

will not increase the number of responses.

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

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

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

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and will either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined, that to the extent states have a current requirement in effect for notices of vessel arrivals to a state agency, *e.g.*, notices to pilot authorities for pilot services, we do not intend to preempt those requirements with this rule.

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

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

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

List of Subjects in 33 CFR Part 160

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

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

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

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

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

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

2. Revise Subpart C to read as follows:

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

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