

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD), to read as follows:

Bell Helicopter Company, Inc. (BHTI):

Docket No. 94-SW-23-AD.

Applicability: Model 214B and 214B-1 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 25 hours time-in-service (TIS), unless accomplished previously.

To prevent fatigue failure of the pillow block bearing bolts (bearing bolts), part number (P/N) 20-057-12-48D or -50D, which could result in failure of the main rotor system and subsequent loss of control of the helicopter, accomplish the following:

(a) Create a Retirement Index Number (RIN) component history card or an equivalent record for the bearing bolts, P/N 20-057-12-48D or -50D.

(b) Calculate and record on the component history card the historical accumulated RIN for the bearing bolts as follows:

(1) When the type of operation (internal or external load lift), actual flight hours, and number of external load lifts or takeoffs per hour are known, multiply the actual flight hours by the appropriate factor in the following table for external load lift operation:

Average No. of external load lift events per flight hour	Factor
0-2.00	6.8
2.01-5.00	13.6
5.01-16.00	27.2
16.01-27.00	40.8
Above 27.00	54.4

When the type of operation is internal load and no external lifting is involved, each hour of actual operating time is equal to 6.8 RIN.

(2) When the actual flight hours on the bolts are known, but the type of operation (internal or external load lift) is unknown, multiply the actual flight hours by a factor of 40.8.

(3) When the actual flight hours on the bolts are unknown, assume 75 flight hours per month.

(4) When the flight hours on the bolts are assumed, but the type of operation (internal or external load lift) is known,

(i) Multiply the number of flight hours assumed for internal load operations by a factor of 6.8.

(ii) Multiply the number of flight hours assumed for external load operations by a factor of 40.8.

(5) When the flight hours on the bolts are assumed and the type of operation (internal or external load lift) is unknown, multiply the assumed flight hours by a factor of 40.8.

(c) After compliance with paragraphs (a) and (b) of this AD, during each operation thereafter, maintain a count of each lift or takeoff performed and at the end of each day's operations, increase the accumulated RIN on the bearing bolts component history card as follows:

(1) Increase the RIN by 1 for each takeoff.

(2) Increase the RIN by 1 for each external load lift, or increase the RIN by 2 for each external load operation in which the load is picked up at a higher elevation and released at a lower elevation and the difference in elevation between the pickup point and the release point is 200 feet or greater.

Note 2: Bell Helicopter Textron, Inc. Alert Service Bulletin 214-94-54, dated November 7, 1994, pertains to the subject of this AD.

(d) Remove the bearing bolts from service on or before attaining an accumulated RIN of 17,000. The bearing bolts are no longer retired based upon flight hours. If any of the four bolts require replacement for any reason, then all four bolts must be replaced at that time. This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the bearing bolts of 17,000 RIN.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on June 23, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98-17765 Filed 7-2-98; 8:45 am]

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DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 4**

RIN 1515-AC29

Boarding of Vessels in the United States

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes, as a primary focus, to amend the Customs Regulations regarding the boarding of vessels arriving in ports of the United States. It is intended that the Customs Regulations regarding this subject accurately reflect and implement amendments to the underlying statutory authority, enacted as part of the Customs Modernization Act, as well as policy determinations necessitated as a result of those amendments. To this same end, certain general amendments are proposed to the regulations concerning vessel entry and clearance as well as the issuance of permits to lade and unlade merchandise.

DATES: Comments must be received on or before September 4, 1998.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Larry L. Burton, Office of Regulations and Rulings, 202-927-1287.

Operational aspects: William Scopa, Office of Field Operations, 202-927-3112.

SUPPLEMENTARY INFORMATION:**Background**

On December 8, 1993, amendments to certain Customs and navigation laws became effective as the result of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182), Title VI of which is popularly known as the Customs Modernization Act (the Act). Sections 653 and 656 of the Act significantly amended the statutes governing the entry and the lading and unlading of vessels in the United States. These operations are governed, respectively, by §§ 434 and 448 of the Tariff Act of 1930, as amended (19 U.S.C. 1434 and 1448).

Prior to the subject amendments, the entry of vessels of the United States and vessels of foreign countries had been governed by separate statutes (19 U.S.C.

1434 and 1435), neither of which included elements concerning preliminary vessel entry or the boarding of vessels. The Act repealed 19 U.S.C. 1435 and amended 19 U.S.C. 1434 to provide for the entry of American and foreign-documented vessels under the same statute. Additionally, the amended 19 U.S.C. 1434 now provides authority for the promulgation of regulations regarding preliminary vessel entry, and while neither mandating boarding for all vessels nor specifying that optional boarding must be accomplished at any particular stage of the vessel entry process, the amended law does require that a sufficient number of vessels be boarded to ensure compliance with the laws enforced by the Customs Service.

The general authority provided for Customs to board vessels is found in § 581, Tariff Act of 1930, as amended (19 U.S.C. 1581). Prior to amendment, 19 U.S.C. 1448 as previously cited had linked the granting of preliminary vessel entry to a mandatory boarding requirement and physical presentation of manifest documents to a Customs boarding officer. The amended 19 U.S.C. 1448 no longer contains provisions regarding preliminary vessel entry, vessel boarding, or manifest presentation, all of which are now provided for in other statutes; the statute now provides that Customs may electronically issue permits to lade or unlade merchandise pursuant to an authorized data interchange system as an alternative to physical document presentation.

The regulations which implement the statutory authority for boarding, the granting of preliminary and formal vessel entry, the issuance of permits to lade and unlade merchandise, and vessel clearance are contained in §§ 4.1, 4.3, 4.8, 4.9, 4.30, 4.60 and 4.61 of the Customs Regulations (19 CFR 4.1, 4.3, 4.8, 4.9, 4.30, 4.60 and 4.61). Various of these provisions still contain mandatory boarding and physical document presentation requirements, and of course do not include any reference to the new electronic permit issuance option. This document proposes to amend the cited sections in order to properly implement the amended statutory authority and revised Customs interpretations.

This document proposes to amend § 4.1 by removing all reference to the mandatory boarding of vessels. The amended 19 U.S.C. 1434 makes it clear that boarding is discretionary with Customs and is only required to the extent determined necessary to enforce the laws with which we are charged. This is accomplished by deleting paragraph (b) and making necessary

amendments to paragraph (a) of the section.

Section 4.3 is proposed to be amended by identifying the vessels subject to entry in the simplified outline format presented in the statute itself. The use of this format makes much of the current language of § 4.3 unnecessary. The proposal provides for vessel entry within 24 hours after arrival. Although the amended statute provides that the time may be extended by regulation to a period not to exceed 48 hours, Customs believes that 24 hours is adequate. The proposal also includes procedures for allowing Customs, in its discretion, to allow vessels to enter at places other than the customhouse as well as at locations outside of the actual port of entry limits. This discretion is conferred by statute.

Proposed amendments to § 4.8 are offered in this document. The proposal would amend the regulation by providing that preliminary entry may be granted after, at the time of, or even before the actual arrival of a vessel in the United States. Different procedures are established to apply to these differing circumstances.

Also proposed are amendments to § 4.9 of the regulations concerning the actual vessel entry process. The proposed amendments make it clear that for the purpose of the vessel entry statute, Customs does not interpret bonded merchandise to include bonded vessel stores or ship's supplies. We consider the term to refer to in-bond transportation of merchandise. This interpretation makes it necessary to define specific procedures applicable to certain United States vessels sailing between domestic ports.

It is proposed that § 4.16 be removed from the regulations. The section currently provides that parties may apply for entry and clearance to be accomplished aboard a vessel. The amended entry and clearance statutes permit those functions to be accomplished elsewhere than at the customhouse pursuant to regulations. Amendments to §§ 4.3 and 4.61 as proposed in this document would permit entry and clearance aboard vessels. These changes would render § 4.16 redundant.

The regulation relating to the granting of lading and unlading permits in § 4.30 is also proposed to be amended. Specifically, procedures are established which are applicable to newly-emerging commercial entities, such as those created by vessel sharing and slot chartering agreements.

Section 4.60 is sought to be amended by utilizing the simplified outline format appearing in the amended vessel

clearance statute (46 U.S.C. App. 91). This would replace the present paragraph format which reflects the clearance language prior to its amendment.

It is proposed to amend § 4.61 by allowing clearance filings to be accomplished by authorized electronic means. The proposal also establishes that clearances may be necessary for departures other than for foreign ports as was the case under the law prior to its amendment. As in the proposed entry regulation, this section would also incorporate special procedures applicable to certain United States vessels sailing between domestic ports.

The proposal also makes some changes to the list of elements appearing in current § 4.61(b), which are required to be satisfied prior to the granting of clearance. The reference to "crew" is removed from paragraph (b)(8) of the current section, due to the repeal of the underlying statute (46 U.S.C. App. 674) by enactment of section 690(a)(22) of Pub. L. 103-182 (December 8, 1993). The reference to "pratique" is removed from paragraph (b)(14) of the current section, as a result of amendments to the Public Health Service Regulations which eliminate the pratique but leave in place other health-related documentary requirements. Finally, paragraph (b)(17) of the current section is removed because the underlying statute in this regard, 7 U.S.C. 516, which restricted the exportation of tobacco seeds, was repealed by § 1019 of Pub. L. 102-237 (December 13, 1991).

Amendments are proposed to § 4.68 to reflect amendments to laws enforced by Customs on behalf of other agencies, and to eliminate the antiquated reference to the whale fishery.

Finally, § 4.70 is proposed to be amended to eliminate the reference to the former Public Health Service's certificate of free pratique. New Public Health Service foreign quarantine regulations are now in effect.

Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12866

The proposed rule would amend the Customs Regulations principally in order to accurately reflect and implement changes to the underlying statutory authority regarding the boarding of vessels arriving in ports of the United States. To this same end, certain general amendments to the regulations are proposed concerning vessel entry and clearance as well as the issuance of permits to lade and unlade merchandise. As such, under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does the document meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned the following OMB Control Numbers:

- 1515-0013—Application-Permit-Special License, Unlading-Lading-Overtime Services (Customs Form 3171);
- 1515-0060—Master's Oath of Vessels in Foreign Trade (Customs Form 1300);
- 1515-0078—Cargo Declaration (inward and outward) (Customs Form 1302); and
- 1515-0144—Customs Bond Structure (Customs Form 301 and Customs Form 5297).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. This document restates the collections of information without substantive change.

Comments concerning suggestions for reducing the burden of the collections of information should be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229. A copy should also be sent to U.S. Customs Service, Information Services Group, Attention: J. Edgar Nichols, Room 3.2-C, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

Drafting Information: The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Entry, Freight, Harbors, Inspection, Merchandise, Reporting and recordkeeping requirements, Vessels.

Proposed Amendments to the Regulations

It is proposed to amend part 4, Customs Regulations (19 CFR part 4), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The specific authority citations for §§ 4.1, 4.9 and 4.68 would be revised, and a specific authority citation for § 4.61 would be added in appropriate numerical order, to read as follows:

Authority: * * *

Section 4.1 also issued under 19 U.S.C. 1581(a); 46 U.S.C. App. 163;

* * * * *

Section 4.9 also issued under 42 U.S.C. 269;

* * * * *

Section 4.61 also issued under 46 U.S.C. App. 883;

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Section 4.68 also issued under 46 U.S.C. App. 817d, 817e;

* * * * *

2. It is proposed to amend § 4.1 by revising paragraph (a) to read as set forth below; and by removing paragraph (b) and redesignating paragraphs (c), (d), (e), (f), and (g), as paragraphs (b), (c), (d), (e) and (f), respectively:

§ 4.1 Boarding of vessels; cutter and dock passes.

(a) Every vessel arriving at a Customs port shall be subject to such supervision while in port as the port director considers necessary. The port director may detail Customs officers to remain on board a vessel to secure enforcement of this part. Customs may determine to board as many vessels as considered necessary to ensure compliance with the laws it enforces.

* * * * *

3. It is proposed to amend part 4 by removing and reserving Footnote 1.

4. It is proposed to revise § 4.3 to read as follows:

§ 4.3 Vessels required to enter; place of entry.

(a) *Formal entry required.* Unless specifically excepted by law, within 24 hours after the arrival at any port or

place in the United States, the following vessels are required to make formal entry:

(1) Any vessel from a foreign port or place;

(2) Any foreign vessel from a domestic port;

(3) Any vessel of the United States having merchandise on board that is being transported in-bond (not including bonded ship's stores or supplies), or foreign merchandise for which entry has not been made; or

(4) Any vessel that has visited a hovering vessel as defined in 19 U.S.C. 1401(k), or has delivered or received merchandise or passengers while outside the territorial sea.

(b) *Completion of entry.* (1) When vessel entry is to be made at the customhouse, either the master, licensed deck officer, or purser may appear in person during regular working hours to complete preliminary or formal vessel entry; or, necessary documents properly executed by the master or other authorized officer may be delivered at the customhouse by the vessel agent or other personal representative of the master.

(2) The appropriate Customs port director may permit the entry of vessels to be accomplished at locations other than the customhouse, and services may be requested outside of normal business hours. Customs may take local resources into consideration in allowing formal entry to be transacted on board vessels themselves or at other mutually convenient approved sites and times within or of outside port limits. When services are requested to be provided outside the limits of a Customs port, the appropriate port director to whom an application must be submitted is the director of the port located nearest to the point where the proposed services would be provided. That port director must be satisfied that the place designated for formal entry will be sufficiently under Customs control at the time of entry, and that the expenses incurred by Customs will be reimbursed as authorized. It may be required that advance notice of vessel arrival be given as a condition for granting requests for optional entry locations. A master, owner, or agent of a vessel who desires that entry be made at an optional location shall file with the appropriate port director an application on Customs Form 3171 and a single entry or continuous bond on Customs Form 301 containing the bond conditions set forth in § 113.64 of this chapter, in such amount as that port director deems appropriate but not less than \$1,000. If the application is approved, the port

director or a designated Customs officer shall formally enter the vessel.

5. It is proposed to revise § 4.8 to read as follows:

§ 4.8 Preliminary entry.

(a) *Generally.* Preliminary entry allows a U.S. or foreign vessel arriving under circumstances that require it formally to enter, to commence lading and unlading operations prior to making formal entry. Preliminary entry may be accomplished electronically pursuant to an authorized electronic data interchange system, or by any other means of communication approved by the Customs Service.

(b) *Requirements and conditions.* Preliminary entry must be made in compliance with § 4.30, and may be granted prior to, at, or subsequent to arrival of the vessel. The granting of preliminary vessel entry by Customs at or subsequent to arrival of the vessel, is conditioned upon the presentation to Customs of all forms, electronically or otherwise, comprising a complete manifest as provided in § 4.7. Vessels seeking preliminary entry in advance of arrival may do so by presenting to Customs a complete Customs Form 1302 (Cargo Declaration) showing all cargo on board the vessel and Customs Form 3171, electronically or otherwise, no less than 48 hours prior to vessel arrival. The CF 3171 shall also serve as notice of intended date of arrival. The port director may allow for the presentation of the CF 1302 and CF 3171 less than 48 hours prior to arrival in order to grant advanced preliminary entry if a vessel voyage takes less than 48 hours to complete from the last foreign port to the first U.S. port, or if other reasonable circumstances warrant. Preliminary entry granted in advance of arrival will become effective upon arrival at the port granting preliminary entry. Additionally, Customs must receive confirmation of a vessel's estimated time of arrival in a manner acceptable to the port director.

6. It is proposed to revise § 4.9 to read as follows:

§ 4.9 Formal entry.

(a) *General.* Section 4.3 provides which vessels are subject to formal entry and where and when entry must be made. The formal entry of an American vessel is governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). The term "American vessel" means a vessel of the United States (see § 4.0(b)) as well as, when arriving by sea, a vessel entitled to be documented except for its size (see § 4.0(c)). The formal entry of a foreign vessel arriving within the limits of any Customs port is also governed by

section 434, Tariff Act of 1930 (19 U.S.C. 1434). The required oath on entry shall be executed on Customs Form 1300. Alternatively, information necessary for formal entry may be transmitted electronically pursuant to a system authorized by Customs.

(b) *Procedures.* Under certain circumstances, American vessels arriving in ports of the United States directly from other United States ports must make entry. Entry of such vessels is required when they have merchandise aboard that is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel entry requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with the usual formal entry procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel entry requirements by making a required report of arrival, and providing certain bill of lading information to Customs concerning the in-bond cargo. If the cargo in question is being moved under the "paperless" in-bond procedures described in the Customs Handbook on Automated Manifest Interface Requirements (a copy of which is provided to each Automated Manifest System participant), a list of the bill of lading numbers for the in-bond cargo must be provided to Customs. If "paperless" in-bond procedures are not applicable to the cargo, copies of the relevant bills of lading must be presented to Customs prior to the start of any cargo unlading. Report of arrival together with providing bill of lading information to Customs as specified in this paragraph satisfies all entry requirements for the subject vessels.

(c) *Delivery of vessel document.* The master of any foreign vessel shall exhibit the vessel's document to the port director on or before the entry of the vessel. After the net tonnage has been noted, the document may be delivered to the consul of the nation to which such vessel belongs, in which event the vessel master shall certify to the port director the fact of such delivery (see section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), as applied through section 438, Tariff Act of 1930, as amended (19 U.S.C. 1438)). If not delivered to the consul, the document shall be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document shall not be delivered to the master of the foreign vessel until clearance is granted under § 4.61. It

shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of 19 U.S.C. 1434 until such master shall produce to him a clearance in due form from the director of the port where such vessel has been entered. Any consul violating the provisions of this section is liable to a fine of not more than \$5,000 (section 438, Tariff Act of 1930, as amended; 19 U.S.C. 1438).

(d) *Failure to make required entry; penalties.* Any master who fails to make entry as required by this section or who presents or transmits electronically any document required by this section that is forged, altered, or false, may be liable for certain civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. Further, any vessel used in connection with any such violation is subject to seizure and forfeiture.

7. It is proposed to amend part 4 by removing and reserving § 4.16.

8. It is proposed to amend § 4.30 by adding the word "fees" between the words "clearance" and "under" where appearing in paragraph (a); and by revising paragraph (b) to read as follows:

§ 4.30 Permits and special licenses for unlading and lading.

* * * * *

(b) Application for a permit or special license shall be made by the master, owner, or agent of the vessel on Customs Form 3171, or electronically pursuant to an authorized electronic data interchange system or other means of communication approved by the Customs Service, and shall specifically indicate the type of service desired at that time, unless a term permit or term special license has been issued. Vessels that arrive in a Customs port with more than one vessel carrier sharing or leasing space on board the vessel (such as under a vessel sharing or slot charter arrangement) are required to indicate on the CF 3171 all carriers on board the vessel and indicate whether each carrier is transmitting its cargo declaration electronically or is presenting it on the Customs Form 1302. In the case of a term permit or term special license, upon entry of each vessel, a copy of the term permit or special license must be submitted to Customs during official hours in advance of the rendering of services so as to update the nature of the services desired and the exact times they will be needed. Permits must also be updated to reflect any other needed changes including those in name of vessel and in slot charter or vessel

sharing parties. An agent of a vessel may limit his application to operations involved in the entry and unloading of the vessel or to operations involved in its lading and clearance. Such limitation shall be specifically noted on the application.

* * * * *

9. It is proposed to amend § 4.60 by revising paragraph (a) to read as follows:

§ 4.60 Vessels required to clear.

(a) Unless specifically excepted by law, the following vessels must obtain clearance from the Customs Service before departing from a port or place in the United States:

(1) All vessels departing for a foreign port or place;

(2) All foreign vessels departing for another port or place in the United States;

(3) All American vessels departing for another port or place in the United States that have merchandise on board which is being transported in-bond (not including bonded ship's stores or supplies), or foreign merchandise for which entry has not been made; and

(4) All vessels departing for points outside the territorial sea to visit a hovering vessel or to receive merchandise or passengers while outside the territorial sea.

* * * * *

10. It is proposed to revise § 4.61 to read as follows:

§ 4.61 Requirements for clearance.

(a) *Application for clearance.* Application for clearance for a vessel shall be made by filing the oath, Customs Form 1300, and a General Declaration, Customs Form 1301, by or on behalf of the master at the customs house. The master, licensed deck officer, or purser may appear in person to clear the vessel, or documents properly executed by the master or other proper officer may be delivered at the customs house by the vessel agent or other personal representative of the master. Necessary information may also be transmitted electronically pursuant to a system authorized by Customs. Clearance shall be granted either on Customs Form 1378 or by approved electronic means. Customs port directors may permit the clearance of vessels at locations other than the customs house, and at times outside of normal business hours. Customs may take local resources into consideration in allowing clearance to be transacted on board vessels themselves or at other mutually convenient sites and times either within or outside of port limits. Customs must be satisfied that the place designated for clearance is sufficiently

under Customs control at the time of clearance, and that the expenses incurred by Customs will be reimbursed as authorized. Customs may require that advance notice of vessel departure be given prior to granting requests for optional clearance locations.

(b) *When clearance required.* Under certain circumstances, American vessels departing from ports of the United States directly for other United States ports must obtain Customs clearance. The clearance of such vessels is required when they have merchandise aboard that is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel clearance requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with usual clearance procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel clearance requirements by reporting intended departure within 72 hours prior thereto by any means of communication that is satisfactory to the local Customs port director, and by providing certain bill of lading information to Customs concerning the in-bond cargo. If the cargo in question is being moved under the "paperless" in-bond procedures as described in the Customs Handbook on Automated Manifest Interface Requirements (a copy of which is provided to each Automated Manifest System participant), a list of the bill of lading numbers for the in-bond cargo must be provided to Customs. If "paperless" in-bond procedures are not applicable to the cargo, copies of the relevant bills of lading must be presented to Customs prior to vessel departure. Report of departure together with providing bill of lading information to Customs as specified in this paragraph satisfies all clearance requirements for the subject vessels.

(c) *Verification of compliance.* Before clearance is granted to a vessel bound to a foreign port as provided in § 4.60 and this section, the port director shall verify compliance with respect to the following matters:

(1) Accounting for inward cargo (see § 4.62).

(2) Outward Cargo Declarations; shippers export declarations (see § 4.63).

(3) Documentation (see § 4.0(c)).

(4) Verification of nationality and tonnage (see § 4.65).

(5) Verification of inspection (see § 4.66).

(6) Inspection under State laws (46 U.S.C. App. 97).

(7) Closed ports or places (see § 4.67).

(8) Passengers (see § 4.68).

(9) Shipping articles and enforcement of Seamen's Act (see § 4.69).

(10) Medicine and slop chests.

(11) Load line regulations (see § 4.65a).

(12) Carriage of United States securities, etc. (46 U.S.C. App. 98).

(13) Carriage of mail.

(14) Public Health regulations (see § 4.70).

(15) Inspection of vessels carrying livestock (see § 4.71).

(16) Inspection of meat, meat-food products, and inedible fats (see § 4.72).

(17) Neutrality exportation of arms and munitions (see § 4.73).

(18) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100).

(19) Orders restricting shipping (see § 4.74).

(20) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (see § 4.14).

(21) Illegal discharge of oil (see § 4.66a).

(22) Attached or arrested vessel.

(23) Immigration laws.

(d) *Vessel built for foreign account.* A new vessel built in the United States for a foreign account shall be cleared under a certificate of record, Coast-Guard Form 1316, in lieu of a marine document.

(e) *Clearance not granted.* Clearance shall not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel (22 U.S.C. 454a).

(f) *Clearance in order of itinerary.* Unless otherwise provided in this section, every vessel bound for a foreign port or ports shall be cleared for a definite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

11. It is proposed to amend part 4 by removing and reserving Footnotes 97, 99 and 100a through 101.

12. It is proposed to revise § 4.68 to read as follows:

§ 4.68 Federal Maritime Commission certificates for certain passenger vessels.

No vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at

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

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

§ 4.70 Public Health Service requirements.

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

Bonni G. Tischler,

Acting Commissioner of Customs.

Approved: June 8, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[USCG-1998-3798]

RIN 2115-AF13

Numbering of Undocumented Barges

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

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

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

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

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

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

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

SUPPLEMENTARY INFORMATION:

Request for Comments

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

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

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

Background and Purpose

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

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

Regulatory History

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

Summary of Comments

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

Administering Agency

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

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

Undocumented Barge Number

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

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

Attaching Numbers to Barges

Some comments suggested that the barge numbers be permanently welded