

## **Title 33: Navigation and Navigable Waters**

### **PART 103—MARITIME SECURITY: AREA MARITIME SECURITY**

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**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. 70102, 70103, 70104, 70112; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

**Source:** USCG–2003–14733, 68 FR 39290, July 1, 2003, unless otherwise noted.

#### **Subpart A—General**

##### **§ 103.100 Applicability.**

This part applies to all vessels and facilities located in, on, under, or adjacent to waters subject to the jurisdiction of the U.S.

##### **§ 103.105 Definitions.**

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.

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### **Subpart B—Federal Maritime Security Coordinator (FMSC) Designation and Authorities**

#### **§ 103.200 Designation of the Federal Maritime Security Coordinator (FMSC).**

The COTPs are the Federal Maritime Security Coordinators for their respective COTP zones described in 33 CFR part 3, including all ports and areas located therein.

#### **§ 103.205 Authority of the COTP as the Federal Maritime Security Coordinator (FMSC).**

(a) Without limitation to the authority vested in the COTP by statute or regulation, and in addition to authority prescribed elsewhere in this part, the COTP as the FMSC is authorized to:

- (1) Establish, convene, and direct the Area Maritime Security (AMS) Committee;
- (2) Appoint members to the AMS Committee;
- (3) Develop and maintain, in coordination with the AMS Committee, the AMS Plan;
- (4) Implement and exercise the AMS Plan; and
- (5) Maintain the records required by §103.520 of this part.

(b) The authorizations in paragraph (a) of this section do not limit any other existing authority of the COTP.

### **Subpart C—Area Maritime Security (AMS) Committee**

#### **§ 103.300 Area Maritime Security (AMS) Committee.**

(a) The AMS Committee is established under the direction of the COTP and shall assist in the development, review, and update of the AMS Plan for their area of responsibility. For the purposes of this subchapter, Port Security Committees that were established prior to July 1, 2003, according to guidance issued by the Coast Guard, may be considered AMS Committees, provided they conform to the procedures established by this part and satisfy the membership requirements of §103.305 of this part.

(b) The AMS Committee will operate under terms specified in a written charter. At a minimum, the charter must address:

- (1) The AMS Committee's purpose and geographic area of responsibility;
- (2) Rules for membership;
- (3) The AMS Committee's organizational structure and procedural rules of order;
- (4) Frequency of meetings, to include not less than once in a calendar year or when requested by a majority of the AMS Committee members;
- (5) Guidelines for public access to AMS Committee meetings and records; and
- (6) Rules for handling and protecting classified, sensitive security, commercially sensitive, and proprietary information.

#### **§ 103.305 Composition of an Area Maritime Security (AMS) Committee.**

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(a) An AMS Committee will be composed of not less than seven members having an interest in the security of the area and who may be selected from—

- (1) The Federal, Territorial, or Tribal government;
- (2) The State government and political subdivisions thereof;
- (3) Local public safety, crisis management and emergency response agencies;
- (4) Law enforcement and security organizations;
- (5) Maritime industry, including labor;
- (6) Other port stakeholders having a special competence in maritime security; and
- (7) Port stakeholders affected by security practices and policies.

(b) At least seven of the members must each have 5 or more years of experience related to maritime or port security operations.

(c) Members appointed under this section serve for a term of not more than five years. In appointing members, the FMSC should consider the skills required by §103.410 of this part. With the exception of credentialed Federal, state and local officials, all AMS Committee members shall have a name-based terrorist check from TSA, hold a TWIC, or have passed a comparable security threat assessment, if they need access to SSI as determined by the FMSC.

[USCG–2003–14733, 68 FR 39290, July 1, 2003, as amended at 68 FR 60482, Oct. 22, 2003; USCG–2006–24196, 72 FR 3579, Jan. 25, 2007]

### **§ 103.310 Responsibilities of the Area Maritime Security (AMS) Committee.**

(a) The AMS Committee shall:

- (1) Identify critical port infrastructure and operations;
- (2) Identify risks (threats, vulnerabilities, and consequences);
- (3) Determine mitigation strategies and implementation methods;
- (4) Develop and describe the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and
- (5) Provide advice to, and assist the COTP in, developing the AMS Plan.

(b) The AMS Committee shall also serve as a link for communicating threats and changes in MARSEC Levels, and disseminating appropriate security information to port stakeholders.

### **Subpart D—Area Maritime Security (AMS) Assessment**

#### **§ 103.400 General.**

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(a) The Area Maritime Security (AMS) Committee will ensure that a risk based AMS Assessment, is completed and meets the requirements specified in §103.310 of this part and §101.510 of this subchapter, incorporating the elements specified in §103.405 of this part.

(b) AMS Assessments can be completed by the COTP, the AMS Committee, a Coast Guard Port Security Assessment team, or by another third party approved by the AMS Committee.

(c) Upon completion of each AMS Assessment, a written report, which is designated sensitive security information, must be prepared consisting of:

(1) A summary of how the AMS Assessment was conducted;

(2) A description of each vulnerability and consequences found during the AMS Assessment; and

(3) A description of risk reduction strategies that could be used to ensure continued operation at an acceptable risk level.

### **§ 103.405 Elements of the Area Maritime Security (AMS) Assessment.**

(a) The AMS Assessment must include the following elements:

(1) Identification of the critical Marine Transportation System infrastructure and operations in the port;

(2) Threat assessment that identifies and evaluates each potential threat on the basis of various factors, including capability and intention;

(3) Consequence and vulnerability assessment for each target/scenario combination; and

(4) A determination of the required security measures for the three MARSEC Levels.

(b) In order to meet the elements listed in paragraph (a) of this section, an AMS Assessment should consider each of the following:

(1) Physical security of infrastructure and operations at the port;

(2) Structures considered critical for the continued operation of the port;

(3) Existing security systems and equipment available to protect maritime personnel;

(4) Procedural policies;

(5) Radio and telecommunication systems, including computer systems and networks;

(6) Relevant transportation infrastructure;

(7) Utilities;

(8) Security resources and capabilities; and

(9) Other areas that may, if damaged, pose a risk to people, infrastructure, or operations within the port.

(c) AMS Assessments are sensitive security information and must be protected in accordance with 49 CFR part 1520.

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### **§ 103.410 Persons involved in the Area Maritime Security (AMS) Assessment.**

The persons carrying out the AMS Assessment must have the appropriate skills to evaluate the security of the port in accordance with this part. This includes being able to draw upon expert assistance in relation to:

- (a) Knowledge of current security threats and patterns;
- (b) Recognition and detection of dangerous substances, and devices;
- (c) Recognition, on a non-discriminatory basis, of characteristics and behavioral patterns of persons who are likely to threaten security;
- (d) Techniques used to circumvent security measures;
- (e) Methods used to cause a transportation security incident;
- (f) Effects of dangerous substances and devices on structures and port services;
- (g) Port security requirements;
- (h) Port business practices;
- (i) Contingency planning, emergency preparedness, and response;
- (j) Physical security measures;
- (k) Radio and telecommunications systems, including computer systems and networks;
- (l) Transportation and civil engineering;
- (m) Vessel and port operations; and
- (n) Knowledge of the impact, including cost impacts of implementing security measures on port operations.

### **Subpart E—Area Maritime Security (AMS) Plan**

#### **§ 103.500 General.**

(a) The Area Maritime Security (AMS) Plan is developed by the COTP, in consultation with the AMS Committee, and is based on an AMS Assessment that meets the provisions of subpart D of this part. The AMS Plan must be consistent with the National Maritime Transportation Security Plan and the National Transportation Security Plan.

(b) Portions of the AMS Plan may contain sensitive security information, and those portions must be marked as such and protected in accordance with 49 CFR part 1520.

[USCG–2003–14733, 68 FR 39290, July 1, 2003, as amended at 68 FR 60482, Oct. 22, 2003]

#### **§ 103.505 Elements of the Area Maritime Security (AMS) Plan.**

The AMS Plan should address the following elements, as applicable:

- (a) Details of both operational and physical measures that are in place in the port at MARSEC Level 1;

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- (b) Details of the additional security measures that enable the port to progress, without delay, to MARSEC Level 2 and, when necessary, to MARSEC Level 3;
- (c) Details of the security incident command-and-response structure;
- (d) Details for regular audit of the AMS Plan, and for its amendment in response to experience or changing circumstances;
- (e) Measures to prevent the introduction of dangerous substances and devices into designated restricted areas within the port;
- (f) Measures to prevent unauthorized access to designated restricted areas within the port (e.g., TWIC);
- (g) Procedures and expected timeframes for responding to security threats or breaches of security, including provisions for maintaining infrastructure and operations in the port;
- (h) Procedures for responding to any security instructions the Coast Guard announces at MARSEC Level 3;
- (i) Procedures for evacuation within the port in case of security threats or breaches of security;
- (j) Procedures for periodic plan review, exercise, and updating;
- (k) Procedures for reporting transportation security incidents (TSI);
- (l) Identification of, and methods to communicate with, Facility Security Officers (FSO), Company Security Officers (CSO), Vessel Security Officers (VSO), public safety officers, emergency response personnel, and crisis management organization representatives within the port, including 24-hour contact details;
- (m) Measures to ensure the security of the information contained in the AMS Plan;
- (n) Security measures designed to ensure effective security of infrastructure, special events, vessels, passengers, cargo, and cargo handling equipment at facilities within the port not otherwise covered by a Vessel or Facility Security Plan, approved under part 104, 105, or 106 of this subchapter;
- (o) Procedures to be taken when a vessel is at a higher security level than the facility or port it is visiting;
- (p) Procedures for responding if a vessel security alert system on board a vessel within or near the port has been activated;
- (q) Procedures for communicating appropriate security and threat information to the public;
- (r) Procedures for handling reports from the public and maritime industry regarding suspicious activity;
- (s) The jurisdiction of Federal, State, Indian Tribal, and local government agencies and law enforcement entities over area security related matters;
- (t) Security resources available for incident response and their capabilities;
- (u) Procedures for responding to a TSI;
- (v) Procedures to facilitate the recovery of the Marine Transportation System after a TSI; and
- (w) Identification of any facility otherwise subject to part 105 of this subchapter that the COTP has designated as a public access facility within the area, the security measures that must be implemented at the various MARSEC Levels, and who is responsible for implementing those measures.

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[USCG–2003–14733, 68 FR 39290, July 1, 2003, as amended at 68 FR 60482, Oct. 22, 2003; USCG–2006–24196, 72 FR 3579, Jan. 25, 2007]

### **§ 103.510 Area Maritime Security (AMS) Plan review and approval.**

Each AMS Plan will be submitted to the cognizant District Commander for review and then forwarded to the Area Commander for approval.

### **§ 103.515 Exercises.**

(a) The COTP shall coordinate with the Area Maritime Security (AMS) Committee to conduct or participate in an exercise at least once each calendar year, with no more than 18 months between exercises, to test the effectiveness of the AMS Plan.

(b) An exercise may consist of any of the following:

(1) A tabletop exercise to validate the AMS Plan. No equipment or personnel deployment is required;

(2) A field training exercise consisting of personnel deployment and use of security equipment; or

(3) A combination of §103.515(b)(1) and (b)(2).

(c) Upon review by the cognizant District Commander, and approval by the cognizant Area Commander, the requirements of this section may be satisfied by—

(1) Participation of the COTP and appropriate AMS Committee members or other appropriate port stakeholders in an emergency response or crisis management exercise conducted by another governmental agency or private sector entity, provided that the exercise addresses components of the AMS Plan;

(2) An actual increase in MARSEC Level; or

(3) Implementation of enhanced security measures enumerated in the AMS Plan during periods of critical port operations or special marine events.

[USCG–2003–14733, 68 FR 39290, July 1, 2003, as amended at 68 FR 60483, Oct. 22, 2003]

### **§ 103.520 Recordkeeping.**

(a) All records pertaining to the Area Maritime Security (AMS) Assessment and AMS Plan will be retained by the COTP for 5 years.

(b) Exercise documentation will be kept by the COTP for 2 years.