

forwarded to the Transportation Security Administration's docket on that subject for consideration under that rulemaking, as appropriate.

38. *Advanced Notice of Arrival (ANOA) Requirements.* In our notice of meeting, we discussed that the Coast Guard had a notice of proposed rule titled "Notification of Arrival in U.S. Ports" published in the **Federal Register** on June 19, 2002 (67 FR 41659). In the meeting notice, we discussed our intent to review the notification requirements based on the additional provisions contained in the SOLAS amendments and the ISPS Code and asked for comments relating to these provisions (specifically SOLAS Chapter XI-2 Regulation 9). Additionally, we requested comments on how foreign flag vessel owners or operators could provide us advance notification on their compliance with the ISPS Code, part B. Finally, we asked if any notification requirements for the upper Mississippi River (above mile marker 235) should be considered for security purposes.

Several commenters suggested that it would be difficult for the vessel to provide the proper information mentioned in the SOLAS amendments or the ISPS Code. Several other commenters stated that the ANOA would be the proper place for a vessel to affirm that it is in compliance with the ISPS Code. Several comments were submitted with respect to the NOA rulemaking published in the **Federal Register** on June 19, 2002 (67 FR 41659). Several commenters expressed reservation at the value of requiring ANOA above mile marker 235 on the Mississippi River or any other remote locations and suggested it not be required.

We have reviewed the issue and currently believe that an alternative process being developed locally could be more effective. We are incorporating notice of arrival requirements in the Vessel Security interim rule found elsewhere in today's **Federal Register** to capture the information needed to assess a vessel's compliance with the security requirements of SOLAS Chapter XI-2 and the ISPS Code. The reporting requirements are similar to those required when the International Safety Management Code was implemented and will allow us to have the basic information needed for the evaluation of vessel's security compliance prior to the vessel entering port. Since the publication of the notice of meeting, the Coast Guard published its final rulemaking titled "Notification of Arrival in U.S. Ports" published in the **Federal Register** on February 28, 2003 (68 FR 9537). Comments submitted

to the public meeting notice that related to the proposed Notification of Arrival (NOA) rulemaking docket were not considered, because the proposed rulemaking comment period for the NOA rulemaking closed prior to the end of the public meeting notice comment period. As for the Mississippi River above mile marker 235 and other remote location reporting requirements, the interim rule does not add any further requirements to the notice of arrival requirements. We will continue reviewing notice of arrival information and the reporting requirements in the future to determine if further requirements are needed to ensure the security provisions are covered. Any additional requirements would be proposed in a future rulemaking.

39. *Foreign Port Assessments.* In our notice of meeting, we discussed Section 102 of the MTSA (46 U.S.C. 70108) which requires the Secretary to assess the effectiveness of antiterrorism measures maintained at a foreign port that serves vessels departing on a voyage to the U.S. In the notice, we discussed the concept of accepting a foreign government's approval of the respective port facility security plans, thereby attesting to their compliance with SOLAS and the ISPS Code, to provide the initial assessment of that foreign port's antiterrorism security. We also suggested that we were considering any other relevant information or the possibility of conducting audits in foreign ports and requested comments on these ideas.

Several commenters stated that accepting the foreign government's approval of a port facility security plan supports the international provisions and places the responsibility in the proper place. Many commenters did ask how the U.S. would keep track of those not meeting their obligations internationally with respect to the port facility requirements in SOLAS Chapter XI-2 and the ISPS Code. Many commenters also stated that the level of compliance of a facility would be directly related to the importance the Contracting Government places upon their obligations to meet the ISPS Code requirements.

It is each Contracting Government's responsibility to ensure compliance; however, it remains our intent to verify the compliance of foreign port facilities in the future and we will work with relevant Contracting Governments to facilitate these evaluations. In the "Area Maritime Security" (USCG-2003-14733) interim final rule found elsewhere in today's **Federal Register**, recognition of another Contracting Government's port facility security plan

is discussed. However, as mentioned, those vessels calling on foreign port facilities that do not meet the requirements of SOLAS and the ISPS Code may be subject to control and compliance measures, even if the vessel itself has a valid ISSC and an approved security plan.

40. *Automatic Identification System (AIS) Requirements.* In our notice of meeting, we discussed regulation V/19 of SOLAS, which sets forth the international requirements for the carriage of AIS, including an implementation schedule that was recently accelerated by the newly adopted amendments to SOLAS. Domestically, section 102 of the MTSA (46 U.S.C. 70114) gives the Secretary additional broad discretion to require AIS on any vessel operating on the navigable waters of the U.S. if necessary for the safety of navigation. In the notice, we discussed our consideration of AIS for security purposes as an essential element in ensuring the safety of navigation. We also noted that the Department of Transportation's Fall 2002 Unified Agenda (67 FR 74853, December 9, 2002), reflected a separate AIS notice of proposed rulemaking (NPRM) which we anticipated publishing during the early months of 2003. However, since the SOLAS amendments made in December 2002 and the MTSA enactment directly impacted this intended notice of proposed rulemaking, which had not taken into account the provisions of the MTSA, we withdrew the NPRM from consideration to assess the impact of both and evaluate options for further development. We did ask for comments in the notice of public meetings on whether certain vessel types currently listed in the MTSA AIS requirements should be considered candidates for exemption or if the MTSA AIS application was too limited and should be expanded. We also requested comments on whether there are navigable waters of the U.S. where the AIS carriage requirement should be waived because no security benefit would be derived from the requirement.

Several commenters stated that they believed small passenger vessels should not be required to carry AIS due to the equipment expense. Several other commenters asked that certain vessel types such as fleeting tugs, commercial assistance tugs, barges, and vessels of gross tonnage less than 300 on domestic voyages be exempted from the regulations. In contrast, a few commenters suggested that all vessels be required to carry AIS. Several other commenters provided specific areas and types of operations where the system