



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 67

[Docket No. USCG-2010-0990]

RIN 1625-AB56

Vessel Documentation Renewal Fees

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is amending its regulations to separately list an annual fee for renewals of endorsements upon the Certificate of Documentation. We are required to establish user fees for services related to the documentation of vessels. This final rule will separately list a fee of \$26 to cover the current costs of the vessel documentation services provided by the Coast Guard.

DATES: This final rule is effective [INSERT DATE **90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0990 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of

Transportation, West Building Ground Floor, Room W12-140,  
1200 New Jersey Avenue SE., Washington, DC 20590,  
between 9 a.m. and 5 p.m., Monday through Friday, except  
Federal holidays. You may also find this docket on the  
Internet by going to <http://www.regulations.gov>, inserting  
USCG-2010-0990 in the "Keyword" box, and then clicking  
"Search."

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## I. Abbreviations

CFR	Code of Federal Regulations
COD	Certificate of Documentation
DHS	Department of Homeland Security
E.O.	Executive Order
FR	<u>Federal Register</u>
NVDC	National Vessel Documentation Center
NPRM	Notice of Proposed Rulemaking
OMB	Office of Management and Budget
§	Section symbol
SBA	Small Business Administration
U.S.C.	United States Code

## II. Regulatory History

On March 4, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Vessel Documentation Renewal Fees" in the Federal Register (78 FR 14053). That NPRM contained the Coast Guard's proposed revision of 46 CFR part 67, setting forth proposed fees for services provided.

The Coast Guard received 2,720 comment responses on the proposed fees. Comments were received from individuals, law firms, commercial vessel documentation services, industry groups, and maritime corporations. We

considered all comments in promulgating this final rule. The comments received in response to the proposed rule are discussed below in Section V. Discussion of Comments and Changes.

### III. Basis and Purpose

The legal basis for this rule is found in 46 U.S.C. 2110. That section provides that the Secretary of the Department in which the Coast Guard is operating (Secretary) shall establish a fee or charge for a service or thing of value that is provided to the recipient or user of that service. The Secretary is empowered in 46 U.S.C. 2104 to delegate the authorities in 46 U.S.C. Subtitle II to the Coast Guard. The Secretary exercised that delegation authority for fees in Department of Homeland Security Delegation No. 0170.1(92) (a).

In establishing these fees, we are required to use the criteria found in 31 U.S.C. 9701. Under this provision the fees must be fair, and must be based on the costs to the government, the value of the service or thing to the recipient, and the public policy or interest served (see 31 U.S.C. 9701(b)).

The purpose of this rule is to increase the annual Certificate of Documentation (COD) renewal fee collections so that the fees we charge more accurately reflect the

actual costs to the Coast Guard of providing the annual documentation renewal services. By doing so, we will comply with the law and continue to provide documentation services by charging fair-value user fees.

#### IV. Background

Section 10401 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508, Nov. 5, 1990, 104 Stat. 1388), codified at 46 U.S.C. 2110, requires that the Coast Guard establish user fees for Coast Guard vessel documentation services. One of the vessel documentation services the Coast Guard provides is renewal of endorsements upon a COD. A COD is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits owners of vessels to benefit from preferred mortgages (46 CFR 67.1). An Endorsement means an entry that may be made on a COD, and, except for a recreational endorsement, is conclusive evidence that a vessel is entitled to engage in a specified trade (46 CFR 67.3).

The Coast Guard sets fees at an amount calculated to achieve recovery of the costs of providing the service, in a manner consistent with the general user-charges principles set forth in OMB Circular A-25. Under that OMB Circular, each recipient should pay a reasonable user charge for Federal Government services, resources, or goods

from which he or she derives a special benefit, at an amount sufficient for the Federal Government to recover the full costs of providing the service, resource, or good (see OMB Circular A-25, sec. 6(a)(2)(a)).

We last promulgated our user fees for vessel documentation services on November 15, 1993 (58 FR 60256), found at 46 CFR part 67, subpart Y-Fees. The fees reflect the Coast Guard's program costs for 1993, with the cost of providing annual COD renewals included as part of overhead costs. Since then, the renewal costs have increased. The existing fees do not cover the operating and overhead costs associated with our vessel documentation and recording activities under 46 U.S.C. chapters 121 and 313.

The COD renewal fee will more accurately reflect the Coast Guard's current operating and overhead costs associated with providing this discrete set of services. While we previously included the cost of providing annual COD renewals as part of its overhead costs, the fees collected in relation to these costs do not nearly cover our operating and overhead costs associated with providing annual COD renewal services. Therefore, we will break out and separately charge an annual-renewal fee of \$26 (shown in Table 67.550-Fees) to cover the cost of providing the required annual COD renewal services. The Coast Guard's

fiscal year 2010 review of vessel documentation user charges, "Vessel Documentation Biennial User Fee Review," recommended establishment of an annual fee for COD renewals. The Biennial User Fee Review is available in the docket as indicated under ADDRESSES. In accordance with our statutory obligations and this recommendation, we proposed to break out and separately charge an annual renewal fee of \$26 (shown in Table 67.550–Fees) to cover the cost of providing the required annual COD renewal services. After reviewing the comments, as discussed below, this rule adopts the proposed renewal fee without change.

The Biennial User Fee Review also recommended establishment of a fee for resubmitted requests for services such as applications, determinations, waivers, etc. We elected not to pursue the latter recommendation at this time, but will consider this fee in future studies and possibly in future rulemaking actions. Presently, we charge several other fees associated with vessel documentation and we anticipate that further review (as required by OMB Circular A-25) of these fees and the cost of service will result in additional proposed adjustments to reflect changes in cost and provision of services. Any of these additional proposed adjustments would be the

subject of a separate rulemaking.

## V. Discussion of Comments and Changes

Currently, the Coast Guard provides CODs to 265,000 vessels registered in the United States, with average annual renewals issued to 235,000 vessels. The Coast Guard received 2,720 responses to the NPRM, with a total of 4,943 discrete comments, ranging in issue from general support to alternative ways to impose the fee and questions about the fee structure. We grouped the comments into 7 categories of concern, which encompass 45 separate issues. Below, we summarize these categories and the Coast Guard's response to them. No public meeting was requested and none was held.

Eight comments submitted were unclear or duplicate comments, however because they were accompanied by other comments that were categorized, we were able to respond to at least part of the commenter's concerns. We received one submission where the commenter claimed that he already pays the Coast Guard \$27.50 for an annual PIN fee. We thank the commenter for his submission, but we are not sure about the fee to which he refers. He also worded his comment such that it does not appear he has documented his vessel. Only one other submission couldn't be categorized, where the commenter stated he "didn't care" because his vessel was



not documented, but followed up with the statement that he still paid an annual fee of about \$26 to enter the United States from Canada each summer. The Coast Guard thanks these commenters for their submissions, but we have no response, as these are outside of the scope of this rulemaking.

A. General Support

Many commenters (536) responded positively to the proposed rule, including 459 comments in support of the proposed rule and 77 comments that praised the Coast Guard's work. The Coast Guard thanks those commenters for their supportive comments.

B. General Non-support

Nearly 1500 (1499) comments expressed disapproval of the proposed rule. Many (228) wrote that they would no longer document their vessel if the rule became final. A further 1,271 referred to the user fee as the imposition of a new "tax" on the boating community. The Coast Guard appreciates this feedback and would like the opportunity to clarify the difference between imposing a tax versus a user fee.

First, a user fee is designed to defray the costs of a regulatory activity (or government service), while a tax is designed to raise general revenue. Second, a true user fee

must be proportionate to the necessary costs of the service, whereas a tax may not be. Third, a user fee is charged for requested services, whereas a tax is not. The discussion in the Regulatory Analysis will expand on the costs of the Coast Guard providing the COD service, and demonstrate how the new fee will be proportionate to the cost of providing the service.

### C. Fee Components

The Coast Guard received 412 comments related to the components of the fee and how the fee was calculated. Many commenters (202) suggested that the fee was not reflective of the cost of providing the service. Others (140) suggested that the initial fee paid for documentation was sufficient for service costs for the life of the vessel. Several commenters (55) asked what, if any, new benefits would be provided that required an additional fee. Only 13 commenters suggested that the fee was too low.

The Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110) requires the Coast Guard to charge a fee for services but limits charges to no more than the overall cost of program. The fee calculations are based on the full cost of providing the service. The cost methodology, including process and overhead costs used in the calculation, is available in the docket.

Each service provided for vessel documentation carries associated costs that are considered in that fee. The initial application fee covers that service only; the renewal fee covers services incurred while issuing the renewal and maintaining the information supporting the document.

The Coast Guard recognizes that Federal vessel documentation confers many financial benefits on the vessel owner. However, there are no new benefits as a result of the renewal fee. The renewal fee is only necessary to cover the costs of providing the service as noted in the previous paragraph.

One commenter suggested that there would be extra costs associated with Coast Guard boardings to enforce the fee. The Coast Guard does not charge fees for boardings nor conduct boardings to enforce fees. The fee discussed in this rule is based on the cost to the Coast Guard for issuing the renewal. One commenter suggested the Coast Guard add a lien review to the annual renewal. The Coast Guard disagrees with the idea of implementing a lien review. A lien review is a separate process not connected with annual renewal of endorsements on a COD.

#### D. Alternatives Suggested

The Coast Guard received 886 comments recommending alternative ways to charge for vessel documentation renewal services. Among those, the most frequent (243) comments suggested that the Coast Guard charge for vessel documentation renewals only under certain circumstances, such as if changes are made to the documentation or if renewals are late (late fees). Additional commenters within this grouping proposed making the COD a permanent document. By regulation, CODs expire one year after issuance, regardless of whether or not there are any changes in information. Similar to current motor vehicle registration renewal processes, (in that an owner must pay to obtain a valid registration, regardless of whether any change to information is necessary), valid documents must be obtained in order to legally operate vessels.

Several commenters also suggested that the Coast Guard add the cost of the renewal service to existing fees or pay for the service through taxes. For example, we received 84 comments that suggested we increase the initial documentation fee, instead of charging the renewal fee. We also received seven comments that suggested the Coast Guard combine these fees with the United States Customs and Border Protection decal fees, but that vessel owners should

not have to do both. Another seven comments suggested the Coast Guard recoup costs from fuel taxes.

The Coast Guard is required to charge a cost-based fee for all vessel documentation services provided. Renewal of endorsements on a COD is a service that incurs ongoing costs. Charging a separate fee for renewals allows the Coast Guard to fairly distribute those costs and allows flexibility to ensure the costs are recouped over the entire period of ownership. As discussed earlier taxes and user fees have separate purposes, user fees are charged for specific services, using taxes such as a fuel tax to cover COD expenses would create inequities by causing some boat owners to pay (via fuel charges) for services (COD renewals) that they did not use. Additionally, because the COD renewals are a separate and distinct effort from the Customs and Border Protection decal issuance, these fees cannot be combined.

Many commenters (91) suggested that the Coast Guard provide discounted rates for senior citizens, Auxiliary members, and non-profit organizations. While we understand the desire to provide a reduced rate, the current user fee covers the actual cost of processing a renewal; reducing fees for any one group would shift the cost to another

group and this would not meet the fairness requirement of 31 U.S.C. 9701.

Other commenters suggested that documentation of recreational vessels be conducted by States. For example, 89 commenters suggested the Coast Guard do away with Federal COD and instead have States perform the service, or commented that they should not have to pay both Federal and State fees. One hundred ten commenters suggested that the Coast Guard charge States for use of the information the Coast Guard collects. We understand some owners do not want to pay both Federal and State fees; however, holding a valid Federal COD confers additional benefits beyond State registration. Furthermore, it is optional for recreational vessel owners. Recreational vessel owners are not required to request this service or to hold a Federal COD.

Forty-eight comments suggested that renewal fees apply only to commercial vessel owners. Obtaining a COD is already optional for recreational vessel owners. However, when the option to obtain a COD renewal is exercised, the cost of processing renewal CODs is the same, regardless of whether the vessel is operating with a commercial or recreational endorsement.

The Coast Guard also received a variety of comment submissions (197) that decried government size and waste

and asserted the need for government spending cuts. Another 10 commenters suggested the Coast Guard privatize or outsource CODs. We note these comments, however they fall outside of the scope of the rulemaking. As noted, the Coast Guard provides this service and is required to charge a fee for incurred costs. The Coast Guard has and continues to minimize the costs and charges to provide this service.

#### E. Mechanics

The Coast Guard received 1,316 comments regarding the implementation of the new fee. The majority of these comments suggested the Coast Guard institute a multiyear renewal option program (757) and establish online payment capabilities (288). Others inquired about future adjustments to the fee. In particular, 199 commenters consider the proposed \$26 fee too high, with many worried that the fee will continue to increase. Several commenters (30) queried if the fee could be determined by the class, size or value of the vessel. Another 29 commenters questioned the need to document vessels, indicating they had been forced into it.

The Coast Guard has provided annual renewals of endorsements on CODs to reduce the risk of maintaining outdated information and in response to vessel owner needs

to maintain preferred mortgage status. The Coast Guard understands the efficiencies of multiyear renewals and will consider this in a future rule making. It cannot be implemented currently since this will require changes to processes, information systems, budgets, regulations and perhaps laws.

Currently, the Coast Guard offers online payment options for certain services, and, along with other Federal agencies, is looking for ways to expand and improve this service. The Coast Guard will continue to work to find efficiencies to reduce costs incurred and minimize fees charged. As processes, automation, information systems, and costs change, future adjustments of this fee will be made through regulation and based on the cost of providing the service.

One commenter requested to know when the fee would start. This regulation will become effective 90 days after the date of publication, on the date specified in the DATES section of this document. Therefore, the fees will start no earlier than 90 days after the date of publication of this regulation.

One commenter requested information on any requirements for renewal when the vessel's COD is "on deposit." Currently a COD on deposit does not require an



annual renewal. This will not change as a result of this rulemaking. This fee will apply only to renewals.

Two commenters requested clarification on endorsements and exemptions. These issues are beyond the scope of this rule. The respondents may contact the Coast Guard National Vessel Documentation Center (NVDC) directly for clarification. Contact and other helpful information is available through the NVDC website:

<http://www.uscg.mil/nvdc/default.asp> or by calling 1-800-799-8362.

Two commenters suggested the Coast Guard refund fees when relinquishing CODs. This is not possible because the fee is being charged for services already performed at the time of renewal.

Four commenters suggested that all boaters, not just those holding a document, pay the fee. This is not possible because the Coast Guard may only charge a fee for requested services. The request for service is voluntary, not all boaters request the service. Therefore the Coast Guard has no authority to charge all boaters.

Four commenters asked about enforcement of renewing a COD. Renewal of a COD is a voluntary request. If a COD is not properly renewed, it expires and with it, the benefits conferred also expire.

## F. Fee Use

The Coast Guard received 213 comments with suggestions or questions about how the fee should or would be used. Most of these comments (114) addressed how the fees would be used and the benefits to the owner. Many included suggestions about how the fees should be used for waterway maintenance (21), boating services and safety (23), and to improve the Great Lakes (1). Thirty seven commenters indicated that they would be supportive if the fees go towards the Coast Guard only. There were eight comments inquiring whether the fees would go towards improving service, and five who viewed the documentation service renewal fee as unnecessary. Four commenters questioned whether the location of their vessel would influence the fees charged, because there is no Coast Guard presence where their boat is kept.

The Coast Guard is limited by law as to how it may use the fees collected. Vessel documentation fees collected from commercial vessel owners are deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to the Coast Guard activities. Vessel documentation fees collected from recreational vessel owners are used by the Coast Guard's NVDC to perform vessel

documentation services for recreational vessel owners. Overall the fee collected through implementation of this rule is intended to provide additional funds to the NVDC for improvements to documentation service. The Coast Guard understands that the current backlog of requests for service particularly for recreational vessels is excessive and intends to apply the available fees collected from renewals to correct this problem.

The fee for renewing a COD will be the same regardless of the location of the vessel. There is no difference in cost associated with location when renewing a COD because the same documentation services are provided regardless of location of the vessel. Although some endorsements are requested for specific commercial purposes, the locations that a vessel may be used other than for that commercial purpose is not limited by the COD issued.

#### G. Government Benefits

The Coast Guard received 71 comments regarding the benefits the government would gain with the proposed user fee. We received 35 comments about the expected benefits to the government. A further 26 comments cited the Federal government's ability to contract with documented vessel owners for the use of their vessels during certain national emergencies. The respondents suggested that this resulted

in a benefit to the government and should be considered when setting a fee for renewing a COD. Ten commenters suggested public safety would be negatively impacted, as some owners would choose not to hold or renew Federal documents.

For the Federal government to use a documented vessel in times of emergency the vessel must be acquired under a mutually agreed upon contract between the Federal government and the vessel owner. Because the vessel owner would be paid for the use of the vessel this was not a factor in setting the fee. The Coast Guard based the documentation fee on the cost of providing the service, not on benefits received or given by either the government or the vessel owner. The purpose of vessel documentation is to provide the vessel owner with specific benefits and is not intended as a public safety measure.

#### H. Final Rule

After considering all comments, the Coast Guard is finalizing the user fee as it was proposed. The Coast Guard appreciates all of the comments received. The Coast Guard is publishing the final rule without changing the requirements stated in the NPRM.

### VI. Regulatory Analyses

We developed this final rule after considering

numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below, we summarize our analyses based on these statutes or E.O.s.

A. Regulatory Planning and Review

E.O.s 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866. Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

We received no comments that would alter our assessment of the impacts presented in the NPRM. Further, we have found no additional data or information that would

change our assessment of the impacts presented in the NPRM. As such, we have adopted the analysis in the NPRM for this rule as final. A summary of the analysis follows:

The cost to industry<sup>1</sup> outlined in this final rule would represent a transfer payment from the public to the government to offset the costs incurred by the U.S. Coast Guard to provide COD renewal services to those that paid. Transfer payments do not affect total resources available to society. The total social cost to society as a result of this final rule is zero. The following table summarizes the costs and benefits of this rule.

Table 1: Costs and Benefits of the Rule

Industry Costs	
Category	Estimate (millions)
Annual Monetized Costs (undiscounted rounded values)	\$6.1
10-year Present Value Monetized Costs (rounded values, 7% discount rate, discounting begins in first year)	\$42.9
Government Benefits	
Annual Monetized Benefits (undiscounted rounded values)	\$6.1

<sup>1</sup> The term "industry" in this context, refers to recreational, commercial and government vessel owners.

10-year Present Value Monetized Benefits (rounded values, 7% discount rate, discounting begins in first year)	\$42.9
Qualitative Benefits	This rule would allow the Federal Government to recoup its costs for administering COD renewals, enabling the Coast Guard to continue offering these services to the public.

As discussed above, this final rule requires an annual renewal fee for endorsement(s) on the CODs. This fee, which is based on the costs that the Federal Government currently incurs to process renewals, along with additional costs due to increased need in labor and capital costs, will cost each vessel owner \$26 per renewal.

The renewal fee that will be charged to the public under this final rule is based on the full cost to the Federal Government to provide this service. The renewal fee will allow the Federal Government to recoup those costs. Specifically, the purpose of the renewal fee is to ensure that this service is self-sustaining. As such, the renewal fee was determined by dividing the full, annual cost of providing the service by the average number of renewals over the past 5 years. The full, annual cost of providing this service includes all current costs, such as

labor, capital, and overhead, plus additional labor and capital costs that will be required to process the additional fees collected.

In 2011, we conducted a comprehensive study to more accurately calculate the costs involved with the annual COD renewal process. Our "Full Cost Study for Renewal of Endorsements on Certificates of Documentation" focuses on the cost of annual COD renewals, updates the cost figures, and includes costs for the additional activities required to process collections. The cost study is available in the docket where indicated under the "ADDRESSES" section in the preamble.

The study indicated that the average number of annual renewals for 2006-2010 was 235,000. The renewals accounted for a subset of the approximately 65,000 commercial and 200,000 recreational vessels documented by the Coast Guard in 2010. Under this final rule, we anticipate that the cost for processing annual COD renewals and their associated fees will be approximately \$6 million, as shown in Table 2. The full cost to provide the annual renewal service shown in Table 2 includes directly traced personnel costs calculated from timed activities, allocated personnel costs based on costs associated with personnel directly involved and in supporting roles, and other costs such as



operating and administrative costs, facilities, and information systems costs.

The COD renewal and collection services are provided with enough frequency that we were able to reliably estimate the average time involved. We calculated personnel costs based on an hourly rate that represents the cost per hour or part thereof per employee. The employee cost is based on hourly rates found in COMDTINST 7310.1M, Coast Guard Reimbursable Standard Rates, available in the docket where indicated under ADDRESSES. The NVDC anticipates that the method for collecting fees will be similar to the current process for late renewals, with some additional activities for processing the payment (collections) in accordance with U.S. law and Federal guidance.<sup>2</sup> The total annual cost to operate the NVDC annual COD renewal program and collect fees is approximately \$6 million; the final fee reflects this cost, and should close the current gap identified in the Biennial User Fee Review.

To calculate the annual renewal fee, we divided the total annual costs associated with the renewal program by the average number of annual renewals. We included directly traced personnel costs for those activities in a

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<sup>2</sup> The Department of Treasury publishes regulations and guidance for federal agency management of receipts (31 CFR part 206 and the Treasury Financial Manual ([www.fms.treas.gov/tfm/index.html](http://www.fms.treas.gov/tfm/index.html))).

timed study. These activities represent a small, mostly automated portion of the full process. However, we could not include other direct and indirect costs, such as allocated personnel costs, in the time study due to the complexity of the activities. Some of these costs are based on additional steps necessary to process applications with payments, which, at least initially, will be a manual rather than automated process. Other costs are non-personnel operating and are also allocated costs. The allocated cost is based on a percent of standard personnel costs for positions based on relative volume of renewals produced. Table 2 shows these costs.

Table 2: Cost Inputs for Renewal Fee

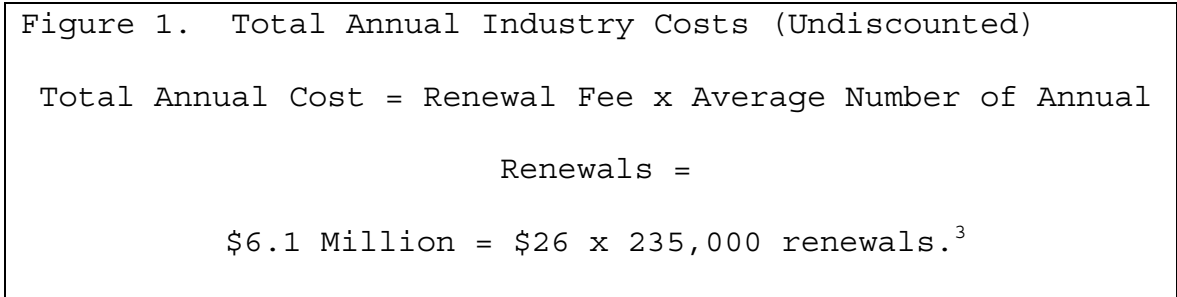
	Total Cost	Average Number of Renewals per Year	Cost per Renewal
Directly traced Personnel Costs	\$2,044,500	235,000	\$8.70
Allocated Personnel Costs	\$1,695,799	235,000	\$7.21
Other Costs	\$2,157,209	235,000	\$9.17
<u>Total</u>	<u>\$5,898,508</u>	<u>235,000</u>	<u>\$25.08</u>

Note: These numbers may not total due to rounding.

This total cost to the Coast Guard is shown by the following equation: the total cost divided by the average number of renewals ( $\$5,898,508 / 235,000 \text{ CODs} = \$25.08 / \text{COD}$ ), which results in an annual renewal fee of \$25.08, which is

rounded up to the next dollar, \$26. This allows us to recover the full cost of providing this service.

The following figure summarizes the annual cost estimate of the final rule.



This final rule is estimated to cost industry \$42.9 million over 10-years discounted at a 7 percent rate.

Table 3 summarizes the total 10-year cost to industry.

Table 3: Industry Cost from Renewal Fee

Year	Undiscounted	7%
1	\$6,110,000	\$5,710,280
2	\$6,110,000	\$5,336,711
3	\$6,110,000	\$4,987,580
4	\$6,110,000	\$4,661,290
5	\$6,110,000	\$4,356,346
6	\$6,110,000	\$4,071,351
7	\$6,110,000	\$3,805,001
8	\$6,110,000	\$3,556,076
9	\$6,110,000	\$3,323,435
10	\$6,110,000	\$3,106,014
Total	\$61,100,000	\$42,914,083
Annualized		\$6,110,000

This final rule provides benefits to both the Federal

<sup>3</sup> Value may not total due to rounding.

Government and vessel owners. Because the Coast Guard has not collected a fee for COD renewal in the past, the estimated \$6.1 million in revenue that the government will collect from the fee will enable the Coast Guard to continue offering these services to the public, which will allow private and commercial vessel owners to continue to benefit from the program. These benefits include, but are not limited to: obtaining documentation for commercial use of vessels, obtaining private mortgages from financial lenders, and ability to travel internationally with evidence of vessel ownership for both private and commercial vessel owners.

When formulating the proposal, which is now being finalized, we also considered an alternate methodology to calculate the annual COD renewal fee. We derived this alternative fee by taking the average of the fees charged by each State (for vessel registration) on an annual basis. The average fee, on an annual basis, for the 50 States and the District of Columbia is approximately \$42. This average, multiplied by the number of annual renewals, yields a value of approximately \$10 million. We rejected this alternative because the annual collections under this methodology would exceed the Federal Government cost of providing the service, and the full-cost results provided a

more reasonable fee.

B. Small Entities

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

In the NPRM, we reviewed size and ownership data of affected entities by using data provided by the NVDC and public and proprietary data sources for company revenue and employee size data. We determined that there are approximately 18,164 entities owning 65,534 commercial vessels that would be impacted by this rule.<sup>4</sup> These entities include businesses and government jurisdictions. Privately-owned recreational vessels comprise the remaining vessel population and are not included in this regulatory flexibility analysis because these vessels are owned by individuals whom are not considered to be small entities for the purpose of the Regulatory Flexibility Act.

We did not receive any public comments following the

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<sup>4</sup> Data provided by the National Vessel Documentation Center.

issuance of the NPRM that would alter our analysis of the economic impact that this rule would have on small entities. Further, we found no additional data or information that would change our findings presented in the NPRM. As such, we have adopted our findings from the NPRM for this final rule. A summary of the analysis presented in the NPRM follows.

To conduct our analysis, we chose a random sample of 400 affected entities.<sup>5</sup> We were able to find revenue or employee size data for 88 of these entities using Web sites, such as MANTA and ReferenceUSA. This included 83 businesses and 5 government jurisdictions. We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields.

To determine the size of the 83 businesses with available revenue or employee size data, we used the North American Industry Classification System (NAICS) codes to identify the line of business for the entities in our sample and compared the data found to the small business size standards determined by the Small Business

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<sup>5</sup> A sample size of 400 provides a 95 percent confidence level at a confidence interval of 5.

Administration (SBA).<sup>6</sup> Of the entities with data, 70 are considered small by SBA size standards and 13 exceeded SBA size standards for small businesses. We also assume that those entities without data available are small.

To determine the size of the 5 affected government jurisdictions, we used the definition from the Regulatory Flexibility Act section 601(5), which classifies small government jurisdictions as jurisdictions with a population of less than 50,000. Of the 5 government jurisdictions, one has a population of less than 50,000, and would therefore be considered small.

As such, we estimate that more than 95 percent of all entities that would be affected by this final rule are small entities. We do not anticipate a significant economic impact to these small entities as a result of this final rule. This rule would require that all entities renewing the endorsements on their COD pay an annual renewal fee of \$26 per documented vessel. This final rule impacts a diverse set of industry sectors with a wide range of fleet sizes and revenues. Table 4 provides example data

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<sup>6</sup> SBA has established a Table of Small Business Size Standards, which is matched to the North American Industry Classification System (NAICS) industries. A size standard, which is usually stated in number of employees or average annual receipts ("revenues"), represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and Federal contracting programs. See <http://www.sba.gov/size>.

for three affected small businesses that represent the upper, lower, and median values for revenue, fleet size, and cost found within the sample population. Our research shows that those entities with the largest fleets, and thus a greater incurred cost, also have the highest reported revenue in our sample.

Table 4: Example Revenue, Vessel Count, and Cost for Three Affected Small Entities

Category	Small Entity Representing Lower Bound	Small Entity Representing Median	Small Entity Representing Upper Bound
Revenue per Entity	\$15,000	\$336,000	\$12,000,000*
Vessel Count	1	2	6
Costs per Entity	\$26	\$52	\$156
Percent Impact of Renewal Fees on Revenues	Less than 0.2%	Less than 0.02%	Approximately 0.0013%

\*Note: The small entity with this revenue is classified under NAICS 336611, Ship Building and Repairing, and has an SBA size standard of 1,000 employees. This means entities in this industry with 1,000 or fewer employees would be considered small. This entity has 54 employees and was determined small even though its annual revenues are \$12 million.

By multiplying the renewal fee by the number of documented vessels owned by each entity analyzed from our sample, we were able to calculate the cost per entity of this final rule. We then used that cost to determine a percentage of revenue impact on the entity by dividing the total cost per entity by the revenue. This analysis showed that the impact from this final rule would be less than 1



percent of annual revenue for small businesses in the sample.

The one small government jurisdiction in our sample operated three vessels that would require COD renewals for a total of \$78 in annual COD renewal fees. Given that the cost to this small government jurisdiction is only \$78, we expect this final rule would not cause a significant economic impact.

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

#### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 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. If the final rule will affect your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult Ms. Mary Jager, CG-DCO-832, Coast Guard; telephone 202-372-1331, e-mail [Mary.K.Jager@uscg.mil](mailto:Mary.K.Jager@uscg.mil). The Coast Guard will not retaliate against small entities that question or complain about this final rule or any policy or action of

the Coast Guard.

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).

D. Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this final rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption

requirements described in Executive Order 13132. Our analysis is explained below.

As explained above, 46 U.S.C. 2110 states that "the Secretary shall establish a fee or charge for a service or thing of value provided by the Secretary under this subtitle." In doing so, it was the intent of Congress to grant the Coast Guard, via delegation from the Secretary, the exclusive authority to establish user fees for Coast Guard vessel documentation services. The Coast Guard has exercised its authority in this rulemaking by establishing annual fees for renewals of endorsements upon the Certificate of Documentation. Therefore, the establishment of user fees for Coast Guard vessel documentation services is within a field foreclosed from state or local regulation. In light of the analyses above, this final rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000

(adjusted for inflation) or more in any 1 year. Though this final rule will not result in such an expenditure, we do discuss the effects of this final rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 ("Governmental Actions and Interference with Constitutionally Protected Property Rights").

H. Civil Justice Reform

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

I. Protection of Children

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

J. Indian Tribal Governments

This final rule does not have tribal implications under E.O. 13175 ("Consultation and Coordination with

Indian Tribal Governments"), because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this final rule under E.O. 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 E.O. because it is not a "significant regulatory action" under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, 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 final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2-1, paragraph 34 (a) of the Instruction. This rule involves regulations that are editorial or procedural. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

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 46 CFR 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, 12106, 12120, 12122; 46 U.S.C. app. 841a, 876; Department of Homeland Security Delegation No. 0170.1.

§ 67.500 [Amended]

2. In § 67.500, remove paragraph (b) and redesignate paragraphs (c) through (e) as paragraphs (b) through (d).

3. Add § 67.515 to read as follows:

§ 67.515 Application for renewal of endorsements.

An application fee is charged for annual renewal of endorsements on Certificates of Documentation in accordance with subpart L of this part.

4. Revise § 67.517 to read as follows:

§ 67.517 Application for late renewal.

In addition to any other fees required by this subpart, including a renewal fee, a fee is charged for a late renewal in accordance with subpart L of this part.

5. In §67.550, revise Table 67.550 to read as follows:

§ 67.550 Fee table.

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Table 67.550—Fees

<u>Activity</u>	<u>Reference</u>	<u>Fee</u>
Applications:		
Initial Certificate of Documentation	Subpart K	\$133.00
Exchange of Certificate of Documentation	do	84.00
Return of vessel to documentation	do	84.00
Replacement of lost or mutilated Certificate of Documentation	do	50.00
Approval of exchange of Certificate of Documentation requiring mortgagee consent	do	24.00
Trade endorsement(s):		
Coastwise endorsement	Subpart B	29.00
Coastwise Boaters endorsement	46 CFR part 68	29.00
Fishery endorsement	do	12.00
Registry endorsement	do	none
Recreational endorsement	do	none
Note: When multiple trade endorsements are requested on the same application, the single highest applicable endorsement fee will be charged, resulting in a maximum endorsement fee of \$29.00		
Evidence of deletion from documentation	Subpart L	15.00
Renewal fee	do	26.00
Late renewal fee	do	5.00 <sup>(1)</sup>
Waivers:		
Original build evidence	Subpart F	15.00
Bill of sale eligible for filing	Subpart E	15.00



and recording		
Miscellaneous applications:		
Wrecked vessel determination	Subpart J	555.00
New vessel determination	Subpart M	166.00
Rebuild determination—preliminary or final	do	450.00
Filing and recording:		
Bills of sale and instruments in nature of bills of sale	Subpart P	8.00 <sup>(2)</sup>
Mortgages and related instruments	Subpart Q	4.00 <sup>(2)</sup>
Notice of claim of lien and related instruments	Subpart R	8.00 <sup>(2)</sup>
Certificate of compliance:		
Certificate of compliance	46 CFR part 68	55.00
Miscellaneous:		
Abstract of Title	Subpart T	25.00
Certificate of ownership	do	125.00
Attachment for each additional vessel with same ownership and encumbrance data	do	10.00
Copy of instrument or document	<sup>(3)</sup>	<sup>(3)</sup>

<sup>1</sup> Late renewal fee is in addition to the \$26.00 renewal fee.

<sup>2</sup> Per page.

<sup>3</sup> Fees will be calculated in accordance with 6 CFR Part 5, Subpart A.

Dated: August 6, 2014.

J.C. BURTON,  
 Captain, U.S. Coast Guard,  
 Director of Inspections and Compliance.

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