

MTSA Regulations found at 33 CFR Subchapter H
Part 104 Vessels

"The information in this document is for use as an aid to interpretation. Should anything in this document be in conflict with 33 CFR Subchapter H or CG policy, then Subchapter H and the CG policy determinations control."

Q. What vessels are affected by 33 CFR Part 104?

Ans. The regulations found in 33 CFR 104.105 affect the following vessels:

- Mobile Offshore Drilling Unit (MODU), cargo, or passenger vessels subject to SOLAS
- Foreign cargo vessels greater than 100 gross register tons;
- U.S. self-propelled cargo vessels greater than 100 gross register tons subject to 33 CFR subchapter I, except commercial fishing vessels;
- Vessels subject to 46 CFR chapter I, and subchapter L;
- Passenger vessels subject to 46 CFR chapter I, subchapter H;
- Passenger vessels certificated to carry more than 150 passengers;
- Other passenger vessels carrying more than 12 passengers on an international voyage, including at least one passenger-for-hire;
- Barge subject to 46 CFR chapter I, subchapters D or O;
- Barge subject to 46 CFR chapter I, subchapter I, that carries Certain Dangerous Cargoes in bulk, or on an international voyage;
- Tankship subject to 46 CFR chapter I, subchapters D or O; and
- Towing vessel greater than eight meters in registered length that is engaged in towing a barge or barges subject to this part (except for some assistance vessels). See 33 CFR 104.105

Q. What is the impact to a vessel owner/operator who is subject to MTSA regulations of 33 CFR part 104 and who fails to submit a required Vessel Security Plan (VSP) to the Coast Guard?

Ans. A domestic vessel owner/operator subject to MTSA regulations of 33 CFR Part 104 is required to submit an assessment report and a vessel security plan to the Coast Guard by 31 December 2003. Failure to submit the assessment report and a security plan by December 31, 2003 is a violation of the MTSA regulations and may result in a civil penalty against the owner/operator of the vessel. Under the regulations, the Coast Guard Captain of the Port (COTP) may impose civil penalties that range up to \$25,000.00 per violation of the MTSA requirements. After the July 1, 2004 deadline, non-compliant operators are subject to having their operation shut down until an approved security plan is in place. See 33 CFR 104.310 and 33 CFR 101.415.

Q. How can an owner or operator obtain an extension to the December 31, 2003, deadline for submission of a Vessel Security Plan (VSP)?

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Ans. The regulations do not allow the VSP deadline to be extended. Owners and operators are required to submit a VSP by the deadline of December 31, 2003. If a VSP is received with a postmark later than 31 December 2003, the legal submission deadline will have been missed.

Owners and operators of vessels to which these regulations apply who have not submitted a VSP by December 31, 2003, should immediately contact the local Coast Guard Captain of the Port. Anyone not complying with the requirements of 33 CFR Part 104 will be subject to civil penalties and may be subjected to more stringent actions after 1 July 2004. See 33 CFR 101.415 and Navigation and Vessel Inspection Circular 04-03.

Q. What is the process for submission and approval of a Vessel Security Plan (VSP)?

Ans. U.S. Flag & Foreign Flag, Non-SOLAS Vessels - VSP(s) are submitted to the USCG Marine Safety Center (MSC) for review and approval in accordance with the information below. A letter stating that the VSP meets the requirements set forth in the regulations will be returned from the MSC. Certain classes of vessels (e.g. towing vessels, small passenger vessels, etc.) may have their VSP approved on the basis of complying with an organization-specific Alternative Security Program accepted by the Coast Guard. Requirements for participating in an ASP, are listed in the Final Rule at 33 CFR 101.120 and 33 CFR 104.140.

Foreign Flag, SOLAS Vessels – VSP(s) will be approved by the flag administration, with compliance demonstrated by issuance of a valid International Ship Security Certificate (ISSC). Foreign vessels that have on board a valid International Ship Security Certificate that attests to their compliance with the International Convention for Safety of Life at Sea, 1974, (SOLAS) the ISPS Code, part A, and the relevant provisions in the ISPS Code Part B, will be deemed in compliance with this part, except for those sections otherwise specified. Foreign vessel compliance will be verified during Port State Control verification boardings.

U.S. Flag & Foreign Flag, Non-SOLAS Vessels - On or before December 31, 2003, the owner or operator of each vessel currently in operation must submit a completed Vessel Security Assessment (FSA) report and one copy of their VSP to the U.S. Coast Guard Marine Safety Center in either paper or electronic format. Electronic vessel security plans may be submitted on floppy disk or CD-ROM in Microsoft Word or .pdf format via first class mail or express delivery service to:

Commanding Officer
Marine Safety Center
Room 6302
400 Seventh Street S.W.
Washington, D.C. 20590

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Due to the Sensitive Security Information Status of security plans, they may not be submitted via e-mail. A VSP information desk can be reached at phone number(202) 366-3879, fax (202) 366-3817, or by email at SecurityPlanInfo@msc.uscg.mil.

Q. What is an Alternative Security Program (ASP) and who is eligible to participate?

Ans. An Alternative Security Program (ASP) permits a third-party or industry organization to utilize a standardized security plan that the Coast Guard Commandant (G-MP) has reviewed and approved as providing an equivalent level of security as required by 33 CFR Part 104.

Owners and operators of vessels required to have security plans under Part 104 of subchapter H other than vessels that are subject to SOLAS Chapter X1, may meet an ASP that has been approved by the Commandant (G-MP) as providing an equivalent level of security as required by 33 CFR Part 104. See 33 CFR, Part 101.120 (b).

Q. If an industry organization and/or an owner or operator desires to participate in the Alternative Security Program (ASP) what is the process for plan approval?

Ans. Industry organizations representing a maritime segment who opt to submit a standardized security program under the ASP must submit for review and approval, the required documentation in written format to:

Commandant (G-MP)
ATTN: LCDR Calametti
Nassif Building
400 Seventh Street, SW, Room PL-200
Washington, DC 20590-0001

See 33 CFR 101.120 (c).

Owners and operators of vessels who are eligible and who intend to operate under an approved ASP must submit, on or before December 31, 2003, a letter signed by the vessel owner or operator stating which approved ASP the owner or operator intends to use. Owners or operators must implement an approved ASP in its entirety to be deemed in compliance with part 104. Documents are to be submitted to:

Commanding Officer
Marine Safety Center (MSC)
Nassif Building
400 Seventh Street, SW, Room 6302
Washington, DC 20590-0001

See 33 CFR 104.400 (b) and 33 CFR 101.120 (b) & (c).

Q. Under the Alternative Security Program can a combined security plan be submitted that covers both a facility and a vessel?

Ans. A facility owner or operator may submit an Alternative Security Program (ASP) for review and approval, for fleet-wide plans or plans that discuss exclusive docking arrangements, or a single plan to cover both a facility and a vessel. Approval would be contingent upon the security plan meeting all the requirements of Parts 104, 105, and 106 as applicable, the ASP being implemented in its entirety, and the owner or operator completing and submitting to the cognizant Coast Guard COTP a Facility Vulnerability and Security Measures Summary (Form CG -6025). See 33 CFR 101.120 and Appendix A to Part 105.

Q. What is the procedure for determining the status of a vessel security plan review/approval?

Ans. The Marine Safety Center (MSC) sends a letter to vessel owners/operators who have submitted a vessel security plan (in accordance with 33 CFR Part 104 regulations) upon completion of a Stage 1 "completeness" review. Each MSC letter relating to vessel security plans contains a specific "MISLE Tracking Number", enabling an owner/operator to log-on electronically at <http://cgmix.uscg.mil/psix/psix2/> to determine the current status of their security plan submission.

If a vessel owner or operator is unable to utilize the electronic access or has further questions, they may contact the Marine Safety Center at securityplaninfo@msc.uscg.mil. If no e-mail or Internet access is available, the Marine Safety Center may be reached at (202) 366-3879. Submitters in the continental US should expect to receive a letter in February 2004, with overseas addresses possibly taking a few extra days.

Q. What is the International Ship & Port Facility Security Code (ISPS)?

Ans. The Diplomatic Conference on Maritime Security, in December 2002, adopted new provisions in the International Convention for the Safety of Life at Sea, 1974 and this Code to enhance maritime security. These new requirements form the international framework through which ships and port facilities can co-operate to detect and deter acts that threaten security in the maritime transport sector. The provisions of chapter XI-2 of SOLAS 74 and this Code apply to ships and to port facilities. See ISPS Code and SOLAS Amendments 2002).

Q. What must a vessel owner or operator do to comply with the ISPS Code and will these actions satisfy the MTSA requirements?

Ans. A vessel owner or operator who is subject to the ISPS code must submit a Ship Security Plan for approval, comply with the approved plan, and have the Coast Guard verify compliance in order to receive an International Ship Security Certificate (ISSC) before July 1, 2004. If you must also comply with the regulations that implement the Maritime Transportation Security Act (MTSA), then you must submit the vessel security plan by December 31, 2003. A Vessel Security Plan (VSP) submitted to satisfy the MTSA requirements would meet most of the requirements for the ISPS Code. See 33 CFR 104.120.

Q. What if a vessel owner or operator is unable to comply with the ISPS Code?

Ans. Vessels subject to the ISPS Code must be in full compliance with all requirements in order to receive an International Ship Security Certificate (ISSC). Any vessel that does not possess a valid ISSC after the July 1, 2004 deadline will be subject to detention overseas, and possible civil penalties in the U.S.

Q. I operate a U.S. flag vessel and received an exemption from SOLAS for a one-time voyage overseas, why do I have to comply now?

Ans. The ISPS Code applicability includes vessels on an international voyage. With the increased potential risk associated with operating in a foreign country, we believe that it is in the interest of national security to hold U.S. flag vessels to standards of the ISPS Code.

Q. What is a Continuous Synopsis Record (CSR)? How will a CSR impact owners or operators of US vessels subject to SOLAS? What type of information is required to be in the CSR? Who will issue the CSR?

Ans. A Continuous Synopsis Record is intended to provide an on-board record of the history of the ship. For ships constructed before 1 July 2004, the CSR shall, at least, provide the ship's history as from 1 July 2004.

On 12 December 2002, the Conference of Contracting Governments adopted Conference Resolution 1, amending the Annex to the International Convention for the Safety of Life at Sea (SOLAS), 1974. Included among the amendments was Chapter XI, (to be renamed Chapter X1-1) Regulation 5, Section 1 which states that "Every ship to which Chapter 1 applies shall be issued with a Continuous Synopsis Record." All US flag vessels subject to SOLAS and the International Ship and Port Facility Security (ISPS) Code that travel on an international route are required to carry a Continuous Synopsis Record document.

The CSR shall include, at least, significant vessel operating parameters such as identification of the flag state, name and address of the registered owner, name of all classification society(ies) with which the ship is classed, and other pertinent

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information. (See Conference resolution 1 in the Annex to the International Convention for the Safety of Life at Sea (SOLAS), 1974 as amended.)

The U.S. Coast Guard, as the flag administration agency, will issue the CSR to all vessels authorized to fly the U.S. flag. The CSR shall be on board U.S. vessels no later than 1 July 2004. "The CSR Application Form will be accessible via the internet and intranet web sites when it becomes available. Once it is posted, it will be available by clicking on the shaded folder "Interim & Final Rules & FORMS".