

This notice, is available in our online docket, USCG–2011–0539, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Kevin Y. Pekarek, ADFO of National Offshore Safety Advisory Committee (NOSAC); telephone (202) 372–1386; fax (202) 372–1926; or e-mail at Kevin.Y.Pekarek2@uscg.mil.

SUPPLEMENTARY INFORMATION: The National Offshore Safety Advisory Committee (NOSAC) is a Federal advisory committee under 5 U.S.C. App. (Pub. L. 92–463). It was established under authority of Title 6 U.S.C. section 451 and advises the Secretary of Homeland Security on matters affecting the offshore industry.

The Committee is expected to meet approximately twice per year as called for by its charter and normally meets in Houston, Texas or New Orleans, Louisiana. It may also meet for extraordinary purposes. NOSAC or its subcommittees may conduct telephonic meetings at other times throughout the year when necessary for specific tasking.

We will consider applications for five positions that will become vacant on January 31, 2012.

(a) One member representing enterprises specializing in the support, by offshore supply vessels or other vessels, of offshore mineral and oil operations including geophysical services;

(b) One member representing construction of offshore exploration and recovery facilities;

(c) One member representing employees of companies engaged in offshore operations, who should have recent practical experience on vessels or offshore units involved in the offshore mineral and energy industry;

(d) One member representing enterprises specializing in offshore drilling; and,

(e) One member representing companies engaged in production of petroleum.

To be eligible, applicants for all available positions should have expertise and/or knowledge and experience regarding the technology, equipment and techniques that are used or are being developed for use in the exploration for and the recovery of offshore mineral resources.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 110–81, as amended). Each NOSAC Committee member serves a term of office of up to

three years. Members may be considered to serve consecutive terms. All members serve at their own expense and receive no salary or reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the policy of the Coast Guard on gender and ethnic nondiscrimination, we encourage qualified men and women of all racial and ethnic groups to apply. The Coast Guard values diversity; all different characteristics and attributes of persons that enhance the mission of the Coast Guard.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Kevin Y. Pekarek, ADFO of NOSAC at Commandant (CG–5222)/NOSAC, U.S. Coast Guard, 2100 Second Street, SW., STOP 7126, Washington, DC 20593–7126. Send your cover letter and resume in time for it to be received by the ADFO on or before August 22, 2011.

To visit our online docket, go to <http://www.regulations.gov>, enter the docket number for this notice (USCG–2011–0539) in the Search box, and click “Go.” Please do not post your resume on this site.

Dated: June 30, 2011.

F. J. Sturm,

Acting Director of Commercial Regulations and Standards.

[FR Doc. 2011–16913 Filed 7–5–11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0012]

Self-Defense of Vessels of the United States

AGENCY: Coast Guard, DHS.

ACTION: Notice of policy.

SUMMARY: The Coast Guard has completed a review of policy and public comments received regarding standard rules for the use of force for self-defense of vessels of the United States as described in the Coast Guard Authorization Act of 2010. It has determined that the existing guidance regarding the use of force provides an adequate framework for standard rules for the use of force for self-defense against piracy.

DATES: This notice is effective on July 6, 2011.

ADDRESSES: The policy letter and other documents mentioned in this preamble as being available in the docket, are part

of docket USCG–2011–0012 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, West Building Ground floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://www.regulations.gov>.

This policy is also available on the U.S. Coast Guard’s Homeport Web site at <http://homeport.uscg.mil> by clicking the International Port Security Program tab > Port Security Advisory > Port Security Advisory (03–09).

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the policy, please call LCDR John Reardon, Office of Maritime and International Law, United States Coast Guard; telephone 202–372–1129, e-mail John.C.Reardon@uscg.mil. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard is publishing this notice to affirm that guidance published by the Coast Guard, in Port Security Advisory (PSA) 03–09, provides adequate guidance on conduct relating to section 912 of the Coast Guard Authorization Act of 2010 (CGAA). Section 912 of the CGAA states that an owner, operator, time charterer, master, mariner, or individual who uses force or authorizes the use of force to defend a vessel of the United States against an act of piracy shall not be liable for monetary damages for any injury or death caused by such force to any person engaging in an act of piracy if such force was in accordance with standard rules for the use of force in self-defense of vessels prescribed by the Secretary.

In accordance with Section 912 of the CGAA, the Coast Guard requested input from the public and representatives of industry and labor in order to determine if the current authorization in 33 U.S.C. 383, Resistance of Pirates by Merchant Vessels, and Coast Guard guidance in PSA 3–09 provides an adequate framework for standard rules for the use of force for self-defense of vessels of the United States. 76 FR 4706. The Coast Guard received eleven comments, which are available in the public docket found on <http://www.regulations.gov>. After review of the comments received, the Coast Guard has determined the policy regarding standard rules for the

use of force for self-defense or defense of others is sufficient.

The majority of the comments were supportive of the overall current guidance and stated the well-established rights of self-defense of seafarers in 33 U.S.C. 383, accompanied by the advisory guidelines of PSA 3-09, are an adequate framework. One comment stated that PSA 3-09 constitutes sufficient information to be considered standard rules and requires no alteration. Another comment stated that PSA 3-09 adequately describes the masters' authority and discretion in the use of self-defense and did not believe more specific guidance was necessary. The comment further stated that 33 U.S.C. 383 and the Coast Guard Authorization Act of 2010 section 912 provided sufficient immunity for persons defending vessels.

Of the eleven comments received, several were outside the scope of the guidance, but were constructive suggestions on potential tactics and operations. These comments are helpful and will be considered during routine reviews and updates to other advisories and guidance. For example, three comments urged further deployment of heavier weapons and suggested a legal exemption for merchant vessels to carry machine guns and rocket propelled grenades and for the use of military weapons not permitted under U.S. law. Another urged that restrictions on import/export of weapons be lifted and the international community be pressured to allow deployment of weapons. One commenter suggested that the Coast Guard provide additional guidance on the use of non-deadly force options, including pepper spray and other chemical repellants. Additionally, one comment encouraged the use of Special Forces to respond to hostage situations. One comment noted that armed security teams onboard its vessels had successfully deterred attacks. Other comments noted that the safe room concept ("citadel") should be reviewed. The Coast Guard continues to examine these and other issues in consultation with interagency and industry partners to ensure the continued development of guidance in responding to piracy.

Given the existing guidance and the public support for that guidance as revealed in the comments, the Coast Guard has determined that the current authorization in 33 U.S.C. 383, Resistance of Pirates by Merchant Vessels, and the guidance published by the Coast Guard in Port Security Advisory 3-09 provide an adequate framework for standard rules for the use of force for self-defense. We have

reproduced the text of Port Security Advisory 03-09 below.

Port Security Advisory (03-09)

Subject: Guidance on Self-Defense or Defense of Others by U.S. Flagged Commercial Vessels Operating in High Risk Waters

1. Purpose

This document is intended to provide guidance to U.S. flagged commercial vessels and embarked personnel, including contract security personnel, not entitled to sovereign immunity and operating in High Risk Waters (HRW),¹ for employment of force in self-defense or defense of others, as well as defense of the vessel. This guidance does not apply to U.S. flagged vessels entitled to sovereign immunity. It does not apply to U.S. Government personnel, civilian or military, embarked on non-sovereign-immune U.S. flagged commercial vessels to provide vessel security. This document restates existing law in this area. It does not establish new standards or duties with respect to the right of self-defense or defense of others. The examples provided herein are included merely to illustrate how the outlined principles could apply to the issue of piracy. Actual situations will vary, based on the specific circumstances of a ship's defensive measures and capabilities at hand, and the facts of the situation confronted. This document does not prescribe rules of engagement. Rather, it provides guidance intended to aid companies in the development of their vessel security plan submissions for operating within HRW. This guidance should not be read to mandate specific actions at particular points of time. Nothing in this document prevents an individual from acting in self-defense or defense of others. In addition to the right of self-defense and defense of others, 33 U.S.C. 383 provides authority for the master and crew to respond to a piratical attack, authorizing them to "oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel * * *"

2. Definitions

The following definitions apply for the purpose of this guidance:

¹ This guidance anticipates that contracted security personnel may be embarked on U.S. flagged merchant ships operating in HRW, but may also or alternatively be embarked on U.S. flagged vessels (not entitled to sovereign immunity) providing a security escort for a U.S. flagged merchant ship operating in HRW. See USCG Minimum Guidelines for Contracted Security Services in High Risk Waters for additional guidance relevant to contracted security personnel.

a. *Self-defense or defense of others* means the act of thwarting an attack upon oneself, another person, or both by using force, up to and including deadly force.

b. *Defense of the vessel* means the act of using force to prevent damage to or theft of a vessel or its property. It is a concept separate from defending individuals embarked aboard the vessel. That is intended to be covered within the definition self-defense or defense of others.

c. *Imminent* means may occur at any moment, ready to take place, impending, threateningly or menacingly near or at hand.

d. *Imminent danger* means an attacker poses an imminent threat of great bodily harm or death to oneself or others.

Examples of imminent danger include, but are not limited to, aiming or firing weapons at a U.S. flagged vessel with individuals embarked, or an attempted armed, non-consensual boarding, without legal authority, of a U.S. flagged vessel by another vessel (other than U.S. or foreign warships, law enforcement vessels, or other vessels clearly marked as being on non-commercial government service). It might also include the act of brandishing weapons directed at crewmembers or security personnel, where there is a reasonable belief that the attacker(s) also has the means and opportunity to inflict great bodily harm or death on the individual or others in the vicinity. The determination of imminent danger is fact dependent, and the law may be broader than the paradigm outlined above. Although the law may allow for other considerations, or use slightly differing terminology based on an individual's particular circumstances, the Coast Guard uses the following as a helpful training tool for its members to explain the concept: Imminent danger would exist when an attacker manifests apparent intent to cause great bodily harm or death to oneself or others, as demonstrated by the following elements, each of which is present at the same time:

(1) *Means*. The attacker has the apparent ability, either physically (relative size, strength, expertise, or other attributes) or through the use of an object(s), to inflict great bodily harm or death to oneself or others. Physical means can include in some circumstances the use of hands or feet to choke or beat an individual. Objects can include weapons e.g., firearms, explosives, knives, etc.), as well as other devices under the control of the attacker;

(2) *Opportunity*. The combination of circumstances by which an attacker

apparently can cause great bodily harm or death to oneself or others (e.g., access to a weapon that is within range to be used against oneself or others); and

(3) *Act*. The attacker makes an overt movement which induces one to reasonably believe that he is manifesting a threat to cause great bodily harm or death to oneself or others (e.g., an attacker points or discharges a firearm or other weapon at crewmembers or security personnel, or employs or prepares to employ climbing gear for an armed, non-consensual boarding).

e. *Great bodily harm* means an injury to the body that results in unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. It is synonymous with "serious bodily injury", "serious bodily harm", "serious physical injury", or "grievous bodily injury".

f. *Force* means the affirmative application of techniques or actions, typically listed within the vessel security plan, directed against a specific vessel or person(s).

g. *Non-deadly force* means any force other than deadly force.

h. *Deadly force* means any force that is likely to cause great bodily harm or death.

i. *Warning shot* means a signal to a vessel to stop. The term does not include shots fired as a signal that the use of deadly force is imminent, a technique that should not be employed.

3. Guidance

a. Guiding Principles

Vessel masters retain control of and authority over their vessels, crewmembers, and embarked security personnel at all times. Any use of force employed in accordance with the guidance set forth herein is subject to the direction of the vessel master. Only that force reasonably necessary under the circumstances should be used. Nothing in the application of this guidance shall be construed as to necessarily require personnel to meet force with equal or lesser force.

b. Self-defense or Defense of Others

In the exercise of self-defense or defense of others, crew and security personnel may use all available means to apply that force reasonably necessary to defend themselves or others from harm, including the use of deadly force if required.

c. Use of Deadly Force

Subject to the above, deadly force may only be used in self-defense or defense

of others, when an individual has the reasonable belief that the person or persons to which the deadly force would be directed poses an imminent danger of death or great bodily harm. The objective when using deadly force in self-defense or defense of others is defense of life. The use of deadly force in self-defense or defense of others may include the use of ordnance fired into a vessel, if necessary for self-defense or defense of others. Accordingly, when confronted with a person or vessel that poses an imminent danger of death or great bodily harm, personnel and vessels to which this guidance applies may use reasonable force, up to and including deadly force, in self-defense or defense of others.

d. Use of Non-Deadly Force

Subject to the above, non-deadly force may be used in the following circumstances:

(1) for self-defense or defense of others.

(2) for defense of the vessel.

(3) to prevent the theft or, intentional damage to, or destruction of property (including the U.S. flagged vessel) that the master, crew, or security personnel are authorized to protect.

Non-deadly force tactics could include maneuvers by the vessel, deployment of sonic blasts, use of fire hoses to flood a vessel threatening to attack, the use of disabling fire by properly trained personnel, or other non-lethal means employed by crewmembers or security personnel, directed at a vessel or persons threatening attack.

e. Retreat

Although not required under the law, retreat (e.g., to a safe room) may be an appropriate alternative to the use of force and may be the most reasonable choice under the circumstances. This is particularly appropriate where disengaging temporarily from a confrontational situation may reduce tensions, mitigate risk, reduce a potential threat, and provide time for the arrival of additional assets or personnel, including military or law enforcement assets or personnel. U.S. flagged vessels and embarked persons, including crew and security personnel, are not required to retreat to avoid situations in which the use of force, including deadly force, is appropriate.

f. Defense of the Vessel and Other Property

Masters always retain the inherent right to use force in defense of the vessel. Masters must inform the crew and security personnel of their authority

to employ force in defense of the vessel. Masters may restrain the authority of the crew and security personnel to employ force in defense of the vessel. If a master withholds from the crew or security personnel any use of force authority for defense of the vessel, the master must approve the withheld portion prior to its use in defense of the vessel. Defense of the vessel alone does not justify deadly force. Unless otherwise directed by a master, the crew and security personnel may use non-deadly force in defense of the vessel. Masters should consider all the circumstances when employing force, and resort to deadly force only when there is imminent danger of death or great bodily harm.

g. Use of Signals

Signals, including firing of warning shots, may be employed, but are not required. Warning shots are not a use of force, and should not be used if they will endanger any persons or property. Moreover, warning shots should not be used as a signal that the use of deadly force is imminent.

4. The Conditions of Entry Applicable to Vessels Outlined in Port Security Advisory 1-09 Remain in Effect

Conclusion

As a result of this review, there will be no change to the policy. The Coast Guard will routinely review and update the policy as needed.

Dated: June 29, 2011.

Kevin S. Cook,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: File Number OMB 22; Extension of an Existing Information Collection: Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: OMB 22, National Interest Waivers; Supplemental Evidence to I-140 and I-485; OMB Control No. 1615-0063.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance