Federal Register

Tuesday,
April 29, 2008

Part II

Department of Homeland Security

Coast Guard

33 CFR Part 169

Long Range Identification and Tracking of Ships; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 169

[Docket No. USCG–2005–22612]

RIN 1625–AB00

Long Range Identification and Tracking of Ships

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule requires, consistent with international law, certain ships to report identifying and position data electronically. This rule implements an amendment to chapter V of the International Convention for the Safety of Life at Sea (SOLAS), regulation 19–1, and enables the Coast Guard to correlate Long Range Identification and Tracking (LRIT) data with data from other sources, detect anomalies, and heighten our overall Maritime Domain Awareness. This rule is consistent with the Coast Guard's strategic goals of maritime security and maritime safety, and the Department's strategic goals of awareness, prevention, protection, and response.

DATES: This final rule is effective May 29, 2008. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on May 29, 2008.

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–2005–22612 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE, Washington, DC 20590, 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://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Mr. William Cairns, Office of Navigation Systems, Coast Guard, telephone 202–372–1557, e-mail *William.R.Cairns@uscg.mil*. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Acronyms
II. Regulatory History
III. Background and Purpose
A. LRIT History—International and Domestic
B. Description of the LRIT System
C. Discussion of Rule
IV. Discussion of Comments and Changes From Proposed Rule
A. Ship Requirements
B. LRIT System
C. Coast Guard Resources and Enforcement
D. Summary of Changes From Proposed Rule
V. Incorporation by Reference
VI. Regulatory Evaluation
A. Executive Order 12866
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. Acronyms

AIS Automatic Identification System
ASP Application Service Provider
COTP Captain of the Port
CSP Communications Service Provider
DHS Department of Homeland Security
DOT Department of Transportation
DSC Digital Selective Calling
EEZ Exclusive Economic Zone
GMDSS Global Maritime Distress and Safety System
HF High Frequency
ICC Intelligence Coordination Center
IDC International Data Center
IDE International Data Exchange
IMO International Maritime Organization
ITU International Telecommunication Union
LRIT Long Range Identification and Tracking
MDA Maritime Domain Awareness
MF Medium Frequency
MISLE Marine Information for Safety and Law Enforcement
MODU Mobile Offshore Drilling Unit
MSC Maritime Safety Committee
NEPA National Environmental Policy Act of 1969
NOA Notice of Arrival
NM Nautical Mile
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
NVMC National Vessel Movement Center
OCS Outer Continental Shelf
OMB Office of Management and Budget
SAR Search and Rescue
SOLAS International Convention for the Safety of Life at Sea, 1974, as amended
SOLAS V/19–1 SOLAS Chapter V Regulation 19–1
SSAS Ship Security Alert System
VHF Very High Frequency
VMS Vessel Monitoring System
VTS Vessel Traffic Service

II. Regulatory History

On October 3, 2007, we published a notice of proposed rulemaking (NPRM) entitled Long Range Identification and Tracking of Ships in the **Federal Register** (72 FR 56600). We received seven letters commenting on the proposed rule. No public meeting was requested and none was held.

III. Background and Purpose

This section discusses the United States' involvement in the development of the international long-range identification and tracking (LRIT) scheme, provides a summary of the LRIT amendment to chapter V of the International Convention for the Safety of Life at Sea (SOLAS), regulation 19–1, and describes how LRIT information will be generated and processed.

A. LRIT History—International and Domestic

In our NPRM published October 3, 2007, we described previous international and domestic actions leading to our proposal to implement the Safety of Life at Sea Convention (SOLAS) amendment requiring ships to which SOLAS regulation V/19–1 applies to broadcast long-range identification and tracking information so that it could be received by flag States, port States and coastal States (see 72 FR 56601–56602). Our NPRM was published during the International Maritime Organization (IMO) 83rd session of the Maritime Safety Committee (''Committee''), MSC 83, held from October 1 to 12, 2007.

At this October meeting, the Committee adopted Resolution MSC.254(83), which permits the master of a ship or the Administration (the U.S. Coast Guard for U.S. ships) to reduce LRIT transmissions to once per 24-hour period or to switch off the ship-borne LRIT equipment when the ship is undergoing repairs in port or dry-dock or when a ship is laid up for a long period.

Another efficiency and cost saving that was discussed at MSC 83 was reducing the number of automatic LRIT information transmissions from four (4) per day to two (2) per day. See MSC 83/28, Report of the MSC on its 83rd session, pages 59 and 60 for discussion of this issue. Reducing required transmissions to two per day would reduce the communications cost of

transmissions from ship-to-Data-Center by half. This change would likely bring the cost of LRIT information supplied to data centers more in line with the likely demand of states requesting LRIT information. The decision on this item was deferred until MSC 84, to be held from May 7 to 16, 2008. The Coast Guard believes this proposal deserves serious consideration as a cost saving vehicle that has little, if any, adverse impact on the maritime domain awareness benefits to be derived from LRIT. If the number of transmissions required by SOLAS regulation V/19–1 is changed by IMO action, then in a separate rulemaking the Coast Guard would revise the number of LRIT transmissions required by its LRIT regulations.

Additionally, MSC 83 adopted Resolution MSC.242(83), reflecting its decision that Contracting Governments (flag States, port States and coastal States) could request, receive, and make use of LRIT information for safety and marine environmental protection purposes, in addition to maritime security and search and rescue purposes. For purposes of SOLAS, a Contracting Government is a government that has ratified, accepted, approved, or consented by accession to SOLAS and thus has agreed to be bound by SOLAS. Accordingly, the Coast Guard will use LRIT information for those enhanced purposes in order to carry out its multi-missions of marine safety, security, and stewardship, but does not believe that any addition to the regulatory text is necessary for that purpose.

Finally, MSC 83 decided at least during the initial 2-year operational period of LRIT, from January 1, 2009, to December 31, 2010, there would not be an International Data Center. MSC also decided to accept the contingent offer of the United States to build and operate the International Data Exchange on a temporary, interim basis until a more permanent solution could be decided by MSC. It also maintained the previously decided implementation schedule for LRIT system operation. MSC 83/28, Report of the MSC on its 83rd session, page 47.

We use the terms ''flag State,'' ''port State,'' and ''coastal State'' throughout this document. Flag State refers to the nation whose flag the ship is entitled to fly. Port State refers to a nation at whose internal waters, ports, or roadsteads a ship will call, is calling, or has called. Coastal State refers to a nation off whose coast a ship is transiting without calling at its internal waters, ports, or roadsteads. This explanation of these three terms is provided to assist the reader in understanding the provisions of this proposed rule, and is not intended as a comprehensive definition of those terms. Nor is it to be understood to express a view as to the jurisdictional competence or authority of the nation in its capacities as a flag State, port State, or coastal State.

B. Description of the LRIT System

The LRIT system consists of the shipborne LRIT information transmitting equipment, Communications Service Providers (CSPs), Application Service Providers (ASPs), LRIT Data Centers, including any related Vessel Monitoring System(s) (VMSs), the LRIT Data Distribution Plan and the International LRIT Data Exchange. Certain aspects of the performance of the LRIT system are reviewed or audited by the LRIT Coordinator acting on behalf of the IMO and its Contracting Governments. For a more detailed description of the LRIT system, please refer to our NPRM published October 3, 2007, in the **Federal Register** (72 FR 56600).

C. Discussion of Rule

This rule requires certain ships on an international voyage to transmit position information using LRIT equipment. These requirements will appear in a new subpart to 33 CFR Part 169: Subpart C—Transmission of Long Range Identification and Tracking Information.

As stated in § 169.200, the purpose of the LRIT regulations is to implement SOLAS V/19–1 and to require certain ships engaged on an international voyage to transmit ship identification and position information electronically. The types of ships required to transmit position reports are identified in § 169.205: Passenger ships, including high-speed passenger craft, that carry more than 12 passengers; cargo ships, including high speed craft, of 300 gross tonnage or more; and self-propelled mobile offshore drilling units.

Under § 169.210, a U.S. flag ship covered by § 169.205 must transmit position reports at all times while engaged on an international voyage. The Coast Guard is implementing a SOLAS requirement for ships covered by § 169.205 to transmit position reports depending on their relationship to the United States. The transmissions from a foreign ship covered by § 169.205 may be received by the U.S. once it has announced its intention to enter a U.S. port or place under U.S. notice of arrival requirements in 33 CFR part 160, subpart C. Furthermore, the Coast Guard is entitled to receive position reports from a foreign ship covered by § 169.205 while navigating within 1,000 nautical miles (nm) of the U.S. baseline, unless the ship's Flag Administration, under authority of SOLAS V/19–1.9.1, has directed the ship not to provide these reports. ''Flag Administration'' means the Government of the State whose flag the ship is entitled to fly.

As noted above, many ships subject to this rule will already have the necessary transmission equipment because of existing radio communications requirements under SOLAS Chapter IV and applicability requirements in SOLAS I/3 and IV/1. In addition, our definition of international voyage in § 169.5 will capture U.S. flag ships calling on or operating from a foreign port. These ships would be subject to SOLAS XI–2/6 requirements and are required under 33 CFR 104.297 to have a Ship Security Alert System (SSAS) which, like GMDSS equipment, should allow the ship to meet LRIT requirements without purchasing new equipment.

LRIT implementation dates are based on when a ship is constructed and where it operates. The earliest LRIT implementation date in § 169.220 would be December 31, 2008, for ships constructed on or after that date. Ships constructed before December 31, 2008, would be required to comply with LRIT requirements by the first survey of the ships radio installation after December 31, 2008, if the ship operates—

- Within 100 nm of the United States baseline, or
- Within range of an Inmarsat geostationary satellite, or other Application Service Provider recognized by the Administration, with which continuous alerting is available.

An additional 6 months is provided—until the first survey of radio installation after July 1, 2009—for ships constructed before December 31, 2008, that operate both within and outside the area or range identified immediately above. However, those ships must meet the earlier deadline if they operate within that area or range on or before the first survey of the ships radio installation after July 1, 2009.

We do not use the term ''sea area'' in our rule. IMO uses that term in SOLAS V/19–1.4, regarding these installation dates above, as well as in describing a LRIT exemption. Instead, we have used a ship-within-range approach represented by set distances because the United States has not yet defined sea area A1 or A2, as it is permitted to do under SOLAS IV/1.12 and 1.13 consistent with IMO Resolution A.801(19). For the purposes of implementing SOLAS V/19–1, we consider the following distances as

functional equivalents of our as-yet undefined sea areas: within 20 nm from the U.S. baseline as the functional equivalent for sea area A1; and within 20 to 100 nm from the U.S. baseline as the functional equivalent for sea area A2.

As stated in § 169.215, LRIT equipment must be type-approved and meet the requirements of IMO Resolutions A.694(17), MSC.210(81), and MSC.254(83), and IEC standard IEC 60945. Manufacturers seeking type approval should submit details of their equipment to Commandant, U.S. Coast Guard, Office of Design and Engineering Standards (CG–521), 2100 Second Street, SW., Washington, DC 20593–0001. Under § 169.225, a ship must use an Application Service Provider recognized by its Administration. Under § 169.230, position reports must be transmitted every 6 hours unless a more frequent interval is requested remotely by an LRIT Data Center.

As specified in § 169.240, a ship may switch its LRIT equipment off when permitted by its Flag Administration or in circumstances described in SOLAS V/19–1.7, but under § 169.245, the ship's master must inform the Flag Administration without undue delay if the LRIT equipment is switched off or fails to operate. The reason for switching the equipment off, along with the duration of it being off, must be recorded in the ship's logbook.

An exemption from LRIT requirements is provided in § 169.235 for warships, certain public vessels, ships operating solely on the Great Lakes, and ships equipped with an operating automatic identification system (AIS) if the AIS-equipped ship operates only within 20 nautical miles of the U.S. baseline.

In addition to adding subpart C, we have also revised the general provision in subpart A of 33 CFR part 169 by changing the description of the purpose of the part, adding LRIT-related definitions in § 169.5, and adding an ''Incorporation by Reference'' section where we incorporate the International Convention on Tonnage Measurement of Ships, 1969, and IMO resolutions A.694(17), MSC.202(81), MSC.210(81), and MSC .254(83), and IEC standard IEC 60945, related to SOLAS V/19–1 and LRIT performance standards and functional requirements.

IV. Discussion of Comments and Changes From Proposed Rule

We received seven letters commenting on the proposed rule. No public meeting was requested and none was held.

The following is a summary of the comments received, and the changes made to the regulatory text since our proposed rule was published. We first address comments on ship requirements, then those that relate to the LRIT System, and finally we address comments related to Coast Guard resources and enforcement.

A. Ship Requirements

Two commenters asked how LRIT would interface or overlap with the Automatic Identification System (AIS). The Coast Guard does not envision LRIT and AIS interfacing with each other. Although the position, identification, and time of position information will essentially be the same in both systems, the method of transmission is distinct. AIS is a VHF-based system that is limited to line-of-sight but is able to transmit a broader data content than LRIT. LRIT uses satellite technology that will enable the Coast Guard to identify and track ships in a larger geographic area than shore-based AIS. Because AIS data is open broadcast and is easily obtainable, the Coast Guard may not need LRIT information while a ship is in port; however, the process to stop and re-start LRIT transmissions within the LRIT system is not cost-effective unless the ship will not be transmitting for an extended period of time. As the majority of ships required to transmit position reports are expected to be larger cargo and passenger vessels that typically make short-duration port calls, it may be more cost-effective to continue LRIT transmissions. Unless ships are exempt from LRIT through § 169.235(a), there remains a need for SOLAS ships subject to this rule to report LRIT information.

One commenter noted that the rule should address vessels that have a coastwise or an inland route, such as ferries that cross the international boundary between the U.S. and Canada. The Coast Guard disagrees. As previously mentioned, § 169.235(a) states ships fitted with a functional AIS and operating only within 20 nm of the United States baseline are exempt from LRIT reporting per SOLAS V/19–1. Furthermore, ships operating exclusively on the Great Lakes are exempt from LRIT reporting under § 169.235(c). These two exceptions would cover the majority of ferries that cross the international boundary between the U.S. and Canada.

The same commenter asked if a ''sufficient'' report would be generated when LRIT equipment is switched on, as described in the rulemaking, on a voyage of less than 6 hours. A vessel on an international voyage of less than 6 hours that is covered under § 169.205 must keep its LRIT type-approved equipment switched on during the entire international voyage. If the LRIT equipment has been switched off, when it is switched on it should send a report if the last report it sent is more than 6 hours old. If its LRIT equipment is functioning normally, the vessel would satisfy the LRIT reporting requirements during its voyage. Also, the vessel's LRIT equipment must respond if polled, even during a less-than-6-hour international voyage.

Two commenters perceived this rule required certain operators on coastal and inland voyages, specifically relating to sea areas A1 or A2, who have not yet been mandated to purchase Global Maritime Distress and Safety System (GMDSS) equipment to purchase LRIT equipment. The Coast Guard disagrees. In the examples given, the Coast Guard would expect that most of these ships would be operating within sea area A1 once it is declared and as such, would be exempt from LRIT requirements. SOLAS V/19–1 exempts ships fitted with an AIS and operated exclusively within sea area A1. For the purposes of this regulation, we have interpreted sea area A1 to be functionally equivalent to 20 nm, which is within VHF range of the coast.

As specified in § 169.235(a), ships operating AIS and that operate only within 20 nm of the U.S. baseline are exempt from LRIT. As the U.S. has not yet declared sea areas A1 or A2, that terminology was specifically avoided in this rule. However, ships that will be required under GMDSS rules to purchase GMDSS equipment for sea areas A2 if and when it is declared, operating outside of VHF range of the coast and beyond 20 nm of the U.S. baseline, will need to carry LRIT compliant equipment.

One commenter requested the regulation to address the issue of permission and allowable times for LRIT equipment to be switched off, with specific provisions for Mobile Off-shore Drilling Units (MODUs) that are undergoing repairs in a foreign port or drydocked or in laid-up status. The Coast Guard has modified the final rule to explain when LRIT equipment may be switched off. At its 83rd session, the IMO Maritime Safety Committee (MSC) addressed this issue. The MSC agreed that, for ships undergoing repairs in port or drydock or when laid up, the master of the ship should be allowed to switch off the LRIT equipment. Accordingly, MSC issued Resolution MSC.254(83) to reflect this as a change to the LRIT Performance Standards and Functional Requirements. We revised § 169.240 in the final rule to include this

requirement and incorporated Resolution MSC.254(83) by reference.

One commenter recommended provisions be added to the regulation that clarify how and when a U.S. vessel, in particular a MODU, is to provide notice and/or obtain authorization to switch off its LRIT equipment. In § 169.205(c), the rule clearly states that MODUs are required to transmit LRIT information when ''underway and not engaged in drilling operations.'' Furthermore, § 169.240 of this final rule permits ships to switch off their LRIT equipment in exigent circumstances as authorized under SOLAS V/19–1.7.2. Prior authorization to switch off LRIT equipment on a U.S. flag ship on an international voyage is required in all circumstances not covered by § 169.240. All ships subject to this rule that have been given authority to switch off their LRIT equipment must provide a timely notification to the Coast Guard in accordance with § 169.245.

One commenter suggested the Coast Guard clarify who is responsible for notification of failures of data transmissions due to equipment problems, blocking of satellite signals and changing of satellite ocean regions, and as a result of Communication Service Providers. The Coast Guard disagrees that such clarification is necessary in the final rule. The LRIT system design, specifically the interconnection protocols between ships and its host Data Center, should be able to identify where LRIT transmissions are dropped. The LRIT communications protocols address this issue, and § 169.245 specifically requires a ship master to report if the ship's LRIT equipment fails to operate.

One commenter recommended that the regulations state that vessel owners and operators may share the LRIT position reports with other parties. The Coast Guard disagrees. Access to LRIT information is only through the SOLAS Contracting Government. The SOLAS regulation specifically requires Contracting Governments to recognize and respect the commercial confidentiality and sensitivity of LRIT information. Permitting the sharing of LRIT position reports, as suggested by the commenter, would be contrary to the SOLAS regulation.

Four commenters expressed concern regarding estimated equipment upgrade costs and suggested the cost to purchase and train on new GMDSS equipment could be prohibitive to small passenger vessels. They stated that the 25 cents per position report estimated cost in the NPRM incurred by the Coast Guard does not reflect all costs in implementing LRIT. The Coast Guard disagrees. Except in the limited instances noted below, the LRIT rulemaking is not imposing a new equipment carriage requirement. Because of existing GMDSS equipment requirements, most vessels will be able to utilize existing equipment to meet LRIT requirements. Although the LRIT architecture is based upon GMDSS equipment or equivalent LRIT information transmitting equipment, it does not require full GMDSS capabilities to satisfy LRIT. Ships that are exempt from the GMDSS equipment carriage requirements should also be exempt from the LRIT requirements, based on their limited areas of operation. In what we believe would be the rare event that a ship operator will need to replace older equipment to satisfy LRIT, that equipment is available from at least one top-of-the-line manufacturer for around $3,000. Any ship with older GMDSS equipment that needs replacement will already have trained GMDSS operators on board. These operators would be familiar with GMDSS-based LRIT equipment. Therefore, we did not estimate any additional training costs for this rule. Furthermore, LRIT operations are envisioned to be automatic and should not require intervention by shipboard personnel.

Two commenters stated that problems inherent with the GMDSS system would not increase Maritime Domain Awareness (MDA). The benefit of having LRIT along with Vessel Traffic Service (VTS), AIS and other programs that identify and track ships is that it offers layers of information that can serve to confirm or identify anomalies, thus improving MDA. Concerns related to GMDSS, in general, are beyond the scope of this rulemaking.

Two commenters also noted that GMDSS reporting is a time consuming part of watches and diverts attention from more important tasks. The Coast Guard disagrees. LRIT is not expected to have any impact on shipboard personnel in terms of crew workload. LRIT information is sent automatically and involves no routine human intervention.

Two commenters recommend an LRIT exemption for VTS monitored voyages, as well as AIS equipped vessels that should remain in effect after the U.S. establishes sea areas A1 and A2. The Coast Guard agrees to some extent, and notes that an exemption is already in place. Ships covered by § 169.205 that operate solely in VTS areas are generally within 20 nm of the U.S. baseline and therefore, if fitted with AIS, would be exempt from LRIT under § 169.235(a). However, AIS-equipped ships covered by § 169.205 that operate beyond 20 nm of the U.S. baseline fall outside of the § 169.235(a) exception, and are therefore required to transmit LRIT position reports while under VTS monitoring.

One commenter expressed concern that the LRIT NPRM background section suggests submittals via the Coast Guard's National Vessel Movement Center's (NVMC) existing Notice of Arrival (NOA) System in the absence of an International Data Center (IDC), and also noted NOA requires manual submission while LRIT will be automatic submissions. The Coast Guard does not view the IDC as a critical element in the LRIT system. In the absence of an IDC, ships may be associated with another National, Regional, or Cooperative Data Center.

The conditional change referenced in the preamble of the NPRM was based on IMO implementation dates being pushed further into the future. That has not occurred. Ships must transmit position reports as required by this rule. If a ship covered by this rule has submitted a notice of arrival and the United States is not receiving its LRIT data at required intervals, the ship will likely be notified by a Captain of the Port (COTP) that there may be a delay in its regulated access to the port because required position reports are not being received.

One commenter was concerned about the use of NOA for position reports. The Coast Guard acknowledges this concern, and as previously noted, SOLAS implementation dates have not been pushed further into the future. Therefore, this final rule is not requiring the use of NOA as a replacement for LRIT-transmitted position reports. The absence of an additional requirement in this rule, however, does not prevent a COTP, under authority reflected in 33 CFR 160.111, from ordering necessary information from a specific ship covered by this rule and headed for a U.S. port or place if the United States is not receiving LRIT data from that ship.

B. LRIT System

One commenter requested the regulation specifically state that satellite position reports will be paid by the Coast Guard. The Coast Guard does not believe this is necessary, given the rule's incorporation by reference of IMO Resolution MSC.202(81), which contains the provision that Contracting Governments will not impose any charges on ships in relation to the LRIT tracking information they may seek to receive. SOLAS V/19–1.11.1.

One commenter asked how the LRIT system would work without an IDC. MSC 83 decided not to establish an IDC. The Coast Guard has determined that in

the absence of an IDC, all SOLAS Contracting Governments will need to associate their ships with a National, Regional, or Cooperative Data Center.

One commenter suggested the Coast Guard address how it will handle the issue of flag States that do not have an operational data center and have decided not to make use of the U.S. system. The Coast Guard recognizes that the international LRIT system is dependent on each SOLAS Contracting Government establishing an LRIT data center and ensuring that position reports from its ships entitled to fly its Flag may be accessed by other Data Centers through the International LRIT Data Exchange. This rule, however, is directed at ships, not at other governments. As noted above, if the United States does not receive LRIT data from a ship covered by this rule that is headed to a U.S. port or place, then a COTP could exercise full regulatory authority over individual ships in order to protect the safety and security of his or her port.

One commenter expressed concern about how the IDE and LRIT system would function after January 1, 2010. The agreement reached at MSC 83 was for the U.S. to operate the IDE on a temporary interim basis until January 2010. In the interim, MSC must decide on an alternative arrangement, i.e., another Administration or commercial entity to build, host, operate, and maintain the IDE. If MSC is unable to decide on such an alternative, the U.S. will need to determine if it can continue its temporary operation of the IDE.

One commenter requested that § 169.210 specify transmission of reports shall continue until such time as the vessel departs the U.S. Exclusive Economic Zone (EEZ) or Outer Continental Shelf (OCS) on an outbound international voyage. The Coast Guard disagrees. The SOLAS regulation is silent on the issue of a ship departing a port, and the commenter also noted the rule specifies when a vessel must begin transmitting but does not indicate when the transmissions may cease. However, the SOLAS regulation and performance standards and functional requirements incorporated by reference contemplate LRIT transmissions every six (6) hours and when polled. This requirement is not dependent on whether the ship is entering or departing port. Once a ship has left port, a Contracting Government is entitled to track the ship within 1,000 nm of its coast, unless specifically denied by the ship's Flag Administration, or until that ship has entered the internal waters of another Contracting Government.

The same commenter requested the Coast Guard add the definitions of EEZ and OCS to § 169.5. The Coast Guard disagrees. Neither the term EEZ nor OCS is contained in that SOLAS regulation, nor do they have any bearing on that regulation or this rulemaking. This rule implements SOLAS V/19–1.8.1.3, which entitles a Contracting Government to receive position reports from foreign vessels operating within 1,000 nm of its coast, irrespective of its location relative to the EEZ or OCS. Therefore, we see no need to define those terms in this rule.

One commenter stated that § 169.210 should clarify the rule to include vessels that intend to work on the U.S. OCS but not enter the territorial sea, vessels that intend to lighter cargoes offshore, or other ''hovering vessels''. The Coast Guard disagrees that such clarification is necessary in the rule. The Coast Guard believes these ships are considered to be on an international voyage. As stated in § 169.205 and reflected in the heading of § 169.210, this final rule applies to ships engaged on an international voyage. If these OCS locations are within 1,000 nm of the U.S. baseline, then § 169.210(c) makes it clear that the Coast Guard is entitled to receive position reports based on the ship's location relative to U.S. coast (i.e., coastal State relationship). Further, § 169.210(b) makes it clear that United States has a port State relationship to a ship that has submitted a NOA under 33 CFR part 160, subpart C, and therefore the Coast Guard has authority to require position reports. This rule does not change those NOA requirements in part 160 that are based on a ship going to a U.S. ''port or place of destination.'' Under either relationship, foreign flag ships engaged on an international voyage, such as those identified by the commenter, would be required to transmit position reports, as would a U.S. flag ship on an international voyage.

One commenter requested that the regulation address the ''non-mandatory'' requirement imposed by the Commander, Eighth Coast Guard District, which mandates installation of ''locating devices'' on all MODUs, both self propelled and non-self propelled, while operating in the U.S. Gulf of Mexico, and suggested LRIT replace that requirement. The Coast Guard disagrees. The LRIT system and these regulations, and the Eighth District voluntary system to which this comment refers, are designed to serve two distinct and different capabilities. Furthermore, these regulations pertain only to self-propelled MODUs and the Eight District voluntary program pertains to all MODUs. Therefore, the need for the Eighth District voluntary program will not be eliminated by the LRIT system or the LRIT information that results.

The Eighth Coast Guard District voluntary requirement relates to ships and facilities subject to 33 CFR chapter I subchapter N (Outer Continental Shelf Activities). The reporting requirements facilitate the Coast Guard's ability to obtain limited access to MODU position information once a storm has passed through the MODU area of operation. The position reporting requirement provides an essential part of the Eighth District's ability to prepare for, and respond to, hurricanes and other natural disasters. The position reporting requirement is intended to maximize severe weather response preparation and Maritime Domain Awareness of our OCS in order to ensure a successful response effort. This initiative utilizes transponder equipment and is considered an industry ''best practice.'' The technology and equipment provides real time MODU location tracking capability. It is vital to the Coast Guard's and the drilling industry's shared success to limit environmental and property damage caused by MODU loss of station-keeping ability (dragging anchors across and damaging undersea pipelines on the seabed as a result of the hurricane being a prime example).

In addition, real time access to this position information is vitally important to mutual initial response efforts (e.g., having the last known position of a MODU if it sank). The Eighth District initiative allows access to such information from all types of MODU's and offshore facilities, whereas, the LRIT regulations are limited to self-propelled MODU's. Furthermore, § 169.205(c) only requires position reports from MODU's that are actually underway on an international voyage. Because of the foregoing dissimilarities between the Eighth District voluntary program and the LRIT regulation, the Coast Guard does not agree that LRIT can be an effective substitute for the Eighth District voluntary program.

One commenter stated that the LRIT exemption for vessels operating within 20 nm of land with properly operating AIS is somewhat confusing and suggested it may be clearer to state for vessels that may otherwise be required to operate an LRIT system, the operation of such a system is not required for vessels when operating within 20 nm of the baseline or within the internal waters of the U.S. The Coast Guard disagrees. The AIS exemption under § 169.235(a) applies only to ships certified for operation within 20 nm of the coast, and is derived from the SOLAS regulation that exempts ships

operating solely in sea area A1. Therefore, the AIS exemption does not apply when a ship enters from seaward the area within 20 nm of the coast, or otherwise operates beyond 20 nm from the coast.

One commenter recommended the Coast Guard recognize the added MDA value already provided by the Automated Secure Vessel Tracking System to vessels that voluntarily provide more frequent polling by allowing partial relief from the Notice of Arrival updating requirements. The Coast Guard disagrees. Specifically identifying a system operated by a commercial entity outside of the LRIT paradigm is inappropriate when it does not meet the LRIT performance standards and functional requirements. Additionally, data exchanges with the NOA system are outside the scope of this rulemaking. We are not changing NOA requirements in this rulemaking since LRIT does not satisfy NOA update report requirements.

C. Coast Guard Resources and Enforcement

One commenter noted the regulation made no reference to penalties imposed upon vessels that are required to transmit LRIT data but fail to do so, and also asked if the Coast Guard planned to intercept such vessels. This regulation is issued under the authority of 46 U.S.C. 70115 and 33 U.S.C. 1231; these statutes provide for civil and criminal penalties for violation of the statute or regulations promulgated under them by persons subject to the statute and regulation. See 46 U.S.C. 70119 (civil penalty of $25,000 per day of violation) and 70120 (in rem liability of the vessel for the civil penalty and certain costs), and 33 U.S.C. 1232 (civil penalty of $25,000 per day, indexed for inflation and currently $32,500 per day, liable in rem against the ship; knowing and willful violations constitute a class D felony; and denial of entry).

To ensure effective compliance, the Coast Guard will develop and implement a compliance strategy that includes enforcement in appropriate cases. As with all new requirements, this compliance strategy will include elements of education of the regulated public supplemented by use of our civil penalty authority and, in the event of a knowing and willful violation, we will consider referring the matter to the Department of Justice for criminal prosecution.

The most important goal of this regulation is to obtain compliance so that the Coast Guard achieves maritime domain awareness and is able to detect anomalies and take measures to satisfy its mission to protect the safety and security of our ports and waterways. For example, if a ship that is arriving at a U.S. port has submitted an advance notice of arrival but its LRIT information has not been received, the COTP will be notified. Taking this and other information into account, the COTP may exercise various enforcement options including, when and if necessary, holding the ship offshore in U.S. territorial seas until it can be boarded and checked for security concerns.

One commenter expressed concern about the impact of a large number of LRIT transmissions on the Coast Guard's staffing capacity and asked if the cost-benefit analysis included increased recruitment and staffing needs. The Coast Guard does not anticipate a need for an increase in Coast Guard staffing as a result of this rulemaking. The LRIT information collection and dissemination within the Coast Guard will be automated as much as possible. There are already USCG systems in place for displaying this type of information and we are planning to incorporate the LRIT information into those systems.

One commenter asked several questions concerning ship-by-ship inspections of LRIT equipment. The first question asked whether inspections would require more specialized training of inspectors and whether additional inspectors would be required. The Coast Guard does not envision the need for more specialization in order to conduct inspections of ships carrying LRIT equipment. In many cases, this equipment will be the same as currently installed on SOLAS ships to satisfy GMDSS requirements, which will implement some degree of remote testing capability. We do not anticipate a need to increase the number of inspectors.

The commenter's next question asked what the inspection would entail. The Coast Guard expects the inspection of LRIT equipment to follow a similar inspection as currently required for GMDSS equipment.

The commenter's final question pertained to the length of time afforded to operators to fix problems with LRIT equipment. Coast Guard inspectors will work with vessel operators to determine a reasonable length of time needed to correct discrepancies. In making this determination, Coast Guard inspectors typically consider the details of the deficiency found, the ability and/or availability of personnel to affect corrective action, along with the availability of parts. As the LRIT system comes online and as new ships are entered into the system, the Coast Guard envisions utilizing a contract with a third party to verify the capability of shipboard LRIT equipment and its ability to meet LRIT performance standards.

D. Summary of Changes From Proposed Rule

This is a summary of changes from the proposed rule. We revised §§ 169.15, 169.215 and 169.240 to reflect the incorporation by reference of IMO Resolution MSC.254(83) regarding the master of a ship being allowed to switch off the ship's LRIT equipment when the ship is undergoing repairs in port or drydock or when the ship is laid up.

In § 169.5, our definition of ''gross tonnage'' remains the same as proposed in the NPRM, with the exception that at the end we note that we have incorporated the International Convention on Tonnage Measurement of Ships, 1969, by reference. We also referenced this tonnage convention in § 169.15, which lists materials incorporated by reference.

Finally, we revised the informational note in § 169.245 to identify the U.S. Coast Guard—and not a unit of the Coast Guard—as the Flag Administration whom U.S. ship masters notify when LRIT equipment is switched off, fails to operate, or regarding any other LRIT-related matters. All LRIT notifications for the U.S. Flag Administration, in addition to requests or questions about LRIT, should be communicated to the U.S. Coast Guard by e-mail addressed to *LRIT@uscg.mil*. If an additional means of communicating with the Coast Guard is established (e.g., phone number), we will revise the informational note in § 169.245 to reflect this change.

V. Incorporation by Reference

The Director of the Federal Register has approved the material in §§ 169.5, 169.215 and 169.240 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in § 169.15.

VI. Regulatory Evaluation

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

A. Executive Order 12866

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.

A final Regulatory Evaluation follows:

The Maritime Transportation Security Act, authorized the Coast Guard under the Department of Homeland Security Delegation No. 0170.1, to implement the use of LRIT for U.S. and foreign flag ships off the U.S. coastlines that are equipped with GMDSS, i.e., INMARSAT–C, or equivalent satellite technology. The carriage requirement for this equipment for foreign flag vessels is contained in the SOLAS Convention, 1974, as amended, and in 47 CFR part 80 for U.S. flag vessels. When implemented, LRIT, as an amendment to SOLAS, will enhance overall maritime domain awareness by providing the United States, as a Contracting Government to SOLAS, with the identities and current location information of vessels that are within 1,000 nm of the U.S. baseline, which includes vessels that may be in innocent passage or on the high seas. As an ancillary benefit, LRIT may also assist the Coast Guard in the area of search and rescue by reducing the response time to the location of vessels in distress.

This rule will affect U.S. and foreign flag SOLAS vessels that transit internationally. LRIT will affect vessels engaged on international voyages and would include passenger vessels carrying more than 12 passengers including high-speed craft, cargo ships 300 gross tonnage or more including high-speed craft, and self-propelled mobile offshore drilling units.

The equipment necessary to transmit LRIT data is not a new carriage requirement under this rule. With few exceptions, ships required to transmit LRIT information will not need to purchase new LRIT equipment. The affected U.S. flag vessel population is already required to carry the requisite GMDSS equipment onboard, as defined in 47 CFR part 80. This equipment should be operable and capable of transmitting a vessel's position automatically that meets the performance standards in IMO Resolutions MSC.210(81) and MSC.254(83) and that can transmit LRIT data as detailed in the ''Description of the LRIT System,'' Section III.B, above.

The Coast Guard also envisioned LRIT to be backward compatible with existing equipment onboard vessels and we do not have any data to suggest otherwise. We estimate that approximately 15 percent of U.S. flag vessels (about 70 out of the estimated 450) may need some type of equipment enhancement. Of that 15 percent, we estimate that two-thirds (about 47 of the 450 vessels) may need software or firmware upgrades in order to satisfy the LRIT requirement. There may be little to no cost for this activity as at least one manufacturer offers the software upgrades for free. Furthermore, we estimate that the remaining one-third (about 23 out of the 450 vessels) may need equipment upgrades (such as new GMDSS satellite communications equipment for example) in order to satisfy the LRIT requirement and may incur minimal costs as a result of this rule. We estimate the cost for a new GMDSS or equivalent satellite unit for LRIT to be around $3,000. If new units were needed on only 23 U.S. flag vessels, then the equipment cost incurred by industry would be less than $70,000 to fulfill the LRIT requirement.

The Coast Guard anticipates that crews will not have to engage in activities outside of their normal duties in order to comply with the LRIT requirement. The only requirement for each vessel is to have the GMDSS activated and transmitting LRIT information when the vessel is underway so its position can be reported automatically.

Contracting Governments that are entitled to request and receive the LRIT information will be required to pay for this service. The United States, as a Contracting Government, will incur the cost for vessels that transit within 1,000 nautical miles of the U.S. coastline that transmit their position signals to a data center that collects the information.

Based on information from the Coast Guard's Intelligence Coordination Center (ICC) and Marine Information for Safety and Law Enforcement (MISLE) data, we estimate that 3,000 vessels transit within 1,000 nautical miles of the U.S. coastlines on any given day and would be affected by this rule. To obtain the U.S. flag population of vessels, we utilized the Coast Guard's MISLE database and searched vessels that are SOLAS-certificated and that have an ''ocean'' route designation. Of the approximately 3,000 vessels that ICC estimated, approximately 450 are U.S. flag vessels and the remaining balance is foreign flag vessels that transit internationally.

The LRIT equipment will require a one-time activation and will remain on unless switched off as permitted by the vessel's Flag Administration, in circumstances detailed in SOLAS V/19–1.7, or in paragraph 4.4.1, of resolution MSC.210(81), as amended by resolution MSC.254(83). Once the crew activates the onboard equipment, information will be transmitted automatically from the vessel to an LRIT Data Center. More information on the LRIT System can be found in the ''Description of the LRIT System,'' Section III.C, of the NPRM.

Based on the SOLAS LRIT amendments, one transmission will be made every six hours, or four times a day, 365 days a year. A covered U.S. flag ship on international voyages is required to make transmissions in accordance with this schedule, including during routine port calls, until the international voyage terminates at a U.S. port. Likewise, a covered foreign flag ship that calls on a U.S. port must make transmissions in accordance with this schedule, also while in U.S. port, and the Coast Guard is entitled to continue to receive position reports until the ship has proceeded beyond 1,000 nm of the U.S. baseline or enters the territorial seas of another Contracting Government. Based on the foregoing, we estimate that foreign flag vessels would make approximately 10,200 transmissions per day (2,550 vessels × 4 transmissions per day) for a total of 3,723,000 transmissions per year (2,550 vessels × 4 transmissions per day × 365 days per year). We estimate that U.S. flag vessels would make approximately 1,800 transmissions per day (450 vessels × 4 transmissions per day) for a total of 657,000 transmissions per year (450 vessels × 4 transmissions per day × 365 days per year). The Coast Guard's Office of Navigation Systems estimates that each transmission would cost the U.S. Government $0.25, or even less if transmissions are purchased in bulk.

We estimate that the U.S. Government will incur data transmission costs of approximately $930,750 (3,723,000 transmissions × $0.25 per transmission) annually from foreign flag vessels and $164,250 (657,000 transmissions × $0.25 per transmission) annually from U.S. vessels for a total annual cost of $1,095,000.

B. 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.

We have reviewed this rule for potential economic impacts on small entities. Since the U.S. Government will incur costs associated with the transmission of information from a

vessel to the United States and we estimate that any equipment upgrade cost that may be incurred by a ship would be no more than $3,000 and that less than 23 ships would require such upgrades, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If you think that this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning these provisions or options for compliance, please consult with the Coast Guard personnel listed in the **FOR FURTHER INFORMATION CONTACT** section of this rule. Note, the Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

D. Collection of Information

This rule will call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow.

Title: Enhanced Maritime Domain Awareness via Electronic Transmission of Vessel Transit Data.

OMB Control Number: 1625–new.

Summary of the Collection of Information: Certain vessels will periodically report identity and position data electronically.

Need for Information: LRIT will enhance security by providing the United States with the identities and current location of vessels off its coast. The United States will then have sufficient time to evaluate the security risk posed by a vessel and then respond, if necessary, to reduce the risk of a possible security threat. In addition, there will also be an immediate safety benefit by enhancing the information available to SAR services. Accurate information on the location of a vessel in distress as well as vessels in the area that could lend assistance will save valuable response time to affect a timely rescue.

Proposed Use of Information: Provide the United States with identity and current location data for a vessel off its coast and assess whether there is a security risk or to assist rescue coordination centers response to a vessel in distress.

Description of the Respondents: Owners/operators of U.S. flag ships that trade internationally.

Number of Respondents: Approximately 450 vessels.

Frequency of Response: A one-time GMDSS LRIT system initialization for each vessel, subsequent annual system check, and occasional logbook entries when a ship master switches off the LRIT equipment or the LRIT equipment fails to operate.

Burden of Response: 20 minutes per vessel.

Estimate of Total Annual Burden: 150 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to OMB for its review of the collection of information. OMB has not yet completed its review of this collection. Therefore, §§ 169.215, 169.230 and 169.245 in this rule may not be enforced until this collection is approved by OMB. We will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

You need not respond to a collection of information unless it displays a currently valid control number from OMB.

E. Federalism

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

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke*, 529 U.S. 89, 120 S.Ct. 1135, March 6, 2000.

The requirements in this rule that certain ships on international voyages have and operate LRIT equipment that meets international performance standards fall into the categories of equipping ships and operating that equipment. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

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

H. Civil Justice Reform

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

I. Protection of Children

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

J. 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.

K. 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.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule uses the following technical standards:

- IEC 60945, Fourth edition 2002–08, Maritime navigation and radiocommunication equipment and systems—General requirements—Methods of testing and required test results.
- IMO Resolution MSC.202(81), adopted on May 19, 2006, Adoption of Amendments to the International Convention for the Safety of Life at Sea, 1974, as Amended.
- IMO Resolution MSC.210(81), adopted May 19, 2006, Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships.
- IMO Resolution MSC.254(83), adopted October 12, 2007, Adoption of Amendments to the Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships.
- IMO Resolution A.694(17), adopted November 6, 1991, General Requirements for Shipborne Radio Equipment Forming Part of the Global Maritime Distress and Safety System (GMDSS) and for Electronic Navigational Aids.
- International Convention on Tonnage Measurement of Ships, 1969.

The sections that reference these standards and the locations where these standards are available are listed in 33 CFR 169.15.

M. Environment

We have analyzed this rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(d), of the Instruction. This rule concerns vessel equipment requirements that will contribute to a higher level of marine safety and maritime domain awareness for U.S. port and waterways. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 169

Endangered and threatened species, Incorporation by reference, Marine mammals, Marine safety, Navigation (water), Radio, Reporting and recordkeeping requirements, Vessels, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 169 as follows:

PART 169—SHIP REPORTING SYSTEMS

■ 1. The authority citation is revised to read:

Authority: 33 U.S.C. 1230(d), 1231; 46 U.S.C. 70115, Department of Homeland Security Delegation No. 0170.1.

§ 169.1 [Amended]

■ 2. Amend § 169.1 as follows:

■ a. In the section heading, remove the word ''subpart'' and add, in its place, the word ''part''; and

■ b. In the last sentence, add the words ''maritime security and domain awareness,'' immediately after ''navigation safety,''.

■ 3. In § 169.5, revise the section heading; add introductory text and add, in alphabetical order, the definitions of the terms ''Administration'', ''Cargo ship'', ''Flag Administration'', ''Gross tonnage'', ''High speed craft'', ''High speed passenger craft'', ''International voyage'', ''Long range identification and tracking (LRIT) information or position report'', ''LRIT Data Center'', ''Mobile offshore drilling unit'', ''Passenger ship'', and ''United States'' to read as follows:

§ 169.5 How are terms used in this part defined?

As used in this part—

Administration means the Government of the State whose flag the ship is entitled to fly.

Cargo ship means any ship which is not a passenger ship.

Flag Administration means the Government of a State whose flag the ship is entitled to fly.

Gross tonnage means tonnage as defined under the International Convention on Tonnage Measurement of Ships, 1969 (Incorporated by reference, see § 169.15).

* * * * *

High speed craft means a craft that is operable on or above the water and is capable of a maximum speed equal to or exceeding $V=3.7\times displ^{.1667}$, where ''V'' is the maximum speed and ''displ'' is the vessel displacement corresponding to the design waterline in cubic meters.

High speed passenger craft means a high speed craft carrying more than 12 passengers.

International voyage means a voyage from a country to which the present International Convention for the Safety of Life at Sea (SOLAS), 1974 applies to a port outside such country, or conversely. For U.S. ships, such voyages will be considered to originate at a port in the United States, regardless of when the voyage actually began. Such voyages for U.S. ships will continue until the ship returns to the United States from its last foreign port.

Long range identification and tracking (LRIT) information or *position report* means a report containing the following information:

(1) The identity of the ship;

(2) The position of the ship (latitude and longitude); and

(3) The date and time of the position provided.

LRIT Data Center means a center established by a SOLAS Contracting Government or a group of Contracting

Governments, or in the case of the International Data Center, by IMO, to request, receive, process, and archive LRIT information. An LRIT Data Center may be National, Regional, Co-operative or International.

* * * * *

Mobile offshore drilling unit means a self-propelled vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.

Passenger ship means a ship that carries more than 12 passengers.

* * * * *

United States means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

■ 4. In subpart A, add § 169.15 to read as follows:

§ 169.15 Incorporation by reference: Where can I get a copy of the publications mentioned in this part?

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. Also, it is available for inspection at the Coast Guard, Office of Navigation Systems (CG–54132), 2100 Second Street, SW., Washington, DC 20593–0001, and is available from the sources indicated in this section.

(b) *International Electrotechnical Commission (IEC) Bureau Central de la Commission Electrotechnique Internationale*, 3 rue de Varembé, P.O. Box 131, 1211 Geneva 20, Switzerland.

(1) IEC 60945, Fourth edition 2002–08, Maritime navigation and radiocommunication equipment and systems—General requirements—Methods of testing and required test results, incorporation by reference approved for § 169.215.

(2) [Reserved]

(c) *International Maritime Organization (IMO)*, 4 Albert Embankment, London SE1 7SR, U.K.

(1) IMO Resolution MSC.202(81), adopted on May 19, 2006, Adoption of Amendments to the International Convention for the Safety of Life at Sea, 1974, as Amended, incorporation by reference approved for § 169.240.

(2) IMO Resolution MSC.210(81), adopted on May 19, 2006, Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships, incorporation by reference approved for §§ 169.215 and 169.240.

(3) IMO Resolution MSC.254(83), adopted on October 12, 2007, Adoption of Amendments to the Performance Standards and Functional Requirements for the Long-Range Identification and Tracking of Ships, incorporation by reference approved for §§ 169.215 and 169.240.

(4) IMO Resolution A.694(17), adopted on November 6, 1991, General Requirements for Shipborne Radio Equipment Forming Part of the Global Maritime Distress and Safety System (GMDSS) and for Electronic Navigational Aids, incorporation by reference approved for § 165.215.

(5) International Convention on Tonnage Measurement of Ships, 1969, incorporation by reference approved for § 169.5.

■ 5. Add subpart C, consisting of §§ 169.200 through 169.245, to read as follows:

Subpart C—Transmission of Long Range Identification and Tracking Information

Sec.

169.200 What is the purpose of this subpart?
169.205 What types of ships are required to transmit LRIT information (position reports)?
169.210 Where during its international voyage must a ship transmit position reports?
169.215 How must a ship transmit position reports?
169.220 When must a ship be fitted with LRIT equipment?
169.225 Which Application Service Providers may a ship use?
169.230 How often must a ship transmit position reports?
169.235 What exemptions are there from reporting?
169.240 When may LRIT equipment be switched off?
169.245 What must a ship master do if LRIT equipment is switched off or fails to operate?

Subpart C—Transmission of Long Range Identification and Tracking Information

§ 169.200 What is the purpose of this subpart?

This subpart implements Regulation 19–1 of SOLAS Chapter V (SOLAS V/19–1) and requires certain ships engaged on an international voyage to transmit vessel identification and position information electronically. This requirement enables the Coast Guard to obtain long range identification and tracking (LRIT) information and thus heightens our overall maritime domain awareness, enhances our search and rescue operations, and increases our ability to detect anomalies and deter transportation security incidents.

§ 169.205 What types of ships are required to transmit LRIT information (position reports)?

The following ships, while engaged on an international voyage, are required to transmit position reports:

(a) A passenger ship, including high speed passenger craft.

(b) A cargo ship, including high speed craft, of 300 gross tonnage or more.

(c) A mobile offshore drilling unit while underway and not engaged in drilling operations.

§ 169.210 Where during its international voyage must a ship transmit position reports?

The requirements for the transmission of position reports, imposed by the United States, vary depending on the relationship of the United States to a ship identified in § 169.205.

(a) *Flag State relationship*. A U.S. flag ship engaged on an international voyage must transmit position reports wherever they are located.

(b) *Port State relationship*. A foreign flag ship engaged on an international voyage must transmit position reports after the ship has announced its intention to enter a U.S. port or place under requirements in 33 CFR part 160, subpart C.

(c) *Coastal State relationship*. A foreign flag ship engaged on an international voyage must transmit position reports when the ship is within 1,000 nautical miles of the baseline of the United States, unless their Flag Administration, under authority of SOLAS V/19–1.9.1, has directed them not to do so.

§ 169.215 How must a ship transmit position reports?

A ship must transmit position reports using Long Range Identification and Tracking (LRIT) equipment that has been type-approved by their Administration. To be type-approved by the Coast Guard, LRIT equipment must meet the requirements of IMO Resolutions A.694(17), MSC.210(81), and MSC.254(83), and IEC standard IEC 60945 (Incorporated by reference, see § 169.15).

§ 169.220 When must a ship be fitted with LRIT equipment?

A ship identified in § 169.205 must be equipped with LRIT equipment—

(a) Before getting underway, if the ship is constructed on or after December 31, 2008.

(b) By the first survey of the radio installation after December 31, 2008, if the ship is—

(1) Constructed before December 31, 2008, and

(2) Operates within—

(i) One hundred (100) nautical miles of the United States baseline, or

(ii) Range of an Inmarsat geostationary satellite, or other Application Service Provider recognized by the Administration, with which continuous alerting is available.

(c) By the first survey of the radio installation after July 1, 2009, if the ship is—

(1) Constructed before December 31, 2008, and

(2) Operates within the area or range specified in paragraph (b)(2) of this section as well as outside the range of an Inmarsat geostationary satellite with which continuous alerting is available. While operating in the area or range specified in paragraph (b)(2) of this section, however, a ship must install LRIT equipment by the first survey of the radio installation after December 31, 2008.

§ 169.225 Which Application Service Providers may a ship use?

A ship may use an Application Service Provider (ASP) recognized by its Administration. Some Communication Service Providers may also serve as an ASP.

§ 169.230 How often must a ship transmit position reports?

A ship's LRIT equipment must transmit position reports at 6-hour intervals unless a more frequent interval is requested remotely by an LRIT Data Center.

§ 169.235 What exemptions are there from reporting?

A ship is exempt from this subpart if it is—

(a) Fitted with an operating automatic identification system (AIS), under 33 CFR 164.46, and operates only within 20 nautical miles of the United States baseline,

(b) A warship, naval auxiliaries or other ship owned or operated by a SOLAS Contracting Government and used only on Government non-commercial service, or

(c) A ship solely navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada.

§ 169.240 When may LRIT equipment be switched off?

A ship engaged on an international voyage may switch off its LRIT equipment only when it is permitted by its Flag Administration, in circumstances detailed in SOLAS V/19–1.7, or in paragraph 4.4.1, of resolution MSC.210(81), as amended by resolution MSC.254(83) (Incorporated by reference, see § 169.15).

§ 169.245 What must a ship master do if LRIT equipment is switched off or fails to operate?

(a) If a ship's LRIT equipment is switched off or fails to operate, the ship's master must inform his or her Flag Administration without undue delay.

(b) The master must also make an entry in the ship's logbook that states—

(1) His or her reason for switching the LRIT equipment off, or an entry that the equipment has failed to operate, and

(2) The period during which the LRIT equipment was switched off or non-operational.

Note to § 169.245: For U.S. vessels, the U.S. Coast Guard serves as the Flag Administration for purposes of this section. All LRIT notifications for the U.S. Flag Administration, in addition to requests or questions about LRIT, should be communicated to the U.S. Coast Guard by e-mail addressed to *LRIT@uscg.mil*.

Dated: April 22, 2008.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.

[FR Doc. E8–9182 Filed 4–28–08; 8:45 am]

BILLING CODE 4910–15–P