

Information on Manufacturer Cost

38. What is the typical difference in cost to produce cordless products, products with inaccessible cords, and corded window coverings? If possible, please provide the information by window covering type (e.g. vertical blinds, horizontal blinds, and the various types of shades, such as cellular, pleated, roller, roll-up and Roman)?

39. What is the manufacturer's cost to produce various safety technologies, including research and development costs, and components, such as a retractable cord operating system, cord cleat, or cord shroud?

40. How would manufacturing these products in large quantities change the cost? Please provide examples in terms of quantity and price change (%).

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 70

[Docket No. USCG-2011-0357]

RIN 1625-AB91

Cruise Vessel Security and Safety Act of 2010; Implementation

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes amending its passenger vessel regulations to implement the Cruise Vessel Security and Safety Act of 2010 with respect to deck rails, systems for detecting or recording falls overboard and for recording evidence of possible crimes, hailing devices, security guides, sexual assault response, and crime scene preservation training. The proposed regulations promote the Coast Guard's maritime safety and security missions.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before April 16, 2015 or reach the Docket Management Facility by that date. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before April 16, 2015.

ADDRESSES: You may submit comments identified by docket number USCG-

2011-0357 using any one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

Collection of Information Comments: If you have comments on the collection of information discussed in section VI.D of this NPRM, you must also send comments to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. To ensure that your comments to OIRA are received on time, the preferred methods are by email to oira_submission@omb.eop.gov (include the docket number and "Attention: Desk Officer for Coast Guard, DHS" in the subject line of the email) or fax at 202-395-6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LT Jason Kling, U.S. Coast Guard Office of Design and Engineering Standards, telephone 202-372-1361, email jason.m.kling@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2011-0357), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, and follow the instructions on that Web site. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

Public comments and relevant documents mentioned in this notice will all be available in the public docket. To see the public docket, go to <http://www.regulations.gov>, and follow the instructions on that Web site. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West

Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we decide to hold a public meeting, we will announce its time and place in a later notice in the **Federal Register**.

II. Abbreviations

CFR Code of Federal Regulations
 CLIA Cruise Line International Association
 CVSSA Cruise Vessel Security and Safety Act of 2010
 FBI Federal Bureau of Investigation
 FR Federal Register
 IRFA Initial Regulatory Flexibility Analysis
 MARAD Maritime Administration
 MISLE Marine Information for Safety and Law Enforcement
 NAICS North American Industry Classification System
 NPRM Notice of proposed rulemaking
 OMB Office of Management and Budget
 SBA Small Business Administration
 § Section symbol
 U.S.C. United States Code

III. Background

The purpose of this proposed rule is to implement the Cruise Vessel Security and Safety Act of 2010 (CVSSA),¹ which added 46 U.S.C. 3507 (Passenger vessel security and safety requirements) and 46 U.S.C. 3508 (Crime scene preservation training for passenger vessel crewmembers). The basis of this proposed rule is 46 U.S.C. 2103 (regulatory authority to implement 46 U.S.C. Subtitle II) and 46 U.S.C. 3507(j) (regulatory authority to issue regulations necessary to implement section 3507). The Secretary of Homeland Security's authority under these statutes is delegated to the Coast Guard by DHS

Delegation No. 0170.1, para. II (92.a), (92.b).

The CVSSA prescribes security and safety requirements for any passenger vessel that is authorized to carry and has onboard sleeping facilities for at least 250 passengers, that is not engaged in a coastwise voyage, and that embarks or disembarks passengers in the United States.² It provides new requirements for vessel design, public access to information about crime aboard cruise ships, provisions for emergency medical treatment, and crime prevention and criminal evidence gathering.

In passing the CVSSA, Congress found that serious incidents, including sexual assault and the disappearance of passengers at sea, have occurred on cruise vessel voyages, that passengers lack adequate understanding of their vulnerability to crime on board cruise vessels, that inadequate resources are available to assist cruise vessel crime victims, and that detecting and investigating cruise vessel crimes is difficult.³

In 2011, the Coast Guard published a **Federal Register** notice and request for comments relating to the CVSSA.⁴ The notice did not propose a rulemaking, but asked the public to comment on the types of technology currently available to provide the video surveillance and image-capture or detection of falls overboard that the CVSSA requires. We discuss the comments we received on this notice in Section IV of this preamble.

Later in 2011, we issued guidance⁵ for Coast Guard inspectors in verifying cruise vessel compliance with CVSSA requirements, and guidance and a model course curriculum⁶ for complying with the CVSSA's requirements for training at least one cruise vessel crew member in crime prevention and criminal evidence gathering. We developed the model course in consultation with the Maritime Administration (MARAD) and the Federal Bureau of Investigation (FBI).⁷

IV. Comments on 2011 Notice

As added by the CVSSA, 46 U.S.C. 3507(a)(1)(D) requires cruise vessels to “integrate technology that can be used for capturing images of passengers or

detecting passengers who have fallen overboard, to the extent that such technology is available.” In addition, 46 U.S.C. 3507(b) requires cruise vessel owners to “maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes. . . .” Our 2011 notice sought information on the technology currently available for meeting these requirements, and asked two specific sets of questions designed to elicit that information. We received submissions from nine commenters: Five security equipment providers; two crime victim advocacy organizations; one cruise vessel trade association; and one cruise passenger.

The cruise passenger did not respond to our questions, but asked for regulations to control smoking on cruise vessels. That topic is not addressed by the CVSSA and is outside the scope of this proposed rule.

The first substantive question set asked: “If you work in the maritime community, do you use equipment to detect persons falling overboard? If yes, what is the equipment, and how reliable is the equipment? What alternative source(s) for detecting persons falling overboard would you recommend? How would you rate the alternative source(s) in terms of user cost and reliability and usefulness of the information?”

The second substantive question set asked: “Do industry best practices for placement and retention of video recording devices exist? If yes, please specify what they are and how effective they have been in helping law enforcement officials prosecute offenders.”

The cruise vessel trade association answered the first question by saying that, while the technology exists to capture images of persons who have gone overboard, fall-overboard detection systems are not yet reliable under marine conditions. As added by the CVSSA, 46 U.S.C. 3507(a)(1)(D) requires a vessel to integrate image capture or fall detection technology “to the extent such technology is available.” Given that the industry view is that fall detection technology is not yet reliable under marine conditions, we expect that owners and operators will select the image capture option provided by Congress until such time that fall detection technology is believed to be sufficiently reliable.

The cruise vessel trade association answered the second question by saying that video surveillance has been used successfully for many years, but that “one size does not fit all” and that system placement is unique for each

² 46 U.S.C. 3507(k).

³ CVSSA sec. 2, codified at 46 U.S.C. 3507 note.

⁴ “Cruise Vessel Security and Safety Act of 2010, Available Technology,” 76 FR 30374 (May 25, 2011).

⁵ CG–543 Policy Letter 11–09, June 28, 2011.

⁶ CG–543 Policy Letter 11–10, July 27, 2011.

⁷ The model course is available at: http://www.uscg.mil/hq/cg2/cgis/Docs/CVSSA_MC_110615.pdf.

¹ Public Law 111–207, 124 Stat. 2243; July 27, 2010.

vessel. As added by the CVSSA, 46 U.S.C. 3507(b)(1) requires each vessel to maintain a video surveillance system, but it does not specify how the system must be placed. Our proposed rule would require only that video surveillance be provided in areas to which passengers and crew members have common access (other than passenger staterooms or crew cabins). We would expect the vessel owner or operator to make whatever arrangements are necessary to ensure effective system placement.

The five security equipment providers provided information about the capabilities of various fall detection or surveillance systems. The information provided for fall detection systems did not directly address the cruise vessel trade association’s assertion that existing systems are unreliable under marine conditions. It was not clear from the equipment providers’ comments that industry prefers any one system for specific applications under specific conditions. The approach taken in our proposed rule is to let each vessel owner or operator determine the suitability and reliability of available systems, and choose the system or systems best adapted to its needs and the conditions under which the vessel operates. With respect to falls overboard, our proposed rule incorporates the CVSSA’s flexible approach under which vessel owners could choose between detection systems, image capture systems, or some combination of image capture and detection systems.

One of the two crime victim advocacy organizations said video surveillance should “in essence provide a safety blanket that envelops the vessel,” should cover all public areas, and should be monitored as well as

recorded. This organization also recommended keeping videos for at least 90 days and longer when a serious incident has occurred or is alleged, and said the Coast Guard should verify information about a vessel’s video systems annually. This organization also provided recommendations for the relative responsibilities of law enforcement and vessel personnel for reviewing video evidence. As added by the CVSSA, 46 U.S.C. 3507(b)(1) requires video surveillance systems “to assist in documenting crimes . . . and in providing evidence.” The statute does not require real time monitoring, and in the event a crime is alleged to have taken place, video can be retrospectively reviewed for possible evidence of the crime. Thus, we do not propose requiring real time monitoring. We would require video to be kept for at least 14 days after a voyage, and for an additional 120 days when a serious incident is reported. We think this provides adequate time for law enforcement to take action should an incident be serious enough to be reported. We do not think it is necessary to detail how video records must be safeguarded or shared with law enforcement, except to note that our proposed rule would require compliance with the current industry practice, which is to keep records in a secure location to prevent unauthorized access or tampering, and to make them available on request to law enforcement officials investigating an incident.

The other crime victim advocacy organization provided technical recommendations for ensuring that video surveillance can provide an individual’s “accurate likeness.” This organization said video surveillance

should be operational at all times, but that monitoring video is “beyond the scope of any comparable industry standard.” It recommended keeping video for at least 30 days past the end of each cruise and as part of the investigative file in the event of an incident, and made additional recommendations for safeguarding and limiting crew access to video images. We agree that video monitoring should not be required. We think video should be kept for an additional 120 days after a voyage if a serious incident is reported to have taken place during the voyage. The Coast Guard does not have regulatory authority over local law enforcement personnel and therefore we cannot require them to retain video as part of any open investigative file. We agree that video surveillance should be operational at all times and should provide identifiable images, and that video should be safeguarded and protected from unauthorized access, but we do not think it necessary to prescribe specifics for how each vessel complies with those requirements.

V. Discussion of CVSSA and Proposed Rule

Our proposed rule would add new subpart 70.40 to subchapter H (passenger vessels) of Title 46 CFR. The new subpart would include all the self-executing CVSSA provisions, as well as regulations needed to implement those CVSSA provisions that require regulatory action in order to be fully effective. Table 1 lists each CVSSA provision and distinguishes the self-executing provisions from those that must be implemented through Coast Guard regulatory action. A detailed discussion follows the table.

TABLE 1—BREAKDOWN OF CVSSA PROVISIONS

Legislative section	Provision	Self-executing?	
		Yes	No
3507(a)(1)(A)	Rail height		X
3507(a)(1)(B)	Peep holes	X	
3507(a)(1)(C)	Security latches and time-sensitive key technology for staterooms and crew cabins.	X	
3507(a)(1)(D)	Systems for detecting falls overboard		X
3507(a)(1)(E)	Hailing or warning devices		X
3507(a)(2)	Security latches and time-sensitive keys technology must consider fire and other safety requirements.	X	
3507(b)	Video recording		X
3507(c)	Security guides		X
3507(d)	Sexual assault response		X
3507(e)	Confidentiality for victim’s information	X	
3507(f)	Procedures to identify crew with access to staterooms	X	
3507(g)	Vessel owners required to log reported criminal allegations, report serious incidents to law enforcement, and make statistics available to the public on the owner’s website.	X	
3507(h)	Civil penalties for violations and denial of entry into the U.S. when serious crimes are alleged.	X	

TABLE 1—BREAKDOWN OF CVSSA PROVISIONS—Continued

Legislative section	Provision	Self-executing?	
		Yes	No
3508(a)	Crime scene preservation training and victim assistance training .....	.....	X

Section 3507(a)(1)(A) requires each cruise vessel to “be equipped with ship rails that are located not less than 42 inches above the cabin deck.” This requirement is largely self-executing and Coast Guard inspectors already have guidance on its enforcement.⁸ However, to fully achieve section 3507(a)(1)(A)’s apparent intention of helping prevent falls overboard, we propose, in new 46 CFR 70.40–5, applying the 42-inch height requirement to any exterior deck to which passengers have general access, including but not limited to, cabin decks. We would allow alternative arrangements where a 42-inch height could interfere with the operation of lifesaving equipment or arrangements. Passenger vessel rails and bulwarks may already be subject to 46 CFR subpart 72.40, which requires a minimum height of 39½ inches, even if they are not subject to the CVSSA.

Section 3507(a)(1)(B) requires each passenger stateroom and crew cabin to be “equipped with entry doors that include peep holes or other means of visual identification.” This provision is self-executing and Coast Guard inspectors have the necessary enforcement guidance.⁹ We have placed this provision in proposed 46 CFR 70.40–2(a).

Section 3507(a)(1)(C) requires that, for any vessel the keel of which is laid after July 27, 2010, each passenger stateroom and crew cabin must be equipped with security latches and time-sensitive key technology. This provision is self-executing and Coast Guard inspectors have the necessary enforcement guidance.¹⁰ We have placed this provision in proposed 46 CFR 70.40–2(b). We interpret “keel laid” to mean the date the vessel’s keel was laid or the vessel reached an equivalent stage of construction.

Section 3507(a)(1)(D) requires each vessel to “integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.” Therefore, in proposed 46 CFR 70.40–6 we would require a vessel either to maintain a fall-overboard image capture

system, or a fall-overboard detection system, or some combination of both. The fall-overboard detection system, by itself, is intended to sound an immediate alarm, and may (but need not) capture an image of the falling person. However, to the extent the vessel relies on an image-capture system, or combination image-capture/detection system, the system should record the incident’s date and time to provide proper assistance to search and rescue or law enforcement personnel. System video, data, and images (“records”) need to be made available for search and rescue or law enforcement purposes. To ensure that availability, we propose requiring records to be kept for the duration of the voyage, and for at least 14 days after all passengers are accounted for as having disembarked. The 14-day proviso allows extra time to report the disappearance of a stowaway or other person whose presence on the vessel may not be reflected in the vessel operator’s records, thereby making it less likely that the person’s disappearance could be discovered or reported quickly. If, during the voyage or the subsequent 14 days, the vessel receives a report of a fall overboard, these records would have to be kept for an additional 120 days after receipt of the report. Our proposed rule provides flexible performance-based standards that may be met using a variety of technological equipment and systems.

Section 3507(a)(1)(E) requires each vessel to be “equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the United States Coast Guard).” We designate as “high risk” areas those waters where hazards like widespread piracy activity are known to be present. The location of high risk areas is sensitive security information that we do not divulge to the general public. We think section 3507(a)(1)(E) requires vessels to carry megaphones or other devices for use in high risk waters anywhere in the world. Such devices could facilitate communications if circumstances made use of the vessel’s normal communications system impossible. We do not think section 3507(a)(1)(E)

requires vessels to carry high pitched sound-emitting devices to repel unauthorized boarders, and while we take no position on the advisability of equipping vessels with such devices, we note that vessel owners and operators are free to do so if they choose. Because an area in which a cruise vessel is operating may be determined to be “high risk” only after the vessel has entered it and no longer has the ability to procure appropriate equipment, we propose requiring vessels to carry this equipment at all times.

Section 3507(a)(2) provides that the security-latch and time-sensitive key technology requirements of section 3507(a)(1)(C) must be administered after taking “into consideration fire safety and other applicable emergency requirements” established by the Coast Guard and under international law, “as appropriate.” The section 3507(a)(1)(C) requirements are self-executing, and Coast Guard inspectors are required¹¹ to make sure that the latch devices will not hinder appropriate emergency actions, like breaking down a door, in the event of a fire. We propose placing the section 3507(a)(2) requirement in 46 CFR 70.40–2(b) to make it clear that the required devices may not prevent appropriate access by emergency responders.

Section 3507(a)(3) made most section 3507(a)(1) requirements effective January 27, 2012. Because that date has passed and the applicable requirements are now in effect, we have not reflected it in proposed regulatory text. The section 3507(a)(1)(C) security latch and time-sensitive key technology requirement applies only to newer vessels with keels laid after July 27, 2010. We have included this limitation on applicability in proposed 46 CFR 70.40–2(b).

Section 3507(b) requires vessel owners to maintain a video surveillance system to assist in documenting crimes on the vessel and to provide law enforcement officials investigating those crimes with copies of video records. We propose new 46 CFR 70.40–8 to specify that the surveillance system must cover any areas of the vessel to which passengers or crew members have common access—which excludes passenger staterooms and crew cabins.

⁸CG–543 Policy Letter 11–09, para. 6.a.(1).

⁹CG–543 Policy Letter 11–09, paragraph 6.a.(2).

¹⁰CG–543 Policy Letter 11–09, paragraph 6.a.(3).

¹¹CG–543 Policy Letter 11–09, paragraph 6.a.(3).

The surveillance system must make identifiable time and date-stamped images of persons who may be involved in alleged crimes. The surveillance system must be maintained in a secure location and access must be strictly limited and documented to prevent unauthorized access or tampering. To ensure that copies of system records can be provided to law enforcement officials upon request, we propose requiring those records to be kept for the duration of the voyage, and for 7 days after all passengers are accounted for as having disembarked (7 days during the average length of travel during the voyage and 7 days after disembarking). The 14-day proviso allows extra time to report a crime, such as theft, that may not be discovered until sometime after all passengers have disembarked. If a crime is reported any time during the 14-day period, the records would need to be kept for an additional 120 days. Our proposed rule provides performance-based standards that may be met using a variety of technological equipment and systems.

Section 3507(c)(1) requires a vessel owner to provide each passenger with a security guide. The guide must identify onboard personnel designated to prevent and respond to criminal and medical situations, and must describe applicable criminal law procedures for crimes committed in any waters the vessel might traverse during the voyage. The vessel owner must provide the FBI with a copy of the security guide for comment, and must publicize the security guide on its Web site. Section 3507(c)(2) would require a listing of U.S. embassy and consulate locations in any foreign countries to be visited during the voyage. This list must be provided in each passenger stateroom, and must be posted in a location that is readily accessible to the crew. Although these requirements are largely self-executing, and enforcement guidance has been provided for Coast Guard inspectors,¹² we need regulatory text to make it clear how we will ensure that each passenger is provided with a security guide. Therefore, we propose adding 46 CFR 70.40–9, to require that a copy of the guide must be provided in each passenger stateroom prior to each voyage.

Section 3507(d) specifies what medical personnel, equipment, and “adequate” supplies vessel owners must maintain on board for responding and providing victim treatment in the event of a sexual assault. It also specifies the measures the vessel owner must take to give victims access to lawyers,

investigators, and victim advocacy programs. Section 3507(d) is largely self-executing, and Coast Guard inspectors have enforcement guidance.¹³ We do not think it necessary to issue regulations stating what medical supplies are needed to provide the treatment described in section 3507(d), because that can be left to the discretion of the medical staff, and the identity of those supplies may change over time as medical techniques and supplies improve. However, we do think our regulations need to define, for the benefit of the public and our inspectors, what constitutes an adequate stock of medical supplies. Therefore, in proposed 46 CFR 70.40–10, we propose that the vessel must have enough supplies for at least two patients throughout the expected length of the voyage. If any of an owner’s cruise vessels has a history of alleged sexual assaults within the past three years, then the owner must ensure that each of its vessels has enough medical supplies on board to treat the maximum number of assaults alleged to have occurred on one of those previous voyages within the last three years. We also propose requiring any crew member who interviews an alleged sexual assault victim to have been trained to communicate appropriately with a trauma victim.

Section 3507(e) requires confidentiality for information obtained as the result of providing medical or other assistance to sexual assault victims. This requirement is self-executing and Coast Guard inspectors have enforcement guidance.¹⁴ We propose referencing the section 3507(e) requirement in regulatory text at 46 CFR 70.40–2(c).

Section 3507(f) requires vessel owners to establish procedures for identifying crew members who have access to passenger staterooms and for limiting that access. This requirement is self-executing and Coast Guard inspectors have adequate enforcement guidance in CG–543 Policy Letter 11–09, paragraph 6.a.(8). We propose referencing the section 3507(f) requirement in regulatory text at 46 CFR 70.40–2(d).

Section 3507(g) requires vessel owners to log reported criminal incident allegations, to report serious incidents to law enforcement officials, and to make a statistical compilation of data relating to alleged criminal incidents available to the public on the owner’s Web site. This requirement is self-executing and Coast Guard personnel

have enforcement guidance.¹⁵ We propose referencing the section 3507(g) requirement in regulatory text at 46 CFR 70.40–2(e).

Section 3507(h) provides civil and criminal penalties for persons who violate section 3507 or regulations under that section. It also allows the Coast Guard to deny a vessel entry into the United States if the vessel owner commits an act or omission for which a penalty can be imposed under section 3507(h), or if the vessel owner fails to pay such a penalty. We propose referencing this provision in new 46 CFR 70.40–1(c). CG–543 Policy Letter 11–09, paragraph 6.b, addresses how the Coast Guard handles possible violations.

Section 3507(i) requires the Coast Guard to issue the implementation guidance contained in the two 2011 policy letters. The Coast Guard has complied with this requirement by issuing CG–543 Policy Letters 11–09 and 11–10.

Section 3507(j) authorizes “such regulations as are necessary to implement” section 3507. This NPRM proposes the regulations we consider to be necessary for implementation. We do not think it necessary to restate the regulatory authorization itself in regulatory language, and the proposed rule would not do so.

Section 3507(k) describes the vessels to which the CVSSA applies, to include any voyage that “embarks or disembarks passengers in the United States.” This phrase could be interpreted as applying to a voyage originating and ending in a foreign country, and on which no U.S. national is a passenger, but which makes a brief port call in a U.S. port. Because we do not think the U.S. interest in the safety and security of a vessel engaged in such a voyage is sufficient to subject it to the proposed regulations, we propose specifying, in 46 CFR 70.40–1(a), that subpart 70.40 applies to a voyage that embarks or disembarks passengers in the U.S., “except that embarking and disembarking does not include temporary port calls by passengers.” We also propose clarifying, in 46 CFR 70.40–1(a), that subpart 70.40 applies to foreign as well as to U.S. vessels, notwithstanding 46 CFR 70.05–3(b), which generally exempts foreign vessels from Coast Guard passenger vessel regulations. We propose amending 46 CFR 70.05–3(b) to clarify that this general exemption is subject to specific exceptions, such as the exception we propose to include in 46 CFR 70.40–1(a).

¹³ CG–543 Policy Letter 11–09, paragraphs 6.a.(5) and (6).

¹⁴ CG–543 Policy Letter 11–09, paragraph 6.a.(7).

¹⁵ CG–543 Policy Letter 11–09, paragraph 6.a.(9).

¹² CG–543 Policy Letter 11–09, paragraph 6.a.(4).

Section 3507(l) defines Coast Guard “Commandant” and a vessel’s “owner.” Our proposed rule does not use the term “Commandant,” but it does refer to a vessel’s “owner,” so we propose including the statutory definition of that term in new 46 CFR 70.40–1(b).

In section 3508, paragraphs (a) through (d) concern training in appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment. Section 3508(a) requires the Coast Guard to consult with the FBI and MARAD to develop training standards and criteria, and permits (but does not require) MARAD to certify U.S. and foreign training and certification providers. We complied with section 3508(a) by consulting with the FBI and MARAD, and incorporated the results of that consultation in our policy guidance and model course.¹⁶ The model course covers the minimum standards set out in section 3508(b). Our guidance was issued on June 28, 2011. It established the interim training requirement called for by section 3508(d) (effective from July 2011 to July 2013) and the final certification requirement called for by section 3508(c). We made the final certification requirement effective on July 27, 2013. Since that date, persons who voluntarily develop and provide training that meets the model course criteria have been eligible for certification as training providers under section 3508(a), and persons who voluntarily receive that training have been eligible for certification under section 3508(c) as having received the training specified by that paragraph. However, the policy letter is not binding on members of the public and therefore, until new regulations are in place, no one is obligated to receive certification

either as a training provider or as having received training.

We propose making certification mandatory by adding new 46 CFR 70.40–11. A person who develops and provides training in all the subjects listed in section 70.40–11(a), and who certifies those who successfully complete training, would be eligible for certification as a training provider. This certification could be made by MARAD, if MARAD chooses to exercise its discretionary section 3508(a) authority to provide certification, and section 70.40–11(b)(2) makes it clear that we would accept the validity of MARAD’s certification so long as MARAD’s certification criteria requires training in all the subjects listed in section 70.40–11(a). If MARAD chooses not to provide certification, a person could become a certified training provider under section 70.40–11(b)(1) by self-certifying that the training provided meets or exceeds the criteria detailed in our model course.

A person who successfully completes training from a certified training provider in all the subjects listed in section 70.40–11(a) would be certified as having received the training specified by 46 U.S.C. 3508(c). Over time, training may be forgotten, and relevant developments such as changes in evidentiary techniques may require updates to our model course requirements. Therefore, we propose requiring training and certification to be refreshed at least once every 2 years.

Section 3508(e) provides civil penalties for violations of section 3508. Coast Guard personnel have been given enforcement guidance for this provision, which we propose referencing in new 46 CFR 70.40–1(c).¹⁷ provides enforcement guidance to Coast Guard personnel.

Section 3508(f) allows the Coast Guard to deny entry into the U.S. by

vessels that violate section 3508 or fail to pay a penalty for violation. We propose referencing this provision in new 46 CFR 70.40–1(c).

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this regulatory analysis to be preliminary and subject to change in consideration of public comments.

TABLE 1—SUMMARY OF THE PROPOSED RULE’S IMPACTS

Category	Summary
Applicability	Cruise vessels 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 in coastwise voyages
Affected Population	147 cruise vessels: 71 U.S. flagged 76 Foreign flagged
Total Cost to Industry and Government ¹	10-year: \$79.1 million ² Annualized: \$8.4 million ²
(7% discount rate)	
Non-quantified Benefits	Clarification of rail height requirements by aligning regulation with statutory language. Enhanced ability to determine if and when a person went overboard. Potential to reduce search and rescue costs by reducing search area. Clarification of hailing or warning devices requirement by aligning regulation with statutory language. Improved criminal investigation and recordkeeping

¹⁶CG–543 Policy Letter 11–10. See footnote 2 for a link to the model course.

¹⁷CG–543 Policy Letter 11–10, paragraph 6.

TABLE 1—SUMMARY OF THE PROPOSED RULE’S IMPACTS—Continued

Category	Summary
	Potential deterrent effect. Clarification of sexual assault medical equipment requirements by aligning regulation with statutory language. Enhanced awareness of security contacts, in case of an emergency. Ensures that personnel are trained appropriately in crime scene preservation, thereby improving criminal investigation and recordkeeping. Ensures that vessel crew members are limited in their access to passenger staterooms. Clarifies that crewmembers respect the privacy of passengers and the security of their staterooms. Improved recordkeeping. Enhanced transparency to the public of reported crimes.

¹ Note that US-based cost is \$28.4 million and the cost to foreign-based companies is \$30.7 million (10-year, 7% discounted)
² Costs include burden imposed to comply with statute.

A preliminary Regulatory Assessment follows:

In this NPRM, we propose to implement the CVSSA, codified at 46 U.S.C. 3507 and 3508. The proposed changes include amendments to regulations affected by CVSSA mandates, and new guidelines for surveillance systems, determining the appropriate amount of medical supplies to maintain on board to treat victims of a sexual assault, and reporting serious incidents to Federal authorities. The proposed changes, in conjunction with CVSSA mandates, are intended to improve passenger and crew safety aboard cruise vessels.

As previously discussed, many provisions of the CVSSA were current industry standards prior to the enactment of the CVSSA and implementing the proposed regulatory changes will not result in any change in industry practices. This preliminary regulatory analysis provides an assessment of costs and benefits of the provisions of the proposal.

This proposed rule would affect current Coast Guard regulations in Title 46, subchapter H (Passenger Vessels) of the CFR. The CVSSA affects a unique subset of approximately 147 overnight ocean-going cruise vessels that operate worldwide, of which approximately 48 percent are U.S.-based. The other 52 percent are foreign-based. At that rate, the US-based cost is approximately 38.0 million and the cost to foreign-based companies is approximately \$41.1 million (10-year, undiscounted).¹⁸ These cruise vessels 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 in coastwise voyages.

We propose to amend 46 CFR part 70 to address changes to current regulations dealing with ship design and operating requirements resulting from the CVSSA that are specifically directed to cruise ships as defined in the

CVSSA. Table 2 provides a summary of the cost impacts from the proposed rule by provision.

Many of the provisions of the CVSSA were already current industry practice prior to the enactment to the statute. According to the Government Accountability Office:

“Officials from all five of the cruise lines we spoke with, as well as CLIA [the Cruise Line International Association], told us that there were minor issues with implementing these 11 CVSSA requirements and that most of the safety and security measures required by the law were already in place when the CVSSA was enacted, in July 2010. For example, each of the cruise line officials we met with told us that their vessels already were in compliance with most CVSSA provisions including having portholes in stateroom doors, using certified medical personnel for sexual assault exams, and carrying rape kits onboard.”¹⁹

For the provisions that were industry practice prior to the CVSSA enactment, there will be no cost impacts for the proposal.

TABLE 2—SUMMARY OF COST IMPACTS

Provision/Description of Change	Type of Change	Cost Impact
§ 70.05–3 Foreign vessels subject to the requirements of this subchapter.		
Requires the compliance of foreign vessels	Mandatory statutory alignment	No cost because this describes the population.
§ 70.40–1 Applicability; definition; penalties.		
Defines the type of cruise vessel	Mandatory statutory alignment	No cost because this describes the affected population.
Civil penalties for violations and denial of entry into the U.S. when serious crimes are alleged.	Mandatory statutory alignment	No net impact. Civil penalties are transfer payments and avoidable by complying with the law.

¹⁸ Totals may not add due to rounding.

¹⁹ “Cruise Vessels: Most Required Security and Safety Measures Have Been Implemented, but

Concerns Remain About Crime Reporting”, December 2013, United States Government Accountability Office report (GAO–14–43), p. 13

(available at <http://www.gao.gov/products/GAO-14-43>).

TABLE 2—SUMMARY OF COST IMPACTS—Continued

Provision/Description of Change	Type of Change	Cost Impact
§ 70.40–2 Statutory requirements.		
Requires peep holes or other means of visual identification.	Mandatory statutory alignment	No cost. Already industry practice prior to CVSSA. ²⁰
Security latches and time-sensitive key technology for staterooms and crew cabins for new vessels.	Mandatory statutory alignment	Currently, all vessels are in compliance with this requirement so there is no cost due to the regulatory implementation of the statutory requirement. However, some vessels made modifications in order to comply with the 2010 statute. The total cost incurred by industry at that time to comply with the statute is \$23.3 million (10-year, 7% discounted).
Confidentiality of sexual assault examination	Mandatory statutory alignment	No cost. Rule only states that confidentiality must be upheld in sexual assault cases.
Means to access support information (telephone line, computer and internet access).	Mandatory statutory alignment	Telephone line and computer with internet access currently available and provided.
Procedures to identify crew with access to staterooms.	Mandatory statutory alignment	\$29,164 total cost (10-year, 7% discounted).
Vessel owners required to log reported criminal allegations, report serious incidents to law enforcement, and make statistics available to the public on the owner's website.	Mandatory statutory alignment	\$26,523 total cost (10-year 7% discounted).
§ 70.40–5 Rail or bulwark height.		
Rail heights must be at least 42 inches above deck, except where it would interfere with the operation of lifesaving equipment.	Mandatory statutory alignment	Currently, all vessels are in compliance with this requirement so there is no cost due to the regulatory implementation of the statutory requirement. However, some vessels made modifications in order to comply with the 2010 statute. The total cost incurred by industry at that time to comply with the statute is \$125,496 (10-year, 7% discounted). ²¹
§ 70.40–6 Fall-overboard incidents.		
Vessels must have a system for detecting or capturing falls overboard.	Mandatory statutory alignment	\$29.9 million total cost (10-year, 7% discounted).
Video footage must be kept for 14 days or an additional 120 days after receipt of a report.	USCG has the discretion to establish time required to store such footage.	\$13,180 total cost (10-year, 7% discounted) for retention of footage for 120 days.
§ 70.40–7 Hailing or warning devices.		
Vessels must be equipped with a hailing or warning device.	Mandatory statutory alignment	No cost. Already in compliance. ²²
§ 70.40–8 Video recording.		
Requires video footage of common access areas. Excludes state room and crew cabins.	Mandatory statutory alignment	No cost. Cruise vessels, prior to CVSSA, already had an extensive system of surveillance cameras. The performance-based requirements proposed here mirror the desired criteria used by industry in meeting the statutory requirements. ²³
Video footage must be kept for 14 days or an additional 120 days after receipt of a report.	USCG has the discretion to establish the time required to store footage.	See § 70.40–6 above for cost.

TABLE 2—SUMMARY OF COST IMPACTS—Continued

Provision/Description of Change	Type of Change	Cost Impact
§ 70.40–9 Security guides and embassy information.		
Security guides must be provided in each stateroom	USCG has the discretion to establish protocol in which individuals are provided access to security guides.	\$3.2 million total cost (10-year, 7% discounted).
§ 70.40–10 Sexual assault response.		
Vessels must have a sufficient number of medication and equipment to deal with sexual assault cases.	USCG has discretion to establish the quantity of medication and equipment.	No cost. Already industry practice prior to CVSSA. ²⁴
§ 70.40–11 Training.		
Vessels must have at least one person trained in crime scene preservation training. Vessels must have trained staff onboard to deal with trauma victims.	USCG has the discretion to establish minimum training requirements.	\$2.5 million total cost (10-year, 7% discounted).

There are nine categories of requirements in this proposal that we discuss and analyze in this section:

1. Rail Heights and Guards
2. Fall-Overboard Incidents
3. Hailing or Warning Devices
4. Video Recording
5. Sexual Assault
6. Security Guides
7. Training
8. Crewmembers with Stateroom

Access Addendums

9. Crime Complaints Logs

To better inform our analysis for this proposal, the Coast Guard issued a notice of request for comments (76 FR 31350; May 25, 2011), to solicit public comment on the availability of technology to meet certain provisions of the CVSSA, specifically related to video recording and fall-overboard detection technologies. Our research also gathered information from the CLIA to assess the current practices in the field. The

²⁰ “Cruise Vessels: Most Required Security and Safety Measures Have Been Implemented, but Concerns Remain About Crime Reporting”, December 2013, United States Government Accountability Office report (GAO–14–43), p. 13 (available at <http://www.gao.gov/products/GAO-14-43>).

²¹ GAO–14–43 documented one case where a vessel needed to change rail heights. Based on the GAO report, we assume that all CLIA members are in compliance with the exception of one vessel. Due to the lack of information, we assume that the remaining three non-CLIA members will also need to update rail heights.

²² As described below, based on SOLAS requirements for all international ships to have a public address system onboard, and based on ship examinations, we estimate that vessels comply with this requirement.

²³ USCG Docket USCG–2011–0357, CLIA, July 25, 2011.

²⁴ GAO–14–43, “Cruise Vessels: Most Required Security and Safety Measures Have Been Implemented, but Concerns Remain About Crime Reporting” GAO report, p. 13. American College of Emergency Physicians Health Care Guidelines for Cruise Ship Medical Facilities specify carriage of these supplies.

information provided by CLIA confirms that the requirements detailed in this proposed rule are for the most part current industry practice. The responses from CLIA, whose member companies account for 98 percent of the cruise capacity marketed for North America, were used to support this preliminary regulatory analysis regarding CVSSA compliance with requirements related to rail heights and guards, falls-overboard detection, video recording, sexual assault, and timeliness of crimes reporting.

For several provisions, the current industry practice prior to the CVSSA already met the proposed requirements. This section analyzes those requirements that are expected to have a cost impact on the affected population.

1. Rail Heights and Guards

The CVSSA requires that vessels be equipped with ship rails that are located not less than 42 inches above the cabin deck. Based on information provided by industry, 42 inches is, for the most part, the current industry standard for rail heights. For example, classification societies such Lloyd’s require a rail-height build standard of 1100 millimeters above deck, which is 32 millimeters above the 42 inches (1067mm) CVSSA requirement. The 2013 GAO report documented industry compliance with one exception where a cruise line has modified isolated locations on a single vessel (such as around entrance gangways and lifeboat stations) and is now in compliance with the 42-inch standard.²⁵ Based on this information, the Coast Guard estimates that all CLIA members except for one vessel meet this requirement. Since we have no information on the other 3

²⁵ GAO–14–43, p. 13.

vessels of the affected population, we assume that they would need to upgrade the rail heights in limited locations as well (for a total of 4 vessels affected by this requirement).

To determine the length of rail to be replaced around lifeboat stations, we first estimate the number of lifeboats per cruise vessel. The Coast Guard Foreign and Offshore Vessel Division within the Office of Commercial Vessel Compliance estimates that, on average, there are 1,600 staterooms per cruise ship. Assuming that there are 2 people per stateroom, we estimate that there are 3,200 people per ship.²⁶ Assuming a passenger capacity of 150 people, we estimate that the rails would need to be adjusted around 22 lifeboats.²⁷ Assuming that the average length of a lifeboat is 12 meters, an affected vessel would need to update 264 meters per boat, at an average cost of \$100 per meter for rails and a weld rate of \$27.16 per hour.^{28 29 30} The per vessel cost is as follows:

264 meters * \$27.16 per hour (1 hour per meter) + \$26,400 rails = \$33,570 per vessel

We estimate that 4 vessels would be affected by this provision. We estimate that vessels would incur a one-time cost

²⁶ <http://answers.yahoo.com/question/index?qid=20090212185609AAFuxLL>.

²⁷ <http://www.rina.org.uk/lifeboat-embarkation.html>.

²⁸ Average length of a lifeboat <http://www.fassmer.de/index.php?id=63>.

²⁹ Average rate of rails is \$100/meter. \$50/meter <http://www.alibaba.com/product-detail/cheap-dubai-stainless-steel-railings-price-1338866401.html>, \$150/meter <http://www.alibaba.com/product-detail/stainless-steel-railings-price-1382208547.html>.

³⁰ Welder: 1 hour per meter (Coast Guard subject matter expert) * \$27.16 per hour (<http://www.bls.gov/oes/2011/may/oes514121.htm>) * load factor of 1.49. Therefore the welder’s loaded wage rate is \$27.16 = (\$18.23 wage rate * 1.49 load rate).

of \$134,281 in year one. \$33,570 * 4 vessels = \$134,281.

2. Overboard Detection or Capture

The CVSSA requires integration of technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available, and does not require one approach over the other. This provision is performance based and allows for use of either image-capture or detection systems, or a combination thereof. Based on the comments submitted by CLIA in response to the 2011 notice, we anticipate industry will comply predominantly through capture.

According to CLIA, image capture technology systems (closed circuit TV, thermal, etc.) have been proven to be reliable and have been successfully used

in the maritime environment for many years. However, the technology to reliably detect persons or objects as they are in the process of going overboard is not yet readily available for use at sea. Because the statute does not require one method over the other, we anticipate that the cruise industry will focus on using capture systems rather than detection systems.

While some cruise ships already have cameras that can capture images of objects going overboard, the industry does not universally meet the requirements of the CVSSA at this time. Based on industry data provided by cruise lines, we estimate that costs would range from \$62,500 to \$700,000 per ship in order to comply with the CVSSA requirements. For the purposes of regulatory analysis, we used the weighted average of all the cost points as provided by industry (\$108,583 per

ship). Coast Guard data indicates that there are 147 cruise ships that will be affected by this regulation.³¹ Coast Guard estimates that all 147 cruise ships would incur additional costs to comply with this requirement. Using the \$108,583 cost per ship for 147 ships, we estimate that the first year cost would be \$15.96 million. Because of the harsh weather conditions at sea and the dynamic nature of a cruise ship, we must account for some maintenance and operational cost to maintain the cameras on an annual basis. For this analysis, we assume the annual cost will be 5 percent of the installation costs due to deterioration from weather, or about \$798,088 per year.³² We also assume a 5-year replacement cost for the system equal to the first year cost.³³ Table 3 shows the 10-year costs for overboard capture systems.

TABLE 3—COST FOR OVERBOARD CAPTURE SYSTEM

Year	Undiscounted	7% Discount rate	3% Discount rate
1	\$15,961,750	\$14,917,523	\$15,496,845
2	798,088	697,081	752,274
3	798,088	651,477	730,363
4	798,088	608,857	709,090
5	798,088	569,025	688,437
6	15,961,750	10,635,988	13,367,714
7	798,088	497,009	648,918
8	798,088	464,494	630,018
9	798,088	434,107	611,668
10	798,088	405,707	593,852
Total	38,308,200	29,881,268	34,229,179
Annualized		4,254,420	4,012,704

We estimate the 10-year costs for overboard capture systems to be approximately \$29.9 million discounted at 7 percent and \$34.2 million discounted at 3 percent. The annualized costs would be \$4.3 million and \$4.0 million discounted at 7 percent and 3 percent, respectively.

3. Hailing or Warning Devices

This proposal requires that all vessels transiting waters that are designated as a high risk area be equipped with acoustic hailing or other devices as required by the Coast Guard to provide communication capability around the entire vessel. Based on International Convention for the Safety of Life at Sea (SOLAS) requirements for all international ships to have a public address system onboard, and based on

ship examinations, we estimate that all vessels comply with this requirement.³⁴

4. Video Recording and Retention

The CVSSA requires affected vessel owners to “maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes, as determined by the Secretary.” 46 U.S.C. 3507(b)(1). The Act further requires vessel owners to “provide to any law enforcement official performing official duties in the course and scope of an investigation, upon request, a copy of all records of video surveillance that the official believes may provide evidence of a crime reported to law enforcement officials.” 46 U.S.C. 3507(b)(2).

Industry representatives provided information that cruise vessels maintain video footage for approximately 14 days (7 days during the average cruise and 7 days beyond the end of the cruise).³⁵ The proposed regulation requires the retention of video for two weeks. Based on this information, we assumed no cost to retain footage for 14 days due to the current industry practice of retaining video for 14 days.

Further, in the event of a reported crime, a cruise vessel would need to maintain footage of the incident for at least an additional 120 days. Industry would incur a collection of information cost to store footage of reported incidents. From 2010–2012, there was an average of 73 incidents reported annually to the Federal Bureau of Investigation. We assume that footage

³¹ The CVSSA of 2010 states that there are approximately 200 cruise vessels affected. The Coast Guard Foreign and Offshore Vessel Division provided an updated figure of 147.

³² Based on input from Coast Guard subject matter experts for similarly exposed equipment.

³³ *Ibid.*

³⁴ SOLAS Chapter IV, Regulation 6. <https://treaties.un.org/doc/Publication/UNTS/Volume%201184/volume-1184-I-18961-English.pdf>.

³⁵ GAO–14–43 “Cruise Vessels: Most Required Security and Safety Measures Have Been Implemented, but Concerns Remain About Crime Reporting” GAO report, p. 16.

would be stored by a Vessel Security Officer, at the loaded wage rate of \$51.41 per hour.³⁶ Based on other collections of information, we assume

that it would take 30 minutes (0.5 hours) to store video footage. At this rate, we estimate the annual hour burden to be 36.5 hours (0.5 hours × 73

incidents), costing cruise vessels \$1,876 annually for all 147 vessels or \$15 per ship. Table 4 provides the 10-year breakdown in costs for this provision.

TABLE 4—COST TO RETAIN VIDEO FOOTAGE FOR REPORTED CRIMES

Year	Undiscounted	7% Discount rate	3% Discount rate
1	\$1,876	\$1,754	\$1,822
2	1,876	1,639	1,769
3	1,876	1,532	1,717
4	1,876	1,432	1,667
5	1,876	1,338	1,619
6	1,876	1,250	1,572
7	1,876	1,169	1,526
8	1,876	1,092	1,481
9	1,876	1,021	1,438
10	1,876	954	1,396
Total	18,765	13,180	16,007
Annualized		1,876	1,876

* Note numbers may not add due to rounding.

5. Sexual Assault

The CVSSA requires cruise ships to maintain an adequate supply of equipment and materials for performing a medical examination in sexual assault cases. Current industry practice is for vessels to determine the appropriate supply based on the number of passengers, history of sexual assaults where medications are needed and the demographics of the cruising population. Cruise lines follow the American College of Emergency Physicians Health Care Guidelines for Cruise Ship Medical Facilities. As such, we do not expect industry to incur additional burden from this requirement, as it was current industry practice prior to the CVSSA.^{37 38}

6. Security Guides

Based on research into company Web sites, security guides are available via the company Web site. However, the CVSSA requires that vessel owners provide each passenger with access to a

security guide. The guide must identify onboard personnel designated to prevent and respond to criminal and medical situations, and it must describe applicable criminal law procedures for offenses committed in any waters the vessel might be in during the voyage. The guide must also provide a list of U.S. embassy and consulate locations in foreign countries to be visited during the voyage. We propose that a copy of the security guide must be placed in each stateroom. Industry will incur a cost for this requirement initially as well as an annual replacement cost. The Coast Guard Foreign and Offshore Vessel Division within the Office of Commercial Vessel Compliance estimates that, on average, there are 1,600 staterooms per cruise ship. We estimate 147 cruise ships would be affected by this proposal, meaning there would be 235,200 security guides required for the affected population. As security guides are currently available on company Web sites, there will be no

additional cost to develop the content of the security guide.

Based on one industry Web site, there were 72 pages of security information (\$0.10 per page * 72 pages = \$7.20 printing cost).³⁹ We then estimate that an administrative assistant or secretary would print the pages and add the guide to existing vessel and cruise documentation in the staterooms at a rate of 10 minutes per guide (\$23.65 loaded wage rate * 0.1667 = \$3.94).⁴⁰ We based our estimate of 10 minutes on information from internal subject matter experts. With this cost of \$7.20 per security guide and \$3.94 in labor hours to print and add the guide to existing vessel and cruise documentation currently provided within staterooms, this requirement would have an initial cost of \$2.62 million. We also assume a five-percent replacement cost per year of \$131,035. Table 5 shows the estimated 10-year costs for this requirement.

TABLE 5—SECURITY GUIDE COSTS

Year	Undiscounted	7% Discount rate	3% Discount rate
1	\$2,620,705	\$2,449,257	\$2,544,374
2	131,035	114,451	123,513
3	131,035	106,964	119,916
4	131,035	99,966	116,423
5	131,035	93,426	113,032
6	131,035	87,314	109,740
7	131,035	81,602	106,544
8	131,035	76,264	103,440
9	131,035	71,275	100,428

³⁶ Mean reported wage is \$34.50 * 1.49 load rate = \$51.41. <http://www.bls.gov/oes/2011/may/oes535021.htm>.

³⁷ <http://www.cruising.org/regulatory/issues-facts/health-and-medical>.

³⁸ <http://www.acep.org/Content.aspx?id=29980>.

³⁹ http://www.ncl.com/sites/default/files/Security_Guide_11252013.pdf.

⁴⁰ \$23.65 = (\$15.87 per hour * 1.49 loaded wage rate) <http://www.bls.gov/oes/2011/may/oes436014.htm>.

TABLE 5—SECURITY GUIDE COSTS—Continued

Year	Undiscounted	7% Discount rate	3% Discount rate
10	131,035	66,612	97,503
Total	3,800,023	3,247,131	3,534,913
Annualized .....	.....	462,318	414,400

* Note that numbers may not total due to rounding.

7. Training

The proposed regulation would require refresher training for crime scene preservation. This proposal would require that a refresher course be taken at least every two years. This will present a burden to industry equal to the opportunity cost associated with staff time spent in training. For this rulemaking, we assume that refresher training will be similar in content to the initial training and will take approximately 8 hours, based on MARAD’s available training course.⁴¹

The proposed regulation would also require that a person who interviews an alleged sexual assault victim must be

trained to communicate appropriately with a trauma victim. We assume that a VSO would be the first point of contact for an alleged sexual assault; therefore, we assume that they would need additional victim assistance training in the event that a sexual assault occurs.

We assume that the refresher training and victim assistance training may be available via multiple delivery methods, including electronic or on the job training. As such, we do not account for travel costs associated with training in this regulatory analysis. For our analysis, we assume that the vessel security officer would complete the

eight hour training for crime preservation and an additional forty hours for victim assistance training at a cost of \$2,467.68 per trainee, at a loaded hourly wage of \$51.41. As we estimate that there are 147 cruise ships that would train a total of two vessel security officers, we anticipate that this requirement would cost approximately \$362,749 per year, based on one-half of the population taking the refresher every year.⁴² Table 6 shows these costs over the 10-year period of analysis. (Number of Vessels (147) × Trainees per Vessel (2) × Cost per Trainee (\$2,467.68) ÷ 2 years = Training Cost per Year = (\$362,749 rounded)).

TABLE 6—TRAINING COSTS

Year	Undiscounted	7% Discount rate	3% Discount rate
1	\$362,749	\$339,018	\$352,183
2	362,749	316,839	341,926
3	362,749	296,111	331,967
4	362,749	276,739	322,298
5	362,749	258,635	312,910
6	362,749	241,715	303,797
7	362,749	225,902	294,948
8	362,749	211,123	286,357
9	362,749	197,311	278,017
10	362,749	184,403	269,919
Total	3,627,490	2,547,797	3,094,323
Annualized .....	.....	362,749	362,749

8. Crew Access

The proposed regulation requires an addendum or memo listing all crewmembers with stateroom access as well as procedures and restrictions to stateroom access. Based on input from internal subject matter experts we estimate that it would take 20 hours for each company to create the document and then an additional hour per ship to modify it according to their specifications and distribute it. Based on Coast Guard Marine Information for Safety and Law Enforcement (MISLE) data, we estimate that there are approximately 23 companies managing

⁴¹ Freely accessed at: http://www.marad.dot.gov/documents/Model_Course_CVSSA_11-01.pdf.

⁴² Based on Coast Guard subject matter experts, a cruise ship will have one VSO on board during a cruise. In order for cruise ships to operate on existing schedules, a second VSO per ship is

the 147 ships. Based on this information, the number of total hours needed to draft an addendum or memo is 607 = ((23 companies * 20 hours) + (147 ships * 1 hour)). It would be a one-time cost of \$31,206 = (607 hours * \$51.41 per hour) for VSOs.

9. Alleged Crime Logs

The CVSSA requires that complaints of crimes (thefts of \$10,000 or more or other crimes) must be logged and reported to the Coast Guard, Federal Bureau of Investigation (FBI), or other law enforcement personnel. From 2010 to 2012, there has been an average of 73 cases per year reported to the FBI.⁴³

required to act as a backup and to alternate cruises as needed. Thus, two VSO’s per ship would require training.

⁴³ GAO-14-43 Cruise Vessels: Most Required Security and Safety Measures Have Been

Based on internal subject matter experts, we estimate that would take a VSO 0.5 hours to log the report as outlined in the U.S.C. 3507(g) and take another 0.5 hours to report it to the appropriate officials at the rate of \$51.41 per hour. The CVSSA also requires that reported crimes be posted on their Web site. Based on internal subject matter experts, we estimate that a web developer would upload the information at \$58.51 per hour in 0.1 hours.⁴⁴ Table 7 provides the breakdown of costs for the VSO to log and report alleged crimes and for a web developer to upload crimes committed to the Web site.

Implemented, but Concerns Remain About Crime Reporting” GAO report, p. 25.

⁴⁴ Web developer: \$58.51 = (\$39.27 wage rate * 1.49 load rate). (<http://www.bls.gov/oes/2011/may/oes151179.htm>)

TABLE 7—LOGGING, REPORTING, AND UPLOADED LIST OF CRIMES

Activity	Number of incidents	Hours per incident	Hourly wage rate	Annual cost
Log Incidents	73	0.5	51.41	\$1,876
Report Serious Crimes	73	0.5	51.41	1,876
Upload onto Website	4	0.1	58.51	23
Annual Cost				3,776

Table 8 provides the 10-year breakdown for these annually recurring costs.

TABLE 8—10-YEAR CRIMES LOGGING AND REPORTING COSTS

	Undiscounted	7% Discount rate	3% Discount rate
1	\$3,776	\$3,529	\$3,666
2	3,776	3,298	3,560
3	3,776	3,083	3,456
4	3,776	2,881	3,355
5	3,776	2,692	3,257
6	3,776	2,516	3,163
7	3,776	2,352	3,071
8	3,776	2,198	2,981
9	3,776	2,054	2,894
10	3,776	1,920	2,810
Annualized	37,763	26,523	32,213
		3,776	3,776

10. Total Cost

Based on our analysis, we anticipate the cost drivers to industry from this proposal would come from the fall-

overboard capture systems and security locks, which represent about 48% and 42% of the total cost of the proposed rule, respectively. Based on the cost inputs as described in the sections

above, we estimate that it would cost \$4.0 million per ship to comply with this proposed rule. Table 9 provides the per-vessel cost by provision.

TABLE 9—PER SHIP COST BY PROVISION

	Rail heights	Locks	Overboard capture	Video storage	Addendums	Logs	Training	Security guides	Total
1	\$33,570	\$368,000	\$108,583	\$13	\$212	\$26	\$2,468	\$17,828	\$530,700
2	0	368,000	5,429	13	0	26	2,468	891	376,827
3	0	368,000	5,429	13	0	26	2,468	891	376,827
4	0	368,000	5,429	13	0	26	2,468	891	376,827
5	0	368,000	5,429	13	0	26	2,468	891	376,827
6	0	368,000	108,583	13	0	26	2,468	891	479,981
7	0	368,000	5,429	13	0	26	2,468	891	376,827
8	0	368,000	5,429	13	0	26	2,468	891	376,827
9	0	368,000	5,429	13	0	26	2,468	891	376,827
10	0	368,000	5,429	13	0	26	2,468	891	376,827
Total	33,570	3,680,000	260,600	128	212	257	24,677	25,850	4,025,294

Table 10 shows the total, undiscounted 10-year cost by provision.

TABLE 10—TOTAL UNDISCOUNTED COST TO INDUSTRY BY PROVISION

	Rail heights	Locks	Overboard capture	Video storage	Addendums	Logs	Training	Security guides	Total
1	\$134,281	\$3,312,000	\$15,961,750	\$1,876	\$31,206	\$3,776	\$362,749	\$2,620,705	\$22,428,344
2	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
3	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
4	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
5	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
6	0	3,312,000	15,961,750	1,876	0	3,776	362,749	131,035	19,773,187
7	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525

TABLE 10—TOTAL UNDISCOUNTED COST TO INDUSTRY BY PROVISION—Continued

	Rail heights	Locks	Overboard capture	Video storage	Addendums	Logs	Training	Security guides	Total
8	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
9	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
10	0	3,312,000	798,088	1,876	0	3,776	362,749	131,035	4,609,525
Total	134,281	33,120,000	38,308,200	18,765	31,206	37,763	3,627,490	3,800,023	79,077,728

Note: The total undiscounted cost without the self-implementing provisions for rail heights and locks is \$45.8 million.

Table 11 shows the 10-year costs for this proposal. As shown in Table 11, we estimate the 10-year costs for CVSSA requirements implemented by this proposed rule to be approximately \$59.1 million and \$8.1 million discounted at 7 percent and 3 percent, respectively. The annualized costs would be \$8.4 million and \$69.3 million discounted at 7 percent and 3 percent, respectively.

TABLE 11—TOTAL COST

Year	Undiscounted	7% Discount rate	3% Discount rate
1	\$22,428,344	\$20,961,069	\$21,775,091
2	4,609,525	4,026,137	4,344,919
3	4,609,525	3,762,745	4,218,368
4	4,609,525	3,516,584	4,095,503
5	4,609,525	3,286,527	3,976,216
6	19,773,187	13,175,709	16,559,733
7	4,609,525	2,870,580	3,747,965
8	4,609,525	2,682,785	3,638,801
9	4,609,525	2,507,276	3,532,817
10	4,609,525	2,343,249	3,429,919
Total	79,077,728	59,132,663	69,319,333
Annualized .....	.....	8,419,161	8,126,341

Benefits
The purpose of this proposal is to provide requirements for those provisions in the CVSSA that are not self-executing, thereby complying with statutory requirements and enhancing compliance with the CVSSA mandate. Table 12 describes the benefits for the requirements presented in this NPRM.

TABLE 12—BENEFITS

Key provision	Benefit
Rail Heights	<ul style="list-style-type: none"> Clarification of rail height requirements by aligning regulation with statutory language. Enhanced ability to determine if and when a person went overboard. Potential to reduce search and rescue costs by reducing search area.
Overboard Detection or Capture	
Hailing or Warning Devices	<ul style="list-style-type: none"> Clarification of hailing or warning devices requirement by aligning regulation with statutory language. Improved criminal investigation and recordkeeping. Potential deterrent affect.
Video Recording	
Sexual Assault	<ul style="list-style-type: none"> Clarification of sexual assault medical equipment requirements by aligning regulation with statutory language. Enhanced awareness of security contacts, in case of an emergency.
Security Guides	
Training	<ul style="list-style-type: none"> Ensures that personnel are trained appropriately in crime scene preservation, thereby improving criminal investigation and recordkeeping. Ensures that vessel crew members are limited in their access to passenger staterooms.
Crew Access	
Crime Logs	<ul style="list-style-type: none"> Clarifies that crewmembers respect the privacy of passengers and the security of their staterooms. Improved recordkeeping. Enhanced transparency to the public of reported crimes.

The proposed rule would align regulatory language with congressional mandates in the CVSSA to reduce regulatory uncertainty. Because most of our proposals align with current industry practice, most benefits derive from harmonizing regulatory language with the statute. For other requirements, it is difficult to quantify the benefits

because we cannot accurately estimate what the impact would be of provisions like fall-overboard capture or availability of security contacts. Therefore we discuss the benefits of those requirements qualitatively.

From 2010 to 2012, the average annual number of crimes that occurred on cruise ships reported to the FBI was

73. Crimes may be homicide, suspicious deaths, missing, kidnapping, assault with serious bodily injury, firing or tampering with the vessel, thefts greater than \$10,000, or sexual assault.

In 2011, there were five cruise ship-related cases of a person in the water who required a search and rescue (SAR) effort by the Coast Guard. These cases

resulted in one life lost and four lives unaccounted for. These five SAR activities required 14 sorties at a total expense of approximately \$1.2 million. We believe that the introduction of more robust fall-overboard detection or capture capabilities could lead to a decrease in the SAR costs associated with fall-overboard incidents on cruise ships. By providing accurate information about where and when a person may have fallen overboard, the industry and the proper authorities would be able to reduce their search area, which would reduce costs and could also lead to an increase in

recovery and survivability of a person who has fallen overboard. Looking at Coast Guard MISLE casualty data from 2007–2011, we found that, on average, there have been 2.2 deaths or missing persons per year due to falls overboard on cruise ships. Using \$9.1 million as the value of a statistical life,⁴⁵ we can monetize these casualties at \$20.0 million per year. Break-even analysis is useful when it is not possible to quantify the benefits of a regulatory action. OMB Circular A–4 recommends a “threshold” or “break-even” analysis when non-quantified benefits are important to evaluating the

benefits of a regulation. Threshold or break-even analysis answers the question, “How small could the value of the non-quantified benefits be (or how large would the value of the non-quantified costs need to be) before the rule would yield zero net benefits?”⁴⁶ If we use value of the fatalities from falls overboard from a cruise (\$20.0 million) to perform a break-even analysis, we get a required risk reduction of 40.4 percent⁴⁷ for the benefits to break even with the costs. To state it another way, this proposal would need to prevent 1 death every 3 years to break even (Table 11).

TABLE 13—BREAK-EVEN ANALYSIS

Cost of the proposed rule (annualized at 7%)	Monetized loss due to casualties (annual)	Required risk reduction	Frequency of casualties avoided
\$8,419,161	\$20,020,000	42.1%	1 every 3 years.

Other provisions of this rule offer benefits as mentioned in Table 5. Although we cannot quantify benefits for these provisions, we believe that there will be benefits associated with these provisions, such as improved awareness of contact information in the

event of a crime, as listed in the security guides. Discussion of Alternatives Because the majority of the proposed provisions are current industry practice, we do not present alternatives to the

performance-based requirements for rail heights, video recording, or sexual assault preparedness. We are able to present alternatives based on the fall-overboard, training and security guides requirements. Table 14 describes these alternatives.

TABLE 14—REGULATORY ALTERNATIVES

	Description	10-Year cost	Annualized cost (7%)
NPRM Alternative	Includes requirements for rail heights, locks for new vessels, fall-overboard capture, crime scene preservation refresher training every three years, security guidelines to be placed in every stateroom, outline of crew access, and logs of crime reports.	\$79,077,728	\$8,419,161
Alternative 2	Same rail height and fall-overboard requirements as NPRM Alternative, no requirement for refresher training, and no requirement for security guides to be placed in staterooms.	71,650,215	7,594,093
Alternative 3	Requires redundant camera coverage of entire vessel for fall-overboard system, video retention of 1 month, annual refresher training for crime scene preservation, and the same security guides requirements as the NPRM Alternative.	227,635,928	27,343,787

NPRM Alternative—Fall-overboard detection or capture, crime scene preservation refresher training no less than every three years, and security guides to be placed in all staterooms: The analysis for this alternative is discussed in detail previously in the regulatory analysis section of this NPRM, as it is the proposed alternative. *Alternative 2—Less Stringent Alternative*—Reduce burden associated with training and security guides:

This alternative would include the same fall-overboard requirements as the NPRM Alternative, but would not include requirements for refresher training every 2 years or for security guides to be placed in every stateroom. For this alternative, we remove the requirement for refresher training, which reduces the burden on industry. We also remove the requirement for security guides in every stateroom,

rather, allowing online only posting of the security guides. This also reduces the burden. This alternative would have a 10-year cost of \$53.3 million, discounted at 7 percent and an annualized cost of \$7.6 million, discounted at 7 percent. Table 15 provides the undiscounted, 10-year breakdown of costs, by provision, to comply with this alternative.

⁴⁵ United States Department of Transportation, “Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses”, 2013, available at

<http://www.dot.gov/regulations/economic-values-used-in-analysis>.

⁴⁶ U.S. Office of Management and Budget, Circular A–4, September 17, 2003.

⁴⁷ To calculate the required risk reduction for costs and benefits to break even, we divide the annualized cost of the RA by the annual monetized loss that we are trying to mitigate: \$8.4 million/\$20.0 million = 42.1% percent.

TABLE 15—ALTERNATIVE 2 COSTS

Rail heights	Locks	Overboard	Video retention	Training	Addendum	Logs	Security guides	Total
\$134,281	\$3,312,000	\$15,961,750	\$1,876	\$0	\$31,206	\$3,776	\$0	\$19,444,890
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	15,961,750	1,876	0	0	3,776	0	19,279,403
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
0	3,312,000	798,088	1,876	0	0	3,776	0	4,115,740
134,281	33,120,000	38,308,200	18,765	0	31,206	37,763	0	71,650,215

We rejected this alternative because we felt that it does not provide sufficient training for crime-scene preservation due to advancements in the field and also because of the relative infrequency of crime on board cruise vessels. The Coast Guard believes that refresher training is necessary for vessel personnel to maintain the necessary skills. Furthermore, the Coast Guard believes that the only way to ensure that all passengers have the pertinent security information readily available when on board a vessel is to have the information in each stateroom, rather

than only available online or in public areas of the vessel.

Alternative 3—More Stringent Alternative—Increases requirements for training and fall-overboard systems: This alternative would require a fall-overboard system that would include overlapping fields of view for all areas of the vessel, providing greater coverage and redundancy. It would require additional video retention for the existing coverage as well as coverage for additional cameras, as needed. Based on input from industry, the cost to retain an additional 2 week worth of video would range from \$400,000 to \$600,000

per ship. They would need to install additional storage for the 2 incremental weeks, plus an incremental amount (\$250,000) to cover the redundant cameras.⁴⁸ It would also require the same annual refresher training for crime-scene preservation. The security guides requirement would remain the same as the NPRM alternative. This alternative would have a 10-year cost of \$227.6 million and an annualized cost of \$27.3 million, discounted at 7 percent. Table 16 provides the 10-year, undiscounted cost to comply with this alternative.

TABLE 16—ALTERNATIVE 3 COSTS

Rail Heights	Locks	Overboard	Video retention	Training	Addendum	Logs	Security guides	Total
\$134,281	\$3,312,000	\$31,923,500	\$110,251,876	\$362,749	\$31,206	\$3,776	\$2,620,705	\$148,640,094
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	31,923,500	1,876	362,749	0	3,776	131,035	35,734,937
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
0	3,312,000	1,596,175	1,876	362,749	0	3,776	131,035	5,407,612
134,281	33,120,000	76,616,400	110,268,765	3,627,490	31,206	37,763	3,800,023	227,635,928

The Coast Guard rejects this alternative because it would impose an unnecessary burden on industry. The performance-based approach to fall-overboard systems proposed in this NPRM would provide a sufficient level of coverage without the more stringent and costly requirements.

Video Retention Alternatives

We considered various alternatives to complying with the video retention requirements. Currently, industry retains footage for 14 days. Retaining video footage for an additional 2 weeks would require cruise vessels to incur a

cost of \$73.5 million in the first year and \$367.5 million for the industry to retain video footage for 90 days. These durations were selected based on input from victim advocacy groups. Table 17 provides the cost comparison at 2 weeks, 4 weeks, and 90 days.

⁴⁸ \$500,000 for a 2-week increment + \$250,000 for redundancy = \$750,000 per ship to install additional video retention.

TABLE 17—COST COMPARISON FOR VIDEO FOOTAGE

Retention rate	Percent capture rate of crimes reported ⁴⁹	Incremental difference (from 2 weeks)	Cost (undiscounted)	Annualized (7%)	Incremental cost ⁵⁰ (undiscounted)
2 weeks (proposed Alternative)	90.1	.....	\$0	\$0	\$0
4 weeks (30 days)	91.5	1.4%	73,518,765	10,467,418	73,518,765
90 days	97.2	7.0	367,518,765	24,859,898	73,503,753

The longer video footage is retained, the more incidents are available in video storage after a crime has been reported. At the current industry practice of 2 weeks of storage, 90 percent of the reported crimes would be available in video storage at no cost to industry. If an additional 2 weeks of video retention is required (to 30 days total), an additional 1.4 percent of reported crimes would be available in storage at an additional 10-year undiscounted cost of \$73.5 million. If 90 days of storage is required, an additional

7 percent of reported crimes would be available in storage (although 3 percent would remain uncaptured) at a 10-year undiscounted cost of \$367.5 million. We selected the cost minimizing alternative of requiring 2 weeks of video retention, as most incidents (90 percent) are reported within 2 weeks.

OMB A-4 Accounting Statement

This Notice of Proposed Rulemaking is not expected to exceed the threshold for economic significance under section 3(f) of Executive Order 12866,

Regulatory Planning and Review. In accordance with OMB Circular A-4 (available at www.whitehouse.gov/omb/circulars/), we have prepared a preliminary accounting statement showing the classification of impacts associated with the rulemaking.
 Agency/Program Office: U.S. Coast Guard
 Rule Title: Cruise Vessel Safety and Security Facilities NPRM
 RIN#: 1625-AB91
 Date: July 2013

Category	Primary estimate	Minimum estimate	High estimate	Source
Benefits				
Annualized monetized benefits (\$ Mil)	None			RA
Annualized quantified, but unmonetized, benefits	None			RA
Unquantifiable Benefits	Clarification of rail height requirements by aligning regulation with statutory language. Enhanced ability to determine if and when a person went overboard. Potential to reduce search and rescue costs by reducing search area. Clarification of hailing or warning devices requirement by aligning regulation with statutory language. Improved criminal investigation and recordkeeping. Potential deterrent affect. Clarification of sexual assault medical equipment requirements by aligning regulation with statutory language. Enhanced awareness of security contacts, in case of an emergency. Ensure that personnel are trained appropriately in crime scene preservation, thereby improving criminal investigation and recordkeeping. Ensure that vessel crew members are limited in their access to passenger staterooms. Clarifies that crewmembers respect the privacy of passengers and the security of their staterooms. Improved recordkeeping. Enhanced transparency to the public of crimes reported.			RA
Costs *				
Annualized monetized costs (\$ Mil) *	\$8.4	7%	7%	7%
	\$8.1	3%	3%	3%
Annualized quantified, but unmonetized, costs	None.			RA
Qualitative (un-quantified) costs	None.			RA
Transfers				
Annualized monetized transfers: "on budget"	None.			
From whom to whom?	None.			
Annualized monetized transfers: "off-budget"	None.			
From whom to whom?				

⁴⁹Based on information provided by CLIA.

⁵⁰The incremental cost is calculated by taking the undiscounted cost and dividing it by the incremental difference between capture rates. For

example, at 4 weeks the incremental cost = \$73.5 million (undiscounted cost) ÷ 1 (incremental difference from 2 weeks).

Category						
Miscellaneous Analyses/Category						
Effects on State, local, and/or tribal governments	None.					RA
Effects on small businesses	We do not expect the rulemaking to have a significant impact on a substantial number of small businesses.					
Effects on wages	Not determined.					
Effects on growth	Not determined.					

* **Note:** Annualized cost on US entities: \$4.0 million discounted at 7% and \$3.8 million at 3%. Annualized cost on foreign entities: \$4.4 million discounted at 7% and 4.2 million at 3%.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises 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 fewer than 50,000.

We used managing owner and operator contact information from the Coast Guard MISLE data in 2011 to research public and proprietary business databases for entity ownership status (subsidiary, parent company, government entity, etc.), employee size, and revenue, among other information. By using the Small Business Administration (SBA)’s size standards and the North American Industry Classification System (NAICS) code classifications, we are able to determine whether a business is small or not. The SBA provides business size standards for all sectors of the NAICS. We found that of the 23 entities that own or operate cruise ships and would be affected by this proposed rulemaking, 11 are foreign entities. Of the remaining 12, all entities exceed the SBA size standards for small businesses. Table 18 provides the breakdown of businesses by size.

TABLE 18—NUMBER OF ENTITIES IMPACTED BY THE PROPOSED RULE

Entities	Number	Percentage
Businesses that Exceed SBA Standards	11	48
Foreign owned entities	12	52
Small Businesses with revenue data		0
Unknown, assumed Small Business ¹		0

TABLE 18—NUMBER OF ENTITIES IMPACTED BY THE PROPOSED RULE—Continued

Entities	Number	Percentage
Total	23	100

¹ Revenue information on these 26 were not available, which are then considered to be small.

Entities are categorized by the NAICS codes.⁵¹ By using SBA criteria for small businesses, the associated NAICS codes, and the 2007 United States Economic Census data,⁵² Table 14 provides the top 5 NAICS Codes of the identified small businesses.

We expect entities affected by the rule would be classified under the NAICS code subsector 483-Water Transportation, which includes the following six-digit NAICS codes for cruise lines: 483112-Deep Sea Passenger Transportation and 483114-Coastal and Great Lakes Passenger Transportation.

According to the SBA’s Table of Small Business Size Standards,⁵³ a U.S. company with these NAICS codes and employing equal to or fewer than 500 employees is a small business. Additionally, cruise lines may fall under the NAICS code 561510-Travel Agencies, which have a small business size standard of equal to or less than \$3,500,000 in annual revenue.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields. We did not find any small governmental

⁵¹ Small business information can be accessed online at <http://www.sba.gov/size/indexableofsize.html>.

⁵² U.S. Census Bureau information can be accessed online at http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ECN&_tabId=ECN1&_submenuId=datasets_4&_lang=en&_ts=246366688395.

⁵³ Source: <http://www.sba.gov/size>. SBA has established a Table of Small Business Size Standards, which is matched to the North American Industry Classification System (NAICS) industries. A size standard, which is usually stated in number of employees or average annual receipts (“revenues”), represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and Federal contracting programs.

jurisdictions with populations of fewer than 50,000 people. Based on this analysis, we found that this rulemaking, if promulgated, will not affect a substantial number of small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of U.S. small entities. If you think that a business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies as a small entity and how and to what degree this proposed rule will economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person named under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

D. Collection of Information

This proposed rule would call for new collections of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden

follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Cruise Vessel Security and Safety.

OMB Control Number: XXXX-XXXX.

Summary of the Collection of Information: Cruise vessels subject to the Cruise Vessel Security and Safety Act of 2010 would be required to record and maintain video surveillance data of public areas of the vessel and any fall overboard image capture or alleged crime records for at least 120 days after the completion of a voyage in the event of an incident, as well as maintain a log of such crimes. Furthermore, there is a one-time cost for cruise vessels to draft procedure and restrictions on crewmember access to staterooms.

Need for Information: The video surveillance information and logging of incidents are necessary to assist in criminal investigations for alleged crimes on board cruise vessels. Fall overboard detection or image capture is necessary to assist in investigation of such incidents. The requirement that procedures and restrictions for crew access to passenger staterooms be established, implemented, documented, and periodically reviewed, is a non-substantive paraphrase of the statutory requirement, 46 U.S.C. 3507(f). The Coast Guard has not modified that requirement in any way. Stateroom-access procedures and restrictions protect the privacy of cruise vessel passengers and the security of their staterooms.

Proposed Use of Information: Appropriate law enforcement agencies would use this information to assist in criminal investigations when necessary. Cruise vessel operators would use stateroom-access procedures and restrictions to ensure that vessel crew members are limited in their access to passenger staterooms, and respect the privacy of passengers and the security of their staterooms. The Coast Guard would enforce the statutory requirement by verifying, during vessel inspections or examinations that those procedures are in place to comply with the statute.

Description of the Respondents: The respondents are any passenger vessel that is authorized to carry and has onboard sleeping facilities for at least 250 passengers, that is not engaged in a coastwise voyage, and that embarks or disembarks passengers in the United States.

Number of Respondents: The number of respondents is 147 affected cruise vessels.

Frequency of Response: Cruise lines would need to retain video footage and a log of such events in the event of a reported incident. This would occur as part of their standard operation procedure. Cruise lines would also need to provide a one-time response regarding crewmember access to staterooms.

Burden of Response: The estimated burden for each response would be 0.5 hours to retain video surveillance, 1 hour to write a log and report the incident, 20 hours per company to draft an addendum or memo, and 1 hour for each vessel to modify the addendum or memo to tailor it to the ships' specificity.

Estimate of Total Annual Burden: We estimate an annual industry total of 73 incidents for video surveillance, logs of such incidents, and fall-overboard systems. We estimate that it takes 0.5 hours for a VSO to file or store video footage of a reported incident and it takes 1 hour to write and report an incident. Based on the wage rate for a VSO (\$51.41), we estimate the annual burden cost to be \$5,629 to collect video footage and log the reported incident. The estimated one-time burden of response for cruise lines to draft an addendum or memo regarding crewmember access to staterooms is 607 hours. Based on the wage rate for a VSO, we estimate that one-time cost to be \$31,206. This makes the total hourly burden 717, for a total cost of \$36,835.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the proposed collection.

E. Federalism

A rule has implications for federalism under Executive Order 13132,

federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. A summary of our analysis is provided below.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels) are within the fields foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) These regulations implement safety and security features on board certain inspected passenger vessels, specifically with regard to vessel design, construction, operation, and equipment requirements. Because States may not promulgate rules within these categories, there are no implications for federalism under Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, 15 U.S.C. 272 note, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. This rule involves regulations concerning the training of maritime personnel, the equipping of vessels, and vessel operation safety equipment. Thus, this rule is likely to be categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(c) and (d) of the Instruction, as well as under categorical exclusion 6(a) as listed in the Coast Guard’s notice of July 23, 2002 (67 FR 48243 at 48245). We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 46 CFR Part 70

Marine safety; Passenger vessels; Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 70 as follows:

TITLE 46—SHIPPING

■ 1. The authority citation for part 70 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3507, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1, para. II (92.a), (92.b); Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

■ 2. In § 70.05–3, add paragraph (g) to read as follows:

§ 70.05–3 Foreign vessels subject to the requirements of this subchapter.

* * * * *

(g) Notwithstanding the exceptions noted in paragraph (b) of this section, each foreign vessel to which 46 U.S.C. 3507 applies must comply with subpart 70.40 of this part.

■ 3. Add subpart 70.40 to read as follows:

Subpart 70.40—Cruise Vessel Security and Safety

Sec.

70.40–1 Applicability; definition; penalties.
70.40–2 Statutory requirements.
70.40–3 and 70.40–4 [Reserved]
70.40–5 Rail or bulwark height.
70.40–6 Fall-overboard incidents.
70.40–7 Hailing or warning devices.
70.40–8 Video recording.

70.40–9 Security guides and embassy information.
70.40–10 Sexual assault response.
70.40–11 Training.

Subpart 70.40—Cruise Vessel Security and Safety

Authority: 46 U.S.C. 2103, 3507(j); Department of Homeland Security Delegation No. 0170.1(92.a), (92)(b).

§ 70.40–1 Applicability; definition; penalties.

(a) Notwithstanding the provisions of 46 CFR 70.05–3(b), this subpart applies to the owner, charterer, managing operator, master, or other individual in charge of each passenger vessel, whether U.S.- or foreign-flagged, as defined in 46 U.S.C. 2101(22), that—

(1) Is authorized to carry at least 250 passengers;

(2) Has onboard sleeping facilities for each passenger;

(3) Is on a voyage that embarks or disembarks passengers in the United States, except that embarking and disembarking does not include temporary port calls by passengers;

(4) Is not engaged on a coastwise voyage; and

(5) Is neither a vessel of the United States operated by the Federal government nor a vessel owned and operated by a State.

(b) As used in this subpart, “owner” means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

(c) Failure to comply with this subpart is subject to the civil and criminal penalties provided by 46 U.S.C. 3507 and 3508, and may result in a vessel’s being denied entry into the United States.

§ 70.40–2 Statutory requirements.

In addition to the regulatory requirements of this subpart, the owner, charterer, managing operator, master, or other individual in charge of each passenger vessel to which this subpart applies is also subject to the following requirements of 46 U.S.C. 3507:

(a) Each passenger stateroom and crew cabin must be equipped with entry doors that include peep holes or other means of visual identification, in accordance with 46 U.S.C. 3507(a)(1)(B);

(b) For any vessel the keel of which is laid after July 27, 2010, each passenger stateroom and crew cabin must be equipped with security latches and time-sensitive key technology, but neither the latches nor the time-sensitive key technology may prevent emergency responders from taking appropriate emergency action to enter a stateroom or cabin in the event of fire

or other emergency, in accordance with 46 U.S.C. 3507(a)(1)(C) and (a)(2);

(c) The confidentiality of sexual assault examination and support information must be protected in accordance with the detailed provisions of 46 U.S.C. 3507(e);

(d) Procedures and restrictions for crew access to passenger staterooms must be established, implemented, documented, and periodically reviewed in accordance with the detailed provisions of 46 U.S.C. 3507(f); and

(e) Complaints of crimes must be logged and made available to Coast Guard, Federal Bureau of Investigation, or other law enforcement personnel, and crimes and other information must be reported, in accordance with the detailed provisions of 46 U.S.C. 3507(g).

§§ 70.40-3 and 70.40-4 [Reserved]

§ 70.40-5 Rail or bulwark height.

(a) The height of each guard rail or bulwark on any exterior deck to which passengers have general access must be at least 42 inches above the deck.

(b) The Coast Guard may accept alternative arrangements where the 42-inch height requirement would interfere with the operation of lifesaving equipment or arrangements.

§ 70.40-6 Fall-overboard incidents.

(a) Each vessel must maintain either—

(1) A recording system for capturing an image of any person falling overboard from the vessel into the sea (a “fall-overboard”); or

(2) A detection system for immediately detecting any fall-overboard and sounding an alarm in a manned location; or

(3) A combination of recording and detecting systems.

(b) Video, data, and images (“records”) created by a recording system must be—

(1) Time and date-stamped;

(2) Kept for the entire voyage and at least 7 days after all passengers disembark; provided that if, during that time, the vessel receives a report of a fall overboard during the voyage, the records must be kept for an additional 120 days after receipt of the report; and

(3) Made available on request to any search and rescue or law enforcement official investigating a fall overboard.

§ 70.40-7 Hailing or warning devices.

Each vessel must be equipped with acoustic hailing or other devices to provide communication capability around the entire vessel.

§ 70.40-8 Video recording.

(a) This section applies to any alleged incident involving a U.S. national as

either an alleged victim or alleged perpetrator, regardless of whether committed in or outside U.S. waters, which if committed in U.S. waters would be a crime.

(b) Each vessel must maintain a system, in areas of the vessel to which passengers and crew members have common access and excluding passenger staterooms and crew cabins, to record an identifiable time and date-stamped image of any person involved in an incident to which this section applies. The system must be maintained in a secure location to prevent unauthorized access or tampering.

(c) Recorded images must be kept for the entire voyage and at least 7 days after all passengers disembark; provided that if, during that time, the vessel receives a report of an incident to which this section applies, the recorded images from that voyage must be kept for an additional 120 days after receipt of the report.

(d) Recorded images must also be maintained in a secure location to prevent unauthorized access or tampering.

(e) Recorded images must be made available on request to any law enforcement official investigating an incident to which this section applies.

§ 70.40-9 Security guides and embassy information.

Prior to each voyage, the vessel owner or operator must ensure that—

(a) A copy of a security guide containing the medical and security personnel information required by 46 U.S.C. 3507(c)(1)(A)(i) and the jurisdictional and procedural information required by 46 U.S.C. 3507(c)(1)(A)(ii) has been provided to the Federal Bureau of Investigation for comment and is placed in each passenger stateroom; and

(b) The embassy and consulate information required by 46 U.S.C. 3507(c)(2) has been provided in each passenger stateroom and in a location readily accessible to all crew members.

§ 70.40-10 Sexual assault response.

(a) A vessel complies with the requirements of 46 U.S.C. 3507(d)(1) and (2) if it has on board a supply of the medications required by that statute that is enough for the expected length of the voyage and for the number of patients required by paragraph (b) of this section.

(b) The number of patients described in paragraph (a) of this section must be the greater of—

(1) Two patients; or

(2) The highest number of sexual assaults alleged on any single voyage of any cruise vessel owned by the owner in the past 3 years.

(c) Any crew member who interviews an alleged sexual assault victim must have been trained to communicate appropriately with a trauma victim.

§ 70.40-11 Training.

(a) A vessel complies with the requirements of 46 U.S.C. 3508(c) if at least one crewmember on the vessel is certified by a certified training provider as having successfully completed, within the past 2 years, training that includes topics covering the following competences:

(1) Security and safety requirements aboard cruise vessels;

(2) Current safety and security threats and patterns;

(3) Cruise vessel characteristics and conditions where criminal activities are likely to occur;

(4) Cruise vessel security equipment and systems;

(5) Criminal incident procedures and plans;

(6) Crime scene preservation, gathering evidence and chain of custody;

(7) Requirements for reporting and documenting serious crimes;

(8) Protection and proper handling of confidential, personally identifiable, sensitive security, or other information and communications;

(9) Law enforcement response to criminal activity; and

(10) Required support to be provided to law enforcement and prosecutors.

(b) For the purpose of complying with paragraph (a) if this section, a certified training provider is one who certifies those who successfully complete training in accordance with paragraph (a) of this section and who—

(1) Certifies that the training provided by the provider meets or exceeds the criteria contained in the Coast Guard model course available from the Coast Guard at [URL]; or

(2) Is certified as a training provider by the Administrator of the Maritime Administration in accordance with 46 U.S.C. 3508(a) and paragraph (a) of this section.

Dated: January 6, 2015.

Paul F. Zukunft,

Admiral, U.S. Coast Guard Commandant.

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