

MTSA Regulations found at 33 CFR Subchapter H
Part 104--Vessels.

#36-04 JUN 17, 2004---POLICY ADVISORY COUNCIL FAQ

Q. What is the Procedure When During a Vessel Verification Examination Pursuant to issuing an ISSC, Inspectors Find Security Measures That Are Not Fully Aligned With the Approved VSP or, an Onboard Vulnerability, Not Addressed in the VSP?

Ans. A Marine Safety Center (MSC) approved VSP may be assumed to comply fully with the applicable performance-based regulations in 33CFR 104. The purpose of the verification exam is to ensure that the approved VSP is being implemented and that the measures specified serve the intended regulatory purpose.

Definitions: The following definitions are critical to this policy document:

Temporary Amendment - an amendment to the VSP(or SSP) that addresses issues that are contained in the VSP but are either not implemented, or inadequate. The “Temporary Amendment” will specify an alternative to a security measure that is contained in the VSP, and proposed by the VSO and accepted by the CG Inspector on scene. Temporary Amendments must either be addressed by complying with the measure specified originally in the VSP, or by submitting an amendment for a permanent VSP change to MSC for approval, and must be resolved within one year of issuance.

Required Amendment – an amendment required by the CG Inspector in accordance with 46 CFR 104.415 that is needed to address a security concern that is not addressed in the approved VSP. All amendments must be approved by the MSC. Temporary security measures specified by the CG Inspector to mitigate the security concern must be maintained until the amendment is approved, or appealed and revoked.

Temporary Security Measure - a security measure that is required to be in place to mitigate a security risk until a permanent amendment to the VSP can be submitted and approved by the MSC. A “Temporary Security Measure” would be specified in instances where the VSP is being implemented, but another potential security vulnerability is identified. The measure must remain in place either until the VSP is amended and implemented, or the requirement is successfully appealed and revoked.

Decision: A vessel must be in full compliance in order to receive an ISSC. The following may be applied when conducting a VSP verification exam on a Vessel subject to the ISPS Code:

A. If it is not in full compliance (e.g., the VSP requires lighting to illuminate the main access area, but the light is not installed or does not operate), the VSO may propose an alternative temporary security measure and if acceptable, the inspector shall issue a temporary amendment. Vessels with a temporary amendment in place may be issued an ISSC or interim ISSC. As a last resort if the issue cannot be resolved, the inspector should issue a worklist to the VSO that must be corrected before an ISSC is issued. The VSO shall be informed of the requirement to possess a valid ISSC on July 1, 2004.

B. If the vessel is in full compliance, but a particular measure does not perform the intended function (e.g., the VSP requires lighting to illuminate the main access area and the light is installed but does not light the entire area), an ISSC shall be issued along with a temporary amendment that addresses the issue. The owner may choose to bring the vessel into compliance with the original VSP or adopt the temporary amendment in the VSP, subject to MSC approval. A template of a temporary amendment is contained in the MISLE user guide (http://mislenet.osc.uscg.mil/User_Guides/MTSA-ISPS%20Vessel%20User%20Guide%206-14-04.doc).

C. If the vessel is in full compliance with all provisions of the VSP, but has items that are not addressed in the VSP that require additional security measures (e.g., the VSP requires lighting to illuminate the main access area, but a second access does not have lighting and is not mentioned in the VSP), an ISSC shall be issued along with requirement to amend the VSP. Additional temporary security measures must be maintained until the plan is amended, or the requirement is appealed and revoked. The template discussed above shall be used to describe the temporary security measures specified.

D. If an amendment is required, the owner/operator will be allowed to operate on the temporary security measures specified until the VSP is amended and approved by the MSC. Required amendments will be documented as per the MISLE user guide, but should be resolved within one year of the original issuance.

NOTE For further guidance, a facility owner/operator should contact their local Captain of the Port (COTP/FMSC).