

13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We did not receive comments regarding Indian Tribal Governments.

### Energy Effects

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order. Although it is a "significant regulatory action" under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

This final rule has a positive effect on the supply, distribution, and use of energy. The final rule provides for security assessments, plans, procedures, and standards, which will prove beneficial for the supply, distribution, and use of energy at increased levels of maritime security.

We did not receive comments regarding energy effects.

### Environment

We have considered the environmental impact of this final rule and concluded that under figure 2-1, paragraphs (34)(a), (34)(c), and (34)(d), of Commandant Instruction M16475.ID, this final rule is categorically excluded from further environmental documentation. This final rule concerns security assessments, plans, training, and the establishment of security positions that will contribute to a higher level of marine safety and security for vessels and U.S. ports. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES or SUPPLEMENTARY INFORMATION**.

This final rule will not significantly impact the coastal zone. Further, the execution of this final rule will be done in conjunction with appropriate state coastal authorities. The Coast Guard will, therefore, comply with the requirements of the Coastal Zone Management Act while furthering its intent to protect the coastal zone.

We did not receive comments regarding the environment.

### List of Subjects

#### 33 CFR Part 104

Incorporation by reference, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

#### 33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous material transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirement, Vessels, Waterways.

#### 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### 46 CFR Part 2

Marine safety, Maritime security, Reporting and recordkeeping requirements, Vessels.

#### 46 CFR Part 31

Cargo vessels, Inspection and certification, Maritime security.

#### 46 CFR Part 71

Inspection and certification, Maritime security, Passenger vessels.

#### 46 CFR Part 91

Cargo vessels, Inspection and Certification, Maritime security.

#### 46 CFR Part 115

Fire prevention, Inspection and certification, Marine safety, Maritime security, Reporting and recordkeeping requirements, Vessels.

#### 46 CFR Part 126

Cargo vessels, Inspection and certification, Marine safety, Maritime security, Reporting and recordkeeping requirements.

#### 46 CFR Part 176

Fire prevention, Inspection, Marine safety, Maritime security, Reporting and recordkeeping requirements, Vessels.

■ Accordingly, the interim rule adding 33 CFR part 104 and amending 33 CFR parts 160 and 165, and 46 CFR parts 2, 31, 71, 91, 115, 126, and 176 that was published at 68 FR 39292 on July 1, 2003, and amended at 68 FR 41915 on July 16, 2003, is adopted as a final rule with the following changes:

### 33 CFR Chapter I

#### PART 104—MARITIME SECURITY: VESSELS

■ 1. The authority citation for part 104 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise the heading to part 104 to read as shown above.

■ 3. In § 104.105—

■ a. Revise paragraphs (a)(1) through (a)(10);

■ b. Add new paragraph (a)(11); and

■ c. Revise paragraph (c) to read as follows:

#### § 104.105 Applicability.

(a) \* \* \*

(1) Mobile Offshore Drilling Unit (MODU), cargo, or passenger vessel subject to the International Convention for Safety of Life at Sea, 1974, (SOLAS), Chapter XI;

(2) Foreign cargo vessel greater than 100 gross register tons;

(3) Self-propelled U.S. cargo vessel greater than 100 gross register tons subject to 46 CFR subchapter I, except commercial fishing vessels inspected under 46 CFR part 105;

(4) Vessel subject to 46 CFR chapter I, subchapter L;

(5) Passenger vessel subject to 46 CFR chapter I, subchapter H;

(6) Passenger vessel certificated to carry more than 150 passengers;

(7) Other passenger vessel carrying more than 12 passengers, including at least one passenger-for-hire, that is engaged on an international voyage;

(8) Barge subject to 46 CFR chapter I, subchapters D or O;

(9) Barge subject to 46 CFR chapter I, subchapter I, that carries Certain Dangerous Cargoes in bulk, or that is engaged on an international voyage;

(10) Tankship subject to 46 CFR chapter I, subchapters D or O; and

(11) Towing vessel greater than eight meters in registered length that is engaged in towing a barge or barges subject to this part, except a towing vessel that—

(i) Temporarily assists another vessel engaged in towing a barge or barges subject to this part;

(ii) Shifts a barge or barges subject to this part at a facility or within a fleeting facility;

(iii) Assists sections of a tow through a lock; or

(iv) Provides emergency assistance.

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(c) Foreign Vessels that have on board a valid International Ship Security