, nor the parent of that person, nor any subsidiary of the parent of that

person is primarily engaged in leasing or other financing transactions;

(4) The majority of the aggregate revenues of at least one of the following is derived from the operation or management of vessels:

(i) The person that owns the vessel.

(ii) The parent of the person that owns the vessel.

(iii) The group of which the person that owns the vessel is a member; or

(5) At least one of the following is primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer:

(i) The person that owns the vessel.

(ii) The parent of the person that owns the vessel.

(iii) The group of which the person that owns the vessel is a member.

(c) When the coastwise endorsement for a vessel to which this subpart applies becomes invalid under paragraph (a)(1) or (b)(1) of this section, the vessel remains eligible for documentation under this subpart provided it is a vessel to which § 68.100(b) or (c) applies.

Dated: October 6, 2006.

B.M. Salerno,

Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Prevention.

[FR Doc. E6–17037 Filed 10–17–06; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1906; MB Docket No. 04–20; RM–10842, RM–11128, RM–11129, RM–11130]

Radio Broadcasting Services; Cambridge, MD, Chincoteague, VA; Newark, St. Michaels, and Stockton, MD

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: In response to a petition for reconsideration of a *Report and Order*, this *Memorandum Opinion and Order* denies a request by CWA Broadcasting, Inc. (''Petitioner''), the licensee of Station WINX–FM, St. Michaels, Maryland, to upgrade its present Channel 232A to Channel 232B1, reallot Channel 232B1 to Cambridge, and modify Station WINX–FM's license accordingly. The *Memorandum Opinion and Order* also denies the Petitioner's alternative request to allot Channel 232B1 to Oxford, Maryland, and to change Petitioner's community of license from St. Michaels to Oxford, Maryland, as untimely and in contravention of Section 1.420(d) of the Commission's Rules.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 04–20, adopted September 20, 2006, and released September 22, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. The Commission is, therefore, not required to send a copy of this *Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the petition for reconsideration was denied.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–17349 Filed 10–17–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1886; MB Docket No. 06–65; RM–11320; RM–11335]

Radio Broadcasting Service; Alva, OK; Ashland, Greensburg, and Kinsley, KS; and Medford, and Mustang, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division: grants in part a counterproposal (RM–11335) filed by Chisholm Trail Broadcasting Company (''Chisholm'') only to the extent of allotting Channel 288C3 at Kinsley, Kansas, and denying in all other respects; dismisses a Petition for Rule Making (11320) filed by OKAN Community Radio to allot Channel 288C3 at Ashland, Kansas for lack of continuing interest; and dismisses per Chisholm's request its pending Petition for Rule Making to allot *inter alia* Channel 259C1 at Greensburg, Kansas. Channel 288C3 can be allotted at Kinsley, Kansas in compliance with the Commission's minimum distance separation requirements at 37–53–20 North Latitude and 99–24–34 West Longitude with a site restriction of 3.8 kilometers (2.4 miles) south of city reference.

DATES: Effective November 6, 2006.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau, (202) 418–2738.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 06–65, adopted September 20, 2006, and released September 22, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Kinsley, Channel 288C3.