

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.

B. Does Executive Order 13045 Apply to This Proposed Rule?

This proposed rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

X. Paperwork Reduction Act

A. What Is the Paperwork Reduction Act?

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rules, are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070-0012 (EPA ICR No. 574).

B. Does the Paperwork Reduction Act Apply to This Proposed Rule?

No. EPA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

XI. Executive Orders on Federalism

A. What Are The Executive Orders on Federalism and Are They Applicable to This Proposed Rule?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

XII. Executive Order 13084

What is Executive Order 13084 and Is It Applicable to this Proposed Rule?

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This proposed rule does not significantly or uniquely affect the communities of Indian tribal

governments because it does not significantly or uniquely affect their communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE NO. 35, GENERAL SUPERFUND SECTION

State	Site name	City/county
CA	Cooper Drum Company.	South Gate
NJ	Quanta Resources.	Edgewater
NM	Griggs & Walnut Ground Water Plume.	Las Cruces
NY	Shenandoah Road Ground Water Contamination.	East Fishkill
NC	Barber Orchard...	Waynesville

Number of Sites Proposed to General Superfund Section: 5.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: January 3, 2001.

Timothy Fields, Jr.,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 66

[USCG-1998-3798]

RIN 2115-AF13

Numbering of Undocumented Barges

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to promulgate statutory requirements for numbering and marking barges in reserved part 66 of Title 46, Code of Federal Regulations. This rulemaking

will establish a statutorily required numbering system for undocumented barges more than 100 gross tons operating on the navigable waters of the United States. A barge numbering system will help identify parties responsible for the illegal abandonment of barges and prevent future marine pollution from abandoned barges.

DATES: Comments and related material must reach the Docket Management Facility on or before April 11, 2001. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before March 12, 2001.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, USCG-1998-3798, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call LCDR Robyn MacGregor, Project Manager, Office of Waterways Security and Safety (G-MWP), Coast Guard, telephone 202-267-0483. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief,

Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1998-3798), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

According to a 1992 Government Accounting Office (GAO) report on abandoned vessels, nearly 1,300 vessels were abandoned in the navigable waters of the United States. Almost 600 of the abandonments were barges. According to the same report, between the years of 1988 and 1992, 82 water pollution incidents occurred which originated from abandoned vessels, 37 of which required cleanup operations. During that period, the Coast Guard conducted oil removal operations for 14 additional vessels that posed a potential threat of discharge or release. The combined cost of these operations was \$4.4 million, with \$2.5 million spent on two separate removal operations from the same vessel, an abandoned barge located in Empire, Louisiana.

During the 1988 to 1992 period, barges that used inland waterways were

exempted from vessel documentation. Additionally, there were no Federal laws prohibiting vessel owners from abandoning vessels. Therefore, it was often very difficult to identify and locate owners of abandoned vessels. In many cases where ownership was determined, owners were unable to remove their abandoned vessels for a variety of reasons (e.g., deceased, bankrupt, etc.). Without a process linking abandoned vessels to responsible parties, the government has little chance of recovering vessel removal or pollution response costs.

In an annual summary report on abandoned vessels submitted in 1997 by the Captains of the Ports (COTP), each COTP documented the number of abandoned vessels within their geographic areas of responsibility. The report stated that 2,697 abandoned vessels existed along our navigable waters. Of this total, 1,010 were barges.

Based on the GAO Report, the annual COTP summary report with supplementary Coast Guard testimony, industry representatives, and others, Congress passed the Abandoned Barge Act of 1992 (Pub. L. 102-587, sections 5301-05) ("the Act"). During passage of the Act, Congress noted that abandoned barges are often used for the illegal disposal of hazardous cargo, waste, and petroleum products. This illegal disposal can lead to actual or potential pollution incidents. To prevent these incidents, the Act added a new chapter 47 to title 46 of the United States Code that prohibits abandoning barges in the navigable waters of the United States. The Act also 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 United States.

This numbering system provides a means for identifying parties responsible for the now illegal abandonment of barges. More importantly, it will help identify those parties who may be held liable for the removal and proper disposal of any hazardous substances stored or deposited on board abandoned barges, as well as for the removal of the barges from the nation's waterways. This potential for liability would serve as a deterrent to barge abandonment.

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 system would cost. The Coast Guard received twenty-one comments in response to the notice.

On July 6, 1998, the Coast Guard published an Advanced Notice of Proposed Rulemaking (ANPRM), discussing the proposed regulation, comments received from the previous notice, and a preliminary regulatory assessment (63 FR 36384). The comments we received are discussed below.

Discussion of Comments

We received comments from four respondents to our 1998 ANPRM (one respondent submitted the same comments twice; we are only counting it once). The comments directed our attention to such issues as the placement of the barge number markings, the source of the barge number, the application form, the phase-in period for the requirements based on the effective date of this rule, and fees for obtaining a barge number.

Placement of Markings

Three respondents stated that the Coast Guard should be consistent in marking requirements by following the regulations already in place for documented vessels. External markings would be an additional requirement on uninspected, undocumented barges and may interfere with other required markings, e.g. vessel name. The Coast Guard agrees that consistency is important and has written the requirements to mirror existing marking regulations as closely as possible. The purpose of these proposed markings and the circumstances under which they would be used are different, however. The proposed markings would be used to identify an owner of an abandoned barge. Many abandoned barges in the past contained unknown materials when abandoned, or were subsequently used as a dumping site for any number of unidentified materials. Many of these abandoned barges quickly become inaccessible to investigators without putting the investigator at great risk. Thus the quickest, safest, least expensive way to identify a barge owner is by requiring a unique number be located where it may be viewed without having to climb on the barge or enter any compartments or voids.

No respondents voiced objections to permanently marking the number on the vessel, although it was suggested that a particular method of marking be required. The Coast Guard values the diversity that exists and strives to

permit as much autonomy as possible. As such, the Coast Guard would not be more specific than to require permanent markings as described in the proposed regulations, which are consistent with current requirements for marking documented vessels.

Barge Numbers

Three comments recommended recycling existing official numbers, and adding a prefix to those numbers to further identify the barge. The comments suggested using a "D" preceding the number to indicate a barge that had previously been documented, or using "CG" preceding the number to indicate a barge that is currently inspected but not documented. In both cases, the numbers would have already been recorded in Coast Guard records and official "D" numbers already permanently marked on barges. The Coast Guard agrees, and proposes that existing official numbers and CG numbers be accepted. However, we will not be distinguishing the numbers in the manner suggested by the commenter.

Application Form

One comment expressed concern that the information the Coast Guard proposed collecting was more than what was necessary to indicate ownership of a barge and would be broader than what is required for documented barges. We have developed a form titled Application for Certification of Number for Undocumented Barge that we feel limits the amount of information collected to what is absolutely necessary to enable the Coast Guard to identify and locate the owner of future abandoned barges. The application is available on the docket under the section labeled **ADDRESSES**. We welcome any comments on the application you have.

This comment also expressed concern for the increased burden on owners having to update the information each time an address, phone number, or the like changed. In addition, they argued that the new owner should inherit the responsibility for notifying the National Vessel Documentation Center (NVDC) of a change in ownership. We note that the "old" owner certainly retains an interest in ensuring that NVDC and the Coast Guard are aware of who owns and is responsible for a barge. The only times we propose requiring owners notify the NVDC of changes is after any change in ownership, or upon destruction of the barge. Previous owners would be required to notify NVDC of the change in ownership, whereas new owners would be required to submit a request

for a certification of number issued to them within 60 days. Owners of barges that are destroyed would be required to notify NVDC of the destruction, just as owners of certificated barges must notify the Coast Guard when they elect to take a barge out of service within 60 days of destruction or removal from service.

One comment supported any opportunities to simplify the application process, including the use of electronic filing. The Coast Guard agrees, and will make electronic filing available in the future. The application will be available on the internet at the NVDC website. Applicants would be able to download the form and mail it in once they have completed filling it out.

Implementation Period

One comment suggested a phase-in period for the effective date of the regulation. Their suggestions included allowing up to six months to file an application and up to two years to mark barges. The Coast Guard agrees that the system proposed by these regulations could not be accomplished overnight and wishes to minimize the impact on owners' operations. Thus, the Coast Guard has proposed a one-year period for owners to submit applications to the Coast Guard, and a five-year period for the marking of all existing barges. Barges currently under construction would be numbered and marked in accordance with the regulations prior to being placed in service.

Fees

Three comments were opposed to fees. The argument followed that there is no benefit to owners from this regulation and no services rendered. The Coast Guard agrees and has not proposed a fee schedule to implement or maintain this requirement.

Miscellaneous

Comments varied on the costs associated with permanently marking barges, barge employment, maintenance intervals for undocumented barges, average life service, average annual construction rates, and average number of owners. A summary of the costs and benefits associated with this rulemaking is included below.

Discussion of Proposed Rules

General Requirements

The Coast Guard proposes adding regulations that would require owners of barges greater than 100 gross tons to obtain a unique number issued by the National Vessel Documentation Center (NVDC) for that barge. The barge

number would remain with it for the entirety of its life.

Regulations requiring the documentation and measurement of vessels are codified in 46 CFR parts 66 through 69. We propose establishing the requirements for numbering and marking barges over 100 gross tons in part 66, which is currently reserved. The requirements we propose to include in part 66 consist of a "Definitions" section that gives relevant meaning to specific terms used in this part, a section to identify those barges that must comply with this new barge numbering system, a method for applicable barges to calculate the barge's gross tonnage, and an application procedure for barge owners to follow when requesting a barge number from NVDC. The new regulations of part 66 would also identify to barge owners their right to appeal, the penalties for not fully complying with this part, and clarify what circumstances would invalidate a Certificate of Number.

In addition, barge owners would be required to permanently mark the barge by carving, punch-marking, or welding the number on some clearly visible internal structural part of the vessel, such as the main beam. The barge would also need to be permanently marked externally at the highest part of the vessel's hull or permanent structure, so that the number can be seen from either side.

Existing barges would be required to comply with the regulation no later than five years from the publication date of the final rule.

Previously documented barges would be allowed to use the official number or CG number previously assigned.

Definitions

The definitions for the terms necessary to determine gross tonnage, currently found in 46 CFR part 69, would be adopted. The proposed regulations would also add definitions for the terms "barge", "barge number", "official number", "simplified measurement system", "undocumented barge", and "navigable waters".

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket as indicated under **ADDRESSES**. A summary of the Evaluation follows:

The Abandoned Barge Act of 1992 (the Act) states "The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered." This analysis supports the regulatory evaluation of implementing a numbering system for undocumented barges of more than 100 gross tons, per the Act. The numbering system would provide an identification of the parties responsible and liable for the illegal abandonment of a barge. It would also enhance the Government's recovery of costs associated with the removal of the barge. Currently, there is no formal method for linking an abandoned undocumented barge to a responsible party, and consequently, there is little chance of the Government recovering costs incurred from the removal.

Population: There are approximately 20,000 undocumented barges greater than 100 gross tons operating in the navigable waters of the United States. Of these undocumented barges, it is estimated that 89 percent operate in the waters of the Mississippi River System and the Gulf Intracoastal Waterway. Additionally, most of the 20,000 undocumented barges are dry cargo barges (86 percent) with the remainder being construction barges (10 percent) and tank barges (4 percent).

Cost and benefit: Through analysis of this rulemaking we revealed that both the barge industry and the Government would incur the costs of implementing and administrating the barge number system. The cost to the barge industry includes administration costs, transportation costs and the cost to affix the number to the barge. The cost to the government includes cost associated with developing and implementing a database for the barge number system and the cost associated with administering the system. It is assumed that the Coast Guard would have sole responsibility for implementing and administrating the numbering system for abandoned barges.

Potential direct benefits would accrue to the Government. Most of these benefits would come from cost avoidance for removal and cleanup of abandoned barges. Additional benefits would be noticed from the reimbursement of Government incurred cost that is received from the responsible barge owner who abandoned his barge. There are no direct benefits identified for the barge industry.

Alternatives: Two alternative methods of numbering were posited: (1) Welding, punch-marking, or carving the number on the barge, and (2) painting the number on the barge. For welding the number to the barge, alternative 1, the assumption is that 15 percent of undocumented barges would need to tow the barge to an appropriate welding facility, whereas the other 85 percent of undocumented barges would not need a tow. For painting the number on the barge, alternative 2, the assumption is that the barge number would be painted without requiring a tow to a facility. Therefore, alternative 2 would not incur towing costs. With either alternative 1 or alternative 2, the estimated initial cost of \$18,000 would be incurred by the Coast Guard to develop and install a database for managing information from the barge numbering system. The unit costs for the 30-year study period for both alternatives are summarized in Table 1.

TABLE 1.—UNIT COST SUMMARY

	Alternative 1 welding ¹	Alternative 2 painting
Government Costs:		
Administration Cost/Barge	\$62	\$62
Industry Cost/Barge:		
Existing Barges—Tow Req.	2,977	
Existing Barges—No Tow Req.	844	153
Future Barges	282	65
Total Cost/Barge:		
Existing Barges—Tow Req.	3,039	

TABLE 1.—UNIT COST SUMMARY—Continued

	Alternative 1 welding ¹	Alternative 2 painting
Existing Barges—No Tow Req.	906	215
Future Barges	344	127

¹ Costs include Gas-freeing, chemist certificate.

To develop the range of potential benefits that might result from alternative 1 and alternative 2, three scenarios are considered: (1) Barges greater than 100 tons are no longer

abandoned (best case scenario), (2) illegally abandoned barges are abandoned with the number intact, and (3) illegally abandoned barges are abandoned with the barge number

removed or obliterated (worst case scenario). The estimated annual benefits for each scenario are characterized in Table 2.

TABLE 2.—ANNUAL BENEFITS

	Scenario 1	Scenario 2	Scenario 3
Removal Cost Recovery	\$250,000	\$90,000	\$0
Clean Up Cost Recovery	429,890	154,760	0
Investigation Savings	1,500	1,090	0
Total Annual Savings	681,390	245,850	0

The net present values (present value of benefits—present value of costs) were calculated over a 30-year period, from 2001 to 2030, using a discount rate of 7 percent. These values were discounted to year 1999. The total present value cost was calculated by multiplying the

unit cost by the number of affected barges for each year from 2001 through 2030. The cost and benefit analyses in all three scenarios revealed no net benefit with welding the number to the barge (alternative 1). However, a cost and benefit analysis of the first scenario

for alternative 2 identified a net benefit. The other two scenarios for painting the barge number on the barge revealed no net benefits. Table 3 summarizes the alternatives net present values for the 30-year period.

TABLE 3.—NET PRESENT VALUES—30 YEAR PERIOD

	Scenario 1	Scenario 2	Scenario 3
Alternative 1—Welding			
PV Benefit	\$6,787,290	\$2,448,903	\$0
PV Cost	21,169,984	21,169,984	21,169,984
Net PV	(14,382,694)	(18,721,081)	(21,169,984)
Alternative 2—Painting			
PV Benefit	6,787,290	2,448,903	0
PV Cost	5,625,686	5,625,686	5,625,686
Net PV	1,161,604	(3,176,783)	(5,625,686)

The costs associated with welding the number to the barge were found to be significantly higher than the cost of painting. However, welding the numbers to the barges is the recommended alternative because it will be more difficult to remove the identification number on illegally abandoned barges. Therefore, it will help identify parties responsible for illegally abandoning barges and prevent future marine pollution from abandoned barges. Painted numbers can easily be removed, thus making it difficult to identify the responsible barge owner.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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.

Affected small entities: Companies that own and lease barges vary widely in size and operation. The Army Corp

of Engineer’s “Waterborne Transportation Lines of the United States, Volume 2—Vessel Company Summary” database was queried to identify owners of undocumented barges more than 100 gross tons. The query identified 660 owners with undocumented barge fleets ranging from 1 to 1,608 barges. The results of the query also revealed that 15 percent of the barge operators own over 85 percent of the affected barges. A majority (74 percent) of the affected owners have undocumented barge fleets of less than 10. Table 4 presents the number of affected owners by fleet size.

TABLE 4.—NUMBER OF AFFECTED FLEET OWNERS

Fleet size range	Number of owners	Percentage of owners	Number of affected barges	Percentage of affected barges (percent)
Greater than 1000	3	0.5%	4,040	23%
100 to 999	34	5.2%	8,970	50%
20 to 99	59	8.9%	2,594	14%
10 to 19	75	11.4%	1,024	6%
Fewer than 10	489	74.0%	1,329	7%
Total	660	100.0%	17,957	100%

The Small Business Administration, in 13 CFR 121–201, defines small business by either the number of employees or the amount of receipts in dollars. Revenue or labor-force information for many of the companies can be obtained from sources such as: Dun & Bradstreet, American Business and Lexis-Nexis. We assumed that if a company was a subsidiary or branch of a parent company, then that subsidiary or branch was inseparable from the larger firm.

From those 660 companies we drew a random sample of 101 companies using a confidence level of 95 percent and a

confidence interval of 9. From the random sample of 101 companies we found data for 66 (or 65 percent) of them. Furthermore, from the 66 firms we identified 20 owned/operated by large companies and the remaining 46 owned/operated by small businesses. According to the small business size standard of the SIC (Standard Industrial Classification) and NAICS (North American Industry Classification System) Codes, we determined that the 46 identified entities qualified as small businesses because their revenues/number of employees do not exceed the specified standard in the corresponding

SIC and NAICS codes definitions. This represents 69.7 percent of the 66 companies from which we have information. Therefore, we are 95 percent certain that 61.8 percent to 78.2 percent of the firms are small entities.

The determined small businesses cover several industry segments, therefore the corresponding SIC and NAICS codes analyzed for each company also cover a wide range. However, we determined that the most frequently identified SIC and NAICS codes when analyzing the small companies are as follows in table 5:

TABLE 5.—THE SMALL BUSINESSES MOST FREQUENTLY IDENTIFIED SIC AND NAICS CODES FROM THE RANDOM SAMPLE

Classification systems		Description		Definition		Number of small businesses
SIC	NAICS	SIC	NAICS	SIC	NAICS	
1629	23493	Heavy Construction, N.E.C.	Industrial Nonbuilding Structure Construction.	\$27, 5Mil	\$27, 5Mil	7
3731	23499 336611	Shipbuilding and Repair of Nuclear Propelled Ships.	All Other Heavy Construction	1,000E	\$27, 5Mil 1,000E	3
4449	483211	Water Transportation of Freight, N.E.C.	Ship Building and Repair	500E	500E	8
4492	48833	Towing and Tug Boat	Inland Water Transportation	\$5Mil	\$5Mil	4
4499	532411	Water Transportation Services, N.E.C..	Navigational Services to Shipping ..	\$5Mil	\$5Mil	3
5032	42132	Brick, Stone and Related Construction Materials.	Commercial Air, Rail and Water Transportation Equipment Rental and Leasing.	100E	100E	5
			Brick, Stone and Related Construction Material Wholesalers.			

Cost for small entities: The costs to small business entities would depend only on the entity's fleet size. Below we show the impact on small businesses for welding barge numbers to the barge, our chosen alternative. We assume a 15 percent probability the vessel will need a tow, and an 85 percent probability that the vessel will not need a tow for welding. Therefore for the purpose of this analysis we estimate an expected cost of \$1,164/barge (0.15 × \$2,977/barge + 0.85 × \$844/barge = \$1,164/barge). The analyzed small business entities have relatively small fleets, with a median fleet size of 2. The median cost per company is \$2,328/company (2

barges/company × \$1,164/barge). The median revenue of a small business in our sample is \$3,750,000. Therefore, the annual median impact on a small business is 0.06 percent (\$2,328/\$3,750,000 × 100) of annual revenue. For 45 of 46 small businesses the impact was less than 1 percent of the average revenues per year. For 46 of 46 small businesses the impact was less than 1.2 percent of the average revenue per year. In addition, the industry has a five year phase-in period to comply.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial

number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in

understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Robyn MacGregor, Project Manager, Office of Waterways Security and Safety (G-MWP), telephone 202-267-0483. 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).

Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Numbering and Marking Undocumented Barges Greater than 100 gross tons.

Summary of the Collection of Information: The Abandoned Barge Act of 1992, sections 5301 to 5305 of Public Law 102-587, enacted on November 4, 1992, added a new chapter 47 to Title 46 of 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 United States. The numbering system provides a means for identifying the parties responsible and liable for illegal abandonment. The information collections described in this supporting statement are necessary to implement the requirements described in 46 CFR part 66.

The table below identifies the subjects of the collection of information.

TABLE 6.—CFR, SUBJECT AND AFFECTED POPULATION

46 CFR part 66	Subject and affected population
Section 66.25(a)(1)	Filling out the Application for Certificate of Number for Undocumented Barge (CG-5683) and submitting it to the National Vessel Documentation Center.
Section 66.5 and 66.25(a)(2)	Recordkeeping the Certificate of Number for Undocumented Barge.
Section 66.25(a)(2)	<ul style="list-style-type: none"> • The owners of undocumented barges greater than 100 gross tons. Notifying the National Vessel Documentation Center of a replacement of a Certificate of Number for Undocumented Barge (CG-5683) document.
Section 66.25(a)(3) and 66.35(d)	<ul style="list-style-type: none"> • The owners of undocumented barges greater than 100 gross tons, in case of a defaced Certificate of Number. Notifying the National Vessel Documentation Center of the sale of a barge or upon the destruction of a barge with a valid Certificate of Number for Undocumented Barge (CG-5683).
Section 66.35(b)	<ul style="list-style-type: none"> • The old owners of undocumented barges greater than 100 gross tons, in case barges are sold or destroyed. Permanently attaching the number issued by the National Vessel Documentation Center to the barge.
	<ul style="list-style-type: none"> • The owners of undocumented barges greater than 100 gross tons.

Need for Information: This proposed rule contains burdens for the owners of undocumented barges greater than 100 gross tons. The information required is as follows:

(a) *Filling out the Application for Certificate of Number for Undocumented Barge (CG-5683) and submitting it to the National Vessel Documentation Center.* The owners of undocumented barges greater than 100 gross tons (including the owners of previously documented barges but no longer carrying a Certificate of Documentation) would fill out the Coast Guard Application for Certificate of Number for Undocumented Barge that contains the following necessary information to determine the ownership of the barge:

- The owner's name and address
- The barge length, breadth, depth, year built, hull material, barge name, and official number (if applicable).

(b) *Recordkeeping the Certificate of Number for Undocumented Barge (CG-5683).* Once the owners of barges obtain a Certificate of Number for Undocumented Barge, this would serve as evidence of ownership for determining liability in connection with the abandoned barge. Also, in case the owner applies for replacement of a defaced document, the outstanding Certificate of Number for Undocumented Barge must also be submitted to NVDC. This implies that the owner creating a recordkeeping burden must keep the Certificate of Number.

(c) *Notifying the National Vessel Documentation Center of a Replacement of a Certificate of Number for Undocumented Barge (CG-5683).*

Owners requesting the replacement of a defaced document as a Certificate of Number for Undocumented Barge fill out the application form CG-5683 and

submit the outstanding Certificate of Number for Undocumented Barge to NVDC.

(d) *Notifying the National Vessel Documentation Center of the sale of a barge or upon the destruction of a barge with a valid Certificate of Number for Undocumented Barge (CG-5683).* In case a barge is sold, the seller would have to provide a copy of the bill of sale to the NVDC. The owners would have to notify the NVDC by using Form CG-5683 upon the destruction of a barge with a valid Certificate of Number for Undocumented Barge within 60 days of the barge's destruction. This way the NVDC will maintain and update the numbering system for undocumented barges measuring more than 100 gross tons.

(e) *Permanently attaching the number issued by the National Vessel Documentation Center to the barge.* Owners (including the owners of

previously documented barges but no longer carrying a Certificate of Documentation) would have to permanently mark the barge by either welding, punch-marking, or carving the number issued by the NVDC, so that alteration, removal, or replacement would be obvious. The barge would be marked three times as follows: internally on the main beam and externally at the highest point on each side of the vessel's hull or permanent structure so that the number can be seen from either side.

Proposed Use of Information: This information collection would provide methods for identifying the parties responsible and liable for the illegal abandonment of a barge. It also would enhance the Government's recovery of costs associated with the removal of the barge. The information required for "Numbering and Marking Undocumented Vessels greater than 100 gross tons" would be collected on forms that are available at the National Vessel Documentation Center (NVDC). The information would have to be submitted by the vessel owner to NVDC. Once the application is processed, the NVDC would issue a Certificate of Number for Undocumented Barge to the owner who would then mark the issued barge number to the barge. Without the information an undocumented barge greater than 100 gross tons on the navigable waters of the United States would not be numbered as stated in the Abandonment Barge Act of 1992. Therefore, it would be impossible to identify the responsible owners of an illegally abandoned barge and consequently, there would be a little chance of the government recovering costs incurred from the removal.

Description of the Respondents: Each owner of undocumented Barge greater than 100 gross tons would be affected by these collections requirements.

Number of Respondents: We estimate those 660 owners of undocumented barges greater than 100 gross tons would be required to comply with the proposed requirements.

Frequency of Response Owners of undocumented barges greater than 100 gross tons would have to initially apply to the NVDC in order to obtain a Certificate of Number for Undocumented Barge. The number mentioned in the certificate would be permanently marked to the barge and would stay with the barge for the entirety of its life.

When needed, the owners of previously numbered barges can apply to the NVDC for the replacement of a defaced Certificate of Documentation. Also, in case of a change in ownership of a previously numbered barge, the new owner would have to submit an application for a Certificate of Number to be issued in the new owner's name. The seller would have to provide a copy of the bill of sale.

On occasion, upon destruction of a barge numbered under this part, an owner would have to notify NVDC using Form CG-568, Application for Certificate of Number.

Burden of Response: We identified 660 owners of 17,957 undocumented barges more than 100 gross tons identified, querying the Army Corp of Engineer's (USACE) "Waterborne Transportation Lines of the United States, Volume 2—Vessel Company Summary" database. The total estimated number of undocumented barges is approximately 20,000 and includes construction barges. The number was

estimated based on queries of USACE data and the Coast Guard Marine Safety Management System data of all currently undocumented barges.

The 1,400 previously documented barges no longer carrying a Certificate of Documentation are included in the 20,000 total number of undocumented barges. In order to estimate the number of affected barges in future years (i.e., barges to be constructed in the future that will require numbering), we used a regression analysis. We based our analysis on the Coast Guard's Marine Safety Information System data series concerning the number of barges over 100 gross tons constructed in the period of time from 1985 up to 1999. We forecasted the number of new constructed undocumented barges over 100 gross tons to be constructed for the regulatory evaluation period of time.

In the first five years, from 2001 up to 2005, owners of currently undocumented barges (20,000) would have to comply with the proposed regulation as well as owners of the barges that are sold or destroyed and owners of newly constructed barges. Thereafter, beginning with 2006 the annual burden will be placed only on owners of newly constructed barges and owners of sold or destroyed barges. The burden due to the currently 20,000 undocumented barges is evenly distributed in the five-year phase in period. Therefore, we estimate that owners of 4,000 barges/year would have to apply for a Certificate of Undocumented Barge.

We are presenting for public comment our estimate of affected entities and the burden posed to them for the first three years this proposed rule would be enforced. These estimates are found in table 7.

TABLE 7.—NUMBER OF AFFECTED BARGES

Year	Currently un- documented barges	New constructed barges (forecasted)	Sold barges per year (10% (2+3))	Total perma- nently marked barges (2+3)	Total barges for which NVDC will be notified (2+3+4)
1	2	3	4	5	6
2001	4,000	513	451	4,513	4,964
2002	4,000	525	453	4,525	4,978
2003	4,000	536	454	4,536	4,990
Average per year	4,000	525	453	4,525	4,978

We indicate below the hour burden according to the requirements in this Collection of Information.

(a) *Filling out the Application for Certificate of Number for*

Undocumented Barge (CG-5683) and submitting it to the National Vessel Documentation Center. We estimate that the average time for filling out this form

is 15 minutes. The owners of 4,978 barges would have to fill out the form.

Annual burden: 0.25 hours/barge × 4,978 barges/year = 1,245 hours/year.

(b) *Recordkeeping the Certificate of Number for Undocumented Barge (CG-*

5683). We estimate that it takes an owner 10 minutes to file the Certificate of Number for Undocumented Barges in an accessible place.

Annual burden: 0.17 hours/barge \times 4,978 barges/year = 846 hours/year.

(c) *Notifying the National Vessel Documentation Center of a replacement of a Certificate of Number for Undocumented Barge (CG-5683) document.* We estimate that the number of replacements of defaced Certificate of Number documents is less than 5 percent (249 barges = 5% \times 4,978 barges per year) from the total number of barges for which the owners would have a Certificate of Number. We estimate that it would take 15 minutes to an owner to fill out the application for the Certificate of Number and 5 minutes to submit the defaced Certificate of Number to the NVDC.

Annual burden: 0.33 hours/barge \times 249 barges/year = 82 hours/year.

(d) *Notifying the National Vessel Documentation Center of a change in ownership of the barge, or upon the destruction of a barge with a valid Certificate of Number for Undocumented Barge (CG-5683).* We estimate that it would take 10 minutes to an owner to submit a copy of the bill of sale or the Certificate of Number for Undocumented Barges to the NVDC as follows:

- If the barge ownership changes : we estimate that 10 percent of 4,978 undocumented barges would be sold per year (498 barges).

- Upon the destruction of a barge: 10 percent of 4,978 barges per year (498 barges).

Annual burden: 0.17 hours/year \times 996 barges = 169 hours/year.

(e) *Permanently attaching the number issued by the National Vessel Documentation Center to the barge.* Owners (including the owners of previously documented barges but no longer carrying a Certificate of Documentation) would have to permanently mark the barge by carving, punch-marking, or welding the number issued by the National Vessel Documentation Center. The barge would be marked three times as follows: internally on the main beam and also externally at the highest part of the vessel's hull or permanent structure so that the number can be seen from either side. We estimate that it takes 2 hours to permanently affix the numbers to a barge.

Annual burden: 2 hours/year \times 4,525 barges = 9,050 hours/year.

The total annual hour burden is: 1,245hours/year + 846hours/year + 82hours/year + 169hours/year + 9,050hours/year = 11,392hours/year.

Annualized Costs: The owners of undocumented barges would incur costs. We estimated the annual average burden for information collection activities would cost \$724,737 annually in current dollars. We identify below the cost burden according to the requirements covered in this Collection of Information.

(a) *Filling out the Application for Certificate of Number for Undocumented Barge (CG-5683) and submitting it to the National Vessel Documentation Center.* Approximately 1,245 burden hours would be required annually for filling out applications for Certificate of Numbers for Undocumented Barges to NVDC, by vessel owners. We estimate wages for a barge owner at \$66 per hour.

The annual cost to the industry is: \$82,170 (1,245hours/year \times \$66/hour).

(b) *Recordkeeping the Certificate of Number for Undocumented Barge (CG-5683).* Approximately 846 burden hours per year would be required by industry to file the certificate of number in a safe, accessible place. We estimate wages for a barge owner at \$66 per hour.

The annual cost to the industry is: \$55,836 (846hours/year \times \$66/hour).

(c) *Notifying the National Vessel Documentation Center of a replacement of a Certificate of Number for Undocumented Barge (CG-5683) document.* Approximately 82 burden hours per year would be required by industry to apply for replacement of a defaced document, the outstanding Certificate of Number. The Coast Guard estimates wages for a barge owner at \$66 per hour.

The annual cost to the industry is: \$5,412 (82hours/year \times \$66/hour).

(d) *Notifying the National Vessel Documentation Center of a change in ownership of the barge or upon the destruction of a barge with a valid Certificate of Number for Undocumented Barge (CG-5683).* Approximately 169 burden hours would be required annually for surrendering bills of sale or Certificates of Number for Undocumented Barge to NVDC, by vessel owners when there is a change in ownership of a barge, or upon the destruction of barges. We estimate wages for a barge owner at \$66 per hour.

The annual cost to the industry is: \$11,169 (169hours/year \times \$66/hour).

(e) *Permanently attaching the number issued by the National Vessel Documentation Center to the barge.* Approximately 9,950 burden hours would be required annually to permanently attach (weld) the numbers to barges. We estimate the hourly rate of a welder to be \$63 per hour.

The annual cost to the industry is: \$570,150 (9,050hours/year \times \$63/hour).

The total annual cost burden to the industry is: \$82,170/year + \$55,83/year + \$5,412/year + \$11,169/year + \$570,150/year = \$724,737/year.

Estimate of Total Annual Burden: We estimated the annual average burden for information collection activities would be 11,392 hours annually.

Public Comments on the Collection of Information: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

Under Executive Order 13132, section 3 (b), the Coast Guard finds that a uniform system of identifying the owners of undocumented barges is in the national interest because of the problem of abandoned barges identified by Congress in the Abandoned Barge Act, 46 U.S.C. 4701-4705. One of the ways Congress specified for determining whether a barge is abandoned is if the owner states that it is not abandoned, 46 U.S.C. 4702(a)(3). However, that presupposes that the Coast Guard can identify who the current owner is. The Coast Guard already maintains a listing for documented barges. That leaves the Coast Guard unable to identify the owners of undocumented barges.

On October 18, 1994, the Coast Guard published a Request for Comments on this rulemaking project. (59 FR 52646) We noted our intent to consult with

State Boating Law Administrators, State Numbering Authorities, and with the National Association of State Boating Law Administrators' (NASBLA). We also solicited general comments, and asked a number of direct questions. One of those questions was whether the Coast Guard, the individual states, or some other entity should have the authority to assign numbers and maintain ownership information for undocumented barges. We received 21 comments, seventeen of which answered this question. All seventeen responded that the Coast Guard should be the entity assigning numbers and maintaining ownership information. Seven of these respondents were state agencies. (The Request for Comments and all received comments are available for viewing in the electronic docket.)

On July 6, 1998, we published an ANPRM which indicated our intent to establish the numbering system outlined in this NPRM. No commenters, state or otherwise, requested that the system be run by a State or other entity. (The ANPRM and comments are available for viewing in the electronic docket.)

Given this established lack of State interest in regulating in this area, any further consultation with State and local officials under Executive Order 13132, Section 3 (b) is unnecessary and not required by that order.

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 regulatory actions not specifically required by law. 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 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. The proposed rule is a procedural regulation that does not have any environmental impact because the action does not have a significant effect on the quality of the human environment. A "Categorical Exclusion Determination" is available in the docket where indicated under

ADDRESSES.

List of Subjects in 46 CFR Part 66

Penalties, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to add 46 CFR part 66 to read as follows:

PART 66—REQUIREMENT FOR UNDOCUMENTED BARGES

Sec.

- 66.5 Purpose.
- 66.10 Applicability.
- 66.15 Definitions.
- 66.20 Determining the gross tonnage for a barge.
- 66.25 Application procedure.
- 66.30 Invalidation of Certificate of Number.
- 66.35 Marking requirements.
- 66.40 Right of appeal.
- 66.45 Penalties.

Authority: 46 U.S.C. 4701 *et seq.*, 12301; 49 CFR 1.46(zz).

§ 66.5 Purpose.

A Certificate of Number for Undocumented Barge is required for the operation of undocumented barges greater than 100 gross tons on the navigable waters of the United States and serves as evidence of ownership for determining liability in connection with abandoned barges.

§ 66.10 Applicability.

This part applies to your barge if it meets the following three conditions:

- (a) It is greater than 100 gross tons;
- (b) It operates on the navigable waters of the United States; and
- (c) It is not currently documented by the U.S. Coast Guard.

§ 66.15 Definitions.

The following definitions are for terms used in this part.

Barge means any vessel not equipped with a means of self-propulsion.

Barge number means that unique number issued to a barge by the National Vessel Documentation Center (NVDC). The barge number will remain with the barge throughout its life.

Navigable waters means the waters of the United States, including the territorial seas.

Official number means the number assigned and marked on a currently or previously documented barge in accordance with 46 CFR part 67, subparts H and I.

Simplified measurement system has the same meaning as is given in 46 CFR part 69, subpart E.

Undocumented barge means a barge that does not have a current Certificate of Documentation issued under 46 CFR part 67.

§ 66.20 Determining the gross tonnage for a barge.

(a) If your barge must comply with this part, you may determine its gross tonnage by using the simplified measurement system described in 46 CFR 69.209. The terms and measurements used in that section have the meanings assigned to them in 46 CFR 69.203 and 69.207, respectively. You do not need to submit the application for measurement services outlined in 46 CFR 69.205, and no tonnage certifying document will be issued.

(b) If you do not use the Simplified Measurement System, the gross tonnage is the tonnage assigned under any other applicable measurement system of 46 CFR part 69, as indicated on an appropriate tonnage certifying document. In this case, the gross tonnage assigned under the Standard or Dual Measurement systems (46 CFR part 69, subparts C and D, respectively) should be used if your vessel is also assigned tonnage under the Convention system (46 CFR part 69, subpart B).

§ 66.25 Application procedure.

(a) As owner of a vessel applying for a Certificate of Number for Undocumented Barge (CG–5683); requesting replacement of a Certificate of Number for Undocumented Barge (CG–5683); or providing notification of the sale of a barge with a valid Certificate of Number for Undocumented Barge (CG–5683) you must submit the following to the National Vessel Documentation Center (NVDC):

(1) Application for Certificate of Number for Undocumented Barge (CG-5683);

(2) If the application is for replacement of a defaced document, the outstanding Certificate of Number for Undocumented Barge (CG-5683); or

(3) If providing notification of a transfer of ownership, the seller must provide a copy of the bill of sale.

(b) New owners of barges previously numbered under this part must submit an application for a Certificate of Number to be issued in the new owner's name.

(c) Upon receipt of the Certificate of Number for Undocumented Barge (CG-5683), ensure that the vessel is marked in accordance with the requirements set forth in § 66.9 of this part.

(d) Upon destruction of a barge numbered under this part, an owner must notify NVDC using Form CG-5683, Application for Certificate of Number. This notification must be made within 60 days of the barge's destruction.

(e) Applications for Certificate of Number of Undocumented Barge may be obtained from the National Vessel Documentation Center or downloaded from their website.

§ 66.30 Invalidation of Certificate of Number.

A Certificate of Number becomes invalid upon the transfer of ownership of a barge numbered under this part.

§ 66.35 Marking requirements.

(a) Your barge number must be marked in block type Arabic numerals not less than four (4) inches in height on:

(1) Some clearly visible internal structural part of the vessel; and

(2) At the highest part of the vessel's hull or permanent structure such that the number can be seen from either side.

(b) Your barge number must be permanently attached to the vessel, by either welding, punch-marking, or carving, so that alteration, removal, or replacement would be obvious.

(c) If this part applies to you, and your undocumented barge is in operation on the date this rule is published, you have five years from that date to obtain a barge number and meet the permanent marking requirements of this part.

(d) If your undocumented barge has a build date after publication of this rule, you must obtain a Certificate of Number and meet the permanent marking requirements of this part prior to placing the barge in operation.

§ 66.40 Right of appeal.

If you are directly affected by this part and wish to appeal a decision or action

made by or on behalf of the U.S. Coast Guard, you may do so in accordance with 46 CFR part 1, subpart 1.03.

§ 66.45 Penalties.

Violation of this part is subject to the criminal and civil penalties set forth in 46 U.S.C. 12309. If the violation involves the operation of a vessel, the vessel also is liable in rem to the United States Government for a civil penalty of not more than \$1,000.

Dated: January 5, 2001.

R.C. North,

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

[FR Doc. 01-870 Filed 1-10-01; 8:45 am]

BILLING CODE 4910-15-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-4, MM Docket No. 01-3, RM-10010]

Digital Television Broadcast Service; Jacksonville, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by The University of North Carolina, licensee of noncommercial educational station WUNM-TV, Jacksonville, North Carolina, requesting the substitution of DTV channel *18 for station WUNM-TV's assigned DTV channel *44. DTV Channel *18 can be allotted to Jacksonville, North Carolina, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (35-06-18 N. and 77-20-15 W.). As requested, we propose to allot DTV Channel *18 to Jacksonville with a power of 65 and a height above average terrain (HAAT) of 561 meters.

DATES: Comments must be filed on or before February 26, 2001, and reply comments on or before March 13, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Malcolm G. Stevenson, Schwartz, Woods & Miller, 1350 Connecticut Avenue, NW., Suite 300, Washington, DC 20036-1717.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-3, adopted January 3, 2001, and released January 5, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 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

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under North Carolina is amended by removing DTV Channel *44 and adding DTV Channel *18 at Jacksonville.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-678 Filed 1-10-01; 8:45 am]

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