

Therefore, the security plans need to include procedures and security measures to protect the towing vessel or the facility that controls the barge(s). In addition, the security plans need to include procedures for interfacing with other vessels and facilities, including how it will transfer custody of the barge to the next facility or towing vessel.

Facilities and towing vessels are not required to have a copy of the security plan for each barge it handles if the facility or towing vessel security plan includes appropriate procedures and security measures to ensure the security of all barges in its care. It is the responsibility of all Security Officers (barge's Vessel Security Officer, the towing vessel's Vessel Security Officer, the Company Security Officer, and the Facility Security Officer) to coordinate plans and ensure, possibly through a written contract or other agreement, that each party that receives the barge understands and is capable of implementing specific security measures for it. This may entail providing a copy of the applicable sections of a barge's Vessel Security Plan to the parties involved.

As a result, a barge's Vessel Security Plan may be minimal in content, containing personnel contact information and an assessment of the worst-case damage it might produce. The security plan must explain how security will be coordinated with each towing vessel, fleeting facility, and facility that handles the barge. Existing plans and procedures, such as vessel response plans, may be used or referenced as part of the Vessel Security Plan.

Like other Vessel Security Plans, the barge's Vessel Security Plan must also include specific security incident procedures to mitigate the consequences of damage and/or a release of the barge's cargo.

Foreign vessels required to comply with SOLAS are not required to submit their Vessel Security Plans to the Coast Guard for approval. Pursuant to SOLAS and the ISPS Code, these plans are required to be approved by the flag administration or Recognized Security Organization (RSO). Approval can only be granted by the flag administration or the RSO after verification that the Vessel Security Plan meets the requirements of SOLAS and the ISPS Code, part A, taking into account the ISPS Code, part B. Even so, the Coast Guard will verify that foreign SOLAS vessels have an approved Vessel Security Plan that fully complies with SOLAS and the ISPS Code, and thereby meets the requirements of this part, through an aggressive Port State Control program.

Noncompliance will subject the vessel to a range of control and compliance measures, which could include denial of entry into port. If, during an expanded examination, those sections of the Vessel Security Plan the port state is allowed to review are not written in English, a vessel may be delayed while translator services are acquired. To properly reflect the full range of legal authorities to control vessel movement in such cases, and without affecting other legal authorities, this rule amends the authority provision in 33 CFR part 165 to cite the anti-terrorism authorities in 33 U.S.C. 1226 as an additional basis for taking action under 33 CFR part 165.

However, in certain cases foreign vessel owners or operators will be required to submit the Vessel Security Plan to the U.S. for approval. Generally, these vessels fall into three categories: (1) A commercial vessel meeting the applicability standards of these regulations from a nation not signatory to SOLAS; (2) Canadian commercial vessels operating solely on the Great Lakes that (a) are greater than 100 gross register tons or (b) carry more than 12 passengers; and (3) other foreign commercial vessels meeting the applicability standards of this part, but below 500 gross tonnage, ITC and above 100 gross register tons.

Submission and Approval of Security Plan

The Vessel Security Plan, including the Vessel Security Assessment report, must be submitted to and reviewed by the Commanding Officer, Marine Safety Center (MSC). Once the MSC finds that the plan meets the security requirements in part 104, the submitter will receive an approval letter that may contain conditions of the approval.

If the MSC requires more time than is indicated in the requirements of the interim rule to review a submitted Vessel Security Plan, the MSC may return to the submitter a written acknowledgement stating that the Coast Guard is currently reviewing the Vessel Security Plan submitted for approval, and that the vessel may continue to operate so long as the vessel remains in compliance with the submitted Vessel Security Plan.

If the MSC finds that the Vessel Security Plan does not meet the security requirements, the plans would be returned to the vessel with a disapproval letter with an explanation of why the plan does not meet the part 104 requirements.

The Coast Guard must review Vessel Security Plans every time:

- The Vessel Security Assessment is altered;

- Failures are identified during an exercise of the Vessel Security Plan; and
- There is a change in ownership or operational control of the vessel or there are amendments to the Vessel Security Plan.

Existing Regulations

33 CFR part 120, Security of Vessels, currently exists but applies only to cruise ships. Until July 2004, 33 CFR part 120 will remain in effect. Vessels that were required to comply with part 120 will now also be required to meet the requirements of this part including § 104.295, titled Additional requirements—Cruise Ships. The requirements in § 104.295 generally capture the existing requirements in part 120 that are specific for cruise ships and captures additional detail to the requirements of SOLAS Chapter XI-2 and the ISPS Code.

The Coast Guard Notice of Arrival regulation, 33 CFR part 160, is being amended by this interim rule to require the advance submission of additional security related information. This information is essential to assist Coast Guard officials in exercising Port State Control functions, including what control and compliance measures, if any, should be imposed on vessels bound for a port or place in the U.S., consistent with 46 U.S.C. 70103 and 70110 or SOLAS regulation XI-2/9.

The Notice of Arrival amendments also provide an initial indication to the U.S. that owners and operators are taking responsibility for fully complying with the requirements in this part. For example, vessels will be required to provide a statement that the vessel is in compliance with the ISPS Code prior to entry into ports in the U.S. by informing the National Vessel Movement Center of the type and status of its International Ship Security Certificate. Those vessels required to have on board an approved Vessel Security Plan will also have to declare in the Notice of Arrival submission that they are implementing their Vessel Security Plan. Furthermore, because it is not the intent of the ISPS Code to allow consecutive Interim International Ship Security Certificates, the owner or operator of a vessel holding a consecutive Interim International Ship Security Certificate will also be required to provide an explanation as to why the vessel holds a consecutive Interim International Ship Security Certificate prior to entry.

The information we are requiring in this Notice of Arrival amendment contains elements similar to those we mandate to verify compliance with the International Management Code for the Safe Operation of Ships and for