

demarcation" limiting the Coast Guard authority to the "dock," because as the rule is now written, a facility may still be left to wonder which Federal agency or department might have jurisdiction over it when it comes to facility security. One commenter suggested that the Coast Guard jurisdiction should not extend beyond "the first continuous access control boundary shore side of the designated waterfront facility."

Section 102 of the MTSA requires the Secretary of the Department in which the Coast Guard is operating to prescribe certain security requirements for facilities. The Secretary has delegated that authority to the Coast Guard. Therefore, the Coast Guard is not only authorized, but also required under the MTSA, to regulate beyond the "dock."

Two commenters requested clarification on our reference to SOLAS and facility applicability. One commenter stated that because the applicability of the various chapters of SOLAS is not consistent, it is necessary to specify particular chapters in SOLAS to define the applicability of this regulation to U.S. flag vessels. The commenter requested that we limit the reference to SOLAS in § 105.105(a)(3) to "SOLAS Chapter XI-2." Another commenter stated that it is not clear whether the words "greater than 100 gross registered tons" applied to SOLAS vessels as well as to vessels that are subject to 33 CFR Chapter I, subchapter I.

We agree that the general reference to SOLAS is broad and could encompass more vessels than necessary. We have amended the applicability reference to read "SOLAS Chapter XI" because subchapter H addresses those requirements in SOLAS Chapter XI. Also, we have amended § 105.105(a) to apply the term "greater than 100 gross registered tons" to facilities that receive vessels subject only to subchapter I. We did not include references to foreign or U.S. ownership in the applicability paragraphs because it is duplicative to the existing language.

Thirty commenters commended the Coast Guard for providing an option for an Alternative Security Program as described in § 101.120(b) and urged the Coast Guard to approve these programs as soon as possible.

We believe the provisions in § 101.120(b) will provide greater flexibility and will help owners and operators meet the requirements of these final rules. We will review Alternative Security Program submissions in a timely manner to determine if they comply with the security regulations for their particular industry segment. The Coast Guard has already received and

begun reviewing Alternative Security Programs, and we have been able to approve three such programs. We have amended § 101.125 to list those approved Alternative Security Programs. We will announce new approvals of Alternative Security Programs through the **Federal Register**, and intend to update § 101.125 on an annual basis.

Twenty commenters requested clarification on the Alternative Security Program. Three commenters requested that the Coast Guard work with their industry association to come up with their own security program. Two commenters asked for guidance on how to implement an Alternative Security Program. One commenter stated that the Coast Guard should recognize its existing security programs. One commenter suggested that we allow owners or operators to use industry security standards, recommended practices, and guidelines as Alternative Security Programs. Four commenters requested that Alternative Security Programs be available to certain owners and operators of foreign flag vessels that are not subject to SOLAS. Three commenters asked for clarification as to which facilities are eligible to participate in an Alternative Security Program. One commenter recommended that the Alternative Security Program be available to vessels subject to SOLAS.

We encourage industries to develop Alternative Security Programs that address those aspects of security unique to their industry. Section 101.120 allows industry associations to submit Alternative Security Programs to the Coast Guard for approval. As part of the review process, we will work with industry representatives to assure that Alternative Security Programs meet the requirements of the rules and ensure maritime security. We agree that the Alternative Security Program should be available to certain owners and operators of foreign flag vessels that are not subject to SOLAS and to facilities that serve vessels on international voyages. Because the AMS Plan will be the approved port facility security plan as described in the ISPS Code, part A, we have amended § 101.120 to allow certain facilities that serve vessels subject to SOLAS Chapter XI the option of using an Alternative Security Program that has been reviewed and approved by the Coast Guard. We do not intend to allow vessels subject to SOLAS to use an Alternative Security Program. Two commenters stated that § 101.120 does not allow an industry association to submit an Alternative Security Program for approval. One commenter asked that the regulations

for Alternative Security Programs be clarified to allow participants to carry a copy of the Coast Guard approved Alternative Security Program on board vessels or at facilities.

Section 101.120(c) does not preclude an industry association from submitting an Alternative Security Program for approval. In addition, the regulations requiring the availability of the security plans on board the vessels or at the facility do not preclude the owner or operator of the vessel or facility from keeping a Coast Guard approved Alternative Security Program on board the vessel or at the facility. Furthermore, we have amended § 101.120(b)(3) and added a new provision, § 101.120(b)(4), to clarify that owners or operators implementing an Alternative Security Program must provide information to the Coast Guard when requested. This clarification was needed, among other things, to ensure that the Coast Guard has access to relevant information to assist our compliance and verification responsibilities. The information may also be needed to help the Coast Guard assess vulnerabilities, conduct an AMS Assessment, or develop an AMS or National Security Plan. Finally, after further review of parts 101 and 104 through 106, we have amended §§ 101.120(b)(3), 104.120(a)(3), 105.120(c), and 106.115(c) to clarify that a vessel or facility that is participating in the Alternative Security Program must complete a vessel or facility specific security assessment report in accordance with the Alternative Security Plan, and it must be readily available.

Three commenters stated that the cognizant COTP should be responsible for reviewing the submissions for the Alternative Security Program when the company operates exclusively in one COTP zone. The commenters noted that COTPs have the best knowledge of the vessels and facilities operating in their zone.

We require that requests to implement an Alternative Security Program be submitted for approval to the Commandant (G-MP) because we want to ensure uniformity across all COTP zones in the implementation of this program. The Commandant (G-MP) will coordinate and consult with local COTPs, Districts, and Areas, as needed, on these submissions.

After further review of § 101.120, we are amending the section to provide a procedure for amending an Alternative Security Program, and to align the effective period of an Alternative Security Program with the 5-year period provided for other security plans. Additionally, after review of the