

Committee of the COTP zone that is most relevant to their operations.

Twelve commenters questioned our compliance dates. One commenter stated that because the June 2004 compliance date might not be easily achieved, the Coast Guard should consider a "phased in approach" to implementation. Four commenters asked us to verify our compliance date expectations and asked if a facility can "gain relief" from these deadlines for good reasons.

The Maritime Transportation Security Act of 2002 (MTSA) requires full compliance with these regulations 1 year after the publication of the temporary interim rules, which were published on July 1, 2003. Therefore, a "phased in approach" will not be allowed. While compliance dates are mandatory, a vessel or facility owner or operator could "gain relief" from making physical improvements, such as installing equipment or fencing, by addressing the intended improvements in the Vessel or Facility Security Plan and explaining the equivalent security measures that will be put into place until improvements have been made.

We are amending the dates of compliance in § 106.110(a) and (b), § 106.115, and § 106.410(a) to align with the MTSA and the International Ship and Port Facility Security Code (ISPS Code) compliance dates.

One commenter requested that we clarify § 105.125, Noncompliance, to "focus on only those areas of noncompliance that are the core building blocks of the facility security program" stating that the section requires a "self-report of every minor glitch in implementation."

We did not intend for § 105.125 to not require self-reporting for minor deviations from these regulations if they are corrected immediately. We have clarified §§ 104.125, 105.125, and 106.120 to make it clear that owners or operators are required to request permission from the Coast Guard to continue operations when temporarily unable to comply with the regulations.

Two commenters stated that in its control and compliance measures, the Coast Guard should clarify its legal authority to establish a security zone beyond its territorial sea.

One basis for the Coast Guard to establish security zones in the Exclusive Economic Zone (EEZ) is pursuant to the Ports and Waterways Safety Act, 33 U.S.C. 1221 *et seq.* For example, consistent with customary international law, 33 U.S.C. 1226 provides the Coast Guard with authority to carry out or require measures, including the establishment of safety and security

zones, to prevent or respond to an act of terrorism against a vessel or public or commercial structure that is located within the marine environment. 33 U.S.C. 1222 defines "marine environment" broadly to include the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority. The United States asserts exclusive fishery management authority in the EEZ.

We received seven comments regarding waivers, equivalencies, and alternatives. Three commenters appreciated the flexibility of the Coast Guard in extending the opportunity to apply for a waiver or propose an equivalent security measure to satisfy a specific requirement. Four commenters requested detailed information regarding the factors the Coast Guard will focus on when evaluating applications for waivers, equivalencies, and alternatives.

The Coast Guard believes that equivalencies and waivers provide flexibility for vessel and facility owners and operators with unique operations. Sections 104.130, 105.130, and 106.125 state that vessel or facility owners or operators requesting waivers for any requirement of part 104, 105, or 106 must include justification for why the specific requirement is unnecessary for that particular owner's or operator's vessel or facility or its operating conditions. Section 101.120 addresses Alternative Security Programs and § 101.130 provides for equivalencies to security measures. We intend to issue guidance that will provide more detailed information about the application procedures and requirements for waivers, equivalencies, and the Alternative Security Program.

After further review of parts 101 and 104 through 106, we have amended §§ 101.120(b)(3), 104.120(a)(3), 105.120(c), and 106.115(c) to clarify that a vessel or facility that is participating in the Alternative Security Program must complete a vessel or facility specific security assessment report in accordance with the Alternative Security Program, and it must be readily available.

Subpart B—Outer Continental Shelf (OCS) Facility Security Requirements

This subpart describes the responsibilities of the facility owner or operator and personnel relative to OCS facility security. It includes requirements for training, drills, recordkeeping, and Declarations of Security. It identifies specific security measures, such as those for access

control, restricted areas, and monitoring.

Two commenters suggested that the Coast Guard should not regulate security measures but should establish security guidelines based on facility type, in essence creating a matrix with "risk-levels" and suggested measures for facility security.

We cannot establish only guidelines because the MTSA and the International Convention for Safety of Life at Sea, 1974 (SOLAS) require us to issue regulations. We have provided performance-based, rather than prescriptive, requirements in these regulations to give owners or operators flexibility in developing security plans tailored to vessels' or facilities' unique operations.

One commenter asked who would be ensuring the integrity of security training and exercise programs.

Since the events of September 11, 2001, the Coast Guard has developed a directorate responsible for port, vessel, and facility security. This directorate oversees implementation and enforcement of the regulations found in parts 101 through 106. Additionally, owners and operators of vessels and facilities will be responsible for recordkeeping regarding training, drills, and exercises, and the Coast Guard will review these records during periodic inspections.

Five commenters supported the Coast Guard in not specifically defining training methods. Another commenter agrees with the Coast Guard's position that the owner or operator may certify that the personnel with security responsibilities are capable of performing the required functions based upon the competencies listed in the regulations. Two commenters stated that formal security training for Facility Security Officers and personnel with security related duties become mandatory as soon as possible. One commenter stated that they were concerned with the lack of formal training for Facility Security Officers.

As we explained in the temporary interim rule (68 FR 39263) (part 101), there are no approved courses for facility personnel and therefore, we intend to allow Facility Security Officers to certify that personnel holding a security position have received the training required to fulfill their security duties. Section 109 of the MTSA required the Secretary of Transportation to develop standards and curricula for the education, training, and certification of maritime security personnel, including Facility Security Officers. The Secretary delegated that authority to the Maritime