

wide plan. The establishment of an AMS Committee for the OCS facilities in the Gulf of Mexico was discussed at recent Gulf Safety Committee and National Offshore Safety Advisory Committee (NOSAC) meetings. We intend to form an AMS Committee for this area in the near future. Additionally, owners and operators of OCS facilities are encouraged to participate on the AMS Committee of the COTP zone that is most relevant to their operations.

We received nine comments dealing with the protection of information shared with the AMS Committee. One commenter recommended that threat and risk assessments be kept at the government level so that this type of information would not be available to the public. Five commenters suggested that security plans or proprietary information regarding facilities or vessels be classified as confidential and not be shared with the AMS Committee. Four commenters requested that uniform guidance be provided to the AMS Committee on the handling of sensitive security information.

Section 103.300 provides that each AMS Committee will operate under a written charter that, among other items, details the rules for handling and protecting classified, sensitive security, commercially sensitive, and proprietary information. Threat and risk assessments developed by the AMS Committee will be embodied in written reports that will be designated sensitive security information and hence will not be available to the public.

Three commenters stated that the regulations do not indicate that the AMS Committee will function in a manner consistent with the procedures of Navigation and Vessel Inspection Circular (NVIC) 09-02, Guidelines for Port Security Committees, and Port Security Plans Required for U.S. Ports. Two commenters stated that the regulations did not specify the identity of the "chartering entity" for the AMS Committee.

Section 101.105 states that the port security committee established under NVIC 09-02 may be the AMS Committee. The requirements for AMS Committees described in part 103 are consistent with NVIC 09-02. Therefore, AMS Committees will function in a manner consistent with the procedures of NVIC 09-02, unless the Committee agrees in its charter to a different arrangement. The AMS Committee is chartered under the direction of the COTP.

We received nine comments on AMS Committee participation. Three commenters urged the Coast Guard to

include the recreational boating community in all decisions that could limit recreational boaters' access to the water, stating that the future health of the community depends on reasonable access to the nation's waterways. Two commenters requested that private industry facility operators be allowed to fully participate in the AMS Committee. One commenter requested that utility representatives be allowed to fully participate in the AMS Committee. One commenter requested that government agencies that have roles in maritime and cargo security be involved in the AMS Committee. One commenter requested that representatives from the charterboat industry be included as AMS Committee members.

We encourage members of all affected communities, including small businesses, utilities, government officials, charterboats, and recreational boating, to become involved in maritime security through their local AMS Committees. Where appropriate, AMS Committees should include representatives from associations that represent all of these communities. Additionally, to ensure consistency across modes of transportation and with other Federal security programs, the Coast Guard intends to invite officials nominated by other Federal agencies, including the Transportation Security Administration (TSA), the Bureau of Customs and Border Protection and the Maritime Administration to participate in, and to appoint them as members of, the AMS Committees.

Eight commenters suggested that the criteria for AMS Committee membership or participation in a leadership position be revised. Currently, § 103.305(a) requires "at least 5 years of experience related to maritime or port security operations." Four commenters suggested that membership not be limited only to security-related experience. One commenter recommended that the seven AMS Committee members "must be selected from" the seven areas listed in § 103.305.

We aligned § 103.305 with the requirements for the AMS Committee found in the Maritime Transportation Security Act of 2002 (MTSA), which specifically requires a minimum of 7 members with at least 5 years of practical experience in maritime security operations and provides that the members "may be selected" from the seven areas listed. We have, however, amended § 103.305 in order to clarify that, while 7 members of the AMS Committee must have at least 5 years of experience related to maritime or port security operations, the AMS

Committee may be composed of more than 7 members. We are also adding labor to the list of areas from which AMS Committee members should be selected. These changes increase participation in the AMS Committee, which we believe will be beneficial to the operation of the AMS Committee.

One commenter recommended that AMS Committees consider information access "up the chain of command" for "strong and viable seaport security."

The COTP is the Federal Maritime Security Coordinator, and will be involved with the AMS Committee. The COTP is responsible for disseminating information to the port stakeholders and "up the chain of command." Additionally, owners or operators of vessels and facilities subject to parts 104, 105, and 106 are required to report all suspicious activities and breaches of security to the National Response Center (NRC); other owners and operators are encouraged to do so. Finally, non-compliance with security plans and the reporting requirements in them must be reported to the Coast Guard.

One commenter asked how, in accordance with § 104.240(d), the COTP will communicate permission to a vessel to enter the port if the vessel cannot implement its Vessel Security Plan.

The COTP can use a number of means to communicate to a vessel permission or denial to enter the port, such as issuing a COTP order denying entry or establishing conditions upon which the vessel may enter the port. Presently, communications to a vessel occur before port entry regarding required construction, safety, and equipment regulations. These communications occur through agents by satellite phone, fax, email, cellular phone, or radio communications.

One commenter stated that, because vessel and facility owners or operators may be required under Federal law to obtain the services of security guards and armed guards, there should be minimum standards guiding the qualifications, certification, and performance of those guards. The commenter also suggested that the AMS Committee evaluate local armed security service providers and develop a list of qualified providers.

As we stated in the temporary interim rule (68 FR 39255) (part 101), we intend to work with State homeland security representatives to encourage the review of all standards related to armed personnel. While we have not required each AMS Committee to develop lists of qualified security personnel providers, each AMS Committee may undertake this task.