

common issues are included in the following discussion.

Commenters voiced the desire to ensure we align the maritime security requirements with other agencies and States that have already tightened security. We have been working with all federal agencies that have security or response related functions and in multiple venues to facilitate the various security initiatives related to homeland security. The joint team that worked on the interim rules found in today's **Federal Register** is just one example of this type of coordination. Other joint efforts include the ongoing work to implement the Presidential Decision Directive PDD-63 on critical infrastructure protection and The National Strategy for The Physical Protection of Critical Infrastructures and Key Assets. The Department of Homeland Security (e.g., Information Analysis and Infrastructure Protection) is leading this critical infrastructure program. We have also worked with State officials that have implemented maritime security requirements and have broadened this discussion to include all State level homeland security representatives to raise the awareness of maritime security and the importance of the marine elements of the national transportation system throughout our nation. Further interagency coordination on maritime security issues will also be established when the National Maritime Transportation Advisory Committee is in place. We anticipate that this Committee will assist in ensuring the continued coordination of all involved in maritime security on a national scope.

On a related issue, commenters requested to know how other cargo-handling requirements or proposals by other agencies would affect the maritime industry. Cargo security measures are addressed in 46 U.S.C. 70116, Secure Systems of Transportation, and Section 111, Performance Standards, of the MTSA. Section 111 has an implementation date of January 1, 2004. Other agencies of DHS (e.g., TSA and the Bureau of Customs and Border Protection) are responsible for these sections of the MTSA and will work with the Coast Guard in implementing them. The other agencies of DHS (e.g., TSA and the Bureau of Customs and Border Protection) are actively working toward developing the cargo security measures called for in these sections. They have assembled an interagency team to evaluate the proposals for supply chain security submitted for Operation Safe Commerce (OSC) and hope to have

cooperative agreements signed by summer 2003 to analyze supply chain security and to prototype procedural and technological solutions to supply chain security.

The information gleaned from the OSC effort, as well as information gleaned from other cargo security and productivity initiatives and from experience in other cargo security programs, will form the foundation of forthcoming cargo security regulations. We recognize that, although cargo security will be a component in vessel and facility security plans, facilities and vessels will not want to create and install cargo security technologies in advance of these cargo security requirements, out of a concern that the technologies they create or install will not meet the requirements. Guidelines will be developed and provided for acceptable cargo security measures that can be used until the cargo security requirements are promulgated. These guidelines will address procedural measures.

Again, related to interagency coordination, some commenters stressed the need to harmonize any requirements with the Research and Special Program Administration (RSPA). RSPA published a final rule amending 49 CFR part 172 in the **Federal Register** on Tuesday, March 25, 2003, (68 FR 14510). The final rule established new requirements to enhance the security of hazardous materials transported in commerce. Like the maritime security interim rules discussed in this rulemaking, shippers and carriers of certain highly hazardous materials must develop and implement security plans that address three issues: personnel security; unauthorized access; and enroute security. In addition, all shippers and carriers of hazardous materials must assure that their employee training includes security awareness training and, for shippers or carriers of certain highly hazardous materials, in depth employee training for each hazardous material employee. While RSPA's final rule allows training that is conducted and security plans that are prepared to meet regulations, standards, protocols, or guidelines issued by other entities, the final rule comes into effect before the interim rules for maritime security. Shippers and carriers must be in compliance with the RSPA final rule by September 26, 2003. Shippers and carriers that are required to meet the interim rules for maritime security discussed in this rulemaking will have to submit security plans no later than December 2003. As a result, shippers and carriers that must comply with both the RSPA

requirements and the maritime security requirements will need to ensure the September date is met. In order to minimize duplicative efforts, we recommend those shippers and carriers develop and implement the training and security plan components of the maritime security interim rules that also meet the standards of the revised 49 CFR 172.800 by September 26, 2003 in order to comply with the RSPA requirements. Because the RSPA regulations do not require plan review, by completing and implementing those portions of the maritime security interim rules that fulfill the RSPA regulations, a shipper or carrier will comply with the RSPA regulations. In other words, if a Vessel or Facility Security Plan is completed and implemented but not yet approved by the Coast Guard, if it contains the elements mandated by the RSPA regulations the shipper or carrier will comply with RSPA. Once the Vessel or Facility Security Plan is approved, both requirements will be met.

Finally, the Environmental Protection Agency (EPA) also has existing regulations for non-transportation-related onshore facilities and certain offshore facilities to prevent the discharge of oil and to prepare plans for responding to discharges of oil or substantial threats of discharges of oil. The Coast Guard and the EPA will continue to explore the impacts of these maritime security interim rules on facilities under EPA jurisdiction and will clarify the impacts of the maritime security regulations, if any, before publishing a final rule. These maritime security interim rules are not intended to require the owner or operator of a facility under EPA jurisdiction to amend the Facility Response Plan (FRP) or Spill Prevention Control and Countermeasure (SPCC) Plan. We do not intend to require the National Schedule Coordination Committee to modify the existing schedule for exercise. Additionally, we do not intend to require the owner or operator of a facility under EPA jurisdiction to amend the facility's EPA-approved training program, exercises, or drills or record keeping of such training, exercises, or drills. The maritime security regulations for training, exercises, drills, and record keeping in these interim rules are strictly within the purview of the new legislative mandate for security and may be combined with existing training, exercises, or drills, where appropriate.

Commenters requested that we recognize industry-developed standards that achieve an equivalent level of security to the SOLAS and ISPS Code requirements. We have been working on