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## Subpart A—General

### § 104.100 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

### § 104.105 Applicability.

This part applies to the owner or operator of any:

(1) Mobile Offshore Drilling Unit (MODU), cargo, or passenger vessel subject to the International Convention for Safety of Life at Sea, 1974, (SOLAS), Chapter XI-1 or Chapter XI-2;

(2) Foreign cargo vessel greater than 100 gross register tons;

(3) Self-propelled U.S. cargo vessel greater than 100 gross register tons subject to 46 CFR subchapter I, except commercial fishing vessels inspected under 46 CFR part 105;

(4) Vessel subject to 46 CFR chapter I, subchapter L;

(5) Passenger vessel subject to 46 CFR chapter I, subchapter H;

(6) Passenger vessel certificated to carry more than 150 passengers;

(7) Other passenger vessel carrying more than 12 passengers, including at least one passenger-for-hire, that is engaged on an international voyage;

(8) Barge subject to 46 CFR chapter I, subchapters D or O;

(9) Barge carrying certain dangerous cargo in bulk or barge that is subject to 46 CFR Chapter I, subchapter I, that is engaged on an international voyage.

(10) Tankship subject to 46 CFR chapter I, subchapters D or O; and

(11) Towing vessel greater than eight meters in registered length that is engaged in towing a barge or barges subject to this part, except a towing vessel that—

(i) Temporarily assists another vessel engaged in towing a barge or barges subject to this part;

(ii) Shifts a barge or barges subject to this part at a facility or within a fleeting facility;

(iii) Assists sections of a tow through a lock; or

(iv) Provides emergency assistance.

(b) An owner or operator of any vessel not covered in paragraph (a) of this section is subject to parts 101 through 103 of this subchapter.

(c) Foreign Vessels that have on board a valid International Ship Security Certificate that certifies that the verifications required by part A, Section 19.1, of the International Ship and Port Facility Security (ISPS) Code (Incorporated by reference, see §101.115 of this subchapter) have been completed will be deemed in compliance with this part, except for §§104.240, 104.255, 104.292, and 104.295, as appropriate. This includes ensuring that the vessel meets the applicable requirements of SOLAS Chapter XI-2 (Incorporated by reference, see §101.115 of this subchapter) and the ISPS Code, part A, having taken into account the relevant provisions of the ISPS Code, part B, and that the vessel is provided with an approved security plan.

(d) The TWIC requirements found in this part do not apply to foreign vessels.

(e) The TWIC requirements found in this part do not apply to mariners employed aboard vessels moored at U.S. facilities only when they are working immediately adjacent to their vessels in the conduct of vessel activities.

(f) Except pursuant to international treaty, convention, or agreement to which the U.S. is a party, this part does not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the U.S. and that is in:

(1) Innocent passage through the territorial sea of the U.S.; or

(2) Transit through the navigable waters of the U.S. that form a part of an international strait.

[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; USCG-2004-19963, 70 FR 74669, Dec. 16, 2005; USCG-2006-24196, 72 FR 3579, Jan. 25, 2007]

#### § 104.106 Passenger access area.

(a) A ferry, passenger vessel, or cruise ship may designate areas within the vessel as passenger access areas.

(b) A passenger access area is a defined space, within the area over which the owner or operator has implemented

security measures for access control, of a ferry, passenger vessel, or cruise ship that is open to passengers. It is not a secure area and does not require a TWIC for unescorted access.

(c) Passenger access areas may not include any areas defined as restricted areas in the VSP.

[USCG-2006-24196, 72 FR 3579, Jan. 25, 2007, as amended by USCG-2008-0179, 73 FR 35009, June 19, 2008]

#### § 104.107 Employee access area.

(a) A ferry or passenger vessel, excluding cruise ships, may designate areas within the vessel as employee access areas.

(b) An employee access area is a defined space, within the area over which the owner or operator has implemented security measures for access control, of a ferry or passenger vessel that is open only to employees and not to passengers. It is not a secure area and does not require a TWIC for unescorted access.

(c) Employee access areas may not include any areas defined as restricted areas in the VSP.

[USCG-2006-24196, 72 FR 3579, Jan. 25, 2007]

#### § 104.110 Exemptions.

(a) This part does not apply to warships, naval auxiliaries, or other vessels owned or operated by a government and used only on government non-commercial service.

(b) A vessel is not subject to this part while the vessel is laid up, dismantled, or otherwise out of commission.

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

#### § 104.115 Compliance.

(a) Vessel owners or operators must ensure their vessels are operating in compliance with this part.

(b) Owners or operators of foreign vessels must comply with the following—

(1) Vessels subject to the International Convention for Safety of Life at Sea, 1974, (SOLAS), Chapter XI-1 or Chapter XI-2, must carry on board a valid International Ship Security Certificate that certifies that the verifications required by part A, Section 19.1, of the International Ship and