

# Protecting Our Ports

A COAST GUARD OPERATIONAL COMMANDER'S  
PERSPECTIVE OF THE MARITIME TRANSPORTATION  
SECURITY ACT OF 2002

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U.S. Coast Guard photo by PA2 Danielle DeMarino

**S**igned into law by President George Bush on November 22, 2002, the Maritime Transportation Security Act (MTSA) has been called one of the most sweeping changes in the history of United States port security. The United States Coast Guard created regulatory requirements in support of the law in Title 33 of the Code of Federal Regulations Parts

101 through 106. Timely and effective implementation of these regulations has become a primary focus of the Coast Guard.

Overall responsibility for this implementation belongs to the Coast Guard's two operational commanders – the Atlantic and Pacific Area Commanders. Their challenge is to ensure effective, consistent application of these regulations to protect the U.S. Marine Transportation System (MTS) while ensuring that the



Opposite: As countless containers are loaded onto the USMS *Meadowica* in Savannah, Ga., Petty Officer 2nd class Jimmy Moore stands guard on the bow of the 950-foot vessel while Coast Guard boats patrol the waters below. Above left: Petty Officer 2nd Class Caroll Batino, a boarding officer from Coast Guard Activities New York, scales the side of a oil tanker anchored in New York Harbor before performing a security inspection. Above right: Homeland Security Secretary Tom Ridge speaks on the Maritime Transportation Security Act at the Port of Wilmington, Del., in October 2003. "With 95 percent of our nation's international cargo carried by ship," Ridge said in a July 2003 press release on the MTSA, "port security is critical to ensuring our nation's homeland and economic security."



impact to commerce is balanced. The impact on the service's overall authority, workload, and interaction with other federal, state, and local government and business stakeholders will be even greater than that felt by the service when the Oil Pollution Act of 1990 was enacted following the *Exxon Valdez* oil spill.

The world is looking at ports, waterways, and the coastal approaches with the same security scrutiny that has been directed at aviation. There has been an increased interest from all corners, the media, the public, and the stakeholders. The question has been asked in newspapers, magazines, and even television editorials and columns: How secure are the ports of the United States? This article will look at the major components of the MTSA regulations and the role played by the Coast Guard Area Commanders.

The goal of MTSA is actually quite simple – prevent a Transportation Security Incident (TSI). A TSI is defined as an incident that results in significant:

- Loss of life,
- Environmental damage,

- Transportation system disruption, or
- Economic disruption to a particular area.

Homeland Security Secretary Tom Ridge captured the importance of the MTSA in a statement enclosed in a July 1, 2003, Department of Homeland Security press release. "With 95 percent of our nation's international cargo carried by ship, port security is critical to ensuring our nation's homeland and economic security." The secretary continued, "The port security measures we are putting in place, both here, at home, and abroad, are about expanding our capabilities – strengthening a vitally important system with additional layers of defense." He concluded, "This effort is part of a broad international effort to increase global shipping security and one of many steps we are taking to better protect our ports and the ships traveling in our waters."

The stakes involved with the implementation of the MTSA are very high. Consider the following daunting "numbers and statistics" reported in a June 3, 2003, Congressional Subcommittee Background Report. "Annually the MTS handles

# U.S. Coast Guard Port Security



more than 2 billion tons of freight, 3 billion tons of oil, more than 134 million ferry passengers, and more than 7 million cruise ship passengers. Approximately 7,500 foreign ships, manned by 200,000 foreign sailors, enter U.S. ports every year to offload approximately 6 million truck-size cargo containers onto U.S. docks.<sup>2</sup> Clearly the MTS is the lifeline of the nation with over 90 percent of all cargo flowing through 50 domestic ports. It is the goal of the MTSA to prevent the MTS from becoming the soft underbelly exposing this nation to serious economic damage by terrorists who have already demonstrated a penchant for attacking maritime targets.

The Coast Guard's two Area Commanders, located respectively in Portsmouth, Virginia and Alameda, California, play a pivotal role in making the MTSA a reality. It is their task to convert the policy, in the form of the regulations created by Coast Guard Headquarters, into action by their respective district commanders and Captains of the Port. Further, COTPs who have been designated as Federal Maritime Security Coordinator(s) by the MTSA. The Area Commanders must ensure that their commanders and units have the necessary resources and guidance to implement and



Left: Petty officers 2nd class Kaartney Grinstead, Judy Berlanga, and Joseph McCoy conduct a daily inspection of the pier at the Port of Miami where the cruise ships moor. Inspections at our nation's ports increased dramatically after the September 11 terrorist attacks. Above: Cargo safety team members Chief Petty Officer Robert Gleichauf and Petty Officer 2nd Class James Bentoa walk down the loading ramp of the USNS *Bob Hope* after inspecting storage plans and procedures for military cargo during outload operations at Blount Island Terminal in Jacksonville, Fla., in February 2003.

enforce the regulations while maintaining a sufficient level of performance in their other missions. Most important of all, Area Commanders must ensure a fair and consistent implementation of the regulations over the nation's ports, U.S. Territorial Seas, the Great Lakes, and all inland navigable waters, to prevent attacks while maintaining the free flow of maritime commerce at all of the nation's ports.

The foundation for the performance-based MTSA regulations relies upon two principal tenets: 1) primary responsibility for safety and security of a vessel or facility rests with the owner and/or operator, and 2) maritime security is an "all hands" effort systematically requiring the combined strengths of a host of federal, state, local, and private-sector entities. The regulations are divided into five major parts: General Maritime Security, Area Maritime Security, Vessel Security, Facility Security, and Outer Continental Shelf Facilities Security. Each Part begins with the requirement for a vulnerability assessment conducted by the owner or operator as a basis for the required security plans. All security plans required by the MTSA regulations must be approved and implemented by July 1, 2004. Fulfillment of the MTSA requirements will also bring the United States into compliance with the new International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organization. In addition to compliance with ISPS, the MTSA has a few additional requirements for some passenger vessel, cruise ships, and vessels carrying Certain Dangerous Cargoes.

Part 103, Area Maritime Security, focuses on the security requirements for an entire port area, including all commercial and public structures on or adjacent to navigable waters. The COTP/FMSC working in close coordination with local government and industry leaders is responsible for developing an Area

Maritime Security Plan (AMSP) that mitigates the vulnerabilities identified during the port vulnerability assessment process and to the extent practicable, be adequate to deter a TSI. The AMSP is a comprehensive coordination plan that details how the various federal, state, and local security forces in the area will combine their activities to enhance maritime security, reduce maritime security threats, and respond to a Transportation Security Incident. To help in developing the Area Maritime Security Plan, the COTP/FMSC uses an Area Maritime Security Committee (AMSC) whose members represent federal, state, and local, government agencies, and maritime industry stakeholders as an advisory committee. The AMSC also provides a critical conduit for passing security threat information to the port stakeholders.

The cognizant Coast Guard Area Commander must approve all Area Maritime Security Plans. Approval by the Area Commanders is key to ensuring consistency. Once approved, these plans must be exercised annually to ensure the effectiveness of the plan and the readiness of security forces to carry out the plan. Both Coast Guard Area Commanders have been deeply involved in the development of these plans, coordinating the assignment of personnel and funds to support the effort, providing overarching guidance on plan content, and sharing best practices and lessons learned between district and COTP representatives.

Part 104, Vessel Security, establishes the requirements for vessels identified in the regulations to develop and implement vessel security plans based upon their individual vulnerability assessments. Part 105, Facility Security and Part 106 Outer Continental Shelf Facilities, establishes similar requirements for identifying waterfront facilities with a TSI potential. In all cases, owners/operators had to submit their vulnerability assessments and security plans to the Coast Guard for approval by Dec. 31, 2003. The plans must address key areas including:

- Access control – know who is coming on to your facility or vessel and prevent those that are not authorized from coming aboard.
- Restricted area controls.
- Cargo handling.
- Security of ship stores.
- Complete security monitoring program – for example, closed circuit TV coverage of a facility.

The plans must provide scalable measures to be applied at different maritime security (MARSEC) threat levels. Once security plans are approved, facility and vessel operators must conduct drills and exercise their plan regularly. As of early May 2004, over 12,000 vessels and port facilities have submitted a security plan as required by the MTSA regulations.

The Coast Guard has aggressively enforced the requirement for submission of the vessel and facility security plans through extensive outreach and guidance provided to the owners and operators and where warranted, have issued notices of violations with \$10,000 penalties for failure to submit a required vulnerability assessment report. Additionally, \$25,000 civil penalties have been assessed for failure to submit security plans. Non-compliant vessel and facility operators should take note that the MTSA regulations provide for a suspension of operations until an approved security plan is in place if an approved security plan has not been fully implemented as of July 1, 2004, and thereafter.

Another area addressed by the MTSA and our regulations is



Vice Adm. James Hull, Atlantic Area commander, speaks to the crew of Coast Guard Cutter *Baranof* in their messdeck during his visit to the Coast Guard Patrol Forces Southwest Asia in July 2003.

the carriage requirement for an Automatic Identification System (AIS). AIS technology will rely upon global navigational positioning systems, navigation sensors, and digital VHF radio communication equipment. Operating according to standardized digital communication protocols this system will permit the autonomous and continuous voiceless exchange of navigation information between vessels and U.S. Coast Guard Vessel Traffic System (VTS) Centers. VTS monitoring centers enhance situational awareness of vessels and the maritime domain awareness of the VTS monitoring stations. The requirement applies to both U.S. and foreign flagged vessels.

Who is covered by the new AIS requirements? Vessels on international voyages that are:

- Self-propelled, commercial vessels of 65 feet or more in length, other than fishing vessels and small passenger vessels (those certificated to carry 150 or fewer passengers).
- Tankers
- Passenger vessels that are over 150 gross tons
- Vessels, other than passenger vessels and tankers, over 300 gross tons.

Additionally, vessels within a Coast Guard Vessel Traffic System (VTS) area that are:

- Self-propelled, commercial vessels of 65 feet or more in length, other than fishing vessels and small passenger vessels (those certificated to carry 150 or fewer passengers)
- Towing vessels of 26 feet or more in length and more than 600 horsepower.
- Passenger vessels, regardless of gross tonnage, certificated to carry more than 150 passengers for hire.<sup>3</sup>

Based on U.S. Coast Guard (2003) calculations, the estimated cost for the installment of AIS over an 8-year system life is approximately \$9,330 per vessel, with average maintenance

costs of \$250 per year.<sup>4</sup> We recognize this cost is not insignificant and in crafting the AIS regulations, we tried to be responsive to the maritime safety and security needs of the nation, honor our international (SOLAS) and Congressional (MTSA) commitments while striving not to impose an undue burden on the public. To ease the cost burden on industry, the Coast Guard amended the AIS requirement in the final rule exempting a large number of previously affected "small entities" such as, domestic fishing vessels and small passenger vessels certificated to carry less than 151 passengers. The Coast Guard will be soliciting additional public comment regarding the AIS costs and possible other alternatives. We are also addressing this issue by working diligently with the international bodies responsible for AIS equipment standards toward development of a low-cost AIS (under \$1,000). These efforts are proceeding smartly and we anticipate these variants (called AIS Class B devices) to reach the marketplace before 2006, unfortunately well after the 31 December 2004 deadline imposed by the MTSA for all commercial vessels over 65 feet in length to have AIS. Regretfully, tragic events such as the *LEE III* and *ZIM Mexico III* collision on the lower Mississippi River and that of the *F/V STARBOUND* and *MT VIRGO* in 2001 only highlight the need and urgency for nation-wide AIS carriage. This is an important component to watch as future rules and policy are developed.

In addition to the law itself, the Coast Guard has developed several Navigation and Vessel Inspection Circulars (NVICs) that provide detailed guidance about compliance and enforcement of the MTSA. NVICs are important non-directive tools that enable facility and vessels owners to better understand compliance requirements of the MTSA regulations.

NVICs, such as the ones issued involving MTSA, are used internally by the Coast Guard to ensure that inspections and other regulatory actions conducted by our field personnel are adequate, complete, and consistent. Likewise, the marine industry and the general public use NVICs as a means of determining how the Coast Guard will be enforcing certain regulations or conducting various marine safety and security programs. NVICs are issued by the Coast Guard Assistant Commandant for Marine Safety, Security and Environmental Protection and address

a variety of subjects, thus they are important documents regarding the MTSA regulations.<sup>5</sup>

The MTSA establishes a comprehensive blueprint for increasing the security of our ports to ensure the continuous flow of goods, critical to our national economic health, along maritime routes in and out of the United States. The Coast Guard is focused on an effective and timely implementation of the MTSA regulations and is taking a very staunch enforcement stance. As the Coast Guard's operational commanders, the two Area Commanders have the pivotal role in achieving the service's implementation goals by ensuring subordinate commands are adequately resourced and guided to ensure a balanced, fair result. Successful implementation requires the cooperation of a host of federal-, state-, local-, and private-sector stakeholders coordinated at the local level by Coast Guard Federal Maritime Security Coordinators. With the contribution of these stakeholders, the MTSA's impact will be significant for years to come, providing an important unified approach to the United States' ongoing effort to secure maritime access to our homeland.

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1. Department of Homeland Security Press Release, "Department of Homeland Security Issues Maritime Security Regulations", July 1st, 2003
2. The House of Representatives Subcommittee on Coast Guard and Maritime Transportation Hearing on Port Security, Background information, June 3, 2003.
3. Coast Guard G-MP Pamphlet "Automatic Identification System Rule", [http://www.uscg.mil/hq/g-m/mp/pdf/guide\\_for\\_ais.pdf](http://www.uscg.mil/hq/g-m/mp/pdf/guide_for_ais.pdf)
4. Coast Guard Regulatory Assessment for the Temporary Interim Rule - Automatic Identification System, Vessel Carriage Requirement, (USCG-2003-147571, June 30, 2003). [http://dmses.dot.gov/docimages/pdf86/247266\\_web.pdf](http://dmses.dot.gov/docimages/pdf86/247266_web.pdf)
5. Coast Guard G-MP NVIC Web site, <http://www.uscg.mil/hq/g-m/mp/nvic.html>