

U.S. Department of
Homeland Security



United States
Coast Guard



Commandant
United States Coast Guard

2100 2ND ST SW STOP 7581
WASHINGTON DC 20593-7581
Staff Symbol: CG-543
Phone: (202) 372-1224
Fax: (202) 372-1918
Email: CG5431@uscg.mil

16600
CG-543 Policy Letter
11-04

From:  Eric P. Christensen, CAPT
COMDT (CG-543)
 Kevin C. Kiefer, CAPT
COMDT (CG-544)

APR 13 2011

To: Distribution

Subj: COMPLIANCE VERIFICATION OF ALTERNATIVE SECURITY PROGRAMS FOR MTSA
REGULATED VESSELS AND FACILITIES

Ref: (a) COMDT (CG-543) 041631Z SEP 09
(b) 33 CFR Chapter I, Subchapter H
(c) Navigation and Vessel Inspection Circular 04-03 CH3
(d) Navigation and Vessel Inspection Circular 03-03 CH2

1. PURPOSE. The purpose of this policy letter is to provide guidance to Marine Inspectors and Facility Inspectors for the conduct of Alternative Security Program (ASP) compliance inspections. Compliance with the provisions of the Marine Transportation Security Act (MTSA) for vessels and facilities operating under an approved ASP will be verified against the ASP and not the specific regulations of 33 CFR §104 and §105. This policy was promulgated jointly by the Office of Vessel Activities COMDT (CG-543) and Office of Port and Facility Activities COMDT (CG-544).
2. ACTION. Sector Commanders and OCMI's shall direct their Marine Inspectors and Facility Inspectors to use the guidance in this letter when verifying compliance with Alternative Security Programs (ASP). This Policy Letter will be distributed by electronic means only. It is available on the World Wide Web at <http://homeport.uscg.mil/USvsls>.
3. DIRECTIVES AFFECTED. None.
4. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this Instruction and have been determined to be not applicable.
5. FORMS/REPORTS. None

6. BACKGROUND. ASPs for vessels and facilities are authorized under 33 CFR §101.120, §104.140, and §105.140. An approved ASP is an alternative way to comply with MTSA and is not intended to match each individual regulation of 33 CFR §§ 104 and 105. An ASP is approved on the basis of a holistic ability to meet the intent of MTSA as appropriate for a specific industry segment.

7. DISCUSSION.

a. Vessel and facility operators using an approved ASP are required to have on site:

- (1) A copy of the ASP in use, including a vessel or facility specific security assessment report generated under their Alternative Security Program.
- (2) A letter signed by the vessel or facility owner or operator, stating which ASP is being used and certifying that the vessel or facility is in full compliance with that program. For vessels and combination programs approved for both a vessel and its facility, the Marine Safety Center provides an acknowledgment letter to the operator and adds it to the vessel's MISLE documents, but there is no regulatory requirement to have this on board the vessel. This letter is valid as long as the operator is a member in good standing of the sponsoring organization and the ASP is valid. While the sponsoring organization must resubmit their ASP for approval every five years, there is no requirement for the operator to periodically resubmit their letter. If a vessel has an ASP approval letter indicating expired in MISLE, the Marine Inspector should amend the entry by removing the expiration date.
- (3) If the ASP is for a facility or is a combination program, the operators must have submitted a CG-6025, Vulnerability and Security Measures Summary, to the COTP and the specific security assessment must include the facility. This must be updated and resubmitted to the COTP as specified in the ASP but at a minimum when the ASP is submitted for its 5-year renewal.
- (4) Operators using an ASP are required to be members in good standing of the sponsoring organization.

b. ASP approval letters are issued by COMDT (CG-54) Director of Prevention Policy to the submitting organization and not individual vessels or facilities. A complete list of currently approved ASP's with copies of approval letters is maintained on CG Homeport. Copies of ASP's are available to Inspectors on the secure side of CG Homeport.

8. GUIDANCE.

a. As part of normal preparations for inspection, all inspectors are to review MISLE data to include MTSA compliance information prior to attending either a vessel or facility. MISLE will indicate if the vessel or facility employs an Alternative Security Program (ASP), Vessel Security Plan (VSP), or Facility Security Plan (FSP) approved under the provisions of 33 CFR 104 or 105. Applicable compliance documentation will be attached in MISLE. If MISLE data is not complete or if an inspector has cause to question a participating operator's status, contact the Marine Safety Center's

Vessel Security Division at (202) 475-3444 for vessel and combination ASP's or the COMDT (CG-544) for facility ASP's using the contact information in paragraph 9.

b. For vessel ASPs, a Marine Inspector is to lead and complete any exams or audits using the ASP, reference c, enclosure 7, and the appropriate CG-840 Book. Examples of vessel plans include those for American Waterways Operators (AWO), Lake Carriers Association (LCA), and Offshore Marine Services Association (OMSA).

c. For facility ASP's, a facility inspector is to lead and complete any exams or audits using both the ASP and reference (d) enclosure 7, MSTFA Facility Compliance Guide. Examples of facility plans are those for American Chemistry Council (ACC), Electric Sector Alternate Security Program (ESASP), Greater New Orleans Barge Fleeting Association (GNOBFA), and North American Export Grain and Feed Association (NAEGA).

d. If the ASP is a combination program, the compliance exam should include verification of both the vessel and facility ASP's at each vessel inspection. Where the facility has minimal infrastructure such as ticket booths on a pier and the majority of security duties are performed by the vessel crew, it is recommended that a Marine Inspector be the primary inspector assisted by a Facility Inspector as appropriate and as resources permit. When periodic spot checks of such a facility are required, Marine Inspectors should accompany the attending facility inspectors as resources permit, keeping in mind that these facilities have minimal infrastructure and that security procedures for the facility and vessel are interdependent. For a combination ASP that covers regulated facilities with greater infrastructure such as gaming vessels, Marine Inspector assistance to Facility Inspectors should be scaled to match the facility-vessel operation. Examples of combination programs include American Gaming Association (AGA), Passenger Vessel Association (PVA), and Washington State Ferries (WSF).

e. When conducting compliance verification exams of vessels or facilities employing an ASP, Marine Inspectors and Facility Inspectors are to verify compliance through a comparison of implemented security measures and the approved ASP. An ASP may not contain all specific requirements detailed in 33 CFR §104 or §105.

f. Deficiencies identified during the inspection should be documented on form CG-835 or work list as appropriate if not corrected prior to the conclusion of the inspection. Any requirement issued should properly describe how the deficiency does not comply with a specific requirement of the relevant ASP. Marine Inspectors may cite §104.140(c), indicating the ASP has not been implemented in its entirety. Facility Inspectors may cite §105.140(a) (2). Inspectors should not issue requirements that restrict operation or reduce passenger count unless the deficiency significantly impacts security in such a way that the vessel or facility is no longer in substantial compliance with their ASP. If all measures of the approved ASP have been properly implemented but security vulnerabilities still exist, the cognizant COTP shall take action in accordance with reference (b), 33 CFR §101.120(d). No requirements should be placed on the vessel or facility pending outcome of Headquarters' determination on the need for an ASP amendment.

Subj: COMPLIANCE VERIFICATION OF ALTERNATIVE
SECURITY PROGRAMS FOR MTSA REGULATED
VESSELS AND FACILITIES

16600/
CG-543 Policy
Letter 11-04

9. DISCLAIMER. This guidance is neither a substitute for applicable legal requirements, nor a rule. It is not intended nor does it impose legally-binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and state regulators, in applying statutory and regulatory requirements. An alternative approach may be used for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Vessel Activities (CG-543) or Office of Port and Facility Activities (CG-544) who are responsible for implementing this guidance.

10. QUESTIONS. Questions concerning this policy and guidance should be directed to Office of Vessel Activities, COMDT (CG-543), Domestic Compliance Division at CG5431@uscg.mil for vessel centric ASPs and to Office of Port and Facility Activities COMDT (CG-544) at HQS-TWIC-HQ@uscg.mil for facility centric ASPs. This policy and other Domestic Vessel Policy documents are posted on Homeport at <http://homeport.uscg.mil/USvsIs>.