

U.S. ports shall be granted a clearance at the port or place of departure from the United States unless it is established that the vessel has valid certificates issued by the Federal Maritime Commission.

13. It is proposed to revise § 4.70 to read as follows:

**§ 4.70 Public Health Service requirements.**

No clearance shall be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service.

**Bonni G. Tischler,**

*Acting Commissioner of Customs.*

Approved: June 8, 1998.

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Chapter I**

[USCG-1998-3798]

RIN 2115-AF13

**Numbering of Undocumented Barges**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Coast Guard seeks public comments on establishing a statutorily required numbering system for operating undocumented barges more than 100 gross tons. The numbering of these barges would increase owner accountability and deter their abandonment, making fewer barges available for disposal of oil and hazardous substances.

**DATES:** Comments must reach the Coast Guard on or before November 3, 1998.

**ADDRESSES:** You may mail comments to the Docket Management Facility [USCG-1998-3798], U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington DC 20590-0001, or deliver them to room PL-401, located on the Plaza level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL-401, located on the Plaza level of the Nassif Building at the same address, between

10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information concerning this document, call Mr. Thomas Willis, Director, National Vessel Documentation Center, U.S. Coast Guard, telephone 304-271-2506. For questions on viewing, or submitting material to, the docket, call Dorothy Walker, Chief, Documents, Department of Transportation, telephone 202-366-9329.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Coast Guard encourages you to participate in the early stages of this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this document [USCG-1998-3798], the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you want acknowledgment of receipt of your comments, you should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard plans no public meeting. You may request a public meeting by submitting a comment requesting one to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that a meeting should be held, we will announce the time and place in a later notice in the **Federal Register**.

**Background and Purpose**

The Abandoned Barge Act of 1992, sections 5301 to 5305 of Pub. L. 102-587 (the Act), enacted on November 4, 1992, added a new chapter 47 to Title 46 of the United States Code (46 U.S.C. 4701-4705) and amended 46 U.S.C. 12301 to require the numbering of undocumented barges measuring more than 100 gross tons operating on the navigable waters of the U.S. In enacting this legislation, Congress noted that an abandoned barge could become the site for the disposal of hazardous cargoes, wastes, and petroleum products, which can lead to water pollution incidents. Numbering these undocumented barges will increase owner accountability,

reducing the likelihood barges will be abandoned and used for disposal of oil and hazardous substances.

**Regulatory History**

On October 18, 1994, the Coast Guard published a notice in the **Federal Register** [59 FR 52646] requesting comments on issues related to a numbering system for undocumented barges measuring more than 100 gross tons. The primary issues addressed in the notice concerned who should administer a barge numbering system, what type of number should be required, and how much the numbering would cost. The Coast Guard received twenty-two comments in response to the notice.

**Summary of Comments**

The following is a summary of the comments received in response to the questions and issues addressed in the 1994 Notice of Request for Comments. Comments can be viewed on the Internet at <http://dms.dot.gov>.

**Administering Agency**

All comments recommended the Coast Guard, not the States, administer a numbering system for undocumented barges. The comments noted several difficulties the States would encounter administering barge numbering programs, including coordination with other States, resource burdens, and enacting State legislation.

The comments discussed several advantages of having the Coast Guard administer a barge numbering system, such as its experience with the vessel documentation system, the Marine Safety Information System (MSIS), and providing a single source for barge registration.

**Undocumented Barge Number**

Several comments suggested the Coast Guard should use a numbering code similar to the code used for documented vessels, as long as codes differentiate between documented and undocumented barges. Some comments suggested assigning undocumented barges Hull Identification Numbers (HINs), while others suggested painting the company name and homeport on barges instead of numbers.

A few comments discussed a perceived difference between *inspected* undocumented barges and *uninspected* undocumented barges, and suggested addressing only uninspected undocumented barges.

**Attaching Numbers to Barges**

Some comments suggested that the barge numbers be permanently welded

on a structural component of a barge and clearly visible. Other comments stated that welding a number on the interior of a barge could make the number difficult to locate.

Some comments recommended numbering undocumented barges in a manner similar to recreational vessels, and others pointed out that these numbers are not permanently affixed, and could be easily removed.

#### Application Information

Several comments suggested that a barge numbering application should require information similar to that required to document a barge.

Other comments stated that barge owners should only provide proof of vessel ownership or a signed affidavit of ownership because it may be difficult to provide information proving ownership for an undocumented barge.

Some comments stated that a number should not change when barge ownership changes, and additional registration or renewal should be required only if ownership changes.

#### Economic Impacts

A few comments indicated that it would take a survey of the barge industry to determine the total undocumented barge population and the potential economic impact of any regulations. Several comments mentioned that it is difficult to identify how many undocumented barges are in operation because many barges are not tracked by government agencies or other organizations. One comment estimated that there are approximately 13,000 to 14,000 undocumented barges measuring more than 100 gross tons in operation.

Several comments supported an estimated cost for attaching barge numbers of \$500–\$1,500 per barge. Another comment stated that related costs to be considered include barge out-of-service time, fleeting expenses, shifting expenses, tug service, and gas free certificates. Attaching numbers during regularly scheduled maintenance or inspections could minimize such overhead costs. The comments recommended a two-year phase-in period for any regulations.

Some comments stated that barge owners should not be charged a fee for initial registration, and that any charges for subsequent registration (change of ownership, for example) should be scaled to vessel documentation service fees. Other comments stated that the Coast Guard should charge fees to recover its costs for setting up and administering a numbering program.

#### Other Issues

One comment suggested that barge owners should be allowed to voluntarily number undocumented barges measuring 100 gross tons or less.

Another comment opposed a costly numbering system that would not solve the abandoned barge problem, and suggested the repeal of the Abandoned Barge Act of 1992. One comment pointed out that even identifying a few barge owners through barge numbers would probably not lead to an owner with sufficient assets to remove the barge, and the taxpayers would continue to pay for removal of barges.

#### General Proposals and Related Questions

Based on the comments received, the Coast Guard is considering options for establishing a Coast Guard numbering system administered by the National Vessel Documentation Center (NVDC). Unlike vessel documentation, which serves multiple purposes such as establishing vessel nationality, admitting vessels to restricted trades, and permitting vessels to be the subject of preferred mortgages, the numbering of operating undocumented barges more than 100 gross tons would be used to simply identify their owners.

The Coast Guard requests comments on the following questions, although comments on other issues addressed in this advance notice are also welcome. In responding to a question, please explain your reasons for each answer, and follow the instructions under **Request for Comments** above.

#### Inspected Undocumented Barges

Only documented vessels are required to obtain and mark Official Numbers per 46 CFR part 67, subparts H and I. The Coast Guard acknowledges that some inspected undocumented barges may have Official Numbers and these numbers may still be marked on the vessels. However, Official Numbers on existing undocumented barges may not provide accurate owner information.

- How should the Coast Guard address undocumented inspected barges with Official Numbers? Should the barge owner be required to obtain a number under this proposed system?

#### What Number Should the Coast Guard Use for Undocumented Barges?

The Coast Guard believes assigned barge numbers should be similar to the numbers used for documented vessels. We do not plan on including undocumented barges in the Hull Identification Number (HIN) system since most existing undocumented barges do not have HINs.

- Are there other options the Coast Guard should consider for undocumented barge numbers?

#### How Should Owners Attach Numbers to Barges?

At this point, the Coast Guard believes numbers should be permanently welded externally to discourage removal and be clearly visible from a distance to help identify barge owners. The Coast Guard does not believe numbers should be marked on the interior as this makes identification difficult.

- Should barge numbers be attached to the exterior of a vessel's hull? How large should the numbers be? Where exactly should the numbers be attached? Would numbers possibly interfere with other barge markings?
- Should barge numbers be bead welded to the hull? Are there other attachment methods that the Coast Guard could consider?

#### What Information Should Barge Owners Provide on Barge Numbering Applications?

The Coast Guard recognizes that in many cases, it may be impossible for owners of undocumented barges to prove vessel ownership. The purpose of the proposed barge numbering system is to identify the owners of barges. The Coast Guard does not expect owners of undocumented barges to provide the same information that is required to document a vessel. The Coast Guard plans to propose accepting any available information indicating ownership (such as a bill of sale), or a signed affidavit of ownership.

Under this approach, barge owners may be required to submit an application with the following identifying information: owner name, address, e-mail, and phone number; company name; proof or affidavit of ownership; general barge description; and barge operating area. We do not anticipate requiring application renewal, except when ownership changes. Barge owners would also be responsible for updating application information as appropriate (change of address, new phone numbers, etc.).

- Is the proposed application information discussed above adequate to identify barge owners? Should the application request barge operator information? Is the proposed information readily available?
- How long after the effective date of any future regulations should owners submit their numbering applications to the Coast Guard?
- Who should initiate numbering application renewal upon change of

ownership, the seller or the new owner? How long after a change of ownership should this paperwork be submitted to the Coast Guard?

- If you had the option of submitting a numbering application or application update electronically via the Internet, would you take advantage of the service?

#### *How Many Operating Undocumented Barges Measuring More Than 100 Gross Tons are There?*

Based on available information, we estimate that there are approximately 10,000 to 14,000 undocumented barges measuring more than 100 gross tons and operating on the navigable waters of the United States. The Coast Guard's Marine Safety Information System (MSIS) contains records on just under 10,000 undocumented barges measuring more than 100 gross tons.

However, since most undocumented and uninspected barges are listed in the database only when Coast Guard personnel enter information as a result of marine safety-related activity (casualty, boarding, etc.), many barges may not even be listed in the database. It is also possible that many undocumented barges listed in the database are no longer operating. The Coast Guard is in the process of commencing a study of the barge industry to determine the number of undocumented barges.

- Is the population range of 10,000 to 14,000 undocumented barges measuring more than 100 gross tons accurate?

- How can the Coast Guard obtain a more accurate population estimate? What is the best way to contact owners and operators of undocumented barges measuring more than 100 gross tons?

#### *What are the Potential Economic Impacts of the Proposed Numbering System?*

The *Preliminary Regulatory Assessment* section of this document discusses the potential economic impacts of this rulemaking. Please refer to that section when reviewing the following questions. This rulemaking will affect owners of undocumented barges measuring more than 100 gross tons. Barge owners would bear the cost of providing needed owner and barge information and costs associated with attaching numbers to the barges. Submitting this information to the Coast Guard should impose only a minimum cost burden. Costs associated with attaching barge numbers depend on the form, size, and attachment method(s) established.

The Coast Guard may charge a fee for initial and subsequent barge numbering

to offset agency costs, and is interested in comments regarding the appropriateness of such fees.

- Is the cost estimate of \$500 to \$1,500 for attaching permanent numbers to barges accurate? Does it include all costs associated with barge numbering (barge out-of-service costs, shifting expenses, etc.)? Will most barge owners attach numbers in-house or have a shipyard do the work? How would costs differ according to types of barges (tank barge versus construction barge, for example)?

- What are the common uses (services) for undocumented and uninspected barges measuring more than 100 gross tons? Where do most barges operate?

- What are the average maintenance intervals for undocumented barges measuring more than 100 gross tons?

- What is the average barge service life for undocumented barges measuring more than 100 gross tons?

- What is the average annual construction rate for new undocumented barges measuring more than 100 gross tons?

- How often, on average, do barges measuring more than 100 gross tons change owners?

#### *How Will any Future Regulations Affect Small Entities?*

The *Small Entities* section of this advance notice discusses potential impacts on small entities and available assistance for small entities. Please refer to that section when reviewing the following question. We believe many undocumented barge owners are small entities, and are interested in feedback from potentially affected small businesses, agencies, and organizations.

- If your small business, organization, or agency may be affected by any future barge numbering system, please tell how, and what flexibility or compliance alternatives we should consider to minimize the regulatory burden on you while promoting the intent of the Abandoned Barge Act.

#### **Preliminary Regulatory Assessment**

The cost for mandatory numbering of undocumented barges more than 100 gross tons is not expected to exceed \$100 million. As discussed, preliminary population estimates for the number of undocumented barges measuring more than 100 gross tons ranges from just under 10,000 to 14,000 barges.

An industry-provided cost estimate for attaching barge numbers ranges from \$500 to \$1,500 per barge, depending on the method used and whether the work is done in-house or at a shipyard. Assuming a per barge cost of \$500 to

\$1,500 for as many as 14,000 barges, the preliminary cost estimate ranges from \$7.0 to \$21.0 million. Other associated costs to consider include shipyard tug services, barge out-of-service costs, numbering fees, fleeting expense, and shifting expense. Avoiding future environmental damage and potentially reducing clean-up costs are the primary benefits associated with this rulemaking. From January 1988 to September 1991, the Coast Guard spent an estimated \$4.4 million to clean up pollutants from abandoned vessels. Approximately 15% of these pollution incidents were attributable to abandoned barges. According to 1997 figures, there are just over 1,000 abandoned barges in our nation's waterways; approximately 25 barges pose hazards to navigation, and 15 pose a potential pollution threat.

#### **Small Entities**

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether any potential rulemaking would have significant economic impacts on a substantial number of small entities. "Small entities" include 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.

Many owners of undocumented barges subject to future barge-numbering regulations may be small entities. Because we have not yet proposed specific requirements and because the number of affected small entities has not been identified, we cannot accurately estimate the potential impact on small entities at this time. The Coast Guard would like comments discussing the potential impacts of any future regulatory changes on small entities.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-21], the Coast Guard wants to assist small entities to understand this document so they can better evaluate the potential effects of this rulemaking on them and participate in the rulemaking process. If you believe that your small business, organization, or agency may be affected by this rulemaking, please explain how you could be affected, and tell us what flexibility or compliance alternatives the Coast Guard should consider to minimize the burden on you.

If you have questions concerning this document, you may call the Coast Guard point of contact designated in **FOR FURTHER INFORMATION CONTACT**. We also

maintain a small business regulatory assistance Web Page at <http://www.uscg.mil/hq/g-m/regs/reghome.htm> which has current information on small entity issues and proposed Coast Guard regulations. To help small entities become more involved in this rulemaking, the Coast Guard will mail copies of this advance notice to Small Business Development Center (SBDC) State Directors nationwide for distribution to local SBDC offices and interested small businesses.

### Collection-of-Information

Under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, record-keeping, notification, and other similar actions. This proposal would include new collection-of-information requirements. Barge owners would have to provide readily available information identifying undocumented barges and barge owners to the Coast Guard. This information should be readily available, so the burden should be minimal. We cannot estimate the exact paperwork burden associated with this rulemaking because specific requirements have not been proposed. We expect that comments received in response to this advance notice will assist us in estimating the potential paperwork burden, as required under the Paperwork Reduction Act. Once a specific proposal is developed, the Coast Guard will prepare a request for OMB approval of any collection-of-information requirements.

### Environment

The Coast Guard will consider preparing an Environmental Assessment before publication of a notice of proposed rulemaking. The Coast Guard expects that an environmental impact statement would not be required. By increasing owner accountability, this rulemaking may prevent future marine pollution incidents from abandoned barges and providing a beneficial impact on the environment. The Coast 1 Guard invites comments addressing possible effects that this rulemaking may have on the environment or addressing possible inconsistencies with any Federal, State, or local law or administrative determinations relating to the environment.

Dated: June 29, 1998.

#### R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98-17814 Filed 7-2-98; 8:45 am]

BILLING CODE 4910-15-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 98-72, RM-9265]

#### Radio Broadcasting Services; Middlebury and Berlin, VT

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Dynamite Radio, Inc. seeking the substitution of Channel 265C2 for Channel 265A; the reallocation of Channel 265C2 from Middlebury to Berlin, VT; and the modification of Station WGTK's license to specify Berlin as its community of license. Channel 265C2 can be allotted to Berlin in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.1 kilometers (6.9 miles) north of the community. The site restriction imposed on Channel 265C2 at Berlin does not obviate the short-spacings to Station CBF-FM, Channel 265C1, Montreal, Quebec, and to Station CBF10F, Channel 266B, Sherbrook, Quebec, Canada. Therefore, we have sought Canadian concurrence in the allotment of Channel 265C2 at Berlin as a specially negotiated short-spaced limited allotment since Berlin is located within 320 kilometers (200 miles) of the U.S.-Canadian border. In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 265C2 at Berlin, VT.

**DATES:** Comments must be filed on or before July 13, 1998, and reply comments on or before July 28, 1998.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Anthony A. Neri, President, Dynamite Radio, Inc., 74 Exchange Street, Middlebury, Vermont, 05753 (Petitioner).

#### FOR FURTHER INFORMATION CONTACT:

Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-72, adopted May 13, 1998, and released May 22, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

#### John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98-17776 Filed 7-2-98; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 98-70, RM-9276]

#### Radio Broadcasting Services; Clinton and Okarache, OK

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Tyler Broadcasting Corporation seeking the substitution of Channel 294C2 for Channel 294C1 at Clinton, OK, the reallocation of Channel 294C2 from Clinton to Okarache, OK, as the community's first local aural service, and the modification of Station KCLI-FM's license to specify Okarache as its