

assessments and surveys, implement security measures specific to the facility's operations, and comply with Maritime Security Levels. This rule is one in a series of final rules on maritime security in today's **Federal Register**. To best understand this rule, first read the final rule titled "Implementation of National Maritime Security Initiatives" (USCG-2003-14792), published elsewhere in today's **Federal Register**.

DATES: This final rule is effective November 21, 2003. On July 1, 2003, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this final rule.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2003-14732 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call Lieutenant Gregory Purvis (G-MPS-1), U.S. Coast Guard by telephone 202-267-1072 or by electronic mail gpurvis@comdt.uscg.mil. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, at telephone 202-366-0271.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 1, 2003, we published a temporary interim rule with request for comments and notice of public meeting titled "Facility Security" in the **Federal Register** (68 FR 39315). This temporary interim rule was one of a series of temporary interim rules on maritime security published in the July 1, 2003, issue of the **Federal Register**. On July 16, 2003, we published a document correcting typographical errors and omissions in that rule (68 FR 41916).

We received a total of 438 letters in response to the six temporary interim rules by July 31, 2003. The majority of these letters contained multiple comments, some of which applied to the docket to which the letter was submitted, and some of which applied to a different docket. For example, we received several letters in the docket for the temporary interim rule titled "Implementation of National Maritime

Security Initiatives" that contained comments in that temporary interim rule, plus comments on the "Facility Security" temporary interim rule. We have addressed individual comments in the preamble to the appropriate final rule. Additionally, we had several commenters submit the same letter to all six dockets. We counted these duplicate submissions as only one letter, and we addressed each comment within that letter in the preamble for the appropriate final rules. Because of statutorily imposed time constraints for publishing these regulations, we were unable to consider comments received after the period for receipt of comments closed on July 31, 2003.

A public meeting was held in Washington, DC, on July 23, 2003 and approximately 500 people attended. Comments from the public meeting are also included in the "Discussion of Comments and Changes" section of this preamble.

In order to focus on the changes made to the regulatory text since the temporary interim rule was published, we have adopted the temporary interim rule and set out, in this final rule, only the changes made to the temporary interim rule. To view a copy of the complete regulatory text with the changes shown in this final rule, see <http://www.uscg.mil/hq/g-m/mp/index.htm>.

Background and Purpose

A summary of the Coast Guard's regulatory initiatives for maritime security can be found under the "Background and Purpose" section in the preamble to the final rule titled "Implementation of National Maritime Security Initiatives" (USCG-2003-14792), published elsewhere in this issue of the **Federal Register**.

Impact on Existing Domestic Requirements

33 CFR part 128, Security of Passenger Terminals, currently exists but applies only to cruise ship terminals. Until July 2004, 33 CFR part 128 will remain in effect. Facilities that were required to comply with part 128 must now also meet the requirements of this part, including § 105.290, titled "Additional requirements—cruise ship terminals." The requirements in § 105.290 generally capture the existing requirements in part 128 that are specific for cruise ship terminals and capture additional detail to comply with the requirements of SOLAS Chapter XI-2 and the ISPS Code.

Discussion of Comments and Changes

Comments from each of the temporary interim rules and from the public meeting held on July 23, 2003, have been grouped by topic and addressed within the preambles to the applicable final rules. If a comment applied to more than one of the six rules, we discussed it in the preamble to each of the final rules that it concerned. For example, discussions of comments that requested clarification or changes to the Declaration of Security procedures are duplicated in the preambles to parts 104, 105, and 106. Several comments were submitted to a docket that included topics not addressed in that particular rule, but were addressed in one or more of the other rules. This was especially true for several comments submitted to the docket of part 101 (USCG-2003-14792). In such cases, we discussed the comments only in the preamble to each of the final rules that concerned the topic addressed.

Subpart A—General

This subpart contains provisions concerning applicability, waivers, and other subjects of a general nature applicable to part 105.

One commenter stated the public access area was a very well thought out concept. Another commenter stated that the thresholds and exempted facilities specified in § 105.105 should remain as written.

One commenter requested that § 105.105(a)(2) be revised, stating that the security requirements of facilities should be based on the terminal's size and capacity alone, rather than on the number of passengers a vessel is certificated to carry.

While a terminal's size or capacity is a way to determine applicability, we chose to focus on vessel interface and cargo handling activities because this method is consistent with the conceptual applicability standards employed internationally. When we focused on vessel-to-facility interfaces, our risk assessment showed that vessels certificated to carry over 150 passengers, and the facilities servicing them, may be involved in a transportation security incident.

Two commenters requested clarification on our reference to International Convention for Safety of Life at Sea, 1974, (SOLAS) and facility applicability. One commenter stated that because the applicability of the various chapters of SOLAS is not consistent, it is necessary to specify particular chapters in SOLAS to define the applicability of this regulation to U.S. flag vessels. The commenter