

One commenter agreed with our inclusion of tabletop exercises as a cost-effective means of exercising the security plan.

Three commenters requested that annual exercises be conducted every 3 years, arguing that current drills are already too burdensome.

We believe that exercising the Vessel Security Plan frequently is essential to ensure the plan is effectively implemented; therefore, we have kept the annual requirement for an exercise of the Vessel Security Plan. Recognizing that participation in exercises can be time consuming and challenging to coordinate, we have allowed and encourage vessel owners and operators to combine security exercises with other exercises as stated in § 104.230(c)(2)(iii).

Nine commenters stated that companies should be able to take credit toward fulfilling the drill and exercise requirements for actual incidents or threats, as under § 103.515.

We agree that, during an increased MARSEC Level, vessel and facility owners and operators may be able to take credit for implementing the higher security measures in their security plans. However, there are cases where a vessel or facility implementing a Vessel or Facility Security Plan may not attain the higher MARSEC Level or otherwise not be required to implement sufficient provisions of the plan to qualify as an exercise. Therefore, we have amended parts 104, 105, and 106 to allow an actual increase in MARSEC Level to be credited as a drill or an exercise if the increase in MARSEC Level meets certain parameters. In the case of OCS facilities, this type of credit must be approved by the Coast Guard in a manner similar to the provision found in § 103.515 for the AMS Plan requirements.

One commenter stated that the language in § 105.225, regarding recordkeeping, does not specify where the records should be kept. The commenter stated that it is presumed that such records may be kept off-site in a secure location accessible to the Facility Security Officer and other appropriate personnel. One commenter asked for clarification of sensitive security information because there is no suitable place for such information to be protected on board an unmanned vessel. One commenter recommended that records be kept onshore and not on board the vessel.

Sections 104.235(a) and 105.225(a) state that the records must be made available to the Coast Guard upon request, and §§ 104.235(c) and 105.225(c) state that the records must be protected from unauthorized access.

Therefore, a facility or vessel owner or operator must ensure that records are kept safely and also are available for inspection by the Coast Guard upon request, but the records do not necessarily have to be kept at the facility or on board the vessel.

Seven commenters stated that security records for harbor boats should be readily available but should not be maintained on the vessel for the security of those records.

We agree, and in § 104.235(a), we state that the Vessel Security Officer must keep records and make them available to the Coast Guard upon request. For vessels that make only domestic voyages, with the exception of Declarations of Security, these records may be kept somewhere other than on board the vessel, so long as they can be made available to the Coast Guard expeditiously upon request. For vessels subject to SOLAS, the ISPS Code, part A, section 10 requires records to be kept on board.

Five commenters stated that recordkeeping requirements should be limited to manned vessels. One commenter recommended that the Company Security Officer maintain and update all information for unmanned vessel security.

We disagree with the commenters. The regulations allow for a Vessel Security Officer to be a company representative for unmanned vessels and to be directly responsible for executing the recordkeeping requirements as specified in § 104.235. The requirements do not preclude the Vessel Security Officer from performing other duties within the organization, such as the Vessel Security Officer for unmanned vessels, provided he or she is able to perform the duties and responsibilities required of the Company Security Officer. We agree that the nature of operations for an unmanned barge makes recordkeeping different from that on a manned vessel; however, each vessel subject to part 104, whether manned or unmanned, must include recordkeeping to ensure compliance. The regulations do not preclude the Company Security Officer from being assigned the recordkeeping duties for unmanned vessels.

Two commenters recommended that a sentence be added to the end of § 105.225(b)(1) that reads: "Short domain awareness and other orientation-type training that may be given to contractor and other personnel temporarily at the facility and not involved in security functions need not be recorded." The commenters stated that this change would eliminate the

unnecessary recordkeeping for this general "domain awareness" training.

We agree that the recordkeeping requirements in § 105.225 for training are broad and may capture training that, while necessary, does not need to be formally recorded. Therefore, we have amended the requirements in § 105.225(b)(1) to only record training held to meet § 105.210. We have also made corresponding changes to §§ 104.235(b)(1) and 106.230(b)(1).

Twelve commenters inquired about the recordkeeping requirements for Declarations of Security. One commenter asked how long Declarations of Security must be kept. Three commenters suggested the retention for Declarations of Security should align with the Declarations of Inspection requirement of 30 days. Two commenters asked how the Coast Guard would enforce the requirement to maintain the last 10 Declarations of Security when a vessel may not yet have acquired 10 Declarations of Security.

As specified under § 104.235(b)(7), manned vessels must keep on board the vessel a copy of the last 10 Declarations of Security and a copy of each continuing Declaration of Security for at least 90 days after the end of its effective period. We require both vessels and facilities to retain Declarations of Security after they expire. We require vessels to retain Declarations of Security for their last 10 port visits. In order to roughly align the facility's retention requirement, as closely as possible, with the vessel's retention requirement, we estimated the average voyage of an ocean-going vessel. Doing this, we determined that a facility's 90-day retention period would more closely align with the vessel's 10-port visit retention period rather than the 30-day period used for Declarations of Inspection. We recognize that many factors, such as not being within U.S. waters during MARSEC Levels 2 and 3, may delay a vessel's ability to accumulate 10 Declarations of Security. If a vessel has on board fewer than the number of Declarations of Security required in § 104.235(b)(7), we will accept this vessel as meeting the intent of the section so long as it can be verified that the vessel was not required to complete more than the number of Declarations of Security kept on board.

One commenter stated that the Company Security Officer rather than the Vessel Security Officer should certify the certified letter required by § 104.235(b)(8), which states the date the annual audit of the Vessel Security Plan was completed. The commenter stated that this would focus the