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CG-543 Policy Letter 11-09

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COMDT (CG-543)

To: Distribution

Subj: CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) OF 2010
IMPLEMENTATION PROCEDURES

Ref: (a) Cruise Vessel Security and Safety Act of 2010 (CVSSA), Pub. L. No. 111-207 (July 2010) (codified at 46 U.S.C. 3507, 3508)

1. PURPOSE. To provide guidance to U.S. Coast Guard inspectors for compliance verification of CVSSA requirements by cruise vessels during the course of scheduled safety and security inspections.
2. ACTION. District and Sector Commanders shall ensure compliance with the provisions of this policy letter.
3. DIRECTIVES AFFECTED. None.
4. BACKGROUND. The Cruise Vessel Security and Safety Act of 2010 (CVSSA) promotes the safety and security of cruise vessel industry passengers and crew. Annually almost 12 million passengers embark cruise vessels worldwide. This creates a unique environment where incidents of serious crime may be diminished by implementing various measures that include, among other things, updated ship design; providing public access to information regarding crime aboard cruise ships; improved precautions, response, medical care and support for victims of sexual assault; and preservation of evidence necessary to prosecute criminals.
5. DISCUSSION. Reference (a) adds two new sections to Title 46, U.S. Code (U.S.C.) Chapter 35. Title 46 U.S.C. 3507 provides structural, informational, and operational requirements that promote the security and safety of passengers and crew on cruise vessels and 46 U.S.C. 3508 provides training and crew certification requirements related to crime scene preservation training. The CVSSA applies to all passenger vessels (as defined in 46 U.S.C. 2101(22)) that are authorized to carry at least 250 passengers; have onboard sleeping facilities for each passenger; are on voyages that embark or disembark passengers in the United States; and are not engaged on a coastwise voyage. The CVSSA provides compliance dates for many of its requirements and, where these are specified, they are repeated in this policy. Where the CVSSA does not provide compliance dates for requirements, use 27 July 2010 as the compliance date.
6. PROCEDURES. During regularly scheduled control verification examinations¹ of foreign passenger vessels subject to reference (a), to issue or endorse the vessel's Certificate of Compliance:

¹ There will be no special examinations aimed at enforcing the CVSSA of 2010 requirements. However, Sector Commanders will investigate credible reports of non-compliance as discussed herein.

a. The Port State Control Officer (PSCO) shall examine:

(1) Ship Rails (46 U.S.C. 3507(a)(1)(A)). This special requirement is in conjunction with the normal passenger vessel guard rail requirements of 46 CFR 72.40, and pertains to deck-edge guard rails or bulwarks around all open air decks that are available for general passenger use, such as public decks, balconies of cabins, etc. The height of these rails should not be less than 42 inches (1067 mm). For the purposes of this requirement, plan review will not be required; instead a field unit shall spot check compliance at the first control verification examination (CVE) after 27 January 2012 and at any CVE thereafter when rails are modified. Rail heights should be measured vertically from the top of the uppermost rail to the adjacent deck surface on the passenger side of the railing. Lower heights are acceptable where the 42 inch height would interfere with other special arrangements (such as boarding areas around lifeboats, etc). Non-deck edge guard rails, such as on stairways, are not subject to this special height requirement and need only meet the Loadline Convention requirements.

(2) Peep Holes/Other Means of Identification (46 U.S.C. 3507(a)(1)(B)). Each passenger stateroom and crew cabin shall be equipped with entry doors that include peep holes or other means of visual identification. For the purposes of this requirement, plan review will not be required; instead a field unit shall spot check passenger staterooms and crew cabins for compliance with this requirement at the first CVE after 27 January 2012 and at any CVE thereafter when new stateroom doors are installed. Peep holes should provide a clear view of the corridor. Peep holes constructed of metal housings and glass (not plastic) lenses and limited to peep hole frame outside diameter of not more than 1 inch (25 mm) are acceptable without any further review by the flag Administration or Recognized Organization. Other means of identification could include an equivalent system, such as a video camera system providing coverage equivalent to a peep hole and viewable within the stateroom. Any other means of identification requiring electrical power should be provided with backup emergency power for no less than 30 minutes.

(3) Security Latches and Time Sensitive Keys (46 U.S.C. 3507(a)(1)(C)). For any vessel the keel of which is laid after 27 July 2010, each passenger stateroom and crew cabin shall be equipped with security latches and time-sensitive key technology. Any installed security latch (door chain, door bar, dead-bolt, etc.) shall not prevent the crew from performing fire prevention response and other applicable emergency requirements established by the Coast Guard and under applicable international law. Installed programmable time-sensitive key technology may be deemed acceptable.

(4) Safety Information. (46 U.S.C. 3507(c)) Cruise vessels must submit a copy of the information in their security guide to the Federal Bureau of Investigation (FBI) for review. PSCOs shall verify the "security guide" is available to passengers. Additionally, PSCO's should spot check compliance with the requirement to provide the locations of the United States embassy and consulates for each country the vessel will visit during a voyage. These locations should be provided in each passenger stateroom and posted in areas readily accessible to the crew.

(5) Sexual Assault (46 U.S.C. 3507(d)(1) through (d)(5)). Ask medical personnel assisting with the examination the following questions²:

- (A) “Does the ship maintain an adequate and in-date supply of anti-retroviral medications and other medications designed to prevent sexual transmitted diseases?”;
- (B) “Does the ship maintain equipment and materials for performing a medical examination in sexual assault cases to evaluate the patient for trauma, provide medical care, and preserve medical evidence?”;
- (C) “Does the vessel have a medical staff which complies with the credentialing and experience outlined in the CVSSA?”; and
- (D) “Does the ship prepare, provide to the patient, and maintain written documentation of the findings of such examination that is signed by the patient?”

(6) Sexual Assault, Patient Access to Information and Communications (46 U.S.C. 3507(d)(5)). PSCOs shall confirm that the patient has free and immediate access to contact information for specified law enforcement personnel, U.S. embassies and Consulates, and the National Sexual Assault Hotline or equivalent hotline service and a private telephone line and computer terminal with internet access providing confidential access to law enforcement officials, an attorney, and support services available through hotline services.

(7) Confidentiality of Sexual Assault Examination and Support Information (46 U.S.C. 3507(e)). Ask medical personnel assisting with the examination if the vessel has a policy in place to assure confidentiality of patient medical examination information. Investigate reports of non-compliance³.

(8) Crew Access to Passenger Staterooms (46 U.S.C. 3507(f)). Confirm that the vessel has established and conforms with shipboard policy to limit crew access to passenger staterooms. Crew members should only have access to the extent that their official duties require such access (for example, hotel staff/maid service, fire parties, repair personnel all have needs to access staterooms subject to appropriate restrictions).

(9) Log Book and Reporting Requirements (46 U.S.C. 3507(g)). Confirm with the Staff Captain or Security Officer if the vessel is maintaining a log of the crimes and incidents.

b. Deficiencies. PSCOs shall take the following actions for deficiencies noted with respect to this policy:

- (1) Encourage vessel operators to correct the deficiencies “on the spot”. For deficiencies not correctible on the spot, provide a reasonable period for the ship to correct the deficiency.
- (2) Inform the vessel’s master or staff captain of all deficiencies noted, including those corrected on the spot and record the findings using the PSC Form B. In addition, inform the master or staff captain that the deficiencies noted may result in civil penalty or other action.

² For questions, no additional checks are required if answers are in the affirmative.

³ For example, if someone, other than the patient, has released/made public confidential medical report on an examination following a sexual assault.

(3) Make appropriate MISLE entries.

(4) The CVSSA also provides for denial of entry in cases where the vessel “commits an act or omission for which a penalty may be imposed” or “fails to pay a penalty imposed on the owner” (relative to CVSSA). This sanction should only be considered for use when all other means to promote compliance with the CVSSA have failed. Sector Commanders should balance the consequences of denial of entry, i.e. preventing thousands of U.S. citizen passengers from returning home after their current cruise, against the benefits of compelling compliance or compelling payment of fines.

c. Future requirements. The CVSSA requires a phased implementation plan to accommodate analysis, research and development that will be addressed by regulation and/or updated policy guidance. At this time, Sector Commanders should not enforce the following CVSSA provisions until implementing regulation and policy direction is developed:

(1) Capturing Images of Passengers/Detecting Persons Fallen Overboard (46 U.S.C. 3507(a)(1)(D)).

(2) Acoustical Hailing and Warning Devices (46 U.S.C. 3507(a)(1)(E)). Note most of the cruise ships that operate out of the U.S. do not visit “high risk areas”.

(3) Video recording requirements (46 U.S.C. 3507(b)). Note a copy of video-recordings using currently installed video-recording equipment, which pertain to an alleged crime under investigation, shall be provided to law enforcement officials upon request.

(4) Crew training and certification requirements (46 U.S.C. 3508).

7. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is in itself a rule. It is not intended to nor does it impose legally-binding requirements on any party. It represents the Coast Guard’s current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements.

8. QUESTIONS. Questions or concerns regarding this policy may be directed to Commandant (CG-5432) at (202) 372-1240 or emailed to CG543@uscg.mil.

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