

and international conventions. Additionally, we note that carrying AIS does not relieve mariners from following all applicable navigation rules, and therefore may not be enough reason to relieve vessel owners and operators of liability.

#### *Applicability*

Five commenters supported our approach to AIS implementation. Three commenters expressed enthusiastic support for the AIS system, and agreed with the time schedule and criteria for SOLAS and domestic AIS carriage. Two commenters supported the decision to phase-in the requirements of the AIS regulation, and supported implementing the AIS requirements as a security measure, rather than as a safety tool.

One commenter asked whether U.S. government research ships are required to have AIS installed. If yes, the commenter asked what the time frame required for this installation is. Another commenter asked whether law enforcement and military vessels will carry AIS.

Sections 164.01(c) and 164.46(a)(1) were amended or added by the temporary interim rule (68 FR 39367) and state that the rules do not apply to government or non-commercial vessels. Therefore, these regulations do not apply to military, government, or public vessels so long as they are not used commercially. We do, however, encourage these vessels to voluntarily use AIS, as operational conditions may warrant, as will the Coast Guard fleet.

One commenter requested that the implementation date for AIS in the St. Mary's River Vessel Traffic Service (VTS) area be changed to January 31, 2005, from December 31, 2003, as published in the temporary interim rule, arguing that the December 31, 2003, implementation date is impractical based on vessel operations in the locks.

We agree that having the implementation deadline towards the end of a limited shipping season is impractical, but we do not agree with changing the date to January 31, 2005, because that date is beyond the deadline date established by the MTSA. In response, we have amended 33 CFR 164.46(a)(3) to apply uniformly to all VTS areas by December 31, 2004. We have made conforming amendments to §§ 164.43 and 165.1704 to reflect this change.

We received 47 comments requesting changes to the applicability of the AIS carriage requirement. Two commenters requested that passenger vessels be exempt from this rule. Two commenters asked why AIS is being required on vessels 65 feet and over. Four

commenters disagreed in general with the applicability of the AIS rule. Two commenters asked the Coast Guard to suspend the AIS requirements for the domestic fleet. Two commenters asked that we exempt commercial marine assistance vessels that operate in a limited geographical area. One commenter requested that we exempt sailing vessels from the AIS requirement. One commenter suggested that we exempt charter boats. Eleven commenters requested that fishing vessels also be exempt from or be given a waiver from this rule, citing high costs and minimal benefits. Eight commenters urged the Coast Guard to amend the AIS carriage requirement to apply to passenger vessels carrying more than 150 passengers, not 50 passengers, stating that this would ease the regulatory burden for the most economically vulnerable companies, improve the cost-benefit ratio for the domestic fleet, and align with the applicability requirements in 33 CFR subchapter H. Ten commenters asked whether the requirements for AIS carriage apply if a vessel spends periods of reduced operations in a VTS area but conducts commercial operations only outside the VTS. One of these commenters further added that the AIS requirement could impose unintended consequences on VTS ports and shipyards because owners may now decide to moor their vessels to non-VTS areas.

Congress mandated an AIS carriage requirement on commercial vessels over 65-feet in length in 46 U.S.C. 70114, and provided explicit deadlines for AIS in the MTSA, § 102(e). Under the MTSA, the Coast Guard is granted discretion as to which passenger vessels should be required to have AIS. In crafting the temporary interim rule, the Coast Guard took into consideration that Vessel Bridge-to-Bridge Radiotelephone and Vessel Movement Reporting System (VMRS) requirements apply to passenger vessels over 100 gross tonnage and those certificated to carry 50 passengers, and that this population comprises a large segment of VTS users. We believe that AIS is a key component in providing safety and security in VTS and VMRS areas and should cover as many vessels as practicable, including smaller passenger vessels. Nevertheless, the Coast Guard is removing the AIS carriage requirement for commercial fishing vessels and small passenger vessels certificated to carry less than 151 passengers. The Coast Guard is amending § 164.46(a)(3) accordingly and will reengage the public with respect to applicability and carriage requirements

for small passenger vessels and commercial fishing vessels.

To that end, the Coast Guard published in the **Federal Register** (68 FR 55643) a notice that reopened 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). The notice reopening the comment period included additional questions regarding expanding AIS carriage to small passenger vessels, whether infrequent VTS users (*e.g.*, fishing vessels) should be exempt from the AIS requirement, and whether exemptions may be granted by the VTS as a deviation request, as opposed to the written notification required in 33 CFR 164.55. By this action, we hope to generate further comments, discussion, and contributions from prospective mandatory users of AIS that we will then consider as we continue forward with future AIS rulemakings.

Five commenters stated that the AIS carriage requirement should be universal, arguing that an AIS carriage requirement that does not apply to every vessel, including recreational vessels, is of limited value as either a security or a safety tool.

We agree that AIS would provide the greatest benefit if all vessels were required to be equipped with an AIS unit. However, as with any new technology, AIS carriage must be implemented prudently. Therefore, the Coast Guard has chosen to implement AIS domestically beginning in VTS areas (as denoted in table 161.12(c), and will consider expanding AIS carriage to other waterways in consideration of comments received 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). Additionally, the AIS carriage requirements found in the MTSA do not apply to recreational vessels.

Upon further review, we have amended § 164.02 to clarify applicability for foreign vessels.

#### *Technical*

One commenter supported the AIS unit standardization proposal presented in the temporary interim rule.

One commenter asked if vessels that use an electronic chart to display AIS targets must have the chart updated and corrected to the latest Broadcast Notice to Mariners. The same commenter also asked if a vessel would still have to carry nautical charts if it uses an Electronic Chart Display and