

Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This interim rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this interim rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. While this interim rule is an economically significant rule, it does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This interim rule does not have tribal implications under Executive Order 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.

#### Energy Effects

We have analyzed this interim 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 interim rule has a positive effect on the supply, distribution, and use of energy. The interim 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.

#### Trade Impact Assessment

The Trade Agreement Act of 1979 (19 U.S.C. 2501–2582) prohibits Federal agencies from engaging in any standards or related activities that create

unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The Act also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. We have assessed the potential effect of this interim rule and have determined that it would likely create obstacles to the foreign commerce of the U.S. However, because these regulations are being put in place in order to further a legitimate domestic objective, namely to increase the security of the U.S., any obstacles created by the regulation are not considered unnecessary obstacles.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(a) and (34)(c), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. This interim 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 rulemaking will not significantly impact the coastal zone. Further, the rulemaking and the execution of this 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: June 23, 2003.

**Thomas H. Collins,**

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■ For the reasons discussed in the preamble, the Coast Guard adds part 105 to subchapter H of chapter I of title 33 in the CFR to read as follows:

### PART 105—FACILITY SECURITY

#### Subpart A—General

- Sec.
- 105.100 Definitions.
- 105.105 Applicability.
- 105.106 Public access areas.
- 105.110 Exemptions.
- 105.115 Compliance dates.
- 105.120 Compliance documentation.

- 105.125 Noncompliance.
- 105.130 Waivers.
- 105.135 Equivalents.
- 105.140 Alternative Security Program.
- 105.145 Maritime Security (MARSEC) Directive.
- 105.150 Right to appeal.

#### Subpart B—Facility Security Requirements

- 105.200 Owner or operator.
- 105.205 Facility Security Officer (FSO).
- 105.210 Facility personnel with security duties.
- 105.215 Security training for all other facility personnel.
- 105.220 Drill and exercise requirements.
- 105.225 Facility recordkeeping requirements.
- 105.230 Maritime Security (MARSEC) Level coordination and implementation.
- 105.235 Communications.
- 105.240 Procedures for interfacing with vessels.
- 105.245 Declaration of Security (DoS).
- 105.250 Security systems and equipment maintenance.
- 105.255 Security measures for access control.
- 105.260 Security measures for restricted areas.
- 105.265 Security measures for handling cargo.
- 105.270 Security measures for delivery of vessel stores and bunkers.
- 105.275 Security measures for monitoring.
- 105.280 Security incident procedures.
- 105.285 Additional requirements—passenger and ferry facilities.
- 105.290 Additional requirements—cruise ship terminals.
- 105.295 Additional requirements—Certain Dangerous Cargo (CDC) facilities.
- 105.296 Additional requirements—barge fleeting facilities.

#### Subpart C—Facility Security Assessment (FSA)

- 105.300 General.
- 105.305 Facility Security Assessment (FSA) requirements.
- 105.310 Submission requirements.

#### Subpart D—Facility Security Plan (FSP)

- 105.400 General.
- 105.405 Format and content of the Facility Security Plan (FSP).
- 105.410 Submission and approval.
- 105.415 Amendment and audit.

Appendix A to part 105—Facility Vulnerability and Security Measure Summary (CG–6025).

**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.

#### Subpart A—General

##### § 105.100 Definitions.

Except as specifically stated in this subpart, the definitions in part 101 of this subchapter apply to this part.