

**Before the
U.S. COAST GUARD
Washington, D.C.**

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Request for Comments on Maritime Security

Docket No. USCG-2002-14069

Comments of the



American Association of Port Authorities

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Founded in 1912, the American Association of Port Authorities (AAPA) represents almost 150 public ports in Canada, the Caribbean, Latin America, and the United States. In addition, the Association represents almost 300 sustaining members — firms and individuals with an interest in the seaports of the Americas.

This response is filed on behalf of AAPA's U.S. delegation. U.S. ports serve vital national interests by facilitating the flow of trade and supporting the mobilization and deployment of U.S. Armed Forces. In the next twenty years, U.S. overseas international trade, 95% of which enters or exits through the nation's ports, is expected to double. As the link between the land and the water, ports continue to update and modernize their facilities not only to accommodate this growth, but also to ensure homeland security.

In addressing security, AAPA believes that new policies must be sensitive to the unique nature and complexity of America's port industry which is vast, versatile and highly competitive, consisting of deep-draft commercial seaports dispersed along the Atlantic, Pacific, Gulf and Great Lakes coasts. These ports range from huge load centers handling millions of tons of containerized, breakbulk and dry and liquid bulk cargos to relatively small "niche" ports serving the unique needs of particular regions, localities, or industries.

Furthermore, ports differ in the way they are operated. Port authorities are state and local government entities that oversee the management of public ports. There are operating, landlord and limited operating ports. Operating ports are those in which cargo handling inland from the pier is performed by port authority employees. At landlord ports, these functions are performed by tenants, such as terminal operators, who lease property from the port. Limited operating ports combine these roles, leasing some facilities and operating others. With such varied control over port operations and facilities, what works in one port to control crime and security may not work in another port. Furthermore, security programs at ports vary and are tailored to the unique environment of each port.

In crafting solutions, it is important to recognize the nature of the industry itself, the economic interest(s) it represents and how it is governed and operated. U.S. ports are diverse, with a variety of security needs and concerns and are just one piece of the maritime industry that must be evaluated. The Coast Guard must take the lead for coordinating security at the local level and not rely on the port authority to play an enforcement role with tenants at their port. Further, any new programs for enhancing security must allow for the efficient movement of trade into and out of the United States.

Following are the AAPA responses to the questions posed in the U.S. Coast Guard *Federal Register* Notice of December 30, 2002 (Notice is on Security Page on AAPA website).

General Security Provisions

1. **Obligations of Contracting Government with Respect to Security.** The communication processes listed in this question would meet the needs of the port industry; however, they need to be further defined. The industry will need more than a “1-800” number. When broadcasting non-sensitive information, such as security alerts, there must be a way of notifying each facility by a method that is assured of working every time. When it comes to security sensitive information, the USCG needs to be able to share this information with a person/decisionmaker at the port authority who has a security clearance who would be the direct lead in the port. Finally, the Coast Guard needs to consider the issue of liability for those charged with disseminating information. If the Coast Guard sends information to an individual at the port, what responsibility/liability does that person or the port have?
2. **Procedures for Authorizing a Recognized Security Organization.** AAPA does not believe that the Coast Guard should delegate its authority to a Recognized Security Organization. AAPA supports the Coast Guard as the lead agency for maritime security.
3. **Consideration of Other Organizations.** AAPA believes that the Coast Guard should formalize professional standards for companies or organizations that seek to do business providing guidance on vessel and facility security assessments and plans. The USCG should set criteria/standards and if the company meets these criteria, then it would be recognized by the Coast Guard as having the qualifications to do business in the maritime industry. The Coast Guard has a model for this in the “5 Star Program for Small Vessel Charters.” In that program, the Coast Guard lists the security standards that these vessels should meet, and then it is optional whether or not they have to comply. Also the American Society for Industrial Security could provide another model.
4. **Procedures for Accepting Alternatives and Equivalencies.** AAPA believes that if the Coast Guard accepts alternatives and/or equivalencies, then they should apply to all ports. What is good for one should be good for all. However, the systems that are in place in each facility must be consistent to ensure that vessels do not face different requirements from port to port.
5. **Procedures for Accepting Industry Standards.** Yes, there are a number of industry standards available. The U.S. Coast Guard must have a process for getting these industry standards approved. Groups such as the AAPA should be recognized to take the lead in developing/collecting these standards so that they can be coordinated in one place and approved by the Coast Guard. These standards should not be mandatory for all port authorities but should be used as the model when making improvements outlined in the security plans. Finally, State standards, such as those developed in Florida, should not be used as the model for national industry standards.
6. **Declaration of Security.** AAPA believes that there should be a Declaration of Security (DOS) only at MARSEC Levels 2 & 3. If the Coast Guard deals with the communication issues (listed in question number 1), there should be no confusion with regard to the differing security levels and when a DOS is needed. There must, however, be a system

to handle the exchange of the DOS. Also, the format for the facility plan should be in the vessel NVIC and vice versa so it is clear in advance what is required. Communication is essential so that things run smoothly.

- 7. Security of Information Contained in Port, Vessel and Facility Security Assessments and Plans.** AAPA believes that there must be a way of protecting security sensitive information. An SSI classification is appropriate. However, the Coast Guard must provide training/information to ports on how to classify documents as SSI. One problem that ports have run into in the past is that some state laws require full disclosure of public documents, which includes security plans and things that should not be available to the public. The Federal government must preempt state laws when it comes to security sensitive information or develop a mechanism that ports can follow to protect their secure documents.

Though ports believe that security sensitive information must be protected, these documents cannot be so secure that the appropriate officials at the port do not have access to pertinent information that they need to make security improvements and decisions.

Port Security Provisions

- 8. Port Security Plans and Committees.** AAPA believes that the Harbor Safety Committee is a good model for the way the port security committees should function. The seaport security committee should be a balanced group of maritime stakeholders, and the local Captain of the Port should have some flexibility in ensuring that every group is adequately represented. AAPA believes that the port authority should co-chair the committee with the COTP. Also, it is important that the committees are manageable in size so that the committee can meet Coast Guard's requirements. In some cases, there is one security committee that covers several ports. In these cases we encourage the COTP to ensure that they are getting proper representation from the various port authorities within that region because there are unique differences between each of these ports.
- 9. Port Security Assessments Requirement.** Overall, AAPA believes that the port security committees, if set up properly (see above), will be able to provide enough experience and expertise to develop the PSAs (of course, there may be some exceptions depending on the area). Before conducting a new assessment, the Coast Guard must find out if there are existing assessments and make use of those first. If the Coast Guard believes that an assessment must be completed, then the local port authority should participate in its development.
- 10. Port Security Control of Vessels, Facilities and Operations.** AAPA does not believe that there should be a national regulation relating to the predesignation of waterway and facility restrictions. However, these areas should be designated in advance in the security plan. If security zones are necessary at a port, then it is important to lay out a template in advance (unique to each port) so it is clear how this will work. These predesignations should have the vote/approval of the security committee, including the port representative.

11. **Port Security Training and Exercises.** AAPA believes that it is possible to do one full-scale exercise per year, but it would be extremely costly to do quarterly. If quarterly drills are required, then they should be scaled back to address a particular area or issue. It would be helpful for Coast Guard to define exactly what it means by quarterly drills and what they would entail.

The Security Committee should be the group charged with deciding what type of drill/exercise would be most appropriate for that local area.

With regard to security training, AAPA would like to work closely with the Coast Guard in developing a training program for the port industry.

Facility Security Provisions

24. **Incorporation by Reference.** No, AAPA does not know of a national, state, or industry standard that could be used in the marine environment. AAPA strongly believes that no state standards should be used, because, in most cases, these have been designed to meet the unique needs of that particular state and should not be used as a model for a nationwide standard.
25. **Facility Security Requirement.** Yes, the application of the requirements in part A, section 14-18 of the ISPS Code for the facilities indicated in the section titled “Who should attend the public meetings?” is appropriate. AAPA believes that USCG should focus its efforts exclusively on these categories. We believe that these activities and protective measures adequately address the security of a facility. We do not have a suggestion for appropriate security measures that a facility can take to meet these requirements that are not already listed in part B, paragraphs 16.1 through 16.63.
26. **Facility Security Assessment.** The Facility Security Assessment should be the responsibility of the facility, with the port authority being cognizant of the process and the Coast Guard having oversight and final approval.
27. **Facility Security Plans.** AAPA does not have any suggestions on additional items the Facility Security Plans should address. Some industry groups have developed best practices that should be incorporated in these FSPs (for example, the American Petroleum Institute).

AAPA believes that an outline would be a valuable aid to meeting these requirements. The USCG NVIC or interim final rule should include a “fill in the blank” plan that would be considered a template and could be available electronically. The model in NVIC 9-02 could be modified to meet this need. This could save a great deal of time for those charged with developing the plans. USCG should make it as easy as possible for the maritime industry to comply with these regulations.

28. **Submission of Facility Security Plans for Approval.** The USCG could use the model in the Passenger Vessel Regulations (NVIC 4-02). (See 27 above that recommends a template.) Ports and facilities need USCG guidance/feedback as quickly as possible to be able to move forward on their improvements.

- 29. Facility Security Recordkeeping.** AAPA believes the recordkeeping process should be in line with the review periods. Records should not have to be kept longer than needed for review. Also, there should be a format for these records so that a facility knows what it is going to be “graded on.”
- 30. Facility Security Officer.** If the USCG requires Facility Security Officer Training, then the Coast Guard should fund it and/or provide the training. The Oil Pollution Act of 1990 training program is an excellent example of how well this can work.

People dealing with security need to have training. AAPA encourages the development of appropriate training programs for the purpose of training seaport security officers. Such programs would provide the kind of training specific to handling security on the waterfront. Upon completion, the security officer would receive certification that he/she has been officially trained as a security officer. Existing training programs could serve as models.

A Facility Security Officer should be able to be designated for more than one facility. With regard to proof of participation in annual exercises, these records should be retained only until the next exercise and no longer.

- 31. Training, Drills and Exercises on Facility Security.** Yes, the USCG should require facility personnel to attend some kind of training, but it must be made clear regarding to whom this applies. Training must be commensurate with the position in a security-related function (there is a big difference between awareness training and security officer training). It is important to note that training for labor at the port can be very costly because in addition to the expense of developing the course, wages to the employee must be paid while he/she is participating in the training session. (See also answer to number 10 above.)
- 32. Certification for Facilities.** AAPA believes that certification is an unnecessary step. If a facility is doing what is required, then it is meeting the expectations and it is unnecessary to have companies certifying their facilities.

Other Security Provisions

- 37. Seafarer Identification Criteria.** No, we do not believe that the USCG should amend its policy notice to capture additional forms of identification. AAPA strongly encourages the Department of Homeland Security to move quickly on implementing a national credentialing system for U.S. transportation workers. One uniform system would provide facility operators with an effective tool for controlling access. Since September 11, many ports are looking to implement new access control systems. Quick action is needed so these new systems will not be duplicative and will be compatible with a new Federal program.

38. **Advance Notice of Arrival (ANOA).** Advance electronic transmission of cargo, passenger and crewmember manifest information should be collected according to a nationally applicable standard (with no deviations). USCG must work with other agencies such as the U.S. Customs Service, and the Immigration and Naturalization Service to rationalize all the formatting requirements to simplify the process.
39. **Foreign Port Assessments.** Yes, the USCG should accept approval of foreign port facility security plans as a preliminary indication that the foreign port is maintaining effective anti-terrorism measures. The USCG should allow the U.S. Customs Service to take the lead through the Container Security Initiative to ensure that cargo coming from foreign destinations is safe. Further, if all countries comply with the ISPS code, then ideally there should be few problems. In the event that there are issues at a foreign port that must be addressed, then the USCG should work and partner with the foreign ports to get compliance as described in the Maritime Transportation Security Act.
40. **Automatic ID System.** AAPA encourages USCG to work with the National Oceanic and Atmospheric Administration (NOAA) to complete the backlog of electronic charts that will form the backdrop for AIS.

Section 4 – Preliminary Cost Analysis

The cost analysis completed by the Coast Guard is somewhat limited and should be more comprehensive. AAPA commits to working with the Coast Guard to identify the additional expenses that ports will face when complying with new USCG requirements. However, until the Coast Guard has issued its final rule, it is still unclear what will be needed to pay for security improvements. Further, the Coast Guard must note that any unfunded mandates will divert investment from other infrastructure projects.

It is clear that America's ports will need Federal help to meet the growing demands of protecting the homeland. Since September 11, ports have already spent millions of dollars instituting heightened security measures. Ports have spent the most money on personnel-related costs (a recurring annual cost), including the hiring of new officers and overtime. Fencing, identification systems, lighting, and gate/entry controls accounted for most of the remaining expenses incurred nationally. Ports will need significant Federal help in the form of grants to pay for the additional improvements that the Coast Guard will require. Without such help, any new Federal requirements are likely to become unfunded Federal mandates.

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