

tows and fishing vessels. There is no recreational boat traffic at the bridge site. The only known commercial users of the waterway, D. R. Jordan Pile Driving, Inc. and Mobile Ship Yard, were both contacted and have no objection to the closure. The bridge normally opens to pass navigation on an average of 3 times per day. In accordance with 33 CFR 117.5, the draw of the bridge opens on signal. The bridge will not be able to open for emergencies during the closure period. No alternate routes are available.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 19, 2003.

**Marcus Redford,**

*Bridge Administrator.*

[FR Doc. 03-4756 Filed 2-27-03; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-03-005]

RIN 2115-AE47

#### Drawbridge Operating Regulations; Falgout Canal, Terrebonne Parish, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 315 drawbridge across the Falgout Canal, mile 3.1, in Terrebonne Parish, Louisiana. This deviation allows the bridge to remain in the closed-to-navigation position for fifty-six hours from March 18 to March 20, 2003. The deviation is necessary to conduct maintenance to the drawbridge.

**DATES:** This deviation is effective from 8 a.m. on Wednesday, March 18, 2003, until 4 p.m. on Thursday, March 20, 2003.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130-3396 between 7 a.m. and 3 p.m., Monday

through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation and Development has requested a temporary deviation from 33 CFR 117.444 in order to replace a defective main pivot pier bearing housing. This deviation allows the draw of the SR 315 drawbridge to remain closed to navigation from 8 a.m. on Tuesday, March 18, 2003 until 4 p.m. on Thursday, March 20, 2003.

The bridge has a vertical clearance of 3.5 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. In accordance with 33 CFR 117.444, the draw is required to open on signal; except that, from 15 August to 5 June, the draw need not be opened from 7 a.m. to 8 a.m. and from 3 p.m. to 4 p.m., Monday through Friday except holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

During the closure period, the bridge will not be able to open for the passage of vessels. No alternate routes are available; however, the bridge owner will attempt to contact all waterway users to keep them abreast of the repair work. Navigation on the waterway consists of small tugs with tows, fishing vessels, and other recreational craft. The bridge opens an average of 426 times per month for the passage of vessels.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 19, 2003.

**Marcus Redford,**

*Bridge Administrator.*

[FR Doc. 03-4757 Filed 2-27-03; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 160

[USCG-2002-11865]

RIN 2115-AG35

#### Notification of Arrival in U.S. Ports

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing its notification of arrival and departure requirements for vessels bound for or departing from ports or places in the United States. This rule permanently changes the notice of arrival requirements in 33 CFR part 160. It replaces the temporary rule that has been in place since October 4, 2001. This rule consolidates the Notice of Departure into the Notice of Arrival; requires electronic submission of cargo manifest information to the United States Customs Service; and requires additional crew and passenger information. These permanent changes will help to ensure public safety, security, and the uninterrupted flow of commerce.

**DATES:** This final rule is effective April 1, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2002-11865 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call LTJG Kimberly Andersen, U.S. Coast Guard (G-MP), at 202-267-2562. If you have questions concerning U.S. Customs Service procedures, call Kimberly Nott at 202-927-0042. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202-366-5149.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On October 4, 2001, we published a temporary final rule entitled "Temporary Requirements for Notification of Arrival in U.S. Ports" in the **Federal Register** (66 FR 50565). Subsequently, we published two corrections in the **Federal Register** (November 19, 2001 (66 FR 57877) and January 18, 2002 (67 FR 2571)). The temporary rule increased the submission time for a Notice of Arrival (NOA) from 24 to 96 hours prior to arriving at a U.S. port; required centralized submissions; temporarily suspended exemptions from reporting requirements for some groups of vessels; and required submission of passenger, crew, and cargo information. The

effective period of the temporary rule was extended twice, first until September 30, 2002 (May 30, 2002 (67 FR 37682)), and then again through March 31, 2003 (August 28, 2002 (67 FR 55115)). The second extension allowed us to complete the rulemaking for permanent changes.

On June 19, 2002, we published a notice of proposed rulemaking in the **Federal Register** entitled "Notification of Arrival in U.S. Ports" (67 FR 41659). We received 21 comments addressing our proposal to permanently change the NOA requirements. No public hearing was requested and none was held.

### Background and Purpose

This rule permanently changes the NOA requirements in 33 CFR part 160. It replaces the temporary rule issued in response to the attacks on September 11, 2001, and contains most of the same NOA requirements that have been in place since October 4, 2001.

Currently, owners, agents, masters, operators, or persons in charge of vessels bound for U.S. ports must file an NOA before they enter port. (Persons required to submit reports will hereafter in this preamble be called "submitters.") In our notice of proposed rulemaking (NPRM) we proposed the following:

- Requiring additional information items in NOA reports;
- Requiring electronic submissions of cargo manifest information to the United States Customs Service (USCS);
- Requiring earlier submission times for NOAs;
- Revising requirements for reporting changes to submitted information;
- Merging the Notice of Departure (NOD) requirements with the NOA requirements;
- Allowing consolidated NOA reports for multiple port arrivals;
- Requiring centralized NOA submissions;
- Revising exemptions from NOA requirements; and
- Updating definitions.

Each of these issues is discussed in more detail in the remainder of the preamble.

### Discussion of Comments and Changes

We received 21 comments on the proposed rule. Generally, the comments recognized our need to increase the amount and type of information required in an NOA and the need for earlier submission of that information. Comments focused generally on:

- Format and readability of the regulation;
- Specific exemptions from NOA requirements;

- Suggestions for reporting requirements for "certain dangerous cargo;"
- Recommendations for a single submission of information to meet the needs of multiple agencies;
- Electronic submissions;
- Questions about the proposed requirement for submission of the cargo manifest to USCS;
- Requests for additional definitions in part 160; and
- Suggestions for changes to information required in an NOA.

Each of these groups of comments is discussed in more detail in the following paragraphs.

*Format of regulation.* A number of comments said the NPRM was difficult to read and understand. We agree. For ease of understanding, we have reformatted the requirements and renumbered the sections for this final rule. Many of the information requirements are also now provided in table format.

The current codification of part 160 contains both permanent and temporary sections, which are being changed by this rule. We are, therefore, republishing subpart C in its entirety for the public's convenience until the next CFR recodification.

*Exemptions.* We received nine comments related to exemption from NOA reporting. Six comments recommended exempting towing vessels that are in domestic service and not carrying CDC. We agree. This rule exempts towing vessels and barges not carrying CDC or controlling another vessel carrying CDC that are operating solely between ports or places in the continental U.S. from NOA reporting requirements.

One comment requested that Mobile Offshore Drilling Units (MODUs) moving between operating locations under U.S. jurisdiction be exempt from the NOA requirements. The comment suggested that the report required by 33 CFR 146.202, which notifies the Captain of the Port (COTP) 14 days before a MODU arrives or changes its location on the Outer Continental Shelf (OCS), should be used to meet the NOA requirements. The Coast Guard disagrees and has not exempted MODUs from the NOA requirements in this rule. The NOA information is different from that required by § 146.202. The MODU's arrival or change of location on the OCS does not require submission of an NOA, only the notification to the District Commander required by § 146.202. If a MODU is leaving the OCS to arrive at a U.S. port the MODU must comply with the NOA submission requirement in this rule.

One comment recommended exempting Aleutian Trade Act fish tenders. The comment explained that these fish tenders operate in the remote reaches of Alaska and their movements are unpredictable; it also explained that these fish tenders sail only between U.S. Ports, are U.S. owned, and that 98% of the crew are American citizens. The comment also stated that they do not carry bulk hazardous cargo. Because this issue is specific to Alaska, it can appropriately be addressed by the local COTP who, under § 160.214, may waive provisions of this subpart.

One comment recommended eliminating the exemption for passenger and supply vessels when they are employed in continental shelf resource exploration or extraction. The comment stated, "Logic would dictate that the offshore rigs could be used as a vehicle to aid in terrorism. Passenger and supply vessels often carry a myriad of hazardous materials including explosives." Two comments responded, disagreeing and urging Coast Guard to keep the exemption. The Coast Guard is not changing the exemption for these vessels.

One comment asked us to clarify who is required to report above or below mile 235 on the Mississippi River. Specifically, the comment asked if domestic barges not carrying CDC were required to report on this body of water.

We have revised the proposed regulatory text to more clearly state that all vessels are exempt when operating on the Mississippi River above mile 235, Above Head of Passes, including the tributaries and the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway and the Red River, the Tennessee River from its confluence with the Ohio River to mile zero on the Mobile River and all other tributaries between those two. NOA requirements for vessels operating below mile 235 on the Mississippi River are the same as any other location in the U.S. covered by this rule.

*Certain Dangerous Cargo.* We received three (3) comments regarding the definition of Certain Dangerous Cargo (CDC). The comments state that the list of CDCs included in the requirement for NOA submission is too broad and that it impedes the collection of information on cargoes that pose the greatest risk to maritime safety and security. The comments suggest the Coast Guard limit the CDC definition to include only those cargoes that pose the greatest risk to maritime safety and security. They also recommend the Coast Guard use the list of high consequence cargoes in the AWO Security Plan (a list developed with

input from the towing industry and Coast Guard representatives) to define CDC for this rule.

The Coast Guard agrees that the definition of CDC should be limited to those cargoes that pose the greatest risk to maritime safety and security. The Coast Guard conducted a comprehensive review of cargoes, which included a review of the CDC list in the NPRM and the high consequence cargo list in the AWO Security Plan. As a result of the review we revised the list of CDCs described in the NPRM to include only those cargoes that currently pose the greatest risk to maritime safety and security.

**Duplicate Reporting.** Several comments said they were submitting the same information to different federal agencies and recommended a single submission of information. Many remarked that they would welcome the submission of an electronic data file to a central depository, where submissions could then be accessed by or forwarded to each agency needing the information.

We agree and we are currently working to integrate information and data requirements with other government agencies. Once we have this capability, we will revise our reporting requirements.

We also received a comment that COTPs were still asking companies to send their NOA to the COTP, even though it had already been submitted to the National Vessel Movement Center (NVMC). This final rule requires the submission of an NOA to the COTP only for vessels 300 gross tons or less entering a port or place in the Seventh Coast Guard District. Questions about requests from COTPs for duplicate submissions should be referred to LTJG Kimberly Andersen at the phone number in **FOR FURTHER INFORMATION CONTACT.**

**National Vessel Movement Center.** Four comments asked about the methods for submitting information to the NVMC. The NPRM proposed three methods for submitting NOAs to the NVMC: telephone (1-800-708-9823), fax (1-800-547-8724), and e-mail. Two comments stated that vessels calling or faxing through INMARSAT are unable to use 1-800 numbers. An alternate phone number (304) 264-2502 and fax number (304) 264-2684 have been added for vessels using INMARSAT.

Another comment requested that e-mail be a submission method. E-mail has always been an option for submitting NOAs and remains an option in this final rule. General information about the NVMC and methods for submission are available on the NVMC Web site at <http://www.nvmc.uscg.gov/>.

**Electronic Submissions.** This rule will not mandate electronic submissions of NOA reports. You may, however, continue to choose to use the voluntary electronic format available on the NVMC website. As mentioned under duplicate reporting, we will continue to work with other government agencies on a common format for electronic data submissions.

In our NPRM, we asked six questions related to electronic submission and we received four comments answering some, or all of, these questions. The six questions and corresponding answers are as follows:

1. *“What are your information security concerns regarding electronic submissions of NOA?”* Of the two comments that responded to this question, both stated there were no security concerns. One of the comments stated that their ships already have known, published schedules. The other comment stated that their member lines already submit NOAs electronically and they assumed the electronic transmissions were being sent to and via a secure website.

2. *“Would you allow the Coast Guard to forward all or parts of your NOA information to entities such as marine exchanges or port authorities as a value added service to facilitate information sharing at the port level?”* Of the three comments that responded to this question, one encouraged the forwarding of NOA information to other entities and one objected. The comment objecting to sharing information stated that it was not apparent what added security benefits it would provide and that it might lead to greater security risks. The comment also stated that they would want to know “exactly what kind of information would lend itself to such information sharing.” The third comment stated that they would not object to forwarding this information if the Coast Guard determined sharing this information was absolutely necessary and under the condition that “all such information would *not* be shared with the general public.”

3. *“If the Coast Guard produced a desktop application that allowed you to create, manage, and automatically submit NOA via email, would you use it?”* Of the three comments that responded to this question, one said they already submit their NOA via email and that the current formats should continue to be allowed alongside future desktop applications. The second said they “would most likely utilize a CG desktop application.” They also said it would have to be deployable on board ship and be compatible with INMARSAT, along with a capability to

be transmitted in a compressed format to reduce transmission costs. The third comment stated that the “cost passed on to those purchasing the program would outweigh any benefit derived by industry.”

4. *“Which electronic means for submitting NOAs would you prefer? (e.g.: HTML, SMTP, FTP)”* Each of the four comments responded to this question with different answers. One gave no preference. The second also gave no preference but acknowledged that some are more secure than others. This same comment recommended we ensure “one set of standards for all government agencies or the government agencies should have the capability to receive all protocols and programs.” A third comment stated they “do not regard these means to be mutually exclusive, and would encourage that as many options be made available to submitters as technically feasible.” The final comment ranked their preferences beginning with SMTP, then FTP, and finally HTTP. This comment also recommended that vessels without these capabilities be allowed to continue to use fax and e-mail.

5. *“What are your information security concerns if the Coast Guard allowed you to send your NOA to an FTP (File Transfer Protocol) server or web server in the public domain?”* None of the questions listed any security concerns related to FTP servers or web servers, but one suggested “Encryption: PKI scheme based encryption (PGP).”

6. *“If the Coast Guard provided an XML (Extensible markup language) data specification for NOA, would you be able to generate XML documents and submit them via email or other means?”* Of the three comments responding to this question, one stated that they believe they could install an XML plugin; the second said the format method should be XML; and the third stated, “\* \* \* relatively few shipping companies today have the capability of generating XML documents for NOA submissions.” The third comment also reemphasized that no single electronic means should become the exclusive method for submission.

Several comments also requested that in the future we continue to maintain the phone and fax options for NOA submission. Although we are not requiring electronic submission of NOA information to the NVMC in this rule, we are working on electronic submission issues and considering the responses to these questions.

**Who May Submit.** In the NPRM, we asked whether we should accept NOA submissions from only the vessel owner and operator, or from only the owner,

operator and authorized agent (including shipping agents and marine exchanges) of the vessel. We specifically requested comments on how either of these changes would affect the method of NOA submission used by the submitter.

Five comments responded to this issue. All of them recommended that no change be made and that we continue to accept NOA submissions from "...the owner, agent, master, operator, or person in charge of a vessel...". The Coast Guard agrees and this provision remains unchanged in this final rule.

**Cargo Manifest (Cargo Declaration—Customs Form 1302).** We received several comments stating that the Coast Guard should not require electronic submission of the cargo manifest to USCS. The comments stated that the cargo manifest submission is already required by USCS and the Coast Guard requirements were different.

We disagree. This requirement is not redundant—a single submission of the Cargo Manifest meets the requirements of both Coast Guard and USCS. The Coast Guard and USCS are working together to obtain vessel arrival information in an automated format that will meet the requirements of both agencies. Including this requirement in the Coast Guard's final rule is one step toward this end.

**Definitions.** Several comments requested additional definitions for "domestic voyage," and "barge." This final rule adds definitions for "barge," "crewmember," "nationality," and "persons in addition to crewmembers." We are also revising the definition for "certain dangerous cargo," as discussed previously in this preamble. The term domestic voyage is no longer used in this subpart, and therefore, no definition is required.

Another comment asked for a clarification of the definition of crewmember because it was unclear as to what category company personnel, contractors, or other supernumerary persons belonged. The comment stated these persons would be included on the list of "persons in addition to the crew". The Coast Guard agrees that these persons are considered "persons in addition to the crew". The comment requested a clarification because it would be important for purposes of mandatory training required by STCW for crewmembers; requirements of Passenger Services Act; and legal benefits tendered to crewmembers under maritime law. However, the definition of "crewmember" in this rule applies only to 33 CFR part 160, subpart C. It does not affect regulations concerning these other issues.

Therefore, the Coast Guard is not changing the definition of "crewmember" in this final rule.

**Information Required in an NOA.** Six comments discussed specific information items in the NOA. These items included "crewmember information," "operational condition," "any other name by which each individual has been known," "last five ports or places visited," and "24-hour Point of Contact (POC)."

One comment stated that the reporting requirements for crewmembers were excessive and unjustified. This information is necessary for safety and security purposes and we will continue to require it. However, the Coast Guard recognizes the fact that crewmembers may change positions frequently. For this reason, we have added a provision to § 160.208 that states that a notice of change need not be submitted when a change occurs to a crewmember's position or duty on the vessel.

One comment questioned the need for a barge to report the operational condition of the equipment under 33 CFR 164.35. This operational condition report applies to self-propelled vessels of 1600 or more gross tons and would not, therefore, be applicable to a barge. Further, barges operating solely between ports and places in the continental U.S. are exempt from the NOA requirements, unless they are carrying CDC. If they are carrying CDC, we require a consolidated NOA from the towing vessel on both the towing vessel and the barge(s) it is controlling.

Five comments questioned the necessity for reporting any other name including alias, nickname, maiden name, professional or stage name by which an individual has been known. Comments stated that this information is not required on INS Form I-418; it is difficult to produce and/or verify; and the Coast Guard should not require it. We agree, and we have removed it from this final rule.

Several comments questioned the need for requiring the last five ports of call from all vessels. Comments stated that cruise ships and domestic inland barge traffic should be exempt from providing the last five ports of call. We agree that vessels operating solely between ports or places in the continental U.S. should only be required to provide the destination(s) and last port of call. Vessels that have arrived from or have stopped in foreign ports, however, are required to provide their last five ports of call.

We received one comment asking for clarification on the meaning of "Name and telephone number of a 24-hour

point of contact (POC) for each port included in the notice of arrival." A new POC need not be provided for each port, nor must the POC be located at that port. We have changed the regulatory text to read as follows: "name and telephone number of a 24-hour point of contact."

**Submission Timeframe.** One comment asked the Coast Guard to reconsider requiring estimated departure date and time, as well as updates to these times, if the change was more than six hours for vessels not carrying CDC. The comment stated it places undue burden on the industry and results in an unmanageable amount of update filings to the NVMC. Coast Guard COTPs need this information for safety and security reasons. We will continue to require NOA information on estimated departure date and time, as well as updates to those times, when the arrival or departure time has changed by six hours or more.

#### Discussion of Rule

**Required elements in NOA reports.** This rule requires the following information be submitted in an NOA: vessel, cargo, and persons on board. Submitters are to identify each of their destinations by listing the names of the receiving facility, the port or place in the U.S., the city, and the state, as well as indicate the location or position of the vessel at the time of reporting. Submitters also must provide a general description of cargo aboard the vessel. The description will inform the Coast Guard if the vessel is carrying items such as grain, oil, containers, etc. Submitters will also identify where each crewmember and each person in addition to crewmembers embarked.

Based on experience with the temporary rule, we have removed the reporting information on the stowage location. We feel this information is adequately covered by the cargo manifest requirements in entry 8 of Table 160.206.

**Cargo Manifest Information.** The Coast Guard is requiring the vessel's cargo manifest information as described in 19 CFR 4.7(a). This requirement is in addition to entry (3)(i) in table 160.206, "general description of the cargo", and will consist of the information contained in the cargo declaration (Customs Form 1302). Cargo manifest information is necessary to assess vessels entering U.S. ports for potential threats to the national security and to appropriately respond to those threats.

The Coast Guard does not have the capability at NVMC to receive and process the cargo manifest information. The USCS, however, does have an

existing capability to receive, process, and share the information with the Coast Guard. The cargo manifest information is to be submitted electronically to USCS through the Sea Automated Manifest System (AMS) at least 96 hours before the vessel arrives at a U.S. port, while all other required NOA information is to be submitted to the NVMC. A single electronic submission of the cargo manifest information (Customs Form 1302) to USCS will satisfy the requirements of both agencies for submission of that data.

To transmit information electronically to USCS, a submitter must be able to use Sea AMS. To enroll in Sea AMS, a submitter must first call the USCS at 703-921-7500 or send a letter to the following address requesting participation in the Sea AMS program: U.S. Customs Service, Client Representative Branch, 7501 Boston Blvd. Rm. 211, Springfield, VA 22153. Upon receiving an inquiry, a USCS client representative will be assigned to work with the submitter. This representative will serve as a technical advisor establishing a Sea AMS interface. Establishing an interface for participation can require as little as two weeks or up to several months, depending on the particular method chosen. This rule, therefore, provides a 90-day delay in implementation of the requirement to submit the cargo information to USCS. This 90-day period should provide sufficient time for submitters to either enroll in Sea AMS or find a submission agent who is already able to use Sea AMS.

AMS will allow participants to transmit manifest information electronically 96 hours prior to vessel arrival. There are four methods of transmitting data to AMS: (1) Establish a direct connection with USCS; (2) use a service provider; (3) use a port authority; and (4) purchase software from a vendor. For general information related to AMS, visit the USCS Automated Commercial System Web site at [http://www.customs.gov/xp/cgov/import/operations\\_support/automated\\_systems/ams/sea\\_features.xml](http://www.customs.gov/xp/cgov/import/operations_support/automated_systems/ams/sea_features.xml).

Of vessels already required to submit a "cargo manifest" to USCS, approximately 95 percent submit the manifest information electronically. The new Coast Guard requirement only affects vessels not currently submitting electronically to Customs. The requirement to submit the cargo manifest information electronically will not apply to vessels on a domestic voyage in the United States.

*Submission times for NOA.* In the temporary rule, we increased the times for submitting an NOA. This rule requires most vessels to submit NOAs at least 96 hours before arrival in the United States. Towing vessels, when in control of a barge or barges carrying CDC and operating solely between ports or places in the continental United States, must submit an NOA before departure but at least 12 hours before entering the port or place of destination. Except for these vessels, this rule contains the same submission times established in our temporary rule.

*Submission times for Cargo Declaration (Customs Form 1302).* To align USCS and Coast Guard cargo declaration requirements, we have created two new exceptions to the submission times for Cargo Declaration. Except for vessels carrying containerized cargo or break bulk cargo, vessels carrying bulk cargo may submit the Cargo Declaration before departure but at least 24 hours before entering the U.S. port or place of destination. Vessels carrying break bulk cargo operating under a USCS exemption granted under 19 CFR 4.7(b)(4)(ii) may, during the effective period of the USCS exemption, submit the Cargo Declaration before departure but at least 24 hours before entering the U.S. port or place of destination.

Exemptions in this rule from submitting NOAs or particular items in an NOA apply only to the provisions of this subpart. No exemption in this subpart affects USCS or other agency requirements to submit arrival information, particularly the USCS requirement to submit the Cargo Declaration 24 hours prior to lading in a foreign port. In these instances, however, the Coast Guard expects that if a vessel complies with the USCS requirements for submitting 24 hours before lading, that it will also meet the times for submission of that information under this subpart. Thus, one submission will meet the separate requirements of two agencies for the same information.

*Reporting changes to submitted NOA information.* Changes to NOAs must be reported as soon as practical but not less than 6, 12, or 24 hours prior to entering port depending on vessel and voyage characteristics. When reporting changes, a complete resubmission of an entire report is not necessary.

*Notice of Departure.* The Coast Guard has combined all of the information elements of a NOD and an NOA into a single NOA report. Both notices contained duplicate reporting elements, although the NOD required the submission of one additional element.

The additional element (the estimated date and time of departure) is now included in the NOA, thereby eliminating reporting the same information twice and reducing the reporting burden.

*Consolidated NOA Submission.* Submitters are allowed to file a single NOA listing all consecutive U.S. destinations during the voyage, along with estimated arrival and departure dates and times for each port.

Towing vessels controlling a barge that is required to submit an NOA under this subpart must submit only one NOA containing the information required for the towing vessel and each barge under its control.

*Require centralized submissions.* All NOA reports will continue to go to the NVMC instead of to individual COTPs. Vessels of 300 gross tons or less operating in the Seventh Coast Guard District will continue to submit NOA reports to cognizant COTPs.

Vessels transiting inbound on the Saint Lawrence Seaway are able to meet the NOA reporting requirements by continuing to fax their NOA submissions to the Saint Lawrence Seaway Development Corporation (SLSDC) and the Saint Lawrence Seaway Management Corporation of Canada. The SLSDC will forward each vessel's NOA report to the Coast Guard. The cargo manifest must be submitted electronically to USCS.

*Exemptions from NOA reporting.* The temporary final rule suspended reporting exemptions for vessels complying with Automated Mutual Assistance Vessel Rescue System (AMVER), certain vessels operating solely on the Great Lakes, and vessels operating on a regularly scheduled route. As proposed in our NPRM, these exemptions have been permanently removed.

Under this rule, U.S. vessels, except tank vessels, operating solely between U.S. ports on the Great Lakes are exempt from reporting. Canadian vessels, U.S. tank vessels coming from a foreign port, and vessels complying with AMVER are required to submit an NOA report. Vessels operating on a regularly scheduled route are required to submit an NOA report.

*Charterers.* We have added a NOA requirement to submit the name of the vessel charterer. This change will continue the requirement (August 19, 2002 (67 FR 53735)) contained in the temporary rule.

### Regulatory Evaluation

This 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 (OMB) has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We present this Regulatory Evaluation for the purposes of information. A more detailed analysis can be found in the public docket under **ADDRESSES**.

*Evaluation.* The regulatory baseline for this rule is the NOA and NOD reporting requirements in 33 CFR part 160 that are to be amended by this rulemaking. At the present, the requirements of part 160 that we are amending are temporarily suspended. During the suspension period of these requirements there has been a temporary final rule in place since October 4, 2001. The temporary reporting requirements are not addressed in this analysis. This means that the cost of the rule is estimated as the incremental expenditure required to meet the provisions of the rule in absence of the temporary rule published October 4, 2001.

The cost for complying with the rule will differ depending on the type of vessel submitting the report. Owners and operators of non-AMVER/non-Great Lakes vessels will have to submit lists of the crew and persons in addition to the crew (information they already have to submit to INS). Additionally, these vessels must provide detail on the persons aboard the vessel (e.g., port where embarked). Owners and operators of AMVER and Great Lakes vessels may complete the INS forms (which they did not have to provide previously), the crew lists, and the crew detail.

The cost of the rule to industry is presented below based on the average number of annual arrivals for 1998 and 1999.

ANNUAL COST AND BENEFIT OF THE RULE (2003 DOLLARS)

NOA report	Arrivals	Cost per arrival	Annual cost
Non-AMVER/Non-Great Lakes .....	63,286	\$95.17	\$6,022,715
AMVER .....	4,040	141.75	572,603
Great Lakes .....	813	141.75	115,243
Totals .....			\$6,710,561

As shown, the rule is estimated to cost \$6.7 million annually. Over the next 10 years, the Present Value (PV) cost of the rule is \$50.4 million (2003–2012, 7 percent discount rate, 2003 dollars).

The non-quantifiable benefit of the rule is—

- Providing relevant information about an applicable vessel’s cargo, crewmembers, and passengers as well as a threat it may pose; and
- Providing more time to evaluate, analyze, and respond to the information collected.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

**Assistance for Small Entities**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to

the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It modifies an existing OMB-approved collection—2115–0557. A summary of the revised collection follows.

*Title:* Advance Notice of Vessel Arrival and Departure.

*OMB Control Number:* 2115–0557.

*Summary of the Collection of Information:* The Coast Guard requires pre-arrival messages from any vessel entering a port or place in the United States. This rule will amend 33 CFR part 160 to permanently require:

- Earlier receipt of the notice of arrival—96 hours instead of 24 hours—from vessels currently required to provide advance notification of arrival;
- Submission of NOA reports to a central clearinghouse, the National Vessel Movement Center;
- Removal of the current exemption from notice of arrival reporting requirements for vessels operating in

compliance with the Automated Mutual Assistance Vessel Rescue System, some vessels operating on the Great Lakes, and vessels on scheduled routes; and

- Additional information about crewmembers, passengers, cargoes on board the vessel to be provided as items in the notice of arrival report.

*Need for Information:* To ensure port safety and security and to ensure the uninterrupted flow of commerce, the Coast Guard must permanently change regulations relating to the notifications of arrival requirements.

*Proposed Use of Information:* This information is required to control vessel traffic, develop contingency plans, enforce regulations, and enhance maritime security.

*Description of the Respondents:* Respondents are owners and operators of vessels that arrive at or depart from a port or place in the United States after departing from foreign ports.

*Number of Respondents:* The existing OMB-approved collection number of respondents is 10,367 (respondents are owners/operators of the vessels calling on U.S. ports annually). This rule will not increase the number of respondents.

*Frequency of Response:* Owners/operators of vessels making calls in U.S. ports will submit NOA reports as necessary. The existing OMB-approved collection number of responses is 68,139 (responses are arrivals at and departures from U.S. ports). This rule

will not increase the number of responses.

**Burden of Response:** The existing OMB-approved collection burden of response is approximately 15 minutes (0.250 hours) (burden of response is the time required to complete the paperwork requirements of the rule for a single response). This rule will increase the burden of response by an average of 60 minutes (1.000 hour) and decrease the burden of response by 1 minute (0.017 hours) for a net total of 74 minutes (1.233 hours).

**Estimate of Total Annual Burden:** The existing OMB-approved collection total annual burden is 39,037 hours (total annual burden is the time required to complete the paperwork requirements of the rule for all responses). This rule will increase the total annual burden by 136,278 hours and decrease total annual burden by 1,136 hours for a net total of 174,179 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted a copy of this rule to OMB for its review and approval of the revised collection of information. The existing OMB-approved collection (2115–0557) expires on March 31, 2003.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. If OMB does not approve this revised collection of information, we will publish a notice in the **Federal Register** of OMB's decision.

### 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 will either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined, that to the extent states have a current requirement in effect for notices of vessel arrivals to a state agency, *e.g.*, notices to pilot authorities for pilot services, we do not intend to preempt those requirements with this rule.

However, we reserve our position with respect to preemption of any prospective new state rule or legal requirement for an advance notice of arrival or submission of information requirements that are similar to those set forth in this rule. The U.S. Supreme Court in *United States v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000), held that pursuant to title I of the Ports and Waterways Safety Act (the authority for this rule), the Coast Guard can preempt conflicting or similar State requirements on vessel operation. The Court held also that Congress had preempted the field of

marine casualty reporting. Accordingly, based on the Supreme Court's holding in the *Locke* case, we believe that any prospective state requirement for a notice of arrival or information gathering requirement directed at vessel owners, or operators, that is similar to that contained in this rule is inconsistent with the federalism principles enunciated in that case, and is preempted."

### 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will 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.

### Civil Justice Reform

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

### Protection of Children

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

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

### Energy Effects

We have analyzed this 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.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. This rule changes the requirements in the notification of arrival regulations. They are procedural in nature and therefore are categorically excluded. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 160

Administrative practice and procedure; Harbors; Hazardous materials transportation; Marine safety; Navigation (water); Reporting and recordkeeping requirements; Vessels; Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as follows:

### PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

1. The authority citation for part 160 is revised to read as follows:

**Authority:** 33 U.S.C. 1223, 1226, 1231; 49 CFR 1.46.

Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

2. Revise Subpart C to read as follows:

#### Subpart C—Notifications of Arrival, Hazardous Conditions, and Certain Dangerous Cargoes

160.201	General.
160.202	Applicability.
160.203	Exemptions.
160.204	Definitions.
160.206	Information required in an NOA.
160.208	Changes to a submitted NOA.
160.210	Methods for submitting an NOA.
160.212	When to submit an NOA.
160.214	Waivers.
160.215	Notice of hazardous conditions.



### Subpart C—Notification of Arrival, Hazardous Conditions, and Certain Dangerous Cargos

#### § 160.201 General.

This subpart contains requirements and procedures for submitting Notices of Arrival (NOA) and Notice of Hazardous Condition. The sections in this subpart describe:

- (a) Applicability and exemptions from requirements in this subpart;
- (b) Required information in an NOA;
- (c) Required changes to an NOA;
- (d) Methods and times for submission of an NOA and changes to an NOA;
- (e) How to obtain a waiver; and
- (f) Requirements for submission of the Notice of Hazardous Conditions.

#### § 160.202 Applicability.

(a) This subpart applies to U.S. and foreign vessels bound for or departing from ports or places in the United States.

(b) This subpart does not apply to recreational vessels under 46 U.S.C. 4301 *et seq.*

(c) Unless otherwise specified in this subpart, the owner, agent, master, operator, or person in charge of a vessel regulated by this subpart is responsible for compliance with the requirements in this subpart.

(d) Towing vessels controlling a barge or barges required to submit an NOA under this subpart must submit only one NOA containing the information required for the towing vessel and each barge under its control.

#### § 160.203 Exemptions.

(a) Except for reporting notice of hazardous conditions, the following vessels are exempt from requirements in this subpart:

- (1) Passenger and supply vessels when they are employed in the exploration for or in the removal of oil, gas, or mineral resources on the continental shelf.
- (2) Oil Spill Recovery Vessels (OSRVs) when engaged in actual spill response operations or during spill response exercises.
- (3) Vessels operating upon the following waters:
  - (i) Mississippi River between its sources and mile 235, Above Head of Passes;
  - (ii) Tributaries emptying into the Mississippi River above mile 235;
  - (iii) Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway and the Red River; and
  - (iv) The Tennessee River from its confluence with the Ohio River to mile zero on the Mobile River and all other tributaries between those two points.

(b) If not carrying certain dangerous cargo or controlling another vessel carrying certain dangerous cargo, the following vessels are exempt from NOA requirements in this subpart:

- (1) Vessels 300 gross tons or less, except for vessels entering any port or place in the Seventh Coast Guard District as described in 33 CFR 3.35–1(b).
- (2) Vessels operating exclusively within a Captain of the Port Zone.
- (3) Vessels arriving at a port or place under force majeure.
- (4) Towing vessels and barges operating solely between ports or places in the continental United States.
- (5) Public vessels.
- (6) Except for tank vessels, U.S. vessels operating solely between ports or places in the United States on the Great Lakes.
- (c) Vessels less than 500 gross tons need not submit the International Safety Management (ISM) Code Notice (Entry (7) to Table 160.206).
- (d) Vessels operating solely between ports or places in the continental United States need not submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206).
- (e) This section does not exempt any vessel from compliance with the U.S. Customs Service (USCS) reporting or submission requirements.

#### § 160.204 Definitions.

As used in this subpart:

*Agent* means any person, partnership, firm, company or corporation engaged by the owner or charterer of a vessel to act in their behalf in matters concerning the vessel.

*Barge* means a non-self propelled vessel engaged in commerce.

*Carried in bulk* means a commodity that is loaded or carried on board a vessel without containers or labels and received and handled without mark or count.

*Certain dangerous cargo* (CDC) includes any of the following:

- (1) Division 1.1 or 1.2 explosives as defined in 49 CFR 173.50.
- (2) Division 1.5D blasting agents for which a permit is required under 49 CFR 176.415 or, for which a permit is required as a condition of a Research and Special Programs Administration exemption.
- (3) Division 2.3 “poisonous gas”, as listed in 49 CFR 172.101 that is also a “material poisonous by inhalation” as defined in 49 CFR 171.8, and that is in a quantity in excess of 1 metric ton per vessel.
- (4) Division 5.1 oxidizing materials for which a permit is required under 49 CFR 176.415 or for which a permit is

required as a condition of a Research and Special Programs Administration exemption.

(5) A liquid material that has a primary or subsidiary classification of Division 6.1 “poisonous material” as listed in 49 CFR 172.101 that is also a “material poisonous by inhalation,” as defined in 49 CFR 171.8 and that is in a bulk packaging, or that is in a quantity in excess of 20 metric tons per vessel when not in a bulk packaging.

(6) Class 7, “highway route controlled quantity” radioactive material or “fissile material, controlled shipment,” as defined in 49 CFR 173.403.

(7) Bulk liquefied chlorine gas and Bulk liquefied gas cargo that is flammable and/or toxic and carried under 46 CFR 154.7.

(8) The following bulk liquids:

- (i) Acetone cyanohydrin,
- (ii) Allyl alcohol,
- (iii) Chlorosulfonic acid,
- (iv) Crotonaldehyde,
- (v) Ethylene chlorohydrin,
- (vi) Ethylene dibromide,
- (vii) Methacrylonitrile, and
- (viii) Oleum (fuming sulfuric acid).

*Charterer* means the person or organization that contracts for the majority of the carrying capacity of a ship for the transportation of cargo to a stated port for a specified period. This includes “time charterers” and “voyage charterers.”

*Crewmember* means all persons carried on board the vessel to provide navigation and maintenance of the vessel, its machinery, systems, and arrangements essential for propulsion and safe navigation or to provide services for other persons on board.

*Great Lakes* means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

*Gross tons* means the tonnage determined by the tonnage authorities of a vessel’s flag state in accordance with the national tonnage rules in force before the entry into force of the International Convention on Tonnage Measurement of Ships, 1969 (“Convention”). For a vessel measured only under Annex I of the Convention, gross tons means that tonnage. For a vessel measured under both systems, the higher gross tonnage is the tonnage used for the purposes of the 300-gross-ton threshold.

*Hazardous condition* means any condition that may adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States. It may, but need not, involve collision, allision,



fire, explosion, grounding, leaking, damage, injury or illness of a person aboard, or manning-shortage.

*Nationality* means the state (nation) in which a person is a citizen or to which a person owes permanent allegiance.

*Operator* means any person including, but not limited to, an owner, a charterer, or another contractor who conducts, or is responsible for, the operation of a vessel.

*Persons in addition to crewmembers* mean any person onboard the vessel, including passengers, who are not included on the list of crewmembers.

*Port or place of departure* means any port or place in which a vessel is anchored or moored.

*Port or place of destination* means any port or place in which a vessel is bound to anchor or moor.

*Public vessel* means a vessel that is owned or demise-(bareboat) chartered by a State or local government of the United States, or by the government of a foreign country and that is not engaged in commercial service.

*Time charterer* means the party who hires a vessel for a specific amount of

time. The owner and his crew manage the vessel, but the charterer selects the ports of destination.

*Voyage charterer* means the party who hires a vessel for a single voyage. The owner and his crew manage the vessel, but the charterer selects the ports of destination.

**§ 160.206 Information required in an NOA.**

(a) Each NOA must contain all of the information items specified in Table 160.206.

TABLE 160.206.—NOA INFORMATION ITEMS

Required information	Vessels not carrying CDC	Vessels carrying CDC	
		Vessels	Towing vessels controlling vessels carrying CDC
<b>(1) Vessel Information:</b>			
(i) Name; .....	X	X	X
(ii) Name of the registered owner; .....	X	X	X
(iii) Country of registry; .....	X	X	X
(iv) Call sign; .....	X	X	X
(v) International Maritime Organization (IMO) international number or, if vessel does not have an assigned IMO international number, substitute with official number; .....	X	X	X
(vi) Name of the operator; .....	X	X	X
(vii) Name of the charterer; and .....	X	X	X
(viii) Name of classification society .....	X	X	X
<b>(2) Voyage Information:</b>			
(i) Names of last five ports or places visited; .....	X	X	X
(ii) Dates of arrival and departure for last five ports or places visited; .....	X	X	X
(iii) For each port or place in the United States to be visited list the names of the receiving facility, the port or place, the city, and the state; .....	X	X	X
(iv) For each port or place in the United States to be visited, the estimated date and time of arrival; .....	X	X	X
(v) For each port or place in the United States to be visited, the estimated date and time of departure; .....	X	X	X
(vi) The location (port or place and country) or position (latitude and longitude or waterway and mile marker) of the vessel at the time of reporting; and .....	X	X	X
(vii) The name and telephone number of a 24-hour point of contact .....	X	X	X
<b>(3) Cargo Information:</b>			
(i) A general description of cargo, other than CDC, onboard the vessel (e.g.: grain, container, oil, etc.); .....	X	X	X
(ii) Name of each certain dangerous cargo carried, including cargo UN number, if applicable; and .....	.....	X	X
(iii) Amount of each certain dangerous cargo carried .....	.....	X	X
<b>(4) Information for each Crewmember Onboard:</b>			
(i) Full name; .....	X	X	X
(ii) Date of birth; .....	X	X	X
(iii) Nationality; .....	X	X	X
(iv) Passport or mariners document number (type of identification and number); .....	X	X	X
(v) Position or duties on the vessel; and .....	X	X	X
(vi) Where the crewmember embarked (list port or place and country) .....	X	X	X
<b>(5) Information for each Person Onboard in Addition to Crew:</b>			
(i) Full name; .....	X	X	X
(ii) Date of birth; .....	X	X	X
(iii) Nationality; .....	X	X	X
(iv) Passport number; and .....	X	X	X
(v) Where the person embarked (list port or place and country) .....	X	X	X
<b>(6) Operational condition of equipment required by § 164.35 of this chapter .....</b>			
<b>(7) International Safety Management (ISM) Code Notice:</b>			
(i) The date of issuance for the company's Document of Compliance certificate that covers the vessel; .....	X	X	X
(ii) The date of issuance for the vessel's Safety Management Certificate; and .....	X	X	X
(iii) The name of the Flag Administration, or the recognized organization(s) representing the vessel flag administration, that issued those certificates .....	X	X	X
<b>(8) Cargo Declaration (Customs Form 1302) as described in 19 CFR 4.7 .....</b>	X	X	X

(b) Vessels operating solely between ports or places in the continental United States need submit only the name of and date of arrival and departure for the last port or places visited to meet the requirements in entries (2)(i) and (ii) to Table 160.206 of this section.

(c) You may submit a copy of INS Form I-418 to meet the requirements of entries (4) and (5) in Table 160.206.

(d) Any vessel planning to enter two or more consecutive ports or places in the United States during a single voyage may submit one consolidated Notification of Arrival at least 96 hours before entering the first port or place of destination. The consolidated notice must include the name of the port or place and estimated arrival date for each destination of the voyage. Any vessel submitting a consolidated notice under this section must still meet the requirements of § 160.208 of this part concerning requirements for changes to an NOA.

**§ 160.208 Changes to a submitted NOA.**

(a) Unless otherwise specified in this section, when submitted NOA information changes, vessels must submit a notice of change within the times required in § 160.212.

(b) Changes in the following information need not be reported:

- (1) Changes in arrival or departure times that are less than six (6) hours;
- (2) Changes in vessel location or position of the vessel at the time of reporting (entry (2)(vi) to Table 160.206); and

(3) Changes to crewmembers' position or duties on the vessel (entry (5)(v) to Table 160.206).

(c) When reporting changes, submit only the name of the vessel, original

NOA submission date, the port of arrival, the specific items to be corrected, and the new location or position of the vessel at the time of reporting. Only changes to NOA information need to be submitted.

**§ 160.210 Methods for submitting an NOA.**

(a) *Submission to the National Vessel Movement Center (NVMC).* Except as provided in paragraphs (b) and (c) of this section, all vessels required to submit NOA information in § 160.206 (entries 1-7 to Table 160.206) to the NVMC, United States Coast Guard, 408 Coast Guard Drive, Kearneysville, WV, 25430, shall do so by:

- (1) Telephone at 1-800-708-9823 or 304-264-2502;
- (2) Fax at 1-800-547-8724 or 304-264-2684; or
- (3) E-mail at [SANS@NVMC.USCG.gov](mailto:SANS@NVMC.USCG.gov).

**Note to paragraph (a):** Information about the National Vessel Movement Center is available on its Web site at <http://www.nvmc.uscg.gov/>. You may submit the notice using any electronic format available on the NVMC website.

(b) *Saint Lawrence Seaway transits.* Those vessels transiting the Saint Lawrence Seaway inbound, bound for a port or place in the United States, may meet the submission requirements of paragraph (a) of this section by submitting the required information to the Saint Lawrence Seaway Development Corporation and the Saint Lawrence Seaway Management Corporation of Canada by fax at 315-764-3235 or at 315-764-3200. The Cargo Declaration (Customs Form 1302) in entry (8) in Table 160.206 must be submitted electronically to the USCS, as required by paragraph (d) of this section.

(c) *Seventh Coast Guard District.* Those vessels 300 or less gross tons operating in the Seventh Coast Guard District must submit an NOA to the cognizant Captain of the Port (COTP). The Cargo Declaration (Customs Form 1302) in entry (8) in Table 160.206 must be submitted electronically to the USCS, as required by paragraph (d) of this section.

(d) *Submission to the United States Customs Service's Sea Automated Manifest System (AMS).*

(1) Beginning July 1, 2003, the Cargo Declaration (Customs Form 1302) in entry (8) in Table 160.206 must be submitted electronically to the USCS Sea AMS by one of the following methods:

- (i) By direct connection with USCS or by purchasing the proper software; or
- (ii) Using a service provider or a Port Authority.

(2) To become a participant in Sea AMS, submitters must provide a letter of intent to USCS prior to first submission.

**§ 160.212 When to submit an NOA.**

(a) *Submission of NOA.* (1) Except as set out in paragraph (a)(2) of this section, all vessels must submit NOAs within the times required in paragraph (a)(3) of this section.

(2) Towing vessels, when in control of a vessel carrying CDC and operating solely between ports or places in the continental United States, must submit an NOA before departure but at least 12 hours before entering the port or place of destination.

(3) Times for submitting NOAs areas follows:

If your voyage time is—	You must submit an NOA—
(i) 96 hours or more; or .....	Before departure but at least 96 hours before entering the port or place of destination; or
(ii) Less than 96 hours .....	Before departure but at least 24 hours before entering the port or place of destination.

(b) *Submission of changes to NOA.* (1) Except as set out in paragraph (b)(2) of this section, vessels must submit changes in NOA information within the times required in paragraph (b)(3) of this section.

(2) Towing vessels, when in control of a vessel carrying CDC and operating solely between ports or places in the continental United States, must submit changes to an NOA as soon as

practicable but at least 6 hours before entering the port or place of destination.

(3) Times for submitting changes to NOAs are as follows:

If your remaining voyage time is—	Then you must submit changes to an NOA—
(i) 96 hours or more; .....	As soon as practicable but at least 24 hours before entering the port or place of destination;
(ii) Less than 96 hours but not less than 24 hours; or	As soon as practicable but at least 24 hours before entering the port or place of destination; or
(iii) Less than 24 hours .....	As soon as practicable but at least 12 hours before entering the port or place of destination.

(c) *Submission of the Cargo Declaration (Customs Form 1302).* (1)

Except as set out in paragraph (c)(2) of this section, all vessels must submit to

USCS the Cargo Declaration (Customs Form 1302) in entry (8) to Table

160.206, within the times required in paragraph (a)(3) of this section.

(2)(i) Except for vessels carrying containerized cargo or break bulk cargo, vessels carrying bulk cargo may submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206) before departure but at least 24 hours before entering the U.S. port or place of destination.

(ii) Vessels carrying break bulk cargo operating under a USCS exemption granted under 19 CFR 4.7(b)(4)(ii) may, during the effective period of the USCS exemption, submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206) before departure but at least 24 hours before entering the U.S. port or place of destination.

#### § 160.214 Waivers.

The Captain of the Port may waive, within that Captain of the Port's designated zone, any of the requirements of this subpart for any vessel or class of vessels upon finding that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of safety, environmental protection, or national security.

#### § 160.215 Notice of hazardous conditions.

Whenever there is a hazardous condition either aboard a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge shall immediately notify the nearest Coast Guard Marine Safety Office or Group Office. (Compliance with this section does not relieve responsibility for the written report required by 46 CFR 4.05–10.)

Dated: February 19, 2003.

**Paul J. Pluta,**

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

[FR Doc. 03–4408 Filed 2–24–03; 4:36 pm]

BILLING CODE 4910–15–P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Paducah, KY 03–003]

RIN 2115–AA97

#### Safety Zone; Upper Mississippi River, Mile Marker 14.5 to 16.0, Cairo, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River from mile marker 14.5 to 16.0, near Cairo, IL. Significant reductions in river levels have caused extreme low water conditions on the Upper Mississippi River. This safety zone is needed to protect vessels transiting the area from the safety hazards associated with the unprecedented low water conditions. Entry into or operation in this zone is prohibited to all vessels unless authorized by the Coast Guard Captain of the Port Paducah or his on-scene representative.

**DATES:** This rule is effective 4 p.m., January 30, 2003, until 8 a.m., March 1, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP Paducah 03–003] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Paducah, 225 Tully St., Paducah, KY 42003 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade (LTJG) Patrick Mounsey, Marine Safety Office Paducah, Port Operations, at (270) 442–1621 ext. 350.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the safety hazards associated with unprecedented low water levels on the Upper Mississippi River.

##### Background and Purpose

The hazardous condition requiring this regulation is significant reductions in river levels on the Upper Mississippi River. A safety zone is needed to protect vessels transiting the area from the safety hazards associated with the unprecedented low water. Entry into or operation in this zone is prohibited to all vessels unless authorized by the Coast Guard Captain of the Port Paducah or his on-scene representative.

##### Regulatory Evaluation

This 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. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Inland River Contingency Action Plan provides guidance for marine operations and transportation emergencies on the Upper Mississippi River. The goal of the plan is to serve as a guide for officials of the USCG, U.S. Army Corps of Engineers, and the marine industry to facilitate the safe and orderly movement of barge traffic during a navigational crisis. In accordance with the Mississippi River Contingency Action Plan, members of the USCG, U.S. Army Corps of Engineers, and the marine industry met. Representatives of towing companies that operate in this affected area agreed that in order to protect the vessel traffic transiting the area they will halt all operations until river levels have improved and safe vessel navigation can resume.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Upper Mississippi River, from Mile Marker 14.5 to 16.0 from 4 p.m., January 30, 2003, until 8 a.m., March 1, 2003. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons:

1. This rule will be in effect on a temporary basis until conditions improve.