

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

#### 6 CFR Part 25

[USCG–2003–15425]

RIN 1601-AA15

### Regulations Implementing the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 (the SAFETY Act)

**AGENCY:** Office of the Secretary, Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would implement Subtitle G of Title VIII of the Homeland Security Act of 2002—the Support of Anti-terrorism by Fostering Effective Technologies Act of 2002 (“the SAFETY Act” or “the Act”). As discussed in detail below, the SAFETY Act, through regulations promulgated by the Department of Homeland Security (“the Department”), will provide critical incentives for the development and deployment of anti-terrorism technologies by providing liability protections for Sellers of “qualified anti-terrorism technologies” and others.

**DATES:** Comments and related material must reach the Docket Management Facility on or before August 11, 2003.

**ADDRESSES:** You may submit comments identified by docket number USCG–2003–15425 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

- (1) Web site: <http://dms.dot.gov>.
- (2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.
- (3) Fax: 202–493–2251.
- (4) Delivery: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- (5) Federal Rulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Wendy Howe, Directorate of Science and Technology, Department of Homeland Security, telephone 202–772–9887. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

## SUPPLEMENTARY INFORMATION

### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT’s “Privacy Act” paragraph below.

**Submitting comments:** If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG–2003–15425), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Viewing comments and documents:** To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation’s Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

### Public Meeting

We do not now plan to hold a public meeting. You may, however, submit a

request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Regulatory Background and Analysis

The Department intends to implement the SAFETY Act as quickly as possible. Our twin aims are these:

- (1) To produce by regulation as much certainty as possible regarding the application of the liability protections created by the Act;
- (2) To provide the Department with sufficient program flexibility to address the specific circumstances of each particular request for SAFETY Act coverage.

The Department does not intend to resolve every conceivable programmatic issue through this proposed rule. Instead, the Department will set out a basic set of regulations and commence the implementation of the SAFETY Act program while considering possible supplemental regulations as experience with the Act grows.

The Department invites comment on all aspects of these proposed regulations and on the policies that underlie them. The initial comment period is relatively brief (30 days) in order to permit the Department to begin implementation of this critical program as soon as possible. After reviewing the comments, the Department may issue an interim final rule and seek additional comment on some or all aspects of the program. In any event, the Department will begin implementation of the SAFETY Act immediately with regard to Federal acquisitions of anti-terrorism technologies and will begin accepting other SAFETY Act applications on September 1, 2003.

### Background

As part of the Homeland Security Act of 2002, Public Law 107–296, Congress enacted several liability protections for providers of anti-terrorism technologies. The SAFETY Act provides incentives for the development and deployment of anti-terrorism technologies by creating a system of “risk management” and a system of “litigation management.” The purpose of the Act is to ensure that the threat of liability does not deter potential manufacturers or Sellers of anti-terrorism technologies from developing and commercializing technologies that could save lives. The Act thus creates certain liability limitations for “claims arising out of, relating to, or resulting from an act of