

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to safety interests as there was not sufficient time remaining after receipt of the permit request to publish proposed rules in advance of the event or to provide for a delayed effective date.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only eight hours each day of the event and the regulated area would not have a significant impact on commercial traffic.

Small Entities

Under the Regulatory Flexibility Act (U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. Small entities include small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, as the regulation will only be in effect for approximately eight hours on two days in a limited area of Biscayne Bay with little impact on commercial traffic.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2-1, paragraph 34 (h) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations: In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35T-07-059 is added to read as follows:

§ 100.35T-07-059 Columbus Day Regatta Sailboat Race; Miami, Florida

(a) Definitions:

(1) **Regulated Area.** A regulated area is established for the race area by joining the following points (all coordinates reference Datum: NAD 83):

25-43.399N, 80-12.500W;
25-43.399N, 80-10.500W;
25-33.000N, 80-11.500W;
25-33.000N, 80-15.900W;
25-40.000N, 80-15.000W.

(2) **Coast Guard Patrol Commander.** The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commander, Coast Guard Group Miami, Florida.

(b) Special local regulations:

(1) Entry into the regulated area by other than event participants is prohibiting unless otherwise authorized by the Patrol Commander. At the completion of the daily races traffic may resume normal operations.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) Spectators are required to maintain a safe distance from the racecourse at all times.

(c) **Dates:** This section becomes effective at 9 a.m. and terminates at 5 p.m. each day on October 10 and 11, 1998.

Dated: September 21, 1998.

N.T. Saunders,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 120 and 128

[CGD 91-012]

RIN 2115-AD75

Security for Passenger Vessels and Passenger Terminals

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard implements a final rule for the security of passenger vessels and passenger terminals. The purpose of this rule, as of the interim rule now in effect, is to deter, or mitigate the results of, terrorism and other unlawful acts against passenger vessels and passenger terminals. The rule should reduce the likelihood of such acts and should reduce the damage to property and injury to persons, if such acts occur.

DATES: This final rule is effective on November 13, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA, 3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1477. A copy of the material listed in *Incorporation by Reference* of this preamble is available for inspection at room 1210, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: LCDR John Farthing, Project Manager, Vessel and Facility Operating Standards Division, 202-267-6451.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 25, 1994, the Coast Guard published [59 FR 14290] a notice of proposed rulemaking (NPRM) entitled "Security for Passenger Vessels and Passenger Terminals." The Coast Guard

held three public meetings and received over 115 comments on the NPRM.

On July 18, 1996, the Coast Guard published [61 FR 37648] an interim rule requiring the development of Security Plans based on three threat levels. The interim rule required all passenger vessels and passenger terminals covered by the rule to submit Plans by October 16, 1996.

On October 3, 1996, the Coast Guard published [61 FR 51597] a Notice of Policy clarifying the tonnage requirement and the submission of Terminal Security Plans by entities other than the terminals themselves.

Background and Purpose

The death of a U.S. citizen, during the hijacking of the ACHILLE LAURO in 1985, demonstrates the threat of terrorism to passenger vessels and associated terminals. This vulnerability has caused major national and international concern about terrorism. To address this threat, the President signed into law the Omnibus Diplomatic Security and Antiterrorism Act of 1986 [Pub. L. 99-399; 100 Stat. 889], Title IX of which constitutes the International Maritime and Port Security Act. That Act amended the Ports and Waterways Safety Act [33 U.S.C. 1221], and provided the Coast Guard authority to "carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism" [§ 906].

The International Maritime Organization (IMO) adopted and published "Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships," also in 1986. Those measures, which are guidelines, apply to passenger ships engaged on international voyages of 24 hours or more and to the port facilities that serve them. We, the Coast Guard, published a notice listing these measures as "guidelines" and encouraging voluntary compliance [52 FR 11587; April 9, 1987].

Initially, the response was promising as many passenger vessels and associated passenger terminals operating in the U.S. began implementing the guidelines. However, we determined that voluntary compliance had not produced the industry-wide level of security necessary to ensure that acts of terrorism are deterred, or responded to, in the best possible manner. We have seen an increase in domestic terrorism along with a consistent, if not increasing, threat of international terrorism. For these reasons, the Secretary of the Department of

Transportation asked all agencies of the Department to reassess their security procedures and standards.

Consequently, we determined that implementing a rule to ensure that passenger vessels and passenger terminals are prepared to handle terrorist threats or actions was necessary.

On July 18, 1996, the Coast Guard published [61 FR 37648] an interim rule requiring the development of Security Plans by passenger vessels and passenger terminals. The interim rule required all passenger vessels and passenger terminals covered by the rule to submit Plans by October 16, 1996.

Implementation of the interim rule has been highly successful. The passenger vessels and passenger terminals affected by this rule have developed plans to ensure that passenger vessels and passenger terminals are prepared to handle terrorist threats or actions. Additionally, the Department of Transportation, the Coast Guard, and industry have cooperatively embarked on several related projects to enhance security for these vessels and terminals.

Discussion of Comments and Changes

1. General

We received six comments on the interim rule, most of which expressed satisfaction with the rule as written.

Several of the sections, and their headings, in Parts 120 and 128 have been revised to reflect the new "plain language" style of regulations.

2. Definition of Terms Relative to Security Level

Several comments expressed concern about the use of the terms "High Threat," "Medium Threat," and "Low Threat." They felt that these terms were confusing because many other agencies use the same terms with no commonality among the definitions.

We agree that these terms are confusing and have changed (120.110 of the rule by removing those terms and substituting three Security Levels with similar definitions.

3. Definitions of "embarks" and "disembarks"

There were also several comments expressing concern about the meaning of embarking and disembarking passengers. Some felt this meant only the initial embarkation or final debarkation of passengers. They recommended that the rule should be changed to define these terms.

We do not agree. We consider the concepts embarking and disembarking to be clear and to need no further definition. "Webster's New World Dictionary" defines the terms embark

and disembark as "to put or take (passengers or goods) aboard a ship ..." and "to unload from or leave a ship ..." respectively. Security is necessary anytime passengers or stores are placed on or taken off a vessel. The degree of security will vary depending on the location, the operation, and the perceived threat.

4. Other Types of Vessels

One comment raised a question about the requirement of Security Plans for other types of vessels (such as tankers and cargo vessels) that also carry passengers for hire.

At present, we do not require Plans for vessels whose primary service is not the carriage of passengers. In the future, should the degree of threat increase, we may amend this rule to encompass other vessels that handle passengers regardless of service.

5. Terminal Operators

One comment raised the issue of who is the terminal operator, and the issue also arose during several meetings between industry and local Coast Guard Captains of the Port (COTPs).

This issue (together with the issue of tonnage) led to the publication of the Notice of Policy on October 3, 1996. We understand that terminals differ in size and complexity. It is in the interest of all parties to allow for the submission of Security Plans for terminals by entities other than the terminals themselves. These Plans can be based upon legal contracts between vessels and terminals or upon responsibilities for absolute control over terminal areas. In some instances annexes to the Security Plan for vessels may substitute for Plans for terminals, with the approval of the COTPs, enabling vessels to operate in remote sites where typical terminal facilities do not exist. This will still provide a degree of security for their passengers commensurate with the reduced level of activity taking place in those sites. We have incorporated this policy clarification into this rule by inserting the text from the Notice of Policy into a new (120.303 and a new (128.305, after renumbering (128.305 to 128.307, (128.307 to 128.309, and (128.309 to 128.311.

6. Exemption from "Freedom of Information Act"

During the previous comment periods, many parties asked to have the required Security Plans exempted from requests under the "Freedom of Information Act." The Coast Guard, in turn, asked Congress for express authority to withhold them.

Congress granted this authority in the "Coast Guard Authorization Act of

1996" [Pub. L. 104-324], which exempts these plans from required disclosure to the public [(302; 33 U.S.C. 1226(c)].

7. Plain Language

In an effort to develop a more customer-oriented approach to drafting regulations, the Coast Guard will publish the final rule using "plain language" techniques. Clear, more readable regulations are important for the success of our government's reinvention initiative.

Incorporation by Reference

The Director of the Federal Register has approved the material in ((120.220, 120.300, 128.220, and 128.300 from International Maritime Organization (IMO), MSC Circular 443, "Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships", dated September 26, 1986, for incorporation by reference effective October 16, 1996, under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the source listed in ((120.120 and 128.120.

Regulatory Assessment

This rulemaking is a significant regulatory action under section 3(f) of Executive Order 12866. The Office of Management and Budget (OMB) reviewed the rulemaking under that Order. This final rule needs an assessment of potential cost and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of the Department of Transportation [44 FR 11040 (February 26, 1979)]. We prepared an Assessment, which is available in the docket for inspection or copying where indicated under **ADDRESSES**. A summary of the Assessment follows:

We expect that this rule will affect about 137 passenger vessels and 53 passenger terminals. Of the vessels, about 134 are cruise vessels, each carrying in excess of 100 passengers and operating out of U.S. ports. Of the terminals, all serve these cruise vessels. There may be up to 40 more vessels and 20 more terminals that will be subject to this rule only on occasion. Such occasions could include where a vessel subject to this rule would schedule a port call outside its usual itinerary (i.e. for a special event), or if a vessel not usually subject to this rule was chartered for a voyage that would make it applicable. There are around 4 million passengers a year that will be subject to, and will benefit from, the security measures required by this rule.

We estimate initial total implementing costs at \$611,040. We estimate annual total operating costs at

\$30,768. If the number of passengers remains constant at about 4 million a year, the cost to consumers will be negligible.

The potential exists for the loss of many lives and for significant property damage from even a single act of terrorism against a passenger vessel. Although the benefits of avoiding such an act cannot be exactly quantified, we assert that the benefits from this rule outweigh the costs.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], we must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Firms affected by this rulemaking are classified as "Water Transportation of Passengers, N.E.C.", Standard Industrial Code (SIC) #4489. According to 13 CFR Part 121, small businesses under this SIC are those firms that employ less than 500 people.

Of the 137 passenger vessels affected by this rulemaking, the average displacement of each vessel is 31,050 gross tons. The average passenger capacity is 1,171 passengers and the crew size averages 440 persons. All but 12 of these affected passenger vessels belong to a fleet of two or more vessels. The tonnage of the vessels, the crew size, and passenger capacity together suggest that the majority of these passenger vessels are not owned and operated by small entities.

To ensure compliance with the Small Business Regulatory Enforcement Fairness Act, the Coast Guard analyzed the affected population to determine with more certainty the prospective impact upon small entities. The Passenger Vessel Association (PVA) was contacted to determine if any of the firms operating passenger vessels affected by this rulemaking were members. Approximately 98 percent of PVA members are unaffected small entities. Only one affected vessel was found to be operated by a PVA member, but its operator was not a small entity.

The Coast Guard contacted companies which own and operate only one vessel. We determined that two of the single-vessel companies being affected by this rule are small entities and that two of the single-vessel companies affected by this rule exceed the 500-employee threshold and were not small entities. Information on the remaining eight

single-vessel companies was not made available to the Coast Guard. We concluded that this rule impacts at least two, and up to ten, small entities.

The costs attributable to this rule are a function of the time it takes to perform security planning and surveys. Security requirements for small vessels and terminals will be less complex, and therefore less expensive to implement, than for large vessels and terminals. The reduced complexity will result in costs to small entities that are less than the relatively low average initial cost of \$3,216 per vessel/terminal and annual costs of \$161 per vessel/terminal calculated for the rulemaking. Very few small entities are affected, in all likelihood no more than 10 firms, and the per-firm costs are quite low. Accordingly, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-121], we offered through the interim rule to assist small entities to understand this final rule so they can better evaluate its effects on them and participate in the rulemaking. We received no comments in response to the interim rule on this matter.

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*]. It requires the development of security plans for both passenger vessels and passenger terminals. It also requires the amendment of the plans to keep them current and the reporting of unlawful acts to the Coast Guard. It affects about 137 vessels and 53 terminals. During previous comment periods we received no comments concerning the collection of information.

As required by 5 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget for its review of the collection of information. OMB has approved the collection. The sections are §§ 120.220, 120.300, 128.220, 128.300, 128.305, and 128.309, and the control number for them is OMB Control Number 2115-0622, which expires on January 31, 2000.

There is no requirement for persons to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

We have analyzed this final rule under the principles and criteria contained in Executive Order 12612 and have determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

We have considered the environmental impact of this final rule and concluded that, under paragraph 2.B.2.e.(34) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule implements statutory authority of the Coast Guard in maritime safety. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects

33 CFR Part 120

Passenger vessels, Incorporation by reference, Reporting and recordkeeping requirements, Security.

33 CFR Part 128

Incorporation by reference, Reporting and recordkeeping requirements, Security, Waterfront facilities.

Accordingly, the Coast Guard adopts with the following changes the interim rule amending 33 CFR parts 120 and 128, which was published at 61 FR 37648 on July 18, 1996, as a final rule:

PART 120-SECURITY OF PASSENGER VESSELS

1. The cite of authority for part 120 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Revise the heading of § 120.100 to read as follows:

§ 120.100 Does this part apply to me?

* * * * *

3. In § 120.110 remove definitions of "High Threat," "Low Threat," and "Medium Threat," and add, in alphabetical order, definitions to read as follows:

§ 120.110 Definitions.

As used in this part:

* * * * *

Security Level I means the degree of security precautions to take when the threat of an unlawful act against a vessel or terminal is, though possible, not likely.

Security Level II means the degree of security precautions to take when the threat of an unlawful act against a vessel or terminal is possible and intelligence indicates that terrorists are likely to be

active within a specific area, or against a type of vessel or terminal.

Security Level III means the degree of security precautions to take when the threat of an unlawful act against a vessel or terminal is probable or imminent and intelligence indicates that terrorists have chosen specific targets.

* * * * *

We means the United States Coast Guard.

You, unless otherwise specified, means the owner, operator, or charterer of a passenger vessel.

4. Revise § 120.200 to read as follows:

§ 120.200 What must my Vessel Security Program cover?

(a) If this part applies to your passenger vessel, you must implement a program for that vessel that—

(1) Provides for the safety and security of persons and property traveling aboard the vessel, against unlawful acts;

(2) Prevents or deters the carriage aboard the vessel of any prohibited weapon, incendiary, or explosive, on or about any person or within his or her personal articles or baggage, and the carriage of any prohibited weapon, incendiary, or explosive, in stowed baggage, cargo, or stores;

(3) Prevents or deters unauthorized access to the vessel and to restricted areas aboard the vessel;

(4) Provides appropriate security measures for Security Levels I, II, and III that allow for increases in security when the Commandant or Captain of the Port (COTP) advises you that a threat of an unlawful act exists and may affect the vessel or any person aboard it;

(5) Designates, by name, a security officer for the vessel;

(6) Ensures that all members of the crew are adequately trained to perform their duties relative to security; and

(7) Provides for coordination with terminal security while in port.

(b) If this part applies to your passenger vessel, you must work with the operator of each terminal at which that vessel embarks or disembarks passengers, to provide security for the passengers and the vessel. You need not duplicate any provisions fulfilled by the terminal unless directed to by the Commandant. When a provision is fulfilled by the terminal, the applicable section of the Vessel Security Plan required by § 120.300 must refer to that fact.

5. Revise § 120.210 and its heading to read as follows:

§ 120.210 What are the responsibilities of my vessel security officer?

(a) If this part applies to your passenger vessel, you must designate a security officer for your vessel.

(b) This officer must ensure that—

(1) An initial comprehensive security survey is conducted and updated;

(2) The Vessel Security Plan required by § 120.300 is implemented and maintained, and amendments to correct its deficiencies and satisfy the security requirements for the vessel are proposed;

(3) Adequate training for members of the crew responsible for security is provided;

(4) Regular security inspections of the vessel are conducted;

(5) Vigilance is encouraged, as well as is general awareness of security, aboard the vessel;

(6) All occurrences or suspected occurrences of unlawful acts and related activities are reported under § 120.220; and

(7) Coordination, for implementation of the Vessel Security Plan required by § 120.300, takes place with the terminal security officer at each terminal where the vessel embarks or disembarks passengers.

6. Revise § 120.220 to read as follows:

§ 120.220 What must I do to report an unlawful act and related activity?

(a) Either you or the vessel security officer must report each breach of security, unlawful act, or threat of an unlawful act against any of your passenger vessels to which this part applies, or against any person aboard it, that occurs in a place subject to the jurisdiction of the United States. You must report the incident to both the COTP and to the local office of the Federal Bureau of Investigation (FBI). Also, if your vessel is a U.S.-flag vessel, you must report each such incident that occurs in a place outside the jurisdiction of the United States to the hotline of the Response Center of the Department of Transportation at 1-800-424-0201, or, from within metropolitan Washington, D.C., at 202-267-2675.

(b) Either you or the vessel security officer must file a written report of the incident, using the form "Report on an Unlawful Act," contained in IMO MSC Circular 443, which you or the officer must forward as soon as possible to Commandant (G-MOR), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. You may initially file the report with Commandant (G-MOR) by fax at (202) 267-4085 or -4065.

7. Revise § 120.300 to read as follows:

§ 120.300 What is required to be in a Vessel Security Plan?

(a) If your passenger vessel is subject to this part, you must develop and

maintain, in writing, for that vessel, an appropriate Vessel Security Plan that—

- (1) Is unique to the vessel;
 - (2) Articulates the program required by § 120.200; and
 - (3) Includes an appendix, for each port where the vessel embarks or disembarks passengers, that contains port-specific security information.
- (b) The Vessel Security Plan must be developed and maintained under the guidance in IMO MSC Circular 443, and must establish security measures to take for Security Levels I, II, and III, to—
- (1) Deter unauthorized access to the vessel and its restricted areas;
 - (2) Deter the introduction of prohibited weapons, incendiaries, or explosives aboard the vessel;
 - (3) Encourage vigilance, as well as general awareness of security, aboard the vessel;
 - (4) Provide adequate training to members of the crew for security aboard the vessel;
 - (5) Coordinate responsibilities for security with the operator of each terminal where the vessel embarks or disembarks passengers; and
 - (6) Provide information to members of the crew and to law-enforcement personnel, in case of an incident affecting security.
- (c) You must amend the Vessel Security Plan to address any known deficiencies.

(d) You must restrict the distribution, disclosure, and availability of information contained in the Vessel Security Plan to those persons with an operational need to know.

8. Add new § 120.303 to read as follows:

§ 120.303 Who must submit a Terminal Security Plan?

- (a) You must submit a Terminal Security Plan whenever—
- (1) There is an agreement with the owner or operator of a terminal that you will submit the Plan;
 - (2) You have exclusive use of the pier and terminal building immediately adjacent to the pier and have complete control of that area;
 - (3) There is no terminal; or
 - (4) Passengers embark or disembark but no baggage or stores are loaded or offloaded.
- (b) In the situations described in paragraphs (a)(3) and (4) of this section, you may, with the permission of the cognizant COTP, use an annex to the vessel's security plan instead of a Terminal Security Plan.
- (c) The owner or operator of a terminal must submit a Terminal Security Plan whenever—

(1) There is an agreement with you that the owner or operator of the terminal will submit the Plan;

- (2) No security agreement exists; or
- (3) (i) At least one vessel other than a passenger vessel uses the terminal;
- (ii) More than one passenger vessel line uses the terminal; or
- (iii) The terminal loads or offloads baggage or stores.

9. Revise § 120.305 to read as follows:

§ 120.305 What is the procedure for examination?

(a) You must submit two copies of each Vessel Security Plan required by § 120.300, or of any Terminal Security Plan or annex required or permitted under § 120.303 or § 128.305 of this chapter, to the Commanding Officer, National Maritime Center (NMC), 4200 Wilson Blvd., Suite 510, Arlington, Virginia 22203, for examination at least 60 days before embarking passengers on a voyage described in § 120.100.

(b) If the Commanding Officer of the NMC, finds that the Vessel Security Plan meets the requirements of § 120.300, he or she will return a copy to you marked "Examined by the Coast Guard."

(c) If the Commanding Officer of the NMC, finds that the Vessel Security Plan does not meet the requirements of § 120.300, he or she will return the Plan with an explanation of why it does not meet them.

(d) No vessel subject to this part may embark or disembark passengers in the United States, unless it holds either a Vessel Security Plan that we have examined or a letter from the Commanding Officer of the NMC, stating that we are currently reviewing the Plan and that normal operations may continue until we have determined whether the Plan meets the requirements of § 120.300.

10. Revise § 120.307 to read as follows:

§ 120.307 What do I do if I need to amend my Vessel Security Plan?

(a) If your passenger vessel is subject to this part, you must amend your Vessel Security Plan when directed by the Commanding Officer of the NMC, and may amend it on your own initiative.

(b) You must submit each proposed amendment to the Vessel Security Plan you initiate, including changes to any appendix required by § 120.300(a)(3), to the Commanding Officer of the NMC, for review, at least 30 days before the amendment is to take effect, unless he or she allows a shorter period. He or she will examine the amendment and respond according to § 120.305.

(c) The Commanding Officer of the NMC, may direct you to amend your Vessel Security Plan if he or she determines that implementation of the Plan is not providing effective security. Except in an emergency, he or she will issue you a written notice of matters to address and will allow you at least 60 days to submit proposed amendments.

(d) If there is an emergency or other circumstance where the COTP determines that implementation of the Plan is not providing effective security, and the procedures in paragraph (c) of this section are impracticable, the COTP may give you an order to implement increases in security immediately. The order will incorporate a statement of the reasons for it.

11. Revise § 120.309 to read as follows:

§ 120.309 What is my right of appeal?

Any person directly affected by a decision or action taken by the Commanding Officer of the NMC, under this part, may appeal that action or decision to the Assistant Commandant for Marine Safety and Environmental Protection [Commandant (G-M)] according to the procedures in 46 CFR 1.03–15.

PART 128—SECURITY OF PASSENGER TERMINALS

12. The cite of authority for part 128 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

13. Revise the heading of § 128.100 to read as follows:

§ 128.100 Does this part apply to me?

* * * * *

14. Revise § 128.110 to read as follows:

§ 128.110 Definitions.

The definitions in part 120 of this chapter apply to this part, except for the definition of *You*. As used in this part:

You means the owner or operator of a passenger terminal.

15. Revise § 128.200 to read as follows:

§ 128.200 What must my Terminal Security Plan cover?

(a) If this part applies to your passenger terminal, you must implement for that terminal a program that—

- (1) Provides for the safety and security of persons and property in the terminal and aboard each passenger vessel subject to part 120 of this chapter moored at the terminal, against unlawful acts;
- (2) Prevents or deters the carriage aboard any such vessel moored at the

terminal of any prohibited weapon, incendiary, or explosive on or about any person or within his or her personal articles or baggage, and the carriage of any prohibited weapon, incendiary, or explosive in stowed baggage, cargo, or stores;

(3) Prevents or deters unauthorized access to any such vessel and to restricted areas in the terminal;

(4) Provides appropriate security measures for Security Levels I, II, and III that allow for increases in security when the Commandant or Captain of the Port (COTP) advises you that a threat of an unlawful act exists and may affect the terminal, a vessel, or any person aboard the vessel or terminal;

(5) Designates, by name, a security officer for the terminal;

(6) Provides for the evaluation of all security personnel of the terminal, before hiring, to determine suitability for employment; and

(7) Provides for coordination with vessel security while any passenger vessel subject to part 120 of this chapter is moored at the terminal.

(b) If this part applies to your passenger terminal, you must work with the operator of each passenger vessel subject to part 120 of this chapter, to provide security for the passengers, the terminal, and the vessel. You need not duplicate any provisions fulfilled by the vessel unless directed to by the COTP. When a provision is fulfilled by a vessel, the applicable section of the Terminal Security Plan required by § 128.300 must refer to that fact.

16. Revise § 128.210 to read as follows:

§ 128.210 What are the responsibilities of my terminal security officer?

(a) If this part applies to your passenger terminal, you must designate a security officer for the terminal.

(b) This officer must ensure that—

(1) An initial comprehensive security survey is conducted and updated;

(2) The Terminal Security Plan required by § 128.300 is implemented and maintained, and that amendments to correct its deficiencies and satisfy the security requirements of the terminal are proposed;

(3) Adequate training for personnel responsible for security is provided;

(4) Regular security inspections of the terminal are conducted;

(5) Vigilance is encouraged, as well as is general awareness of security, at the terminal;

(6) All occurrences or suspected occurrences of unlawful acts and related activities are reported under § 128.220 and records of the incident are maintained; and

(7) Coordination, for implementation of the Terminal Security Plan required by § 128.300, takes place with the vessel security officer of each vessel that embarks or disembarks passengers at the terminal.

17. Revise § 128.220 to read as follows:

§ 128.220 What must I do to report an unlawful act and related activity?

(a) Either you or the terminal security officer must report each breach of security, unlawful act, or threat of an unlawful act against the terminal, a passenger vessel subject to part 120 of this chapter destined for or moored at that terminal, or any person aboard the terminal or vessel, to the COTP, to the local office of the Federal Bureau of Investigation (FBI), and to the local police agency having jurisdiction over the terminal.

(b) Either you or the terminal security officer must file a written report of the incident using the form "Report on an Unlawful Act," contained in IMO MSC Circular 443, as soon as possible, to the local COTP.

18. Revise § 128.300 to read as follows:

§ 128.300 What is required to be in a Terminal Security Plan?

(a) If your passenger terminal is subject to this part, you must develop and maintain, in writing, for that terminal, an appropriate Terminal Security Plan that articulates the program required by § 128.200.

(b) The Terminal Security Plan must be developed and maintained under the guidance in IMO MSC Circular 443 and must address the security of passengers aboard passenger vessels subject to part 120 of this chapter, of members of crews of such vessels, and of employees of the terminal, by establishing security measures to take for Security Levels I, II, and III, to—

(1) Deter unauthorized access to the terminal and its restricted areas and to any passenger vessel moored at the terminal;

(2) Deter the introduction of prohibited weapons, incendiaries, and explosives into the terminal and its restricted areas and onto any passenger vessel moored at the terminal;

(3) Encourage vigilance, as well as general awareness of security, at the terminal;

(4) Provide adequate security training to employees of the terminal;

(5) Coordinate responsibilities for security with the operator of each vessel that embarks or disembarks passengers at the terminal; and

(6) Provide information to employees of the terminal and to law-enforcement

personnel, in case of an incident affecting security.

(c) You must amend the Terminal Security Plan to address any known deficiencies.

(d) You must restrict the distribution, disclosure, and availability of information contained in the Terminal Security Plan to those persons with an operational need to know.

19. Redesignate §§ 128.305, 128.307, and 128.309 as §§ 128.307, 128.309, and 128.311, respectively; add new § 128.305 to read as follows:

§ 128.305 Who must submit a Terminal Security Plan?

(a) The owner or operator of the vessel must submit a Terminal Security Plan whenever—

(1) There is an agreement with you that the owner or operator of the vessel will submit the Plan;

(2) The owner or operator of the vessel has exclusive use of the pier and terminal building immediately adjacent to the pier and has complete control of that area;

(3) There is no terminal; or

(4) Passengers embark or disembark but no baggage or stores are loaded or offloaded.

(b) In the situations described in paragraphs (a)(3) and (4) of this section, the owner or operator of the vessel may, with the permission of the cognizant COTP, use an annex to the vessel's security plan instead of a Terminal Security Plan.

(c) You must submit a Terminal Security Plan whenever—

(1) There is an agreement with the owner or operator of the vessel that you will submit the Plan;

(2) No security agreement exists; or

(3)(i) At least one vessel other than a passenger vessel uses the terminal;

(ii) More than one passenger vessel line uses the terminal; or

(iii) The terminal loads or offloads baggage or stores.

20. Revise § 128.307 to read as follows:

§ 128.307 What is the procedure for examination?

(a) Unless a plan for your passenger terminal will be submitted by an entity other than yourself under § 128.305 or § 120.303 of this chapter, you must submit two copies of each Terminal Security Plan required by § 128.300 to the COTP for examination at least 60 days before transferring passengers to or from a vessel subject to part 120 of this chapter.

(b) If the COTP finds that the Terminal Security Plan meets the requirements of § 128.300, he or she will

return a copy to you marked "Examined by the Coast Guard."

(c) If the COTP finds that the Terminal Security Plan does not meet the requirements of § 128.300, he or she will return the Plan with an explanation of why it does not meet them.

(d) No terminal subject to this part may transfer passengers to or from a passenger vessel subject to part 120 of this chapter, unless it holds either a Terminal Security Plan that we have examined or a letter from the COTP stating that we are currently reviewing the Plan and that normal operations may continue until the COTP has determined whether the Plan meets the requirements of § 128.300.

21. Revise § 128.309 to read as follows:

§ 128.309 What do I do if I need to amend my Terminal Security Plan?

(a) If your passenger terminal is subject to this part, you must amend your Terminal Security Plan when directed by the COTP, and may amend it on your own initiative.

(b) You must submit each proposed amendment to the Terminal Security Plan you initiate to the COTP for review at least 30 days before the amendment is to take effect, unless he or she allows a shorter period. The COTP will examine the amendment and respond according to § 128.307.

(c) The COTP may direct you to amend your Terminal Security Plan if he or she determines that implementation of the Plan is not providing effective security. Except in an emergency, he or she will issue you a written notice of matters to address and will allow you at least 60 days to submit proposed amendments.

(d) If there is an emergency or other circumstance that makes the procedures in paragraph (c) of this section impracticable, the COTP may give you an order to implement increases in security immediately. The order will incorporate a statement of the reasons for it.

22. Revise the heading of § 128.311 to read as follows:

§ 128.311 What is my right of appeal?

* * * * *

Dated: September 25, 1998.

James M. Loy,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 98-26578 Filed 10-5-98; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 98-003]

RIN 2115-AA97

Safety Zone; Gulf of Alaska; Southeast of Narrow Cape, Kodiak Island, Alaska, Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the Final Rule (COTP Western Alaska 98-003) which was published August 28, 1998 [63 FR 45949-45950]. The rule establishes a safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. The zone is needed to protect the safety of persons and vessels operating in the vicinity of the safety zone during a rocket launch from the Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island, Alaska. The new information to be added corrects the date when the safety zone will be established.

DATES: This correction is effective October 6, 1998.

FOR FURTHER INFORMATION CONTACT: LCDR Rick Rodriguez at Chief of Port Operations, Coast Guard Captain of the Port of Western Alaska, 510 L Street, Suite 100 Anchorage, Alaska, 99501, (907) 271-6700.

SUPPLEMENTARY INFORMATION:

Need for Correction

The Final Rule incorrectly states that the safety zone will be established from October 6, 1998, through October 20, 1998. The correct establishment date for the safety zone is October 20, 1998 through November 20, 1998.

Correction of Publication

Accordingly, in the publication on August 28, 1998, of the Final Rule (COTP Western Alaska 98-003), which is the subject of FR Doc. 98-23221 [63 FR 45949-45950], make following corrections:

1. On page 45949 in the second & third columns remove the dates "October 6, 1998" and "October 20, 1998" and add the dates October 20, 1998" and "November 20, 1998", respectively.

2. On page 45950, in the first column, remove "6 a.m. September 26, 1998 through 10 p.m. October 8, 1998" and add "October 20, 1998 through November 20, 1998" in its place.

3. On page 45950, in the second column, in § 165.T17-003, in paragraph

(b), remove "October 6, 1998" and "October 20, 1998" and add the dates "October 20, 1998" and "November 20, 1998" respectively.

Dated: September 25, 1998.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 98-26727 Filed 10-5-98; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AJ09

Eligibility Reporting Requirements

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning eligibility verification reports (EVRs) for recipients of pension under programs in effect prior to January 1, 1979. The amendment reduces the number of circumstances under which VA requires such pensioners to furnish annual EVRs. The intended effect of this amendment is to reduce the reporting burden on these beneficiaries, reduce the workload at VA regional offices, and enable VA to use its resources more effectively.

DATES: Effective date: October 6, 1998.

Comment date: Comments must be received on or before December 7, 1998.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN: 2900-AJ09." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). (In addition, see the Paperwork Reduction Act heading under the Supplementary Information section of this preamble regarding submission of comments on the information collection burden.)

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273-7210.

SUPPLEMENTARY INFORMATION: The term "eligibility verification report" (EVR)