

facilities be allowed to deviate from the requirements in § 105.220. Two commenters stated that exercises should be a company-wide test of a company's security readiness. One commenter requested a waiver from the three drills per year requirement, based upon facility size.

We disagree that exercises should be exclusively tabletop exercises. Under § 105.220(c), exercises may be full scale or live, tabletop simulation, or seminar or combined with other appropriate exercises as stated in § 105.220(c)(2)(i–iii). Section 105.220(b) provides enough flexibility for drills to allow them to be incorporated into daily operations. We do not disagree that a drill may be accomplished in a one-hour period but believe that the length of time would actually depend on which portion of the security plan the drill is testing. Therefore, we did not constrict or prescribe a drill time-length in the regulation. We believe that annual exercises are necessary for each facility to maintain an adequate level of security readiness. These security exercises, however, may be part of a cooperative exercise program with applicable facility and vessel security plans or comprehensive port exercises as stated in § 105.220(c)(3). We agree that the exercises should be a company-wide test of a company's security readiness in its areas of operation. Additionally, any facility owner or operator may request a waiver from any of the security requirements, in light of the operating conditions of the facility, in accordance with § 105.130.

Four commenters suggested that security drills are not needed when the only option is to call “911.”

Although calling “911” may test one element of the Facility Security Plan, additional drills are required to cover the other elements of the Facility Security Plan to ensure its effective implementation.

Nine commenters stated that companies should be able to take credit toward fulfilling the drill and exercise requirements for actual incidents or threats, as under § 103.515.

We agree that, during an increased MARSEC Level, vessel and facility owners and operators may be able to take credit for implementing the higher security measures in their security plans. However, there are cases where a vessel or facility implementing a Vessel or Facility Security Plan may not attain the higher MARSEC Level or otherwise not be required to implement sufficient provisions of the plan to qualify as an exercise. Therefore, we have amended parts 104, 105, and 106 to allow an actual increase in MARSEC Level to be

credited as a drill or an exercise if the increase in MARSEC Level meets certain parameters. In the case of OCS facilities, this type of credit must be approved by the Coast Guard in a manner similar to the provision found in § 103.515 for the AMS Plan requirements.

One commenter stated that the language in § 105.225, regarding recordkeeping, does not specify where the records should be kept. The commenter stated that it is presumed that such records may be kept off-site in a secure location accessible to the Facility Security Officer and other appropriate personnel. One commenter asked for clarification of sensitive security information because there is no suitable place for such information to be protected on board an unmanned vessel. One commenter recommended that records be kept onshore and not on board the vessel.

Sections 104.235(a) and 105.225(a) state that the records must be made available to the Coast Guard upon request, and §§ 104.235(c) and 105.225(c) state that the records must be protected from unauthorized access. Therefore, a facility or vessel owner or operator must ensure that records are kept safely and also are available for inspection by the Coast Guard upon request, but the records do not necessarily have to be kept at the facility or on the vessel.

One commenter asked for a definition of “security equipment” and suggested using the term “security system” instead. The commenter also asked how much detail must be included in records of maintenance, calibration, and testing.

Depending on how a facility owner or operator decides to implement the security measures of this part, either term would be appropriate. Some may choose to install stand-alone equipment, while others may choose to have an integrated security system. We did not prescribe specific details for recordkeeping of security equipment because of the diverse possibilities of implementation. The intent of the recordkeeping requirements in § 105.225 was to keep a general log of calibration, testing, and maintenance performed.

Two commenters recommended that a sentence be added to the end of § 105.225(b)(1) that reads: “Short domain awareness and other orientation type training that may be given to contractor and other personnel temporarily at the facility and not involved in security functions need not be recorded.” The commenters stated that this change would eliminate the

unnecessary recordkeeping for this general “domain awareness” training.

We agree that the recordkeeping requirements in § 105.225 for training are broad and may capture training that, while necessary, does not need to be formally recorded. Therefore, we have amended the requirements in § 105.225(b)(1) to only record training held to meet § 105.210. We have also made corresponding changes to §§ 104.235(b)(1) and 106.230(b)(1).

Six commenters stated that the majority of the recordkeeping requirements for facilities and OCS facilities were overly burdensome and unnecessary. One commenter suggested adding exemptions to § 105.110(b) to exempt public access areas from the recordkeeping requirements under §§ 105.225(b)(3), (b)(4), (e)(8) and (e)(9).

We disagree with the commenters. Recordkeeping serves the vital function of documenting compliance with the regulations. We also disagree that exemptions from the recordkeeping requirements are appropriate for public access areas. We note that there is no § 105.225(e).

We received 28 comments regarding communication of changes in the MARSEC Levels. Most commenters were concerned about the Coast Guard's capability to communicate timely changes in MARSEC Levels to facilities and vessels. Some stressed the importance of MARSEC security information reaching each port area in the COTP's zone and the entire maritime industry. Some stated that local Broadcast Notice to Mariners and MARSEC Directives are flawed methods of communication and stated that the only acceptable ways to communicate changes in MARSEC Levels, from a timing standpoint, are via email, phone, or fax as established by each COTP.

MARSEC Level changes are generally issued at the Commandant level and each Marine Safety Office (MSO) will be able to disseminate them to vessel and facility owners or operators, or their designees, by various ways. Communication of MARSEC Levels will be done in the most expeditious means available, given the characteristics of the port and its operations. These means will be outlined in the AMS Plan and exercised to ensure vessel and facility owners and operators, or their designees, are able to quickly communicate with us and vice-versa. Because MARSEC Directives will not be as expeditiously communicated as other COTP Orders and are not meant to communicate changes in MARSEC Levels, we have amended § 101.300 to remove the reference to MARSEC Directives.