

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at those meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period began on September 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim

final rule was published on this action and provided for a 30-day comment period, and no comments were received.

#### List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Note: This section will appear in the Code of Federal Regulations.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

#### **PART 948—IRISH POTATOES GROWN IN COLORADO**

Accordingly, the interim final rule amending 7 CFR part 948 which was published at 61 FR 36813 on July 15, 1996, is adopted as a final rule without change.

Dated: September 19, 1996.  
Robert C. Keeney,  
*Director, Fruit and Vegetable Division.*  
[FR Doc. 96-24503 Filed 9-24-96; 8:45 am]  
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#### **DEPARTMENT OF TRANSPORTATION**

##### **Coast Guard**

##### **33 CFR Part 160**

[CGD 94-089]

RIN 2115-AF19

##### **Advance Notice of Arrivals, Departures, and Certain Dangerous Cargoes**

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

**SUMMARY:** The Coast Guard has amended the requirements for notice of arrival and departure by applying them to vessels over 300 gross tons and eliciting added information. In addition, the Coast Guard amended the requirement for all foreign vessels, regardless of the gross tonnage, to give notice of arrival and departure anywhere within the Seventh Coast Guard District. These changes are necessary for the Coast Guard to implement more efficiently its programs for safety of vessels and for protection of the marine environment. They should aid in the identification and elimination of substandard ships from U.S. waters, improve emergency response, and facilitate the enforcement of rules governing Certificates of Financial Responsibility.

**EFFECTIVE DATE:** October 25, 1996.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble

are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA, 3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

**FOR FURTHER INFORMATION CONTACT:** CDR Dennis Haise, Operating and Environmental Standards Division, Vessel and Facility Operating Standards Branch (202) 267-6451.

#### **SUPPLEMENTARY INFORMATION**

##### **Regulatory History**

On January 17, 1996, the Coast Guard published a notice of proposed rulemaking entitled Advance Notice of Arrivals, Departures, and Certain Dangerous Cargoes in the Federal Register (61 FR 1183). The Coast Guard received 5 letters commenting on the proposal. No public meeting was requested, and none was held.

##### **Background and Purpose**

The Ports and Waterways Safety Act of 1972 [86 Stat. 424], as amended by the Port and Tanker Safety Act of 1978 [92 Stat. 1271], authorizes the Secretary of the Department in which the Coast Guard is operating to require the receipt of notice from any vessel destined for or departing from a port or place under the jurisdiction of the United States. This notice may include any information necessary for the control of the vessel and for the safety of the port or marine environment. See 33 U.S.C. 1223; 33 CFR Part 160, Subpart C. In April, 1994, the Coast Guard established its Port-State-Control Program (PSCP) to eliminate substandard ships from U.S. waters. It developed a comprehensive risk-based targeting scheme to set boarding priorities and used funds provided in the Coast Guard's 1994 appropriations act for this purpose. See Senate Report Number 103-150. The primary factors used in determining which vessels to board are the vessel's: flag, owner, operator, classification ("class") society, age, and operating history. The PSCP's success hinges on the ability of the Coast Guard to identify and examine those vessels that seem to pose the greatest risks to life, property, and the environment. By making vessels provide added information about arrival and departure, field units of the Coast Guard will be able to efficiently target vessels and allocate inspection resources.

Applying this rule to U.S. vessels as well will also help the Captain of the Port (COTP) to effectively direct

inspection resources by applying similar criteria to insure that the highest risk U.S. vessels are also inspected along with foreign vessels posing similar risks.

As the Coast Guard continues enforcing financial responsibility for water pollution under the Oil Pollution Act of 1990, it is important that only those vessels that have satisfactorily demonstrated their ability to meet their responsibility to the U.S. resulting from their discharge of oil or hazardous substances be permitted into U.S. waters.

A Certificate of Financial Responsibility (COFR) is required of certain vessels over 300 gross tons, is issued by the Coast Guard, and documents a vessel's compliance with U.S. law on financial responsibility for water pollution. The current threshold of 1600 gross tons for notice means that the Coast Guard gets no advance notice of arrival for many vessels over 300 gross tons required to carry COFRs. Reducing the tonnage threshold will enhance the ability of the COTP to verify compliance by vessels over 300 gross tons with the requirements for the carriage of COFRs.

In 1989, because of the large number of foreign vessels arriving at the port of Miami without notice, in unsafe condition and without proper manning, the Coast Guard amended 33 CFR Part 160 so that all foreign vessels calling in the zone of the COTP Miami had to give notice of arrival.

The COTP Miami runs a vigorous compliance program aimed at these low-tonnage and often substandard ships. However, vessel operators have been able to avoid the stricter requirements and potential enforcement of the COTP Miami by changing their ports of call to other, nearby COTP zones (such as those of Jacksonville, Savannah, Charleston, or Tampa).

To remove the incentive to avoid scrutiny by the COTP Miami, and to improve the effectiveness of efforts by the Seventh Coast Guard District to eliminate substandard ships from U.S. waters, the requirement for notice of arrival by all commercial non-public foreign vessels needs expansion to cover all COTP zones in the Seventh District. The boundaries of the Seventh District appear at 33 CFR 3.35-1(b); the District comprises South Carolina, Georgia, and most of Florida, along with the island possessions of the U.S. pertaining to Puerto Rico and the Virgin Islands.

#### Discussion of Comments and Changes

One comment was received concerning the exemption of Oil Spill Recovery Vessels (OSRVs) from the requirements of this rule based on the

premise that these vessels are normally in a standby status and only get underway for actual spill response operations or for training. The Coast Guard agrees with this position and has amended the rules to exclude OSRVs from all reporting requirements except § 160.215 (Notice of Hazardous Condition).

One comment suggested that the rule and the Port State Control Program (PSCP) only focuses on foreign flag vessels and therefore U.S. vessels should be exempt. The Coast Guard agrees that most of the emphasis for this increase in reporting is because of PSCP and is directed at foreign flag vessels, however, U.S. vessels are also targeted for boarding based on their history of performance. Part of the focus of this rulemaking is to allow the COTP to use this data to better direct the use of limited resources. The Coast Guard bears the responsibility to insure compliance with U.S. law by both foreign and domestic vessels. There are provisions within the rule that permit vessels operating exclusively within a COTP zone or on a fixed schedule to forgo these requirements once the COTP has been informed of their operations.

One of the comments suggested that the applicability be changed to include those vessels of exactly 300 gross tons and higher. The applicability in this rule mirrors that of the requirements for COFRs and, therefore, has not been changed.

Another comment suggested that the rulemaking address tugs towing barges if the barge is over 300 gross tons with both the tug and barge being identified in the reporting process. Barges are exempt from the notification process by the nature of their trade and because of the size of the U.S. barge fleet. The reporting of all tugs and barges would cause an excessive workload for both the Coast Guard and the industry. However, a tug of over 300 gross tons on a voyage of 24 hours or more will still have to comply with the advance notice of arrival requirements.

One comment suggested that § 160.207(c)(8) be changed to "last port of call" vice "Name of port or place of departure". The Coast Guard disagrees. This wording is explained in the definitions section (§ 160.203) of the regulations and is clear as written.

One comment addressed changing § 160.207(c)(10) to read "Estimated date and time of arrival in U.S. waters and date and time of arrival at a specific berth or anchorage". The Coast Guard disagrees. The requirement as written is clear and provides adequate information to allow for directing resources. More specific information would only cause a

greater burden on the industry as specific data would require more frequent changes.

One comment recommended adding the intent to bunker to the notification requirements. The Coast Guard disagrees. Although this has some merit, the COTP can require a 4 hour advance notice of transfer under 33 CFR 156.118(b) for lightering or fueling operations if deemed necessary in a particular port.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget 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 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule, for the most part, would incorporate into an established reporting regime what are becoming customary procedures. The items made matters of notice are readily available to those from whom we seek them. Modern electronic communication simplifies their reporting. Some units of the Coast Guard already receive much of this information from the shipping industry on a voluntary basis.

#### Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether this rule, if adopted, would have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Small businesses generally operate fewer vessels and would, therefore, have fewer reports to make. As the notice can be spoken and need follow no particular format, costs could be limited to those of a brief telephone call. In the Seventh Coast Guard District, all foreign vessels, regardless of size, have had to give notice since 1989, with no reported economic impact.

In an effort to minimize the impacts of the reporting requirements, current

§ 160.201 already contains several exemptions from the reporting requirements. Notwithstanding the changes this rule would make to § 160.201(c)(1), these exemptions would remain.

Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This rule contains collection-of-information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The section numbers are §§ 160.207, 160.211, and 160.213, and the corresponding approval number is OMB Control Number 2115-0557.

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under paragraph 2.B.2e(22) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A Determination of Categorical Exclusion is available in the docket for inspection or copying 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 set out in the preamble, the Coast Guard amends 33 CFR Part 160 as follows:

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

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

2. In 160.201, paragraphs (b), (c) introductory text, (c)(1), and (c)(3)(i) through (c)(3)(iii) are revised, and paragraphs (c)(3)(iv) through (c)(3)(x) are added to read as follows:

#### § 160.201 Applicability and exceptions to applicability.

\* \* \* \* \*

(b) This part does not apply to recreational vessels under 46 U.S.C. 4301 *et seq.* and, except § 160.215, does not apply to:

(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, and

(2) Oil Spill Recovery Vessels (OSRVs) when engaged in actual spill response operations or during spill response exercises.

(c) Section 160.207 does not apply to the following:

(1) Each vessel of 300 gross tons or less, except a foreign vessel of 300 gross tons or less entering any port or place in the Seventh Coast Guard District as described by 3.35-1(b) of this chapter.

\* \* \* \* \*

(3) \* \* \*

(i) Name of the vessel;

(ii) Country of registry of the vessel;

(iii) Call sign of the vessel;

(iv) International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

(v) Name of the registered owner of the vessel;

(vi) Name of the operator of the vessel;

(vii) Name of the classification society of the vessel;

(viii) Each port or place of destination;

(ix) Estimated dates and times of arrivals at and departures from these ports or places; and

(x) Name and telephone number of a 24-hour point of contact.

\* \* \* \* \*

3. In § 160.203, new definitions, for “gross tons” and “operator”, are added in alphabetical order, and the definition for “public vessel” is revised, to read as follows:

#### § 160.203 Definitions.

\* \* \* \* \*

*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.

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

4. In § 160.207, paragraphs (c)(1) through (c)(5) are revised, and paragraphs (c) (6) through (11) are added, to read as follows:

#### § 160.207 Notice of arrival: Vessels bound for ports or places in the United States.

\* \* \* \* \*

(c) \* \* \*

(1) Name of the vessel;

(2) Country of registry of the vessel;

(3) Call sign of the vessel;

(4) International Maritime

Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

(5) Name of the registered owner of the vessel;

(6) Name of the operator of the vessel;

(7) Name of the classification society of the vessel;

(8) Name of the port or place of departure;

(9) Name of the port or place of destination;

(10) Estimated date and time of arrival at this port or place; and

(11) Name and telephone number of a 24-hour point of contact.

5. In § 160.211, paragraph (a) introductory text and paragraphs (a) (1)–(8) are revised and paragraphs (a) (9)–(16) are added to read as follows:

#### § 160.211 Notice of arrival: Vessels carrying certain dangerous cargo.

(a) The owner, agent, master, operator, or person in charge of a vessel, except a barge, bound for a port or place in the United States and carrying certain dangerous cargo, shall notify the Captain of the Port of the port or place of destination at least 24 hours before entering that port or place of the:

(1) Name of the vessel;

(2) Country of registry of the vessel;

(3) Call sign of the vessel;

(4) International Maritime

Organization (IMO) international number or, if the vessel does not have

an assigned IMO international number, the official number of the vessel;

(5) Name of the registered owner of the vessel;

(6) Name of the operator of the vessel;

(7) Name of the classification society of the vessel;

(8) Name of the port or place of departure;

(9) Name of the port or place of destination;

(10) Estimated date and time of arrival at this port or place;

(11) Name and telephone number of a 24-hour point of contact;

(12) Location of the vessel at the time of the report;

(13) Name of each of the certain dangerous cargoes carried;

(14) Amount of each of the certain dangerous cargoes carried;

(15) Stowage location of each of the certain dangerous cargoes carried; and

(16) Operational condition of the equipment under § 164.35 of this chapter.

\* \* \* \* \*

6. In § 160.211(b), paragraph (b) is amended by removing the reference “(a)(8)” and adding, in its place, the references “(a)(4) and (a)(8) through (16)”.

7. In § 160.213, paragraph (a) introductory text and paragraphs (a) (1)–(7) are revised and paragraphs (a) (8)–(15) are added to read as follows:

**§ 160.213 Notice of departure: Vessels carrying certain dangerous cargo.**

(a) The owner, agent, master, operator, or person in charge of a vessel, except a barge, departing from a port or place in the United States for any other port or place and carrying certain dangerous cargo, shall notify the Captain of the Port or place of departure at least 24 hours before departing, unless this notification was made within 2 hours after the vessel's arrival, of the:

(1) Name of the vessel;

(2) Country of registry of the vessel;

(3) Call sign of the vessel;

(4) International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;

(5) Name of the registered owner of the vessel;

(6) Name of the operator of the vessel;

(7) Name of the classification society of the vessel;

(8) Name of the port or place of departure;

(9) Name of the port or place of destination;

(10) Estimated date and time of arrival at this port or place;

(11) Name and telephone number of a 24-hour point of contact;

(12) Name of each of the certain dangerous cargoes carried;

(13) Amount of each of the certain dangerous cargoes carried;

(14) Stowage location of each of the certain dangerous cargoes carried; and

(15) Operational condition of the equipment under § 164.35 of this chapter.

\* \* \* \* \*

(8) In § 160.213(b), paragraph (b) is amended by removing the reference “(a)(7)” and add, in its place, the references “(a)(4) and (a) (8) through (15)”.

Dated: September 17, 1996.

J.C. Card,

*Rear Admiral, U.S. Coast Guard, Chief, Marine Safety and Environmental Protection.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WA43-7116; FRL-5608-7]

### Approval and Promulgation of Air Quality Implementation Plans; Washington; Revision to the State Implementation Plan Vehicle Inspection and Maintenance Programs

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

**ACTION:** Final rule.

**SUMMARY:** In this action, EPA is approving the Inspection and Maintenance (I/M) State Implementation Plan (SIP), for Washington State. On August 21, 1995, Washington submitted SIP revision requests to the EPA to satisfy the requirements of sections 182(b)(4) and 182(c)(3) of the Clean Air Act, (1990) and Federal I/M rule 40 CFR part 51, subpart S. These SIP revisions will require vehicle owners to comply with the Washington I/M program in the two Washington ozone nonattainment areas classified as “marginal” and in the three carbon monoxide nonattainment areas classified as “moderate”. This revision applies to the Washington counties of Clark, King, Pierce, Snohomish, and Spokane.

**EFFECTIVE DATE:** This rule is effective as of September 25, 1996.

**ADDRESSES:** Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101, and the Washington

State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Cooper, Office of Air Quality, (OAQ-107), 1200 6th Avenue, Seattle, WA 98101, (206) 553-6917.

### SUPPLEMENTARY INFORMATION:

#### I. Clean Air Act Requirements

The Clean Air Act, as amended in 1990 (CAA or Act), requires States to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) required any ozone nonattainment area which has been classified as “marginal” (pursuant to section 181(a) of the Act) or worse with an existing I/M program that was part of a SIP, or any area that was required by the 1977 Amendments to the Act to have an I/M program, to immediately submit a SIP revision to bring the program up to the level required in past EPA guidance or to what had been committed to previously in the SIP, whichever was more stringent. All carbon monoxide nonattainment areas were also subject to this requirement to improve existing or previously required programs to this level. In addition, any ozone nonattainment area classified as moderate or worse must implement a basic or an enhanced I/M program depending upon its classification, regardless of previous requirements.

Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for State I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The States were to incorporate this guidance into the SIP for all areas required by the Act to have an I/M program. Ozone nonattainment areas classified as “serious” or worse with populations of 200,000 or more, and CO nonattainment areas with design values above 12.7 ppm and populations of 200,000 or more, and metropolitan statistical areas with populations of 100,000 or more in the northeast ozone transport region, were required to meet EPA guidance for enhanced I/M programs.

The EPA has designated two areas as ozone nonattainment in the State of Washington. The Puget Sound ozone nonattainment area is classified as marginal and contains King, Pierce, and Snohomish counties. The Vancouver Air Quality Maintenance Area is classified as marginal and contains Clark county. Additionally, three areas in Washington state are designated as CO nonattainment areas. Both the Spokane Carbon Monoxide Nonattainment area (Spokane County) and the Puget Sound Carbon Monoxide