

(iv) Sales of aircraft and aircraft parts under the Act are intended for principals only. Sales offerings will caution prospective purchasers not to buy with the expectation of acting as brokers, dealers, agents, or middlemen for other interested parties.

(6) The failure of a purchaser to comply with the sales contract terms and conditions may be cause for suspension and/or debarment, in addition to other administrative, contractual, civil, and criminal (including, but not limited to, 18 USC 1001) remedies which may be available to DoD.

(7) Aircraft parts will be made available in two ways:

(i) DRMS may, based on availability and demand, offer for sale under the Act whole unflyable aircraft, aircraft carcasses for cannibalization, or aircraft parts, utilizing substantially the same provisions outlined in paragraphs (a) through (d)(6) of this section for flyable aircraft.

(A) If USDA directs that DRMS set aside parts for sale under the Act, USDA must provide listings of parts required, by National Stock Number and Condition Code.

(B) Only qualified airtanker operators which fly the end-term aircraft will be allowed to purchase unflyable aircraft, aircraft carcasses, or aircraft parts applicable to that end-item.

(C) FMVs are not required for aircraft parts. DRMS must utilize historic prices received for similar parts in making sale determinations.

(ii) As an agency of the Federal government, USDA remains eligible to receive no-cost transfers of excess DoD aircraft parts under the FPMR.

#### **§ 171.6 Reutilization and transfer procedures.**

Prior to any sales effort, the Secretary of Defense shall, to the maximum extent practicable, consult with the Administrator of GSA, and with the heads of other Federal departments and agencies as appropriate, regarding reutilization and transfer requirements for aircraft and aircraft parts under this Act (see Chapter 4 of DoD 4160.21-M, paragraphs B 2 b (1) through B 2 b (3)).

(a) DoD reutilization:

(1) USDA shall notify Army, Navy, and/or Air Force, in writing, of their aircraft requirements as they arise, by aircraft type listed in Attachment 1 of Chapter 4 of DoD 4160.21-M.

(2) If a DoD requirement exists, the owning Military Service shall advise USDA, in writing, that it will be issuing the aircraft to satisfy the DoD reutilization requirement. If USDA disputes the validity of the DoD

requirement, it shall send a written notice of dispute to the owning Military Service and ADUSD(L/MDM) within thirty (30) days of its notice from the Military Service. ADUSD(L/MDM) shall then resolve the dispute, in writing. The aircraft may not be issued until the dispute has been resolved.

(b) Federal agency transfer:

(1) The Military Service must report aircraft which survive reutilization screening to GSA Region 9 on a Standard Form 120. GSA shall screen for Federal agency transfer requirements in accordance with the FPMR.

(2) If a Federal agency requirement exists, GSA shall advise USDA, in writing, that it will be issuing the aircraft to satisfy the Federal agency requirement. If USDA disputes the validity of the Federal requirement, it shall send a written notice of dispute to the owning Military Service and ADUSD(L/MDM) within thirty (30) days of its notice from the Military Service. ADUSD(L/MDM) shall then resolve the dispute, in writing. The aircraft cannot be issued until the dispute has been resolved.

(c) The Military Services shall:

(1) Report aircraft which survive transfer screening and are ready for sale to Headquarters, Defense Reutilization and Marketing Service, ATTN: DRMS-LMI, Federal Center, 74 Washington Avenue North, Battle Creek, Michigan 49017-3092. The Military Services must use a DD Form 1348-1A, DTID, for this purpose.

(2) Transfer excess DoD aircraft to the Aerospace Maintenance and Regeneration Center (AMARC), Davis-Monthan AFB, AZ, and place the aircraft in an "excess" storage category while aircraft are undergoing screening and/or wildfire suppression aircraft sale. Aircraft shall not be available nor offered to airtanker operators from the Military Service's airfield. The Military Service shall be responsible for the AMARC aircraft induction charges. The gaining customer will be liable for all AMARC withdrawal charges, to include any aircraft preparation required for AMARC. Sale of parts required for aircraft preparation is limited to those not required for the operational mission forces, and only if authorized by specific authority of the respective Military Service's weapon system program manager.

#### **§ 171.7 Reporting requirements.**

Not later than 31 March 2000, the Secretary of Defense must submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(a) The number and type of aircraft sold under this authority, and the terms and conditions under which the aircraft were sold.

(b) The persons or entities to which the aircraft were sold.

(c) An accounting of the current use of the aircraft sold.

(d) USDA must submit to Headquarters, Defense Reutilization and Marketing Service, ATTN: DRMS-LMI, Federal Center, 74 Washington Avenue North, Battle Creek, Michigan, 49017-3092, not later than 1 February 2000, a report setting forth an accounting of the current disposition of all aircraft sold under the authority of the Act.

(e) DRMS must compile the report, based on sales contract files and (for the third report element) input from the USDA. The report must be provided to HQ DLA not later than 1 March 2000. HQ DLA shall forward the report to DoD not later than 15 March 2000.

#### **§ 171.8 Expiration.**

This part expires on 30 September 2000.

Dated: May 25, 1999.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 99-13703 Filed 5-28-99; 8:45 am]

BILLING CODE 5000-01-M

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 169**

[USCG-1999-5525]

RIN 2115-AF82

### **Mandatory Ship Reporting Systems**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard is implementing two mandatory ship reporting systems in an effort to reduce the threat of ship strikes to endangered northern right whales (also known as the North Atlantic right whale). Based on a proposal by the United States, the International Maritime Organization adopted a resolution to establish these systems. The mandatory ship reporting systems are designed to inform mariners of the presence of whales in certain areas, so that mariners travelling in those areas can take actions to avoid collisions with the whales.

**DATES:** This interim rule is effective July 1, 1999. Comments and related material must reach the Docket Management

Facility on or before July 1, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 1, 1999.

**ADDRESSES:** Please submit your comments and related material by one of the following methods to assist us in maintaining the integrity of the public docket:

(1) By mail to the Docket Management Facility (USCG-1999-5525), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this rule, call Mr. Edward LaRue, Office of Waterway Services (G-MWV), Coast Guard, telephone 202-267-0416. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1999-5525), indicate the specific section of this document to which each comment applies, and give

the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one method so that duplicative filings of an individual comment will not be recorded in the public docket. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Public Meeting**

We do not plan to hold a public meeting. You may request one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **Regulatory Information**

This rule is being published as an interim rule and is being made effective on July 1, 1999. This rule is not preceded by a notice of proposed rulemaking. The northern right whale is an extremely endangered species, under threat of extinction, and currently less than 300 of the whales exists. The U.S. and the international community are committed to the protection of this valuable resource. As discussed in the background section of this preamble, attention has focused on protecting the critical feeding and calving areas for these whales. The Coast Guard is committed to meet the International Maritime Organization (IMO) July 1, 1999 effective date for establishing mandatory reporting systems to protect critical habitat areas of the northern right whale. The IMO only took action on the issue in December 1998. The reporting system set out in this interim rule requires operators of affected vessels to report certain information on location and route. In return, mariners will receive information on whale location and avoidance. The interim rule does not mandate any specific navigation practices. It has taken a cooperative effort over the last five months (between the Coast Guard and the National Oceanic and Atmospheric Administration) to design the simple

and effective notification system provided in this interim rule. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(b)(B), that notice, and public procedure on the notice, before the effective date of this rule is impracticable and contrary to the public interest in protecting these whales. We still encourage public comments on this interim rule, and we may amend the rule as necessary to respond to comments received during the comment period.

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

In response to the endangered status of northern right whales (also known as the North Atlantic right whale), the United States and the IMO have taken steps to identify and implement measures to reduce the likelihood of collisions between ships and whales. These steps have addressed the problem on three fronts: mariner awareness, identification of whale movements, and efforts to promote recovery of the whale species.

In spite of these efforts, ship collisions with endangered right whales continue to occur. Mandatory ship reporting systems have the potential to protect these endangered whales through direct communication with ships and their operators in high risk areas of information to potentially reduce collisions.

Two systems are necessary because right whales frequent two distinct areas of the Atlantic coast of the United States. The northeastern reporting system is located mainly off the coast of Massachusetts and comprises the right whale's main feeding grounds. The southeastern reporting system is located off the coasts of Florida and Georgia and makes up the only known calving grounds for the right whale.

Right whales aggregate to feed and calve in five seasonal habitats along the eastern seaboard from Florida to Nova Scotia: (a) off the southeastern United States; (b) in the Great South Channel, Massachusetts; (c) in Massachusetts and Cape Cod Bays, Massachusetts; (d) in the lower Bay of Fundy, Canada; and (e) over the southern Nova Scotian shelf, Canada (notably those areas referred to as Browns Bank and Roseway Basin). Portions of these areas have been designated "critical habitats" for northern right whales or as a national marine sanctuary under U.S. domestic law and as conservation areas under Canadian law. Right whale sightings also occur outside these areas as the whales migrate between the southeastern and northeastern United States; however, there is not enough information about the migratory

corridor to establish a reporting system for these areas.

This rulemaking will create a new part 169 in Title 33 Code of Federal Regulations (CFR) entitled "Ship Reporting Systems." Subpart A will establish general requirements for all ship reporting systems. Subpart B will establish specific requirements for two mandatory ship reporting systems. The statutory authority for this project is 33 U.S.C. 1230(d), which is an amendment to Section 11 of the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1230(d)). Violators will be subject to the penalties authorized under the PWSA.

There is no statutory deadline for these mandatory ship reporting systems to be in place. However, when the systems were adopted by the International Maritime Organization (IMO), Maritime Safety Committee (MSC) at its 70th session December 7, 1998 (Resolution MSC.85(70)), it was agreed these systems would come into force no sooner than 6 months after adoption. The effective date agreed by IMO is July 1, 1999, and it was expected that the United States' actions to put a reporting program in place would be completed by that date.

The legal definitions of the boundaries for the two mandatory ship reporting systems are located in §§ 169.105 and 169.115.

#### **Physical Characteristics, Behavior and Habitat**

*Description of the northern right whale.* Northern right whales reach lengths of 45 to 55 feet (13.72 m to 16.76 m) and are black in color. The best field identification marks are a broad back with no dorsal fin, irregular bumpy white patches (callosities) on the head, and a distinctive two-column, V-shaped blow. They have paddle-like flippers nearly as wide as they are long, and a broad, deeply notched tail. Right whales are slow moving, with occasional speeds of up to 5 to 6 knots. They are often difficult to spot in rough water and at night due to their low profile and dark coloration.

*Behavior.* Right whale behavior undoubtedly plays a role in their vulnerability to ship collisions. For example, whales may appear in surface-active groups, groups of four to five whales engaging in frequent physical contact. Right whales also engage in skim feeding, in which they gather plankton by swimming slowly at the surface with their mouth open. During both feeding and surface active situations, whales are focused on the activity and appear to be unaware of approaching ships. Right whales also spend long periods resting at the

surface, a behavior called "logging." Mothers nursing young are frequently observed logging. Additionally, calves have limited diving capacities and spend most of their time at the surface.

*Northeastern United States Habitats.* Right whales occur seasonally in Massachusetts and Cape Cod Bays (peak season: January through April), the Great South Channel (peak season: April through June), and Jeffreys Ledge (peak season: July through mid-December). The first two areas are federally designated critical habitats for right whales. Stellwagen Bank (in Massachusetts Bay) and Jeffreys Ledge are located in the federally designated Gerry E. Studds Stellwagen Bank National Marine Sanctuary.

In late winter-early spring, right whales arrive in Cape Cod Bay. Springtime hydrographic conditions in Cape Cod Bay concentrate copepods and other zooplankton in dense patches on which the whales feed. The majority of right whales leave Cape Cod Bay by mid-May; however, whales remain throughout the summer in some years.

In late spring and early summer, right whales in the Great South Channel east of Cape Cod are found in the greatest numbers. Hydrographic changes and circulation patterns result in springtime blooms of zooplankton and copepods. Right whales feed both at the surface and at depths depending on where copepods are concentrated. In many years, right whales usually congregate in the highest density concentrations of the copepod on either the eastern or western side of the Great South Channel.

Right whales generally migrate from the Great South Channel region in June when copepod levels decrease and water temperatures increase. Many of the whales move north to the Bay of Fundy arriving in mid-June. The remainder are likely scattered throughout the Gulf of Maine or move onto the eastern side of the Nova Scotian shelf. By mid-summer, most of the whales are in feeding areas in the lower Bay of Fundy and on the Nova Scotian Shelf. These areas are used in early winter when the whales begin to migrate to winter habitats along the eastern coast, including the southern calving grounds.

*Southeastern United States Habitats.* The coastal waters of the southeastern United States, especially the shallow waters between Savannah, Georgia, and Cape Canaveral, Florida, are right whale calving grounds in the winter. Peak abundance and calving in this region occurs from December through March, but the winter calving season can begin as early as September and end as late as

mid-April. Mothers and newborn calves tend to stay in the southeast region until spring when they migrate northward.

#### **Hydrographic and Meteorological Elements**

*Northeastern United States.* The hydrographic and meteorological elements existing in the area create conditions favorable to production of right whale food sources and therefore contribute to their presence in the area. These elements can also adversely affect the ability of mariners to detect whales.

The mandatory ship reporting system covers an area of high ship traffic density and variable weather. The northern part of the northeastern reporting system encompasses the approaches to Boston Harbor (the largest seaport in New England), Massachusetts Bay, and Cape Cod Bay. The area is extensively marked with aids to navigation, and Loran C and differential Global Positioning System provide excellent coverage. The weather in the area is changeable, with frequent thick fog and strong and variable tides.

The southern part of the northeastern ship reporting system is located approximately 30 miles (55.58 km) southeast of Nantucket Island, Massachusetts, just east of the Nantucket Shoals Area to Be Avoided, and encompasses the western half of the Great South Channel, part of the Traffic Separation Scheme (TSS) in the approach to Boston, Massachusetts (Boston TSS), north to Race Point, Cape Cod, Massachusetts. The Great South Channel is bounded to the west by Cape Cod and the Nantucket shoals and to the east by the Georges Bank fishing grounds. Loran C and differential Global Positioning System provide excellent coverage. The Boston TSS is marked by buoys every 15 nautical miles (27.8 km). Fishing is heavy to the east of the TSS. Radar navigation is poor due to the low topography and distances from land. There are few calm days. During certain seasons, and in particular during peak whale season, the weather is usually foggy. Moreover, fog usually accompanies a calm sea state, while clear visibility often brings rough seas. Haze in the area also causes problems with visibility. Heavy storms and rain are common.

*Southeastern United States.* The hydrological and meteorological elements in the coastal waters off Georgia and northeastern Florida provide favorable conditions for right whales to calve. This area is their only known calving grounds. The Georgia coastline, between the Savannah River on the north and St. Mary's River on the south, is partly submerged at flood tide,

and is broken by tidal rivers and marshes covered with dense grass. Beaches are sandy and flat. The coastline of Florida is a long, low-profile barrier beach. Aids to navigation mark all critical dangers. Loran C and differential Global Positioning System provide excellent coverage. Radar navigation is difficult due to the low topography. The water is generally clear. Severe storms including hurricanes are common. Visibility is generally excellent, with light winds and attendant low sea state. In winter, early morning coastal fog is common, limiting visibility until the fog lifts with the rising sun. Winter storms are common and move quickly through the region.

### Characteristics of Ship Traffic

*Northeastern United States.* There is quite a variety and volume of ship traffic operating in the northeastern mandatory ship reporting area. Fishing vessels, recreational vessels, and commercial traffic all frequent the area. Major shipping lanes exist in this area such as the Boston TSS, the Great South Channel, and the traffic lanes to transit north to the Bay of Fundy, Canada.

*Southeastern United States.* The ship traffic in the southeastern reporting system includes fishing vessels, military vessels, and commercial traffic. Customary shipping lanes cross the area and include those that enter several area ports.

### Discussion of Interim Rule

This interim rule establishes a new part 169 entitled "Ship Reporting Systems." Subpart A establishes general requirements for all ship reporting systems. Subpart B establishes specific requirements for two mandatory ship reporting systems. These two mandatory reporting systems are identified as WHALESNORTH and WHALESSOUTH.

The reporting systems are off the eastern coast of the United States and cover the two main population centers for northern right whales. The coordinates chosen for the systems were derived through feedback from aerial surveys conducted in the areas. It was determined that the southeastern reporting system, WHALESSOUTH, need only operate during calving season as this is the only period when whales are found in the area. The northeastern reporting system, WHALESNORTH, is to operate year-round.

Ships are to report general information that includes ship's identification, time of report, course, speed, destination, estimated time of arrival, and intended track. Sensitive,

commercial information contained in these reports will be kept confidential.

Ships that report to the shore-based authority will receive a return message acknowledging their entry into the system. The return message will advise ship operators on watch of appropriate action that they can take to reduce the risk of collision with the right whales. The information conveyed would include warnings of the risk of hitting right whales, where to obtain seasonal right whale advisories, and where to consult for information about precautionary measures that mariners may take to reduce the risk of hitting right whales.

### Regulatory Evaluation

This interim 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).

We expect the economic impact of this interim rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

### Benefits

Generally, mandatory ship reporting systems would enhance mariners' awareness of the presence of northern right whales and provide them with pertinent information to avoid collisions. The increase of awareness may reduce the risk of ship strikes on the endangered northern right whale.

### Private Industry Costs

The mariner's burden of reporting by radio is minimal. The reporting requirement uses the mariner's existing equipment and won't add to the expenses of the owner/operator. The average communications process (transmission/reception) is 5 minutes. It is only necessary to report when first entering the area. The cost of the issuing advisory information will be borne by the Coast Guard and the National Marine Fisheries Service (NMFS). Minimal ship maneuvers are expected in the avoidance of whales.

### Government Costs

The Coast Guard and NMFS estimated the cost of this program to be approximately \$208,000 for Fiscal Year 1999 and \$176,000 annually for future years. The burden of this regulation will be split equally between the Coast

Guard and NMFS. Therefore, it is estimated that the cost to the Coast Guard would be \$104,000 for the first year and \$88,000 annually thereafter. Coast Guard personnel will not be utilized; a private contractor will be hired to operate and maintain facilities.

The Coast Guard would bear the burden associated with relaying non-INMARSAT-C reports through Coast Guard radio stations. Ships not equipped with INMARSAT-C would be required to report in standard format to the shore-based authority, either through narrow band direct printing (SITOR) or HF, MF, or VHF-voice communication systems.

This will add to the workload of staff currently assigned to the Coast Guard unit, but will not create an additional billet. Therefore, there is no additional expense.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed 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. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, the Coast Guard has reviewed it for potential economic impact on small entities.

The nature of the reports that are made is not such that a significant burden will be imposed on anyone. Reports will be accepted in many different forms to allow for the flexibility that many small entities require. It is anticipated very few small entities operate ships of 300 gross tons or greater. The Coast Guard has attempted to make compliance with this requirement as simple as possible.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Edward LaRue at the phone number listed under **FOR FURTHER INFORMATION CONTACT**.

### Collection of Information

This rule provides 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. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

**Title:** Mandatory Ship Reporting System for the Northeastern and the Southeastern coasts of the United States.

**Summary of the Collection of Information:** The collection involves ships reporting by radio to a shore-based authority when entering the area covered by the reporting system. The ships will receive, in return, an advisory on protection of whales and sources of additional information.

**Need for Information:** The northern right whale is an endangered species. Mortality rates attributed to ship strikes account for up to 50 percent of recorded fatalities. The purpose of establishing mandatory ship reporting systems is to reduce the likelihood of collisions between ships and northern right whales in the areas established with critical habitat designation.

**Proposed Use of Information:** Reports will be used to record ship traffic in the reporting systems and provide information to minimize interaction with northern right whales.

**Description of the Respondents:** All ships of 300 gross tons or greater that transit the reporting systems are required to participate in the reporting systems, except government vessels exempted from reporting by regulation V/8-1(c) of the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS).

**Number of Respondents:** We estimate that this information collection would affect approximately 367 respondents annually.

**Frequency of Response:** The frequency of response is on occasion. Owners or operators are required to respond only when entering a mandatory reporting area.

**Burden of Response:** The burden of response is \$8,448 per year.

**Number of transmissions:** 4,400

**Hour burden per transmission:** .08 hours

**Salary rate for affected personnel\*:** \$24 per hour

$4,400 \text{ transmissions per year} \times .08 \text{ hours per transmission} \times \$24 \text{ per hour} = \$8,448 \text{ per year.}$

\* Salary rate as per COMDTINST 7310.1E Hourly Standard Rates for Personnel.

**Estimated Total Annual Burden:** The reporting burden is 352 hours to industry. Annual cost to the government for Fiscal year 1999 is \$208,000 and \$176,000 annually for future years.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

On May 26, 1999, the Coast Guard received an emergency approval number from OMB on the information collection requirements. The OMB approval number is 2115-0640. Emergency OMB approval is effective for six months. The Coast Guard will submit the requirements to OMB for three-year approval.

### Federalism

We have analyzed this interim rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This interim rule would not impose an unfunded mandate.

### Taking of Private Property

This interim rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

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

### Protection of Children

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

### Environment

We considered the environmental impact of this interim rule and concluded that under figure 2-1, paragraph (34)(d) and (e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 169

Endangered and threatened species, Environmental protection, Mandatory ship reporting, Marine mammals, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Telecommunications, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR chapter I by adding a new part 169 to subchapter P to read as follows:

## PART 169—SHIP REPORTING SYSTEMS

### Subpart A—General

Sec.

169.1 What is the purpose of this subpart?

169.5 What terms are defined?

169.10 What geographic coordinates are used?

### Subpart B—Establishment of two mandatory ship reporting systems for the protection of northern right whales

169.100 What mandatory ship reporting systems are established by this subpart?

169.102 Who is the shore-based authority?

169.105 Where is the northeastern reporting system located?

169.110 When is the northeastern reporting system in effect?

169.115 Where is the southeastern reporting system located?

169.120 When is the southeastern reporting system in effect?

169.125 What classes of ships are required to make reports?

169.130 When are ships required to make reports?

169.135 How must the reports be made?

169.140 What information must be included in the report?

**Authority:** Section 313, Pub. L. 105-383, 112 Stat. 3411, 3424, 33 U.S.C. 1230(d).

### Subpart A—General

#### § 169.1 What is the purpose of this subpart?

This subpart prescribes the requirements for mandatory ship reporting systems. Ship reporting systems are used to provide, gather, or exchange information through radio reports. The information is used to provide data for many purposes including, but not limited to: navigation safety, environmental protection, vessel traffic services, search and rescue, weather forecasting and prevention of marine pollution.

#### § 169.5 What terms are defined?

(a) *Mandatory ship reporting system* means a ship reporting system that requires the participation of specified vessels or classes of vessels, and that is established by a Government or Governments after adoption of a proposed system by the International Maritime Organization (IMO) as complying with all requirements of regulation V/8-1 of the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), except paragraph (e) thereof.

(b) *Shore-based authority* means the government appointed office or offices that will receive the reports made by ships entering each of the mandatory ship reporting systems. The office or offices will be responsible for the management and coordination of the

system, interaction with participating ships, and the safe and effective operation of the system. Such an authority may or may not be an authority in charge of a vessel traffic service.

#### § 169.10 What geographic coordinates are used?

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts where the referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

### Subpart B—Establishment of Two Mandatory Ship Reporting Systems for the Protection of Northern Right Whales

#### § 169.100 What mandatory ship reporting systems are established by this subpart?

This subpart prescribes requirements for the establishment and maintenance of two mandatory ship reporting systems for the protection of the endangered northern right whale (also known as the North Atlantic right whale). These two systems are designated for certain areas of the East Coast of the United States. One system is located in the northeast and is identified as WHALESNORTH. The other system is located in the southeast and is identified as WHALESSOUTH.

**Note:** 50 CFR 222.32 contains requirements and procedures concerning northern right whale approach limitations and avoidance procedures.

#### § 169.102 Who is the shore-based authority?

The U.S. Coast Guard is the shore-based authority for these mandatory ship reporting systems.

#### § 169.105 Where is the northeastern reporting system located?

Geographical boundaries of the northeastern area include the waters of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts. The coordinates (NAD 83) of the area are as follows: from a point on Cape Ann, Massachusetts at 42°39'N, 70°37'W; then northeast to 42°45'N, 70°13'W; then southeast to 42°10'N, 68°31'W; then south to 41°00'N, 68°31'W; then west to 41°00'N, 69°17'W; then northeast to 42°05'N, 70°02'W, then west to 42°04'N, 70°10'W; and then along the

Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Anne at 42°39'N, 70°37'W.

#### § 169.110 When is the northeastern reporting system in effect?

The mandatory ship reporting system in the northeastern United States operates year-round.

#### § 169.115 Where is the southeastern reporting system located?

Geographical boundaries of the southeastern area include coastal waters within about 25 nautical miles (45 kilometer) along a 90-nautical mile (170-kilometer) stretch of the Atlantic seaboard in Florida and Georgia. The area coordinates (NAD 83) extends from the shoreline east to longitude 80°51.6'W with the southern and northern boundaries at latitude 30°00'N and 31°27'N, respectively.

#### § 169.120 When is the southeastern reporting system in effect?

The mandatory ship reporting system in the southeastern United States operates during the period beginning on 15 November and ends on 16 April of each year.

#### § 169.125 What classes of ships are required to make reports?

Each ship of 300 gross tons or greater must participate in the reporting systems, except government ships exempted from reporting by regulation V/8-1(c) of SOLAS. However, exempt ships are encouraged to participate in the reporting systems.

#### § 169.130 When are ships required to make reports?

Participating ships must report to the shore-based authority upon entering the area covered by a reporting system. Additional reports are not necessary for movements made within a system or for ships exiting a system.

#### § 169.135 How must the reports be made?

(a) A ship equipped with INMARSAT C must report in IMO standard format as provided in Table 169.140 in § 169.140.

(b) A ship not equipped with INMARSAT C must report to the Coast Guard using other means, listed below in order of precedence—

(1) Narrow band direct printing (SITOR),

(2) HF voice communication, or

(3) MF or VHF voice communications.

(c) SITOR or HF reports made directly to the Coast Guard's Communications Area Master Station Atlantic (CAMSLANT) in Chesapeake, VA, or MF or VHF reports made to Coast Guard

activities or groups, should only be made by ships not equipped with INMARSAT C. Ships in this category must provide all the required information to the Coast Guard watchstander.

**§ 169.140 What information must be included in the report?**

Each ship report made to the shore-based authority must follow the

standard reporting and format requirements listed in table 169.140.

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**Table 169.140 Requirements for ship reports**

Telegraphy	Function	Information required
Name of system	System identifier	Ship reporting system WHALESNORTH or WHALES SOUTH.
A	Ship	The name, call sign or ship station identity, IMO number, and flag of the vessel.
B	Date and time of event	A 6-digit group giving day of month (first two digits), hours and minutes (last four digits).
E	True course	A 3-digit group.
F	Speed in knots and tenths of knots	A 3-digit group.
H	Date, time and point of entry into system	Entry time expressed as in (B) and entry position expressed as-  (1) a 4-digit group giving latitude in degrees and minutes suffixed with N(north) or S (south) and a 5-digit group giving longitude in degrees and minutes suffixed with E (east) or W (west); or  (2) True bearing (first 3 digits) and distance (state distance) in nautical miles from a clearly identified landmark (state landmark).
I	Destination and expected time of arrival	Name of port and date time group expressed as in (B).
L	Route information	Intended track.

Dated: May 26, 1999.

**T.H. Gilmour,**

*Captain, U.S. Coast Guard, Acting Assistant Commandant for Marine Safety and Environmental Protection.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[NM-9-1-5214a; FRL-6350-1]

**Approval and Promulgation of Implementation Plans; State of New Mexico and County of Bernalillo, New Mexico; State Boards**

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

**ACTION:** Direct final rule.

**SUMMARY:** This action approves the State Implementation Plan (SIP) revisions for Board composition and conflict of interest disclosure requirements submitted both by the State of New Mexico and by Albuquerque/Bernalillo County, NM. The SIP revisions were submitted by the County and the State to satisfy the Federal mandate, found in section 128 of the Federal Clean Air Act (the Act), and in response to a SIP call letter to the Governor of New Mexico dated July 19, 1989, requiring a cure to identified SIP deficiencies concerning State Boards.

The revisions were submitted by the Governor to EPA on April 20 and July 16, 1990, for the State portion, and on November 16, 1990, for the Albuquerque/Bernalillo County portion. Supplemental information was

submitted for Albuquerque/Bernalillo County on December 18, 1990, October 21, 1991, and November 22, 1991. These revisions correct deficiencies for the New Mexico Environmental Improvement Board (NMEIB) and the Albuquerque/Bernalillo County Air Quality Board in order to comply with section 128 of the Act. The EPA approval of these New Mexico SIP revisions make the revisions federally enforceable. Subsequent correspondence in February and March 1993 addressed eligibility for "public interest" Board member positions.

**DATES:** This action is effective on August 2, 1999, without further notice, unless EPA receives adverse comment by July 1, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register**