

# Information Paper

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## MARTIME SECURITY (MARSEC) LEVELS <sup>1</sup>

The Coast Guard administers Maritime Security (MARSEC) Levels as a means “. . . to reflect the prevailing threat environment to the maritime elements of the national transportation system, including ports, vessels, facilities, and critical assets and infrastructure located on or adjacent to waters subject to the jurisdiction of the U.S.”<sup>2</sup> The approach provides a focused and manageable alert and warning regime with associated pre-planned enhanced protection measures at each MARSEC Level to guide a progressive and timely ramp-up in security. Authority for this activity is based on the Magnuson Act of 1950, Maritime Transportation Security Act (MTSA) codified at 46 U.S.C. 70101 et. seq., the Ports and Waterways Safety Act of 1972 as amended, 33 CFR Part 6, and 33 CFR 101 et. seq. Additional protective measures address heightened risk of a transportation security incident affecting the marine elements of the national transportation system, including ports, vessels, facilities, and critical assets and infrastructure located on or adjacent to waters subject to jurisdiction of the U.S. The Coast Guard’s multi-mission authorities and capabilities enable the Service to apply both port security and port safety rules and regulations to provide a more robust approach to maritime security than would be possible with only security authorities. The Coast Guard’s approach considers the possible effects of an incident to an individual facility or vessel on system performance.

The three-tier approach that is used for the Marine Transportation System (MTS) and waters under the jurisdiction of the Coast Guard is aligned and consistent with and informed by the Homeland Security Alert System (HSAS). The maritime approach is distinct in some aspects from the current HSAS system in that it is (1) regulated by 33 CFR 101 et. seq. as a system-wide, structured, risk-management activity that conforms with and implements within the U.S. the international standards specified by the International Ship and Port Facility Security (ISPS) Code, (2) is focused on a specific modal of the Transportation Critical Infrastructure and Key Resources (CIKR) Sector and its unique characteristics, and (3) is directly administered by the Coast Guard as Sector Specific Agency (SSA) for Marine Transportation and DHS lead for maritime security under MTSA and other authorities and directives.

### **What is the ISPS Code relationship to security levels?**

The purpose of the International Ship and Port Facility Security (ISPS) Code is to provide a standardized, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships and port facilities. In order to communicate the

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<sup>1</sup> *This information paper provides a descriptive overview of Maritime Security Levels for general information and instructional purposes only. It is not a substitute for official policy, rules, and regulations. The information in this paper is descriptive of the state of practice at the time of preparation, and is subject to change.*

<sup>2</sup> 33 CFR 101.105

threat at a port facility or for a ship, governments that are signatory to Safety of Life at Sea (SOLAS) convention will set the appropriate security level. Security levels 1, 2, and 3 correspond to normal, medium, and high threat situations, respectively. MARSEC Levels 1, 2 and 3 correspond with this international standard. The security level creates a link between the ship and the port facility, since it triggers the implementation of appropriate security measures for the ship and for the port facility.

### Concepts for MARSEC Levels

The U.S. MTS, although complex, is nevertheless sufficiently “coupled” as a system to enable use of MARSEC Levels as a core element of the maritime security framework and essential frame of reference for supporting Area, facility, and vessel security plans. MARSEC Level 1 aligns with HSAS Threat Conditions Green, Blue, and Yellow. This grouping reflects that the maritime domain has certain characteristics and hazards that demand a consistently higher degree of awareness and protective measures as a steady-state baseline for operations. MARSEC 2 aligns with HSAS Threat Condition orange and MARSEC 3 aligns with HSAS Threat Condition red.

The MARSEC Level that is specified by the Commandant, U.S. Coast Guard, triggers implementation of predetermined, and if necessary, supplemental protective measures by the Coast

Guard and maritime stakeholders. The MARSEC Level may be applied broadly or selectively according to the threat, with the general objective of minimizing disruption of the MTS, insofar as practicable. Protective measures may be applied to MTSA-regulated facilities and vessels as appropriate to the security situation in any defined geographic area. Protective measures may in certain exceptional circumstances be specified to address a specific threat to other MTS infrastructure, for example, taking into consideration the potential consequences of incidents at non-MTSA regulated facilities or vessels on performance of the overall system.

The predetermined measures at each MARSEC Level are those specified by internal Coast Guard plans and operation orders for Coast Guard resources, and by Area Maritime Security

### Maritime Security (MARSEC) Levels

Excerpts from 33 CFR 101

#### §101.200 MARSEC Levels.

(a) MARSEC Levels advise the maritime community and the public of the level of risk to the maritime elements of the national transportation system. Ports, under direction of the local COTP, will respond to changes in the MARSEC Level by implementing the measures specified in the AMS Plan. Similarly, vessels and facilities required to have security plans under part 104, 105, or 106 of this subchapter shall implement the measures specified in their security plans for the applicable MARSEC level.

(b) Unless otherwise directed, each port, vessel, and facility shall operate at MARSEC Level 1.

(c) The Commandant will set the MARSEC Level consistent with the equivalent Homeland Security Advisory System (HSAS) Threat Condition and that Threat Condition’s scope of application. Notwithstanding the HSAS, the Commandant retains discretion to adjust the MARSEC Level when necessary to address any particular security concerns or circumstances related to the maritime elements of the national transportation system.

(d) The COTP may temporarily raise the MARSEC Level for the port, a specific marine operation within the port, or a specific industry within the port, when necessary to address an exigent circumstance immediately affecting the security of the maritime elements of the transportation system in his/her area of responsibility.

(AMS) Plans and MARSEC Directives for maritime stakeholders, as well as details in AMS Plans of additional security measures that enable the port to progress in a timely manner to MARSEC Levels 2 and 3, and procedures for responding to security instructions announced by the Coast Guard at MARSEC Level 3. The procedures that are incorporated into AMS Plans per content requirements of 33 CFR 103.505 are co-developed by the Coast Guard Captain of the Port (COTP) as Federal Maritime Security Coordinator (FMSC) in consultation with AMS Committees pursuant to 33 CFR 101 et. seq. AMS Plan regulated content includes preplanned procedures for communicating appropriate security and threat information to the public as well as procedures for handling reports from the public and maritime industry regarding suspicious activity.

### **What factors influence the MARSEC Level determinations?**

The MARSEC Level determination process is multi-dimensional. The process takes into consideration the HSAS Threat Conditions, their scope of application, and necessitating rationale. The process also considers the implications of additional security measures on the MTS and commerce. With respect to commerce, this includes the associated supply chain dependencies and interdependencies of the CIKR Sectors to the extent known or identified through consultations as a situation develops.

### **Supply Chain Dependencies and Interdependencies**

Dependency and interdependency information is highly variable and heavily dependent on availability and accessibility from parties with equities. The Coast Guard may consult with industry insofar as practicable, consistent with the situation and urgency, regarding the prospective effects and the resumption of trade and dependency/interdependency implications. This is normally accomplished pre-incident at the port level where basic dependency and interdependency information is developed through AMS Plan development, associated development of Essential Elements of Information (EEI) for all-hazard-compatible MTS recovery plans, and testing through AMS exercises

### **What is the relationship between the HSAS Threat Condition and the MARSEC level?**

Normally, the MARSEC Level set by the Commandant corresponds with the HSAS Threat Condition and that Threat Condition's scope of application. However, the actual MARSEC Level may be different than the HSAS Threat Condition. The Commandant retains discretion to adjust the MARSEC level when necessary to address any particular security concerns or circumstances as they pertain to the MTS.

### **How does MARSEC Level Change?**

Normally, the Commandant directs MARSEC changes as a result of an HSAS change and/or in consultation with the Secretary of Homeland Security. The Commandant also has an internal process, for time sensitive consultations with the Coast Guard's senior operational commanders in the field to assess the need for raising the MARSEC Level, the extent to which the increase will be applied, and the prospective effects to the MTS, stakeholders, and Coast Guard operations. The process is supported by a security planning tool referred to as the National

Response Options Matrix. The NROM is a senior-level decision tool which aids the Commandant in making Coast Guard-wide decisions regarding MARSEC changes, Force Protection Condition (FPCON) changes, etc. in response to an attack that has already occurred. Specific details are sensitive but unclassified information and are not included in this paper. A MARSEC change is normally implemented internally via Execute Order, which can be tailored to address the specific threat.

In exigent circumstances (i.e., imminent threat), a USCG Captain of the Port (COTP) may *temporarily raise* the MARSEC level for his/her area of responsibility under authority of 33 CFR 101.200 (d) in order to address an exigent circumstance that immediately affects maritime elements of the transportation system. Such circumstances satisfy internal Coast Guard criteria for critical incident communications per Commandant Instruction 3100.8 series. This discretionary authority notwithstanding, it would be the very rare exception for MARSEC to be changed by anyone other than the Commandant.

Stakeholder consultations may also be held prior to increasing MARSEC Levels as determined by the needs of the situation and the time available. For example, in a developing situation prior to a Commandant directed change in MARSEC Level, the COTP, as Federal Maritime Security Coordinator (FMSC), may consult with the pertinent AMS Committee regarding the need and urgency for enhanced security measures and prospective implications to stakeholder operations and the flow of commerce. Security threats to date have not been conducive to similar coordination at the national level, although advance coordination with the private sector has been feasible for certain other hazards where sufficient warning is available. For example, the Coast Guard and Customs and Border Protection (CBP) have established resumption of trade protocols that include a process of sharing information with representatives of Carrier and Trade Support Groups that were formed specifically for this purpose. Sharing information with these stakeholders is a key part of enhancing resiliency within the MTS. Although the primary objective of the protocols is to address post-incident MTS recovery issues, the Coast Guard with CBP has initiated use of the protocols to support advance assessments of prospective effects of an incident or threat. These protocols were used to prepare to support resumption of trade if needed as a consequence of the initial outbreak of the H1N1 virus and for potential effects of an imminent volcanic eruption in Alaska.

### **How are Changes in MARSEC Levels Communicated?**

For AMS Committees, other maritime community partners and stakeholders, MTSA-regulated and non-MTSA-regulated facilities and vessels, and the public, changes in MARSEC Levels, alerts and warnings are communicated through Coast Guard internet websites, the Coast Guard's secure HOMEPORTR internet portal, the Alert & Warning System (via phone, email, Short Message Service (SMS), or fax), and maritime broadcasts (e.g. local Broadcast Notice to Mariners) as appropriate, and as otherwise provided for in individual AMS Plans. Press releases may also be used if necessary for broad dissemination of maritime security information to the public, such as additional protective measures that may apply at certain facilities on the waterfront or for certain types of vessels. Each AMS Committee serves as a link for communication of threats and changes in MARSEC Levels, and disseminating appropriate information to port-area stakeholders. The AMS Committee members assist in this communication within the industry segments that they represent.

There are requirements for reporting attainment of MARSEC Levels and increased protective measures. Coast Guard internal requirements are accomplished and reported in accordance with applicable directives and orders. Attainment by external entities is governed by provisions of 33 CFR 101.300 (see excerpts).

### **How are MARSEC Levels enforced?**

Cooperation is encouraged and widely practiced in the mutual interests and benefit of the maritime community. The Coast Guard acts as facilitator and coordinator in this regard, notwithstanding the agency's role as regulatory authority which is broadly understood. However, more persuasive means may be necessary in exceptional circumstances. Authority for enforcement and compliance of MARSEC Levels by the Coast Guard is addressed by 33 CFR 101.400 through 101.420. Of particular note is that both safety and security regulatory authorities may be applied. For example, a COTP has discretion and authority to use either a Safety Zone or a Security Zone to effect restrictions on facility access, vessel movements, or a combination.

### **How are Coast Guard operations affected by increases in the MARSEC level?**

The Coast Guard has promulgated an internal operation order, Operation Neptune Shield (ONS), which is correlated with MARSEC Levels. ONS requires a diverse set of Coast Guard operational activities that are intended to mitigate maritime security risk in and around U.S. ports at various risk levels. MARSEC levels allow the operations tempo of CG security operations to be proportional to a given level of risk, and to align with DHS' HSAS. Effectiveness of MARSEC changes is dependent on coordination with the affected industry and port partners. The Coast Guard has several ways to engage with industry to further mitigate risks. In addition

#### **Communications**

Excerpts from 33 CFR 101

##### **§101.300 Preparedness Communications.**

(a) *Notification of MARSEC Level change.* The COTP will communicate any changes in the MARSEC Levels through a local Broadcast Notice to Mariners, an electronic means, if available, or as detailed in the AMS Plan.

(b) Communications of threats. When a COTP is made aware of a threat that may cause a transportation security incident, the COTP will, when appropriate, communicate to the port stakeholders, vessels, and facilities, in his or her AOR the following details:

- (1) Geographic area potentially impacted by the probable threat;
- (2) Any appropriate information identifying potential targets;
- (3) Onset and expected duration of probably threat;
- (4) Type of probable threat; and
- (5) Required actions to minimize risk.

(c) *Attainment.*

- (1) Each owner or operator of a vessel or facility required to have a security plan under parts 104 or 105 of this subchapter affected by a change in the MARSEC Level must ensure confirmation to their local COTP the attainment of measures or actions described in their security plan and any other requirements imposed by the COTP that correspond with the MARSEC Level being imposed by the change.
- (2) Each owner or operator of a facility required to have a security plan under part 106 of this subchapter affected by a change in the MARSEC level must confirm to their cognizant [CG] District Commander the attainment of measures or actions described in their security plan and any other requirements imposed by the District Commander or COTP that correspond with the MARSEC level being imposed by the change.

to industry actions discussed previously, the Coast Guard COTP, as FMSC, oversees implementation of MARSEC procedures specified in Area Maritime Security Plans and coordinates with Area Maritime Security Committees. The specific activities and procedures involve sensitive but unclassified and classified security information and are outside the scope of this summary.

### **How are MARSEC Levels Reduced?**

The situation is continuously monitored by the Coast Guard to ascertain when it would be prudent to reduce MARSEC Levels in whole or in part. The decision to reduce MARSEC levels is vested in the Commandant in consultation with the Secretary of Homeland Security.

Normally, as with increasing the MARSEC level, a reduction in MARSEC level by the Commandant is consistent with the HSAS Threat Condition and that Threat Condition's scope of application. Thus, when the HSAS threat condition is reduced, this typically would trigger a corresponding reduction in the MARSEC level by the Commandant. However, circumstances may indicate a benefit for the actual MARSEC Level to be different than the HSAS level. For example, a non-maritime threat may support a lowering of the MARSEC Level in advance of a reduction in the HSAS Threat Condition, facilitating maritime commerce. Conversely, a maritime-specific threat might necessitate a higher MARSEC Level for one or more specific elements within the MTS. A variation of this type would be determined by consultations between the Commandant and the Secretary of the Department of Homeland Security. A structured internal process for reducing the MARSEC level has not been specified. In practice, the process for raising the MARSEC level is adapted to assess whether a variation

### **Maritime Security (MARSEC) Levels**

Excerpts from 33 CFR 101

#### **§101.410 Control and Compliance Measures.**

(a) The COTP may exercise authority pursuant to 33 CFR parts 6, 160 and 165, as appropriate, to rectify non-compliance with this subchapter. COTPs or their designees are the officers duly authorized to exercise control and compliance measures under SOLAS Chapter XI-2, Regulation 9, and the ISPS Code (Incorporated by reference, see §101.115).

(b) Control and compliance measures for vessels not in compliance with this subchapter may include, but are not limited to, one or more of the following:

- (1) Inspection of the vessel;
- (2) Delay of the vessel;
- (3) Detention of the vessel;
- (4) Restriction of vessel operations;
- (5) Denial of port entry;
- (6) Expulsion from the port;
- (7) Lesser administrative and corrective measures; or
- (8) Suspension or revocation of a security plan approved by the U.S., thereby making that vessel ineligible to operate in, on, or under waters subject to the jurisdiction of the U.S. in accordance with 46 U.S.C. 70103(c)(5).

(c) Control and compliance measures for facilities not in compliance with this subchapter may include, but are not limited to, one or more of the following:

- (1) Restrictions on facility access;
- (2) Conditions on facility operations;
- (3) Suspension of facility operations;
- (4) Lesser administrative and corrective measures, or
- (5) Suspension or revocation of security plan approval, thereby making that facility ineligible to operate in, on, or under or adjacent to waters subject to the jurisdiction of the U.S. in accordance with 46 U.S.C. 70103(c)(5).

from the HSAS level may be appropriate to address maritime-specific issues, informed by the particulars of the situation as it has developed and consultations as appropriate.

Points of Contact for Questions About this Information Paper

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