

regulation lists several methods of contacting the NRC. We also require that security plan holders call the NRC to report breaches of security. This captures a broader range of activities that, while not severe enough to pose a threat of a transportation security incident, are still considered serious. Examples of breaches of security include attempts to smuggle dangerous substances or devices onto a facility or vessel, attempts to break into the facility or vessel, or attempts to tamper with, alter, or mix cargos. They would not, however, include acts of vandalism.

It is advised, although not required, that vessel and facility security plan holders familiarize themselves with the type of information that will be asked of them when placing a call to the NRC. They may do this by visiting the NRC's Web site at <http://www.nrc.uscg.mil>, clicking on "Services," then clicking on "Online Reporting." This will call up a menu of several different types of incidents, such as vessel, pipeline, and aircraft. Clicking on any of these types will open the reporting form.

This section also encourages other persons or entities to call the NRC to report suspicious activities that may result in a security incident.

Vessel and facility security plan holders are also required to report the onset of an actual transportation security incident to their local COTP or, if a facility regulated by part 106 of this subchapter, their District Commander. They must also immediately begin implementing the provisions of their security plan, including contacting any other individuals or entities (such as the NRC or local authorities) listed within their security plan.

Section 101.310 of subpart C lists two methods of communication, alert systems and AIS, which may be used to augment the communications methods listed in a vessel's security plan. Alert systems are discussed in more detail in part 104 of this subchapter; AIS is covered in 33 CFR parts 26, 161, 164 and 165.

#### *Part 101—Subpart D—Control Measures for Security*

This section also explicitly states that the provisions of subchapter H do not limit the powers conferred by any other law or regulation upon any Coast Guard commissioned, warrant, or petty officer.

Subpart D, section 101.405 describes when the Coast Guard will issue a Maritime Security (MARSEC) Directive. MARSEC Directives will set mandatory measures that all defined entities must meet in a specified time. These entities will also be required to verbally confirm, to the local COTP or District

Commander (as appropriate), receipt of the MARSEC Directive, as well as specify the method by which the mandatory measures have been (or will be) met. This section also builds in some flexibility by allowing the MARSEC Directive recipient to submit proposed equivalent security measures to the local COTP or District Commander (as appropriate), if the MARSEC Directive recipient is unable to implement the measures mandated in the MARSEC Directive. However, the entity will only be able to propose such alternatives for the length of time specified in the MARSEC Directive, and he/she will be required to implement any alternative measure that the COTP does approve.

The Coast Guard plans to use MARSEC Directives to mandate additional security measures that are SSI. They may be applicable to all maritime elements of the national transportation system, or they may impose additional security measures on specific maritime elements of the national transportation system. As stated, only the Commandant or his/her delegate will issue these MARSEC Directives at the national level. All MARSEC Directives will be designated and disseminated as SSI, in accordance with 49 CFR part 1520 (to be amended by the Transportation Security Administration). As a result, the MARSEC Directives will only be issued to those persons who can demonstrate that they are a covered person and that they have a need to know, as those terms are defined in the SSI regulation. Company, Vessel, and Facility Security Officers should familiarize themselves with the SSI regulation.

When a new MARSEC Directive is issued, the Coast Guard plans to publish, in the **Federal Register** and through other means (local notices to mariners, press releases, etc.), that it has issued a new MARSEC Directive. The MARSEC Directives will be individually numbered, and will be assigned to a series that corresponds with the part of this subchapter to which the MARSEC Directive refers. For example, the first MARSEC Directive addressing a new requirement for vessels regulated under part 104 of this subchapter would be identified as MARSEC Directive 104–01.

Upon receiving notice that a new MARSEC Directive has been issued, affected entities would contact or be contacted by their local COTP (or, if appropriate, their District Commander) to receive a copy of the MARSEC Directive. The COTP or District Commander will confirm, prior to distributing the MARSEC Directive, that the requesting entity is a covered person

with a need to know, and that the requesting entity will safeguard the MARSEC Directive as SSI. Thus, continuing with the example from the previous paragraph, upon receiving notice that a MARSEC Directive in the 104 series has been issued, owners and operators of vessels covered by part 104 of this subchapter would need to contact their local COTP to obtain a copy of the MARSEC Directive. They would then be required to comply with the MARSEC Directive, or follow the procedures set out in the MARSEC Directive for gaining approval of an equivalent security measure. COTPs may also use the AMS Committee as a mechanism for disseminating the MARSEC Directive to those with a need to know.

MARSEC Directives will be issued under an extension of the Coast Guard's existing COTP authorities regarding maritime security, found in 33 U.S.C. 1226 and 50 U.S.C. 191. In part, the implementing regulations for 50 U.S.C. 191, found at 33 CFR 6.14–1 and promulgated by Executive Order 10277, contemplate action by the Commandant that is national in scope. Specifically, these regulations authorize the Commandant to prescribe such conditions and restrictions deemed necessary under existing circumstances for the safety of waterfront facilities and vessels. Additionally, 43 U.S.C. 1333(d) authorizes the Coast Guard to establish certain requirements for OCS facilities. Moreover, MARSEC Directives are a necessary and integral part of exercising the Coast Guard's authorities in 46 U.S.C. Chapter 701, to ensure that that Chapter's security requirements are met.

The MARSEC Directives will provide specific instruction to the regulated maritime community to achieve the performance standards required by this subchapter and 46 U.S.C. Chapter 701. For example, the plans required by 46 U.S.C. 70103 are not subject to public disclosure, in accordance with 46 U.S.C. 70103(d), and contain SSI that, if disclosed, could be used to subvert or exploit the security program for vessels, facilities, OCS facilities, or ports. This could include passenger screening levels, means of monitoring restricted areas, and other requirements that may be necessary to ensure that the security plans remain viable. Like civil aviation security, these specific requirements cannot be placed in a public regulation and are better suited for issuance through a MARSEC Directive that is itself not subject to public disclosure.

Since MARSEC Directives would be issued when necessary to protect national security and to preserve the rights and obligations of the U.S. with