

may be if it meets eligibility requirements. In the past, some lending institutions have required recreational vessel owners to obtain Coast Guard documentation so that preferred mortgages may be recorded to protect security interests. After implementation of VIS, a mortgage may acquire preferred status under 46 U.S.C. 31322(d) if it is perfected under State law for a vessel titled in a State that both participates in VIS and has a titling system certified by the Coast Guard. However, some States may not choose to participate in VIS. Therefore, the Coast Guard will continue to provide documentation services for eligible vessels, whether or not required to be documented, in order to extend the opportunity to record a preferred mortgage to those vessels.

Although it was not specifically addressed in the NPRM, a comment noted that a 1989 amendment to 46 U.S.C. 12102 would render a vessel titled in a State ineligible for documentation by the Coast Guard. This amendment will become effective on April 25, 1997, one year after the effective date of these vessel titling guidelines.

The Coast Guard wishes to emphasize that the statutory prohibition applies to all State-titled vessels, whether or not the State that issued the title participates in VIS or follows these titling guidelines. If a vessel owner has obtained a State title for purposes of convenience, the owner must choose to surrender either the State title or the Certificate of Documentation. For a vessel engaged in a trade for which documentation is required under Federal law, the owner could not choose to relinquish the Certificate of Documentation and continue to employ the vessel in trade. Three States (Iowa, New Jersey, and Vermont) currently require that a vessel receive a State title if the owner resides in the State or the vessel is principally used in the State, whether or not the vessel is documented by the Coast Guard. The Coast Guard's position is that, for vessels required to be documented under Federal law, the Federal documentation requirement preempts the State titling requirement. The vessel's Certificate of Documentation will remain valid and the State title will be void, even if a title is required by State law.

However, this preemption does not extend to recreational vessels not required to be documented by Federal law. As of the effective date of the amendment, a recreational vessel titled by a State is ineligible for documentation, and any existing Certificate of Documentation will be

invalid. The vessel owner will have to either surrender the title to the issuing State authority before April 25, 1997 or surrender the Certificate of Documentation to the Coast Guard. However, an owner will be unable to surrender the title if the vessel is required to be titled under State law.

To address this issue, a new provision, entitled "Surrender of title for purposes of documentation", has been added to the State titling guidelines. To obtain certification of compliance with the guidelines, a State would have to deem a State-issued title invalid if a vessel owner surrenders the title to the Coast Guard for the purpose of obtaining Coast Guard documentation. The Coast Guard would return the title to the issuing State. This is intended to prevent an owner from establishing dual chains of ownership, and is consistent with current practice in most States. States generally accept surrender of title when a vessel is purchased by an out-of-State owner or an owner moves to a different State and applies for a new title and registration. A similar process is used for automobile titles.

This provision was not included in the NPRM. Therefore, the Coast Guard is promulgating this action as an interim rule to allow interested parties the opportunity to comment. The Coast Guard specifically requests comments from States on the impact of the statutory amendment and the surrender guidelines. Additionally, the Coast Guard has delayed the effective date of this rule until April 25, 1996 to allow States time to review their titling requirements and make any necessary changes.

§ 187.317 Information on a certificate of title.

Many comments argued against including the percentage of ownership interest and the address of every owner on certificates of title. These comments came from State officials who explained that often many people may own a boat and including the percentage of ownership and each address on certificates of title would be burdensome and unhelpful. Also, many married couples own boats jointly and it would serve no purpose to indicate the percentage of ownership between them. None of those States commenting on this issue currently collect this information. The Coast Guard agrees with these comments and has revised § 187.317 to require the name(s) of all current owner(s) and the address of one of the owners.

Only one comment argued against the recording of liens on certificates of title.

Lien information is specifically required to be included in VIS under 46 U.S.C. 12501(b)(5). Lien information is very important in the development of the integrated boat information and titling system envisioned by Congress. Therefore, the requirement to include lien information on the certificate of title is retained in this interim final rule.

§ 187.319 Duplicate title.

Several comments suggested revisions to § 187.319. The NPRM required that the word "duplicate" be "stamped" across the face of a duplicate certificate of title. The comments noted that other means of marking the document besides "stamping" it should be allowed, and the marking should not be required to be "across" the face of the document. The Coast Guard agrees with these comments and has revised this provision to require that the word "duplicate" be "clearly and permanently marked on" the face of the document.

One comment argued that duplicate certificates of title should not be allowed. The Coast Guard does not agree with this comment. Circumstances such as loss, theft, or destruction of the document can arise and after the State has inquired into those circumstances as required by this section, a duplicate certificate of title should be available to the owner.

Another comment suggested specifying a period of time in which an owner must apply for a duplicate certificate of title. In the interest of allowing States wishing to comply with these titling guidelines as much flexibility as possible in designing titling programs for their States, the Coast Guard has decided to leave to the States the determination of the appropriate amount of time within which an owner must apply for a duplicate certificate of title.

§ 187.321 Hull identification number provisions.

Several comments suggested that the provisions of § 187.321 be optional for States complying with the guidelines. The Coast Guard does not agree with this suggestion. Section 187.321 requires States that seek certification of compliance with the guidelines to: assign an HIN to an undocumented vessel without an HIN at the time of registration upon transfer of ownership or change in State of principal operation; assign an HIN to an undocumented vessel without an HIN at the time of title application and record the HIN on the certificate of title; and prohibit the removal or alteration of an HIN without the authorization of the