

As discussed in the Notice for Meeting, the Coast Pilot and Broadcast Notice to mariners will remain key communication tools for vessels underway or coming to the U.S. from foreign ports.

Other commenters suggested that the MARSEC Level should be directly linked to the HSAS at all levels. This contrasts with the comments of many others who voiced a concern about changing levels due to the HSAS system, based on threat information not specifically related to the maritime community nor a specific region. Therefore, they suggested adopting a separate security level mechanism or incorporating some flexibility into the alignment of HSAS to the MARSEC Level. We stated in our notice of meeting that we were considering a link with the HSAS levels and were implementing the MARSEC Level system to ensure both flexibility for the maritime community, as well as to align with the 3-level international security level system. This remains our intent and we have coordinated these alignments with DHS. The regulations lay out further discussion of the MARSEC Levels and their alignment with HSAS Threat Conditions (*see* Table 101.205).

Some commenters stressed that coordination with other agencies was needed, and that two-way communications was important to the security of the waterfront and its operations, as is the ability to report incidents that are out of the ordinary. Concern was also noted by some that the communications procedures should directly inform the Facility Security Officers, the Company Security Officers, and the Vessel Security Officers while underway, in lay up, or after hours, since toll-free numbers do not always work from overseas locations or are sometimes reported as busy. We have included other means for communication at the local and national levels in this interim rule to provide alternative means for providing information on suspicious activity. We are working to develop advanced information technologies to interconnect agencies, organizations, vessels, and personnel. The advanced information technologies will facilitate the rapid transmission of critical safety and security information both vertically and horizontally. Additionally, we expect to build a strong communication process with Company Security Officers, Vessel Security Officers, and Facility Security Officers at both the national and area levels once these Officers are designated and the owner or

operator provides their contact information to us.

2. *Procedures for Authorizing a Recognized Security Organization (RSO).* The ISPS Code (part A, section 4, and part B, paragraph 4) allows Contracting Governments to delegate certain security related duties to a RSO. In order to ensure proper initial implementation of the MTSA and SOLAS, particularly with the accelerated implementation timelines, the Coast Guard discussed in the Notice of Meeting its intent not to delegate authority to an RSO and requested comments on RSO authorities, qualifications, and competencies (other than those listed in the ISPS Code, part B, paragraph 4.5).

Some comments indicated that class societies, while possibly suitable for RSO delegation, should not be considered because of the aggressive timeline to review assessments and plans. Similarly, others indicated their strong support for the Coast Guard to retain all approval authorities, citing that delegation would defeat the purpose and intent of the MTSA. In contrast, some commenters disagreed, stating that the Coast Guard did not have adequate resources. They requested that the Coast Guard delegate its authority to an RSO, establish a timeline for when we would begin consideration of RSOs, and provide instructions on how RSOs should request consideration. We have retained in this regulation the intent to keep the approval of assessments, plans, and other security measures as a Coast Guard function. While it is understandable that organizations within the maritime community would seek to have their security expertise recognized, the Coast Guard believes it is imperative to maritime and homeland security to ensure consistent application of the requirements found in the interim rules and will conduct the required reviews and approvals without delegation, at this time. A timeline and further delegation discussions may be provided, once a stable, nationwide foundation for maritime security has been established.

As for the adequacy of the list of RSO competencies provided in the ISPS Code, part B, some commenters considered it an adequate list, while others indicated that there should be additional qualifications, such as a familiarity with national and local security plans. We believe this list encompasses the essential qualifications and competencies of organizations that wish to assist the maritime industry in the development of their security assessments and plans. The comment on

knowledge of local security plans has merit and should be considered in addition to the ISPS Code, part B, competencies by those hiring security personnel.

3. *Consideration of Other Organizations Competent in Maritime Security.* In our Notice of Meeting, we discussed the potential need within the maritime community for assistance with the development of security assessments and plans from organizations advertising maritime security competency. We asked for comments on whether we should establish a standard for these organizations or companies and vet them against a benchmark, such as the one in the ISPS Code, part B, paragraph 4.5.

Several commenters requested that we develop standards or at least an outline of what they should expect from a company that professes maritime security competency and many also stated that the ISPS Code, part B, list was sufficient. Some commenters went further to suggest that we put this standard into guidance rather than regulations or leave it to the trade organizations to develop, because of concern over rigid requirements favoring larger companies and, therefore, limiting the flexibility of owners and operators. Many commenters did not believe the Coast Guard needed to vet these maritime security organizations, however, many suggested that examples of acceptable plans would be helpful to smaller operators. In contrast, other commenters stated that a list of organizations which meet industry or trade organization standards should be provided, and some went further to recommend the Coast Guard certify organizations, thus creating the basis for a new industry. Finally, some commenters requested that we develop and mandate industry standards for waterborne security and armed guards.

In these interim rules, we reference ISPS Code, part B, paragraph 4.5, as a list of competencies all owners and operators should use to guide their decision on hiring a company to assist with meeting the regulations. We may provide further guidance on competencies for maritime security organizations, as necessary, but do not intend to list organizations, provide standards within the regulations, or certify organizations. We consider standards and requirements for waterborne security and armed guards a subset of the above discussion. While these security measures may be appropriate for some vessels or facilities at a particular MARSEC Level, they are not necessary for all situations. Thus,