

and operators are required to give particular consideration to the convenience, comfort, and personal privacy of vessel personnel. Taken as a whole, these rules strike the proper balance between implementing the MTSA's provisions for deterring transportation security incidents and preserving constitutional rights to privacy, travel, and association.

One commenter recommended that the "means of access" listed in § 104.265(b)(1) should only include traditional vessel access areas.

Each vessel must perform a Vessel Security Assessment, as required by § 104.305, to identify those areas that provide a means of access to the vessel. The list of means of access provided in § 104.265(b)(1) is not intended to be an all-inclusive or minimum list for each individual vessel.

One commenter suggested we remove § 104.265(c)(6), which allows certain, long-term, frequent vendor representatives to be treated more as employees than as visitors.

We disagree with the commenter. This language is found in the ISPS Code and provides additional flexibility when dealing with these frequent representatives.

One commenter asked if the Coast Guard would issue guidelines on screening.

The Coast Guard intends to coordinate with the Transportation Security Administration (TSA) and the Bureau of Customs and Border Protection (BCBP) in publishing guidance on screening to ensure that such guidance is consistent with intermodal policies and standards of TSA, and the standards and programs of BCBP for the screening of international passengers and cargo. Additionally, TSA is developing a list of items prohibited from being carried on board passenger vessels.

One commenter recommended removing the provision that mandated screening of persons, baggage, and vehicles at MARSEC Level 1. The same commenter also recommended removing the provision for designations of a secure area on board the vessel for the purposes of screening "baggage (including carry on items), personal effects, vehicles, and the vehicle's contents."

We disagree with the commenter. We believe that screening of persons, their personal effects, and vehicles are necessary at all MARSEC Levels to minimize the risk of a transportation security incident. However, while we mandate that all vessels must implement screening procedures, we provide the flexibility for those vessels

to determine what those screening procedures should be, taking into account the type of vessel and the geographical region where that vessel is operating. Additionally, the intent of the regulations is that the secure area used to conduct the screening of baggage or personal effects could be the same location where the screening of persons entering the vessel takes place. Because we have kept the screening requirements in these final rules, we have also retained the provisions for designating a secure area on board the vessel or in liaison with the facility for conducting inspections and screening.

We received two comments on vehicle searches. One commenter stated that vehicle screenings prior to boarding vessels "are not warranted." One commenter suggested that the government is responsible for vehicle inspections and searches.

We disagree. Vehicles may be used to cause a transportation security incident. Therefore, the screening of vehicles is warranted.

We received requests from other Federal agencies to clarify that government-owned vehicles on official business should not be subject to search. We agree and are amending § 104.265(e)(1) to exempt government-owned vehicles on official business from screening or inspection. This does not exempt government personnel from presenting identification credentials on demand for entry onto vessels or facilities.

One commenter suggested using bomb-sniffing dogs to scan all vehicles in a ferry lot prior to boarding a ferry, along with "uniformed troopers" who remain visible for the trip.

Section 104.265 gives ferry owners and operators the flexibility to implement those security measures that meet the given performance standards. Owners and operators of ferry terminals and vessels may submit security plans that include security measures such as bomb-sniffing dogs and uniformed security guards to meet the performance standards in security plans.

Three commenters stated that they want to be able to lawfully carry firearms on ferries and do not want to check their firearms on a short ferry trip.

While the regulations require vessel owners and operators to deter the introduction of dangerous substances and devices, in accordance with § 104.265, the regulations do not mandate the checking of lawfully carried firearms. Our regulations are flexible to handle daily operations and allow the owners and operators to develop appropriate procedures that ensure the security of its passenger or

commercial activities. All security plans will be reviewed by the Coast Guard to ensure compliance with access control regulations.

Three commenters stated that many of the requirements of § 104.265, Security measures for access control, should not apply to unmanned vessels because there is no person on board the vessel at most times.

We disagree. The owner or operator must ensure the implementation of security measures to control access because unmanned barges directly regulated under this subchapter may be involved in a transportation security incident. As provided in § 104.215(a)(4), the Vessel Security Officer of an unmanned barge must coordinate with the Vessel Security Officer of any towing vessel and Facility Security Officer of any facility to ensure the implementation of security measures for the unmanned barge. We have amended § 105.200 to clarify the facility owner's or operator's responsibility for the implementation of security measures for unattended or unmanned vessels while moored at a facility.

One commenter asked if there is a difference between the terms "screening" and "inspection" as used in § 104.265(e)(2), requiring conspicuously posted signs.

In 33 CFR subchapter H, the terms "screening" and "inspection" fully reflect the types of examinations that may be conducted under §§ 104.265, 105.255, and 106.260. Therefore, both terms are included to maximize clarity.

We received 10 comments regarding signage and posting of signs. Ten commenters stated that posting new signs required in § 104.265(e)(2), on board unmanned barges that describe the security measures in place is unnecessary because existing signs indicate that visitors are not permitted on board. One commenter stated that the requirements in § 105.255(e)(2) regarding signage are too prescriptive and believed that facilities should be allowed to post signs as they deem necessary and not attract additional attention.

We disagree with the comment and believe that signs, appropriately posted, serve as a deterrent against unauthorized entry and provide awareness for facility security personnel. Although signage is primarily aimed at manned vessels, we extended this to all vessels because all vessels may on occasion be boarded by persons whose entry would subject them to possible screening. If existing signs accomplish this, the owner or operator is in compliance with the regulation.