

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; Feb. 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that there have been only 8 requests to open this bridge in the last ten years. The Coast Guard believes this proposed rule achieves the requirement of balancing both the needs of navigation and the bridge owners responsibility to crew the bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for

federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. NJDOT will be effected by this rule in so far as they will continue to be required to maintain the operating machinery of the bridge. The continued maintenance of the operating machinery of the bridge will not result in a new expenditure of public funds but will merely be a continuation of their requirement to maintain the bridge in good operable condition. This rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2-1, paragraph 32(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 449; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. In § 117.739, redesignate paragraphs (j) and (k) as paragraphs (k) and (j); amend newly redesignated

paragraph (k) by removing the number "6.9" and adding, in its place, the number "8.9"; and revise paragraph (h) to read as follows:

§ 117.739 Passaic River

* * * * *

(h) The Route 280 Bridge, mile 5.8, at Harrison, New Jersey, shall open on signal after a twenty four hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: October 19, 1998.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 98-29046 Filed 10-28-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 126

[USCG-1998-4302]

RIN 2115-AE22

Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations covering waterfront facilities handling dangerous cargoes. Current regulations would be updated to reflect improved safety procedures and modern transportation methods, such as the use of containers. This proposed rule would also update the requirements for the handling of these hazardous materials and incorporate industry standards.

DATES: Comments must reach the Coast Guard on or before December 28, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG-1998-4302), U.S. Department of Transportation (DOT), room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001, or deliver them to room PL-401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at

room PL-401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this rulemaking on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

For information on the public docket, contact Ms. Pat Chesley, Coast Guard Dockets Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone (202) 366-9329. For information concerning the notice of proposed rulemaking provisions, contact LCDR John Farthing, Vessel and Facility Operating Standards Division (G-MSO-2), room 1210, (202) 267-6451, between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. E-mail address is jfarthing@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this proposed rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this proposed rulemaking (USCG-1998-4302) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. You may request a public hearing by submitting requests to the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this proposed rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The regulations in 33 CFR part 126 prescribe requirements for designated waterfront facilities that handle, store, and transfer hazardous materials to and from vessels. The regulations were written in the 1950s and have not been

significantly updated. On September 4, 1990, the Coast Guard published a final rule (55 FR 36252) amending part 126 to exclude its application to bulk liquid hazardous materials, other than certain liquefied gases. On August 3, 1995, the Coast Guard published a final rule (60 FR 39788) further amending part 126 to exclude its application to the remaining liquefied gases and to transfer the requirements for the control of liquefied hazardous gas transfers from 33 CFR 126.15(o) to 33 CFR part 127. As amended, part 126 applies only to facilities handling packaged and dry bulk hazardous materials.

On January 13, 1993, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) (58 FR 4127) requesting comments on proposed changes to 33 CFR part 126. The Coast Guard received 11 comments in response to the ANPRM and considered them in drafting this notice.

The Coast Guard proposes to amend part 126 to better address the hazards and precautions necessary for packaged hazardous materials, which have changed significantly with the advent of containerization. This notice also proposes to incorporate up-to-date industry standards.

Discussion of Proposed Rule

This proposed rule would set minimum safety standards for the operation of waterfront facilities transferring packaged and bulk solid hazardous materials to and from vessels. It would not preempt State and local governments from prescribing standards of their own.

All measurements in this proposed rule are in Système International D'Unités (SI) units with the English measurement following in parentheses. The Omnibus Trade and Competitive Act of 1988 (Pub. L. 100-418) designates the SI system as the preferred system of weights and measurements for United States trade and commerce. The American Society of Testing and Materials (ASTM) and the American Society of Mechanical Engineers (ASME) also support the conversion to metric standards.

Section 126.01 would add definitions for the terms *Break-bulk*, *Bulk*, *Container* or *freight container*, and *Transport unit*.

Section 126.03 would incorporate certain standards of ASTM and the National Fire Protection Association (NFPA) to prevent the creation of regulations which duplicate established industry standards.

Section 126.12 would allow the local Captain of the Port (COTP) to examine alternative procedures, methods, or

equipment standards to be used by an operator if a required standard is physically or economically impracticable, and if an equivalent level of safety can otherwise be provided.

Section 126.15 would revise the current section to recognize the different requirements for container terminals and other designated waterfront facilities. Paragraph 126.15(a) would establish the requirements for those facilities handling break-bulk dangerous cargo, and paragraph 126.15(b) would establish the requirements for container terminals. Paragraphs 126.15(c) through 126.15(n) would apply to all designated waterfront facilities. In keeping with the Presidential Regulatory Reinvention Initiative (PRRI), many of the requirements in § 126.15 would be replaced with industry standards; primarily, selected sections from NFPA 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves, 1995.

Paragraph 126.15(c) proposes requirements for fixed fire extinguishing equipment in accordance with NFPA 13, 14, and 307.

Paragraph 126.15(d) would require all firefighting equipment locations on board the facility to be conspicuously marked so they could be immediately identified during a fire emergency.

Paragraph 126.15(e) would require warning signs at the facility, ensuring standardization among all facilities to an established standard without further Federal government involvement.

Paragraph 126.15(g) would require facilities that receive foreign flag vessels to have an international shore connection accessible for firefighting purposes. Foreign vessels often have fire main connections that are dissimilar to U.S. fire hose fittings. The international shore connection would make it possible to connect dissimilar fittings.

Paragraph 126.15(h) would list controls that limit access to the waterfront facility. This would ensure safety of the facility from outside persons.

Paragraph 126.27(b) would require the facility operator to notify the COTP if certain classes of hazardous materials are handled in excess of specified amounts. The regulations would revise the existing requirements by incorporating metric units of measurement and updating the dangerous cargo hazard class identifications.

Paragraph 126.27(d). The Coast Guard was petitioned by industry to allow facilities to segregate dangerous cargo stored on the facility in accordance with Chapter 15 of the International Maritime Dangerous Goods (IMDG) Code. The

Coast Guard recognizes that the standards in 49 CFR 176.83 for vessels are essentially the same as those in Chapter 15 of the IMDG Code. The Coast Guard proposes to allow facilities to comply with 49 CFR 176.83 because these regulations are readily accessible to regulated parties, and are recognized as common practice. These standards address the basic necessities of segregation, such as protecting products from moisture, fire, and interaction with incompatible materials. Packaging, labeling, placarding, and marking of dangerous cargo must meet the standards in 49 CFR parts 171 through 180.

Section 126.30, as proposed, removes the requirement for facilities and vessels moored at the facility to obtain a hotwork permit from the COTP. To perform hotwork, they would be required to comply with NFPA 51B. Liquefied Hazardous gas (LHG) facilities will continue to obtain hotwork permits from the COTP as required in § 127.1603. The changes proposed in this NPRM will require updating of certain references in 49 CFR part 176. At

the time the final rule is published, the Coast Guard will coordinate conforming amendments with the Research and Special Programs Administration (RSPA) which has responsibility for that part of the CFR.

Incorporation by reference

The material that would be incorporated by reference is listed in § 126.03. The material is available for inspection where indicated under ADDRESSES. Copies of the material are available from the sources listed in § 126.03.

Before publishing a binding rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposed rulemaking is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not

significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Costs

The cost of compliance with part 126 to waterfront facilities affected by this proposed regulation ranges from \$270 to \$400 per facility for implementation. Compliance costs are comprised of the required purchases of warning signs for all facilities and an international shore connection for those facilities that conduct transfer operations with foreign flag vessels. (See Table 1).

The implementation cost to industry is \$175,274. If warning signs and international shore connections are replaced every 10 years, the discounted present value costs for year 2008 are \$77,824. Total costs of this proposed rule are approximately \$253,098.

TABLE 1.—IMPLEMENTATION COSTS

Proposed requirements	No. affected facilities	Cost per facility	Total cost
Warning Signs	¹ 609	² \$270	\$164,430.
International Shore Connections	³ 88	⁴ 123	10,824
Total Implementation Cost			175,254

¹ USCG Marine Safety Management System (MSMS) Data Base.

² A.T. Kearney, Inc., "Regulatory Impact Analysis of Waterfront Facility Hazardous Material Regulations", Alexandria, VA (January 1994). Data adjusted for inflation.

³ Ibid., p. 5–7.

⁴ Ibid., p. 5–9.

Benefits

The primary benefits to industry are the establishment of requirements that facilitate and foster industry compliance and improve safety methods. They are derived through the avoidance of costs incurred from vessel or property damage, and casualty incidents. The proposed requirements are expected to contribute to a higher level of marine safety.

The dollar value of the direct benefits derived from this proposed rulemaking is difficult to estimate. However, because the proposed regulations are intended to better address the hazards and precautions necessary for packaged hazardous materials, avoidance of incidents involving handling, storing, stowing, loading, discharging or

transferring of hazardous materials are anticipated to decrease in both number and severity. The Coast Guard reviewed MSIS data for incidents on waterfront facilities during the period 1993–1997. The data shows that annually, about 10 percent, or 62, of the waterfront facilities affected by this proposed regulation are involved in incidents of varying degrees. About 75 percent of these incidents are allusions, collisions, equipment and structural failure. Less than 1 percent of incidents is the result of fire. Property damages range from as low as \$90,000 to a high of \$1 million annually during the five-year period under examination. If the effectiveness rate of this proposed rule is only 10 percent of the average property damage costs incurred over a ten-year period,

the anticipated benefits are expected to exceed the total cost.

The Coast Guard also expects that removing the requirement to obtain a hotwork permit from the COTP, and adopting NFPA standards in its place, will reduce workload burden on both industry and the Coast Guard.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. Small entities include small businesses, and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and

governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities, because although this proposed rule may have minimal impact on a limited number of facilities owned or operated by small entities, the estimated total implementation costs for these facilities are \$10,215. Thirty-one general cargo terminals affected would currently qualify as small businesses. If warning signs and international shore connections are replaced every 10 years, the discounted present value costs for year 2008 are \$4,536. The total compliance costs to small businesses are estimated to be \$14,751. If, however, you think that your business or organization qualifies as a small entity, and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact the Vessel and Facility Operating Standards Division (G-MSO-2) at 202-267-6451.

Collection of Information (COI)

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520). As defined in 5 CFR 1320.3(c), collection of information includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follows. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection. The Coast Guard is currently requesting a revision of a current collection of information, under:

Dot No.: 2115.

OMB No.: 2115-0054.

Administration: U.S. Coast Guard.

Title: Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes within or Contiguous to Waterfront Facilities.

Summary of the Collection of Information

The Coast Guard has prepared and will seek approval for this collection of information under proposed regulations for Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes within or Contiguous to Waterfront Facilities. This proposal contains collection of information as required in § 126.15. Section 126.30 proposes to remove the requirement for facilities and vessels moored at the facility to obtain hotwork permits from COTP. This proposal does not remove the hotwork permit requirement found in § 127.1603 for facilities handling Liquefied Hazardous Gas (LHG). A currently approved COI is revised to reflect the proposed requirement and reduction of this paperwork collection.

Need for Information: Under Title 33 CFR 126.15(e), Coast Guard has the authority to require the posting of warning signs that meet the requirements of NFPA 307, Chapter 7-8.7.

Proposed Use of Information: The Coast Guard will use this information to ensure that waterfront facilities are in compliance with safety standards.

Description of the Respondents: Owners and operators of waterfront facilities handling explosive materials, LHG facilities, and other dangerous cargoes.

Number of Respondents: 609.

Reduction of Hotwork Permits Respondents: 675.

Frequency of Response: The initial posting of warning signs, hotwork requests, and occasional inspection.

Burden of Response: 15 minutes annually per facility for warning signs; and, 30 minutes per hotwork permit for designated LHG facilities.

Estimated Total Annual Burden: An annual reporting and recordkeeping burden of 318 hours for both warning signs and hotwork permits requirements.

As required by section 3507(d) of the Paperwork reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information. The Coast Guard solicits public comment on the proposed collection of information to (1) evaluate whether the information is necessary for the proper

performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond by allowing the submittal of responses by electronic means or the use of other forms of information technology.

Persons submitting comments on the collection of information should submit their comments to the Coast Guard where indicated under **ADDRESSES** by the date under **DATES**.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined the this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104-4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A "Federal mandate" is a new or additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandates cause those entities to spend, in the aggregate, \$100 million or more in one year the UMRA analysis is required. This rule does not impose Federal mandates on any State, local, or tribal governments or the private sector.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2-1(34)(a) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further

environmental documentation. This proposed rule concerns handling and storage procedures which, in themselves, would have no environmental impact. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 126

Explosives, Harbors, Hazardous substances, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 126 as follows:

PART 126—HANDLING OF CLASS 1 (EXPLOSIVE) MATERIALS OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

1. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. In § 126.01, revise the section heading; and add, in alphabetical order, a definition for *Break-Bulk*, *Bulk*,

Container or *freight container* and *Transport unit* to read as follows:

§ 126.01 Definitions.

Break-bulk

Means packages of dangerous cargo that are handled individually, palletized, or unitized for purposes of transportation as opposed to materials in bulk and containerized freight.

Bulk means without mark or count and directly loaded or unloaded to or from a hold or tank on a vessel without the use of containers or break-bulk packaging.

Container or *freight container* means or reusable container that has a volume of 1.81 cubic meters (64 cubic feet) or more, designed and constructed to permit being lifted with its contents intact and intended primarily for containment of packages (in unit form) during transportation.

Transport unit means a transport vehicle or a freight container.

3. add § 126.03 to read as follows:

§ 126.03 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**, and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700 Washington, DC, 20002, and at the U.S. Coast Guard, Vessel and Facility Operation Standards Division (G-MSO-2), 2100 Second Street SW., room 1210, Washington, DC, 20593-0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

American Society for Testing and Materials (ASTM)

1916 Race Street, Philadelphia, PA 19103:

ASTM F-1121, International Shore connections for Marine Fire Applicants, 1987 Edition	126.15
National Fire Protection Association (NFPA)	

One Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101:

NFPA 10 Standard for Portable Fire Extinguishers, 1998 Edition	126.15
NFPA 13, Standard for the Installation of Sprinkler Systems, 1996 Edition	126.15
NFPA 14, Standard for the Installation of Standpipe and Hose Systems, 1996 Edition	126.15
NFPA 30, Flammable and Combustible Liquids Code, 1996	126.15
NFPA 51B, Standard for Fire Prevention in Use of Cutting and Welding Processes, 1994 Edition.	126.30
NFPA 70, National Electrical code, 1996	126.15
NFPA 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves, 1995 Edition ..	126.15

4. Add § 126.12 to read as follows:

§ 126.12 What are alternative methods of compliance and how are they examined?

(a) An owner or operator or a waterfront facility may submit a written request to the COTP for examination of an alternative method of compliance with any requirement in this part if—

(1) Compliance with the regulations is economically or physically impractical; and

(2) The alternative requested provides an equivalent level of safety.

(b) The COTP will examine the request and provide an answer, in writing, within 30 days of receipt of the request.

5. In § 126.15, revise the section heading and paragraphs (a) through (n) to read as follows:

§ 126.15 What conditions must be fulfilled to be designated waterfront facility?

* * * * *

(a) For break-bulk dangerous cargo not in transport units:

(1) *Arrangement of cargo, freight, merchandise or material.* Cargo, freight, merchandise, and other items or materials on the facility must be arranged to provide access for firefighting and clearance for fire prevention in accordance with NFPA 307, Chapter 8-5.

(2) *Portable fire extinguishers.* Each facility must have and maintain in adequate quantities, locations and types of portable fire extinguishers that meet the requirements of NFPA 10. These extinguishers must be inspected and maintained in accordance with NFPA 10.

(3) *Electrical systems.* All new electrical equipment and wiring installed on the facility must be of the kind specified by, and installed in accordance with, NFPA 70. All defective or dangerous electrical equipment and wiring must be promptly repaired, replaced, or permanently disconnected.

(4) *Heating equipment and other sources of ignition.* Open fires and open flame lamps are prohibited on the facility. Heating equipment must meet the requirements of NFPA 307, Chapter 9-4.

(5) *Maintenance stores and supplies.* Hazardous material used in the operation or maintenance of the facility may be stored only in amounts necessary for normal operating conditions. These materials must be stored in compartments that are remote from combustible material; constructed to provide safe storage; and kept clean and free of scrap materials, empty containers, soiled wiping rags, waste, and other debris. Flammable liquids must be stored in accordance with NFPA 30, Chapter 4.

(b) For dangerous cargo in transport units:

(1) *Terminal yards.* Terminal yards must conform to the standard in NFPA 307, Chapter 5.

(2) *Containers.* Containers packed with dangerous cargo shall be vertically stacked no more than four (4) high on the facility.

(c) *Fire extinguishing equipment.* Each facility must have and maintain in adequate quantities, locations and types, fire extinguishing equipment such as automatic sprinklers, hydrants, hose connections, and a firefighting water supply in accordance with NFPA 13, 14, and 307.

(d) *Fire appliance location markings.* The location of all fire appliances such as hydrants, standpipes, hose stations, fire extinguishers, and fire alarm boxes must be conspicuously marked and readily accessible in accordance with NFPA 10, 13, 14, and 307.

(e) *Warning signs.* Warning signs must be constructed and installed in accordance with NFPA 307, Chapter 7-8.7.

(f) *Lighting.* If the facility transfers dangerous cargo between sunset and sunrise, then it must have outdoor lighting that adequately illuminates the transfer work area. This lighting must be installed and maintained in accordance with NFPA 70, and must be located or shielded so that it cannot be mistaken for an aid to navigation and does not interfere with navigation on waterways.

(g) *International shore connection.* If the facility conducts cargo operations with a foreign-flag vessel, then it must have an international shore connection meeting ASTM F-1121.

(h) *Access to the facility.* Whenever dangerous cargo is transferred or stored on a waterfront facility, access to the facility is limited to—

(1) Personnel working on the facility or vessel;

(2) Delivery and service personnel in the course of their business;

(3) Coast Guard and other Federal, State, and local officials;

(4) Local emergency personnel, such as police officers and firemen; and

(5) Other persons authorized by the owner or operator of the facility.

(i) *Security measures.* Guards must be stationed, or equivalent controls acceptable to the COTP must be used to: deter and detect unlawful entrance; detect and report fire hazards, fires, and releases of dangerous cargoes and hazardous materials; check the readiness of protective equipment; and report other emergency situations at the facility.

(j) *Coast Guard personnel.* At any time, Coast Guard personnel may enter the facility to conduct inspections or board vessels moored at the facility.

(k) *Pier automotive equipment, trucks and other motor vehicles.* When dangerous cargo is being transferred or

stored on a facility, material handling equipment, trucks, and other motor vehicles operated by internal combustion engines must meet the requirements of NFPA 307, Chapter 9.

(l) *Smoking.* Smoking is allowed on a facility where permitted under State or local law. Signs must be conspicuously posted marking authorized smoking areas. "No Smoking" signs must be conspicuously posted elsewhere on the facility.

(m) *Rubbish and waste materials.* All rubbish, debris, and waste materials must be placed in adequate receptacles.

(n) *Adequacy of equipment, materials and standards.* As used in this section, the word *adequate* means that determination which a reasonable person would make under the circumstances of a particular situation. If the COTP inspects the facility and determines that the equipment, materials or standards are inadequate, then the COTP must inform the owner or operator in writing and must provide an opportunity to correct any deficiencies.

6. In § 126.27, revise paragraphs (b) and (d) through (i) and add paragraphs (j) through (l) to read as follows:

§ 126.27 General permit for handling dangerous cargo.

* * * * *

(b) The COTP must be notified before the following classes of dangerous cargo are handled, stored, stowed, loaded, discharged, or transported, in the net weight amounts specified, except when contained within railroad or highway vehicles being transported across or on the waterfront facility solely for transfer to or from a railroad car ferry, highway vehicle ferry, or carfloat:

(1) Class 1, Division 1.3 and Division 1.5 (Explosive) materials, in excess of 36,400 kg (40 net tons) at any one time.

(2) Class 2, Division 2.1 (Flammable Gas) or Division 2.3 (Poison Gas) materials in excess of 72,800 kg (80 net tons) at any one time.

(3) A Class 7 (Radioactive) material in a highway route controlled quantity, as defined in 49 CFR 173.403.

* * * * *

(d) Break-bulk dangerous cargo must be segregated in accordance with 49 CFR 176.83(a) through (c). No separation is required for break-bulk dangerous cargo in limited quantity packaging.

(e) Transport units, freight containers and portable tanks containing dangerous cargo must be segregated in accordance with 49 CFR 176.83(a), (b), and (f).

(f) Break-bulk dangerous cargo must be segregated from transport units

containing dangerous cargo in accordance with 49 CFR 176.83(e).

(g) Solid dangerous bulk cargo must be separated to prevent the interaction of incompatible materials in the event of an accident. Cargo not required to be segregated when in break-bulk form is not required to be segregated when in bulk form. Dangerous cargo in break-bulk form must be segregated from solid dangerous cargo in bulk in accordance with 49 CFR 176.83.

(h) Materials that are dangerous when wet (Division 4.3), water-soluble oxidizers (Division 5.1), and corrosive solids (Class 8) must be stored in a manner that prevents them from coming into contact with water.

(i) Corrosive liquids (Class 8) and liquid oxidizers (Division 5.1) must be handled and stored so that, in the event of a leak from their packaging, they would not come in contact with organic materials.

(j) Dangerous cargo stored on the facility must be arranged in a manner that retards the spread of fire, such as by interspersing dangerous cargo with inert or fire retardant material.

(k) Dangerous cargo stored on the facility, but not intended for use on the facility, must be packaged, marked, and labeled in accordance with 49 CFR parts 171 through 180, as if the material was in transportation.

(l) Class 7 (Radioactive) material must be stored as specified in 49 CFR 173.447.

7. Add § 126.30 to read as follows:

§ 126.30 What are the conditions for conducting welding and hotwork?

Facility operators are responsible for all welding or hotwork conducted on or at the facility. Vessel operators are responsible for all welding or hotwork conducted on vessels moored to the facility. The COTP may require that the operator of a facility or a vessel moored thereto, to provide notification before any welding or hotwork operations are conducted. Any welding or hotwork operations must be conducted in accordance with NFPA 51B. The vessel or facility operator must ensure that the following additional conditions or criteria are met:

(a) Welding or hotwork is prohibited during gas freeing operations, within 30.5 meters (100 feet) of bulk cargo operations involving flammable or combustible materials, within 30.5 meters (100 feet) of fueling operations, within 30.5 meters (100 feet) of explosives or 15.25 meters (50 feet) of other hazardous materials.

(b) If the welding or hotwork is on the boundary of a compartment (i.e., bulkhead, wall or deck), then an

additional fire watch must be stationed in the adjoining compartment.

(c) Personnel on fire watch must have no other duties except to watch for the presence of fire and to prevent the development of hazardous conditions.

(d) Flammable vapors, liquids or solids must be completely removed from any container, pipe or transfer line prior to welding or hotwork.

(e) Tanks used for storage of flammable or combustible substances must be tested and certified gas free prior to starting hotwork.

(f) Proper safety precautions in relation to purging, inserting, or venting must be followed for all hotwork on containers.

(g) All local laws and ordinances shall be observed.

(h) In case of a fire or other hazard, all cutting, welding or other hotwork equipment shall be completely shut down.

Dated: October 13, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard,

Assistant Commandant for Marine Safety and Environmental Protection.

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POSTAL SERVICE

39 CFR Part 111

Proposed Domestic Mail Manual Changes to Implement New Labeling List L001 and to Implement Package Reallocation for Periodicals and Standard Mail (A) Flats Placed on Pallets

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The migration of flat-size Periodicals and Standard Mail (A) from sacks to pallets during the past several years has compelled both the Postal Service and the mailing community to take a closer look at how mail is being sorted to pallets to identify opportunities for improvement. Early last year, the Mailers Technical Advisory Committee (MTAC) Presort Optimization Work Group, comprised of representatives of the Postal Service, presort software vendors, mail owners, and printers, was established to study and recommend changes in presort software and sortation levels to improve the overall pattern of containerization of mail by reducing or eliminating residual mail and by reducing or eliminating inefficient use of containers.

The MTAC work group has identified two significant opportunities to improve

the presort of palletized Periodicals and Standard Mail (A) flats. These are based on (1) protecting the sectional center facility (SCF) pallet level through the reallocation of packages from finer-level pallets to higher-level pallets (e.g., by moving packages from a 5-digit or 3-digit pallet to an SCF pallet that would not otherwise be created) and (2) by increasing the amount of mail that can be sorted to the 5-digit level through the creation of Domestic Mail Manual (DMM) labeling list L001. L001 is a 5-digit scheme list that will be required for the preparation of Periodical and Standard Mail (A) pallets and carrier routes sacks. This 5-digit/scheme sort will yield 5-digit scheme pallets and carrier routes sacks for those 5-digit ZIP Code zones listed in L001 and 5-digit pallets and carrier routes sacks for ZIP Codes not listed in L001. The 5-digit ZIP Code zones in each scheme will be treated as a single presort destination subject to a single pallet or sack minimum volume, with no further separation by 5-digit prefix required.

The Postal Service is proposing requiring mailers to sort all palletized flats packages and sacked carrier route flats packages of Periodicals and Standard Mail (A) using labeling list L001 to create 5-digit scheme pallets and 5-digit scheme carrier routes sacks. Although package reallocation will be optional when initially implemented, the Postal Service believes that the opportunities it offers for more consistent service warrant exploring the possibility of requiring it at some future date.

The proposed standards for package reallocation and 5-digit/scheme sort for palletized flats will also apply to Periodicals irregular parcels, which are prepared under the same standards that apply to flats, and to presorted Standard Mail (A) irregular parcels that are part of a mailing job prepared in part as FSM 1000 automation flats placed on pallets. The residual shape surcharge for non-letter, non-flat-size mail will apply to the Standard Mail (A) irregular parcels.

DATES: Comments must be received on or before December 28, 1998.

ADDRESSES: Mail or deliver written comments to the Manager, Business Mail Acceptance, USPS Headquarters, 475 L'Enfant Plaza SW, Room 6800, Washington, DC 20260-6808. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, (202) 268-5166.

SUPPLEMENTARY INFORMATION:

Package Reallocation to Protect the SCF Pallet

Under current rules for preparing packages of flats on pallets, mailers are required to prepare SCF pallets after preparing required 5-digit and optional 3-digit pallets. Many mailers choose to prepare optional 3-digit pallets, particularly when preparing regional or large volume national mailings. They can do this by selecting the option in their presort software that will result in the preparation of 3-digit pallets for the entire job (list) that is being processed. Generally, the preparation of 3-digit pallets benefits postal operations and improves service. In instances where an SCF serves multiple 3-digit ZIP Code areas, however, there are many situations where the preparation of 3-digit pallets causes mail that would otherwise be prepared on SCF pallets to be sorted to a pallet level that is less finely sorted.

A multiple 3-digit SCF is often comprised of both high-and low-density 3-digit ZIP Code service areas. If a mailer selects the presort software option for preparing 3-digit pallets, it is common for a mailing to have sufficient volume to meet a mailer-specified pallet weight minimum for high-density 3-digit ZIP Codes but not enough volume to meet the pallet weight minimum for the remaining lower density 3-digit ZIP Codes. Consequently, mail for the lower density 3-digit ZIP Codes often falls to a less finely sorted pallet level beyond the SCF level (e.g., to an ADC or BMC pallet). Always preparing 3-digit pallets can have a negative impact on delivery consistency for a mailing job because some mail destined to an SCF service area may be on 5-digit and 3-digit pallets, which may also be drop shipped to the SCF, while the remaining mail for the same SCF service area may be on ADC or BMC pallets or in the appropriate level sack. Mail on the ADC or BMC pallets or in sacks may be entered into the postal processing system further upstream (e.g., at a BMC or at the origin post office where the mailing was prepared).

Using current presort software, the primary option available to mailers for remedying the situation described above is to deactivate the option for preparing 3-digit pallets. This will result in mail for all 3-digit ZIP Codes within a multiple-3-digit ZIP Code SCF service area being combined to make an SCF pallet, based on the minimum pallet weight selected, after all required 5-digit pallets are prepared. However, because 3-digits pallets do have value for mailers and postal operations, their elimination is not an optimal solution. Discussions