

SUBCHAPTER K—SECURITY OF VESSELS

PART 120—SECURITY OF PASSENGER VESSELS

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AUTHORITY: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

Subpart A—General

§ 120.100 Does this part apply to me?

This part applies to all passenger vessels over 100 gross tons, carrying more than 12 passengers for hire; making voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are embarked or disembarked in the United States or its territories. It does not apply to ferries that hold Coast Guard Certificates of Inspection endorsed for “Lakes, Bays, and Sounds”, and that transit international waters for only short periods of time, on frequent schedules.

§ 120.110 Definitions.

As used in this part:

Captain of the Port (COTP) means the Coast Guard officer designated by the Commandant to command a Captain of the Port Zone as described in Part 3 of this chapter, or an authorized representative.

Commandant means the Commandant of the U.S. Coast Guard, or an authorized representative.

High seas means the waters defined in § 2.32(d) of this chapter.

Operator means the person, company, or governmental agency, or the representative of a company or governmental agency, that maintains operational control over a passenger vessel or passenger terminal.

Passenger terminal means any structure used for the assembling, processing, embarking, or disembarking of passengers or baggage for vessels subject to this part. It includes piers, wharves, and similar structures to which a vessel may be secured; land and water under or in immediate proximity to these structures; buildings on or contiguous to these structures; and equipment and materials on or in these structures.

Security Level I means the degree of security precautions to take when the threat of an unlawful act against a vessel or terminal is, though possible, not likely.

Security Level II means the degree of security precautions to take when the threat of an unlawful act against a vessel or terminal is possible and intelligence indicates that terrorists are likely to be active within a specific area, or against a type of vessel or terminal.

Security Level III means the degree of security precautions to take when the threat of an unlawful act against a vessel or terminal is probable or imminent and intelligence indicates that terrorists have chosen specific targets.

Unlawful act means an act that is a felony under U.S. federal law, under the laws of the States where the vessel is located, or under the laws of the country in which the vessel is registered.

Voyage means the passenger vessel's entire course of travel, from the first port at which the vessel embarks passengers until its return to that port or another port where the majority of the passengers are disembarked and terminate their voyage.

We means the United States Coast Guard.

You, unless otherwise specified, means the owner, operator, or charterer of a passenger vessel.

[CGD 91-012, 61 FR 37652, July 18, 1996, as amended by CGD91-012, 63 FR 53590, Oct. 6, 1998; USCG-2001-9044, 68 FR 42602, July 18, 2003]

§ 120.120 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER and must make the material available to the public. All approved material may be inspected at the U.S. Coast Guard, (CG-521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126. Copies may be obtained from IMO, 4 Albert Embankment, London SE1 7SR, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The materials approved for incorporation by reference in this part and the sections affected are:

INTERNATIONAL MARITIME ORGANIZATION
(IMO)

4 Albert Embankment, London SE1 7SR MSC Circular 443, Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships September 26, 1986—120.220, 120.300

Subpart B—Security Program

[CGD 91-012, 61 FR 37652, July 18, 1996, as amended at 69 FR 18803, Apr. 9, 2004; USCG-2010-0351, 75 FR 36283, June 25, 2010]

§ 120.200 What must my Vessel Security Program cover?

(a) If this part applies to your passenger vessel, you must implement a program for that vessel that—

(1) Provides for the safety and security of persons and property traveling

aboard the vessel, against unlawful acts;

(2) Prevents or deters the carriage aboard the vessel of any prohibited weapon, incendiary, or explosive, on or about any person or within his or her personal articles or baggage, and the carriage of any prohibited weapon, incendiary, or explosive, in stowed baggage, cargo, or stores;

(3) Prevents or deters unauthorized access to the vessel and to restricted areas aboard the vessel;

(4) Provides appropriate security measures for Security Levels I, II, and III that allow for increases in security when the Commandant or Captain of the Port (COTP) advises you that a threat of an unlawful act exists and may affect the vessel or any person aboard it;

(5) Designates, by name, a security officer for the vessel;

(6) Ensures that all members of the crew are adequately trained to perform their duties relative to security; and

(7) Provides for coordination with terminal security while in port.

(b) If this part applies to your passenger vessel, you must work with the operator of each terminal at which that vessel embarks or disembarks passengers, to provide security for the passengers and the vessel. You need not duplicate any provisions fulfilled by the terminal unless directed to by the Commandant. When a provision is fulfilled by the terminal, the applicable section of the Vessel Security Plan required by §120.300 must refer to that fact.

[CGD91-012, 63 FR 53590, Oct. 6, 1998]

§ 120.210 What are the responsibilities of my vessel security officer?

(a) If this part applies to your passenger vessel, you must designate a security officer for your vessel.

(b) This officer must ensure that—

(1) An initial comprehensive security survey is conducted and updated;

(2) The Vessel Security Plan required by §120.300 is implemented and maintained, and amendments to correct its deficiencies and satisfy the security requirements for the vessel are proposed;

(3) Adequate training for members of the crew responsible for security is provided;

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(4) Regular security inspections of the vessel are conducted;

(5) Vigilance is encouraged, as well as is general awareness of security, aboard the vessel;

(6) All occurrences or suspected occurrences of unlawful acts and related activities are reported under §120.220; and

(7) Coordination, for implementation of the Vessel Security Plan required by §120.300, takes place with the terminal security officer at each terminal where the vessel embarks or disembarks passengers.

[CGD91-012, 63 FR 53590, Oct. 6, 1998]

§ 120.220 What must I do to report an unlawful act and related activity?

(a) Either you or the vessel security officer must report each breach of security, unlawful act, or threat of an unlawful act against any of your passenger vessels to which this part applies, or against any person aboard it, that occurs in a place subject to the jurisdiction of the United States. You must report the incident to both the COTP and to the local office of the Federal Bureau of Investigation (FBI). Also, if your vessel is a U.S.-flag vessel, you must report each such incident that occurs in a place outside the jurisdiction of the United States to the hotline of the Response Center of the Department of Homeland Security at 1-800-424-0201, or, from within metropolitan Washington, D.C., at 202-372-2428; Fax: 202-372-2920.

(b) Either you or the vessel security officer must file a written report of the incident, using the form "Report on an Unlawful Act," contained in IMO MSC Circular 443, which you or the officer must forward as soon as possible to Commandant (CG-533), 2100 2nd St. SW., Stop 7363, Washington, DC 20593-7363. You may initially file the report with Commandant (CG-533) by fax at (202) 267-4085 or -4065.

[CGD91-012, 63 FR 53590, Oct. 6, 1998, as amended by USCG-2003-14505, 68 FR 9535, Feb. 28, 2003; USCG-2006-25150, 71 FR 39208, July 12, 2006; USCG-2010-0351, 75 FR 36283, June 25, 2010]

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Subpart C—Plans and Procedures for Vessel Security

§ 120.300 What is required to be in a Vessel Security Plan?

(a) If your passenger vessel is subject to this part, you must develop and maintain, in writing, for that vessel, an appropriate Vessel Security Plan that—

- (1) Is unique to the vessel;
- (2) Articulates the program required by §120.200; and
- (3) Includes an appendix, for each port where the vessel embarks or disembarks passengers, that contains port-specific security information.

(b) The Vessel Security Plan must be developed and maintained under the guidance in IMO MSC Circular 443, and must establish security measures to take for Security Levels I, II, and III, to—

- (1) Deter unauthorized access to the vessel and its restricted areas;
- (2) Deter the introduction of prohibited weapons, incendiaries, or explosives aboard the vessel;
- (3) Encourage vigilance, as well as general awareness of security, aboard the vessel;
- (4) Provide adequate training to members of the crew for security aboard the vessel;
- (5) Coordinate responsibilities for security with the operator of each terminal where the vessel embarks or disembarks passengers; and
- (6) Provide information to members of the crew and to law-enforcement personnel, in case of an incident affecting security.

(c) You must amend the Vessel Security Plan to address any known deficiencies.

(d) You must restrict the distribution, disclosure, and availability of information contained in the Vessel Security Plan to those persons with an operational need to know.

[CGD91-012, 63 FR 53590, Oct. 6, 1998]

§ 120.303 Who must submit a Terminal Security Plan?

(a) You must submit a Terminal Security Plan whenever—

- (1) There is an agreement with the owner or operator of a terminal that you will submit the Plan;

(2) You have exclusive use of the pier and terminal building immediately adjacent to the pier and have complete control of that area;

(3) There is no terminal; or

(4) Passengers embark or disembark but no baggage or stores are loaded or offloaded.

(b) In the situations described in paragraphs (a)(3) and (4) of this section, you may, with the permission of the cognizant COTP, use an annex to the vessel's security plan instead of a Terminal Security Plan.

(c) The owner or operator of a terminal must submit a Terminal Security Plan whenever—

(1) There is an agreement with you that the owner or operator of the terminal will submit the Plan;

(2) No security agreement exists; or

(3) (i) At least one vessel other than a passenger vessel uses the terminal;

(ii) More than one passenger vessel line uses the terminal; or

(iii) The terminal loads or offloads baggage or stores.

[CGD91-012, 63 FR 53591, Oct. 6, 1998]

§ 120.305 What is the procedure for examination?

(a) You must submit two copies of each Vessel Security Plan required by § 120.300, or of any Terminal Security Plan or annex required or permitted under § 120.303 or § 128.305 of this chapter, to the Commanding Officer (MSC), USCG Marine Safety Center, 1900 Half Street, SW., Suite 1000, Room 525, Washington, DC 20024 for visitors. Send all mail to Commanding Officer (MSC), United States Coast Guard, 2100 2nd St. SW., Stop 7102, Washington, DC 20593-7102, for examination at least 60 days before embarking passengers on a voyage described in § 120.100.

(b) If the Commanding Officer, Marine Safety Center, finds that the Vessel Security Plan meets the requirements of § 120.300, he or she will return a copy to you marked "Examined by the Coast Guard."

(c) If the Commanding Officer, Marine Safety Center, finds that the Vessel Security Plan does not meet the requirements of § 120.300, he or she will return the Plan with an explanation of why it does not meet them.

(d) No vessel subject to this part may embark or disembark passengers in the United States, unless it holds either a Vessel Security Plan that we have examined or a letter from the Commanding Officer, Marine Safety Center, stating that we are currently reviewing the Plan and that normal operations may continue until we have determined whether the Plan meets the requirements of § 120.300.

[CGD91-012, 63 FR 53591, Oct. 6, 1998, as amended by USCG-2001-9286, 66 FR 33641, June 25, 2001; USCG-2007-26953, 72 FR 5931, Feb. 8, 2007; USCG-2010-0351, 75 FR 36283, June 25, 2010]

§ 120.307 What do I do if I need to amend my Vessel Security Plan?

(a) If your passenger vessel is subject to this part, you must amend your Vessel Security Plan when directed by the Commanding Officer, Marine Safety Center, and may amend it on your own initiative.

(b) You must submit each proposed amendment to the Vessel Security Plan you initiate, including changes to any appendix required by § 120.300(a)(3), to the Commanding Officer, Marine Safety Center, for review, at least 30 days before the amendment is to take effect, unless he or she allows a shorter period. He or she will examine the amendment and respond according to § 120.305.

(c) The Commanding Officer, Marine Safety Center, may direct you to amend your Vessel Security Plan if he or she determines that implementation of the Plan is not providing effective security. Except in an emergency, he or she will issue you a written notice of matters to address and will allow you at least 60 days to submit proposed amendments.

(d) If there is an emergency or other circumstance where the COTP determines that implementation of the Plan is not providing effective security, and the procedures in paragraph (c) of this section are impracticable, the COTP may give you an order to implement increases in security immediately. The order will incorporate a statement of the reasons for it.

[CGD91-012, 63 FR 53591, Oct. 6, 1998, as amended by USCG-2001-9286, 66 FR 33641, June 25, 2001]

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§ 120.309 What is my right of appeal?

Any person directly affected by a decision or action taken by the Commanding Officer, Marine Safety Center, under this part, may appeal that action or decision to the Assistant Commandant for Marine Safety, Security

and Environmental Protection [Commandant (G-M)] according to the procedures in 46 CFR 1.03-15.

[CGD91-012, 63 FR 53591, Oct. 6, 1998, as amended by USCG-2001-9286, 66 FR 33641, June 25, 2001; USCG-2002-12471, 67 FR 41332, June 18, 2002]