

MTSA Regulations found at 33 CFR Subchapter H
Part 105—Facilities.

#11-04 JANUARY 15, 2004---POLICY ADVISORY COUNCIL FAQ

Q. What is required for the owner or operator of a facility who should have submitted a security plan by the December 31, 2003 deadline but failed to do so because the facility was shut down at that time but has now decided to resume its operations? Is the owner or operator subject to a civil penalty action because a security plan was not submitted by the December 31, 2003 deadline?

Ans. If a facility operated at any time before December 31, 2003, the owner or operator was required to submit a facility security plan for review and approval by December 31, 2003 even if the facility was not operating on that date. 33 CFR 105.410 (b) states that “Owners or operators of facilities not in service on or before December 31, 2003, must comply with the requirements in paragraph (a) of this section 60 days prior to beginning operations or by December 31, 2003, whichever is later.” Therefore, any facility owner or operator that operated a facility prior to December 31, 2003, should have submitted a security plan in accordance with 33 CFR 105.410 (b) and failure to have done so may subject the owner or operator to a civil penalty action.

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