

that foreign and U.S. requirements for seafarers' identification are consistent. The commenter also stated that the Coast Guard must ensure consistency among U.S. facilities. One commenter urged the Coast Guard to provide a comprehensive and clear explanation of whether the U.S. will be using the new ILO seafarers' identity documents.

We appreciate the commenters' concern regarding standards for seafarers' identification cards and the intentions of the U.S. with regard to international seafarers' identity documents, but these comments are beyond the scope of these rules. We have provided minimum requirements for determining whether an identification credential may be accepted in § 101.515. We also discussed, in detail, our intentions regarding seafarers' identification criteria in the preamble to the "Implementation of National Maritime Security Initiatives" temporary interim rule (68 FR 39264).

One commenter supported making foreign-flag shipowners, operators, and ship managers responsible for establishing a vetting program of their newly hired officers and crew, requiring background checks of their seafarers, and having the Coast Guard audit those firms to ensure the vetting is done. The commenter stated that having a system for vetting would eliminate a "loophole" that could result in loss of American lives and property.

We will continue a vigorous Port State Control program that will now include verifying compliance with SOLAS and the ISPS Code for foreign-flag SOLAS vessels. We have been working aggressively, both internationally and nationally, to develop seafarer's identification requirements that include the vetting of newly hired officers and crew and that also address background check requirements. Since the implementation of the International Safety Management Code (ISM Code), audits and other quality verifications are now standard in the international maritime community. Therefore, once a seafarer's identification requirement is established, we expect it will be audited under the ISM Code, and foreign flag vessels will not require specific Coast Guard oversight.

One commenter stated that part 102 provisions in the temporary interim rule should make the seafarers' identification documents that comply with ILO-185 acceptable as a substitute for or waiver of a visa for shore leave.

Part 102 has been reserved for the National Maritime Transportation Security Plan, not seafarers' identification. Section 101.515

addresses identification. The requirements in § 101.515 are not waivers for a visa. Visas are a matter of immigration law and are beyond the scope of these final rules.

#### *Part 102—National Maritime Transportation Security*

This part is reserved and concerns the development of the overarching National Maritime Transportation Security Plan for sustaining National Maritime Security initiatives.

#### *Procedural*

Fourteen commenters addressed the public comment period. One commenter stated that another comment period will be necessary once plans are approved. Six commenters said the 30-day comment period was inadequate and should be lengthened. Five commenters requested a longer comment period specifically for the AIS temporary interim rule.

We did not extend the comment period due to the need to follow the MTSA's statutory deadline for issuance of regulations. We acknowledge that these regulations are being implemented in a short period of time. In this final rule, we require security measures, assessments, and plans for those vessels and facilities we have determined may be involved in a transportation security incident. It is not clear how further comments will benefit security after plan submission is complete. We continually review guidance we issue to implement regulations and welcome feedback on guidance we have developed for these regulations. Regarding AIS specifically, we will be reopening the comment period on our previously published notice titled "Automatic Identification System; Expansion of Carriage Requirements for U.S. Waters" (USCG 2003-14878; July 1, 2003; 68 FR 39369).

Three commenters addressed the public meeting held on July 23, 2003. One commenter asked the Coast Guard to hold an additional public meeting in the Houston, Texas, area and proposed several dates in July 2003. Two commenters stated that many came to the public meeting believing that it would be not just a listening session, but also an opportunity to discuss and clarify the proposed regulations, in preparation for submitting written comments before the end of the comment period.

We acknowledge that these regulations are being implemented in a short period of time. Due to the time constraints of the MTSA, however, we held only one public meeting on July 23, 2003. Previous public meetings in

January 2002 and in January and February 2003 provided the public several opportunities to discuss various maritime security issues with Coast Guard representatives. Because the opportunity to hear public comments is so important, we set an agenda for the July 2003 meeting that allowed us to hear public comments rather than to debate the issues further. Additionally, the preambles to the temporary interim rules clearly stated our position on maritime security, which did not need further elucidation in a public setting at the expense of receiving stakeholders' comments.

#### *Additional Changes*

After further review of this part, we made several non-substantive editorial changes, such as adding plurals and fixing noun, verb, and subject agreements. In addition, the part heading in this part has been amended to align it with all the part headings within this subchapter.

#### **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. Copies of the material are available from the sources listed in § 101.115.

This final rule incorporates by reference SOLAS Chapters XI-1 and XI-2 and the ISPS Code. Specifically, we are incorporating the amendments adopted on December 12, 2002, to the Annex to SOLAS and the ISPS Code, also adopted on December 12, 2002. The material is incorporated for all of subchapter H. The final rule titled "Automatic Identification System; Vessel Carriage Requirement" (USCG-2003-24757), found elsewhere in today's **Federal Register**, has its own incorporation by reference section in 33 CFR 164.03.

#### **Regulatory Assessment**

This final rule is a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review. The Office of Management and Budget has reviewed it 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. A summary of comments on the assessments, our responses, and a summary of the assessments follow.

We received 11 comments relating to the cost of implementing these regulations. Nine commenters asked if DHS plans to offer annual grants to