

U.S. Department of  
Homeland Security

United States  
Coast Guard



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5700  
26 November 2008

MEMORANDUM

From: *John N. Healey*  
John N. Healey, CAPT  
CG SECNY, acting

To: CGDONE

Thru CGDONE(dcs)  
CGDONE(dp)

Subj: WHITE PAPER ON THE EFFECT FACILITY SECURITY IS HAVING ON THE  
COMMERCIAL VESSEL INDUSTRY

1. Enclosed with this memo is a White Paper detailing the effect Coast Guard approved Facility Security Plans are having on foreign commercial vessel operations and the concerns that this could adversely affect the overall safety of vessel operations within U.S. ports.
2. If you have any questions concerning the White Paper, please contact me or Commander David M. Flaherty, Chief of Prevention, Sector New York at (718) 354-4002.

#

Enclosures: (1) SECTOR NEW YORK's WHITE PAPER DTD 26NOV08

**SITUATION:** The current application of Coast Guard approved facility security plans by shore side facilities, while ensuring the security of this vital part of the U.S. economy, is potentially affecting the safe operation of commercial vessels within the ports of the United States.

**BACKGROUND:** The attacks of 9/11 brought rapid security increases within almost every type of commercial operation throughout the country. The maritime industry quickly recognized the level of harm that could be done within the shore based infrastructure and responded to this potential threat by applying rigid access control standards and increasing their level of security awareness. As a result of these positive actions, many shore side facility security personnel became the authority on who could or could not be allowed to transit their property.

**DISCUSSION:** This action by a number of facilities in the Port of New York and New Jersey as well as in other U.S. ports resulted in severe restrictions on mariner access and support services. In some instances, seafarers were not even permitted to tend their mooring lines or access phone booths on the dock. Initially even pilots in this port were delayed due to facility access restrictions which delayed vessel operations within the Port of NY/NJ. Visiting chaplains, ship owners, flag administrations, and other entities that dealt with a ship's safe operation were also denied access. For the most part these issues were resolved with Captain of the Port New York's participation and with the implementation of MTSA and ISPS.

Recently the issue of foreign mariner access has been raised by a number of shipping companies. Representatives from these companies have stated that they are having a difficult time hiring their more experienced professional mariners to operate commercial vessels that routinely visit U.S. ports. In response to this, a spot check of the security plans of facilities in the Sector New York AOR was conducted. It was discovered that many of these Coast Guard approved facility security plans specifically prevent mariner access as well as prohibit bunkering and support vessels from pulling alongside a docked vessel to conduct a transfer operation, which was routinely done in the past. In other cases where access is allowed, the mariner had to have a D-1 visa for shore leave consideration, and in some cases an exorbitant fee was charged by the facility for this access, which made leaving the vessel cost prohibitive. Stores and bunkering are often conducted at anchor following the transfer of cargo, which increases the number of transits a vessel has to make within the port. Repairs and maintenance are often postponed due to the inability to have spare parts delivered in a reasonable manner. Foreign vessel owners and operators and the companies that provide them with services feel that they are viewed as a security threat not as a partner in ensuring security.

**SAFETY CONCERNS SUMMARY:**

- No security standards for facilities that address crew and vessel service access, which has inadvertently resulted in an increase in risk to shipboard operations/conditions.
- Potential for ships to retain excessive oily waste/garbage for an extended period.
- Problems and surveys delayed until vessel is docked at a more "access friendly" port.
- Additional vessel movements and additional anchorage demands within the port.
- Potential of having less competent seafarers employed on ships entering U.S. due to ports with extensive access restrictions.
- Rapid crew change reduces time frame necessary to comply with STCW.
- Crews prevented from tending to moorings.
- Crew morale impacted due to no shore leave, delayed stores delivery, chaplains being denied access.

**RECOMMENDATIONS FOR IMMEDIATE COAST GUARD ACTION:**

- **Sectors:** Continue to reach out to facilities through letters and messages from Coast Guard. (This was recently done by Sector New York and resulted in positive responses from companies to review and modify their security access policy.)
- **Sectors:** Five-year plan review should include close scrutiny of this issue to ensure that the requirements to provide access are addressed.
- **Sectors:** Establish port-wide procedures through the Area Maritime Security Committee that would permit TWIC holding agents and chaplains to be acceptable escorts for foreign seafarers and visitors. Plan should involve communication and coordination with SSO and FSO, at a minimum and should also include proper personal protection training and proper transit specific to each particular facility.
- **CGHQ:** Outreach to mobile oil facilities and APHIS approved garbage collection services to obtain TWIC, which should be required when operating in the maritime environment.
- **CGHQ:** Require all shipping agents to obtain a TWIC.

**FUTURE ACTION FOR COAST GUARD AND THE MARITIME INDUSTRY:**

- **Sectors:** Evaluate cost for escort fees. Through the Area Maritime Security Committee, consider establishing a regional partnership for a third party escort service at multiple facilities. Perhaps a scheduled operation at multiple facilities could be more cost effective.
- **Sectors:** Enforce security plans on mobile oil facilities, APHIS approved garbage collection services and ship stores delivery services.
- **CGHQ:** Require security plans for certificated mobile oil facilities while going to and operating in the maritime environment.
- **CGHQ:** Establish security plan regulations for APHIS approved garbage collection services.
- **CGHQ:** Identify ship stores delivery services and establish security plan regulations, requiring a TWIC to carry out these services. C-TPAT could be considered as a baseline for these regulations.
- **CGHQ:** Identify acceptable identification for foreign seafarers. Either a temporary TWIC or International Seafarer documentation that would be worn in plain sight while working in the port, such as a system consistent with foreign airline pilots.
- **CGHQ:** Amend 33 CFR 105 to identify ship adjacent dock area as a combined restricted area for vessel and facility to allow access for authorized crewmembers and facility employees as coordinated in the Declaration of Security. It should also include security plan requirements for mobile oil facilities, APHIS garbage collection services, and ship stores delivery services. Clearly defined procedures for these operations would allow unencumbered access to carry out the applicable service.

**SUMMARY:** This is a nation wide issue and while the Coast Guard has taken initial steps to inform port and facility operators on proper access enforcement (see the below enclosures), further steps must be taken to ensure that mariners are treated as professionals, the safety of the ports and infrastructure is maintained, and the appropriate level of security for these vital facilities is provided. This may not be an easy task, but it can be accomplished if cooperation and open communication can be established with all port partners and the foreign vessel owners and operators.

- ENCL (1) ALCOAST 529/08 Seafarers Shore Access in MTSA Facilities  
(2) SEC New York Shore Leave Access letter to local facilities  
(3) SEC Houston-Galveston Marine Safety Information Bulletin PSIB 04-08

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ALCOAST 529/08  
COMDTNOTE 16611  
SUBJ: SEAFARERS SHORE ACCESS ON MARINE TRANSPORTATION SECURITY ACT  
(MTSA) FACILITIES  
A. 33 CFR 105.200  
B. INTERNATIONAL MARITIME ORGANIZATION (IMO) CONFERENCE RESOLUTION  
11, DECEMBER 2002  
C. INTERNATIONAL MARITIME ORGANIZATION MARITIME SAFETY COMMITTEE  
(MSC) CIRCULAR 1112, JUNE 2004  
D. NAVIGATION AND VESSEL INSPECTION CIRCULAR 03-03, CHANGE 1  
1. SINCE THE IMPLEMENTATION OF THE MTSA REGULATIONS IN JULY OF  
2004, THE COAST GUARD HAS RECEIVED REPORTS OF REGULATED MARITIME  
FACILITIES REFUSING TO GRANT ACCESS TO SEAFARERS HOLDING PROPERLY  
ISSUED VISAS FOR THE PURPOSE OF SHORE LEAVE, CREW CHANGE OUT, ETC.  
REGULATED FACILITIES HAVE, IN SOME CASES, REFUSED TO GRANT THIS  
ACCESS USING SECURITY CONSIDERATIONS AS THE RATIONALE. OTHERS HAVE  
DENIED ACCESS BECAUSE OF PERCEIVED LIABILITY ISSUES IF PERSONS NOT  
IN THEIR EMPLOY ARE INJURED WHILE ON THE FACILITY. RECENTLY, THE  
COAST GUARD RECEIVED A CONFIRMED REPORT OF A FACILITY REFUSING TO  
PERMIT ACCESS TO THE CREW OF A VESSEL THAT WAS ALONGSIDE FOR A  
PERIOD OF 56 HOURS FOR CARGO OPERATIONS. LIKEWISE, THE COAST GUARD  
HAS RECEIVED REPORTS OF CHAPLAINS, SEAFARERS WELFARE ORGANIZATIONS  
AND LEGITIMATE SEAFARERS UNION REPRESENTATIVES BEING DENIED ACCESS  
TO VESSELS TIED UP AT FACILITIES.  
2. THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE  
UNDER SOLAS THROUGH THE IMO CONFERENCE RESOLUTION 11, HUMAN-  
ELEMENT-RELATED ASPECTS OF SHORE LEAVE FOR SEAFARERS (2002), IMO  
MSC CIRCULAR 1112, SHORE LEAVE AND ACCESS TO SHIPS UNDER THE ISPS  
CODE (2004), OUR OWN MARITIME SECURITY REGULATIONS AT 33 CFR 105.200  
(B) (9), AND NAVIGATION AND VESSEL INSPECTION CIRCULAR 03-03, CHANGE  
1, SPECIFICALLY URGE FACILITY OPERATORS AND OWNERS TO PROVIDE MEANS  
TO FACILITATE SHORE LEAVE ACCESS FOR MARINERS AND VISITS TO VESSELS  
BY SEAFARERS WELFARE ORGANIZATIONS.  
3. ALTHOUGH THE ACQUISITION OF A VALID VISA FOR SEAFARERS DOES NOT  
AUTOMATICALLY GUARANTEE ACCESS IF CUSTOMS AND BORDER PROTECTION  
(CBP) DETERMINES THAT ACCESS MAY COMPROMISE SECURITY, THE DENIAL OF  
ACCESS BY A REGULATED FACILITY TO THOSE HOLDING A VALID VISA AND  
HAVING CLEARANCE FROM CBP FOR THE PURPOSE OF SHORE LEAVE AS WELL AS  
THE DENIAL OF ACCESS TO REPRESENTATIVES OF SEAFARERS WELFARE  
ORGANIZATIONS RUNS COUNTER TO THE INTENT OF OUR REGULATIONS.  
4. AS A MARITIME SERVICE, THE COAST GUARD RECOGNIZES THE IMPORTANCE  
OF SHORE LEAVE AND ACCESS TO SEAFARER WELFARE ORGANIZATIONS AS AN  
IMPORTANT ASPECT OF MAINTAINING CREW MORALE, READINESS AND  
WELLBEING. INDIVIDUALS SEEKING ACCESS THROUGH FACILITIES FOR THE  
PURPOSE OF SHORE LEAVE OR FOR THE PURPOSE OF PROVIDING SERVICE TO  
THE SEAFARER COMMUNITY SHOULD NOT FIND ARTIFICIAL BARRIERS IMPOSED  
BY A MINORITY OF FACILITIES WITHIN OUR REGULATED STAKEHOLDER BASE.  
5. REGARDLESS OF THE IMPLEMENTATION OF THE TRANSPORTATION WORKER  
IDENTIFICATION CREDENTIAL (TWIC) REGULATIONS OR THE ULTIMATE

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POSITION TAKEN BY THE UNITED STATES ON THE SEAFARERS IDENTITY DOCUMENT (SID) AS PROPOSED IN ILO 185, CAPTAINS OF THE PORT (COTP) SHOULD ENCOURAGE, SUPPORT, AND FACILITATE VIGOROUSLY ANY ACCOMMODATIONS AT REGULATED FACILITIES, INCLUDING BUT NOT LIMITED TO ESCORT PROVISIONS, TO MAKE SHORE LEAVE AND ACCESS TO SEAFARER WELFARE ORGANIZATIONS POSSIBLE. THESE ACCOMMODATIONS SHOULD NOT IMPOSE AN UNDUE BURDEN ON THE SEAFARER OR SEAFARERS WELFARE ORGANIZATION REPRESENTATIVE SEEKING ACCESS BY WAY OF EXORBITANT FEES, EXTREME LIMITATIONS IN HOURS OF AVAILABILITY, OR OTHER UNREASONABLE RESTRICTION TO THE MOVEMENTS OF THESE PERSONS UNLESS EXIGENT, CONFIRMED SECURITY CONCERNS DICTATE SUCH RESTRICTION IS NECESSARY. ADDITIONALLY, IN ORDER TO OBTAIN GREATER CLARITY ON THE ISSUE THE COAST GUARD HAS RECENTLY CHARTERED A WORKING GROUP UNDER NATIONAL MARITIME SECURITY ADVISORY COMMITTEE TO EXPLORE THE PROBLEM AND RECOMMEND SOLUTIONS.

6. IT IS SUGGESTED THAT COTPS ACTIVELY SEEK OUT LOCAL SEAFARERS CHAPLAINS FOR PARTICIPATION IN PORT COMMUNITY MEETINGS AND ACTIVITIES IN ORDER TO EDUCATE COAST GUARD AND COMMITTEE PERSONNEL ON THE HUMAN ASPECTS OF INTERNATIONAL CREWS AND THEIR ISSUES TO AUGMENT OUR ONGOING EFFORTS TO GUARANTEE THEIR SAFETY AND QUALIFICATIONS. LIKEWISE, REITERATION OF THE COAST GUARD POSITION ON SEAFARERS ACCESS TO SHORE LEAVE AND SEAFARER WELFARE ORGANIZATIONS ACCESS TO VESSEL CREWS SHOULD BE DISTRIBUTED TO MARITIME STAKEHOLDERS VIA HOMEPORT AND A MARINE SAFETY INFORMATION BROADCASTS (MSIB). DISCUSSION OF THE TOPIC AT AREA MARITIME SECURITY COMMITTEE (AMSC) AND HARBOR SAFETY COMMITTEE (HSC) MEETINGS WOULD HELP TO CONFIRM THE MESSAGE TO THE MARITIME STAKEHOLDERS THAT THE COAST GUARD VIEWS THIS AS A HIGH-PRIORITY ISSUE AND IS DEDICATED TO FINDING A SOLUTION THAT IS WORKABLE FOR ALL INVOLVED.

7. POC IS LT ALYSSA JOHNSON, 202-372-1131. EMAIL ADDRESS IS ALYSSA.M.JOHNSON AT USCG.MIL.

8. RADM BRIAN M. SALERNO, ASSISTANT COMMANDANT FOR MARINE SAFETY, SECURITY, AND STEWARDSHIP, SENDS.

9. INTERNET RELEASE IS AUTHORIZED.

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Dear Sir or Madam:

There have been numerous discussions and studies regarding shore leave access at facilities covered by Coast Guard-approved facility security plans. Although treaty obligations provided in the International Ship & Port Facility Security (ISPS) Code and U.S. requirements contained in Title 33 Code of Federal Regulations Part 105.200 (b) (7) were established to guarantee shore leave and ship access, seafarers have still often been denied shore leave or charged an excessive fee, which is considered a de facto denial of shore leave. This denial of shore leave has had a detrimental effect on the morale and retention of mariners.

As leaders in the maritime industry, it is incumbent upon us to ensure that a proper balance exists between security, the protection of the human rights of seafarers and port workers, and ship service support needs vital to maintain the safety and working efficiency of ships. Ship service support would include taking on stores, the repair and maintenance of essential equipment, and other vital activities that are appropriately undertaken on a ship while moored at a port facility.

During the next few months personnel on my staff will be reviewing your facility security plans to ensure that proper procedures are in place for crew shore leave and ship service support. I request that you also review your plan and current policies to ensure that reasonable procedures exist that allow shore leave, visitor access and ship service support for ship moored at your facility.

Please feel free to contact Mr. John Hillin, Chief of the Safety and Security Division at (718) 354-4244 or email him at [John.J.Hillin@uscg.mil](mailto:John.J.Hillin@uscg.mil) if you require any assistance or have any questions on this.

Sincerely,

ROBERT R. O'BRIEN, JR.  
Captain, U.S. Coast Guard  
Commander, Coast Guard Sector New York

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Sector Houston-Galveston  
*Marine Safety Information Bulletin*  
PSIB 04-08

*Shore Leave and Access to Ships*

*April 7, 2008*

In recent months, Sector Houston-Galveston has received several complaints about waterfront facilities making it difficult for crews to take shore leave or to receive visitors. Surely, I can understand the requirement for each facility to ensure its security; however, as you are doing this, I ask that you be considerate of the needs of the mariners.

Below are the website links to an International Maritime Organization (IMO) circular on *Shore Leave and Access to Ships Under the International Code for the Security of Ships and Port Facilities Code (ISPS Code)* and Code of Federal Regulations (CFR), Title 33 §105.200 (b)(9). The IMO circular and CFR discuss the need for proper balance between the needs of security, the protection of the human rights of seafarers and port workers, and the requirement to maintain the safety and working efficiency of the ship by allowing access to ship support services such as the taking on of stores, repair and maintenance of essential equipment, and other vital activities that are appropriately undertaken while moored at port facilities. It is also important that port facilities seek a balance between the needs of security and the needs of the ship and its crew. A singular focus on the security of the port facility is contrary to the letter and spirit of the ISPS Code and will have possible negative consequences for the international maritime transportation system that is a vital component of our global economy.

- IMO circular link: [http://www.imo.org/includes/blastDataOnly.asp/data\\_id%3D9531/1112.pdf](http://www.imo.org/includes/blastDataOnly.asp/data_id%3D9531/1112.pdf),
- CFR Title 33 §105.200 (b)(9) link:  
<http://e257.g.akamaitech.net/7/257/2422/11sep2007/1500/edocket.access.gpo.gov/cfr/2007/tulatr/33cfr105.200.htm>
- Treaties of friendship, commerce, and navigation between the U.S. and other nations that can be seen at <http://www.marad.dot.gov/Programs/treaties.html>.

Let's be good, safe, secure neighbors. Thank you for your support on this matter and if you would like to discuss it further, please contact Commander Joe Paitl at (713) 671-5186 or your local Coast Guard representative listed below:

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