



**DEPARTMENT OF HOMELAND SECURITY
U. S. COAST GUARD
STATEMENT OF**

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**ON
MARITIME TRANSPORTATION SECURITY ACT: TEN YEARS LATER**

BEFORE THE

**COAST GUARD AND MARITIME TRANSPORTATION SUBCOMMITTEE
U. S. HOUSE OF REPRESENTATIVES**

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Introduction

Good morning Mr. Chairman and distinguished Members of the Subcommittee. It is a pleasure to be here today to discuss the Coast Guard's role in securing our maritime infrastructure since the events of 9/11 and the subsequent passage of the *Maritime Transportation Security Act (MTSA) of 2002*.

The United States is a maritime nation. We have one of the world's longest coastlines, measuring more than 95,000 miles, and the world's largest Exclusive Economic Zone (EEZ). The U.S. marine transportation system (MTS) is comprised of 361 ports and thousands of miles of maritime thoroughfares that support 95 percent of U.S. foreign trade. According to the Coast Guard's Notice of Arrival database, most of that trade is transported on over 7,500 vessels that make more than 60,000 visits to U.S. ports annually, and 2011 statistics exceeded these averages significantly. In 2011, a reported total of 9,326 individual vessels, from 85 different Flag Administrations, made 79,031 port calls to the United States.

Recognizing the importance of the U.S. MTS, the Coast Guard has made progress in securing America's waterways and supporting an open and resilient commercial environment. The men and women of the Coast Guard and the other components of the Department of Homeland Security (DHS) remain committed to improving maritime security through continued interagency cooperation and collaboration with federal, state, local, international and industry partners.

Reducing Maritime Risk

The Coast Guard's security goal is to prevent the exploitation of, or terrorist attacks within, the U.S. maritime domain. Doing so requires a risk-based approach to identify and intercept external threats before they reach U.S. shores, and to detect and respond to internal threats before they cause a maritime transportation security incident (TSI).

The Coast Guard accomplishes this by participating in layered, multi-agency security operations nationwide, including regulatory development and partnership activities with the private sector mandated by MTSA. These activities have strengthened the security posture and reduced the vulnerability of our ports.

The Coast Guard defines maritime security risk as a function of threat, vulnerability, and consequence. Due to its size, complexity, and impact on the Nation's economy, the U.S. MTS is a highly valuable and vulnerable target for attack by terrorists or exploitation by transnational criminal organizations.

- **Threat:** Although terrorists have never conducted a successful attack in a U.S. port or within the maritime borders of the United States, and current reporting does not indicate a near-term maritime terrorism threat to the U.S. homeland, this does not preclude the possibility of future attacks.
- **Vulnerability:** The vastness of this system and its widespread and diverse critical infrastructure leave the nation vulnerable to terrorist acts within our ports, waterways, and coastal zones, as well as exploitation of maritime commerce as a means of transporting terrorists and their weapons.
- **Consequence:** The closure of one or more high volume ports for a significant period of time would create a costly disruption to commerce. A direct attack on certain critical infrastructure in high density ports could produce mass casualties and long-term environmental damage.

MTSA – Ten Years Later...Recapping the Coast Guard's Accomplishments

Scope of the Regulated Industry

As of August 17, 2012, there are 3,161 facilities regulated by MTSA and 14,553 MTSA-regulated domestic vessels in service. Under the MTSA regulations¹, facilities and vessels have designated individuals with security responsibilities, including company security officers, facility security officers, and vessel security officers². These individuals must be familiar with, and are responsible for, implementation of the specific security measures outlined in their facility/vessel security plans and they must be knowledgeable in emergency preparedness, the conduct of security audits, and security exercises. In addition, facility and vessel security officers must have training in: security assessment methodologies; current security threats and patterns; recognizing and detecting dangerous substances and devices, recognizing characteristics and behavioral patterns of persons who are likely to threaten security; and techniques used to circumvent security measures.

In accordance with the *Security and Accountability For Every Port Act of 2006*, the Coast Guard conducts verifications on facilities within each 12 month period, including a minimum of:

1. One announced annual MTSA compliance examination for each facility;
2. One unannounced facility security spot check for each facility; and
3. Where the facility security spot check or deficiency or violation history warrants, an unannounced MTSA annual compliance examination.

Additionally, Captains of the Port may require additional compliance exams or security spot checks beyond these mandated requirements at their discretion based upon resource availability, local risk, and mission priorities.

¹ MTSA regulations begin at 33 CFR 101, Subchapter H; 68 FR 39287 / July 1, 2003

² 33 CFR Subchapter H, parts 104, 105 and 106

To verify compliance with the Transportation Worker Identification Credential (TWIC) requirements aboard U.S. flag vessels regulated under MTSA, the Coast Guard conducts TWIC verifications as part of annual U.S. flag vessel inspections.

Performance Highlights

In FY 2011 the Coast Guard:

- Conducted over 10,400 annual inspections of U.S. flagged vessels inspected and certificated in accordance with 46 Code of Federal Regulation (CFR) § 2.01 which provides the Coast Guard authorities over many aspects of domestic vessel safety, manning, and rules of operation.
- Performed over 6,500 inspections at facilities to ensure compliance, identifying over 2,250 deficiencies of safety, security, and environmental protection regulations.
- Conducted 10,129 Safety of Life at Sea (SOLAS) safety exams and 8,909 International Ship and Port Facility Security (ISPS) Code exams, which is an amendment to the SOLAS treaty.
- Completed over 26,500 container inspections, identifying more than 2,220 deficiencies that led to 915 cargo or container shipments being placed on hold until dangerous conditions were corrected.
- Verified approximately 70,000 TWICs.

Regulations Update

The Coast Guard is proud of its regulatory achievements to date, having issued 13 Final Rules (FR) related to the MTSA. The bulk of the MTSA provisions were implemented in the rules published in October 2003. We continue to engage in rulemaking to further bolster our security regimes. The impact and value of some of these regulations are highlighted throughout the remainder of my testimony.

RIN	Title	FR Citation	FR Date	Effective Start Date	Status
1625-AA30	Territorial Seas, Navigable Waters, and Jurisdiction	68 FR 42595	7/18/2003	8/18/2003	Final Rule
1625-AA42	Area Maritime Security	68 FR 60472	10/22/2003	11/21/2003	Final Rule
1625-AA43	Facility Security	68 FR 60515	10/22/2003	11/21/2003	Final Rule
1625-AA46	Vessel Security	68 FR 60483	10/22/2003	11/19/2003	Final Rule
1625-AA67	Automatic Identification System; Vessel Carriage Requirement	68 FR 60559	10/22/2003	11/21/2003	Final Rule
1625-AA68	Outer Continental Shelf Facility Security	68 FR 60545	10/22/2003	11/21/2003	Final Rule
1625-AA69	Implementation of National Maritime Security Initiatives	68 FR 60448	10/22/2003	11/21/2003	Final Rule
1625-AA86	Unauthorized Entry Into Cuban Territorial Waters	69 FR 41367	7/8/2004	7/2/2004	Final Rule

1625-AA82	Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes; Electronic Submission	69 FR 51176	8/18/2004	9/17/2004	Temporary Rule
1625-AA96	Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes; Electronic Submission	70 FR 74663	12/16/2005	1/17/2006	Interim Rule
1625-AA20	Deepwater Ports	71 FR 57644	9/29/2006	9/29/2006	Final Rule
1625-AB00	Long Range Identification and Tracking of Ships	73 FR 23310	4/29/2001	5/29/2008	Final Rule
1625-AB02	Consolidation of Merchant Mariner Qualification Credentials	74 FR 11196	3/16/2009	4/15/2009	Final Rule
1625-AB19	Crewmember Identification Documents	74 FR 19135	4/28/2009	5/28/2009	Final Rule
1625-AA93	Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes	75 FR 59617	9/28/2010	10/28/2010	Final Rule

Maintaining and Overseeing the Maritime Security Regime

To help prevent terrorist attacks, we have developed and continue to improve an effective maritime security regime – both domestically and internationally. This element of our strategy includes initiatives related to MTSA regulatory enforcement, International Maritime Organization regulations, such as the ISPS Code, as well as global supply chain security and identity security processes.

Before 9/11, we had no formal international or domestic maritime security regime for ports, port facilities, or ships – with the exception of cruise ships. Partnering with domestic and international stakeholders, we now have comprehensive domestic and international security regimes in place³.

³ 33 CFR 101.100(a)(2) states one of the purposes of the subchapter is to align, where appropriate, the requirements of domestic maritime security regulations with the international maritime security standards in the International Convention for the Safety of Life at Sea, 1974 (SOLAS Chapter XI-2) and the International Code for the Security of Ships and Port Facilities, parts A and B, adopted on 12 December 2002.” 68 FR 39278, July 1, 2003, as amended at 68 FR 60470, October 22, 2003 [see generally 33 CFR Subchapter H-Maritime Security, 68 FR 39240, July 1, 2003].

These have been in force since July 1, 2004. In executing the requirements of the MTSA and the ISPS Code, the Coast Guard:

- Reviewed and approved over 11,000 domestic vessel security plans and 3,100 domestic facility security plans;
- Oversaw the development of 43 Area Maritime Security Plans and Committees;
- Completed domestic port security assessments for all U.S. ports using the Maritime Security Risk Analysis Model;
- Visited almost 160 foreign countries to assess the effectiveness of port security measures and implementation of ISPS Code requirements; and
- Oversaw the continuing development of the National Maritime Security Plan, which is one of eight supporting implementation plans of the National Strategy for Maritime Security established through HSPD-41/HSPD-13 and its Maritime Security Policy Coordinating Committee.

MTSA and the ISPS Code remain landmark achievements within the maritime industry. Through a variety of measures of regulatory requirements, these two regimes complement each other and have gone far to reduce vulnerabilities within the global marine transportation system, the general framework of which includes:

- *Physical Security.* The first pillar of this framework is physical security. Through the implementation of the MTSA regulations, we have significantly hardened the physical security of our ports. Roughly 3,100 of the nation's highest risk port facilities have implemented mandatory access control measures to control who has access to restricted areas of these facilities. Owners and operators are now required, under Federal regulations⁴ to implement screening protocols for ensuring cargo-transport vehicles and persons entering the facilities are inspected to deter the unauthorized introduction of dangerous substances and devices. At the facility gates, containers are required to be checked for evidence of tampering and cargo seals are checked. Similar measures are in effect for commercial vessels, such as: cruise ships; ferries; oil and chemical tankers; and cargo vessels⁵.
- *Identity Security:* We must know and trust those who are provided unescorted access to our port facilities and vessels. The 9/11 Commission report noted that the September 11th hijackers obtained and used government-issued identification cards such as driver's licenses. The Commission recommended that forms of identification be made more secure. Congress addressed this issue in MTSA by mandating the development of the biometrically enabled TWIC. The Coast Guard has worked very closely with the Transportation Security Administration (TSA), the lead agency for implementation of the TWIC Program. For the first time in the maritime environment, TWIC established uniform vetting of maritime workers based on recognized standards. Port security officers across the country now encounter a single, recognizable, tamper-resistant credential, rather than hundreds of different identity cards, allowing them to make more informed access control decisions. Furthermore, the Coast Guard has updated the merchant mariner credentialing regulations and related policies to better align them with the capabilities of the TWIC.

⁴ (33 CFR 105; 68 FR 39322 / July 1, 2003)

⁵ (33 CFR 104; 68 FR 39302 / July 1, 2003)

The Coast Guard is also working on a rulemaking project to address the requirements of Section 809 of the *Coast Guard Authorization Act of 2010* – which excludes certain mariners from the statutory requirement to obtain and hold a TWIC in order to receive a merchant mariner credential. The Coast Guard remains fully supportive of this program and is developing a rulemaking project that would leverage the biometric aspects of the credential by the use of card readers at certain MTSA-regulated facilities and vessels.

- *Global Supply Chain Security*: Cargo security involves ensuring all cargo bound for the U.S. is legitimate and was properly supervised from the point of origin, through its sea transit and delivery to the final destination in the U.S. DHS has initiated a robust global supply chain security effort with our domestic and international partners in recognition of the ripple effects that are felt worldwide if a disruption in commerce occurs. This effort is directed toward a global system that is secure, efficient, and resilient as outlined in the U.S. *National Strategy for Global Supply Chain Security*.

Collaborative Efforts

The Coast Guard has worked in concert with U.S. Customs and Border Protection (CBP) to enhance maritime security through a risk-based approach. As part of this effort, the Coast Guard oversees the training and identity verification of people who are moving the cargo. To facilitate this process, the trade community can file required passenger and crew information via an electronic notice of arrival and departure system⁶. In addition, when cargo is moved on the waterborne leg of the trade route, the Coast Guard has oversight of the cargo's care and carriage on the vessels and within the U.S. port facility. Using the information provided through the Coast Guard's 96-hour notice of arrival requirement⁷ and CBP's mandatory advance electronic cargo manifest rule⁸, the Coast Guard works with CBP to identify and evaluate cargo risks well in advance, and when necessary, control vessels and cargo that may pose a threat. The Coast Guard also works in concert with CBP at the National Targeting Center to take appropriate action when notified of a cargo of interest.

The Coast Guard has aligned our regulatory and policy development efforts with CBP and TSA. In addition, we continue to meet regularly to discuss policy and we participate on inter-agency regulatory development teams. Between DHS, CBP, and the Coast Guard, we coordinate the work of our various Federal Advisory Committees so that we all appreciate and address the trade community's concerns and priorities. We continue to monitor compliance and carefully note issues and lessons learned for future improvements to the regulatory framework now that MTSA and the ISPS have been fully implemented.

Improved Response and Recovery Posture

Finally, MTSA and related security efforts have improved our ability to respond to and aid in recovery and response to all terrorist attacks and natural disasters. Response and recovery protocols, established and exercised with our Federal, state, local and industry partners, build a resilient maritime community, which is able to recover more quickly from natural disasters, accidents, or attacks. In fact, the Coast Guard is actively promoting port resilience and trade recovery, within our domestic ports, with Canada, and with the larger international community via the International Maritime Organization, the Asia-Pacific Economic Cooperation forum, and in partnership with CBP, and the World Customs Organization.

⁶ 19 CFR part 4.7b

⁷ 33 CFR part 160.212

⁸ 19 CFR part 4.7a(c)(4)(xv) and (xvi)

For example, the Coast Guard's efforts with Canada include: supply chain security, resiliency, and marine safety in developing joint strategies to facilitate the sharing of information and resources during emergencies; the dissemination of best practices; and the development of clear lines of communication consistent with agreed information elements.

At the local level, each port is ready with port-specific and even sub-area specific, response plans. All law enforcement agencies, public service providers, and port stakeholders have participated in the plan development process. Partnering with various port and industry organizations through Area Maritime Security Committees, Harbor Safety Committees and Port Readiness Committees provide continuing opportunities for cooperation and collaboration for improving the security, safety, and resiliency of our ports.

Conclusion

Since 9/11, we have worked to strengthen the security of the maritime transportation system and global supply chains. The tremendous success in this endeavor is due, in large part, to cooperation among Federal, state, and local government and industry partners. We look forward to working with Congress to continue to enhance maritime security.

Thank you for the opportunity to testify today. I will be happy to answer any questions you may have.