

paragraphs must not be carried on board the vessel, but must be maintained in a secure location. During scheduled inspections, the plan or program must be made available to the Coast Guard upon request.

[USCG–2003–14749, 68 FR 39302, July 1, 2003, as amended at 68 FR 60513, Oct. 22, 2003; USCG–2004–18057, 69 FR 34925, June 23, 2004]

§ 104.125 Noncompliance.

When a vessel must temporarily deviate from the requirements of this part, the vessel owner or operator must notify the cognizant COTP, and either suspend operations or request and receive permission from the COTP to continue operating.

[USCG–2003–14749, 68 FR 60513, Oct. 22, 2003]

§ 104.130 Waivers.

Any vessel owner or operator may apply for a waiver of any requirement of this part that the owner or operator considers unnecessary in light of the nature or operating conditions of the vessel. A request for a waiver must be submitted in writing with justification to the Commandant (G-MP) at 2100 Second St., SW., Washington, DC 20593. The Commandant (G-MP) may require the vessel owner or operator to provide additional data for determining the validity of the requested waiver. The Commandant (G-MP) may grant, in writing, a waiver with or without conditions only if the waiver will not reduce the overall security of the vessel, its passengers, its crew, or its cargo, or facilities or ports that the vessel may visit.

§ 104.135 Equivalents.

For any measure required by this part, the vessel owner or operator may propose an equivalent as provided in § 101.130 of this subchapter.

§ 104.140 Alternative Security Programs.

A vessel owner or operator may use an Alternative Security Program as approved under § 101.120 of this subchapter if:

(a) The Alternative Security Program is appropriate to that class of vessel;

(b) The vessel is not subject to the International Convention for Safety of Life at Sea, 1974; and

(c) The Alternative Security Program is implemented in its entirety.

[USCG–2003–14749, 68 FR 39302, July 1, 2003, as amended at 68 FR 60513, Oct. 22, 2003]

§ 104.145 Maritime Security (MARSEC) Directive.

Each vessel owner or operator subject to this part must comply with any instructions contained in a MARSEC Directive issued under § 101.405 of this subchapter.

§ 104.150 Right to appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal as described in § 101.420 of this subchapter.

Subpart B—Vessel Security Requirements

§ 104.200 Owner or operator.

(a) Each vessel owner or operator must ensure that the vessel operates in compliance with the requirements of this part.

(b) For each vessel, the vessel owner or operator must:

(1) Define the security organizational structure for each vessel and provide all personnel exercising security duties or responsibilities within that structure with the support needed to fulfill security obligations;

(2) Designate, in writing, by name or title, a Company Security Officer (CSO), a Vessel Security Officer (VSO) for each vessel, and identify how those officers can be contacted at any time;

(3) Ensure personnel receive training, drills, and exercises enabling them to perform their assigned security duties;

(4) Ensure vessel security records are kept;

(5) Ensure that adequate coordination of security issues takes place between vessels and facilities; this includes the execution of a Declaration of Security (DoS);

(6) Ensure coordination of shore leave for vessel personnel or crew change-out, as well as access through the facility of visitors to the vessel (including

representatives of seafarers' welfare and labor organizations), with facility operators in advance of a vessel's arrival. Vessel owners or operators may refer to treaties of friendship, commerce, and navigation between the U.S. and other nations in coordinating such leave. The text of these treaties can be found on the U.S. Department of State's Web site at <http://www.state.gov/s/1/24224.htm>;

(7) Ensure security communication is readily available;

(8) Ensure coordination with and implementation of changes in Maritime Security (MARSEC) Level;

(9) Ensure that security systems and equipment are installed and maintained;

(10) Ensure that vessel access, including the embarkation of persons and their effects, are controlled;

(11) Ensure that restricted areas are controlled;

(12) Ensure that cargo and vessel stores and bunkers are handled in compliance with this part;

(13) Ensure restricted areas, deck areas, and areas surrounding the vessel are monitored;

(14) Provide the Master, or for vessels on domestic routes only, the CSO, with the following information:

(i) Parties responsible for appointing vessel personnel, such as vessel management companies, manning agents, contractors, concessionaires (for example, retail sales outlets, casinos, etc.);

(ii) Parties responsible for deciding the employment of the vessel, including time or bareboat charters or any other entity acting in such capacity; and

(iii) In cases when the vessel is employed under the terms of a charter party, the contract details of those documents, including time or voyage charters; and

(15) Give particular consideration to the convenience, comfort, and personal privacy of vessel personnel and their ability to maintain their effectiveness over long periods.

[USCG–2003–14749, 68 FR 39302, July 1, 2003, as amended by USCG–2003–14749, 68 FR 60513, Oct. 22, 2003]

§ 104.205 Master.

(a) Nothing in this part is intended to permit the Master to be constrained by the Company, the vessel owner or operator, or any other person, from taking or executing any decision which, in the professional judgment of the Master, is necessary to maintain the safety and security of the vessel. This includes denial of access to persons—except those identified as duly authorized by the cognizant government authority—or their effects, and refusal to load cargo, including containers or other closed cargo transport units.

(b) If, in the professional judgment of the Master, a conflict between any safety and security requirements applicable to the vessel arises during its operations, the Master may give precedence to measures intended to maintain the safety of the vessel, and take such temporary security measures as seem best under all circumstances. In such cases:

(1) The Master must, as soon as practicable, inform the nearest COTP. If the vessel is on a foreign voyage, the Master must promptly inform the Coast Guard via the NRC at 1–800–424–8802, direct telephone at 202–267–2675, fax at 202–267–2165, TDD at 202–267–4477, or E-mail at lst-nrcinfo@comdt.uscg.mil and if subject to the jurisdiction of a foreign government, the relevant maritime authority of that foreign government;

(2) The temporary security measures must, to the highest possible degree, be commensurate with the prevailing Maritime Security (MARSEC) Level; and

(3) The owner or operator must ensure that such conflicts are resolved to the satisfaction of the cognizant COTP, or for vessels on international voyages, the Commandant (G-MP), and that the possibility of recurrence is minimized.

[USCG–2003–14749, 68 FR 39302, July 1, 2003, as amended at 68 FR 60513, Oct. 22, 2003]

§ 104.210 Company Security Officer (CSO).

(a) *General.* (1) Each vessel owner or operator must designate in writing a CSO.