In accordance with § 67.203, no instrument will be accepted for filing unless it pertains to a documented vessel or a vessel for which a properly completed application for documentation, redocumentation, or deletion from documentation is filed. The Coast Guard deems an instrument filed contemporaneously with a properly completed application for documentation, redocumentation, or deletion from documentation of the related vessel to meet the requirements of the regulation. Therefore, if the vessel related to the instrument being submitted by facsimile for filing is not a currently documented vessel, a completed application would also have to be submitted by facsimile with the instrument.

Paragraph (b) of proposed § 67.219 would require that the person submitting an instrument by facsimile for filing within 10 days submit the original instrument in duplicate to the National Vessel Documentation Command. One of the duplicate instruments submitted would have to bear original signatures. The 10-day period would begin to run at the time the instrument is received by facsimile at the National Vessel Documentation Command. Since the instrument being submitted by facsimile must be a completed and executed document, the submitter should be able to take it from the facsimile machine, place it in an envelope with the original of any required application and the appropriate fee, and mail the original and a copy to the National Vessel Documentation Command without delay. Thus, the 10-day period is considered a sufficient mailing window. The duplicate submission requirement proposed in paragraph (b) would meet the submission requirement for the filing of all instruments in § 67.209, while obtaining the earlier filing date for those instruments submitted by facsimile. In addition, paragraph (b) of proposed § 67.219 would require that the original of any application required to be submitted by paragraph (a) of this section, which is not already on file, also be submitted to the National Vessel Documentation Command.

Paragraph (c) of proposed § 67.219 would provide that upon receipt of the duplicate instruments and the original of any required application, the date and time of recording of the instrument "relates back" to the date and time that the instrument submitted by facsimile was filed. Provided that the instrument submitted by facsimile for filing meets the minimal requirements for filing, it would be filed at the date and time received by facsimile. The objective of

submitting an instrument by facsimile for filing is to obtain an earlier filing date than could otherwise be acquired. Because the instrument submitted by facsimile is itself filed, the process should work well to meet that objective, even during weekends. For example, if an instrument were submitted by facsimile for filing late Friday evening, it would not be reviewed to ensure that it met the filing requirements until the next regular workday. On a regular weekend that would be the following Monday. On most holiday weekends, that would be the following Tuesday. Therefore, it is possible that an instrument submitted by facsimile for filing would not be reviewed to determine whether it met the minimal filing requirements until as many as four days after it was submitted. However, if the instrument submitted by facsimile does meet the filing requirements, then it would be stamped filed and the date and time of filing would be the date and time received by facsimile. The filing of the instrument would then be indexed on the vessel's General Index or Abstract of Title (form CG-1332). Of course, the 10-day period for submitting the duplicate instruments would also start running on the date the instrument is submitted by facsimile. Therefore, persons submitting an instrument by facsimile for filing must exercise due diligence to ensure that the duplicate instruments required by paragraph (b) arrive within the 10-day period. When the duplicate instruments arrive, they would be compared with the instrument filed by facsimile and, if not subject to termination under paragraph (f) of this section, the instrument would be recorded.

Paragraph (d) of proposed § 67.219 would require that all instruments filed by facsimile be clearly legible as received, that they be originally submitted from 8½-inch by 11-inch paper in not less than 10-point type size, and that they be accompanied by a cover sheet. This requirement would provide for minimum quality control of the instruments submitted by facsimile for filing. In addition, clear legibility of the instrument as received will assist Coast Guard personnel to ensure that the instrument meets minimum requirements for filing and recording pending receipt of the duplicate instruments in accordance with paragraph (b).

Paragraph (e) of proposed § 67.219 would indicate that the facsimile cover sheet required by paragraph (d) should contain the name, address, telephone number and facsimile telephone number of the person submitting the instrument by facsimile, and the number of pages

submitted. This information will assist Coast Guard personnel to verify receipt of the complete instrument and will provide a point of contact should a difficulty arise in facsimile transmission.

Paragraph (f) of proposed § 67.219 would state the conditions upon which the filing of an instrument submitted by facsimile would be terminated. First, if the duplicate instruments required by paragraph (b) are not received within the 10-day period following submission of the instrument by facsimile, the filing is terminated and the instrument submitted by facsimile is returned to the submitter. Second, if there is any variance between the instrument submitted by facsimile and the duplicate instruments required by paragraph (b), the filing is terminated and the instrument submitted by facsimile is returned to the submitter. The provision for termination because of a variance would ensure that the instrument being submitted by facsimile for filing is not being submitted for the purpose of reserving an earlier filing date for a different or amended instrument submitted as the duplicate instruments required by paragraph (b). The instrument being submitted by facsimile for filing must be a complete and executed instrument at the time it is submitted, as is the case for any instrument submitted for filing under Subpart O of the current regulations.

Paragraph (g) of proposed § 67.219 would provide that where the filing of an instrument submitted by facsimile is terminated pursuant to paragraph (f)(3) because of a variance with the duplicate instruments submitted in accordance with paragraph (b), the duplicate instruments would be treated as an original submission for filing. Provided this instrument meets the minimal requirements for filing, it would be filed but would be subject to termination under § 67.217(a)(1). This instrument would be subject to termination because of the variance with the earlier instrument submitted by facsimile. The termination of filing and distribution of instruments procedures described in § 67.217 (b) and (c) would apply. The reason for treating this instrument as subject to termination is that the same transaction has been addressed by two different instruments with a variance between them. Therefore, the veracity of the facts of the transaction as reflected in the two instruments is in question. The instrument submitted as the duplicate instruments would be subject to the 90-day termination period in which the variance may be explained, thereby curing the defect and allowing for recording of the instrument. In this