

the regulatory action as required by the Act because it is necessary for the national security of the United States (2 U.S.C. 1503(5)). We did not receive comments regarding the Unfunded Mandates Reform Act.

#### Taking of Private Property

This final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. We did not receive comments regarding the taking of private property.

#### Civil Justice Reform

This final 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. We did not receive comments regarding Civil Justice Reform.

#### Protection of Children

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

#### Indian Tribal Governments

This final 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. We did not receive comments regarding Indian Tribal Governments.

#### Energy Effects

We have analyzed this final 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 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 MARSEC Levels. We did not receive comments regarding energy effects.

#### Environment

We have considered the environmental impact of this final rule and concluded that, under Commandant Instruction M16475.ID, there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this final rule is categorically excluded, under figure 2-1, paragraphs (34)(a), (34)(c), (34)(d), and (34)(e) of the Instruction from further environmental documentation.

This final rule concerns security assessments, plans, training, positions, and organizations along with vessel equipment requirements 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 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. We did not receive comments regarding the environment.

#### List of Subjects

##### 33 CFR Part 2

Administrative practice and procedure, Law enforcement.

##### 33 CFR Part 101

Facilities, Harbors, Maritime security, Ports, Security assessments, Security plans, Reporting and recordkeeping requirements, Vessels, Waterways.

##### 33 CFR Part 102

Maritime security.

■ Accordingly, the Coast Guard amends 33 CFR part 2 as follows and the interim rule adding 33 CFR parts 101 and 102 that was published at 68 FR 39240 on July 1, 2003, and amended at 68 FR 41914 on July 16, 2003, is adopted as a final rule with the following changes:

## PART 2—JURISDICTION

■ 1. Revise the authority citation for part 2 to read as follows:

**Authority:** 14 U.S.C. 633; 33 U.S.C. 1222; Pub. L. 89-670, 80 Stat. 931, 49 U.S.C. 108; Pub. L. 107-296, 116 Stat. 2135, 2249, 6 U.S.C. 101 note and 468; Department of Homeland Security Delegation No. 0170.1.

### § 2.22 [Amended]

■ 2. In § 2.22(a)(1)(i), after the words "within subtitle II", add the words "and subtitle VI".

## PART 101—MARITIME SECURITY: GENERAL

■ 3. The authority citation for part 101 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05-1, 6.04-11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 4. Revise the heading to part 101 to read as shown above.

■ 5. In § 101.100, in the introductory text of paragraph (a), remove the word "part" and add, in its place, the word "subchapter", and add new paragraph (c) to read as follows:

### § 101.100 Purpose.

\* \* \* \* \*

(c) The assessments and plans required by this subchapter are intended for use in implementing security measures at various MARSEC Levels. The specific security measures and their implementation are planning criteria based on a set of assumptions made during the development of the security assessment and plan. These assumptions may not exist during an actual transportation security incident.

■ 6. In § 101.105—

■ a. In the definition of "Barge fleeting facility", remove the word "permitted" and add, in its place, the words "subject to permitting", and, after the words "33 CFR part 322", add the words ", part 330, or pursuant to a regional general permit";

■ b. In the definition of "Cargo", at the end of the paragraph, add the words "except dredge spoils";

■ c. In the definition for "Certain Dangerous Cargo (CDC)", remove the text "33 CFR 160.203" and add, in its place, the text "33 CFR 160.204";

■ d. In the definition of "Company Security Officer (CSO)", remove the text "OSC" wherever it appears, and add, in its place, the text "OCS" and remove the word "COTP" and add, in its place, the words "Coast Guard";

■ e. In the definition for "Declaration of Security (DoS)", remove the word