

operator. Checking cargo containers may be limited to external examinations to detect signs of tampering, including checking of the integrity of seals; however screening the vehicle the cargo container arrives on remains a requirement under these regulations. The issue of cargo screening will be addressed by TSA, BCBP, and other appropriate agencies through programs such as the Customs-Trade Partnership Against Terrorism (C-TPAT), the Container Security Initiative (CSI), performance standards developed under section 111 of the MTSA, and the Secure Systems of Transportation (SST) under 46 U.S.C. 70116. The requirement to ensure the coordination of security measures with the shipper or other party aligns with the ISPS Code. It is intended that provisions be coordinated when there are regular or repeated cargo operations with the same shipper. This facilitates security between the shipper and the facility; therefore, we have made this type of coordination mandatory. We have, however, amended §§ 104.275(a)(5) and 105.265(a)(8) to clarify that this coordination is only required for frequent shippers. The requirements in § 105.265(a)(9) may be challenging to implement, but the requirements are consistent with the ISPS Code, part B. We believe that a continuous inventory of goods is important to the security of facilities, especially for those that handle dangerous goods or hazardous substances and may be involved in a transportation security incident.

Ten commenters were concerned about health and occupational safety during inspection of cargo spaces. Five commenters raised this concern in connection with tank barges, under the vessel security measures for handling cargo, § 104.275(b) and (c), and two other commenters raised the concern under the facility cargo-handling requirements in § 105.265(b)(1) and (b)(4).

Under § 104.275, we provide flexibility in how cargo spaces must be checked. This allows owners and operators to take safety into account in devising cargo check procedures. To emphasize safety during cargo operations, we have amended §§ 104.275(b)(1) and 105.265(b)(1) to reflect that a check on cargo and cargo spaces should be done unless it is unsafe to do so. We did not amend § 104.275(b)(4) in a similar manner because if the check of seals or other methods used to prevent tampering is unsafe for vessel personnel to conduct, they should liaise with the facility to ensure this is done.

Two commenters requested that § 104.275(a) describing the “liaison” between vessels and facilities during cargo transfers be amended to include the “liaison” between vessels and other vessels during “vessel-to-vessel interfaces.”

We agree that a vessel-to-facility interface or a vessel-to-vessel activity could include cargo handling; therefore, we have amended § 104.275 to reflect vessel-to-vessel transfers of cargo in those paragraphs we believe require this clarification.

Three commenters asked the Coast Guard to issue guidance on using lighting to monitor a vessel underway. The commenters stated that lighting that diminishes the visibility of navigation lights will be detrimental to safety.

We believe that any lighting installed on board vessels must not compromise navigational safety. We do not intend at this time, however, to issue specific guidance on lighting. The Master is responsible for assuring that lighting installed for security monitoring does not interfere with navigational safety. Section 104.285(a)(2) lists the issues that must be considered when establishing the level and location of lighting. Section 104.285(a)(2)(iv) states that lighting effects, such as glare, and its impact on safety, navigation, and other security activities, must be considered.

One commenter stated that the monitoring requirements in § 104.285 conflict with crew rest periods necessary for the safe operation of the vessel.

We do not believe that § 104.285 conflicts with rest periods for crewmembers. It is the vessel owner's or operator's responsibility to ensure that manning levels are sufficient to implement the approved Vessel Security Plan at all MARSEC Levels. There are various ways to meet this requirement, including not operating the vessel at higher MARSEC Levels or limiting vessel operational hours, to ensure crew rest periods are maintained.

After further review of § 104.285(c)(5), we amended this paragraph to clarify that vessel owners or operators may need to include more than one of the additional security measures listed at MARSEC Level 2.

Three commenters suggested that we amend § 104.290(a)(1) to revise “Prohibiting” to read “Deter to the best of their ability” and § 104.290(a)(2) to revise “Deny” to read “Denying access to the best of their ability.”

We disagree with the comments because the suggested changes would erode the level of security to be

achieved by the regulations by providing an unenforceable standard.

Three commenters recommended that the notification procedures in § 104.290(a)(5) be amended to conform to 46 U.S.C. 70104 to include procedures for notifying and coordinating with local, State, and Federal authorities, including the Director of the Federal Emergency Management Agency.

We do not believe that it is necessary to amend § 104.290(a)(5) to align with 46 U.S.C. 70104. The statute is met through the AMS Plan, the implementation of which is intended to coordinate proper notification and response with shoreside authorities in the event of a transportation security incident. The COTP, as the Federal Maritime Security Coordinator, is responsible for notifications as discussed in subpart C of part 101.

One commenter asked how the Coast Guard defines “critical vessel-to-facility interface operations” that need to be maintained during transportation security incidents.

Section 104.290(a) requires vessel owners or operators to ensure that the Vessel Security Officer and vessel security personnel can respond to threats and breaches of security and maintain “critical vessel and vessel-to-facility interface operations,” while paragraph (e) of that section requires non-critical operations to be secured in order to focus response on critical operations. The Coast Guard does not define the critical operations that need to be maintained during security incidents, because these will vary depending on a vessel's physical and operational characteristics, but we do require each vessel to provide its own definition as part of its Vessel Security Plan. Section 104.305(d) requires that they discuss and evaluate in the Vessel Security Assessment report key vessel measures and operations, including operations involving other vessels or facilities.

One commenter suggested that commuter ticket books or badges could serve as a form of required identification for passengers on board ferries.

Personal identification remains a requirement in these regulations as described in § 101.515 to ensure, if needed, the identification of any passenger. A ticket book or badge that meets the requirements of § 101.515 could serve as personal identification. To ease congestion for ferry passengers, we have included alternatives to checking personal identification as described in § 104.292. These alternatives, if used, can expedite access