

marinas, fishing vessels, recreational boats, airports, nuclear facilities, power plants, oil and gas pipelines, anchorages, mid-stream operations (e.g., bunkering), under-and-over water cables, communication networks, utilities providing service to key transportation assets, barge-fleeting areas, oil and gas production platforms, tunnels, non-regulated vessels, non-regulated facilities, Outer Continental Shelf (OCS) facilities, lock and dams, public water supplies (e.g., aqueducts), boat ramps, docks, un-inspected commercial vessels, passenger terminals, grain and aggregate facilities, ship yards, rail yards, tank farms, dikes, levees, sewer and water utility facilities, major marine or special events, waterways. Additional consideration should be given to the criticality of port operations as they relate to vessels and facilities that are directly regulated in parts 104 through 106 of Subchapter H.

The Coast Guard has also funded and contracted Port Security Assessments (PSA) in certain port areas throughout the U.S. The Coast Guard-sponsored PSA team, when completing the PSA, should review the AMS Assessment and AMS Plan for content and consistency. As part of the PSA, recommendations will be made to the COTP on strategies to improve their AMS Plan in the port area that was covered by the PSA. These recommendations will be part of the AMS Plan review process to ensure the AMS Committee becomes aware of the PSA results and revises the AMS Plan appropriately.

Subpart E—Area Maritime Security (AMS) Plan

The AMS Plan is primarily a communication and coordination document. This subpart establishes the core elements of the AMS Plan and its relationship to other plans. Core elements include: Details of operational and physical measures that must be in place at all MARSEC Levels; expected timeframes for responding to security threats and changes of MARSEC Levels; communications procedures; measures to ensure the security of vessels, facilities, and operations that are not covered by the security requirements in other parts of this subchapter; measures to ensure the security of the information in the AMS Plan; periodic review, audit, and updating procedures; and procedures for reporting security incidents. These requirements are consistent with the elements of a “port facility security plan” established in the ISPS Code.

This subpart also describes the review and approval process for the AMS Plan. The COTP will submit an AMS Plan to

the cognizant District Commander for review, with the Area Commander, or his/her designee, having the authority to approve or disapprove the plan. Approving officers may require additional assessment, mitigation strategies, or other measures by parties subject to Coast Guard jurisdiction as a condition of approving AMS Plans. This review chain has been established to promote plan coordination and consistency within and among Coast Guard Districts and Areas. AMS Plans will form the basis for the National Maritime Transportation Security Plan, established in the MTSA, and will be consistent with the National Transportation Security Plan. This subpart establishes exercise requirements under the AMS Plan. Exercises are an important way to improve system performance and ensure the AMS Plan remains current.

Although the exercise requirements established in this interim rule may be satisfied by a tabletop exercise, as our experience with AMS Plans matures, it may be desirable to require periodic field training exercises for the future. Therefore, public comment is requested on a requirement to conduct a maritime security field training exercise in each area covered by an AMS Plan at least once every 3 years. A maritime security field training exercise would require the deployment of personnel and equipment in accordance with the AMS Plan for the transportation security incident used for the exercise scenario. The purpose of the field training exercise would include: Evaluating the adequacy of the AMS Plan, exercising coordination and interoperability between responding security forces and exercising coordination and interoperability amongst command personnel of responding agencies (i.e., Unified Command) as well as their ability to effectively command and control the response to the transportation security incident. The maritime security field training exercise may be combined with other exercises (e.g., National Preparedness for Response Program (PREP) area exercises) provided a significant security/terrorist attack aspect is included in the scenario.

Finally, this subpart prescribes AMS Assessment and AMS Plan records to be maintained by the COTP for 5 years, and exercise records for 2 years.

Regulatory Assessment

This 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 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 the Department of Homeland Security. An Assessment is available in the docket as indicated under **ADDRESSES**. A summary of the Assessment follows:

Cost Assessment

This rule will affect stakeholders in 47 maritime areas containing 361 ports. The regulatory assessment and analysis documentation (see docket) details estimated costs to public and private stakeholders and does not include costs to the Coast Guard.

The total cost estimate of the rule, as it pertains to AMS, is present value (PV) \$477 million (2003–2012, 7 percent discount rate). The initial cost of the startup period (June 2003–December 2003) for establishing AMS Committees and creating AMS Plans is estimated to be \$120 million (non-discounted) for all areas. Following the startup period, the first year of implementation (2004), consisting of monthly AMS Committee meetings and AMS Plan exercises and drills for all areas, is estimated to be \$106 million (non-discounted). After the first year of implementation, the annual cost of quarterly AMS Committee meetings and AMS Plan exercises and drills for all areas is estimated to be \$46 million (non-discounted). The startup period cost associated with creating AMS Committees and AMS Plans for each area is the primary cost driver of the rule. Both the startup and implementation year period (2003–2004) combined is nearly half of the total 10-year PV cost estimate, making initial development, planning, and testing the primary costs of Area Maritime Security.

This rule will require all COTPs to establish security committees, plans, training drills, and exercises for their areas, with the participation of port stakeholders in their areas. The above costs to stakeholders will be paperwork, travel, and communication costs associated with participation in AMS Plan implementation.

We estimate 1,203,200 hours of paperwork and other associated planning activities during 2003, the initial period of security meetings and development. In 2004, the first year of implementation, we estimate the value will fall slightly to 1,090,400 hours of paperwork and other related information and communication activities related to monthly AMS Committee meetings. In subsequent years, we estimate the hours will fall to 488,800 hours—annually associated