

is necessary prior to implementation. The Coast Guard conducted exhaustive testing of precursor AIS in cooperation with stakeholders on the Lower Mississippi River. We detailed this testing in the "AIS Testing" section of the preamble to the AIS temporary interim rule (68 FR 39357). We also conducted tests with the AIS being required in this regulation (ITU-R M.1371-1) in other VTS areas, and monitored similar tests conducted in other countries. However, the Coast Guard will continue to conduct system acceptance testing of the newly installed AIS shoreside network in the Lower Mississippi River.

Five commenters stated that AIS should require only minimal information from vessel operators, so that the information flow to and from AIS does not distract vessel operators from their other duties.

We agree that AIS users should not be burdened unnecessarily. One goal of AIS is to unburden mariners from the important, although tedious, tasks of reporting information to a VTS. Through AIS these reports are automated and additional voyage data may be transmitted. Whether vessels are required to supply this additional data (people on board, destination, and estimated time of arrival) will be determined by the VTS, which will take into consideration the reporting exemptions listed in 33 CFR 161.23.

One commenter asked whether the operator of a vessel entering a VMRS area must call the VTS on a VHF voice channel and whether the VTS will notify users of required actions by message or on VHF voice channels.

This rule mandates AIS position reports in lieu of VTS voice reports; however, it does not abolish the requirements set forth in 33 CFR part 161 regarding deviation requests, monitoring requirements, sailing plans, and final reports. Additionally, VTS and VTS users should still rely upon VHF voice communications on the designated VTS frequencies as the primary mode of VTS communication. VTS areas will eventually supplement these broadcasts with pertinent AIS text or binary messages.

One commenter asked whether a vessel could use AIS as a tool even if the vessel it is communicating with is not in sight, citing confusion with the COLREGS and Inland Navigation Rules Eleven to Eighteen.

Inland Navigation Rule Three clearly states that vessels are deemed to be in sight of one another only when one can be observed visually from the other, not when observed electronically (e.g., AIS or radar). However, AIS-like radar—is

still a useful tool to use when making navigational decisions prior to being in the sight of another vessel.

One commenter asked for clarification on the training requirements for an AIS operator.

At this time, we envision no additional training requirements other than reading the AIS owner's manual and being familiar with operation of the AIS. However, mariners seeking a greater understanding of AIS and its uses may wish to read a document developed by the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) titled "IALA Guidelines on the Universal Automatic Identification System (AIS), Volume 1, Part 1—Operational Issues, Edition 1.1, December 2002," that is available at <http://www.iala-aism.org>.

One commenter asked how many vessels are displayed on an AIS when a vessel is in a crowded harbor.

AIS is designed to provide information on a minimum of the 20 closest active AIS targets.

#### *Editorial*

The temporary interim rule contained a typographical error, which is corrected in this rule. In §§ 164.03 and 164.46, the IMO circular "Guidelines for Installation of Shipborne Automatic Identification System (AIS), dated January 6, 2003" should have been titled "SN/Circ.227" vice "SN/Circ.277."

We have also added a note to 33 CFR 164.46(a) to clarify which international tonnage convention is being identified.

#### *Procedural*

Five commenters requested a longer comment period specifically for the AIS temporary interim rule.

We did not extend the comment period on this rule 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. We have, however, 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).

#### **Incorporation by Reference**

The Director of the Federal Register has approved the material in § 164.03 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 § 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 final assessment is available in the docket as indicated under **ADDRESSES**. A summary of the assessment and changes from the draft assessment follows.

#### **Cost Assessment**

This final rule is requiring the carriage of AIS on all U.S. flag SOLAS vessels, certain domestic vessels in VTS areas, and foreign flag vessels less than 300 gross tonnage that call on ports in the U.S. We estimate that 438 U.S. flag SOLAS vessels, 2,963 non-SOLAS domestic vessels, and 70 non-SOLAS foreign vessels will be affected by this final rule.

The estimated total present value cost of this final rule is \$50.4 million (where the period of analysis is 2003-2012). An estimated present value \$5.2 million is for the U.S. flag SOLAS fleet, \$44.1 million is for the domestic, non-SOLAS fleet in VTS areas, and \$1.1 million is for the foreign, non-SOLAS fleet that call on ports in the U.S.

In the first year of implementation, the estimated cost is \$1.9 million for the U.S. flag SOLAS fleet, \$27.6 million for the domestic, non-SOLAS fleet in VTS areas, and less than \$1 million for the foreign, non-SOLAS fleet. Following initial implementation, the estimated annual cost is less than \$1 million for the entire affected population.

#### **Safety Benefits**

The Coast Guard expects both quantifiable and non-quantifiable benefits as a result of the final rule. Quantified benefits include avoided property damage, injuries, fatalities, and pollution events as a result of having an AIS. Other benefits include better situational awareness, information, and communications. The final rule will also enhance Coast Guard missions such as marine safety and security, aids to navigation, and maritime mobility.

In order to quantify the benefits of AIS implementation, the Coast Guard reviewed Marine Casualty Incident Reports (MCIRs) from 1993-1999 that involved the vessel populations affected by this final rule. These incidents were