

ALCOAST 529/08

COMDT NOTE 16611

SUBJ: SEAFARERS SHORE ACCESS ON MARINE TRANSPORTATION SECURITY ACT  
(MTSA) FACILITIES

A. 33 CFR 105.200

B. INTERNATIONAL MARITIME ORGANIZATION (IMO) CONFERENCE RESOLUTION 11,  
DECEMBER 2002

C. INTERNATIONAL MARITIME ORGANIZATION MARITIME SAFETY COMMITTEE (MSC)  
CIRCULAR 1112, JUNE 2004

D. NAVIGATION AND VESSEL INSPECTION CIRCULAR 03-03, CHANGE 1

1. SINCE THE IMPLEMENTATION OF THE MTSA REGULATIONS IN JULY OF 2004, THE COAST GUARD HAS RECEIVED REPORTS OF REGULATED MARITIME FACILITIES REFUSING TO GRANT ACCESS TO SEAFARERS HOLDING PROPERLY ISSUED VISAS FOR THE PURPOSE OF SHORE LEAVE, CREW CHANGE OUT, ETC. REGULATED FACILITIES HAVE, IN SOME CASES, REFUSED TO GRANT THIS ACCESS USING SECURITY CONSIDERATIONS AS THE RATIONALE. OTHERS HAVE DENIED ACCESS BECAUSE OF PERCEIVED LIABILITY ISSUES IF PERSONS NOT IN THEIR EMPLOY ARE INJURED WHILE ON THE FACILITY. RECENTLY, THE COAST GUARD RECEIVED A CONFIRMED REPORT OF A FACILITY REFUSING TO PERMIT ACCESS TO THE CREW OF A VESSEL THAT WAS ALONGSIDE FOR A PERIOD OF 55 HOURS FOR CARGO OPERATIONS. LIKEWISE, THE COAST GUARD HAS RECEIVED REPORTS OF CHAPLAINS, SEAFARERS WELFARE ORGANIZATIONS AND LEGITIMATE SEAFARERS UNION REPRESENTATIVES BEING DENIED ACCESS TO VESSELS TIED UP AT FACILITIES.

2. THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE UNDER SOLAS THROUGH THE IMO CONFERENCE RESOLUTION 11, HUMAN-ELEMENT-RELATED ASPECTS OF SHORE LEAVE FOR SEAFARERS (2002), IMO MSC CIRCULAR 1112, SHORE LEAVE AND ACCESS TO SHIPS UNDER THE ISPS CODE (2004), OUR OWN MARITIME SECURITY REGULATIONS AT 33 CFR 105.200 (B) (9), AND NAVIGATION AND VESSEL INSPECTION CIRCULAR 03-03, CHANGE 1, SPECIFICALLY URGE FACILITY OPERATORS AND OWNERS TO PROVIDE MEANS TO FACILITATE SHORE LEAVE ACCESS FOR MARINERS AND VISITS TO VESSELS BY SEAFARERS WELFARE ORGANIZATIONS.

3. ALTHOUGH THE ACQUISITION OF A VALID VISA FOR SEAFARERS DOES NOT AUTOMATICALLY GUARANTEE ACCESS IF CUSTOMS AND BORDER PROTECTION (CBP) DETERMINES THAT ACCESS MAY COMPROMISE SECURITY, THE DENIAL OF ACCESS BY A REGULATED FACILITY TO THOSE HOLDING A VALID VISA AND HAVING CLEARANCE FROM CBP FOR THE PURPOSE OF SHORE LEAVE AS WELL AS THE DENIAL OF ACCESS TO REPRESENTATIVES OF SEAFARERS WELFARE ORGANIZATIONS RUNS COUNTER TO THE INTENT OF OUR REGULATIONS.

4. AS A MARITIME SERVICE, THE COAST GUARD RECOGNIZES THE IMPORTANCE OF SHORE LEAVE AND ACCESS TO SEAFARER WELFARE ORGANIZATIONS AS AN IMPORTANT ASPECT OF MAINTAINING CREW MORALE, READINESS AND WELLBEING. INDIVIDUALS SEEKING ACCESS THROUGH FACILITIES FOR THE PURPOSE OF SHORE LEAVE OR FOR THE PURPOSE OF PROVIDING SERVICE TO THE SEAFARER COMMUNITY SHOULD NOT FIND ARTIFICIAL BARRIERS IMPOSED BY A MINORITY OF FACILITIES WITHIN OUR REGULATED STAKEHOLDER BASE.

5. REGARDLESS OF THE IMPLEMENTATION OF THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL (TWIC) REGULATIONS OR THE ULTIMATE POSITION TAKEN BY THE UNITED STATES ON THE SEAFARERS IDENTITY DOCUMENT (SID) AS PROPOSED IN ILO 185, CAPTAINS OF THE PORT (COTP) SHOULD ENCOURAGE, SUPPORT, AND FACILITATE VIGOROUSLY ANY ACCOMMODATIONS AT REGULATED FACILITIES, INCLUDING BUT NOT LIMITED TO ESCORT PROVISIONS, TO MAKE SHORE LEAVE AND ACCESS TO SEAFARER WELFARE ORGANIZATIONS POSSIBLE. THESE ACCOMMODATIONS SHOULD NOT IMPOSE AN UNDUE BURDEN ON THE SEAFARER OR SEAFARERS WELFARE ORGANIZATION REPRESENTATIVE SEEKING ACCESS BY WAY OF EXORBITANT FEES, EXTREME LIMITATIONS IN HOURS OF AVAILABILITY, OR OTHER UNREASONABLE RESTRICTION TO THE MOVEMENTS OF THESE PERSONS UNLESS EXIGENT, CONFIRMED SECURITY CONCERNS DICTATE SUCH RESTRICTION IS NECESSARY. ADDITIONALLY, IN ORDER TO OBTAIN GREATER CLARITY ON THE ISSUE THE COAST GUARD HAS RECENTLY CHARTERED A WORKING GROUP UNDER NATIONAL MARITIME SECURITY ADVISORY COMMITTEE TO EXPLORE THE PROBLEM AND RECOMMEND SOLUTIONS.

6. IT IS SUGGESTED THAT COTPS ACTIVELY SEEK OUT LOCAL SEAFARERS CHAPLAINS FOR PARTICIPATION IN PORT COMMUNITY MEETINGS AND ACTIVITIES IN ORDER TO EDUCATE COAST GUARD AND COMMITTEE PERSONNEL ON THE HUMAN ASPECTS OF INTERNATIONAL CREWS AND THEIR ISSUES TO AUGMENT OUR ONGOING EFFORTS TO GUARANTEE THEIR SAFETY AND QUALIFICATIONS. LIKEWISE, REITERATION OF THE COAST GUARD POSITION ON SEAFARERS ACCESS TO SHORE LEAVE AND SEAFARER WELFARE ORGANIZATIONS ACCESS TO VESSEL CREWS SHOULD BE DISTRIBUTED TO MARITIME STAKEHOLDERS VIA HOMEPORT AND A MARINE SAFETY INFORMATION BROADCASTS (MSIB). DISCUSSION OF THE TOPIC AT AREA MARITIME SECURITY COMMITTEE (AMSC) AND HARBOR SAFETY COMMITTEE (HSC) MEETINGS WOULD HELP TO CONFIRM THE MESSAGE TO THE MARITIME STAKEHOLDERS THAT THE COAST GUARD VIEWS THIS AS A HIGH PRIORITY ISSUE AND IS DEDICATED TO FINDING A SOLUTION THAT IS WORKABLE FOR ALL INVOLVED.

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9. INTERNET RELEASE IS AUTHORIZED.