(188) * * *

(i) * * *

(D) * * *

(*4*) Rule 29 adopted on October 22, 1991.

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(190) * * *

(i) * * *

(A) * * *

(*3*) Rule 24 adopted on September 15, 1992.

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(193) * * *

(i) * * *

(E) Ventura County Air Pollution Control District

(1) Rule 26.7 adopted on December 22, 1992.

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(196) * * *

(i) * * *

(B) * * *

(*2*) Rule 15.1 adopted on October 12, 1993.

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(225) * * *

(i) * * *

(G) * * *

(*2*) Rules 10, 11, 12, 13, 14, 15 and 16 adopted on June 13, 1995.

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(241) * * *

(i) * * *

(C) * * *

(*3*) Rule 23 adopted on July 9, 1996.

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(255) * * *

(i) * * *

(G) Ventura County Air Pollution Control District.

(*1*) Rules 26.1, 26.2, 26.3, 26.4, 26.5, 26.6 and 26.10 adopted on January 13, 1998.

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[FR Doc. 00–31050 Filed 12–6–00; 8:45 am]

BILLING CODE 6560–60–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[USCG–1999–6095]

RIN 2115–AF88

Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard amends citizenship requirements for fishing vessels of less than 100 feet in length that are eligible for a fishery endorsement, by increasing the percentage of interest in a vessel required to be owned and controlled by U.S. citizens in corporations. The percentage increased is from more than 50 percent to at least 75 percent. We add provisions making fishery endorsements of documented fishing vessels chartered or leased to a person who is not a citizen or to an entity which is ineligible to own a documented fishing vessel invalid. We also prohibit fishery endorsement for a fishing vessel mortgaged to a trustee if the mortgage interest is issued, assigned, transferred, or held in trust for a person not eligible to own a documented fishing vessel, even if the trustee is eligible to own a documented fishing vessel.

DATES: This final rule becomes effective on October 1, 2001.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1999–6095 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 J. Williams, Coast Guard, telephone 304–271–2400. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 27, 2000, we published a notice of proposed rulemaking entitled Citizenship Standards for Vessel Ownership and Financing; American Fisheries Act [USCG–1999–6095] in the **Federal Register** (65 FR 46137). No public hearing was requested and none was held.

Background and Purpose

For reasons and purposes as discussed in the NPRM the Coast Guard amends its fishery endorsement regulations as mandated by the 105th U.S. Congress (Pub. L. 105–277) outlining fishery endorsement eligibility for fishing vessels less than 100 feet in length. The American Fisheries Act (AFA) requires a real, effective, and enforceable U.S. ownership threshold for U.S.-flag fishing vessels. Under this Act, U.S. citizens must own and control at least 75 percent of the ownership interest in any U.S.-flag fishing vessel. The Act is intended to ensure that vessels with a fishery endorsement are truly controlled by citizens of the United States. The Act also increases the penalties for fishery endorsement violations and is intended to discourage willful noncompliance with the new requirements.

Discussion of Comments and Changes

The Coast Guard received 12 comments from two respondents addressing the proposed changes to the citizenship requirements for U.S.-flag fishing vessels with a fishery endorsement. Each respondent highlighted several different items within the proposed rule.

One comment felt that the proposed change to § 67.11 goes too far by eliminating the fishing vessel exemption on selling, mortgaging, leasing, chartering, delivering, or otherwise transferring of the vessel to a non-U.S. citizen without the prior approval of the Maritime Administration. The Coast Guard agrees. Our initial intent was to ensure full compliance with the American Fisheries Act and to ensure there is no confusion among the regulated community. By removing paragraphs (b)(1) and (b)(3) we inadvertently exceeded the scope of the mandate. We have added a paragraph (c) to this section that clarifies vessels less than 100 feet must comply with the Fishery Endorsement requirements of the part, and vessels 100 feet and greater must comply with the requirements found in 46 CFR part 356.

Both respondents stated our proposed restrictions on chartering should apply only to fish harvesting vessels, and not to fish processing or fish tender vessels. We have reviewed the issue, as well as the regulations applicable to larger vessels, implemented by the Maritime Administration (MARAD), the agency with the authority of administering the AFA on vessels greater than or equal to 100 feet in length. We have determined that the regulations regarding chartering of vessels less than 100 feet should be the same as those regarding larger vessels. Thus, we have added language to § 67.21(d)(3) that will not restrict time or voyage charters to Non-Citizens of dedicated Fish Processing or Fish Tender Vessels. This change will bring the regulations for vessels less than 100 feet into symmetry with the regulations for larger vessels, while still invalidating fishery endorsements whenever a fish harvesting vessel is chartered to a Non-Citizen. Bareboat charters of any fishing industry vessel to

Non-Citizens will also invalidate the vessel's fishery endorsement.

Both respondents questioned the efficiency of having the Commandant review and approve every loan by a Non-Citizen that is secured by a mortgage, regardless of vessel length. Both suggested that the Coast Guard accept arrangements approved by MARAD for vessels greater than or equal to 100 feet. This has always been the intent of the Coast Guard. We have added to 46 CFR 67.21(f) in order to clarify this intent and prevent confusion among the regulated industry. Additionally, we are adding language to that same section that will allow owners of vessels less than 100 feet to presume Commandant approval of standard loan and mortgage agreements from Non-Citizen lenders, that have received general approval under MARAD's regulations. For those vessels under 100 feet that are entering into non-standard loan and mortgage agreements with Non-Citizen lenders, Commandant approval will proceed on a case-by-case basis.

One comment raised a concern that redefining ''control'' in § 67.31 ''Stock or equity interest requirements'' would unnecessarily subject non-fishing industry vessels to the more stringent requirements included in the AFA. The Coast Guard agrees with this comment. In order to ensure the AFA definition of control is not applied to non-fishing industry vessels, we have split the definition into §§ 67.31(b) and (c), and moved the current § 67.31(c) to § 67.31(d).

Both respondents noted that certain larger vessels that were ''grandfathered'' by the AFA have been given a 15-day period to correct an invalid fishery endorsement. MARAD spelled out the procedures for such a correction in 46 CFR 356.47(b). We did not address the issue in our proposed regulations because we no longer have authority over these vessels. However, it has always been our intention to accept a determination by MARAD that a correction had occurred, and thus continue to recognize a vessel's fishery endorsement. Additionally, the Coast Guard plans to work closely with the Maritime Administration to ensure that notification of a vessel's fishery endorsement ineligibility takes place in a timely and uniform manner.

Both respondents noted that our proposed changes did not include reference to the five vessels specifically granted exemptions by Congress in section 203(g) of the AFA. These vessels were not included in our proposal because they are all over 100 feet in length, and thus outside of our authority. MARAD listed these vessels in 46 CFR 356.51(c) as exempt from the AFA requirements. All are eligible for documentation.

One comment expressed confusion regarding the application procedures outlined in § 67.141. The regulation requires that all vessels, regardless of length, submit certain materials for documentation. This includes the citizenship oath on the CG–1258 documentation application form. Vessels greater than or equal to 100 feet in length must also meet the requirements MARAD has established in 46 CFR part 356, subpart C, including the more extensive citizenship affidavit. Vessels not under MARAD's jurisdiction (less than 100 feet in length) do not need to complete the more extensive form.

One comment noted, as a technicality, that the term ''Exclusive Economic Zone'' was not being used consistently in our proposed rule. We have made the necessary changes in §§ 67.142(b)(3) and 67.142(c) to ensure consistent usage.

The Coast Guard made two additional changes from the proposed language. In § 67.350, we reworded paragraph (b)(1) in order to clarify the evidence needed to obtain a petition for an exemption from the citizenship requirements. This language change does not affect the substance of the rule; it clarifies that the required evidence must show the ownership of the vessel as of October 1, 2001, whether you are submitting your petition before, on, or after that date.

In § 67.21 we re-designated proposed paragraph (e) as paragraph (f), and added a new paragraph (e) exempting vessels engaged in the fisheries in the exclusive economic zone (EEZ) under the authority of the Western Pacific Fishery Management Council, and certain vessels operating under the authority of the South Pacific Regional Fisheries Treaty, as set forth in the American Fisheries Act. We did not include this provision in the NPRM because a review of vessels under the authority of the Council and Treaty showed all such vessels to be greater than 100 feet and therefore outside our authority. We now include this provision to ensure full compliance with the American Fisheries Act and to ensure there is no confusion among the regulated community.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Marine Safety Management System (MSMS) shows that about 36,000 vessels have fishery endorsements. This regulation impacts documented vessels with fishery endorsements that are less than 100 feet. About 35,500 vessels with fishery endorsements are less than 100 feet. Of these, we researched a random sample of 1,010 vessels in order to achieve a 95 percent confidence level. We found that the change to minimum U.S. ownership requirements from ''more than 50 percent'' to ''at least 75 percent'' affects one of the vessels in the random sample. This means that 0.099 percent of the random sample do not meet the requirement. The margin of error is plus or minus 3.04 percent. Applying this percentage to the population, we expect that the owner of 35 vessels will not meet the change in owner citizenship requirement if current ownership levels in each company remain the same (0.099 percent of 35,500 vessels).

In the random sample, there are 843 vessels (83 percent of the affected population) that are owned by individual persons and 167 vessels (17 percent of the affected population) that are owned by corporations or companies. All individual owners are already required to be U.S. citizens in order to document a vessel. Therefore, these vessels and individuals are considered to meet the citizenship requirement, and have 100 percent U.S. ownership. Corporations, partnerships or limited liability companies are required to attest to the level of ownership by U.S. citizens by checking a box in the application for documentation. The ''Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; Redocumentation'' (CG–1258 (REV.9–97)) has four choices for reporting the level of ownership by U.S. citizens in a corporation. The choices are: less than 50 percent, at least 50 percent, more than 50 percent but less than 75 percent, and 75 percent or more. One hundred sixty six (166) corporations certified that the ownership level by U.S. citizens is 75 percent or more. One certified that its corporation's percentage of stock owned by U.S. citizens who are eligible to document vessels was more than 50 percent but less than 75 percent.

Costs: For further analysis, we assume that the 35 adversely affected vessel owners have more than 50 but less than 75 percent of stock owned by U.S. citizens. We further assume that each vessel owner prefers to continue fishing in the Exclusive Economic Zone of the United States. Therefore, we expect each vessel owning company will make changes to its U.S. ownership level. The change of U.S. ownership level could entail the following: adding an additional investor, selling stock to U.S. citizens, adding a partner, or removing a partner.

Once each vessel owning company has met the ownership criteria, the vessel's fishery endorsement will be renewed, as it will be in any other year. Thus, the cost of this rulemaking is directly associated with the change of U.S. ownership level made by each of the 35 vessel owning companies. We assume that each company will hire a law firm to complete the articles of incorporation or any other documents needed to reflect the changes to the ownership levels, and that the law firm will charge about $600 for its services. The one time cost of changing the ownership structure for the 35 companies is $21,000.

We do not expect the restriction to leases and charters by non-U.S. citizens to impact any vessel owners. Similarly, we do not expect the restriction on foreign controlled mortgages to impact any vessels. Therefore, these regulations cause no additional cost to vessel owners, operators, or managers.

Benefits: The changes in the law necessitate this rulemaking. The regulation gives U.S. citizens a higher level of ownership in the vessels that harvest fish in the U.S. Exclusive Economic Zone. Consequently, more of the profits from the fishery industry will accrue to U.S. citizens.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule will have a significant 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 impacts the owners of about 35,500 vessels that are documented with fishery endorsements. These vessels are less than 100 feet in length, and we considered each one to be owned by a small entity. As shown by the sample statistics, we expect 35 entities to be adversely affected by the rulemaking. We do not consider the number of adversely affected entities to be a substantial number for they represent 0.099 percent of all entities that would have to comply with the requirements.

The Small Business Administration has determined that the size standard for small businesses involved in the fishing industry is $3 million in annual revenues (Standard Industry Codes 0912, 0913, 0919, and 0921). The imposed burden of $600 represents 0.02 percent for entities with $3 million in annual revenues. For entities with $60,000 and $30,000 in annual revenues, the burden represents 1 percent and 2 percent of annual revenues, respectively. We do not consider this cost to create a significant economic impact on the affected entities.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they 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).

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). This rulemaking adds a new collection of information burden to companies that no longer meet the threshold of at least 75 percent ownership by U.S. citizens. This regulation allows these companies to apply for an exemption from the 75 percent U.S. ownership level. The application and related submissions comprise a new collection of information burden.

We presented an estimate of the burden this rulemaking will cause for public comment in the NPRM. No comments were received regarding the collection of information, and we perceive this to mean acceptance of the burden by the public.

The information collection requirements of the rule are addressed in the previously approved OMB collection titled ''Vessel Documentation'' (OMB 2115–0110).

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not approved the collection, and we will publish its approval when it occurs. The section numbers are §§ 67.350 and 67.352.

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

Federalism

We have analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132, (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The regulations have no substantial effects on the States, or on the current Federal-State relationship or on the current distribution of power and responsibilities among various local officials. Therefore, consultation with the State and local officials was not necessary.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such 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 does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this rule and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a Finding of No Significant Impact are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 67

Citizenship; Fishery endorsements, Fishing vessels, Mortgages, Penalties, Vessel Documentation.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 67 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, 2107, 2110, 10102; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

2. Amend § 67.11 by adding paragraph (c) to read as follows:

§ 67.11 Restriction on transfer of an interest in documented vessels to foreign persons; foreign registry or operation.

* * * * *

(c) The exemption in paragraph (b) of this section does not relieve all vessels from meeting the fishery endorsement requirements of this part. If your vessel is less than 100 feet in length and is a fishing vessel, fish processing vessel, or fish tender vessel as defined in 46 U.S.C. 2101, you must meet the fishery endorsement requirements set out in this part. Each vessel 100 feet and greater in length applying for a fishery endorsement is regulated by the Maritime Administration requirements found in 46 CFR part 356.

* * * * *

3. Amend § 67.21 by revising paragraph (d) and adding paragraphs (e) and (f) to read as follows:

§ 67.21 Fishery endorsement.

* * * * *

(d) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section loses that eligibility during any period in which it is:

(1) Owned by a partnership which does not meet the requisite citizenship requirements of § 67.35(b);

(2) Owned by a corporation which does not meet the citizenship requirements of § 67.39(b); or

(3) Chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement, except that time charters, voyage charters and other charters that are not a demise of the vessel may be entered into with Non-Citizens for the charter of dedicated Fish Tender Vessels and Fish Processing Vessels that are not engaged in the harvesting of fish or fishery resources without the vessel losing its eligibility for a fishery endorsement.

(e) A vessel operating with a fishery endorsement on October 1, 1998, under the authority of the Western Pacific Fishery Management Council, or a purse seine vessel engaged in tuna fishing outside of the EEZ of the United States or pursuant to the South Pacific Regional Fisheries Treaty may continue to operate as set out in 46 U.S.C. 12102(c)(5), provided that the owner of the vessel continues to comply with the fishery endorsement requirements that were in effect on October 1, 1998.

(f) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible if an instrument or evidence of indebtedness, secured by a mortgage of the vessel, to a trustee eligible to own a vessel with a fishery endorsement is issued, assigned, transferred, or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Commandant determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee:

(1) Is organized as a corporation that meets § 67.39(b) of this part, and is doing business under the laws of the United States or of a State;

(2) Is authorized under those laws to exercise corporate trust powers which meet § 67.36(b) of this part;

(3) Is subject to supervision or examination by an official of the United States Government or a State;

(4) Has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

(5) Meets any other requirements prescribed by the Commandant.

For vessels greater than or equal to 100 feet in length, approval of such an arrangement from the Maritime Administration will be accepted as evidence that the above conditions are met and will be approved by the Commandant. For vessels less than 100 feet, a standard loan and mortgage agreement that has received general approval under 46 CFR 356.21 will be accepted as evidence that the above conditions are met and will be approved by the Commandant.

4. Revise §§ 67.31(b) and (c), and add § 67.31(d) to read as follows:

§ 67.31 Stock or equity interest requirements.

* * * * *

(b) For the purpose of stock or equity interest requirements for citizenship under this subpart, control of non-fishing industry vessels includes an absolute right to: Direct corporate or partnership business; limit the actions of or replace the chief executive officer, a majority of the board of directors, or any general partner; direct the transfer or operations of any vessel owned by the corporation or partnership; or otherwise exercise authority over the business of the corporation or partnership. Control does not include the right to simply participate in these activities or the right to receive a financial return, e.g., interest or the equivalent of interest on a loan or other financing obligations.

(c) For the purpose of this section, control of a fishing industry vessel means having:

(1) The right to direct the business of the entity that owns the vessel;

(2) The right to limit the actions of or to replace the chief executive officer, the majority of the board of directors, any general partner, or any person serving in a management capacity of the entity that owns the vessel;

(3) The right to direct the transfer, the operation, or the meaning of a vessel with a fishery endorsement.

(d) For purposes of meeting the stock or equity interest requirements for citizenship under this subpart where title to a vessel is held by an entity comprised, in whole or in part, of other entities which are not individuals, each entity contributing to the stock or equity interest qualifications of the entity holding title must be a citizen eligible to document vessels in its own right with the trade endorsement sought.

5. In § 67.35, revise the introductory text and paragraph (b) to read as follows:

§ 67.35 Partnership.

A partnership meets citizenship requirements if all its general partners are citizens, and:

* * * * *

(b) For the purpose of obtaining a fishery endorsement, at least 75 percent

of the equity interest in the partnership, at each tier of the partnership and in the aggregate, is owned by citizens.

* * * * *

6. Amend § 67.36 by revising the introductory text of paragraphs (a), (b), and (c) and by revising paragraph (b)(2) to read as follows:

§ 67.36 Trust.

(a) For the purpose of obtaining a registry or recreational endorsement, a trust arrangement meets citizenship requirements if:

* * * * *

(b) For the purpose of obtaining a fishery endorsement, a trust arrangement meets citizenship requirements if:

* * * * *

(2) At least 75 percent of the equity interest in the trust, at each tier of the trust and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise or Great Lake endorsement or both, a trust arrangement meets citizenship requirements if:

* * * * *

7. Revise § 67.37 to read as follows:

§ 67.37 Association or joint venture.

(a) An association meets citizenship requirements if each of its members is a citizen.

(b) A joint venture meets citizenship requirements if each of its members is a citizen.

8. Revise § 67.39 by revising the introductory text of paragraphs (a), (b), and (c) and by revising paragraph (b)(2) to read as follows:

§ 67.39 Corporation.

(a) For the purpose of obtaining a registry or a recreational endorsement, a corporation meets citizenship requirements if:

* * * * *

(b) For the purpose of obtaining a fishery endorsement, a corporation meets citizenship requirements if:

* * * * *

(2) At least 75 percent of the stock interest in the corporation, at each tier of the corporation and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise or Great Lakes endorsement or both, a corporation meets citizenship requirements if:

* * * * *

9. Remove § 67.45.

§ 67.45 [Removed]

10. Amend § 67.141 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 67.141 Application procedure; all cases.

* * * * *

(b) Each vessel 100 feet and greater in length applying for a fishery endorsement must meet the requirements of 46 CFR part 356 and must submit materials required in paragraph (a) of this section.

(c) Upon receipt of the Certification of Documentation and prior to operation of the vessel, ensure that the vessel is marked in accordance with the requirements set forth in subpart I of this part.

11. Add § 67.142 to read as follows:

§ 67.142 Penalties.

(a) An owner or operator of a vessel with a fishery endorsement who violates Chapter 121 of Title 46, U.S. Code or any regulation issued thereunder is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation.

(b) A fishing vessel and its equipment are liable to seizure and forfeiture to the United States Government—

(1) When the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel;

(2) When the owner of the fishing vessel, or the representative or agent of the owner, knowingly and fraudulently uses a vessel's certificate of documentation;

(3) When the fishing vessel engages in fishing [as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)] within the Exclusive Economic Zone after its fishery endorsement has been denied or revoked;

(4) When a vessel is employed in a trade without an appropriate trade endorsement;

(5) When a documented vessel with only a recreational endorsement operates as a fishing vessel; or

(6) When a vessel with a fishery endorsement is commanded by a person who is not a citizen of the United States.

(c) In addition to penalties under paragraphs (a) and (b) of this section, the owner of a vessel with a fishery endorsement is liable to the United States Government for a civil penalty of up to $100,000 for each day in which the vessel has engaged in fishing within the Exclusive Economic Zone, if the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel.

12. Revise § 67.233(b) to read as follows:

§ 67.233 Restrictions on recording mortgages, preferred mortgages, and related instruments.

* * * * *

(b) A mortgage of a vessel 100 feet or greater in length applying for a fishery endorsement is eligible for filing and recording as a preferred mortgage only if it meets the requirements of this part and the requirements of 46 CFR 356.19.

* * * * *

13. Add subpart V to read as follows:

Subpart V—Exemption From Fishery Endorsement Requirements Due to Conflict With International Agreements

Sec.

Subpart V—Exception From Fishery Endorsement Requirements Due to Conflict With International Agreements

§ 67.350 Conflicts with international agreements.

(a) If you are an owner or mortgagee of a fishing vessel less than 100 feet in length and believe that there is a conflict between 46 CFR part 67 and any international treaty or agreement to which the United States is a party on October 1, 2001, and to which the United States is currently a party, you may petition the National Vessel Documentation Center (NVDC) for a ruling that all or sections of part 67 do not apply to you with respect to a particular vessel, provided that you had an ownership interest in the vessel or a mortgage on the vessel on October 1, 2001. You may file your petition with the NVDC before October 1, 2001, with respect to international treaties or agreements in effect at the time of your petition which are not scheduled to expire before October 1, 2001.

(b) If you are filing a petition for exemption with the NVDC for reasons stated in paragraph (a) of this section, your petition must include:

(1) Evidence of the ownership structure of the vessel petitioning for an exemption as of October 1, 2001, and any subsequent changes to the ownership structure of the vessel;

(i) If you are filing your petition before October 1, 2001, you may substitute evidence of the ownership structure as it exists on the date you file your petition;

(2) A copy of the provisions of the international agreement or treaty that you believe is in conflict with this part;

(3) A detailed description of how the provisions of the international agreement or treaty conflict with this part;

(4) For all petitions filed before October 1, 2001, a certification that the owner intends to transfer no ownership interest in the vessel to a non-U.S. citizen for the following year.

(5) For all petitions filed after October 1, 2001, a certification that no ownership interest was transferred to a non-U.S. citizen after September 30, 2001.

(c) You must file a separate petition for each vessel requiring an exemption unless the NVDC authorizes consolidated filing. Petitions should include two copies of all required materials and should be sent to the following address: National Vessel Documentation Center, 792 TJ Jackson Drive, Falling Water, West Virginia, 25419.

(d) Upon receipt of a complete petition, the NVDC will review the petition to determine whether the effective international treaty or agreement and the requirements of this part are in conflict. If the NVDC determines that this part conflicts with the effective international treaty or agreement, then the NVDC will inform you of the guidelines and requirements you must meet and maintain to qualify for a fisheries endorsement.

(e) If the vessel is determined through the petition process to be exempt from all or sections of the requirements of this part, then you must annually, from the date of exemption, submit the following evidence of its ownership structure to the NVDC:

(1) The vessel's current ownership structure;

(2) The identity of all non-citizen owners and the percentages of their ownership interest in the vessel;

(3) Any changes in the ownership structure that have occurred since you last submitted evidence of the vessel's ownership structure to the NVDC; and

(4) A statement ensuring that no interest in the vessel was transferred to a non-citizen during the previous year.

§ 67.352 Applicability.

The exemption in this subpart shall not be available to:

(a) Owners and mortgagees of a fishing vessel less than 100 feet in length who acquired an interest in the vessel after October 1, 2001; or

(b) Owners of a fishing vessel less than 100 feet in length, if any ownership interest in that vessel is transferred to or otherwise acquired by a non-U.S. citizen after October 1, 2001.

Dated: November 22, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000119014-0137-02; I.D. 113000E]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Virginia

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of Virginia has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Virginia for the remainder of calendar year 2000, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of Virginia that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Virginia.

DATES: Effective 0001 hours, December 7, 2000, through 2400 hours, December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2000 calendar year was set equal to 11,109,214 lb (5,039,055 kg)(65 FR 33486, May 24, 2000). The percent allocated to vessels landing summer flounder in Virginia is 21.31676 percent, or 2,368,546 lb (1,074,354 kg).

Section 648.100(e)(4) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In the calendar year 1999, a total of 2,130,553 lb (966,403 kg) were landed in Virginia, creating a 9,857 lb (4,471 kg) overage that was deducted from the amount allocated for landings in the State during 2000 (65 FR 33486, May 24, 2000). The resulting 2000 quota for Virginia is 2,358,689 lb (1,069,883 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish a notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of Virginia has attained its quota for 2000.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, December 7, 2000, further landings of summer flounder in Virginia by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2000 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, December 7, 2000, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Virginia for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.