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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 151

[Docket No. USCG-2004-19621]

RIN 1625-AA89

### Dry Cargo Residue Discharges in the Great Lakes

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking and availability of Draft Environmental Impact Statement.

**SUMMARY:** The Coast Guard proposes to amend its regulations in accordance with a congressionally approved policy that allows the discharge of non-toxic and non-hazardous bulk dry cargo residues like limestone, iron ore, and coal in limited areas of the Great Lakes. New requirements for recordkeeping would be added and carriers would be encouraged to adopt voluntary control measures for reducing discharges. Discharges would be prohibited in certain special areas where they are now allowed. In addition, the Coast Guard announces the availability of the Draft Environmental Impact Statement prepared in support of the proposed rule.

**DATES:** Comments and related material must reach the Docket Management Facility on or before July 22, 2008. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 22, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2004-19621 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building,

1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on the Draft Environmental Impact Statement (DEIS), please contact Mr. Greg Kirkbride, U.S. Coast Guard, telephone 202-372-1479 or e-mail [Gregory.B.Kirkbride@uscg.mil](mailto:Gregory.B.Kirkbride@uscg.mil). If you have questions on this proposed rule, call LT Heather St. Pierre, U.S. Coast Guard, telephone 202-372-1432, e-mail [Heather.J.St.Pierre@uscg.mil](mailto:Heather.J.St.Pierre@uscg.mil). If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

##### A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2004-19621), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery 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 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 that 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.

##### B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time, click on "Search for Dockets," and enter the docket number for this rulemaking (USCG-2004-19621) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

##### C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

##### D. Public Meeting

We plan to hold one public meeting before July 22, 2008. The location and date of the meeting will be announced in a subsequent **Federal Register** notice.

## II. Abbreviations

CFR United States Code of Federal Regulations  
DCR Dry Cargo Residue  
DEIS Draft Environmental Impact Statement  
DHS Department of Homeland Security  
DOT Department of Transportation  
IEP Interim Enforcement Policy  
NAICS North American Industry Classification System  
NTTAA National Technology Transfer and Advancement Act  
OMB Office of Management and Budget  
RFA Regulatory Flexibility Act  
SBA United States Small Business Administration

## III. Background and Purpose

A substantial portion of Great Lakes shipping involves "bulk dry cargos": Principally limestone, iron ore, and coal, but also lesser quantities of other substances like cement and salt. During ship loading or unloading operations, small portions of these cargos often fall on ship decks or within ship unloading tunnels. This fallen dry cargo residue (DCR) can contaminate other cargos or pose safety risks to crew members. Traditionally, Great Lakes carriers have managed DCR by periodically washing both the deck and cargo unloading tunnels with water in a practice

commonly known as “cargo sweeping.” In order to reduce costs and minimize in-port time, ships typically conduct this cargo sweeping underway while transiting between ports, and the water and DCR together is washed off the ship and into the lake.

Under Coast Guard regulations that implement the Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.*, DCR is an operational waste and constitutes garbage, the discharge of which into the navigable waters of the United States is prohibited. If these regulations were strictly enforced on the Great Lakes, they would put an end to the practice of cargo sweeping. However, since 1993, Great Lakes ships have operated under a Coast Guard “interim enforcement policy” (IEP) that allows “incidental discharges” of non-toxic and non-hazardous DCR on the Great Lakes. The IEP allows cargo sweeping only in defined waters, most of which are relatively deep and far from shore. Additionally, the IEP prohibits or restricts discharges in special areas that are considered environmentally sensitive.

In 1998, Congress directed that the Coast Guard “shall continue to implement and enforce” the IEP through September 2002 (Pub. L. 105–383, sec. 415). This mandate was renewed in 2000 and again in 2004 (Pub. L. 106–554, sec. 1117, and Pub. L. 108–293, sec. 623). The current (1997) version of the IEP appears in the docket for this rulemaking as Document ID USCG–2004–19621–0031.

In 2000, Congress passed Public Law 106–554, extending the IEP through September 2004. The 2000 legislation authorized but did not require the Coast Guard to adopt regulations consistent with the IEP. It also required us to study the IEP’s effectiveness. Our study, available in the docket for this rulemaking as Document ID USCG–2004–19621–0010, recommended continuing the IEP, but noted the lack of available data and also recommended that the Coast Guard perform an environmental assessment of the IEP’s long term effects.

In 2004, Congress again extended the IEP, this time until September 30, 2008. Section 623 of Public Law 108–293 gave the Coast Guard authority to regulate the discharge of DCR on the Great Lakes, notwithstanding any other law. The Coast Guard interprets this broad grant of authority to include the authority to regulate any operation, on water or on shore, related to the loading, transfer, or unloading of dry bulk cargo, or to cargo sweeping or other discharge of dry bulk cargo residue, on the Great Lakes. All of these operations relate to and are part

and parcel of the discharge of dry bulk cargo, as contemplated by the statute. The statute also required the Coast Guard to begin the environmental analysis necessary to support new regulations, and we are now announcing the availability, in the docket, of the Draft Environmental Impact Statement (DEIS) prepared in accordance with that mandate. House Report 108–617, the conference report prepared in support of the 2004 legislation, states: “It is expected that the [IEP] will be made permanent or replaced with an alternative regime that appropriately balances the needs of maritime commerce and environmental protection \* \* \*”

On January 13, 2004, the Coast Guard announced in the **Federal Register** (69 FR 1994) that, if we could not promulgate new regulations before the expiration of congressional authorization for the IEP, we would begin enforcing a zero discharge policy on the Great Lakes as soon as the IEP expires. Enforcement of such a policy would end the practice of cargo sweeping on the Great Lakes. This could cause economic hardship and require a significant expenditure of Coast Guard resources. We are reluctant to impose such costs if there is no meaningful offsetting benefit to the environment. Therefore, in exercising our regulatory authority over Great Lakes DCR discharges, we seek an appropriate balance, as Congress intended, between commercial and environmental considerations. We also seek to avoid or minimize any gap during which enforcement of a zero discharge policy takes place by default.

#### IV. Discussion of Proposed Rule

In this NPRM, we propose a rule to replace the IEP. The DEIS now available for public review indicates that allowing the practice of cargo sweeping to continue in the short term (six to 10 years) would result only in minor indirect impacts on the Great Lakes. Therefore, the proposed rule would allow U.S. and foreign carriers conducting dry bulk cargo operations in the U.S. waters of the Great Lakes to continue sweeping non-toxic and non-hazardous DCR into most of the areas where they are currently allowed to do so under the IEP.

We remain concerned that the potential for risk from any practice, no matter how benign it appears to be, may increase over time. Beyond the short term of six to 10 years, the Coast Guard may need to take additional regulatory action to offset any risk from the indefinite continuation of cargo sweeping. No matter how minor that

risk may be, proper environmental stewardship may require us to take additional steps to reduce the environmental impact of continued DCR discharges. For instance, we may need to mandate the use of control measures to further reduce the quantity of any incidental amounts of non-toxic and non-hazardous DCR being swept. Therefore, upon publication of the proposed final rule, we would simultaneously announce the opening of a new rulemaking, to consider this and other possible regulatory methods for addressing the long term impact of continued DCR discharges.

The Coast Guard intends to complete ongoing research on the economic costs and benefits of various control measures for reducing DCR. This research is critical because, although it is known that many control measures are in voluntary use, and appear to have a beneficial result in reducing DCR and cargo sweeping, almost nothing is known about the effectiveness of specific measures, in specific settings, or about the cost to implement those measures. We would also complete research on whether the geographical boundaries of the areas where cargo sweeping is allowed by the IEP require any modification. We estimate that this research will take up to three more years. Once our research is completed, we will be in a position to consider regulatory changes intended to minimize any long term impacts of cargo sweeping.

The proposed rule, subject to comments from the public, would modify the IEP’s provisions in three key ways. First, we would encourage industry to voluntarily adopt control measures for reducing the accumulation of DCR and the amount of DCR that is swept overboard. Second, we would impose new recordkeeping requirements on carriers. Third, we would extend the protection against DCR sweeping that the IEP gives to areas considered “special” because they contain wildlife refuges, designated protection areas, or other habitats that are especially sensitive environmentally. These modifications are discussed in more detail in the following paragraphs.

##### A. Control Measures

The proposed rule would encourage U.S. and foreign carriers conducting dry bulk cargo operations on the Great Lakes to make voluntary use of measures to control and reduce the amount of DCR that falls on a ship’s deck or within a ship’s unloading tunnels and that ultimately may be swept into the Great Lakes. In the DEIS, we have identified

many possible control measures, some of which are already in use. Some of these measures are used onboard the ship, while others are used by the shoreside facilities where the ship loads or unloads its cargo. These control measures range from simply using tarps to collect DCR so that it can be returned to cargo holds, to sophisticated loading and unloading equipment designed to prevent DCR from falling in the first place. The economic benefit of reducing DCR accumulation or from returning DCR to cargo holds should help offset the cost of any proposed control measures.

Conceivably, future Coast Guard regulations could impose additional restrictions on the practice of cargo sweeping on the Great Lakes. For example, we could condition our allowance of discharges upon a carrier's use of control measures to reduce the amount of DCR accumulated and the amount of DCR swept overboard. If future regulations require the use of control measures other than those that a carrier voluntarily employs beforehand, among other potential benefits the Coast Guard could credit the carrier for its proactive experimentation with voluntary control measures and provide a phase-in period for implementation of the required measures. Data provided by carriers who voluntarily make use of shipboard or shoreside control measures should help us determine which measures are effective and which should be required, if any.

#### B. Recordkeeping

The proposed rule would require foreign carriers conducting dry bulk cargo operations on the U.S. waters of the Great Lakes, and U.S. carriers conducting those operations anywhere on the Great Lakes, to observe new recordkeeping requirements. Many carriers already voluntarily compile limited information on their cargo sweepings. However, the proposed recordkeeping requirements would apply not only to all cargo sweeping events, but also to every bulk dry cargo loading or unloading operation, whether or not the loading or unloading operation is followed by a cargo sweeping. These records, when reported to the Coast Guard, will give us a more comprehensive picture of what causes DCR accumulation, the conditions under which DCR is swept overboard, and the shipboard and shoreside control measures that reduce DCR accumulation and the amount swept overboard.

We propose that records be kept on a standard form and that carriers record information about:

- Cargo handled;
- Shoreside facilities involved in loading and unloading;
- Control measures used by the facility or by the ship;
- Time needed to implement control measures;
- Estimated volume of DCR resulting from each loading or unloading; and
- Date, time, ship location and speed during each sweeping event.

Under the proposed rule, the need for recordkeeping would vary depending on the ship's nationality and whether operations are conducted in U.S. or Canadian waters. The following examples illustrate how these variables would affect the need for recordkeeping:

*Example 1:* Canadian ship loads cargo in Canadian waters and sweeps DCR into Canadian waters—no recordkeeping required.

*Example 2:* Canadian ship loads cargo in Canadian waters and sweeps DCR into U.S. waters—recordkeeping required for the U.S. sweeping event, but not for the Canadian loading event.

*Example 3:* U.S. ship loads cargo in U.S. waters and sweeps DCR into U.S. waters—recordkeeping required both for the loading event and for the sweeping event.

*Example 4:* U.S. ship loads cargo in U.S. waters and sweeps DCR into Canadian waters (if allowed by Canadian law)—recordkeeping required both for the loading event and for the sweeping event.

*Example 5:* Canadian ship loads cargo in U.S. waters and sweeps DCR into Canadian waters—recordkeeping required for the U.S. loading event but not for the Canadian sweeping event.

*Example 6:* U.S. ship loads cargo anywhere in the Great Lakes without any accumulation of DCR—recordkeeping required for the loading event and to document that there was no sweeping.

We propose to require that carriers keep these records onboard for at least two years, and to submit copies of the records to the Coast Guard on a quarterly basis. This recordkeeping requirement would ensure that, while we continue our analysis of the costs and benefits associated with particular control measures, we would receive up-to-date information about these measures that can be included in our analysis.

#### C. Special Areas

The proposed rule would extend the IEP's restrictions against discharges in 13 areas considered "special" because they contain wildlife refuges, designated protection areas, or other habitats that are especially sensitive environmentally. In seven of those 13 areas, the IEP already prohibits all discharges. However, the IEP allows some DCR sweeping in six of the 13 areas. DCR sweeping historically has

been allowed in the Detroit River National Wildlife Refuge in Lake Erie, portions of the Northern Refuge in Lake Michigan, and the Thunder Bay National Marine Sanctuary in Lake Huron. Limestone and clean stone can be swept in Green Bay (Lake Michigan), and in the Isle Royale National Park in Lake Superior. In the Western Basin of Lake Erie, the IEP allows limestone and clean stone sweepings, and also allows carriers on certain routes to sweep iron ore, coal, and salt DCR over the dredged navigation channels between Toledo Harbor Light and Detroit River Light.

The DEIS indicates that DCR sweepings have a minor environmental impact in these six special areas, which with the exception of the Western Basin's dredged channels, can be mitigated by prohibiting discharges. In most cases, sweeping could be prohibited in these six areas without a significant adverse effect on ship operations or safety, because ships would merely have to refrain from sweeping until they exit the special area. We believe there may be a few limestone or clean stone ships, operating in Green Bay and in the Western Basin, which never leave those areas. For those few ships, a prohibition of limestone or clean stone DCR discharges anywhere in Green Bay or the Western Basin could pose an extreme hardship. Exception of those few ships from the prohibition could relieve them from what would otherwise be a heavy regulatory burden. We specifically request comments related to this proposed exception, its limits, and the actual impact to shipping operations if we do not include the exception in our regulations.

Accordingly, in the proposed rule we would prohibit DCR discharges anywhere in the six special areas, with two exceptions. First, we propose retaining the IEP's limited exception for iron ore, coal, and salt DCR sweepings in Lake Erie's Western Basin because the DEIS indicates that prohibiting those sweepings would have no mitigating impact. Second, we propose that the prohibition of limestone or clean stone sweepings in Lake Michigan's Green Bay or in Lake Erie's Western Basin would not apply to ships that carry those substances exclusively within either of those two areas, for the reasons discussed in the preceding paragraph.

#### V. Regulatory Evaluation

##### A. Executive Order 12866

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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.

There is very little cost involved with requiring vessels to keep records of their bulk dry cargo residue sweepings and to make those records available to the Coast Guard. Moreover, many vessel operators already record this information voluntarily. We are also encouraging and not requiring the use of control measures to reduce the amount of residue swept into the Great Lakes.

#### 1. DCR Recordkeeping Costs

The new recordkeeping provisions would require vessel operators to maintain logs to show which bulk dry cargoes are loaded, unloaded, and swept, when they are swept, how they are swept, how much is swept, what control measures, if any, are in place, and where sweepings take place. During the 2006 shipping season, 55 U.S.-flag vessels carrying dry-bulk cargoes operated on the Great Lakes.

There are three types of responses. The first type is an entry on the form each time the vessel loads, unloads, or sweeps. Each loading and unloading operation and each sweeping event counts as a separate entry. Each of the 55 U.S.-flag dry cargo vessels operating on the Great Lakes makes an average of 60 trips each season. A trip is defined as a vessel going from one port to another. We assume that at each port, a vessel either loads or unloads cargo. Each trip is marked by one loading and one unloading operation, and sweeping occurs for 75 percent of the trips,

resulting in a total of 2.75 recordings per trip. Therefore, we estimate that there will be approximately 9,075 (= 60 trips/vessel/season \* 2.75 entries \* 55 vessels) entries annually. It is anticipated the recordkeeping would be done by a person comparable to a Lieutenant with a loaded wage rate of \$61 per hour, or \$1.02 per minute, using year 2006 rates. The loaded wage rate reflects the full labor cost the employer pays and includes employee benefits such as insurance and vacation. We assume that each entry takes 5 minutes to complete. This equals a total of 45,375 minutes to complete all entries for the year. Therefore, the cost is \$5.10 (\$1.02/minute \* 5 minutes) per entry, and the annual total cost for all entries is \$46,282.50 (= 9,075 entries \* \$5.10/entry).

The second type of response is certification of a form by the vessel's Master. Each vessel makes 165 (= 60 trips \* 2.75 entries/trip) entries per year. Each form is used to record 7 entries. Therefore, each of the 55 vessels completes 24 (= 165 entries/vessel/year ÷ 7 entries/form) forms per year to be certified by the vessel's Master. This equals 1,320 (= 24 forms/vessel/year \* 55 vessels) total certifications per year. A Master would be equivalent to a Captain, with a loaded wage rate of \$115 per hour, or \$1.92 per minute, using year 2006 rates. We assume it takes a Master 5 minutes to certify each form. Therefore, it costs \$9.60 (= 5 minutes/form \* \$1.92/minute) for a Master to certify one form. Since each vessel certifies 24 forms per year, the cost of certification by the vessel's Master per vessel is \$230.40 (= \$9.60/form \* 24

forms) annually. Since there are 55 vessels, the annual burden of the certification is 6,600 (= 5 minutes/form \* 24 forms/vessel \* 55 vessels) minutes, and the total annual cost of the certification is \$12,672 (= 6,600 minutes \* \$1.92/minute) for the entire U.S. fleet.

The third type of response is the quarterly submission of the forms to the Coast Guard. There are 220 submissions per year (= 55 vessels \* 4 submissions/year/vessel). We assume that it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 220 submissions per year, the total annual submission burden for the entire fleet is 1,100 minutes (= 220 submissions \* 5 minutes), or \$1,122 (= 1,100 minutes \* \$1.02/minute), assuming submissions are done by a person comparable to a Lieutenant, with a wage rate of \$1.02 per minute, using year 2006 rates.

Therefore, the estimated total annual undiscounted cost of the proposed new recordkeeping requirement is \$60,077 (= \$46,283 recording cost + \$12,672 Master certification cost + \$1,122 submission cost) for the entire U.S. fleet. With discounting, the cost of the recordkeeping requirement would be \$58,327 discounted at 3 percent and \$56,147 discounted at 7 percent. The ten-year undiscounted cost of the recordkeeping requirement is \$600,770; \$512,469 discounted at 3 percent; and \$421,956 discounted at 7 percent.

Table 1 below summarizes the ten-year undiscounted cost of the recordkeeping requirement, as well as the ten-year cost discounted at 7 percent and at 3 percent.

TABLE 1.—TOTAL TEN-YEAR COST OF DCR RECORDKEEPING FOR U.S. FLEET

Year	Undiscounted cost	Present value cost (7%)	Present value cost (3%)
2009 .....	\$60,077	\$56,147	\$58,327
2010 .....	60,077	52,474	56,628
2011 .....	60,077	49,041	54,979
2012 .....	60,077	45,832	53,378
2013 .....	60,077	42,834	51,823
2014 .....	60,077	40,032	50,314
2015 .....	60,077	37,413	48,848
2016 .....	60,077	34,965	47,425
2017 .....	60,077	32,678	46,044
2018 .....	60,077	30,540	44,703
Total .....	600,770	421,956	512,469

The proposed rule would also require foreign carriers to keep records of loading and unloading at U.S. ports and to keep records of any DCR sweepings that are conducted while in U.S. waters of the Great Lakes. There are 33 Canadian vessels, each making an

average of 42 trips per year into U.S. ports on the Great Lakes. There are 186 non-Canadian foreign vessels, each making an average of 4 trips per year into U.S. ports on the Great Lakes. We assume that a foreign vessel that makes a U.S. port call in the Great Lakes either

loads or unloads cargo at a U.S. port. We also use the worst-case assumption that these foreign vessels sweep DCR into U.S. waters of the Great Lakes three-quarters of the time the vessels are in U.S. waters. Under these assumptions,

each of these foreign vessels makes 1.75 recordings per trip.

Each Canadian vessel makes 73.5 (= 42 trips \* 1.75 entries) recordings per year. Since there are 33 Canadian vessels, the total number of entries per year by Canadian vessels is estimated to be 2,426 (= 73.5 recordings \* 33 vessels) entries. Assuming it takes an average of 5 minutes to complete each entry, it would take approximately 12,130 (= 2,426 entries \* 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost Canadian carriers a total of \$12,373 (= 12,130 minutes \* \$1.02/minute). Since each vessel makes 73.5 entries per year, and each form is used to record 7 entries, this equals 11 (= 73.5 entries/vessel/year ÷ 7 entries/form) forms a year per vessel. Each of the 33 vessels completes 11 forms per year to be certified by the vessel's Master. This equals 363 (= 11 forms/vessel/year \* 33 vessels) total certifications per year. We assume it takes a Master 5 minutes to certify each form. Therefore, it takes 1,815 (= 363 certifications \* 5 minutes) minutes to certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification is \$3,485 (= 1,815 minutes \* \$1.92/minute). In addition, there are a total of 132 (= 33 Canadian vessels \* 4 submissions/vessel/year) submissions per year. We assume it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 132 submissions per year, the total annual submission burden for the entire fleet of Canadian vessels is 660 (= 132 submissions/year \* 5 minutes) minutes, or \$673 (= 660 minutes \* \$1.02/minute). We estimate that the total annual cost of the recordkeeping requirement to Canadian carriers is \$16,531 (= \$12,373 recording cost + \$3,485 Master certification cost + \$673 submission cost).

Each non-Canadian foreign vessel makes 7 (= 4 trips \* 1.75 entries) recordings per year. Since there are 186 non-Canadian foreign vessels, the total number of entries per year by non-Canadian foreign vessels is estimated to be 1,302 (= 186 vessels \* 7 entries/vessel/year) entries. Assuming it takes an average of 5 minutes to complete each entry, it would take approximately 6,510 (= 1,302 entries \* 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost non-Canadian foreign carriers a total of \$6,640 (= 6,510 minutes \* \$1.02/minute). Since each vessel makes 7 entries per year, and each form is used to record 7 entries, each of the 186 vessels completes 1 form per year to be certified by the vessel's

Master. This equals 186 total certifications per year. We assume it takes a Master 5 minutes to certify each form. Therefore, it takes 930 (= 186 certifications \* 5 minutes) minutes to certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification is \$1,786 (= 930 minutes \* \$1.92/minute). In addition, there are a total of 744 (= 186 non-Canadian foreign vessels \* 4 submissions/vessel/year) submissions per year. We assume it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 744 submissions per year, the total annual submission burden for the entire fleet of non-Canadian foreign vessels is 3,720 (= 744 submissions/year \* 5 minutes) minutes, or \$3,794 (= 3,720 minutes \* \$1.02/minute). We estimate that the total annual cost of the recordkeeping requirement to non-Canadian foreign carriers is \$12,220 (= \$6,640 recording cost + \$1,786 Master certification cost + \$3,794 submission cost).

We estimate that the total annual cost of the recordkeeping requirement to foreign carriers is \$28,751 (= \$16,531 cost to Canadian carriers + \$12,220 cost to non-Canadian foreign carriers).

The proposed rule would also impose new restrictions on sweeping in protected or special areas. The proposed requirements would ban sweeping in Lake Huron's Thunder Bay, Lake Michigan's Northern Refuge, Lake Superior's Isle Royale National Park and the Detroit River at Lake Erie. Since all observed routes through these areas extend beyond the boundaries, banning dry cargo sweeping in these areas allows vessel operators to continue to sweep outside of the designated areas. In addition, the proposed rule would limit limestone sweeping in Lake Erie's Western Basin and Lake Michigan's Green Bay areas to vessels with routes exclusively inside these areas. Again, we consider all vessels that travel outside the protected or special areas to have the option of sweeping while outside of the boundaries. The proposed rule would not require vessels that travel exclusively inside these areas to modify behavior. As a result, there is no cost estimated for restricting sweeping in protected or special areas.

## 2. No-Action Alternative

Executive Order 12866 requires us to evaluate proposed alternatives including the No-Action Alternative. Under the No-Action Alternative, the Coast Guard would issue no new regulations to control incidental bulk dry cargo residues on the Great Lakes. Instead, the Coast Guard would enforce its existing regulation at 33 CFR 151.66.

That regulation was issued pursuant to the Coast Guard's authority under the Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.*, and prohibits the discharge of "garbage," a term that includes any dry cargo residue, into the navigable waters of the U.S. Currently, a limited exception is made for DCR sweepings in the Great Lakes pursuant to the Coast Guard's interim enforcement policy. Congress has sanctioned the IEP, most recently in the Coast Guard and Maritime Transportation Act of 2004, but that sanction expires on September 30, 2008. After that date, the Coast Guard would enforce 33 CFR 151.66's prohibition of DCR sweepings in all U.S. navigable waters of the Great Lakes. Although the benefit of the No-Action Alternative is zero discharge of DCR, the estimated initial cost of the No-Action Alternative, as shown in Table 2, is \$51,804,383, and the estimated annual cost is \$35,730,000.

We are deferring, for consideration in a future rulemaking, any decision on how best to regulate DCR sweepings over the long term. The proposed rule would be put in place in part to help gather more information to assess the issue.

One possible method to achieve zero discharge is to sweep with brooms and shovel the deck after every loading and unloading along with washing the tunnel after every unloading. We have analyzed this method, because data is readily available, and because if a zero discharge requirement quickly went into effect, this method would require little planning or other advance work to put into practice. Our data suggests it would be the most effective and least expensive method for immediate implementation. After loading and unloading a vessel, the deck would be swept of DCR, and the swept DCR is assumed to be placed in the cargo hold or on shore. After unloading, the tunnel surfaces would be washed down and the washwater would be pumped to shore for disposal at a shoreside facility for pretreatment. Following pretreatment, the washwater would be transferred to the municipal sewer authority for final treatment.

Foreign dry bulk vessels that call at a U.S. port in the Great Lakes typically load or unload cargo at a U.S. port and then leave U.S. waters. Therefore, they have the option of waiting until they are out of U.S. waters to conduct sweeping. Under the No-Action Alternative, they could wait until they are out of U.S. waters; therefore, there would be no cost to foreign dry bulk vessels under the No-Action Alternative.

Costs to U.S. vessels associated with the broom and shovel method, as an example, to achieve the No-Action Alternative include the following:<sup>1</sup>

- Assuming DCR washwater pretreatment facilities would be built at any port receiving or shipping dry cargo, 181 such facilities would be needed. The capital cost for those facilities is estimated at \$8,950,633, which would be incurred in the first year, and the annual operations and maintenance cost is estimated at \$321,000.

- The sewer usage charge is estimated to be \$2.00 per 1,000 gallons of washwater. The average amount of washwater to be discharged is estimated at 30,000 gallons per trip. Since each ship that transports dry cargo makes an estimated 60 trips per year, each ship would produce approximately 1.8 million gallons of washwater annually, and since there are 55 ships engaged in transporting dry cargo on the Great Lakes, the total amount of washwater to be discharged would be 99 million gallons per year. Since the cost of sewer usage is \$2.00 per 1,000 gallons of washwater, the total cost of sewer usage is \$198,000 annually for the entire fleet.

- Interior piping and pumps would be required to be installed on each vessel and would cost an average of \$129,500 per vessel. Since there are 55 vessels, the total cost of the piping and pumps is estimated at \$7,122,500 for the

entire fleet. We assume retrofitting or replacement of interior pumps and piping will occur during winter months when the vessels are not in service.

- The total cost of brooms and shovels for all vessels would be \$1,250.

- Additional time at the facility would be required to conduct deck sweepings and tunnel washdowns. We assume it takes 4 people 2.5 hours to sweep the deck every time a vessel loads and unloads cargo and that it takes 1 person 3.5 hours to wash the tunnel each time a vessel unloads cargo, resulting in a delay time of 6 (= 2.5 hours + 3.5 hours) hours per trip due to the deck sweepings and tunnel washdowns. Since each vessel makes an estimated 60 trips per year, the delay per vessel is approximately 360 hours annually, and since there are 55 vessels, the total annual delay is 19,800 hours. The Coast Guard estimates that the hourly cost of vessel operation is \$1,700;<sup>2</sup> thus, the total cost of the time delay is estimated at \$33,660,000 per year for the entire fleet of U.S. vessels.

- There is also a labor cost for deck sweepings and tunnel washdowns. We assume it takes 4 people an average of approximately 2.5 hours to sweep the deck of a vessel after each loading and unloading event. This equals 20 hours of labor for deck sweeping per trip. Assuming the loaded wage rate is \$20 per hour, the labor cost would be \$400 (= 20 hours \* \$20/hour) per trip. Each

vessel makes 60 trips per year; therefore, for each vessel, the labor cost of deck sweepings is \$24,000 (= \$400 per trip \* 60 trips per vessel) per year. Since there are 55 vessels, the total annual cost of deck sweepings after loadings and unloadings is \$1,320,000 (= \$24,000 annual cost per vessel \* 55 vessels) for the entire fleet. In addition, we assume it takes 1 person an average of approximately 3.5 hours to wash the tunnel after each unloading event. This equals 3.5 burden hours of labor after each unloading event. Assuming the wage rate is \$20 per hour, the labor cost to wash the tunnel would be \$70 (= 3.5 hours \* \$20/hour) after each unloading event. Each vessel makes 60 trips per year. Therefore, for each vessel, the labor cost for washing the tunnel after each unloading is \$4,200 (= \$70 per event \* 60 trips) per year. Since there are 55 vessels, the total annual cost of tunnel washdowns is \$231,000 (= 4,200 per vessel \* 55 vessels) for the entire fleet. The total annual labor cost of deck sweepings and tunnel washdowns is \$1,551,000 (= \$1,320,000 deck sweeping labor cost + \$231,000 tunnel washdown labor cost) for the entire fleet.

Therefore, the total undiscounted initial cost of the No-Action Alternative is estimated at \$51,804,383, and the total undiscounted annual cost is estimated at \$35,730,000. Table 2 below itemizes the cost of the No-Action Alternative.

TABLE 2.—NO-ACTION ALTERNATIVE ITEMIZED COST LIST

	Initial	Annual
Pretreatment Facilities .....	\$8,950,633	N/A
Operations & Maintenance .....	321,000	\$321,000
Sewer Usage .....	198,000	198,000
Piping & Pumps .....	7,122,500	N/A
Brooms & Shovels .....	1,250	N/A
Delay .....	33,660,000	33,660,000
Labor .....	1,551,000	1,551,000
Total .....	51,804,383	35,730,000

Table 3 below summarizes the ten-year undiscounted cost of the No-Action Alternative, as well as the ten-year cost

discounted at 7 percent and at 3 percent.

TABLE 3.—TOTAL TEN-YEAR COST OF NO-ACTION ALTERNATIVE

Year	Undiscounted cost	Present value cost (7%)	Present value cost (3%)
2009 .....	\$51,804,383	\$48,415,311	\$50,295,517
2010 .....	35,730,000	33,392,523	34,689,320
2011 .....	35,730,000	31,207,966	33,678,952
2012 .....	35,730,000	29,166,323	32,698,011
2013 .....	35,730,000	27,258,246	31,745,642

<sup>1</sup> CH2M Hill has provided cost data for this method, through phone conversations, emails, memos, and the DEIS.

<sup>2</sup> USCG estimate based on operating costs data from the U.S. Army Corps of Engineers for 2002 and 2005 and the Lake Carriers Association for 2007.

TABLE 3.—TOTAL TEN-YEAR COST OF NO-ACTION ALTERNATIVE—Continued

Year	Undiscounted cost	Present value cost (7%)	Present value cost (3%)
2014 .....	35,730,000	25,474,996	30,821,012
2015 .....	35,730,000	23,808,408	29,923,312
2016 .....	35,730,000	22,250,848	29,051,760
2017 .....	35,730,000	20,795,185	28,205,592
2018 .....	35,730,000	19,434,753	27,384,070
Total .....	373,374,383	281,204,559	328,493,189

The ten-year cost of the No-Action Alternative is \$373,374,383 when undiscounted; \$328,493,189 when discounted at a rate of 3 percent; and \$281,204,559 when discounted at a rate of 7 percent.

#### B. Small Entities

In accordance with the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Coast Guard must assess whether a rule would have a significant economic impact on a substantial number of small entities.

A small entity may be:

- A small business that, defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act (15 U.S.C. 632);
- A small independent not-for-profit organization, and;
- A small governmental jurisdiction (locality with fewer than 50,000 people).

Although the proposed rule would affect both U.S. and foreign vessels, for purposes of the small entities analysis, entities affected by the proposed rule would be U.S.-flag vessel owners that carry dry bulk cargo and operate on the Great Lakes. We determined which entities were small, based on the North American Industry Classification System (NAICS) using public and proprietary business databases. The NAICS code, company information such as the number of employees and annual revenues are obtained by utilizing these databases. By using the United States Small Business Administration (SBA) criteria for small businesses and the associated NAICS code for a particular business, we are able to determine whether a business is small or large.<sup>3</sup> In some cases, businesses are small based on the number of employees, though many businesses are classified based on their annual revenues.

There are 13 small businesses that would be affected by the proposed rule. We have made efforts to reduce the impact on these entities, including the

use of standardized forms and allowing electronic submissions. The estimated total annual cost of the proposed new recordkeeping requirement is \$60,077 or \$1,092 per vessel per year.

We address the projected reporting and recordkeeping requirements as well as the type and professional skills necessary for the preparation of reports and records in the cost analysis and Collection of Information sections of this report.

This Initial Regulatory Flexibility Act Analysis addresses the following:

- The reason the agency is considering this action;
- The objectives of and legal basis for the proposed rule;
- The number and types of small entities to which the rule would apply;
- The classes of small entities that would be subject to the requirements of the proposed rule;
- Other relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule, and;
- Significant alternatives to the component under consideration that accomplish the stated objectives of applicable statutes and may minimize any significant economic impact of the proposed rule on small entities.

#### C. 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. Pursuant to section 212 of that Act, the Coast Guard will prepare a Small Entity Compliance Guide to assist small entities in complying with this proposed rule. 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 LT St. Pierre (see **FOR FURTHER INFORMATION CONTACT**). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### 1. Reason for Agency Action

Under 33 CFR 151.66, a Coast Guard regulation that implements the Act to Prevent Pollution from Ships, 33 U.S.C. 1901 *et seq.*, cargo residue is treated as operational waste, which meets the definition of “garbage” under 33 CFR 151.05, and, therefore, its discharge into the navigable waters of the United States is prohibited. If strictly enforced on the Great Lakes, this regulation would put an end to cargo sweeping. Since 1993, Great Lakes shipping has operated under a Coast Guard IEP that allows “incidental discharges” of non-toxic and non-hazardous bulk DCR to continue in certain U.S. waters of the Great Lakes. Congress first approved the IEP in 1998 and has mandated its continuation until September 30, 2008 or until the Coast Guard issues new regulations relating to DCR on the Great Lakes, whichever comes first. Congress has expressed an expectation that any new regulations would appropriately balance the needs of maritime commerce and environmental protection. The Coast Guard has stated that if the IEP expires before new regulations can be issued, 33 CFR 151.66 will be enforced in all U.S. waters of the Great Lakes.

Enforcement of 33 CFR 151.66 in the Great Lakes could cause economic hardship and require the significant expenditure of Coast Guard resources, possibly with no significant benefit to the environment. Therefore, we propose allowing the continuation of present DCR practices in the Great Lakes, with

<sup>3</sup> Readers can access small business information online at <http://www.sba.gov/size/indexableofsize.html>.

the addition of new recordkeeping requirements.

## 2. Objective and Legal Basis

The proposed rule would meet the congressional objective of striking an appropriate balance between the needs of maritime commerce and environmental protection. The recordkeeping requirement could greatly increase our ability to understand the practice of dry cargo sweeping, monitor the practice, and if necessary subject it to further controls in the future. Our proposed mandatory DCR recordkeeping requirements would provide additional data in support of

our cost/benefit assessment of possible alternative ways of managing DCR. Section 623 of Public Law 108–293 authorized the Coast Guard to promulgate regulations governing the discharge of dry bulk cargo residue on the Great Lakes, notwithstanding any other law. This proposed rule would amend 33 CFR Part 151.

## 3. Number of Types of Small Entities Affected

We determined that 13 small businesses are affected by this proposed rule. Of the 13 small businesses, we found revenue data for 9 companies.

To estimate the impact on small businesses, we divided the total annual

recordkeeping cost of \$60,077 by the total number of vessels for an estimate of \$1,092 per vessel. We then multiply this by the number of vessels that each small business owns. We divided this cost by the average annual revenues for each small business to obtain a proportion of the cost to annual revenues. This allows us to determine the annual cost impact of this proposed rule on small businesses, based on SBA's criteria for small businesses and company information obtained through the online databases. Table 4 presents the annual revenue impacts for the 9 small companies that we researched with known average annual revenues.<sup>4</sup>

**TABLE 4.—ESTIMATED REVENUE IMPACT OF THE PROPOSED RULE FOR SMALL BUSINESSES THAT OWN U.S.-FLAG DRY-BULK VESSELS OPERATING ON THE GREAT LAKES**

Percent impact on annual revenue	Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data
0–3% .....	9	100
>3–5% .....	0	0
>5–10% .....	0	0
>10–20% .....	0	0
>20% .....	0	0
Total .....	9	100

As shown, annually, the proposed rule would have a 3 percent or less impact on all of the small businesses that own vessels that would have to comply with the recordkeeping requirement of this proposed rule.<sup>5</sup> Thus, while the proposed rule would affect 13 small entities, the costs are relatively minimal. To put the per vessel annual recordkeeping cost of \$1,092 in context, this cost is less the vessel's hourly operating cost, which we estimate is \$1,700 per hour. Consequently, the data suggest that this proposed rule would not have a significant economic impact on a substantial number of small entities. 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, and we request comments on whether you believe this finding is correct.

We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that your business, organization, or government jurisdiction qualifies as a small entity and that this proposed 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, how, and to what degree you think this rule would have an economic impact on you.

## 4. Classes of Entities Affected by the Proposed Rule

We classified small businesses by the NAICS code previously mentioned for

those businesses that had known company information and determined whether a business was small or large by using the SBA size standards matched to the NAICS codes. Based on the industry classification codes, we found that about 44 percent of the small businesses that we analyzed are classified as “Navigational Services to Shipping” and “Packaging and Labeling,” each representing about 22 percent of the small companies that we analyzed. The remaining 56 percent of the small businesses that we analyzed are comprised of five different industry classification codes for a total of seven NAICS codes. All of the nine small businesses that we analyzed represent seven different NAICS codes. Table 5 presents the types of small entities that the proposed rule would affect.

**TABLE 5.—NAICS CODES, DESCRIPTIONS, DEFINITIONS, AND NUMBER AND PERCENT OF SMALL BUSINESSES AFFECTED BY THE PROPOSED RULE**

NAICS code	Description	Small business definition	Number of small entities	Percent of small entities
488330 .....	Navigational Services to Shipping .....	< \$6.5M annual rev .....	2	22.2

<sup>4</sup> When estimating revenue impacts, we do not discount annual costs or annual revenues.

<sup>5</sup> These data are based on the small businesses that we sampled from the total population and from

the data that we obtained using the online public and proprietary business databases.

TABLE 5.—NAICS CODES, DESCRIPTIONS, DEFINITIONS, AND NUMBER AND PERCENT OF SMALL BUSINESSES AFFECTED BY THE PROPOSED RULE—Continued

NAICS code	Description	Small business definition	Number of small entities	Percent of small entities
561910 .....	Packaging and Labeling Services .....	< \$6.5M annual rev .....	2	22.2
486910 .....	Pipeline Transportation of Refined Petroleum.	< 1500 employees .....	1	11.1
488320 .....	Marine Cargo Handling .....	< \$23.5M annual rev .....	1	11.1
522110 .....	Commercial Banking .....	< \$165M in assets .....	1	11.1
483211 .....	Inland Water Freight Transportation .....	< 500 employees .....	1	11.1
813910 .....	Business Associations .....	< \$6.5M annual rev .....	1	11.1
Total .....	.....	.....	9	100.0

#### 5. Other Federal Rules

Current Coast Guard regulations on garbage pollution found at 33 CFR Sections 151.51 through 151.77 would prohibit the sweeping of DCR into the Great Lakes. Section 623 of Public Law 108–293 requires the Coast Guard to enforce its IEP, which allows limited DCR sweeping on the Great Lakes, until September 30, 2008. Additionally, section 623(b) of Public Law 108–293 authorizes the Coast Guard to promulgate regulations governing the sweeping of dry bulk cargo residue on the Great Lakes, notwithstanding any other law. The proposed rule would amend 33 CFR Part 151 to allow the sweeping of dry bulk cargo residue on the Great Lakes notwithstanding any other law.

#### 6. Regulatory Alternatives

The No-Action Alternative has an estimated total initial cost of

\$51,804,383 or \$941,898 per vessel, and it has an estimated total annual cost of \$35,730,000 or \$649,636 per vessel, and therefore, could have a significant economic impact on a substantial number of small entities.

To estimate the impact on small businesses initially, we divided the first year costs for implementing the No-Action Alternative by the number of vessels. We then multiply this figure by the number of vessels that each small business owns. We divided this cost by the average annual revenues for each small business to obtain a proportion of the initial cost to annual revenues. This allows us to determine the initial cost impact of this proposed rule on small businesses, based on SBA's criteria for small businesses and company information obtained through the online databases. We also estimated the annual cost impact on small businesses using the same methodology explained above.

Again, we divided the annual recurring costs that each small business would incur under the No-Action Alternative by the number of vessels. We then multiply this figure by the number of vessels that each small business owns. We divided this cost by the average annual revenues for each small business to obtain a proportion of the annual costs to annual revenues.

Table 6 presents the initial and recurring annual revenue impacts for the sample of nine small companies that we researched with known average annual revenues.<sup>6</sup> Table 6 shows that under the No-Action Alternative, there would be over 80 percent impact on annual revenues for approximately 56 percent of small businesses initially, and there would be over 80 percent impact on annual revenues for approximately 44 percent of small businesses annually.

TABLE 6.—ESTIMATED REVENUE IMPACT OF THE NO-ACTION ALTERNATIVE FOR SMALL BUSINESSES THAT OWN U.S.-FLAG DRY-BULK VESSELS OPERATING ON THE GREAT LAKES

Percent impact on annual revenue	Initial		Annual	
	Number of small entities with known revenue data	Percent of small entities with known revenue data	Number of small entities with known revenue data	Percent of small entities with known revenue data
0–20% .....	3	33	3	33
>20–40% .....	0	0	0	0
>40–60% .....	0	0	1	11
>60–80% .....	1	11	1	11
>80% .....	5	56	4	44
Total .....	9	100	9	100

#### D. Collection of Information

This proposed rule would call for a new 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

<sup>6</sup> When estimating revenue impacts, we do not discount initial and annual costs or annual revenues.

completing and reviewing the collection.

*Title:* Dry Cargo Residue Sweepings in the Great Lakes.

*Summary of the Collection of Information:* The new DCR recordkeeping provisions would require vessel operators to maintain a DCR log to document what dry cargos are loaded, unloaded, and swept, when they are swept, how they are swept, how much is swept, what control measures, if any, are in place, and where, when, and how fast the vessel is traveling when the sweepings take place.

*Need for Information:* By making DCR recordkeeping mandatory, we will greatly increase our ability to understand the practice of dry cargo sweeping, monitor the practice, and if necessary, subject the practice of DCR sweeping to further controls in the future.

*Proposed Use of Information:* Our proposed mandatory DCR recordkeeping requirements would provide additional data in support of our cost/benefit assessment of reasonable methods for reducing DCR discharges over the long term, beyond the next six to 10 years.

*Description of the Respondents:* The respondents would be U.S. and foreign vessels that carry dry-bulk cargo and operate on U.S. waters of the Great Lakes. During the 2006 shipping season, 55 U.S. vessels and 219 foreign vessels carrying dry-bulk cargos operated on the Great Lakes. The respondents include these 274 vessels conducting the DCR recordkeeping, handling the submissions, and certifying each form.

*Number of Respondents:* The total number of vessels that handle Great Lakes dry bulk cargo shipments is 274 (= 55 U.S. vessels + 33 Canadian vessels + 186 non-Canadian foreign vessels).

*Frequency of Response:* There are three types of responses. The first type is an entry on the form each time the vessel loads, unloads, or sweeps. Each loading and unloading operation and each sweeping event counts as a separate entry. From the Draft Environmental Impact Statement, each of the 55 U.S.-flag dry cargo vessels operating on the Great Lakes makes an average of 60 trips each season. Each trip is marked by one loading and one unloading operation, and sweeping occurs for 75 percent of the trips, resulting in a total of 2.75 recordings per trip. A trip is defined as a vessel going from one port to another. We assume that at each port, a vessel either loads or unloads cargo. Therefore, we estimate that there will be approximately 9,075 [= (60 trips/vessel/season \* 2.75 entries) \* 55 vessels] entries annually by U.S. vessels.

There are 33 Canadian vessels, each making an average of 42 trips per year into U.S. ports on the Great Lakes. There are 186 non-Canadian foreign vessels, each making an average of 4 trips per year into U.S. ports on the Great Lakes. We assume that a foreign vessel that makes a U.S. port call in the Great Lakes either loads or unloads cargo at a U.S. port. We also use the worst-case assumption that these foreign vessels sweep DCR into U.S. waters of the Great Lakes three-quarters of the time the vessels are in U.S. waters. Under these assumptions, each of these foreign vessels makes 1.75 recordings per trip. Each Canadian vessel makes 73.5 (= 42 trips \* 1.75 entries) recordings per year. Since there are 33 Canadian vessels, the total number of entries per year by Canadian vessels is estimated to be 2,426 (= 73.5 recordings \* 33 vessels) entries. Each non-Canadian foreign vessel makes 7 (= 4 trips \* 1.75 entries) recordings per year. Since there are 186 non-Canadian foreign vessels, the total number of entries per year by non-Canadian foreign vessels is estimated to be 1,302 entries.

The second type of response is certification of a form by the vessel's Master. Each U.S. vessel makes 165 (= 60 trips \* 2.75 entries/trip) entries per year. Each form is used to record 7 entries. Therefore, each of the 55 U.S. vessels completes 24 forms per year to be certified by the vessel's Master. This equals 1,320 total certifications per year by the U.S. fleet. Since each Canadian vessel makes 73.5 entries per year, and each form is used to record 7 entries, this equals 11 forms a year per vessel. Each of the 33 Canadian vessels completes 11 forms per year to be certified by the vessel's Master. This equals 363 total certifications per year by the Canadian fleet. Since each non-Canadian foreign vessel makes 7 entries per year, and each form is used to record 7 entries, each of the 186 non-Canadian foreign vessels completes 1 form per year to be certified by the vessel's Master. This equals 186 total certifications per year by the fleet of non-Canadian foreign vessels.

The third type of response is the quarterly submission of the forms to the Coast Guard. There are 220 submissions per year (= 55 U.S. vessels \* 4 submissions/year/vessel) by the U.S. fleet. There are a total of 132 (= 33 Canadian vessels \* 4 submissions/vessel/year) submissions per year by the Canadian fleet. There are a total of 744 (= 186 non-Canadian foreign vessels \* 4 submissions/vessel/year) submissions per year by the fleet of non-Canadian foreign vessels.

Therefore, we estimate that there will be approximately 10,615 (= 9,075 form entries + 1,320 Master certifications + 220 submissions) total responses per year by the U.S. fleet; 2,921 (= 2,426 form entries + 363 Master certifications + 132 submissions) total responses per year by the Canadian fleet; and 2,232 (= 1,302 form entries + 186 Master certifications + 744 submissions) total responses per year by the fleet of non-Canadian foreign vessels.

*Burden of Response:* We estimate that there are 9,075 entries per year by U.S. vessels. It is anticipated the recordkeeping would be done by a person comparable to a Lieutenant with a wage rate of \$61 per hour, or \$1.02 per minute, using year 2006 rates. We assume that each entry takes 5 minutes to complete. This equals a total of 45,375 minutes to complete all entries for the year. Therefore, the cost is \$5.10 per entry, and the annual total cost for all entries by the U.S. fleet is \$46,282.50 (= 9,075 entries/year \* \$5.10/entry). Assuming it takes an average of 5 minutes to complete each of the 2,426 entries by the Canadian fleet, it would take approximately 12,130 (= 2,426 entries \* 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost Canadian carriers a total of \$12,373 (= 12,130 minutes \* \$1.02/minute). Assuming it takes an average of 5 minutes to complete each of the 1,302 entries by the non-Canadian foreign fleet, it would take approximately 6,510 (= 1,302 entries \* 5 minutes) minutes to complete all entries. Using a wage rate of \$1.02 per minute, the recordings would cost non-Canadian foreign carriers a total of \$6,640 (= 6,510 minutes \* \$1.02/minute).

The proposed rule also requires certification by the vessel's Master of each form. A Master would be equivalent to a Captain, with a wage rate of \$115 per hour, or \$1.92 per minute, using year 2006 rates. We assume it takes a Master 5 minutes to certify each form. Therefore, it costs \$9.60 for a Master to certify one form. Since each vessel certifies 24 forms per year, the cost of certification by the vessel's Master per vessel is \$230.40 (= 24 forms/vessel \* \$9.60/form) annually. Since there are 55 U.S. vessels, the annual burden of the certification is 6,600 (= 5 minutes/form \* 24 forms/vessel \* 55 vessels) minutes, and the total annual cost of the certification is \$12,672 (= 6,600 minutes \* \$1.92/minute) for the entire U.S. fleet. We assume it takes a Master of a Canadian vessel 5 minutes to certify each form. Therefore, it takes 1,815 (= 363 certifications \* 5 minutes) minutes to

certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification by the Canadian fleet is \$3,485 (=1,815 minutes \* \$1.92/minute). We assume it takes a Master of a non-Canadian foreign vessel 5 minutes to certify each form. Therefore, it takes 930 (= 186 certifications \* 5 minutes) minutes to certify all forms for the year. Using a Master wage rate of \$1.92 per minute, the total cost of Master certification for the fleet of non-Canadian foreign vessels is \$1,786 (= 930 minutes \* \$1.92/minute).

In addition, we assume that it takes each vessel 5 minutes to submit all completed forms for the quarter. Since there are 220 submissions per year, the total annual submission burden for the entire U.S. fleet is 1,100 minutes, or \$1,122 (= 1,100 minutes \* \$1.02/minute), assuming submissions are done by a person comparable to a Lieutenant, with a wage rate of \$1.02 per minute, using year 2006 rates. We assume it takes each Canadian vessel 5 minutes to submit all completed forms for the quarter. Since there are 132 submissions per year, the total annual submission burden for the entire fleet of Canadian vessels is 660 minutes, or \$673 (= 660 minutes \* \$1.02/minute). We assume it takes each non-Canadian foreign vessel 5 minutes to submit all completed forms for the quarter. Since there are 744 submissions per year, the total annual submission burden for the entire fleet of non-Canadian foreign vessels is 3,720 minutes, or \$3,794 (= 3,720 minutes \* \$1.02/minute).

**Estimate of Total Annual Burden:** We estimate that the total annual time burden for the U.S. fleet that would result from the collection of information is 53,075 (= 45,375 recording minutes + 6,600 Master certification minutes + 1,100 submission minutes) minutes, and the total annual cost burden is \$60,077 (= \$46,283 recording cost + \$12,672 Master certification cost + \$1,122 submission cost) for the entire fleet. The annual burden per vessel is approximately \$1,092.31 (= \$60,077 total annual cost ÷ 55 vessels).

We estimate that the total annual time burden of the recordkeeping requirement is 14,605 (= 12,130 recording minutes + 1,815 Master certification minutes + 660 submission minutes) minutes and that the total annual cost of the recordkeeping requirement to Canadian carriers is \$16,531 (= \$12,373 recording cost + \$3,485 Master certification cost + \$673 submission cost). We estimate that the total annual time burden of the recordkeeping requirement for non-Canadian foreign carriers is 11,160 (=

6,510 recording minutes + 930 Master certification minutes + 3,720 submission minutes) minutes and that the total annual cost of the recordkeeping requirement to non-Canadian foreign carriers is \$12,220 (= \$6,640 recording cost + \$1,786 Master certification cost + \$3,794 submission cost). Therefore, we estimate that the total annual time burden of the recordkeeping requirement to foreign carriers is 25,765 (= 14,605 minutes for Canadian carriers + 11,160 minutes for non-Canadian foreign carriers) minutes and that the total annual cost of the recordkeeping requirement to foreign carriers is \$28,751 (= \$16,531 cost to Canadian carriers + \$12,220 cost to non-Canadian foreign carriers).

**Paperwork Reduction Act.** 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 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. We specifically ask you to comment on whether you think voluntary recordkeeping would be better than requiring recordkeeping, and if so, why. If you prefer voluntary recordkeeping, would you be willing to report voluntarily each quarter using the proposed Coast Guard form?

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**. To ensure that the comments on collection of information are received by OMB on time, the preferred method is by e-mail at

[oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) subject line ATTN: Desk Officer, DHS-USCG or fax at 202-395-6566, ATTN: Desk Officer, DHS-USCG. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: Desk Officer, DHS-USCG.

You need not respond to a collection of information unless we have published a currently valid control number from OMB for that collection in the **Federal Register**. 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. If OMB approves the collection, our publication of that control number in the **Federal Register** or the CFR will constitute display of that number; see 5 CFR 1320.3(f)(3), as required under 44 U.S.C. 3506(c)(1)(B).

The No-Action Alternative would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### *E. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### *F. Unfunded Mandates Reform Act*

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

#### *G. Taking of Private Property*

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

#### *H. 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.

#### *I. 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 would not create an environmental risk to health or risk to

safety that might disproportionately affect children.

#### *J. Indian Tribal Governments*

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### *K. Energy Effects*

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### *L. Technical Standards*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *M. Environment*

We have analyzed this proposed rule under Commandant Instruction

M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). A draft "Environmental Impact Statement" (EIS) is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble. We encourage the public to submit comments on the draft EIS.

#### **List of Subjects in 33 CFR Part 151**

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 151 as follows:

#### **PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER**

##### **Subpart A—Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the Antarctic Treaty as It Pertains to Pollution From Ships**

1. The authority citation for part 151 is revised to read as follows:

**Authority:** 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

2. Revise § 151.66 to read as follows:

##### **§ 151.66 Operating requirements: Discharge of garbage in the Great Lakes and other navigable waters.**

(a) Except as otherwise provided in this section, no person on board any ship may discharge garbage into the navigable waters of the United States.

(b) On the United States' waters of the Great Lakes, commercial ships, excluding non-self propelled barges, may discharge bulk dry cargo residues in accordance with this paragraph and paragraph (c) of this section. Owners and operators of ships to which these paragraphs apply are encouraged to minimize the volume of dry cargo residues discharged through the use of suitable residue control measures onboard and by loading and unloading

cargo at facilities that use suitable shoreside residue control measures. As used in Table 151.66(b):

*Bulk dry cargo residues* means non-hazardous and non-toxic residues of dry cargo carried in bulk, including limestone and other clean stone, iron ore, coal, salt, and cement. It does not include residues of any substance known to be toxic or hazardous, such as, nickel, copper, zinc, lead, or materials classified as hazardous in provisions of law or treaty;

*Caribou Island and Southwest Bank Protection Area* means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 47°30.0' N, 85°50.0' W; 47°24.2' N, 85°38.5' W; 47°04.0' N, 85°49.0' W; 47°05.7' N, 85°59.0' W; 47°18.1' N, 86°05.0' W;

*Mile* means a statute mile, and refers to the distance from the nearest land or island;

*Milwaukee Mid-Lake Special Protection Area* means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 43°27.0' N, 87°14.0' W; 43°21.2' N, 87°02.3' W; 43°03.3' N, 87°04.8' W; 42°57.5' N, 87°21.0' W; 43°16.0' N, 87°39.8' W;

*Six Fathom Scarp Mid-Lake Special Protection Area* means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 44°55' N, 82°33' W; 44°47' N, 82°18' W; 44°39' N, 82°13' W; 44°27' N, 82°13' W; 44°27' N, 82°20' W; 44°17' N, 82°25' W; 44°17' N, 82°30' W; 44°28' N, 82°40' W; 44°51' N, 82°44' W; 44°53' N, 82°44' W; 44°54' N, 82°40' W;

*Waukegan Special Protection Area* means the area enclosed by rhumb lines connecting the following coordinates, beginning on the northernmost point and proceeding clockwise: 42°24.3' N, 87°29.3' W; 42°13.0' N, 87°25.1' W; 42°12.2' N, 87°29.1' W; 42°18.1' N, 87°33.1' W; 42°24.1' N, 87°32.0' W; and

*Western Basin* means that portion of Lake Erie west of a line due south from Point Pelee.

TABLE 151.66(B).—BULK DRY CARGO RESIDUE DISCHARGES ALLOWED ON THE GREAT LAKES

Location	Cargo	Discharge allowed except as noted
Tributaries, their connecting rivers, and St. Lawrence River.	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes.
Lake Ontario .....	All other cargos .....	Prohibited.
	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes.
Lake Erie .....	Iron ore .....	Prohibited within 6 miles.
	All other cargos .....	Prohibited within 13.8 miles.
	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin except for vessels operating exclusively within Western Basin.
Lake St. Clair .....	Iron ore .....	Prohibited within 6 miles; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin, except that a vessel may incidentally discharge its cargo over the dredged navigation channels between Toledo Harbor Light and Detroit River Light if it unloads in Toledo or Detroit and immediately thereafter loads new cargo in Toledo, Detroit, or Windsor.
	Coal, salt .....	Prohibited within 13.8 miles; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin, except that a vessel may incidentally discharge its cargo over the dredge navigation channels between Toledo Harbor Light and Detroit River Light if it unloads in Toledo or Detroit and immediately thereafter loads new cargo in Toledo, Detroit, or Windsor.
	All other cargos .....	Prohibited within 13.8 miles; prohibited in the Detroit River National Wildlife Refuge; prohibited in Western Basin.
Lake Huron except Six Fathom Scarp Mid-Lake Special Protection Area.	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes.
	All other cargos .....	Prohibited.
	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; prohibited in the Thunder Bay National Marine Sanctuary.
Lake Michigan .....	Iron ore .....	Prohibited within 6 miles and in Saginaw Bay; prohibited in the Thunder Bay National Marine Sanctuary; prohibited for vessels up bound along the Michigan thumb as follows: (a) Between 5.8 miles northeast of entrance buoys 11 and 12 to the track line turn abeam of Harbor Beach, prohibited within 3 miles; and (b) For vessels bound for Saginaw Bay only, between the track line turn abeam of harbor Beach and 4 nautical miles northeast of Point Aux Barques Light, prohibited within 4 miles and not less than 10 fathoms of depth.
	Coal, salt .....	Prohibited within 13.8 miles and in Saginaw Bay; prohibited in the Thunder Bay National Marine Sanctuary; prohibited for vessels up bound from Alpena into ports along the Michigan shore south of Forty Mile Point within 4 miles and not less than 10 fathoms of depth.
	All other cargos .....	Prohibited within 13.8 miles and in Saginaw Bay; prohibited in the Thunder Bay National Marine Sanctuary.
Lake Michigan .....	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas; prohibited within the Northern Refuge; prohibited within Green Bay except for vessels operating exclusively within Green Bay.
	Iron ore .....	Prohibited in the Northern Refuge; north of 45° N, prohibited within 12 miles and in Green Bay; south of 45° N, prohibited within 6 miles, and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay; except that discharges are allowed at: (a) 4.75 nautical miles off Big Sable Point Betsie, along established LVA track lines; and (b) Along 056.25° LCA track line between due east of Poverty Island to a point due south of Port Inland Light.
	Coal .....	Prohibited in the Northern Refuge; prohibited within 13.8 miles and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay; except that discharges are allowed: (a) Along 013.5° LCA track line between 45° N and Boulder Reef, and along 022.5° LCA track running 23.25 miles between Boulder Reef and the charted position of Red Buoy #2; (b) Along 037° LCA track line between 45°20' N and 45°42' N; (c) Along 056.25° LCA track line between points due east of Poverty Island to a point due south of Port Inland Light; and (d) At 3 nautical miles for coal carried between Mainstee and Ludington along customary route.
	Salt .....	Prohibited in the Northern Refuge; prohibited within 13.8 miles and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay.
	All other cargos .....	Prohibited in the Northern Refuge; prohibited within 13.8 miles and prohibited within the Milwaukee Mid-Lake and Waukegan Special Protection Areas and in Green Bay.

TABLE 151.66(B).—BULK DRY CARGO RESIDUE DISCHARGES ALLOWED ON THE GREAT LAKES—Continued

Location	Cargo	Discharge allowed except as noted
Lake Superior .....	Limestone and other clean stone.	Prohibited where there is an apparent impact on wetlands, fish spawning areas, and potable water intakes; and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	Iron ore .....	Prohibited within 6 miles (within 3 miles off northwestern shore between Duluth and Grand Marais); and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	Coal, salt .....	Prohibited within 13.8 miles (within 3 miles off northwestern shore between Duluth and Grand Marais); and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	Cement .....	Prohibited within 13.8 miles (within 3 miles offshore west of a line due north from Bark Point); and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.
	All other cargos .....	Prohibited within 13.8 miles; and prohibited within Isle Royal National Park and the Caribou Island and Southwest Bank, Stannard Rock, and Superior Shoal Protection Areas.

(c)(1) The master, owner, operator, or person in charge of any commercial ship loading, unloading, or discharging bulk dry cargo in the United States' waters of the Great Lakes and the master, owner, operator, or person in charge of a U.S. commercial ship transporting bulk dry cargo and operating anywhere on the Great Lakes, excluding non-self propelled barges, must ensure that a written record is maintained on the ship that fully and accurately records information on:

(i) Each loading or unloading operation on the United States' waters of the Great Lakes, or in the case of U.S. commercial ships on any waters of the Great Lakes, involving bulk dry cargo; and

(ii) Each discharge of bulk dry cargo residue that takes place in United States' waters, or in the case of U.S. commercial ships on any waters, of the Great Lakes.

(2) For each loading or unloading operation, the record must describe:

- (i) The date of the operation;
- (ii) Whether the operation involved loading or unloading;
- (iii) The name of the loading or unloading facility;
- (iv) The type of bulk dry cargo loaded or unloaded;
- (v) The method or methods used to control the amount of bulk dry cargo residue, either onboard the ship or at the facility;
- (vi) The time spent to implement methods for controlling the amount of bulk dry cargo residue; and
- (vii) The estimated volume of bulk dry cargo residue created by the loading or unloading operation that is to be discharged.

(3) For each discharge, the record must describe:

- (i) The date and time the discharge started, and the date and time the discharge ended;
- (ii) The ship's position, in latitude and longitude, when the discharge started and when the discharge ended; and

(iii) The ship's speed during the discharge.

(4) Records must be kept on Coast Guard Form CG-33, a facsimile of which appears below as Form 151.66(c). The records must be certified by the master, owner, operator, or person in charge and kept in written form onboard the ship for at least two years. Copies of the records must be forwarded to the Coast Guard at least once each quarter, no later than the 15th day of January, April, July, and October. The record copies must be provided to the Coast Guard using only one of the following means:

- (i) E-mail to [DCRRRecordkeeping@USCG.mil](mailto:DCRRRecordkeeping@USCG.mil);
- (ii) Fax to (202) 372-1926; or
- (iii) Mail to U.S. Coast Guard: Commandant (CG-522), ATTN: DCR RECORDKEEPING, CGHQ Room 1210, 2100 Second Street, SW., Washington, DC 20593-0001.

BILLING CODE 4910-15-P

## Form 151.66(c): Great Lakes Bulk Dry Cargo Residue Reporting Form.

U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-33 Rev. (02-08)		<b>BULK DRY CARGO RESIDUE REPORTING FORM</b>						OMB Number 1625-0072 Expires:		
MASTER'S CERTIFICATION:								OFFICIAL/IMO NO.		
For Cargo Loading & Unloading Operations								VESSEL NAME:		
Date	Cargo Involved <sup>1</sup>	Operation (check one)		Facility Name	Control Measures Used <sup>2</sup> (see list of codes)		Time Spent to Implement Control Measure (hrs)	Estimated Residue to be Swept into Water (m <sup>3</sup> )	For Residue Sweeping Operations Only	
		Load	Unload		Facility	Vessel			Sweeping Start	Sweeping Stop
									Date/Time(D/T) Ship's Position (Lat/Long)	Date/Time(D/T) Ship's Position (Lat/Long)
									D/T:	D/T:
									Lat:	Lat:
									Long:	Long:
									D/T:	D/T:
									Lat:	Lat:
									Long:	Long:
									D/T:	D/T:
									Lat:	Lat:
									Long:	Long:
									D/T:	D/T:
									Lat:	Lat:
									Long:	Long:
									D/T:	D/T:
									Lat:	Lat:
									Long:	Long:

Remarks:

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is 15 minutes. You may submit any comments concerning the accuracy of this estimate or any suggestions for reducing the burden to: Commandant (CG-5232), U.S. Coast Guard Room 1400, 2109 Second Street SW, Washington, D.C. 20583-0001.

U.S. Dept. of Homeland Security, USCG, CG-33, Rev. (02-08)

Reset

Please see footnotes on next page

## NOTES:

<sup>1</sup> **Cargo Involved:** Provide the common name of the cargo (e.g., coal, taconite, sand, limestone, grain, salt, etc.)

When multiple cargo types are discharged, please create a separate entry for each type

<sup>2</sup> **Control Measures:** Enter the code(s) below for each dry cargo residue control measure(s) used during cargo handling operations. Return to Form for both cargo facilities (if known), and for your vessel.

Cargo Involved	Facility Control Measures	
	Code	Measure
	A	Enclosed conveyor
iron ore	B	Troughed conveyor
taconite	C	Conveyor skirts
scale	D	Belt Scrapers
coal/coke	E	Water/mist for dust control
grain	F	Conveyor capacity indicators
seed	G	Deck remote controls of conveyors
wood pulp	H	Stop conveyor while ship or belt is repositioned
potash	I	Delay loading/unloading during high wind
fertilizer	J	Radio Communication between deck and loader
limestone	K	Crew training on procedures to reduce residue
sand/gravel	L	Limit vertical angle of conveyor boom
dolomite	M	Plow feeder
clay	N	Loading chute, incl. Telescoping or conveyors
aggregates	O	Chemical surfactants
salt	P	Suction pumped cargo, slurry transport, pneumatic or screw conveyors
gypsum	Q	Other (describe measure on "Remarks" line on front of form)
cement		
Other		

Vessel Control Measures	
Code	Measure
1	Enclosed conveyor
2	Troughed conveyor
3	Conveyor skirts
4	Belt Scrapers
5	Water/mist for dust control
6	Conveyor capacity indicators
7	Deck remote controls of conveyors
8	Stop conveyor while ship or belt is repositioned
9	Delay loading/unloading during high wind
10	Radio Communication between deck and loader
11	Crew training on procedures to reduce residue
12	Limit vertical angle of conveyor boom
13	Broom & shovel (to return to hold or shore)
14	Tarps to collect residue (to return to hold or shore)
15	Cargo hold vibrator
16	Watertight gate seal
17	Cargo hold lining (teflon or kevlar)
18	Minimize hatch removal during poor weather
19	Careful cargo hold gate operation
20	Other (describe measure on "Remarks" line on front of form)

Equivalence Table for estimating residue			
Cargo	Density (lbs/ft <sup>3</sup> )	Equivalent Volume for 350 lbs of DCR	Volume in m <sup>3</sup>
Coal	50	7 ft <sup>3</sup>	0.2
Limestone	150	2.3 ft <sup>3</sup>	0.07
Taconite	222	1.6 ft <sup>3</sup>	0.05

**Note:** One 5 gallon bucket is equivalent to 0.019m<sup>3</sup>

Dated: May 14, 2008.

**Dana A. Goward,**

*Acting Assistant Commandant for Marine, Safety, Security and Stewardship, U.S. Coast Guard.*

[FR Doc. E8-11343 Filed 5-22-08; 8:45 am]

BILLING CODE 4910-15-C

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R09-OAR-2006-0306; FRL-8570-7]

#### Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM-10; Revision of Designation; Redesignation of the San Joaquin Valley Air Basin PM-10 Nonattainment Area to Attainment; Approval of PM-10 Maintenance Plan for the San Joaquin Valley Air Basin; Approval of Commitments for the East Kern PM-10 Nonattainment Area; Extension of Public Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** EPA is extending the public comment period for the proposed rule

entitled "Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM-10; Revision of Designation; Redesignation of the San Joaquin Valley Air Basin PM-10 Nonattainment Area to Attainment; Approval of PM-10 Maintenance Plan for the San Joaquin Valley Air Basin; Approval of Commitments for the East Kern PM-10 Nonattainment Area." The proposed rule was published on April 25, 2008 (73 FR 22307). The State of California has since provided technical corrections to the motor vehicle emissions budgets in the 2007 San Joaquin Valley PM-10 Maintenance Plan that EPA is proposing to approve. EPA believes the technical corrections are minor and do not impact other aspects of the April 25, 2008 proposal. EPA is extending the public comment period for the proposed rule until June 10, 2008 in order to provide the public with the opportunity to consider these technical corrections.

**DATES:** The public comment period for this proposed rule is extended until June 10, 2007.

**ADDRESSES:** Submit your comments, identified by docket number EPA-R09-OAR-2006-0306, by one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *E-mail:* [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

(3) *Mail or deliver:* Doris Lo (AIR-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While