

suspicious activities, breaches of security, and transportation security incidents.

We received 28 comments regarding communication of changes in the MARSEC Levels. Most commenters were concerned about the Coast Guard's capability to communicate timely changes in MARSEC Levels to facilities and vessels. Some stressed the importance of MARSEC Level information reaching each port area in the COTP's zone and the entire maritime industry. Some stated that local Broadcast Notice to Mariners and MARSEC Directives are flawed methods of communication and stated that the only acceptable means to communicate changes in MARSEC Levels, from a timing standpoint, are via email, phone, or fax as established by each COTP.

MARSEC Level changes are generally issued at the Commandant level and each Marine Safety Office (MSO) will be able to disseminate them to vessel and facility owners or operators, or their designees, by various means. Communication of MARSEC Levels will be done in the most expeditious means available, given the characteristics of the port and its operations. These means will be outlined in the AMS Plan and exercised to ensure vessel and facility owners and operators, or their designees, are able to quickly communicate with us and vice-versa. Because MARSEC Directives will not be as expeditiously communicated as other COTP Orders and are not meant to communicate changes in MARSEC Levels, we have amended § 101.300 to remove the reference to MARSEC Directives. We have added a reference to electronic means.

One commenter suggested that major commodity groups, including the chemical, hazardous material, utility, rail, truck, and air transportation industries receive information regarding potential threats from the local COTP.

As stated in § 101.300(b), the COTP will, when appropriate, communicate to port stakeholders certain information regarding known threats that may cause a transportation security incident.

We received 15 comments on the facility owner's or operator's responsibility to communicate changes in MARSEC Levels to vessels bound for the facility. Nine commenters noted that it would be difficult and impractical for facilities to notify vessels 96 hours prior to arrival of changes in MARSEC Levels, because some vessels and facilities do not have a means to provide secure communications. Three commenters stated that facilities should not be responsible for notifying vessels that have not arrived at the facility of

MARSEC Level changes. In contrast, one commenter suggested that the Coast Guard amend § 101.300(a) to include a provision for facilities to notify vessels of MARSEC Level changes within 96 hours, much like that which is currently found in § 105.230(b)(1).

The intent of the regulations is to give vessel owners or operators the maximum amount of time possible to ensure the higher MARSEC Level is implemented on the vessel prior to interfacing with a facility. This ensures that the facility's security at the higher MARSEC Level is not compromised when the vessel arrives. Therefore, while it may be difficult to contact a vessel in advance of its arrival, it is imperative for the security of the facility and the vessel. Additionally, communications between the facility and the vessel do not need to be secure, as MARSEC Levels are not classified information. We have not amended § 101.300(a) because this section is intended to regulate communication at the port level, whereas § 105.230(b)(1) is intended to regulate communication at the individual facilities within the port.

One commenter asked whether the COTP's communication of required actions to minimize risk, under § 101.300(b)(5), refers only to measures that have been detailed in the Vessel Security Plan or the Facility Security Plan.

At any MARSEC Level, the COTP, consistent with the authority in 33 U.S.C. chapter 1221 and 50 U.S.C. chapter 191, may require owners and operators to take measures to counter security threats that are beyond those detailed in their security plans when necessary to prevent injury or damage or to secure the rights and obligations of the U.S. This is consistent with requirements specified in the ISPS Code.

We received 19 comments on the requirements that owners and operators of vessels and facilities confirm attainment of increased MARSEC Level security measures. Some requested that the Master, not the owner or operator, be responsible for reporting to the local COTP the attainment of the change in MARSEC Level. Several commenters sought clarification as to which COTP they need to report their attainment of security measures. Others questioned the ability of the COTP to receive potentially hundreds of calls confirming attainment of security measures in their security plan or requirements imposed by the COTP. Finally, some questioned the benefit of reporting compliance with the MARSEC Level change.

We agree with the comment to allow owners and operators to designate the

Master or another appropriate person to be responsible for reporting the attainment of the MARSEC Level and are amending § 101.300 to allow this. Our intent is to have one company representative contact the local COTP to minimize the number of calls to the local COTP during a change in MARSEC Level. Consistent with the ISPS Code, part A, attainment measures should be reported to the COTP that issued the notice of the change in MARSEC Levels to that vessel, so as to ensure compliance.

Two commenters suggested that the Coast Guard should be responsible for facilitating communications between vessels and facilities.

We believe that it is the Coast Guard's role to ensure that vessels and facilities have the proper procedures and equipment for communicating with each other. The Coast Guard does have communication responsibilities, as found in § 101.300. It is imperative, however, that vessels and facilities effectively communicate with each other to effectively coordinate the implementation of security measures. Thus, we have placed this requirement on the owner or operator, not the Coast Guard. The Coast Guard will be inspecting facilities and vessels to ensure this communication is accomplished.

Twelve commenters requested that the Coast Guard issue specific communications guidelines to affected facilities and vessels bound for and operating in U.S. ports. One commenter stated that, in guidance, we should define a means by which changes in MARSEC Levels will be communicated to U.S. flag vessels that are not in the coastal waters.

We recognize that further guidance should be provided to ensure communication expectations are clearly outlined. We intend to update the guidance in NVIC 9-02 (Guidelines for Port Security Committees, and Port Security Plans Required for U.S. Ports) to address communications with facilities and vessels bound for and operating in U.S. ports. We will also address communication of MARSEC Levels with U.S. flag vessels operating internationally in this guidance and intend to coordinate these types of communications with MARAD.

Two commenters suggested web-based information sharing methods. One commenter recommended a proprietary, secure, web-based information portal for vessels, port facilities, and other transportation/supply chain participants to report and record required security information, security documents, and security checks in complying with Coast