

103 vessels that transit VTS areas (3 percent of the non-SOLAS fleet) that have no company associated with the vessel due to missing company information in our data. We could not be certain if these vessels belong to small, large, or government entities and did not apportion these 103 vessels to one type of entity or another.

We estimated the cost of AIS per vessel in the first year will be \$9,330. As with the U.S. flag SOLAS fleet, annual cost following installation of AIS will have little impact on annual revenues—a less-than-1 percent impact on annual revenue for most small businesses. The first-year cost of this final rule, therefore, will again have the greatest impact on average annual revenue. To estimate the revenue impact on small businesses in the first year, the cost per vessel for AIS, \$9,330, was multiplied by the number of vessels owned by each company, then divided by the average annual revenue for each company. Of the 637 small businesses that own non-SOLAS vessels in VTS areas, we found revenue for 392 of them (62 percent). The results of the analysis for the non-SOLAS fleet in VTS areas with known company information are presented in Table 4.

TABLE 4.—EFFECT OF FIRST-YEAR COST ON AVERAGE ANNUAL REVENUE FOR SMALL ENTITIES OWNING DOMESTIC, NON-SOLAS VESSELS IN VTS AREAS

Percent of annual revenue that is first-year AIS cost	Number of entities with known annual revenues	Percent of entities with known annual revenues
0–3	303	77
> 3–5	32	8
> 5–10	28	7
> 10–20	15	4
> 20–30	10	3
> 30	4	1
Total	392	100

As shown, the final rule will have a less-than-3-percent impact on 77 percent of small businesses owning non-SOLAS vessels in the first year it is in effect. Approximately 92 percent have a less-than-10-percent impact. We concluded, therefore, that this final rule may have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in

understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. We provided small entities with a name, phone number, and e-mail address to contact if they had questions concerning the provisions of the final rules or options for compliance.

We have placed Small Business Compliance Guides in the dockets for the Area Maritime, Vessel, and Facility Security and the AIS rules. These Compliance Guides will explain the applicability of the regulations, as well as the actions small businesses will be required to take in order to comply with each respective final rule. We have not created Compliance Guides for part 101 or for the OCS Facility Security final rule, as neither will affect a substantial number of small entities.

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

Collection of Information

This final rule contains no new collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The reports required by this rule are considered to be operational communications, transitory in nature, and, do not constitute a collection of information under the Paperwork Reduction Act.

We did not receive comments regarding collection of information.

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. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, 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. In addition, under the authority of Title I of the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232 (specifically 33 U.S.C. 1223) and the MTSA this regulation will preempt any State action on the subject of Automatic Identification System carriage requirements. (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).) Our AIS carriage requirement rule falls into the category of equipping of vessels. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

We did not receive comments regarding Federalism.

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 Indian Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any 1 year. We discuss the effects of this final rule elsewhere in this preamble. However, this final rule is exempted from assessing the effects of the regulatory action as required by the Act because it is necessary for the national security of the United States (2 U.S.C. 1503(5)).

We did receive one comment regarding the Unfunded Mandates Reform Act; this comment is discussed within the “Discussion of Comments and Changes” section of this preamble.

Taking of Private Property

This final 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. We did receive one comment regarding the taking of private property; this comment is discussed within the “Discussion of Comments and Changes” section of this preamble.

Civil Justice Reform

This final 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. We did not receive comments regarding Civil Justice Reform.