

MTSA/ISPS POLICY ADVISORY COUNCIL

December 7, 2004

Issue/Discussion/Decision Capability to Continuously Monitor 48-04

FINAL

Issue: What is the interpretation of the phrase “capability to continuously monitor” as used in 33 CFR 104.285, 105.275, and 106.275?

Discussion: The Preamble to the Final Rule (page 60496) defines the term “continuously monitor” to mean that vessel and facility owners must always be able to monitor. Application of this definition has resulted in different security postures being applied in COTP zones. In one zone, facilities are being required to monitor all portions of their property 24 hours a day. In another, facilities are left unoccupied overnight and not being monitored, but these facilities have contracted security agents in cases where more security is needed.

Decision: Vessels and facility owners are not required to provide continuous monitoring, per 33 CFR 104.285, 105.275 and 106.275. These requirements state that the vessel and facility have the *capability* to continuously monitor, which does not mean that they have to monitor at all times. Rather, it is anticipated that the vessel or facility would employ the capability to monitor the facility when MARSEC Levels are increased.

In cases where an FSP or VSP require continuous monitoring at all MARSEC Levels, that vessel or facility must meet those standards – this paper will **NOT** supersede anything written in an approved plan. Vessels or facilities that would like to change their plans to incorporate this interpretation must follow sections 33 CFR 104.415, 105.415, or 106.415, and submit required plan amendments.