

regulations state that the security plan must be audited if there have been significant modifications to the vessel or facility, including, but not limited to, their physical structure, emergency response procedures, security measures, or operations. These all represent significant modifications. Therefore, we are not going to create an exception in the regulation. We recognize that the regulations requiring that proposed amendments to security plans be submitted for approval 30 days before implementation could be construed as an impediment to taking necessary security measures in a timely manner. The intent of this requirement is to ensure that amendments to the security plans are reviewed to ensure they are consistent with and supportable by the security assessments. It is not intended to be, nor should it be, interpreted as precluding the owner or operator from the timely implementation of additional security measures above and beyond those enumerated in the approved security plan to address exigent security situations. Accordingly we have amended §§ 104.415, 105.415, and 106.415 to add a clause that allows for the immediate implementation of additional security measures to address exigent security situations.

Additional Changes

During our review of this part, we noted that a section required a non-substantive editorial change, such as accurately completing a list. The section is § 106.275(a)(1). In addition, the part heading in this part has been amended to align with all the part headings within this subchapter.

Regulatory Assessment

This final rule is a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review. The Office of Management and Budget has reviewed it under that Order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. It is significant under the regulatory policies and procedures of the Department of Homeland Security. A final assessment is available in the docket as indicated under **ADDRESSES**. A summary of the comments on the assessment, our responses, and a summary of the assessment follow.

One commenter suggested taking into greater account the risk factors of the facility and vessel as a whole, rather than simply relying on one factor, such as the capacity of a vessel as well as the cost-benefit of facility security to all of the business entities that make up a facility.

The Coast Guard considered an extensive list of risk factors when developing these regulations including, but not limited to, vessel and facility type, the nature of the commerce in which the entity is engaged, potential trade routes, accessibility of facilities, gross tonnage, and passenger capacity. Our Cost Assessments and Regulatory Flexibility Act Analyses for both the temporary interim rules and the final rules are available in the docket, and they account for companies as whole business entities, not individual vessels or facilities.

Cost Assessment

For the purposes of good business practice or pursuant to regulations promulgated by other Federal and State agencies, many companies already have spent a substantial amount of money and resources to upgrade and improve security. The costs shown in this assessment do not include security measures these companies have already taken to enhance security. Because the changes in this final rule do not affect the original cost estimates presented in the temporary interim rule (68 FR 39341) (part 106), the costs remain unchanged.

The Coast Guard realizes that every company engaged in maritime commerce will not implement this final rule exactly as presented in the assessment. Depending on each company's choices, some companies could spend much less than what is estimated herein while others could spend significantly more. In general, the Coast Guard assumes that each company will implement this final rule differently based on the types of OCS facilities it owns or operates and whether it engages in international or domestic trade.

This final rule will affect about 40 OCS facilities under U.S. jurisdiction, (current and future OCS facilities). These OCS facilities engage in exploring for, developing, or producing oil, natural gas, or mineral resources. To determine the number of OCS facilities, we used data that the Mineral Management Service (MMS) has identified as nationally critical OCS oil and gas infrastructure. These OCS facilities meet or exceed any of the following operational threshold characteristics:

- (1) OCS facility hosts more than 150 persons for 12 hours or more in each 24-hour period continuously for 30 days or more;
- (2) Production greater than 100,000 (one hundred thousand) barrels of oil per day; or

- (3) Production greater than 200,000,000 (two hundred million) cubic feet of natural gas per day.

The estimated cost of complying with the final rule is present value \$37 million (2003–2012, 7 percent discount rate). In the first year of compliance, the cost of security assessments and plans, training, personnel, and paperwork is an estimated \$3 million (non-discounted). Following initial implementation, the annual cost of compliance is an estimated \$5 million (non-discounted).

Approximately 80 percent of the initial cost of the final rule is for assigning and establishing Company Security Officers and Facility Security Officers, 12 percent is associated with paperwork creating Facility Security Assessments and Facility Security Plans, and 8 percent of the cost is associated with initial training (not including quarterly drills). Following the first year, approximately 58 percent of the cost is training (including quarterly drills), 42 percent is for Company Security Officers and Facility Security Officers, and less than 1 percent is associated with paperwork. Annual training (including quarterly drills) is the primary cost driver of OCS facility security.

We estimated approximately 3,200 burden hours for paperwork during the first year of compliance (40 hours for each Facility Security Assessment and each Facility Security Plan). We estimated approximately 160 burden hours annually following full implementation of the final rule to update Facility Security Assessments and Facility Security Plans.

We estimated the cost of this final rule to be minimal in comparison to vessel and non-OCS facility security implementation. This final rule includes only personnel, training, and paperwork costs for the affected OCS facility population. We assume the industry is adequately prepared with equipment suited to be used for security purposes (lights, radios, communications), therefore no security equipment installation, upgrades, or maintenance will be required for this final rule.

Benefit Assessment

This final rule is one of six final rules that implement national maritime security initiatives concerning General Provisions, Area Maritime Security, Vessels, Facilities, OCS Facilities, and AIS. The Coast Guard used the National Risk Assessment Tool (N-RAT) to assess benefits that would result from increased security for vessels, facilities, OCS facilities, and areas. The N-RAT considers threat, vulnerability, and consequences for several maritime