

in Executive Order 13175. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks*

Executive Order 13045: Protection of Children from Environmental Health & Safety Risks (62 FR 19885 (April 23, 1997)) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. This rule amends the recycling standards for refrigerants to protect the stratosphere from ozone depletion, which in turn protects human health and the environment from increased amounts of UV radiation.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB,

explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve voluntary consensus standards.

**List of Subjects in 40 CFR Part 82**

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Exports, Imports, Reporting and recordkeeping requirements.

Dated: April 7, 2005.

**Stephen L. Johnson,**

*Acting Administrator.*

[FR Doc. 05-7406 Filed 4-12-05; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Part 67**

[USCG-2003-14472]

RIN 1625-AA63

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

**46 CFR Part 221**

[Docket No. MARAD-2003-15171]

RIN 2133-AB51

**Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade; Second Rulemaking**

**AGENCIES:** Coast Guard, DHS, and Maritime Administration, DOT.

**ACTION:** Joint notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard and the Maritime Administration (MARAD) are withdrawing their joint notice of proposed rulemaking on documentation, under the lease-financing provisions, of vessels engaged in the coastwise trade. The joint notice of proposed rulemaking was superseded by legislation. A new notice of proposed rulemaking addressing the provisions of the new legislation will be published in the future.

**DATES:** The joint notice of proposed rulemaking is withdrawn on April 13, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Patricia Williams, Deputy Director, National Vessel Documentation Center, Coast Guard, telephone 304-271-2506 or John T. Marquez, Jr., Maritime Administration, telephone 202-366-5320.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 4, 2004, the Coast Guard and the Maritime Administration (MARAD) published a joint notice of proposed rulemaking entitled "Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade; Second Rulemaking" in the **Federal Register** (69 FR 5403). The rulemaking concerned the documentation of vessels under the lease-financing provisions of 46 U.S.C. 12106(e) and asked the following questions:

1. To what extent and how should the Coast Guard prohibit or restrict the chartering back (whether by time charter, voyage charter, space charter, contract of affreightment, or other contract for the use of a vessel) of a lease-financed vessel to the owner, the parent, or to a subsidiary or affiliate of the parent? (Coast Guard.)

2. To ensure that control of a lease-financed vessel engaged in the coastwise trade is not returned to the owner or a member of its group, should the Maritime Administrator's approval be required before an interest in or control of a U.S. documented vessel is transferred to a non-U.S. citizen? (Maritime Administration.)

3. What limitations, if any, should the Coast Guard impose on the grandfather rights of lease-financed vessels with a coastwise endorsement issued before February 4, 2004? (Coast Guard.)

4. Should the Coast Guard require that an application for coastwise endorsement under the lease-financing regulations be audited by a third party to further ensure that the transaction in fact qualifies under the lease-financing laws and regulations? (Coast Guard.)

**Discussion of Comments on the Joint Notice of Proposed Rulemaking**

The comments received on the questions above clearly indicated that the lease-financing statute was subject to significantly differing interpretations and needed clarification. Congress also arrived at this conclusion and passed new legislation, signed into law on August 9, 2004, (discussed below) to clarify the lease-financing statute. However, because this legislation did not address the issue of third-party audits (question number 4 above) and because the notice of proposed rulemaking did not contain proposed regulatory text on that issue, comments to that question will be considered under the future Coast Guard rulemaking discussed below.

## New Legislation

On August 9, 2004, the President signed the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108–293) (the Act), which addressed most of the questions listed above and negated the need for this rulemaking as follows:

On the question of charters back to the owner (questions 1 and 2 above), section 608(a) of the new Act added new paragraph (f) to 46 U.S.C. 12106 to clarify Congress's position on the issue by requiring that the owner of a lease-financed vessel certify annually that it (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) is independent from, and not an affiliate of, any charterer of the vessel or any person who has the right, directly or indirectly, to control or direct the movement or use of the vessel.

On the question of limitations to grandfather rights (question number 3 above), section 608(c) of the Act required that the amendments made by section 608 and any regulations published after February 4, 2004, with respect to coastwise endorsements do not apply to a certificate of documentation, or renewal of one, endorsed with a coastwise endorsement for a vessel under 46 U.S.C. 12106(e) or a replacement vessel of a similar size and function, that was issued before August 9, 2004, as long as the vessel is owned by the person named in the certificate, or by a subsidiary or affiliate of that person, and as long as the controlling interest in the owner has not been transferred to a person that was not an affiliate of the owner as of August 9, 2004. A similar grandfather provision in section 608(c) of the Act was applied to offshore supply vessels, except that it was limited only to 3 years after enactment of the Act or until August 9, 2007.

On the question of third-party auditing of applications for coastwise endorsements (question number 4 above), the Act did not address the issue and it is being carried forward to the future rulemaking discussed below.

## Future Rulemaking

The new Act requires that the Coast Guard publish final regulations by August 8, 2005, to carry out section 608 of the Act, including amendments made by the Act to 46 U.S.C. 12106. Therefore, the Coast Guard will publish in the **Federal Register** a new notice of proposed rulemaking with opportunity for public comment to address these changes. In addition, the Coast Guard will again consider the issue of third-

party audits in the new notice and will address, in that notice, all comments on the subject submitted since the February 4, 2004, notice.

## Withdrawal

For the reasons stated above, the Coast Guard and MARAD are withdrawing the joint notice of proposed rulemaking published on February 4, 2004 (69 FR 5403).

**Authority:** The Coast Guard's portion of this rulemaking is taken under authority of 46 U.S.C. 2103 and 12106 and Department of Homeland Security Delegation No. 0170.1. The Maritime Administration's portion of this rulemaking is taken under authority of 46 App. U.S.C. 802, 803, 808, 835, 839, 1114(b), 1195, 46 U.S.C. chs. 301 and 313; 49 U.S.C. 336; 49 CFR 1.66.

Dated: November 2, 2004.

**Thomas H. Collins,**

*Admiral, Coast Guard Commandant.*

Dated: March 29, 2005.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 05–7436 Filed 4–12–05; 8:45 am]

**BILLING CODE 4910–15–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WT Docket Nos. 03–103, 05–42; FCC 04–287]

### Air-Ground Telecommunications Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission requests comment on competitive bidding procedures for commercial and general aviation Air-Ground Radiotelephone Service licenses. In a related document, the Commission has revised the rules and band plan governing the commercial Air-Ground Radiotelephone Service. If mutually exclusive applications are filed for the new commercial Air-Ground Radiotelephone Service licenses that are made available, the Commission will resolve such applications by competitive bidding. The Commission also will resolve by competitive bidding pending mutually exclusive applications for general aviation Air-Ground Radiotelephone Service licenses. To date, the Commission has accepted for filing nine groups of mutually exclusive general aviation applications, which are currently

pending. An auction will be scheduled to resolve these applications. The auction will be limited to the parties in each of the nine groups of applicants that have filed mutually exclusive applications, which constitute closed filing groups.

**DATES:** Submit comments on or before May 3, 2005, and submit reply comments on or before May 13, 2005. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Lynne Milne, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, at 202–418–7055, or via e-mail at [Lynne.Milne@fcc.gov](mailto:Lynne.Milne@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Notice of Proposed Rulemaking (NPRM)* portion of the Commission's *Report and Order and Notice of Proposed Rulemaking*, FCC 04–287, in WT Docket Nos. 03–103 and 05–42, adopted December 15, 2004, and released February 22, 2005. The Commission is concurrently publishing a summary of the *Report and Order* in the **Federal Register**. The full text of the document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Best Copy & Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 800–378–3160, facsimile 202–488–5563, or via e-mail at [fcc@bcpweb.com](mailto:fcc@bcpweb.com). The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at [Brian.Millin@fcc.gov](mailto:Brian.Millin@fcc.gov).

### Synopsis of the Notice of Proposed Rulemaking

#### A. Incorporation by Reference of the Part 1 Standardized Auction Rules

1. In this *NPRM*, we propose to conduct auctions of both commercial and general aviation Air-Ground Radiotelephone Service licenses in conformity with the general competitive bidding rules set forth in part 1, subpart Q, of the Commission's Rules, and substantially consistent with the bidding procedures that have been employed in previous Commission auctions.

2. Specifically, we propose to employ the part 1 rules governing, among other