

the intent of the wording in § 104.220(c) encompasses the concept of “identifying suspicious activity that could indicate actions that may threaten security.”

Two commenters suggested that ferries be exempt from the “while at sea” clause in § 104.220(i) that requires company or vessel personnel responsible for security duties to have knowledge on how to test and calibrate security equipment and systems and maintain them, arguing that ferries are not oceangoing and, therefore, typically use a manufacturer’s service representative to perform equipment testing and calibration while at the dock. In addition, one commenter requested clarification on whether a manufacturer’s technical expert could be used to perform regularly planned maintenance at the ferry terminal.

We disagree with exempting ferry or facility security personnel from understanding how to test, calibrate, or maintain security equipment and systems. However, §§ 104.220 and 105.210 provide the company the flexibility to determine who should have an understanding of how to test, calibrate, and maintain security equipment and systems. By stating “company and vessel personnel responsible for security duties must* * *, as appropriate,” we have allowed a company to write a Vessel or Facility Security Plan that outlines responsibilities for security equipment and systems. If the company chooses to have company security personnel hold that responsibility, then vessel or facility security personnel would simply have to know how to contact the correct company security personnel and know how to implement interim measures as a result of equipment failures either at sea or in port. Sections 104.220 and 105.210 do not preclude a manufacturer’s service representative from performing equipment maintenance, testing, and calibration.

Two commenters requested that ferries and their terminals be exempt from conducting physical screening, and therefore, should also be exempt from §§ 104.220(l) and 105.210(l), which require security personnel to know how to screen persons, personal effects, baggage, cargo, and vessel stores.

We disagree with exempting ferries and their terminals from the screening requirement and, therefore, will continue to require that certain security personnel understand the various methods that could be used to conduct physical screening. Because ferries certificated to carry more than 150 passengers and the terminals that serve them may be involved in a transportation security incident, it is

imperative that security measures, such as access control, be implemented. Section 104.292 provides passenger vessels and ferries alternatives to identification checks and passenger screening. However, it does not provide alternatives to the requirements for cargo or vehicle screening. Thus, ferry security personnel assigned to screening duties should know the methods for physical screening. There is no corresponding alternative to § 104.292 for terminals serving ferries carrying more than 150 passengers; therefore, terminal security personnel assigned to screening duties should also know the methods for physical screening.

Forty-one commenters requested that §§ 104.225, 105.215, and 106.220 be either reworded or eliminated because the requirement to provide detailed security training to all contractors who work in a vessel or facility or to facility employees, even those with no security responsibilities such as a secretary or clerk, is impractical, if not impossible. The commenters stated that, unless a contractor has specific security duties, a contractor should only need to know how, when, and to whom to report anything unusual as well as how to react during an emergency. One commenter suggested adding a new section that listed specific training requirements for contractors and vendors.

The requirements in §§ 104.225, 105.215, and 106.220 are meant to be basic security and emergency procedure training requirements for all personnel working in a vessel or facility. In most cases, the requirement is similar to the basic safety training given to visitors to ensure that they do not enter areas that could be harmful. To reduce the burden of these general training requirements, we allowed vessel and facility owners and operators to recognize equivalent job experience in meeting this requirement. However, we believe contractors need basic security training as much as any other personnel working on the vessel or facility. Depending on the vessel or facility, providing basic security training (e.g., how and when to report information, to whom to report unusual behaviors, how to react during an emergency) could be sufficient. To emphasize this, we have amended §§ 104.225, 105.215, and 106.220 to clarify that the owners or operators of vessels and facilities must determine what basic security training requirements are appropriate for their operations.

Two commenters requested that the word “seasonal” be deleted from § 104.230(b)(1) regarding requirements for drills, stating that the word

“seasonal” is irrelevant for owners and operators of uninspected vessels.

We disagree that the word “seasonal” is irrelevant because 33 CFR subchapter H covers a diverse population of vessels and facilities, some of whose owners and operators consider their operations “seasonal” in nature. It is imperative that the subset of owners and operators of vessels who consider their operations “seasonal,” whether inspected or uninspected, know that they must comply with the requirements in § 104.230(b)(1).

Two commenters recommended that drills only be required for manned vessels in § 104.230 since it is not possible to conduct a drill on an unmanned barge.

We agree that the nature of unmanned barges precludes the intensive personnel drills required for testing the proficiency of vessel personnel. However, each vessel subject to part 104, whether manned or unmanned, is required to submit a Vessel Security Plan for approval that includes drill and exercise requirements. Under § 104.230(b)(2), this plan should include those drill requirements that are appropriate for the nature and scope of that vessel’s activity and adequately prepare the Vessel Security Officer to respond to those threats the vessel is most likely to encounter.

Sixteen commenters stated that requirements in § 104.230(b)(4) are unreasonable for vessels with 2 to 3-person crews, stating that the requirements that a drill must be conducted if one of the personnel is replaced, which could be as often as daily, is burdensome. Additionally, three commenters suggested that crewmembers should receive credit for drills that they participate in while on board other similar vessels.

We agree that it could be difficult to conduct drills for companies that rotate crews frequently or have standing relief crews. We have, therefore, amended § 104.230 to allow companies that operate vessels of similar design not subject to SOLAS to develop training and drill schedules that are more appropriate to their operations while keeping the standard of 25 percent. For example, a company operating several similar towing vessels could hire new crewmembers, have them participate in a drill on board one towing vessel, then rotate those crewmembers to any of the similar vessels within that same company’s fleet without needing to conduct another drill for the moved crewmembers. Finally, we added the word “from” between “week” and “whenever” in § 104.230(b)(4) for clarity.