

# **MTSA POLICY ADVISORY COUNCIL (PAC)**

**PAC 10-09**

**September 9, 2009**

## **Policy**

### **Defining what areas of a Barge Fleeting Facility are subject to Subchapter H Part 105 security requirements**

#### **FINAL**

Issue: When the MTSA regulations were published and Facility Security Plans (FSPs) for Barge Fleet Facilities (BFFs) were written, the regulations were not uniformly applied by the Coast Guard or fleet facilities to property owned or operated by barge fleeting companies. The result was the inconsistent application and enforcement of MTSA regulations at similarly configured and/or operated BFFs. For example, some BFFs included large portions of adjacent shore-side property owned and operated by the company while others included little to none. The inclusion of shore-side property not having any applicability under 33 CFR 105.105 could result in property such as wash and towboat docks, office space and topside repair yards that would not normally be subject to MTSA regulations being identified as a secure area.

References: 33CFR105.255 & 105.296; NVIC 03-07 (3.4)

Discussion: The maritime transportation portion of a BFF at risk of being involved in a transportation security incident (TSI) (as defined in 33 CFR 105.105(a)(6)) is normally limited to the area where the regulated barges are fleeted and/or moored. A BFF is often separated from the related shore-side area by water, tree lines, and/or swamps, which constitute natural barriers to the shore-side area. In many cases, barge fleets are only accessible by vessel. Normally, land in the immediate vicinity of a BFF (whether or not controlled or operated by the barge fleet) and not involved in the transfer or storage of regulated cargo is not considered to be at risk of a TSI.

Policy: BFFs can limit their MTSA footprint to the free-floating barge tiers that fleet MTSA regulated barges. This footprint should be defined in the FSP (e.g. left descending bank Mississippi River MM 146.8 to MM 146.6 and MM 146.3 to MM 146). BFF Security Plans (FSP) will include security measures taken at all access points leading to secure and/or restricted areas. This may include accessibility to the regulated barge tiers directly from shore (i.e., no natural barrier as described in the discussion), vessels providing transportation to restricted barge tiers, and access to restricted areas that are outside of secure areas (see NVIC 03-07 (3.4 a)(3)). For example, some shore-side areas, such as a fleet boat dock, serve as embarkation points for persons needing access to a BFF. In this case, the FSP should include and/or detail access control measures provided by the facility and the vessel that ensure security of the fleet from unauthorized persons who may be transiting from non-secure areas. For the purpose of TWIC applicability, the fleet boats, crew boats, and all personnel allowed on tiered barges will be TWIC holders approved for entry by the BFF FSO or be escorted by TWIC-holder company personnel. Additionally, the FSP should include procedures for controlling Sensitive Security Information (SSI) such as the FSP and other records required by 33 CFR 105.225, using 49 CFR Parts 15 and 1520.

This PAC decision is consistent with 33 CFR 105.296(a)(4), which states that the regulated entity should control access to the barges once tied to the fleeting area by implementing TWIC as described in §105.255 of this part.