

MTSA Regulations found at 33 CFR Subchapter H
Part 105-FACILITIES.

#35-04 JUN 3, 2004---POLICY ADVISORY COUNCIL FAQ

Q. Can a public access facility receive tenders from foreign-flagged cruise ships?

Ans. 33 CFR 101.105 defines Public Access Facility. This definition states that such a facility may receive only:

- (i) vessels not subject to part 104 of this chapter; or
- (ii) Passenger vessels, except ferries certificated to carry vehicles, cruise ships, or passenger vessels subject to SOLAS Chapter XI.

Guidance found in the Policy Advisory Council decision 24-04 of March 25, 2004 states facilities that receive tenders from foreign flagged cruise vessels must be regulated under 33 CFR Part 105 and must submit a Facility Security Plan. Therefore, a facility that receives tenders from foreign flagged cruise vessels can not be designated as a Public Access Facility. They are required to submit a Facility Security Plan.

The facility has the option to implement variable security measures for the periods of time that it is not involved in MTSA operations, see Policy Advisory Council Issue Paper 05-03 (Intermittent Operations). While facility owner and operator must comply with each applicable section of the regulations, the facility security assessment and plan need only mitigate the vulnerabilities associated with the passenger operations and may only need to be applied prior to and during vessel arrivals.

The facility also has the option of designating a small area within the facility that minimizes passenger interface and thereby requiring security for a limited portion of that facility. Despite the fact that a foreign-flagged tender may carry a Certificate of Inspection issued by the U.S. Coast Guard, it will not be considered a U.S. vessel, and will not be permitted to use a public access facility.

Note: For further guidance, a facility owner/operator should contact their local Captain of the Port (COTP/FMSC).