

develop a National Transportation System Security Plan (NTSSP) to define national strategy and provide tools to help manage risk across the nation's multi-modal transportation system.

The NTSSP will provide a comprehensive and systematic approach to the national transportation system's risk management. It will set the framework and establish goals for National Security Plans for each of the transportation modes.

#### **Incorporation by Reference**

The Director of the **Federal Register** has approved the material in § 101.115 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in § 101.115.

This interim rule incorporates by reference the International Ship and Port Facility Security (ISPS) Code, 2003 Edition. Specifically, we are incorporating the amendments adopted on 12 December 2002 to the Annex to The International Convention for the Safety of Life at Sea (SOLAS), 1974 and The International Code For the Security of Ships and of Port Facilities, also adopted on 12 December 2002. The material is incorporated for all of subchapter H. The interim rule titled "Automatic Identification System; Vessel Carriage Requirement" (USCG-2003-14757), found elsewhere in today's **Federal Register**, also incorporates material by reference.

#### **Regulatory Assessment**

This interim rule is a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has been reviewed by the Office of Management and Budget (OMB) under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of DHS. A draft assessment is available in the docket as indicated under **ADDRESSES**.

#### **Summary of Changes in the Cost Assessment From the Meeting Notice**

In a December 30, 2002, meeting notice [67 FR 79742], the Coast Guard presented a preliminary cost assessment estimating the cost to the regulated public of implementing MTSA, the ISPS code, and complying with applicable security NVICs. We asked for comments on our estimates and have changed portions of our cost assessments for the interim rules based on those comments.

We received a wide range of comments on the preliminary assessment. In some areas, commenters believed we were overestimating costs, in other areas they believed we were understating costs, and in many instances commenters believed we had accurately accounted for costs. As a result of the comments, our cost estimates for vessels and facilities increased, while our estimates for ports remained about the same. Additionally, the summary of costs we present below includes estimates for the OCS interim rule and the AIS interim rule, which were not part of our original assessment for the meeting notice.

For vessels, we decreased the population of U.S. flag SOLAS fishing vessels from 39 to 1. We also removed domestic MODUs and domestic freight barges regulated under 46 CFR subchapter I from our assessment, as the Coast Guard is not regulating these vessels in these interim rules. We added 70 foreign vessels that make port calls in the United States but are not subject to SOLAS. We increased the cost for hand-held radios and portable vapor detectors based on information received in the comments.

In our preliminary assessment, we assumed that equipment would be replaced every 10 years. Several commenters believed that this underestimated the replacement costs for several of the pieces of equipment that we considered. Specifically, several commenters stated some equipment would be broken, lost, or stolen before the 10-year replacement. We agreed that we should increase equipment costs to account for these situations. Because the replacement cycle of equipment will vary considerably among types of equipment and its uses, we increased the annual operations and maintenance (O&M) costs to more accurately capture increased replacement and repair. In the preliminary cost estimates, we assumed that annual O&M costs would be 5 percent of the initial capital purchase cost. In the *Cost Assessment* for this rulemaking, we increased annual O&M to 10 percent of the initial purchase cost. We also changed the annual cost for Vessel Security Officers to more accurately reflect the annual costs of the mariners that will perform security duties aboard their vessels. The net effect of these changes was to increase initial and annual costs for vessels.

Based on comments, we found there was some confusion about labor costs. Labor costs presented in our assessment are not the hourly wage paid to the employee; rather, they are the fully loaded cost to the company of carrying the position and providing employee

benefits. Additionally, there was some confusion about our estimates for Vessel Security Assessments and Vessel Security Plans. We believe that most companies will choose to develop one overarching assessment or plan, and then take that overarching document and add documentation specific to each vessel in their fleets. The "incremental" costs that we presented for each vessel type in the preliminary assessment represented the cost to add the vessel to the overarching company assessment or plan. Thus, in our preliminary cost assessment it may have seemed that it cost only a few dollars to develop a Vessel Security Assessment or Vessel Security Plan for a particular vessel. In fact, we believe that Vessel Security Assessments and Vessel Security Plans will represent a substantial initial cost, but adding vessels to an overarching plan will be a smaller, incremental cost. For annual updates to Vessel Security Assessments and Vessel Security Plans, we have increased the time required to amend these documents from 1 minute per vessel (0.02 hours) to 15 minutes per vessel (0.25 hours). The net effect of this change was to increase our annual costs slightly.

For facilities, we added certain fleeting areas to our population based on our assessment of the risk these areas pose. We also increased equipment costs for most items for Group A facilities in response to several comments. (We recognize that not all facilities will incur the same cost for personnel salaries, hire the same number of security guards, or spend the same amount of time drafting Facility Security Assessments and Facility Security Plans. For the purpose of this assessment, we have divided the facility population in two groups. One group is composed of one third of all facilities and will have more security duties, hire more guards, and spend more time drafting Facility Security Assessments and Facility Security Plans than the other group that is composed of the remaining two-thirds of the total population. Facilities in the first group are addressed in this assessment as "A" and facilities in the second group as "B.") As in our vessel assessment, we increased annual O&M costs from 5 percent of purchase cost to 10 percent of purchase cost to more accurately capture annual repair and replacement. We received several comments on the cost estimated for security guards. Commenters stated the \$40,000 annual cost presented was either too low, too high, or accurate. We believe these diverging opinions could be explained by the cost of living and the