

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) and (34)(c), of Commandant Instruction M16475.1D, this 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 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.

List of Subjects in 33 CFR Part 105

Facilities, Maritime security, Reporting and recordkeeping requirements, Security measures.

Dated: October 8, 2003.

Thomas H. Collins

Admiral, Coast Guard, Commandant.

■ Accordingly, the interim rule adding 33 CFR part 105 that was published at 68 FR 39315 on July 1, 2003, and amended at 68 FR 41916 on July 16, 2003, is adopted as a final rule with the following changes:

PART 105—MARITIME SECURITY: FACILITIES

■ 1. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 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 105 to read as shown above.

■ 3. In § 105.105—

■ a. Revise paragraphs (a)(2), (a)(3), and (a)(4) to read as set out below;

■ b. Add paragraphs (a)(5) and (a)(6) to read as set out below;

■ c. Revise paragraphs (c)(1) and (c)(3)(i) to read as set out below;

■ d. Remove paragraph (c)(3)(ii);

■ e. Redesignate paragraph (c)(3)(iii) as paragraph (c)(3)(ii):

§ 105.105 Applicability.

(a) * * *

(2) Facility that receives vessels certificated to carry more than 150 passengers, except those vessels not carrying and not embarking or disembarking passengers at the facility;

(3) Facility that receives vessels subject to the International Convention for Safety of Life at Sea, 1974, chapter XI;

(4) Facility that receives foreign cargo vessels greater than 100 gross register tons;

(5) Facility that receives U.S. cargo vessels, greater than 100 gross register tons, subject to 46 CFR chapter I, subchapter I, except for those facilities that receive only commercial fishing vessels inspected under 46 CFR part 105; or

(6) Barge fleeting facility that receives barges carrying, in bulk, cargoes regulated by 46 CFR chapter I, subchapters D or O, or Certain Dangerous Cargoes.

* * * * *

(c) * * *

(1) A facility owned or operated by the U.S. that is used primarily for military purposes.

* * * * *

(3) * * *

(i) The facility is engaged solely in the support of exploration, development, or production of oil and natural gas and transports or stores quantities of hazardous materials that do not meet or exceed those specified in 49 CFR 172.800(b)(1) through (b)(6); or

* * * * *

■ 4. In § 105.106—

■ a. Revise paragraph (a), to read as set out below; and

■ b. In paragraph (b), after the word “provides”, add the word “pedestrian”.

§ 105.106 Public access areas.

(a) A facility serving ferries or passenger vessels certificated to carry more than 150 passengers, other than cruise ships, may designate an area within the facility as a public access area.

* * * * *

■ 5. In § 105.110, revise paragraph (b) and add paragraphs (c), (d), and (e) to read as follows:

§ 105.110 Exemptions.

* * * * *

(b) A public access area designated under § 105.106 is exempt from the requirements for screening of persons, baggage, and personal effects and identification of persons in § 105.255(c), (e)(1), (e)(3), (f)(1), and (g)(1) and § 105.285(a)(1).

(c) An owner or operator of any general shipyard facility as defined in § 101.105 is exempt from the requirements of this part unless the facility:

(1) Is subject to parts 126, 127, or 154 of this chapter; or

(2) Provides any other service to vessels subject to part 104 of this subchapter not related to construction, repair, rehabilitation, refurbishment, or rebuilding.

(d) *Public access facility.* (1) The COTP may exempt a public access facility from the requirements of this part, including establishing conditions for which such an exemption is granted, to ensure that adequate security is maintained.

(2) The owner or operator of any public access facility exempted under this section must:

(i) Comply with any COTP conditions for the exemption; and

(ii) Ensure that the cognizant COTP has the appropriate information for contacting the individual with security responsibilities for the public access facility at all times.

(3) The cognizant COTP may withdraw the exemption for a public access facility at any time the owner or operator fails to comply with any requirement of the COTP as a condition of the exemption or any measure ordered by the COTP pursuant to existing COTP authority.

(e) An owner or operator of a facility is not subject to this part if the facility receives only vessels to be laid-up, dismantled, or otherwise placed out of commission provided that the vessels are not carrying and do not receive cargo or passengers at that facility.

■ 6. In § 105.115—

■ a. Revise paragraph (a) to read as set out below; and