

[Docket No. USCG-2013-1087]

RIN 1625-AC15

Seafarers' Access to Maritime Facilities

Public Meeting: Washington D.C.

January 23, 2015

Good morning Captain Tucci, Honorable Chair and Members of the Committee

Thank you for the opportunity to comment. My name is Ralph Gogliettino and I am the owner of Port Security Services.

I currently have the privilege of serving as an appointed member representing industry on the National Maritime Security Advisory Committee (NMSAC).

For background purposes relevant to today's discussion is the role that Port Security Services, Incorporated has played since 2003, which began by providing secure access solutions for maritime facilities and ships after 9/11 and prior to the compliance date of 33 CFR 105 coming into effect. As many here are aware, access was greatly limited for a period of time prior to 33 CFR 105 due to the lack of security measures in place to deal with the possibility of terrorist activities throughout our maritime ports of entry.

We developed our own procedures to securely vet, screen and escort personnel through facilities prior to any regulations. Thereby removing the majority of risk to facilities, and restoring essential access for individuals needing to transit through facilities back and forth to vessels. We also developed screening procedures for deliveries through facilities to ships, which had been halted.

I am not a lobbyist or an attorney and not a skilled performer in settings such as this. However, I have extensive experience in matters of port security and I have witnessed first-hand the challenges seafarers can have in receiving shore leave or in the ability to take basic shore leave. Since 2009 my company has been providing free shore leave to seafarers on the ships at the terminals that we service. We do this at no cost to the individual nor the terminal or ship.

We provide these services, making multiple trips, to accommodate seafarers watch schedules daily. I am submitting under separate SSI cover documented proof of these free shore leave

services. This is contrary to the inaccurate 2014 Shore Leave Survey performed by the New York Seamen's Church Institute. We NEVER charge for shore leave!

I believe certain portions of this NPR will create extreme security and safety risks, as well as severe financial burdens for many private property/facility owners.

As previously stated, the language of section 811 of the USCG RA 2010, which is the law passed by Congress, states "*...shall provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen's welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual*". The language of the PR should mirror the exact individuals in the language of the law passed, as congress intended. However, the proposed regulation far exceeds the language of the law by adding more categories of individuals. The regulations should not prohibit these additional individuals, but should be at the discretion of the facility and the vessel.

Both parties already allow and encourage access to individuals that are necessary to the port call operations. Regulatory language has not been needed in the past for this purpose and should not be considered now. If there is any cost associated with access for them, such cost is strictly a business matter between the ship owners and the private property terminal owners and should not be a regulatory matter.

Private property owners have certain rights. They should not be forced by regulation to allow access and incur the cost for these suggested additional individuals who want passage through their private property primarily for ship's business that has nothing to do with cargo conveyance port operations or emergency situations. Out of all this, the most concerning and alarming is the wording allowing family members of foreign seafarers access through restricted, secure, highly sensitive and in many cases extremely dangerous areas. The only exception to this are family members who are sailing with and travelling aboard the ship and have been cleared prior to do so by Customs and Border Protection.

Given the rash of recent acts of terrorism occurring world-wide and calls from extremist leaders to inflict death, destruction and mayhem in our country, we cannot expect facility operators to vet, screen and safely transit family members to and from foreign flag vessels. Security procedures for inviting in family members and all of these ~~other~~ non-essential personnel is a matter that should be controlled by individuals who have qualifications similar to TSA or Customs and Border Protection officials. There is a lot of attention on access. Let us not forget

the attention that we should have on securing our ports with the screening, vetting and everything else that 33 CFR requires of the facility. Terminal operators, by definition do not have the expertise for this. As we all know, this is a time we need to be extra vigilant. We need to continue to keep our seaports secure by limiting access only to essential individuals and providing for unfettered seafarer, representatives of seafarers welfare and labor organizations and pilot access at no cost to the individual. Limiting personnel has proved successful to our seaport security in the past. Why increase risk by straying from something that has proven historical success?

Now I will provide my comments regarding clear regulatory language.

To avoid future regulatory misinterpretations as to who bears that burden of cost, the following principal should be made clear in the regulation:

The law purposefully did not mandate whether the ship owner or terminal would bear the burden of cost for access of the specified individuals, it only mandated that it would be at no cost to the individuals. The law, by legislative negotiation, which I happened to have been involved in for many years and design purposefully did not mandate whether the ship owner or the terminal would bear the burden of cost for access of the specified individuals. In fact, the original bill introduced by Elijah Cummings exonerated ship owners from bearing the cost. Over a 2 or 3 year period that was finally negotiated out. So there is a clear legislative intent. If there is any cost associated with access for individuals, such cost is a business matter between the ship owner and the private property terminal owners and should not be a regulatory matter.

Regarding the comment period:

The comment period should be extended to 120 days to study the effects and requirements in order to make well thought out and educated comments on the proposed regulation.

Regarding “timely access”, I strongly suggest that the Captains of the Ports are encouraged not just to regulate what “timely access” is, but to work with facility owners given the unique intricacies of each operation to make sure that it is something that works.

I want to thank you for the opportunity to present my comments and I commend the USCG for its efforts to ensure shore leave.