U.S. Department of Homeland Security

United States Coast Guard

# *Coast Guard Regulated Facility Compliance Program*


**COMDTINST M16600.10**
**March 2020**

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

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Subj: COAST GUARD REGULATED FACILITY COMPLIANCE PROGRAM

Ref:
(a) Marine Safety Manual, Volume II, COMDTINST M16000.7 (series)
(b) Marine Safety Manual, Volume VII, COMDTINST M16000.12 (series)
(c) National Container Inspection Program Manual, COMDTINST M16616.11 (series)
(d) Regulated Mobile Facilities, COMDTINST M16600.9 (series)
(e) U.S. Coast Guard Marine Environmental Response and Preparedness Manual, COMDTINST M16000.14 (series)
(f) Marine Safety Manual, Volume I, Administration and Management, COMDTINST M16000.6 (series)
(g) Safety and Environmental Health Manual, COMDTINST M5100.47 (series)
(h) Coast Guard Occupational Medicine Manual, COMDTINST M6260.32 (series)
(i) Coast Guard Medical Manual, COMDTINST M6000.1 (series)
(j) Regulated Bulk Liquid Transfer Monitors, COMDTINST M16455.11 (series)
(k) Captain of the Port Orders Tactics, Techniques, and Procedures (TTP), CGTTP 3-71.3
(l) Navigation and Vessel Inspection Circular No. 01-2011 – Guidance Related to Waterfront Liquefied Natural Gas (LNG) Facilities, COMDTPUB P16700.4
(m) Navigation and Vessel Inspection Circular No. 06-17 – Pipeline and Hose Testing Guidance for Maritime Transportation Related Facilities Handling Oil or Hazardous Material in Bulk, COMDTPUB P16700.4

1. PURPOSE. This Manual provides Policy and Doctrine used by Coast Guard personnel in the administration and execution of the regulated facility compliance program. This Manual is intended to provide overarching guidance for the Coast Guard regulated facility compliance program, with Chapters 1 through 3 applying to all facility inspection activities. Chapters 4 through 6 are specific to facility safety regulations, and other documents containing facility compliance information are referenced throughout this Manual.

DISTRIBUTION – SDL No. 170

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NON-STANDARD DISTRIBUTION:

2. ACTION. All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements must comply with the provisions of this Manual. Internet release is authorized.

3. DIRECTIVES AFFECTED.

   a. Facilities Receiving Vehicles From Roll-On/Roll-Off (RO/RO) Vessels Being Regulated Under 33 CFR Part 126, CG-FAC Policy Letter No. 14-01, is hereby cancelled.

   b. Facilities Receiving Cargoes Classified as Potentially Dangerous Material (PDM) Under 46 CFR Part 148, CG-FAC Policy Letter No. 14-02, is hereby cancelled.

   c. MISLE Casework Completion, Review, and Closure for Facility and Container Related Activities, CG-FAC Policy Letter No. 19-02, is hereby cancelled.

4. DISCLAIMER. This Manual is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.

5. MAJOR CHANGES.

   a. Updates and combines facility compliance program information previously located in Reference (a) and various policy letters outlined in Paragraph 3 into a single document.

   b. Formalizes existing best practices and provides amplifying information to Coast Guard personnel on oversight and management of facility compliance programs and activities conducted as part of those programs.

6. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

   a. The development of this Manual and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, Commandant (CG-47). This Manual is categorically excluded under current Department of Homeland Security (DHS) categorical exclusion (CATEX) A3 from further environmental analysis in accordance with the U.S. Coast Guard Environmental Planning Policy, COMDTINST 5090.1 and the Environmental Planning (EP) Implementing Procedures (IP).

   b. This Manual will not have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policy in this Manual must be individually evaluated for compliance with the NEPA and Environmental Effects Abroad of Major Federal Actions, Executive Order 12114, Department of Homeland Security (DHS) NEPA policy, Coast Guard Environmental Planning, and compliance with all other applicable environmental mandates.

7. DISTRIBUTION. No paper distribution will be made of this Manual. An electronic version will be located on the following Commandant (CG-612) web sites. Internet: http://www.dcms.uscg.mil/directives/, and CGPortal: https://cgportal.uscg.mil/library/directives/SitePages/Home.aspx.

8. RECORDS MANAGEMENT CONSIDERATIONS. This Manual has been evaluated for potential records management impacts. The development of this Manual has been thoroughly reviewed during the Directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., National Archive and Records Administration (NARA) requirements, and Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.

9. FORMS/REPORTS.

   a. The Facility Inspection Requirements, Form CG-835F, must be used during all facility compliance activities. All previous editions are obsolete. Per Chapter II-16-35, Item No. 3 of the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series), units must retain copies of the Form CG-835F for three years after which they may be destroyed (NCI-26-76-2 items 453 and NC-26-80-4, and 221) unless they are related to a case under litigation or are part of an incomplete investigation. Documents entered into the Marine Information for Safety and Law Enforcement (MISLE) database meet these retention requirements. Copies of the forms are available through the CG Forms website at https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-C4IT-CG-6/The-Office-of-Information-Management-CG-61/Forms-Management/CG-Forms/, or via Military Standard Requisitioning and Issue Procedures (MILSTRIP) from the Surface Forces Logistics Center.

   b. Units will document Facility Compliance activities in MISLE per applicable MISLE user guides, available on the Commandant (CG-FAC-2) CGPortal page.

10. REQUESTS FOR CHANGES. Units and individuals may recommend changes by writing via the chain of command to: Commandant (CG-FAC); U.S. Coast Guard Stop 7501; 2703 Martin Luther King Jr Ave., SE; Washington, DC 20593-7501.

R. V. TIMME /s/
Rear Admiral, U.S. Coast Guard
Assistant Commandant for Prevention Policy

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# COAST GUARD REGULATED FACILITY COMPLIANCE PROGRAM
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# CHAPTER 1 General

A. Background.

1. Missions. Three of the eleven statutory missions of the Coast Guard are Marine Safety, Marine Environmental Protection, and Port and Waterways Security. Within the context of these three missions, the Coast Guard inspects waterfront facilities for safety and security requirements to prevent accidents or intentional acts that could cause death and injury, the spill or release of oil or hazardous material into the environment, or a disruption to the Marine Transportation System. In some instances, facility compliance activities also have a nexus to a fourth statutory mission, Defense Readiness.

2. Waterfront facilities. The definition of what constitutes a waterfront facility varies depending upon the authorizing legislation and regulations. In general, a waterfront facility is a pier, wharf, dock or similar structure to which a vessel may be secured. Any equipment on the structure, any buildings on or contiguous to the structure, and any equipment or materials on the structure or in those buildings are also considered part of the facility. When determining the Coast Guard's jurisdiction of a waterfront facility, the specific regulations and statutes that apply to the facility must be considered. For facilities regulated under 33 CFR Part 126, the nexus to the waterside operations must be considered. For facilities regulated under 33 CFR Part 127 and 33 CFR Part 154, portions of the facility that fall within the definition of the Marine Transfer Area (MTA) for the specific facility are regulated by the Coast Guard for safety purposes. The footprint of the Maritime Transportation Security Act (MTSA) regulated portion often does not mirror the Coast Guard's jurisdictional areas outlined in this Paragraph, but rather may include a portion of the facility or the entire footprint of the facility.

B. History.

1. The Revenue Cutter Service's involvement with marine environmental protection began in earnest with the Refuse Act in 1899, which outlawed the "dumping of refuse" into the navigable waters of the United States and gave the Revenue Cutter Service and later the Coast Guard enforcement authority. Growing environmental awareness in the later part of the 20th century pushed the Coast Guard even deeper into the pollution prevention realm with the passing of the Clean Water Act of 1972, the Oil Pollution Act of 1990, and other subsequent laws. The oceans and waterways of the world have long been used by the maritime community, shoreside industries, and municipalities as catchalls for domestic and industrial wastes. Pollution results from acts of commission and omission. In either case, the technology to measure and combat the detrimental effects of pollution is available or is being developed.

2. A series of maritime incidents led to the laws and regulations in place today that form the backbone of the Coast Guard's regulated facility compliance program. These incidents include, but are not limited to:

   a. The Black Tom Explosion of 1916 led to the Espionage Act.

b. The SS MUENCHEN fire, Cunard Pier fire of 1939, and the South Amboy pier explosion led to the creation of several laws by Congress, including the Magnuson Act, which amended the Espionage Act. There were also several Executive Orders to enhance both the safety and security of the port and waterfront facilities.

c. The Texas City disaster of 1947 led to more stringent standards for stowage and segregation of bulk hazardous cargoes stored on or near waterfront facilities.

d. The collision of the SS ARIZONA STANDARD and SS OREGON STANDARD in 1971 led to the creation of the Port and Waterways Safety Act.

e. Environmental incidents, such as the Cuyahoga River fire, Love Canal waste site, M/V TORREY CANYON disaster, M/V ARGO MERCHANT oil spill, and M/V EXXON VALDEZ oil spill led to the creation of numerous environmental laws including the Federal Water Pollution Control Act (FWPCA), Clean Water Act (CWA), Oil Pollution Act of 1990 (OPA 90), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which not only requires the Coast Guard to respond to environmental disasters, but also to promulgate regulations to prevent them.

f. Finally, international concerns on pollution of the world's oceans led the International Maritime Organization (IMO) to adopt the International Convention for the Prevention of Pollution from Ships (MARPOL), which, among other things, requires Port Reception Facilities (PRFs) to help protect the environment from plastics, garbage, waste oil and other pollutants.

C. Legislation.

1. The Magnuson Act. The Espionage Act of 1917 created Captains of the Port (COTPs) and COTP authority, and was later amended by the Magnuson Act (46 U.S.C. 70051-70054), which authorizes the safeguarding of U.S. harbors, ports, waters, vessels and waterfront facilities and all territory and water, continental or insular, subject to the jurisdiction of the United States whenever the security of the United States is endangered. The Frank Lobiondo Coast Guard Authorization Act of 2018 (CGAA 18) transferred parts of the Magnuson Act relating to waterfront facilities to 46 U.S.C. 70051. The Magnuson Act is codified in 33 CFR Part 6. Under 33 CFR §6.01-3, a waterfront facility means all piers, wharfs, docks or similar structures to which vessels may be secured and naval yards, stations, installations, and ranges. It also includes areas of land, water, or land and water under and in immediate proximity to them; buildings on them or contiguous to them and equipment and materials on or in them.

2. Ports and Waterways Safety (PWS). Although the Ports and Waterways Safety Act (PWSA) was repealed by CGAA 18, some of its provisions were re-designated and transferred to 46 U.S.C. Chapter 700. Chapter 700 is Ports and Waterways Safety Authorities, and promotes safety and the environmental quality of ports, harbors, waterfront areas, and navigable waters of the United States. The Coast Guard has been given broad authority to take action to prevent damage to, or the destruction or loss of, any vessel, bridge, or other structure on or in U.S. navigable waters, or any land structure or shore area immediately adjacent to those waters; and to

protect the navigable waters and resources therein from environmental harm resulting from vessel or structural damage, destruction, or loss. Under Chapter 700, the COTP may enforce federal waterfront facility safety standards on any structure located in, on, or adjacent to the navigable waters of the United States and any land structure adjacent to the navigable waters of the United States. Areas of land or water in immediate proximity to these structures (piers and wharves), buildings on or contiguous to these structures, and any equipment or materials (including vehicles) on or in these buildings or structures, are also considered part of the facility.

3. Federal Water Pollution Control Act of 1948 (FWPCA). Section 311 of the FWPCA (33 U.S.C. 1251-1388), as amended by the CWA, prohibits discharges of oil or hazardous substances in quantities that may be harmful into or upon the navigable waters of the United States and adjoining shorelines. This section of the FWPCA also prohibits discharge of such quantities of oil or hazardous substances into or upon the waters of the contiguous zone, into waters connected with activities subject to the Outer Continental Shelf Lands Act (OCSLA) or the Deepwater Port Act of 1974 (DPA) or so as to affect natural resources belonging to, appertaining to, or under the exclusive authority of the United States, including resources under the Fishery Conservation and Management Act of 1976. The FWPCA directed the President to determine those quantities of oil and hazardous substances that, when discharged, may be harmful to the public health, welfare or environment of the United States. The President was authorized to delegate the administration of the act to those Federal departments and agencies he determined to be appropriate. The President delegated these functions by Executive Order (E.O.) 12777, dated 18 October 1991. A waterfront facility includes any “onshore facility" or "offshore facility" as defined in the FWPCA.

   a. An "onshore facility" is any facility of any kind (including, but not limited to, motor vehicles and rolling stock) located in, on, or under any land within the United States other than submerged land.

   b. An "offshore facility" is any facility of any kind, other than a vessel, located in, on, or under any of the navigable waters of the United States and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters. The FWPCA excludes offshore facilities regulated by the Secretary of Department of Interior from regulation under 33 CFR Part 154.

   c. The FWPCA has a much broader definition of waterfront facility than provided in the Coast Guard’s PWS and Magnuson authorities. Coast Guard jurisdiction over the FWPCA facilities is determined by agreement with the EPA, taking into account the Coast Guard’s jurisdiction over the MTA, as defined in 33 CFR § 154.105.

4. Hazardous Materials Transportation Act (HMTA). The HMTA (49 U.S.C. §§ 5101–5127) authorizes the Secretary to inspect shipments of hazardous materials to ensure their safe movement in domestic and international transportation. Originally promulgated in 1975, this act was significantly changed by a 1990 amendment. This act and the regulations published in Title 49 CFR under its authority, apply to packaged cargoes (including tank trucks and rail cars) on waterfront facilities but not to the facilities themselves. This act also provides the statutory

authority for the regulations in 46 CFR Part 148, which govern the transportation of bulk solid hazardous materials.

5. E.O. 10173. E.O. 10173, as amended by E.O.s 10277, 10352, 11249, and 13273 and issued pursuant to the Magnuson Act, 46 U.S.C. 70051, prescribed certain port security regulations to be enforced by the Coast Guard to counter subversion, terrorism, or other national emergencies declared by the President. These Coast Guard regulations are in 33 CFR Part 6.

6. E.O. 12777 and E.O. 11735. E.O. 11735 delegated to the Secretary of the Department in which the Coast Guard operates, authority under the FWPCA for "the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and transportation related onshore and offshore facilities, and to contain such discharges." Under E.O. 12777, the President delegated his authority to issue orders under § 311(e)(1) of FWPCA for discharges in the coastal zone to the Coast Guard. The regulations for marine oil and hazardous material transfer facilities and oil and hazardous material transfer operations (33 CFR Chapter I, Subchapter O, Parts 154-156) are promulgated, in part, under this authority. The Administrator of the EPA is charged with determining those quantities of oil and hazardous substances that may be harmful and those that are not.

7. Additional Legislation Potentially Impacting Jurisdiction of Facility Compliance Regulations.

   a. Deepwater Port Act of 1974 (DPA), 33 U.S.C. § 1501 *et seq*. This law, as amended, establishes a licensing system for ownership, construction, operation, and decommissioning of Deepwater Port structures located beyond the U.S. territorial sea for the import and export of oil and natural gas. The DPA sets out conditions that Deepwater Port license applicants must meet, including minimization of adverse impacts on the marine environment and submission of detailed plans for construction, operation, and decommissioning of Deepwater Ports.

   b. Submerged Lands Act of 1953 (SLA), 26 U.S.C. 1301 *et seq*. This law was enacted in response to litigation that effectively transferred ownership of the first three miles of a state's coastal submerged lands to the federal government. In the case *United States v. California* (1947), the United States successfully argued that the three nautical miles seaward of California belonged to the federal government, primarily finding that the federal government's responsibility for the defense of the marginal seas and the conduction of foreign relations outweighed the interests of the individual states. In response, Congress adopted the SLA in 1953, granting title to the natural resources located within three miles of their coastline (three marine leagues for Texas and the Gulf coast of Florida). For purposes of the SLA, the term "natural resources" includes oil, gas, and all other minerals.

   c. Outer Continental Shelf Lands Act of 1953 (OCSLA), 43 U.S.C. 1331 *et seq*. This law defines the United States Outer Continental Shelf (OCS) as all submerged lands lying seaward of state submerged lands and waters (as defined in the SLA) which are under U.S. jurisdiction and control. Under the OCSLA, the Secretary of the Interior is responsible for the administration of mineral exploration and the development of the OCS. The Act empowers the Secretary to grant leases to the highest qualified responsible bidder on the basis of sealed competitive bids and to formulate regulations as necessary to carry out the provisions of the Act. It also empowers the Coast Guard to regulate the safety of life and property on OCS installations and devices and their

adjacent waters. The Act, as amended, provides guidelines for implementing an OCS oil and gas exploration and development program.

D. Regulations.

1. General. In general, waterfront facilities are regulated and inspected according to the types of operations they conduct, such as passenger operations, and hazardous products they transfer to or from vessels, and how those products are transferred, whether they are bulk liquids, bulk solids, or packaged. Facilities that transfer products in more than one category will be inspected for compliance with each applicable set of regulations. Vessels inspected under the regulations in Title 46 CFR are not facilities; however, a Permanently Moored Craft (PMC) as discussed in Reference (a), Chapter B4.I, that is not inspected under Title 46 CFR is considered part of a facility. Many regulations rely on industry consensus standards, such as National Fire Protection Association (NFPA) standards. Many of these standards are available free of charge to Coast Guard personnel through the DHS Library Program. A link to the DHS Library Program and NFPA standards is available on the Commandant (CG-FAC-2) CGPortal page.

2. 33 CFR § 6.12. This regulation authorizes COTPs to supervise and control the transportation, handling, loading, discharging, stowage, or storage of hazardous materials on board vessels under certain conditions related to subversion, terrorism or other national security matters. When exercising these regulations, Commandant (CG-FAC) should be advised for awareness, any additional recommendations it may offer, and coordination with other Headquarters Offices as appropriate.

   a. The Commandant is authorized to designate waterfront facilities for the handling, storage, and loading and discharging of explosives, flammable or combustible liquids in bulk, and other dangerous articles (33 CFR § 6.12–3).

   b. The Commandant also has the authority to require permits for such handling, storage, loading, and unloading (33 CFR § 6.12–3).

   c. Under 33 CFR § 6.14-1, the Commandant is authorized to prescribe conditions and restrictions relating to the safety of waterfront facilities and vessels in port, as they deem necessary.

3. 33 CFR Parts 101 and 105. Waterfront facilities must meet the requirements of these Parts. Reference (b) consolidates all port security policies, including facilities requirements under 33 CFR Part 105. Reference (b) must be referenced for requirements related to facility security under 33 CFR Parts 101 and 105. Detailed regulatory compliance information for facility security provisions of these Parts are not contained within this Manual.

4. 33 CFR Part 126. The Commandant promulgated 33 CFR Part 126 (Handling of Dangerous Cargo at Waterfront Facilities) in part to implement provisions of the PWS authorities.

   a. These regulations designate types of waterfront facilities, permit requirements, and conditions that must be met and maintained by facilities involved in the handling, storage, loading, or discharging of bulk solid hazardous material and packaged hazardous material

including explosives, blasting agents, oxidizers, radioactive materials, or other dangerous cargo.

b. The civil and criminal penalties of the PWS apply to these facility regulations (33 CFR § 126.33). The regulations in 33 CFR Part 126 are issued under PWS and therefore apply to structures located in, on, or under the territorial sea of the United States (out to 12 miles from the baseline).

c. Under 33 CFR § 126.1, Part 126 applies to waterfront facilities handling packaged and bulk-solid dangerous cargo and to vessels at those facilities. Further, 33 CFR § 126.3, defines a "waterfront facility" to include "all piers, wharves, and similar structures to which a vessel may be secured; areas of land, water, or land and water under and in the immediate proximity to these structures; buildings on or contiguous to these structures; and the equipment and materials on or in these structures or buildings". "Similar structures to which a vessel may be secured" is not defined, and each scenario must be evaluated on a case-by-case basis. However, "similar structure to which a vessel may be secured" does not include facilities directly operated by the Department of Defense (33 CFR § 126.3), an Outer Continental Shelf Facility, or OCS Facility, as defined in 33 CFR § 140.10. It also does not include structures within state waters which are subject to the SLA.

d. Bulk Solid Waterfront Facilities.

(1) A bulk solid waterfront facility is any pier, wharf, dock or similar structure handling solid hazardous materials, to or from a vessel, in bulk. It also includes vessels at such facilities. Bulk is defined in 33 CFR § 126.3.

(2) The facility also includes areas of land, water, or land and water under and in immediate proximity to the structure, buildings on or contiguous to the structure, and equipment and materials on the structure or in the buildings.

(3) This term does not include facilities directly operated by the Department of Defense (DoD).

(4) Bulk solid hazardous materials are any materials, other than liquids or gases, listed in the 49 CFR § 172.101 table and its appendix when shipped in bulk.

(5) Bulk solid hazardous materials that may be transported by vessels without prior approval from the Commandant are listed in 46 CFR § 148.10.

(6) When a truck or a rail car transfers solid hazardous materials to or from a vessel, the truck or rail car and the structure on which it is located, are considered a designated waterfront facility as defined in 33 CFR §6.01-3 and 33 CFR §126.3, and must comply with the regulations applicable to such facilities.

(7) Jurisdiction on bulk solid facilities includes the entire pier or wharf from which a transfer takes place, all buildings on or contiguous to such structures, and any equipment or materials on the structures or in the buildings.

e. Packaged Hazardous Material Waterfront Facilities.

(1) A packaged hazardous material waterfront facility is any pier, wharf, dock or similar structure handling packaged hazardous materials, to or from a vessel. It also includes vessels at such facilities.

(2) The facility also includes areas of land, water, or land and water under and in immediate proximity to the structure, buildings on or contiguous to the structure, and equipment and materials on the structure or in the buildings.

(3) This term does not include facilities directly operated by the DoD.

(4) Packaged hazardous materials are those materials covered under 49 CFR Parts 171-180 when carried in packages that meet the requirements of those parts, including liquids shipped in transport vehicles (tank trucks, rail cars, etc.) and freight containers.

(5) When a truck or a rail car transfers packaged hazardous materials to or from a vessel, the truck or the railcar, and the structure on which it is located, are considered a designated waterfront facility as defined in 33 CFR §6.01-3 and 33 CFR §126.3, and must comply with the regulations applicable to such facilities.

(6) Jurisdiction on packaged hazardous material facilities includes the entire pier or wharf from which a transfer takes place, all buildings on or contiguous to such structures, and any equipment or materials on the structures or in the buildings.

f. Other applicable regulations. Packaged hazardous materials must meet the requirements in 49 CFR Parts 171-180. The MTSA regulations in 33 CFR Parts 101 and 105 and MARPOL PRF regulations in 33 CFR Part 158 may also apply to a bulk solid or packaged hazardous material waterfront facility.

(1) Inspection of intermodal shipping containers by Coast Guard personnel are a function of the National Container Inspection Program (NCIP) as outlined in Reference (c). While container inspections are typically conducted by the same Coast Guard personnel conducting facility compliance activities, container inspections are not a facility compliance activity. However, policies found in paragraphs 3.D and 3.F of this Manual must be followed for unit container inspection programs.

(2) Limits to jurisdiction over the waterfront facility do not apply to inspections of packaged hazardous materials consigned for shipment by water under the HMTA (49 U.S.C. Parts 1801-1819), for which jurisdiction is not limited to waterfront facilities.

5. 33 CFR Part 127. 33 CFR Part 127 applies to all waterfront facilities that transfer liquefied gases listed in this part, in bulk, to or from vessels.

   a. 33 CFR Part 127 was issued in 1988 under authority of PWS to cover transfers of Liquefied Natural Gas (LNG). In 1995, it was amended to include regulations for Liquefied Hazardous Gases (LHG). LHG are those products listed in Table 127.005 of 33 CFR § 127.005. A common term in the liquefied gas industry is Liquefied Petroleum Gas (LPG). While the term LPG is not used in 33 CFR Part 127, individual commodities that are considered LPGs are listed in Table 127.005 of 33 CFR § 127.005. As such, these LPGs must comply with the LHG regulations.

   b. 33 CFR Part 127 specifies standards for facility design, construction, equipment, operations, maintenance, training, firefighting, and security.

   c. These rules are issued under the PWS and therefore apply to structures located in, on, or under the territorial sea of the United States (out to 12 miles from the baseline). However, a LNG import/export facility located beyond the state waters, as defined in the SLA, may be subject to the DPA. In such instances, contact Commandant (CG-OES-2) and Commandant (CG-FAC-2).

   d. A tank truck or rail car that transfers liquefied gas from a structure converts the structure into a LNG or LHG facility. For example, if a truck parks on a pier to conduct a transfer of LNG to a vessel, the pier would be required to meet the design and construction, layout and spacing, electrical power system, etc. requirements in 33 CFR Part 127, Subpart B.

      (1) There are no provisions in 33 CFR Part 127 for "mobile facilities" as there are under 33 CFR Part 154. See 33 CFR 154.195 (Mobile facility means any facility that can readily change location, such as a tank truck or tank car, other than a vessel or public vessel). A truck or rail car that transfers any amount of liquefied gas applicable to 33 CFR Part 127 must follow the requirements of 33 CFR Part 127.

      (2) Small scale LNG and LHG facilities, including LNG as fuel facilities, must meet 33 CFR Part 127 in its entirety, or be granted alternatives under 33 CFR §127.007 to provide an equivalent level of safety. NFPA 58, NFPA 59A, and CG-OES Policy Letters 01-15 and 02-15 provide standards and methodology project proponents may use in developing alternatives for small scale LNG and LHG facilities.

         (a) When COTPs require assistance in reviewing such requests, Paragraph 1.F of this Manual should be followed.

         (b) When conducting facility compliance activities on such facilities, COTPs must consider alternatives previously approved and inspect the facility to the standards in the approved alternatives if they deviate from the requirements of 33 CFR Part 127.

e. Jurisdiction on LNG facilities is generally limited by regulation to the MTA. The MTA on LNG facilities extends from the vessel or where the vessel moors to the last manifold or valve before the receiving tank.

f. Jurisdiction on LHG facilities is generally limited to the MTA. The MTA on LHG facilities extends from the vessel or where the vessel moors to the first shutoff valve on the pipeline immediately inland of the terminal manifold, including the entire part of a pier or wharf used to serve LHG vessels. As discussed in 60 FR 39789, the area encompasses the pier or wharf in its entirety, including the cargo manifold, as well as the part of piping cargo and vapor inland from the pier to the first shutoff valve. Here, ‘‘inland’’ refers to the direction along the piping away from the vessel.

g. Other applicable regulations. The MTSA regulations in 33 CFR Parts 101 and 105 and MARPOL PRF regulations in 33 CFR Part 158 may also apply to a LNG or LHG facility.

6. 33 CFR Parts 154. These regulations apply to all onshore and offshore facilities capable of transferring oil or liquid hazardous material, in bulk, to or from any vessel with a capacity of 250 barrels or more on the navigable waters or contiguous zone of the United States.

a. These regulations are issued under PWS and the FWPCA and apply to the navigable waters of the United States, adjoining shorelines, and the contiguous zone. Even though the FWPCA applies out to 200 miles, these regulations apply out to 12 miles from the baseline because of PWS jurisdiction, with the following exceptions:

(1) Under 33 CFR § 154.100, this Part applies to “each facility”, and 33 CFR § 154.105 defines “facility” to include “either an onshore or offshore facility, except for an offshore facility operating under the jurisdiction of the Secretary of the Department of Interior”.

(a) As discussed in 45 FR 7157, 33 CFR Part 154 does not apply to Outer Continental Shelf (OCS) Facilities. OCS Facility is defined at 33 CFR § 140.10.

(b) Structures similar to an OCS Facility but located within state waters, as defined in the SLA, are applicable to 33 CFR Part 154 if they are capable of transferring oil or liquid hazardous material, in bulk, to or from any vessel with a capacity of 250 barrels or more.

(2) Oil import/export facilities located beyond the state waters, as defined in the SLA, may also be subject to the DPA. In such instances, contact Commandant (CG-OES-2) and Commandant (CG-FAC-2).

b. A tank truck or tank car that transfers oil or liquid hazardous material, in bulk, to or from any vessel with a capacity of 250 barrels or more are considered a mobile facility under 33 CFR Part 154. This Part allows modified requirements for mobile facilities. Coast Guard policy on oversight of mobile facilities can be found in Reference (d).

c. Jurisdiction on facilities regulated under this Part are generally limited by regulation to the MTA. The MTA extends from the part of a waterfront facility handling oil or hazardous materials in bulk between the vessel, or where the vessel moors, and the first manifold or shutoff valve on the pipeline encountered after the pipeline enters the secondary containment required under 40 CFR § 112.7 or 49 CFR § 195.264 inland of the terminal manifold or loading arm, or, in the absence of secondary containment, to the valve or manifold adjacent to the bulk storage tank, including the entire pier or wharf to which a vessel transferring oil or hazardous materials is moored.

d. Federal facilities, regardless of the type of the vessels they service, come under the purview of 33 CFR Parts 154 and 156 (this includes DoD and Coast Guard facilities). Primary responsibility for enforcing the requirements of 33 CFR Parts 154 and 156 at facilities that are both federally owned and operated resides with the Federal agency that owns and operates the facility, not with the Coast Guard. When a facility is owned or operated by a commercial entity but operating on a Federal facility, the Coast Guard maintains regulatory oversight. Consistent with our general enforcement responsibility and in the public interest, on facilities that are both owned and operated by a Federal agency, the Coast Guard does the following:

(1) Supports and assists the efforts of the Federal agency involved to comply with the pollution prevention regulations.

(2) Conducts facility compliance activities at such facilities upon request, and enters such facilities to gain access to commercial vessels berthed there.

(3) Advises other agencies of violations, when observed or reported, and of requirements that must be met to achieve compliance.

(4) When a violation of these parts is observed at a Federally owned and operated facility, the COTP-

(a) Formally advises the responsible official of the violation(s);

(b) Explores all possible means of resolving the matter and achieving compliance; and

(c) Submits relevant documentation to the District Commander for disposition if compliance is not forthcoming.

(5) Upon receipt of documentation from the COTP indicating violations at such facilities, the District Commander must explore all possible means of reaching a mutual agreement for achieving compliance. Such efforts must be undertaken with the District Commander's counterpart in the cognizant agency, e.g., the Regional Administrator, District Commandant, or District Engineer and be fully documented. If this fails to achieve a resolution of the situation, provide Commandant (CG-FAC) all relevant information for resolution with the parent agency.

e. Facility Response Plans (FRP) policy and guidance can be found in Reference (e).

f. Other applicable regulations. The MTSA regulations in 33 CFR Parts 101 and 105 and MARPOL PRF regulations in 33 CFR Part 158 may also apply to a bulk liquid oil or bulk liquid hazardous material facility.

7. 33 CFR Part 158. The United States is signatory to Annex I, II, III, V, and VI of MARPOL. All countries signatory to Annex's I, II, V, and VI must ensure suitable PRFs are provided for waste generated by ships calling on ports or terminals within the port state. Implementing regulations for the United States can be found in 33 CFR Part 158, and policy for administration of this program can be found in COMDTINST M16450 (series). As such, this Manual does not discuss the Coast Guard PRF and Certificate of Adequacy (COA) programs.

8. Mixed Use Waterfront Facilities. Some waterfront facilities fit into more than one facility type. These are called mixed use waterfront facilities. For instance, a facility may handle both oil and liquefied gases in bulk.

a. In most cases, there is a distinct separation between the portions of the facility that handles these different categories of product and each portion can be treated as separate facilities for Coast Guard facility safety compliance purposes. However, in some cases, the same area is used for different categories of product and the area must meet the requirements for more than one facility type.

b. If the requirements between multiple regulatory parts conflict, the COTP should apply the requirements that provide the highest level of safety. In some instances, the facility may need to request an exemption or alternative from certain requirements due to conflicting requirements in different regulatory parts. For example, a facility that transfer LHGs and is regulated under 33 CFR Part 127 may be required to have a fire pump and diesel tank on the dock. If this facility is also subject to 33 CFR Part 154, which prohibits the diesel tank on the dock, they must request an exemption from the requirements of 33 CFR Part 154 in order to comply with 33 CFR Part 127.

E. Responsibilities.

1. Headquarters.

a. Provide policy guidance and regulatory interpretation on all matters pertaining to the Regulated Facility Compliance Program.

b. Improve the Regulated Facility Compliance Program through coordination with other Coast Guard entities.

c. Explore opportunities with other regulatory agencies to combine training opportunities and improve mission efficiency.

d. Periodically review and update this Manual.

2. Areas and Districts.

   a. Provide oversight and support to the COTP performing the activities of the Regulated Facility Compliance Program.

   b. Serve as a liaison between the COTP and Headquarters to address questions and provide suggestions for improving the Regulated Facility Compliance Program.

   c. Ensure appropriate risk-based decisions are being made by COTPs in regards to conducting facility compliance activities.

3. COTPs.

   a. Develop standing local arrangements for cooperation and information sharing with other regulatory agencies and organizations having an interest in Coast Guard regulated facilities. These agencies and organizations include, as appropriate, the Pipeline and Hazardous Materials Safety Administration (PHMSA) Office of Pipeline Safety (OPS) and/or Office of Hazardous Materials Safety (OHMS), the Federal Energy Regulatory Commissions (FERC), Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), state and local agencies, and port/facility operators.

   b. Maintain an adequate cadre of qualified Facility Inspectors to carry out the Regulated Facility Compliance Program.

   c. Ensure MISLE casework is completed in an accurate and timely manner in accordance with this Manual and current Commandant (CG-FAC) policy and guides.

   d. Assist in program improvement by sharing best practices and lessons learned with Commandant (CG-FAC) through District and Area staffs.

F. Technical Assistance and Policy Interpretation. COTPs should contact their District Prevention staff for policy interpretation and technical assistance. If necessary, District Prevention staffs will contact Area staffs and Commandant (CG-FAC) for higher level review or determinations.

## CHAPTER 2 Safety

A. Facility Inspector Safety.

1. Safety Overview. There are numerous potential hazards associated with facility operations, including physical, chemical, and/or biological hazards. Many of the cargoes or products handled at waterfront facilities are explosive, flammable, or present an inhalation or other health hazard. This Section provides an overview of standard safe work practices while conducting facility compliance activities. However, nothing in this guidance should prevent strict adherence to the detailed guidance found in Reference (f) and Reference (g). Units should contact their cognizant Safety and Environmental Health Officer (SEHO) for help in determining appropriate personal protective equipment (PPE) or to assess hazards. A current listing of SEHOs can be found on CGPortal under HSWLSC, Safety and Environmental Health Division, Field Operation Branch and selecting "HSWL SC se-fo Phone Contact List".

2. Chemical Health Hazards. As discussed in Chapter 26 of Reference (g), exposure to hazardous materials through contact or inhalation during facility compliance activities can be harmful or fatal.

   a. Poisonous by Inhalation (PIH) commodities generally have low Immediately Dangerous to Life and Health (IDLH) levels, Threshold Limit Values (TLV), and Short Term Exposure Limits (STEL). Caution should be exercised around these commodities during facility compliance activities.

   b. Benzene is a highly volatile, colorless, flammable liquid with a sweet odor. Exposure can occur occupationally and domestically as a result of the ubiquitous use of benzene-containing petroleum products, including motor fuels and solvents. The most common form of exposure is through inhalation. The Coast Guard medical surveillance criteria are the levels of worker exposure to specific chemicals, particulates or physical agents at or above which occupational medical surveillance examinations need to be performed. In the case of asbestos, benzene, cadmium, chromium, lead and noise the Coast Guard medical surveillance criteria reflect exposure levels at which OSHA mandates medical surveillance. The Coast Guard establishes standards for the exposure and medical monitoring of personnel in Reference (h).

3. Material Condition. The material condition of all portions of the waterfront facility should be considered as part of the onsite safety risk assessment. Corroded metal, broken gangways and rails, sharp corners, shackles, loose gear, and wet or slippery decks are all items that could cause potential injury. Caution should be observed whenever these or other slip, trip, and fall hazards are present.

4. Confined Spaces. Coast Guard Facility Inspectors normally do not encounter confined spaces in the course of facility compliance activities. However, they must be aware of the three distinct characteristics of a confined space, with those being: (1) it is large enough and so configured that an employee can bodily enter and perform assigned work; (2) it has limited or restricted means for entry or exit; and (3) it is not designed for continuous employee occupancy. In the event

entry into a confined space is necessary during the course of a facility compliance activity, Coast Guard Facility Inspectors must follow the procedures outlined in Chapter 13 of Reference (g).

5. Waterfront Facility Hazards. While on facilities, Coast Guard personnel must remain alert for moving vehicles and other facility related activities to avoid injury. Inspectors must comply with all of the facilities PPE requirements in addition to Coast Guard requirements.

6. Smoking Prohibitions. Given possible interactions with hazardous or explosive materials, Coast Guard personnel are prohibited from smoking while conducting facility compliance activities.

B. Safety Equipment and Risk Assessment.

1. Personal Protective Equipment (PPE). The Coast Guard requires the use of personal protective clothing and equipment at field units. It is the Commanding Officer's responsibility to ensure their personnel have appropriate PPE for the hazards present.

   a. When conducting facility compliance activities, basic PPE must include: a hard hat, safety glasses, hearing protection, safety shoes, and leather gloves for abrasion hazards. When practical, long sleeve work attire or coveralls should also be worn to help provide protection from sun exposure, abrasion, cold temperatures and contact with chemical hazards. Noise that exceeds 85 decibels (dB) or has a peak of 140 dB or greater requires hearing protection. A best practice is to wear hearing protection at any location where personnel must raise their voices to communicate.

   b. A Coast Guard issued, properly calibrated multi-gas meter must be worn by all members of the team. The multi-gas meter must be bump tested prior to use each day and calibrated according to manufacturer requirements. It is also recommended to bump test upon return to the unit after facility compliance activities to verify the meter performed properly during the facility compliance activity.

   c. Portable communication devices should be used when necessary to ensure reliable access to emergency care during facility compliance activities. Any portable communication device used in potentially explosive atmospheres must be intrinsically safe.

   d. Facility compliance personnel must abide by the policy found in the USCG Countering WMD Capabilities Manual, COMDTINST M3400.51 (series), which requires "radiation detection capabilities (i.e., as a minimum, Personal Radiation Detectors) must be deployed with, and used by, all Coast Guard Boarding/Inspection teams to include teams visiting facilities and conducting pier-side boardings and during vessel exams to include Port State Control exams, for the dual purpose of protecting Coast Guard and any participating Law Enforcement personnel from exposure and increasing the chances of intercepting illicit rad/nuc material."

   e. Emergency Escape Breathing Device (EEBD). Facility Inspectors must follow the policy for carrying EEBDs found in Reference (f). Additionally, upon entering a facility, it should be noted if a facility has EEBDs and, if so, their location. The EEBD is a form of respiratory

protection, to be used exclusively as emergency protection while egressing from a hazardous area. An EEBD must never be used for the purpose of entering confined spaces or hazardous areas. An EEBD is primarily for sudden releases of toxic or explosive vapors/gases or toxic vapors with good warning properties. The required wearing of a gas meter assists with identifying these hazards.

2. Risk Assessment. An onsite risk assessment should be done prior to any facility compliance activity, and all facility compliance activities must be conducted with caution given the safety and health risks these activities present. All team members must employ the concepts outlined in Risk Management (RM), COMDTINST M3500.3 (series).

C. Response to Releases/Discharges or Exposures.

1. Emergency Egress. All personnel must immediately evacuate the exposure area and muster in a safe location upwind. The following factors are indications of possible exposure and require an immediate emergency egress. Indications of exposure are not limited to the factors on this list:

   a. Leaks, odors, or sounds (such as when compressed gas is released);

   b. Personal monitor or meter alarms; and/or

   c. Feeling dizzy, nauseated, or light-headed.

2. Actions to be taken after an Emergency Egress.

   a. Close off the area by establishing isolation distances to safeguard other personnel from accidental exposure to a hazardous atmosphere or environment.

   b. Notify the COTP and institute appropriate operational controls.

   c. The National Response Center (NRC), appropriate Oil Spill Removal Organization (OSRO), and facility and vessel personnel who have the capability to resolve the emergency should be notified. Vessels and facilities may have response plans detailing the procedures for resolving oil or hazardous material spills, which include required notifications. This does not prevent the Coast Guard facility compliance teams from making their own notifications in accordance with local procedures.

3. Acute Exposure of Coast Guard Personnel. If a Coast Guard member suffers or is suspected of suffering an acute exposure to a known or unknown substance, the member must cease working and follow the procedures in Chapter 2.C.4 of this Manual immediately, including seeking medical care. Many acute exposures cannot be captured after more than 24 hours have elapsed and proper medical monitoring data cannot be accomplished. In such instances, health related recordkeeping outlined in Chapter 2.D of this Manual must also be followed.

4. Emergency Medical Treatment.

   a. Use of Guides. Safety Data Sheets (SDS), oil and chemical specific emergency response information, such as information found in the Department of Transportation Emergency Response Guide (DOT ERG) Book, the National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards, and the American Conference of Governmental Industrial Hygienists (ACGIH) TLVs and BEIs, should be consulted for appropriate initial decontamination. Use of cell phone apps, such as the National Institute of Health (NIH) Wiser app can be used outside of areas that require use of intrinsically safe devices. Coast Guard personnel should be aware of the location and contact information of facility-operated and local fire departments, first aid stations, and oil and chemical decontamination stations.

   b. Medical Facilities. Medical treatment for exposure to hazardous materials requires specialized medical facilities. COTPs must maintain current listings and locations of medical facilities with hazmat teams for hazardous material exposure victims. If such facilities do not exist, personnel should be taken to other appropriate pre-identified medical facilities.

   c. Medical Care. Reference (i) provides policy for emergency medical care. Medical personnel should be provided with all known information including the name and concentration of the hazardous materials, duration of exposure, and most probable route of exposure; e.g., inhalation, absorption, injection or ingestion. Medical personnel should also be given the 24-hour telephone number to the Agency for Toxic Substances and Disease Registry, which is (770) 488-7100.

D. Health Related Recordkeeping. Reference (h) sets the policy for enrollment in the Occupational Medical Surveillance and Evaluation Program (OMSEP). Generally, all marine safety personnel, including Facility Inspectors, meet the criteria for enrollment in OMSEP's Hazardous Waste Operations and Emergency Response medical surveillance program. While there are numerous requirements for this program, there are specific requirements to follow when Coast Guard personnel are acutely exposed or potentially exposed to hazardous material. In such instances, Coast Guard personnel must complete the Form CG-6000-1 and undergo a medical examination in accordance with Reference (h).

E. Reports. Chapter 3 of Reference (g) sets the policy for mishap response, investigation and reporting. Notify Commandant (CG-FAC-2) of all facility compliance activity related mishaps, high potential mishaps, and "near misses" (Class D HIPO mishap) so lessons learned can be captured and shared with the operational community, by including the Command Email address CMD-SMB-COMDT-CG-5P in the e-MISHAP system distribution list.

## CHAPTER 3 Program Administration

A. Facility Compliance Activities. The Coast Guard visits waterfront facilities for various purposes. Throughout this Manual, the term "facility compliance activity" is used to encompass any or all of the activity types outlined in Chapter 3.A.3 of this Manual.

1. Team composition. All facility compliance activities must have at least two Coast Guard personnel present, with one of them holding the Facility Inspector competency. See Chapter 3.F of this Manual for qualification and recertification procedures. Complex facilities and facilities with an extensive deficiency history may warrant the presence of more experienced personnel on the facility compliance activity.

2. Facility Compliance Activity Intervals. The type and frequency of facility compliance activity is determined by the COTP, using risk based guidance promulgated by Commandant (CG-FAC). Facility safety and security compliance activities, when possible and appropriate, should be completed together to reduce the burden on facility operations.

3. Types of Facility Compliance Activities.

   a. Inspections. An inspection is a formal visit, announced or unannounced, to a waterfront facility to ensure its safe operation, and to verify compliance with applicable safety, security, and pollution prevention regulations. Before the inspection, Facility Inspectors should review:

      (1) The facility file for previous activities and instances of noncompliance;

      (2) Outstanding deficiencies;

      (3) Hotwork permits;

      (4) Any alternatives, exemptions, or waivers granted;

      (5) The facility's latest Facility Security Plan (FSP), Operations Manual, FRP, and Emergency Manual, as applicable.

      Facility Inspectors should consider contacting cognizant federal, state, and local authorities (local fire department, state department of environmental protection, etc.) to see if they would like to participate in a joint inspection. Joint inspections promote interagency cooperation and reduce the inspection burden on the facility operator. During the inspection, the applicable Waterfront Facility Inspection Job Aid, available on the Commandant (CG-FAC-2) CGPortal page, should be used as a guide, and the inspection team should be accompanied by a facility representative for the duration of the inspection.

   b. Spot Checks. Spot checks are a valuable tool to ensure compliance with applicable regulations, and are of a smaller scope than an inspection discussed in Chapter 3.A.3.a of this Manual. A spot check may be planned in advance, or conducted when onboard a facility for other purposes. When possible, preparation for spot checks should be similar to the

preparation outlined for inspections in Chapter 3.A.1 of this Manual. Following each spot check, a Form CG-835F must be issued to the facility as outlined in Chapter 3.B of this Manual.

c. Deficiency Follow up. When a deficiency is issued on a facility compliance activity, the COTP must determine the proper follow up action. In some instances, a physical visit to the facility may be necessary to verify the deficiency has been resolved. In other instances, reviewing documentation submitted by the facility in hard copy or electronic format may be appropriate. Sometimes this documentation will be generated by the facility and other times reports from third parties that conduct testing or certification on facility equipment will be submitted. As appropriate, documentation provided to satisfy deficiencies must be entered into MISLE.

d. Transfer Monitors. This type of compliance activity verifies the operational requirements for transfer are met. When monitoring transfer operations between a vessel and facility, COTP personnel should monitor both facility and vessel operations. Coast Guard policy related to Transfer Monitors can be found in Reference (j).

e. Incident Follow Ups. Following an incident on a facility, such as an oil spill, hazardous material release or incident, near miss, industrial accident, or other type of incident, the COTP must evaluate if a facility compliance inspection or spot check is warranted to ensure compliance with applicable facility compliance regulations. The scope of such an incident follow-up should be determined by the COTP.

f. Certificate of Adequacy Inspections. Each port and terminal that meets the applicability outlined in 33 CFR § 158.110 must provide reception facilities as required in 33 CFR Part 158. COA inspections are encouraged to be conducted during the same visit when other inspections are conducted.

g. Other Visits. In addition to the visits described above, it may be necessary to visit a waterfront facility for container inspections, investigations, manual reviews, document and certificate checks, firefighting equipment checks, pollution prevention/compliance checks, hotwork permit checks, or response plan drills. If possible, these visits should be conducted in conjunction with vessel inspections or other compliance activities at the facility. Every visit to a waterfront facility for a facility compliance activity must be documented in MISLE.

h. Other Engagements with Facility Representatives.

(1) When a meeting or phone call occurs with a facility representative related to an ongoing activity, log key discussion points from the engagement in a new or existing MISLE activity narrative.

(2) When a meeting or phone call occurs with a facility representative not part of an ongoing activity and the unit desires to maintain a historical record of the discussions, it is appropriate to open an Administrative Activity in MISLE to capture the key discussion

points. Facility Inspectors must use their judgment on when to open an Administrative Activity rather than doing so for all engagements with facility representatives.

(3) Making such entries in MISLE builds a complete history for facilities to include decisions made by the Coast Guard and reasons for those decisions. Such entries can also be used as mitigating and aggravating factors in the future if enforcement actions become necessary.

B. Facility Inspection Requirements, Form CG-835F.

1. Overview. The Form CG-835F must be issued following every facility compliance activity, except transfer monitors where no deficiencies are identified, in which case the Form CG-5562B may be issued as outlined in Reference (j). All deficiency types, including safety and security must be documented on the Form CG-835F. Since the description of specific security deficiencies may be Sensitive Security Information (SSI), it is acceptable to issue a separate Form CG-835F for security deficiencies to the facility. If during the course of an inspection no deficiencies are identified, the Facility Inspector must draw a diagonal line through the form, write "No Deficiencies Identified", and sign along the line.

2. Deficiencies. Deficiencies issued on the Form CG-835F must be based on specific requirements contained within the regulations. Requirements issued based upon the discretion of the COTP, where allowed by regulation, are to be clearly worded so the deficiency to be corrected is understood by the facility representative. Requirements that cannot be supported by regulation must not be written.

a. When issuing requirements that limit normal operations, the Facility Inspector should state as such within the description of the Form CG-835F (e.g. prior to next transfer, prior to use of a particular piece of equipment, etc.).

b. Deficiencies for items required to be in place at all times (e.g. access control on a MTSA regulated facility) that are corrected on the spot should be documented on the Form CG-835F and in MISLE as resolved at the time of the facility compliance activity. Discovery of non-compliant items which are only required during future transfer operations (e.g. water in small discharge containment while a transfer is not taking place) can be corrected on the spot and should not be documented as deficiencies on a Form CG-835F or in MISLE.

c. If the COTP desires to control facility operations when faced with an emergent concern for safety, security, or environmental protection beyond limiting normal operations as discussed in Chapter 3.B.2.a, a COTP Order is required unless a Suspension Order has been issued as outlined in Chapter 4.B.5 of Reference (j). The deficiency must be noted on the Form CG-835F, but the form alone must not be used to control facility operations. Additional information on COTP Orders can be found in Reference (f) and Reference (k).

3. Repairs. The Form CG-835F should not be issued to cover repairs or changes initiated by the facility when such repairs or changes would not have been required by the Facility Inspector.

4. Writing Deficiency Requirements. The Form CG-835F must contain clear and concise language of the deficiency, how/why the requirement was not met, and the action(s) necessary to correct the deficiency. Unless a particular sequence or system of actions is required by statute, regulation, or the facilities current plan/manual required by the Coast Guard, the method of correction should be left to the discretion of the facility owner/operator, subject to the Facility Inspector's approval. Additionally, the regulatory cite and due date must be listed in the appropriate columns on the form. In some instances, a requirement such as "prior to next transfer" may be specified rather than a date. In these situations, the requirement may be written in the Description column following the required corrective action.

5. Data capture. All deficiencies issued on a Form CG-835F must be entered in MISLE.

C. Corrective, Enforcement, and Investigative Actions.

1. Corrective Actions. Effective corrective actions and education are necessary to deter repeat discrepancies that endanger lives, property, and the environment. At a minimum, the discrepancy must be corrected. Additional actions provide a greater incentive for future compliance. Each discrepancy found and each corrective action taken must be documented in MISLE. The COTP must select an appropriate action for each discrepancy depending upon the seriousness of the discrepancy and the facility owner or operator's history of compliance. The goal of the Coast Guard's enforcement program is to compel compliance with the applicable regulations today and in the future. The lowest level of enforcement necessary to compel this compliance should be used. However, in the case of gross and/or willful non-compliance, criminal proceedings may be initiated in accordance with applicable law, and with the assistance of the servicing legal office.

2. Additional Guidance. Reference (f) and Marine Safety Manual, Volume V, COMDTINST M16000.11 (series) provide additional guidance on selecting appropriate actions. If a Notice of Violation (NOV) is selected, issue a NOV in accordance with the Notice of Violation User's Guide, COMDTINST M5582.1 (series). If a civil penalty is selected, the COTP must recommend an appropriate penalty using the guidance found in Civil Penalty Procedures and Administration, COMDTINST M16200.3 (series). For each discrepancy found, one or more of the following actions may be taken:

   a. On-the-spot correction;

   b. Deficiency requiring correction with no further enforcement action;

   c. Letter of Warning (LOW);

   d. NOV;

   e. Civil Penalty;

   f. COTP Order (to suspend transfer, prohibit vessels from mooring at facility, etc.);

g. Action against a facility's COA or General Permit; or

h. Referral to a U.S. Attorney for criminal prosecution (in extreme cases).

3. Investigative powers. When Facility Inspectors determine or suspect non-compliance but are unable to conduct an appropriate investigation due to non-cooperation by the facility, they should contact the unit's Investigations Division for assistance. 46 U.S.C. § 70035 authorizes the Secretary to investigate any incident, accident, or act involving damage to a waterfront facility, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States. Additionally, 46 U.S.C. § 70035(b) gives the Secretary the power to issue subpoenas. While the authority to issue subpoenas to waterfront facilities exists, it must only be exercised by Investigating Officers following unit procedures.

D. MISLE.

1. General. Commandant (CG-FAC) relies on data in MISLE and data extracted from Coast Guard Business Intelligence (CGBI) for the management of the facility and container inspection programs, completing mandated reports, responding to Congressional inquiries, and for other uses. Commandant (CG-741) relies on this same data to update and generate field level staffing requirements, substantiate resource proposals, and support billet redistribution decisions. As such, accurate and timely MISLE activities, and proper review and closure of those activities at the field level, is vital.

   a. All pertinent documents related to facilities must be loaded into MISLE. As such, units are not required to maintain paper facility files for each facility, but may if they desire to. In deciding whether or not to maintain paper facility files, units must consider what documentation is required for reference on facility compliance activities. Documents uploaded into MISLE meet records retention requirements. Therefore, maintaining hard copies of inspection reports, etc. at the unit is not necessary if they are uploaded into MISLE.

   b. Chapters 4 through 6 of this Manual have additional specific requirements for MISLE based on facility type.

2. Facility Applicability. MISLE facility files are also vital in the management of the facility compliance program at the local, District, Area, and Headquarters level. As such, units must ensure the appropriate applicability check boxes are selected for each regulated facility in MISLE, and all applicable facility types are selected. These selections feed into various CGBI reports relied upon for various reasons at all levels of the chain of command.

3. User Guides. MISLE policy user guides posted on the Commandant (CG-FAC-2) CGPortal page should be used when completing MISLE activities. There may be unique situations where deviation from the guidelines in these documents is warranted, but those should be the exception rather than the rule. MISLE functional user guides are available on the MISLE Community in CGPortal. The policy user guides outline content to enter in fields throughout MISLE activities, while the functional user guides outline how the system is designed and operates.

4. Activity Review and Closure. Prior to closure of MISLE activities, a second level review of the activity must be conducted by a Division Supervisor or the designated facility/container inspection Branch Chief or Lead Petty Officer. The person conducting this review and closing the activity must not be the same person who completed the activity. It is recommended this process be documented in the unit's Mission Management System (MMS) procedures. These reviews must ensure the activity is an accurate representation of Coast Guard actions during the facility compliance activity, and the activity complies with the MISLE guides posted on CGPortal.

5. MISLE Closure Timelines.

   a. No deficiencies identified. In accordance with Reference (f), activities without deficiencies identified should be entered in MISLE and closed within seven days of completion of a facility compliance activity.

   b. Deficiencies identified. Activities with deficiencies identified should be entered in MISLE within seven days of completion of the facility compliance activity. If deficiencies are not resolved within 14 days of the facility compliance activity, the activity should be reviewed and closed, and a new activity opened for the deficiency follow-up when it is conducted.

   c. Ongoing activities. When there are ongoing and frequent changes to an activity (e.g. FRP review, a construction project on a facility where the FSP will change regularly as the construction project progresses, etc.), units may leave that activity open for longer than 14 days to ensure a single historical record of that ongoing activity. This practice should be on a case-by-case basis rather than the status quo.

6. Open Activities and Unresolved Deficiencies. Not less than once each quarter, each unit must identify open activities and unresolved deficiencies in MISLE, and, if possible, take proper action to close the activity or resolve the deficiency. Open activities and unresolved deficiencies can be determined by using the MISLE Facility Activities and MISLE Facility Activity Deficiencies Cubes in CGBI.

E. Administrative Processing.

1. Manuals. Different Parts of the CFR related to facility compliance require different manuals and plans to be submitted. Upon receipt of manuals or plans, such as Operations Manuals, Emergency Manuals, FRPs, and FSPs, or amendments for these manuals or plans, the unit must notify the submitter of receipt via email and open the appropriate MISLE activity for the review of the manual/plan or amendment. This notification of receipt should be captured in the MISLE narrative, and MISLE narratives must be kept up to date throughout the review process. Review procedures and timelines of such manuals/plans are discussed under the applicable inspection Part in Chapters 4 through 6 of this Manual with the exception of FRPs. Information on review of FRPs can be found in Reference (e).

2. Alternatives, Waivers, and Exemptions. Requests for Alternatives, Waivers, or Exemptions from certain regulations are made by facilities from time to time for various reasons. Upon receipt of such a request, the unit must open the appropriate MISLE activity for review of the request, and MISLE narratives must be kept up to date throughout the review process. Procedures and requirements for such requests are discussed under the applicable inspection Part in Chapters 4 through 6 of this Manual. Procedures and requirements for requests made for facilities regulated under 33 CFR §105 can be found in Reference (b).

F. Qualification and Recertification.

1. General. Requirements for qualification can be found in Chapter 8 of the Sector Organization Manual, COMDTINST M5401.6 (series). These requirements must be followed by units for personnel working to attain the Facility Inspector, Explosive Handling Supervisor (EHS), and Container Inspector competencies, including use of Verifying Officers. The additional following policy must also be followed by units in the qualification of personnel.

2. Formal Training. Training and qualification of inspection personnel is vital to ensure proper and reasonable regulatory oversight. Initial training of Facility Inspectors is accomplished through attendance at Marine Science Technician (MST) "A" School or the Facility Inspector Course (FIC) "C" School. In order to obtain the Facility Inspector competency, personnel must successfully complete one of these courses. Because the courses are deemed to be equivalent, personnel who attend MST "A" School are normally prohibited from attending FIC.

3. Requirements for Qualification. MST "A" School and FIC give personnel the baseline knowledge for obtaining the Facility Inspector competency. In-depth on the job training, completion of a Performance and Qualification Standard (PQS), an oral pre-board, a final assessment or "check ride", and unit level oral board are also required in order to obtain the Facility Inspector competency. The scope of the oral pre-board, final assessment, and unit level oral board should be outlined in the local training requirements that are developed and documented by the Unit Training Board.

4. Advanced Competencies. The Facility Inspector competency serves as the foundation for the EHS and Container Inspector competencies. Each of these competencies requires attendance at a "C" School designed to teach the baseline knowledge for the competency, as well as in depth on the job training, completion of a PQS, an oral pre-board, a check ride, and unit level oral board. Like for the Facility Inspector competency, the scope of the oral pre-board, final assessment, and unit level oral board should be outlined in the local training requirements that are developed and documented by the Unit Training Board.

5. PQS. The most recent version of the PQS for each competency must be used when going through the qualification process. The most recent editions of these PQS workbooks are available through the Coast Guard Learning Management System, under Maritime Safety in the Course Catalog. When new PQS books are promulgated there may be a time period where multiple PQS books may be used to obtain a competency. In such instances, temporary guidelines for qualification will be published via record message traffic or other means.

6. Deferring PQS Items. When working towards a competency, certain portions of a PQS may not be able to be completed due to unavailability of certain types of facilities or equipment. In such instances that PQS item should be deferred until such time the member can demonstrate proficiency to obtain the sign off. PQS items must not be signed off based only on knowledge when the item requires demonstration of a specific action. Additionally, any items available for a trainee to demonstrate proficiency on must not be deferred. Any items deferred in the PQS must be noted in the competency letter. If a member later demonstrates that item and receives additional signoffs, a supplemental letter must be issued to the member outlining those items have been completed. Pre-requisites, such as completion of the appropriate "A" or "C" School, may not be deferred, but may, in very limited situations, be waived by CG-741 after evaluation and endorsement of the request by Commandant (CG-FAC-2).

7. De-Certification and Re-Certification. Upon detachment from a unit, Facility Inspector, EHS, and Container Inspector competency must be decertified in the Training Management Tool (TMT) by the unit training officer. When a member reports to a new unit where they need to use the competency, the receiving unit should conduct a "check ride" to ensure the member possesses the necessary knowledge to conduct the proper and reasonable regulatory oversight of the industry operating within that COTP zone. Any PQS sign offs that were previously deferred must be demonstrated and signed off, or may remain deferred if they continue to meet the stipulations of Paragraph 3.F.6 of this Manual. Upon satisfactory completion of unit recertification requirements, the member should be re-certified in TMT. Units should outline the specific requirements for recertification in their unit MMS, including review of qualification letters to verify which, if any, items have been deferred.

8. Use of the Inspector Proficiency Assessment Tool (IPAT). The IPAT measures proficiency of inspectors conducting compliance activities. It provides a mechanism to validate or identify areas for improvement in our training, management, and administrative processes by assessing the proficiency and effectiveness of inspectors while conducting compliance activities. The use of the IPAT is optional, but recommended, for units to use on check rides for initial qualification and recertification for Facility Inspectors, Container Inspectors, and EHS. These are available on the Commandant (CG-FAC-2) CGPortal page.

# CHAPTER 4 Handling of Dangerous Cargo at Waterfront Facilities

A. General.

1. Applicability. Waterfront facilities that handle packaged and bulk solid dangerous cargo are regulated under 33 CFR Part 126. Dangerous cargo, for the purpose of this Part, is defined in 33 CFR § 126.3. The regulations in 49 CFR Parts 171-180 also apply to packaged hazardous materials on waterfront facilities.

2. 33 CFR § 126.13. Under the provisions of 33 CFR § 126.13, these cargoes can be handled, stored, stowed, loaded, discharged, or transported only at designated waterfront facilities that meet the requirements in 33 CFR § 126.15. The definition of a designated waterfront facility under 33 CFR Part 126 is limited to those waterfront facilities handling commodities subject to specific regulations. If a facility handles any materials that require it to be a designated waterfront facility under 33 CFR Part 126, it must store all hazardous materials in accordance with 33 CFR § l26.15, even if the packages and/or quantities are exempted under 49 CFR Parts 171-180.

3. Exclusions to Applicability.

   a. In 2010, the Coast Guard published a final rule amending 46 CFR Part 148 (75 FR 64591). The amendments aligned U.S. regulations with Chapters VI and VII of the International Convention for the Safety of Life at Sea (SOLAS) that make the International Maritime Solid Bulk Cargoes (IMSBC) Code mandatory for operations involving handling and carriage of solid bulk cargoes by vessels. The changes also expanded the list of solid hazardous materials authorized for bulk transportation by vessels, and allowed the use of the IMSBC Code as an equivalent form of compliance.

   b. As part of the harmonization with the IMSBC Code, cargoes classified as Material Hazardous only in Bulk (MHB) in the IMSBC Code were added to the tables in 46 CFR Part 148 and classified as Potentially Dangerous Materials (PDM). The hazards and special requirements associated with these cargoes are included in the tables and, when these cargoes are shipped internationally, they must be shipped in compliance with the IMSBC Code.

   c. 33 CFR Part 126 applies to waterfront facilities handling packaged and bulk-solid dangerous cargo and to vessels at those facilities. Dangerous cargo is defined in 33 CFR § 126.3, and includes “all cargo listed in 46 CFR Part 148.” This includes PDMs now listed in the 46 CFR § 148.10 – Bulk Solid Hazardous Material Table.

   d. The clear intent of the rulemaking project that added PDMs to 46 CFR Part 148 was to bring 46 CFR Part 148 into alignment with the shipping requirements in SOLAS and the IMSBC Code, and was not intended to affect waterfront facilities. Accordingly, COTPs should not enforce the requirements of 33 CFR Part 126 to facilities solely because they handle cargos designated as PDMs in 46 CFR Part 148.

4. Extent of Regulated Portion of Facility.

   a. Unlike facilities regulated under 33 CFR Part 127 and 33 CFR Part 154 that have defined limits of the MTA and Coast Guard jurisdictional boundaries the regulations in 33 CFR Part 126 date back to the mid-20th century when facility operations were considerably different than they are today.

   b. One of the factors that can be used as guidance in the determination of the extent of a waterfront facility regulated under 33 CFR Part 126 is the type of work done at the location "immediately proximate" to the waterfront and that works' relationship with the vessel. The tighter the nexus to portside operations, the stronger the argument that the nearby place that such work is performed is part of the same waterfront facility as the dock, wharf, pier, etc. A tight nexus to portside operations can be made for cargo storage areas for cargo that has been offloaded from a vessel or is awaiting loading onboard a vessel. This will generally be all cargo storage areas within the fence line of the owner or operators' controlled footprint. However, the COTP must ensure arbitrary fences are not installed at a facility for the purposes of circumventing Coast Guard facility compliance regulations.

   c. The COTP is the best positioned entity to gauge the real-world facts and to make the determination if storage areas are both immediately proximate, and part of the same waterfront facility as the portside structures under 33 CFR Part 126.

   d. Taking in the totality of the circumstances, the COTP has wide discretion to make reasonable determinations of the relative proximity of one area to another, and if, as a result, it constitutes part of the same facility. The COTP's abilities to grant waivers and alternatives are powerful tools that could be circumscribed if Headquarters-level policy sets narrow parameters of "proximity" and the definition of waterfront facility. As such, when the COTP determines a cargo storage area falls within the Coast Guard jurisdictional area of a facility regulated under 33 CFR Part 126 due to the presence of hazardous materials, they must also consider the overall hazards of the material stored there to determine which regulations within 33 CFR Part 126 need not be applied. For example, vehicle storage areas at RO/RO facilities rarely, if ever, warrant the same safety concerns as a container yard with certain dangerous cargos.

5. Facility of Particular Hazard. A "facility of particular hazard" is a designated waterfront facility (regulated under 33 CFR Part 126) authorized to handle a cargo of particular hazard, as defined in 33 CFR § 126.3. A facility of particular hazard must meet all the conditions in 33 CFR § 126.15, plus the additional requirements in 33 CFR § 126.16.

6. Permit to Operate. A "general permit" to carry out activities regulated under 33 CFR Part 126 is general permission, granted by 33 CFR § 126.27, to operate a designated waterfront facility to handle, store, stow, load, discharge, or transport a packaged cargo regulated under 49 CFR Parts 171-180 or a bulk cargo regulated under 46 CFR Part 148 (other than division 1.1 and 1.2 explosives) when the conditions detailed in 33 CFR § 126.15 exist at the facility. It is not an actual form. As the general permit is conditioned on compliance with certain requirements, no

notice to the Coast Guard is required if an individual decides to operate such a facility unless they are transferring commodities exceeding the limits outlined in 33 CFR § 126.27(b). However, a facility regulated under 33 CFR Part 126 is likely also applicable to the Facility Security regulations outlined in 33 CFR Part 105, which do require submission of certain items to the COTP as outlined in Reference (b).

7. Suspension of General Permit. The COTP is authorized in 33 CFR § 126.31 to suspend or terminate the general permit whenever they deem that the security or safety of the port or vessels or waterfront facilities therein so requires. The suspension or termination must be in writing. The general permit may be revived by either the COTP or District Commander upon a finding that the cause of suspension or termination no longer exists.

8. Designated Dangerous Cargo Permit. Under 33 CFR § 126.17, a waterfront facility may only handle, load, discharge, or transport division 1.1 and 1.2 explosives if the COTP issues a permit or waives the requirement for a permit. Additional information on the permit requirements and the Coast Guard's EHS program can be found in Explosive Handling Supervisor Program, COMDTINST M16600.8 (series).

9. Incorporated by Reference. 33 CFR § 126.5 lists industry consensus standards incorporated by reference. While newer versions of the standards Incorporated by Reference may exist, only the version listed in this section are enforceable. A facility owner or operator can request to comply with a newer version of the listed industry consensus standards, in which case those approved versions become enforceable. In such instances, the request should be reviewed as an alternative under 33 CFR § 126.12. COTPs may contact their District Prevention staff for assistance in reviewing such requests. If necessary, District Prevention staffs will contact Area staffs and Commandant (CG-FAC-2) for assistance. Additional information on alternatives for facilities regulated under 33 CFR Part 126 is discussed in Chapter 4.A.10.b of this Manual.

10. Waivers and Alternatives. 33 CFR §§ 126.11 and 126.12 discuss waiver authority and requesting to use an alternative method of complying with a requirement of this Part.

    a. Waivers. Unlike the exemption requirements of 33 CFR Part 154, it is not necessary for a facility regulated under 33 CFR Part 126 to demonstrate that a requirement is impracticable, or that no alternative procedures, methods, or equipment standards exist in order to be granted a waiver. 33 CFR § 126.11 states the Commandant, the District Commander, or the COTP may waive compliance with any provisions contained in 33 CFR §§ 126.15 and 126.16. While 33 CFR § 126.11 does not outline a process to request a waiver, a facility owner or operator should normally make a request in writing to the COTP to waive specific requirements of 33 CFR §§ 126.15 or 126.16. Prior to granting such a waiver, the COTP must determine the requirement(s) found in 33 CFR §§ 126.15 or 126.16:

        (1) Is not necessary to the safety or security of the port and vessels and waterfront facilities therein; or

        (2) Its application is not practical because of local conditions or because the materials or personnel required for compliance are not available; or

(3) The requirements of the national defense justify a departure from such provision.

b. Alternatives. A facility owner or operator may request from the COTP an alternative way of complying with a requirement found in 33 CFR Part 126 when the owner operator establishes, to the COTP's satisfaction:

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

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

Note: Common alternatives are requests to use a newer version of an industry consensus standard than what is incorporated by reference in 33 CFR Part 126.

c. General guidelines for waivers or alternatives are:

(1) Review and approval must be based on material submitted by the facility owner or operator.

(2) When necessary, meetings with the facility owner or operator, or site visits to the facility should be conducted by the Coast Guard to fully understand the request and verify information submitted in the request.

(3) It is expected that facilities will submit complete packages for their request for waivers or alternatives, but if the COTP is considering disapproving the request, the COTP should afford the facility owner or operator an opportunity to submit additional information to support their request prior to disapproving it.

d. Alternatives should not be issued with an expiration date (e.g. after five years) unless warranted by the situation. Rather, the appropriateness of alternatives should be reviewed by Facility Inspectors during each facility compliance activity.

e. Copies of waivers and alternatives must be maintained at the facility.

f. While waivers and alternatives can be approved at the COTP level, units may contact their District Prevention staff if technical assistance is desired in reviewing the request for a waiver or alternative, or if the waiver or alternative would set a national precedent. If necessary, District Prevention staffs will contact Area staffs and Commandant (CG-FAC-2) for higher level review and technical assistance.

g. Upon receipt of a request for a waiver or alternative, a MISLE activity should be created. The MISLE activity should be updated throughout the review process, and closed upon completion of the activity with all supporting documentation attached. The COTP must act on requests for alternatives within 30 days of receipt. There is no regulatory language related to timeline for review of waiver requests under 33 CFR Part 126, but COTPs should be

timely in reviews and strive to meet the same 30 day standard outlined for requests for alternatives.

h. Upon issuance of a waiver or alternative, a Special Note should be entered in MISLE indicating there is a waiver or alternative in place at the facility.

B. Roll-On/Roll-Off Facilities.

1. Vehicles shipped on vessels are packaged dangerous cargo within the meaning of 33 CFR Part 126. "Packaged" is not defined in 33 CFR Part 126, but it refers to the unique regulatory requirements for transporting different classes and types of dangerous cargos. In accordance with 49 CFR § 173.220, a vehicle itself is a packaged dangerous cargo when it is being shipped.

2. 33 CFR Part 126 applies to waterfront facilities handling packaged and bulk-solid dangerous cargo and to vessels at those facilities. This includes facilities that primarily or solely receive and store vehicles from RO/RO vessels.

3. COTPs must determine what constitutes the Coast Guard regulated portion of a RO/RO facility, using the guidelines in Chapter 4.A.4 of this Manual.

4. After a determination has been made as to what portion of the facility should be regulated under 33 CFR Part 126, the COTP may waive compliance with any provisions contained in 33 CFR §§ 126.15 and 126.16 as outlined in Chapter 4.A.10.a of this Manual. The COTP must document the waiver in writing, providing any information which supports or explains the determination, and maintain it as part of the local facility file and attached in MISLE system.

5. In accordance with 33 CFR § 126.12, an owner or operator may request the COTP allow the use of an alternative method of compliance with specific requirements of 33 CFR Part 126. The request and response must be in writing, identify how there is an equivalent or greater level of safety, and must be included as part of the local facility file and attached as a "Letter of Alternative Compliance (LAC) Appr Ltr" within the Certificates workflow of MISLE.

6. Alternatives and waivers granted by the COTP should clearly define conditions of the alternative and/or waiver and state the COTP's authority to revise or cancel if and when conditions change or are no longer met.

7. After determining the appropriate area to be regulated as a designated waterfront facility under 33 CFR Part 126, COTPs must determine the appropriate MTSA regulated footprint under 33 CFR Part 105, taking the Facility Security Assessment into account. Expansive vehicle storage areas typically will not pose a risk of a Transportation Security Incident and therefore these areas can be considered for re-designation. See Navigation and Vessel Inspection Circular (NVIC) 03-03 (series) for additional details on re-designating secure areas.

8. An Administrative activity must be created in MISLE outlining how each RO/RO facility will be regulated under 33 CFR Part 126 and 33 CFR Part 105. It must also include the factors

considered in making this determination, and any other pertinent information, such as discussions or correspondence with the facility operator during this process.

C. Facility Requirements. This Section includes requirements for facilities handling dangerous cargo. While most sections within 33 CFR 126 are outlined in this Chapter, the purpose is not to restate the regulations, but rather, where necessary, provide amplifying information on the regulations and actions Facility Inspectors should take during facility compliance activities. Facility Inspectors must use their knowledge, training, and experience to determine additional items that should be checked during facility compliance activities.

1. Fire Safety. The purpose of fire safety on waterfront facilities is to prevent fires and explosions. It also ensures that the resources necessary to respond to a fire are available and in working order should a fire occur. On packaged and bulk solid dangerous cargo waterfront facilities, the threat of fire stems not only from flammable cargoes but from other flammable articles on the facility such as dunnage, building materials, and rubbish (e.g. trash, waste material, etc.).

2. Fire extinguishing equipment. Fire extinguishing and protection equipment is essential to the safe operation of any waterfront facility. The quantity, type, and location of equipment required for each facility will vary depending upon the types of hazards present.

   a. Under 33 CFR § 126.15(a)(1), fire extinguishing equipment must be available on each packaged and bulk solid waterfront facility in adequate quantities, locations, and types.

   b. Once installed, fire extinguishing and protection equipment must be maintained in good condition and proper working order at all times.

3. Fire appliances. Under 33 CFR § 126.15(a)(2) fire appliances such as hydrants, standpipes, fire extinguishers, hose stations, and fire alarm boxes must be conspicuously marked and readily accessible. The color used in marking depends upon local regulations but generally, they are marked in red and their purpose or number shown in white lettering. The markings must be placed high enough that they will not be hidden by cargo, stanchions, columns, risers, or other obstructions.

   a. The COTP should work with the local fire authority in determining the adequacy of fire equipment. Applicable sections of NFPA 10 (1998), NFPA 13 (1996), NFPA 14 (1996), and NFPA 307 (1995) must be met by facilities.

   b. If the fire equipment on a facility is inadequate, the COTP must notify the facility operator of the problem in writing. This notification will typically be accomplished by issuance of a Form CG-835F.

   c. During facility compliance activities, look for improperly marked fire appliances, material blocking access to fire appliances, and appliances not functional (excessive corrosion, missing fire hoses, expired or spent fire extinguishers, etc.).

4. Warning Signs. 33 CFR § 126.15(a)(3) requires warning signs to be constructed and installed in accordance with NFPA 307 (1995), Chapter 7-8-7. This requirement states designated hazardous material storage areas must be posted with signs. Such signs must be easily visible, not obstructed by cargo storage, and contain the words HAZARDOUS MATERIAL – NO SMOKING in capital letters not less than six inches in height.

5. Lighting. Under 33 CFR § 126.15(a)(4), if a facility transfers dangerous cargo between sunset and sunrise, it must have outdoor lighting that adequately illuminates the transfer area, is installed in accordance with NFPA 70 (1996), and is located or shielded so it cannot be mistaken for an aid to navigation and does not interfere with navigation on waterways.

    a. 33 CFR § 126.15 does not require a specific lighting intensity. However, lighting intensity should meet OSHA requirements in 29 CFR § 1917.123, which states lights in active work areas must be of an average minimum intensity of 5 foot-candles. Generally, if a piece of paper with 12-point font can be read in all portions of the transfer area, the lighting should normally be considered adequate. If lighting is deemed to not be adequate by a Facility Inspector, a deficiency should be written to the Coast Guard requirement in 33 CFR § 126.15(a)(4), and not the OSHA requirement.

    b. In the event a Facility Inspector has a belief that lighting could be mistaken for an aid to navigation or interfere with navigation on adjacent waterways, they must contact the Sector Waterways Management Division.

6. Security. Facilities regulated under 33 CFR Part 126 are also applicable to the facility security requirements outlined in 33 CFR Part 105. A facility complying with their approved Facility Security Plan under 33 CFR 105 typically meets the majority of the requirements found in 33 CFR § 126.15(a)(7) for security measures. While 33 CFR § 126.15(a)(7) requires guards to carry out some emergency response related items, facility personnel with security duties are required under 33 CFR § 105.210(g) to have knowledge of emergency procedures and contingency plans. As such, facility personnel with security duties should normally be able to demonstrate compliance with 33 CFR § 126.15(a)(7), including:

    a. Trained guards are required in sufficient numbers to provide surveillance of the waterfront facility to deter unlawful entry, 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.

    b. Guards should be thoroughly instructed in the operation of fire alarm boxes, fire hoses, portable fire extinguishers, and similar fire equipment. They should know the location of telephones and emergency equipment, emergency fire protection measures, and emergency notification procedures.

7. Material Handling Equipment, Trucks, and Other Vehicles. Under 33 CFR § 126.15(a)(9), when dangerous cargo is being transferred or stored on the facility, material handling equipment, trucks, and other motor vehicles operated by internal combustion engines must meet the

requirements of NFPA 307 (1995), Chapter 9. These requirements include, but are not limited to:

a. Material-handling equipment operated by internal combustion engines must be of approved design and construction and be stored in a separate designated location, not on a combustible pier or wharf.

b. Unless fire extinguishers are readily accessible, each vehicle must be provided with an extinguisher approved for Class B and Class C fires.

c. All fueling and repairs must be conducted at designated and properly protected locations. All fueling must be from approved dispensing devices. Emergency refueling must not be performed on a combustible pier or wharf, nor inside buildings where combustible cargo is stored or handled.

d. Electrically operated equipment must be permitted to be stored on the pier or wharf in a segregated area. Battery charging equipment must be installed in accordance with NFPA 70 (1996), which is also referred to as the National Electrical Code.

e. Transient trucks and automobiles must only be permitted to remain on piers and wharves long enough to load and unload cargo. The number of vehicles on the pier or wharf at any one time must be limited to a number that enables free traffic flow and does not interfere with the access of emergency response equipment. They must be parked in such a way that they can be promptly moved off the pier in the event of an emergency.

8. Smoking prohibitions. 33 CFR § 126.15(a)(10) prohibits smoking on a waterfront facility except where designated by the owner or operator of the facility. Where there are no local ordinances, the COTP should ensure that all locations classified as hazardous in NFPA 70 (1996) (generally within 15 meters of where flammable hazardous materials are stored) are posted as no smoking areas.

   a. Under 49 CFR § l76.182(f), smoking is prohibited on any vessel while explosive materials are being handled or stowed except in places designated by the master of the vessel.

   b. Smoking and no smoking signs must be conspicuously posted. It is not enough for the facility owner or operator to post signs, the restrictions must also be enforced by the facility owner or operator.

9. Rubbish and waste materials. The requirements in 33 CFR § 126.15(a)(11) address the fire hazards created by poor housekeeping. Inspections for fire hazards should not be limited to obvious areas, but should include out-of-the-way places within the Coast Guard regulated portion of the facility, as well. Both the insides and outsides of sheds and other buildings should be examined. Hazards and potential hazards that could cause a fire to start or hinder firefighters should be noted and corrected. Inspectors should be alert to:

   a. Piles of dunnage or scrap;

b. Rubbish or waste materials on piers or wharves;

c. Sloppy carpenter and paint shops, etc;

d. Railroad cars laden with waste materials;

e. Inadequate or unsuitable waste cans (rubbish should be kept in metal containers with covers, and removed or emptied at frequent intervals to prevent dangerous accumulations); and,

f. Hazardous accumulations of dust on trusses, girders, or other structural members.

10. Arrangement of Cargo, Freight, Merchandise, or Material. Under 33 CFR § 126.15(b)(1), facilities that handle dangerous cargo, not in transport units, must ensure cargo, freight, merchandise, and other items or material on the facility are arranged to provide access for firefighting and clearance for fire prevention according to NFPA 307 (1995), Chapter 8-5. Requirements include, but are not limited to:

    a. Storage areas must be suitability identified, including marking of travel lanes, to indicate direction of travel. All necessary traffic control measure must be taken.

    b. At transload facilities, at least one main aisle must extend the length of the pier or transit shed. At a minimum, the aisle must be of sufficient width to permit trucks to maneuver and pass one another.

    c. Aisle spaces must be established between cargo piles extending from the main aisle to the sides of the transit shed or transload facility. Aisles must be so arranged that, in addition to separating the cargo piles, they will give ready access to sprinkler control valves, fire hose stations, portable fire extinguishers, and the deck openings for fire-fighting purposes. Cargo must not interfere with ready access to such equipment.

    d. Aisle or access space of at least two feet must be maintained between cargo piles and the side walls, fire walls, or fire-stops in transit sheds, container freight stations, or similar transload structures.

    e. Clearance between cargo piles and sprinkler deflectors, roof supports, and other building structural member and ignition sources, such as lighting equipment, heating devices, and ductwork, must be maintained.

    f. Care must be exercised to ensure that fire-protection facilities, such as automatic sprinklers, will not be overtaxed in the event of fire due to the concentration and high-piling and palletizing of combustible cargoes.

11. Electrical Installations. Under 33 CFR § l26.15(b)(3), installations of electrical wiring and equipment on facilities that handle dangerous cargos, not in transport units, must be at a minimum in accordance with NFPA 70 (1996). For other facilities, 33 CFR § 126.15(a)(12),

adequacy of equipment, materials, and standards, can be applied to electrical installations. Inspectors are not expected to know all of the extensive requirements outlined in NFPA 70 (1996), but rather should be on the lookout for the following hazards that are likely signs of non-compliance with NFPA 70 (1996):

a. Conditions which could cause arcing;

b. Electric motors that are:

(1) Located too near combustible material;

(2) Located in damp places or subjected to corrosive vapors;

(3) Covered with rust, lint or dust;

(4) Burning out because of overloading or low voltage at motor terminals;

(5) Protected by improper overcurrent protection; or,

(6) Producing excessive heat.

c. Bare wires.

d. Loose or frayed connections.

e. Overloaded outlets.

f. Corroded terminals.

g. Lack of high voltage signs near transformers and switch boxes.

h. Defective insulation.

12. Heating Equipment and Other Sources of Ignition. Under 33 CFR § 126.15(b)(4), facilities that handle dangerous cargo, not in transport units, are prohibited from having open fires and open-flame lamps on the facility. Additionally, heating equipment must meet the requirements of NFPA 307 (1995) Chapter 9-4 that includes, but is not limited to, the prohibition of portable heaters in cargo handling or storage areas except for in emergencies.

13. Terminal Yards. Facilities that handle dangerous cargo in transport units must meet the requirements of NFPA 307 (1995) Chapter 5, for their terminal yards. This standard includes, but is not limited to, the following requirements:

a. Yards must be paved, or otherwise suitably surfaced, to permit all-weather operations of heavy equipment with appropriate marking of roadways, access lanes, parking and storage areas; to facilities the confinement and recovery of spills.

b. Vehicular routes, traffic rules, and parking areas must be established, identified, and used. Private vehicle parking must be permitted only in designated areas.

c. Access for fire-fighting operations must be provided by means of fire lanes spaced at such intervals that no portion of any storage or parking area will be over 50 feet from the fire lane.

d. Fire lanes are 12 feet or 20 feet wide, depending on the design of the facility. Fire lanes must not dead-end unless designed with a turnaround at the end. Such turnarounds must have an inside radius of not less than 25 feet and an outside radius of not less than 50 feet.

e. Storage in excess of five containers high must be permitted only with the coordination of the local authority having jurisdiction. The local authority having jurisdiction must consider the need for aerial fire-fighting techniques, improved access for mobile fire-fighting apparatus, and pile stability before permitting this arrangement. This requirement from NFPA 307 (1995) applies to all containers, and must not be confused with the regulation at 33 CFR §126.15(c)(2) that states containers packed with dangerous cargo stacked vertically must be stacked no more than four high.

14. Cargo handling equipment. No specific Coast Guard requirements have been set for cargo handling equipment on packaged or bulk solid facilities; however, OSHA has set the following requirements:

a. Cargo slings must meet the requirements in 29 CFR § 1917.13.

b. Ropes, chains, blocks, and hooks must meet the requirements in 29 CFR § 1917.42.

c. Powered industrial trucks must meet the requirements in 29 CFR § 1917.43.

d. Conveyors must meet the requirements in 29 CFR § 1917.48.

e. Spouts, chutes, hoppers, bins and similar equipment must meet the requirements in 29 CFR § 1917.49.

f. In the event a Facility Inspector feels any of these items are inadequate, a deficiency may only be issued under 33 CFR § 126.15(a)(12) if the component falls within the Coast Guard jurisdictional area.

D. Warning Alarms. Facilities that transfer a cargo of particular hazard must have warning alarms installed as specified in 33 CFR § 126.16.

1. Inspectors should verify the presence of the alarms and verify the last time the facility conducted a test. The light intensity and sound decibels should be verified from placards affixed to the equipment or equipment manuals. In the event the light intensity and sound decibels cannot be verified with documentation, or the facility has not conducted a test of the warning alarms in the last 12 months, the alarms should be tested during a facility compliance activity.

2. Any such test should be short in duration, and follow facility procedures for testing, which may include a radio broadcast to marine traffic in the area advising them of the test.

3. When conducting the test, another member of the Facility Inspection team may be placed one mile away to verify the siren and light are heard and visible from the required distance, paying particular attention to structures or natural land features that impede the siren from being observed. As the purpose of the warning alarm under this Part is to warn approaching or transiting water traffic, verifications should only entail verification that the siren and light can be seen/heard one mile away on the waterway.

E. Hotwork. Hotwork is any welding, burning, cutting, or similar operation that generates heat or sparks that could ignite a flammable material. Prior approval of the COTP is required for such operations under 33 CFR § 126.30. The regulations of 33 CFR Part 126 apply not only to the waterfront facility but, per 33 CFR § 126.1, also to vessels at such facilities. As such, any vessel at a facility regulated under 33 CFR Part 126 must also request a Hotwork Permit under 33 CFR § 126.30 prior to conducting any hotwork.

1. Hotwork permits for vessels carrying explosives or other packaged hazardous materials moored at a facility are issued to the vessel under 49 CFR § 176.54. Hotwork on other vessels moored to a packaged or bulk solid waterfront facility are issued to the facility under 33 CFR § 126.30.

2. The COTP should use Form CG-4201, Welding and Hotwork permit to approve hotwork. Approvals must be issued to the facility person in charge or the vessel's master or chief mate, not to the contractor who will be performing the work, as the owner/operator is responsible for compliance. It is the responsibility of the permittee to ensure that the requirements on the permit are complied with by contracted workers.

3. Holding a Coast Guard hotwork permit does not constitute final authority to conduct hotwork; the vessel or facility must also comply with other applicable state and local laws and regulations.

4. In some cases, local or unusual conditions may make these requirements unnecessary or not feasible. In these instances, the COTP may use the waiver authority provided by 33 CFR § 126.11.

5. In other cases, local or unusual conditions may make these requirements inadequate and additional conditions should be added to the permit. Any additional conditions specified by the COTP should be based upon sound safety standards, such as NFPA or American National Standards Institute (ANSI) standards.

6. 33 CFR Part 126 currently incorporates by reference NFPA 51B (1994) for procedures to follow for hotwork. In this standard it recommends fire watches be maintained for 30 minutes after hotwork is completed. However, more recent editions of NFPA 51B recommend fire watches be maintained for 60 minutes after the hotwork is completed. The Coast Guard cannot require fire watches for 60 minutes, but it is recommended Facility Inspectors advise facilities requesting

hotwork permits of the differences between standards incorporated by reference in 33 CFR Part 126 and current standards.

7. The intent of this requirement is to prohibit indiscriminate hotwork that could cause a fire or explosion by providing the COTP with authority to regulate such an operation. The prime consideration in evaluating hotwork requests must be safety. If the degree of safety is questionable, a permit should not be issued. Liaison with local fire authorities is encouraged when evaluating unusual permit requests.

8. Extent and Duration of Permits.

   a. Permits may be issued for a single day/event or up to a maximum of one year to cover continuous operations at a facility subject to the discretion of the COTP.

   b. For a continuing permit, the COTP may require notice from the permittee whenever hotwork is scheduled. Rather than being notified of every instance when hotwork is to be conducted, the COTP may specify on the permit what conditions and criteria require notification by the permittee. Notification may include such information as the start date and time, duration of the operation, and the proximity of any dangerous cargoes to the site of the operation. For facilities holding a continuing permit, conditions should be checked to ensure the validity of the permit during normal and random facility compliance activities.

9. Enforcement.

   a. The hotwork permit requirements should be enforced to the maximum extent possible. Where practical, hotwork permit enforcement may be performed by local fire departments. However, COTP personnel must occasionally verify that the conditions on the permit are being followed, particularly on facilities that have a history of safety violations.

   b. If hotwork is in progress during a facility compliance activity, verify the facility (or a vessel moored to the facility) has a permit for the hotwork and the conditions of the permit are being met.

   c. If a Facility Inspector witnesses any unsafe hotwork practices, they should immediately halt the activity. The Facility Inspector should ensure the element of concern is corrected before further hotwork is performed. The inspector should make notification to the COTP as soon as practical to inform them of the findings and intended corrective actions.

F. MISLE.

1. Facilities regulated under 33 CFR Part 126 must have the applicability check box selected within the MISLE facility file indicating it is regulated under 33 CFR Part 126, and the proper facility sub-types selected within MISLE.

2. Facilities Ceasing Regulated Operations.

   a. Caretaker status is a regulatory term only found in 33 CFR Part 154. Therefore, facilities regulated under 33 CFR Part 126 must not be placed into caretaker status, and the caretaker status notation and caretaker inspection activity type must not be used.

   b. Facilities regulated under 33 CFR Part 126 that are ceasing regulated activities should have the 33 CFR Part 126 applicability box unselected in MISLE and the facility sub-types modified as appropriate. If the facility continues to conduct other activities not regulated under Coast Guard facility compliance regulations the status of the facility should remain active in MISLE. If all operations on the facility cease, the facility status in MISLE should be set to De-activated.

   c. A shutdown inspection on facilities regulated under 33 CFR Part 126 may be conducted as deemed necessary by the COTP, but is not required.

3. Units should continually monitor facility entries in MISLE. Duplicated facilities entered in MISLE should have information consolidated into a single facility file, and duplicate entries set as de-activated.

4. Facility Name Changes.

   a. When a facility owner/operator changes names, the existing facility file in MISLE should be updated with the new name and contact information. When doing so, an Administrative Activity should be completed in MISLE, and a Special Note be placed in the facility file for that facility. Complete deficiency and enforcement history of the owner/operator should typically be included when taking enforcement action against the owner/operator.

   b. When a facility owner and/or operator changes, the previous facility in MISLE should be set to de-activated, the applicability part boxes unselected, and sub-types unselected. The new facility file should have the appropriate applicability boxes and sub-types selected, and a Special Note should be included indicating the previous facility owner/operator and MISLE facility identification number in order to be able to trace the site history if necessary in the future. Deficiency and enforcement history of the previous owner/operator should typically be excluded when taking enforcement action against the new owner/operator and inspection schedules should be reset by the COTP.

## CHAPTER 5 Waterfront Facilities Handling LNG and LHG

A. General Overview and Requirements. LNG and LHG facilities are regulated under 33 CFR Part 127. It should be noted the MTA for LNG and the MTA for LHG do not mirror each other. There is further discussion in 5.B.1.a and 5.C.1.c of this Chapter on the MTA for each specific facility type.

1. Applicability. 33 CFR § 127.001 discusses applicability of this Part. Subpart A includes requirements that apply to both types of facilities, while Subpart B applies to LNG facilities and Subpart C to LHG facilities. The regulations in 33 CFR Part 154 (bulk oil and liquid hazmat) do not apply to LNG or LHG facilities, nor do the transfer requirements in 33 CFR Part 156. There is no capacity threshold for facilities regulated under 33 CFR Part 127, and the requirements apply equally to LNG and LHG facilities that load those commodities in bulk of any volume. Unlike 33 CFR Part 154, there are no separate regulations for "mobile" LNG or LHG facilities; any pier, wharf, or area of land from which a mobile facility transfers LNG or LHG must meet the same requirements of a fixed facility, or obtain an alternative from the COTP showing they meet an equivalent level of safety.

   a. The applicability section uses the terms "active" and "inactive". The definition section of this Part defines these terms as:

      (1) Active means accomplishing the transfer of LHG or LNG, or scheduling one to occur, within 12 months of the current date.

      (2) Inactive means not active.

   b. When determining if a facility is an inactive 33 CFR Part 127 facility, as opposed to a facility no longer regulated under 33 CFR Part 127, the COTP must review all facts of the situation to determine the status of the facility. Generally, if the marine transfer piping is gas freed and blanked off, and the facility requests to cease to be a facility under 33 CFR Part 127, the COTP should determine they are no longer applicable to any portion of 33 CFR Part 127 rather than being regulated as an inactive 33 CFR Part 127 facility.

   c. In such instances, the Coast Guard must conduct a shutdown inspection and:

      (1) Receive documentation that the marine transfer line and all related components are gas free and blanked off;

      (2) Ensure the facility operator is aware of their responsibilities to complete a top screen under the Chemical Facility Anti-Terrorism Standards (CFATS) program as they would fall under the security requirements of the CFATS program rather than the MTSA if they are no longer an active or inactive facility regulated under 33 CFR Part 127; and

      (3) Ensure the facility owner or operator understands if the facility would return to service as a facility regulated under 33 CFR Part 127 they would be treated as a "new facility" for the purposes of requirements of compliance and the Waterways Suitability Assessment (WSA) process.

2. Incorporated by Reference. 33 CFR § 127.003 lists industry consensus standards incorporated by reference. While newer versions of the standards Incorporated by Reference may exist, only the version listed in this section are enforceable. A facility owner or operator can request to comply with a newer version of the listed industry consensus standards, in which case those approved versions become enforceable. In such instances, the request should be reviewed as an alternative under 33 CFR § 127.017. COTPs may contact their District Prevention staff for assistance in reviewing such requests. If necessary, District Prevention staffs will contact Area staffs and Commandant (CG-FAC-2) for assistance. Additional information on alternatives for facilities regulated under 33 CFR Part 127 is discussed in Chapter 5.A.10 of this Manual.

3. Definitions. 33 CFR § 127.005 lists definitions of terms used throughout 33 CFR Part 127. Discussion of specific terms listed in this section are included throughout this Chapter in appropriate locations.

4. Letter of Intent and Waterways Suitability Assessment. 33 CFR § 127.007 discusses the Letter of Intent (LOI) and WSA process. While the WSA process is outlined in the facility regulations of 33 CFR Part 127, the COTP may elect to have the Facility Inspections Branch, Waterways Management Division, or another branch or division lead the WSA process, with other personnel assisting as necessary. Some requirements of this section mirror the FERC application process for FERC jurisdictional LNG facilities, but the WSA requirements apply to all facilities regulated under 33 CFR Part 127. Small scale and novel facilities regulated under 33 CFR Part 127 are becoming more prevalent, and in some instance could come online quicker than the timelines outlined in 33 CFR § 127.007. The timelines listed in 33 CFR § 127.007 are a maximum amount of time the COTP has to review the submissions, and may be shortened if the COTP can ensure the safety and security of the proposed facility and suitability of the waterway in a shorter timeframe.

   a. The WSA process is outlined in Reference (l). While the stated scope of Reference (l) is for FERC jurisdictional LNG facilities, the same process and procedures can be followed for other facilities.

   b. For small-scale facilities, an operational risk assessment may be more appropriate than the WSA process. The COTP can authorize this approach in coordination with Commandant (CG-OES-2) and Commandant (CG-FAC-2).

   c. For LPG facilities, Sandia Report SAND2018-10338, entitled Guidance on Hazard and Safety Analyses of LPG Spills on Water, may be used in lieu of the Sandia reports discussed in Reference (l) for LNG spills on water. Sandia Report SAND2018-10338 is available on the Commandant (CG-FAC-2) CGPortal page.

5. Letter of Recommendation (LOR). 33 CFR § 127.009 discusses the LOR process. Upon review and validation of the WSA, the COTP issues a LOR and Letter of Recommendation Analysis (LORA) to the agency having jurisdiction to permit the facility.

a. Just as the WSA process outlined in Reference (l) can be followed for all facilities, not just FERC jurisdictional LNG facilities, the COTP can use the process outlined in Reference (l) for the LOR process, including, review and validation of the WSA, and completion of the LOR and LORA.

b. In the rare instance where there is no permitting agency, the COTP is still responsible for the safety and security of the port. As such, the COTP should complete the review and validation of the WSA, and write a letter to file outlining their conclusions of the review and validation of the WSA, similar to what would have been in the LOR, and how they came to those conclusions, similar to what would have been in the LORA. Any such documents must be included in the facility file in MISLE.

6. Reconsideration of the LOR. 33 CFR § 127.010 discusses reconsideration of the LOR. This section directly references 33 CFR § 127.009(c) for persons that may request reconsideration of LOR's. Per 33 CFR § 127.009(c) only "The owner or operator, or a State, local, or Indian tribal government in the vicinity of the facility, may request reconsideration as set forth in § 127.010."

   a. If the owner or operator, or State, local, or Indian tribal government in the vicinity of the facility requests reconsideration of the LOR under the provisions of 33 CFR § 127.010, the COTP must follow the procedures outlined in that section.

   b. If another entity or individual requests reconsideration of the LOR, the COTP may consider supplemental information submitted by that entity or individual in ensuring the safety and security of the port, but has no obligation to follow the procedures outlined in 33 CFR § 127.010. Rather, the COTP should respond to the request for reconsideration of the LOR stating the requestor is not an authorized party to request reconsideration of the LOR, but the COTP will consider any material they submit in ensuring the safety and security of the port.

   c. The COTP must not provide business sensitive information, or any information related to the security of the port or facility to such requestors.

   d. The COTP's servicing legal office should be engaged any time a COTP receives a request for reconsideration of a LOR, whether it is from a party authorized to request reconsideration under 33 CFR § 127.010 or not.

7. Inspections of Waterfront Facilities. 33 CFR § 127.011 states the COTP or their representative must be allowed to make reasonable examinations and inspections to determine whether the facility meets this Part. This requirement is interpreted to mean if facility personnel are present, the COTP or their representative must be permitted to access the facility within a reasonable time to conduct inspections, examinations, or monitoring of transfer operations. If a facility does not permit the COTP or their representative access to the facility, the COTP should consider placing an operational control on the facility requiring them to cease all operations until verification of compliance with this part is verified.

8. Suspension of Transfer Operations. 33 CFR § 127.013 states the COTP may issue an order to the operator of a facility to suspend LHG or LNG transfer operations if the COTP finds any condition requiring immediate action to:

   a. Prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; or

   b. Protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss.

   c. This suspension order may be issued verbally after the COTP representative receives verbal permission from the COTP, and should be followed up in writing.

   d. When the COTP has reason to suspend or restrict operations for other reasons, they may use their authority outlined in 33 CFR § 160.109 to issue a COTP Order to the facility. Any such order should be issued in accordance with the Reference (k).

9. Appeals. 33 CFR § 127.015 applies to appeals by persons directly affected by an action taken under this Part. This section pertains only to persons directly affected by a suspension order issued pursuant to 33 CFR § 127.013. Typically, affected persons will be the facility owner/operator, the vessel owner/operator/charterer, or the cargo owner. Appeal provisions for COTP Orders issued pursuant to 33 CFR § 160.109 are handled in accordance with the procedures outlined in 33 CFR § 160.7.

10. Alternatives. 33 CFR § 127.017 discusses alternatives.

    a. Unlike the requirements of 33 CFR Part 126 and 33 CFR Part 154, for a LNG or LHG facility to receive an alternative they do not need to demonstrate that the requirement is economically or physically impracticable. Rather, they simply need to demonstrate the alternative provides at least the same degree of safety provided by the regulations in 33 CFR Part 127.

       (1) Review and approval must be based on material submitted by the facility owner or operator.

       (2) When necessary, meetings with the facility owner or operator, or site visits to the facility should be conducted by the Coast Guard to fully understand the request and verify information submitted in the request.

       (3) It is expected that facilities will submit complete packages for their request for alternatives, but if the COTP is considering disapproving the request, the COTP should afford the facility owner or operator an opportunity to submit additional information to support their request prior to disapproving it.

b. Alternative procedures approved by the COTP should be described in the facility's Operations Manual, and the approval of the alternative maintained by the facility.

c. Alternatives should not be issued with an expiration date (e.g. after five years) unless warranted by the situation. Rather, the appropriateness of alternatives should be reviewed by Facility Inspectors during each facility compliance activity.

d. While alternatives can be approved at the COTP level, units may contact their District Prevention staff if technical assistance is desired in reviewing a request for an alternative, or if the alternative would set a national precedent. If necessary, District Prevention staffs will contact Area staffs and Commandant (CG-FAC-2) for higher level review and technical assistance.

e. Upon receipt of a request for an alternative, a MISLE activity should be created. The MISLE activity should be updated throughout the review process, and closed upon completion of the activity with all supporting documentation attached. The COTP must act on requests for alternatives within 30 days of receipt.

f. Upon issuance of an alternative, a Special Note should be entered in MISLE indicating there is an alternative in place at the facility.

g. There are no provisions for waivers in 33 CFR Part 127.

Note: Common alternatives are requests to use a newer version of an industry consensus standard than what is incorporated by reference in 33 CFR Part 127.

11. Operations Manual and Emergency Manual: Procedures for Examination. 33 CFR § 127.019 discusses Operations Manuals and Emergency Manuals. The requirements in this section state the Operations Manuals and Emergency Manuals must be reviewed within 30 days of receipt.

    a. Upon receipt, units must open the appropriate MISLE activity for the review of the manual, and MISLE narratives must be kept up to date throughout the review process. While there are no specific requirements for amendments to Operations Manuals or Emergency Manuals in 33 CFR Part 127, similar procedures and review timelines should be followed for amendments to such manuals.

    b. Review of manuals must be completed to ensure they meet the requirements outlined in 33 CFR §§ 127.305, 127.1305, 127.307, or 127.1307, as appropriate.

    c. If the COTP finds the Operations Manual or Emergency Manual does not meet the requirements of 33 CFR Part 127, the COTP may correspond with the submitter via email or phone to explain the issues and for the submitter to clarify and rectify issues.

B. Waterfront Facilities Handling LNG.

1. General. This Section includes requirements for LNG facilities. While most sections within 33 CFR 127 Subpart B are outlined in this Chapter, the purpose is not to restate the regulations, but rather, where necessary, provide amplifying information on the regulations and actions Facility Inspectors should take during facility compliance activities. Facility Inspectors must use their knowledge, training, and experience to determine additional items that should be checked during facility compliance activities.

   a. MTA for LNG. The MTA for LNG is defined in 33 CFR § 127.005. MTA for LNG means that part of a waterfront facility handling LNG between the vessel, or where the vessel moors, and the last manifold or valve immediately before the receiving tanks. This definition dates back to an agreement the Coast Guard made with the precursor of the PHMSA on the jurisdictional boundaries of LNG facilities in 1978.

   b. "New" and "Existing" Facilities. LNG facilities constructed under a contract awarded before June 2, 1988 must meet the requirements of Subpart A of 33 CFR Part 127, 33 CFR §§ 127.301 through 127.617, and 33 CFR § 127.701. LNG facilities constructed under a contract awarded on or after June 2, 1988 must meet all of the requirements outlined in the current edition of 33 CFR Part 127.

      (1) While the applicability for "existing" facilities in 33 CFR Part 127 excludes requirements for items such as lighting systems, communications systems, warning signs, emergency shutdowns, and warning alarms, "existing" LNG facilities under 33 CFR Part 127 must continue to comply with the requirements of 33 CFR Part 126 for such items that were in place on June 1, 1988. A copy of 33 CFR Part 126 from 1988 is available on the Commandant (CG-FAC-2) CGPortal page.

      (2) New construction in the MTA of an "existing" facility must meet the requirements for a "new" facility.

      (3) An inactive existing LNG facility that returns to active status must comply with the requirements for existing LNG facilities, with the exception of new construction in the MTA under a contract awarded on or after June 2,1988, which must meet the requirements outlined in the current edition of 33 CFR Part 127.

2. Design and Construction.

   a. Design and construction requirements of the MTA for LNG facilities can be found in 33 CFR § 127.101. This cite outlines numerous design and construction requirements through incorporation by reference of numerous Chapters of NFPA 59A (1994).

   b. Requirements for the construction of piers and wharves can be found in 33 CFR § 127.103.

   c. Layout and Spacing requirements for the MTA for LNG are located at 33 CFR § 127.105.

d. Electrical Power Systems are discussed in 33 CFR § 127.107.

e. Design and Construction Reviews.

(1) While vessels regulated by the Coast Guard undergo plan review by the Marine Safety Center, there is no requirement for facilities to submit construction plans to the Coast Guard, and as such there are no equivalent entities or level of review for facilities regulated by the Coast Guard.

(2) The Coast Guard does not review or approve plans for the construction of the MTA at waterfront facilities handling LNG, but rather verifies compliance with the regulations through other means.

(a) Coast Guard personnel are typically involved in meetings and discussions held prior to construction where the facility owners and/or their designated representatives convey their intentions to comply with or exceed the construction requirements in 33 CFR Part 127. Additionally, for FERC jurisdictional facilities, FERC conducts a thorough engineering review of the facility to ensure it meets safety, security, and reliability standards set by FERC.

[1] Information received from FERC that pertains to LNG facilities may be designated as controlled unclassified information (CUI). Possible CUI received from FERC may include Critical Energy/Electric Infrastructure Information (CEII), privileged (PRIV) information, or Sensitive Security Information (SSI).

[2] On 11 September 2019, the Assistant Commandant for Prevention Policy (CG-5P) signed an "Acknowledgement and Agreement as to the Receipt of LNG Application Materials from FERC and Treated as Critical Energy/Electric Infrastructure Information, Privileged Information, and/or Sensitive Security Information" on behalf of the Coast Guard. This signature by Commandant (CG-5P) on behalf of the Coast Guard permits FERC to share CEII, PRIV, and SSI with all necessary Coast Guard personnel. This agreement is available on the Commandant (CG-FAC-2) CGPortal page.

[3] All Coast Guard personnel that handle or may handle CUI from FERC must review this agreement and abide by its requirements.

(b) During and after construction and prior to operation, Coast Guard personnel often spot check equipment and systems to ensure they comply with the regulations. Ultimately, it is the facility owner/operators responsibility to ensure the facility is designed, constructed, and operated in accordance with all applicable standards and regulations.

(c) When a LNG facility is not subject to FERC jurisdiction, the COTP may accept a review by another local, state, or Federal agency when they feel an adequate review

of the design and construction requirements found in 33 CFR Part 127 has been conducted by, or in coordination with, that agency.

(d) When the COTP deems an adequate review to verify the construction requirements of 33 CFR Part 127 is not conducted by another agency, the COTP should seek documentation from the facility owner/operator to prove compliance with the applicable regulations. COTPs are not expected to conduct a full design and construction review of the facility's MTA, but rather question the facility owner/operator on the methodology used in designing the facility to ensure the cited regulations or consensus standards were used in the design of the facility, and then conduct a spot check of the MTA to ensure it meets the design plans. The spot check is intended to check a representative cross section of components and not an all-encompassing review.

(3) When verifying compliance with construction requirements, COTPs must pay close attention to whether the facility is a "new facility" or "existing facility" under 33 CFR Part 127 and apply the correct construction requirements.

(4) The requirements in 33 CFR § 127.105(a) related to heat flux from a fire over an impounding space not causing structural damage to a LNG vessel at the facility is a performance based regulation and not prescriptive. When questions arise about the impact of heat flux from a fire over an impounding space, COTPs are encouraged to contact their District Prevention staff, who will contact their Area staff, Commandant (CG-FAC-2), and Commandant (CG-OES-2) as appropriate.

(a) In some instances potential issues can be addressed for Coast Guard purposes through operational measures as alternatives such as having towing vessels readily available to assist in moving the LNG vessel away from the dock in the event of a fire in an impounding space.

(b) PHMSA regulations have similar, but slightly different requirements for heat flux from impounding spaces. The project proponent must address issues related to PHMSA regulations with FERC and PHMSA.

f. Routine Inspections for Design and Construction Requirements.

(1) Typically, review of compliance with construction requirements will only need to be conducted for compliance with 33 CFR §§ 127.101, 127.103, and 127.105 when a facility's MTA is first constructed or there is a modification to an existing facility's MTA which involves an item for which there is a specific Coast Guard regulation (e.g. piping system). As such, COTPs should not require an owner/operator to expend extensive time or resources to prove compliance with the construction requirements of 33 CFR Part 127 in the course of regular facility compliance activities unless a change to the facility's MTA has been made.

(2) When there is no record of the Coast Guard verifying compliance with construction requirements in 33 CFR Part 127, in conjunction with the next regular compliance inspection, the COTP may require a facility already in operation to prove compliance via the means outlined in Chapter 5.B.2.e of this Manual. In all instances where a facility proves compliance to the COTP, the COTP must ensure a complete MISLE narrative is included in the activity and a Special Note is added to the facility file in MISLE stating the date and method used to verify compliance.

g. Electrical Power Systems. Electrical power systems (which include electrical wiring and equipment) on LNG facilities must conform to the NFPA 70 (1993) in accordance with 33 CFR § 127.107. LNG facilities must also have an emergency power source for the emergency shutdown system, communications equipment, firefighting equipment, and emergency lighting. If an auxiliary generator is used as an emergency power source, it must meet Section 700-12 of NFPA 70 (1993).

(1) Inspectors are not expected to know all of the extensive requirements outlined in NFPA 70 (1993), but rather should be on the lookout for the following hazards that are likely signs of non-compliance with NFPA 70 (1993):

(a) Conditions which could cause arcing;

(b) Electric motors that are:

[1] Located too near combustible material;

[2] Located in damp places or subjected to corrosive vapors;

[3] Covered with rust, lint or dust;

[4] Burning out because of overloading or low voltage at motor terminals;

[5] Protected by improper overcurrent protection; or,

[6] Producing excessive heat.

(c) Bare wires;

(d) Loose or frayed connections;

(e) Overloaded outlets;

(f) Corroded terminals;

(g) Lack of high voltage signs near transformers and switch boxes;

(h) Defective insulation.

(2) The specifics of the emergency power system must be outlined in the Emergency Manual. On routine facility compliance activities, Facility Inspectors can verify the emergency power source required by this section through test records of the emergency power source. As there are no requirements for the facility to maintain records of the emergency power source under 33 CFR Part 127, if the facility does not have records a deficiency must not be written unless the Emergency Manual outlines records that will be maintained. Rather, the Facility Inspector may choose to have the facility demonstrate operation of the emergency system to ensure proper functionality. Any such tests must be conducted by facility personnel, and in accordance with facility procedures as to not inadvertently damage their systems or cause a blackout on the facility.

h. Lighting Systems. Under 33 CFR § 127.109, the MTA for LNG must have a lighting system and separate emergency lighting, and must be located or shielded so it cannot be mistaken for an aid to navigation and does not interfere with navigation on waterways.

(1) Lighting at the loading flange must have an intensity of 54 lux or five foot-candles. The intensity at work areas must be 11 lux or one foot-candle. Generally, if a piece of paper with 12-point font can be read in all portions of the transfer area, the lighting should normally be considered adequate.

(2) Emergency lighting must provide lighting for the operation of the emergency shutdown system, communications equipment, and firefighting equipment. Coast Guard Facility Inspectors may require the facility to test emergency power sources by simulating a loss of power during facility compliance activities. Any such tests must be conducted by facility personnel, and in accordance with facility procedures as to not inadvertently damage their systems or cause a blackout on the facility.

(3) In the event a Facility Inspector has a belief that lighting could be mistaken for an aid to navigation or interfere with navigation on adjacent waterways, they must contact the Sector Waterways Management Division.

i. Communication Systems. 33 CFR § 127.111 discusses communication systems. Communication between the Person in Charge (PIC) on the facility and the PIC aboard the vessel are vital to the safe transfer of LNG in bulk.

(1) The shoreside PIC must maintain communications in accordance with the requirements in 33 CFR §§ 127.111 and 127.319(b)(l).

(2) During transfer monitors, it should be verified that the PIC has an effective means of communication. If there is doubt as to the effectiveness of communications, a communications check must be conducted.

j. Warning Signs. Warning signs must be displayed on each LNG waterfront facility at the point of transfer. These signs must be visible from both the shore and the water and must conform to the requirements in 33 CFR § 127.113.

(1) Vessels carrying LNG in bulk are also required to display warning signs that meet the requirements in 46 CFR § 154.1830.

(2) The intent of this requirement is to warn persons and vessels approaching the facility from water and land of the hazardous nature of the operation

3. Equipment.

a. Sensing and Alarm Systems. 33 CFR § 127.201 requires fixed sensors and alarms at various parts of the facility. During facility compliance activities, Facility Inspectors should spot check the location of the sensors around the facility and records of recent tests/calibration of the required sensors and alarms.

(1) Records of tests for these items are not required under 33 CFR Part 127. As records of tests for these items are not required under 33 CFR Part 127, if a facility cannot produce such documentation:

(a) A deficiency must not be issued for not providing such documentation;

(b) The Facility Inspector should require tests or calibration of a representative cross section of the sensors and associated alarms to be conducted in accordance with facility procedures and manufacturer recommendations. If the facility relies on a third party to conduct these tests, a Form CG-835F should be issued to require proof of required testing.

(c) Requirements to test all or the majority of sensors should not be made by Coast Guard personnel unless the representative portion tested gives the Facility Inspector reason to test additional sensors.

b. Portable Gas Detectors. 33 CFR § 127.203 requires facilities to have at least two portable gas detectors capable of measuring 0-100% of the lower flammable limit of methane. On facility compliance activities, Facility Inspectors should check for the presence of the required portable gas detectors and records of recent tests/calibration. As records of tests for these items are not required under 33 CFR Part 127, if the facility cannot produce such documentation:

(1) A deficiency must not be issued;

(2) The Facility Inspector should require tests or calibration to be conducted in accordance with facility procedures and manufacturer recommendations.

c. Emergency Shutdown. Under 33 CFR § 127.205, each LNG transfer system must have an emergency shutdown system that can be activated manually, and is activated when the fixed sensors required under 33 CFR § 127.201(b) measure LNG concentrations exceeding 40 % of the lower flammable limit. On facility compliance activities, Facility Inspectors should

verify tests of the emergency shutdown system. Prior to testing, this should be thoroughly discussed with facility personnel so as to ensure there is a not a process upset, over-pressurization, or accidental release of material.

d. Warning Alarms. LNG facilities must have warning alarms installed as specified in 33 CFR § 127.207 to alert approaching vessels and the local community in the event of an LNG release. Each LNG facility must have both a siren and rotating (or flashing) amber light that meet the specifications in 33 CFR § 127.207.

(1) Inspectors should verify the presence of the alarms and verify the last time the facility conducted a test. The light intensity and sound decibels should be verified from placards affixed to the equipment or equipment manuals. In the event the light intensity and sound decibels cannot be verified with documentation, or the facility has not conducted a test of the warning alarms in the last 12 months, the alarms should be tested during a facility compliance activity.

(2) Any such test should be short in duration, and follow facility procedures for testing, which may include a radio broadcast to marine traffic in the area advising them of the test.

(3) When conducting the test, another member of the Facility Inspection team may be placed one mile away to verify the siren and light are heard and visible from the required distance, paying particular attention to structures or natural land features that impede the siren from being observed.

4. Operations.

a. Persons in Charge of Shoreside Transfer Operations. 33 CFR § 127.301 discusses qualifications and certification requirements for persons in charge of LNG facility transfer operations. During facility compliance activities, Facility Inspectors should verify records required by 33 CFR § 127.301(b).

b. Suspension Order. 33 CFR § 127.303 outlines that if the COTP issues a suspension order, no LNG transfer operations may be conducted by the facility until the order is withdrawn by the COTP. If a facility violates a suspension order, the COTP should initiate enforcement actions against the facility.

c. Operations Manual. The requirements for Operations Manuals are outlined in 33 CFR § 127.305. The review of Operations Manuals outlined in 33 CFR § 127.019 and Chapter 5.A.11 of this Manual must ensure the requirements of this section are met. On facility compliance activities, Facility Inspectors must ensure facilities have Operations Manuals that were examined by the Coast Guard, and PICs are aware of the contents of the Operations Manual.

d. Emergency Manual. The requirements for Emergency Manuals are outlined in 33 CFR § 127.307. The review of Emergency Manuals outlined in 33 CFR § 127.019 and Chapter 5.A.11 of this Manual must ensure the requirements of this section are met.

(1) On facility compliance activities, Facility Inspectors must ensure facilities have Emergency Manuals that were examined by the Coast Guard, and PIC's are aware of the contents.

(2) Emergency Manuals may be combined with other regulatory agencies required emergency procedures, such as the FERC Emergency Response Plan and PHMSA Emergency Plan, as long as they meet the requirements of 33 CFR § 127.307.

e. Operations Manual and Emergency Manual: Use. 33 CFR § 127.309 discusses the use of Operations Manuals and Emergency Manuals by facilities.

(1) Unlike Operations Manual requirements in 33 CFR Part 154, Operations Manuals for LNG facilities are not required to be at the transfer point. Rather, each transfer operation must be conducted in accordance with the examined Operations Manual and the PIC must be aware of the contents. These same requirements apply to Emergency Manuals.

(2) Coast Guard personnel must not share Operations Manuals or Emergency Manuals with other entities. The facility operator maintains control over the distribution of the manuals, and the Coast Guard may withhold from public disclosure any information in the Operations Manual or Emergency Manual, in accordance with the Freedom of Information Act.

f. Motor vehicles. 33 CFR § 127.311 provides prescriptive requirements for motor vehicles within the MTA. Motor vehicles may only stop or park in designated parking spaces on an LNG facility. Motor vehicles also must not be refueled on a LNG facility.

g. Bulk storage. 33 CFR § 127.313 prohibits the storage of flammable materials in the MTA. The exception to this prohibition is LNG, LPG, vessel fuel, oily waste from vessels, and solvents, lubricants, paints, and other fuels in the amount used for one day's operations and maintenance.

(1) These flammable products must be stored in accordance with Chapter 4 of NFPA 30 (1993).

(2) Other fuels necessary for the safety of the facility, such as a diesel tank to run a fire pump on the dock may be necessary on some facilities. In such instances, the facility owner or operator must request an alternative from the COTP under the provisions of 33 CFR § 127.017 to seek approval for such storage tanks.

(3) During facility compliance activities, inspecting personnel should look for containers of flammable liquids or other hazardous materials left on the pier or wharf. Inspecting

personnel should make sure containers in storage compartments are not leaking or left open so that vapors accumulate in the storage compartment.

h. Transfer Operations. Connections between transfer hoses or loading arms and fixed piping must be secured with sufficient bolts and suitable gasket material to prevent leakage. The connections must allow for vessel movement within the limits of its moorings without placing strain on the transfer piping or loading arm.

(1) Before commencing a transfer, the facility PIC must ensure that the conditions for transfer have been met. This includes verifying that the hotwork, warning signs, and transfer connection requirements have been met, as well as verifying that the PIC aboard the vessel is ready to begin the transfer.

(2) On LNG facilities, the items listed in 33 CFR § 127.315 must be checked and a Declaration of Inspection (DOI) completed jointly with the vessel PIC, as required under 33 CFR § 127.317.

(3) During transfer monitors, ensure that the DOI is properly completed and signed, and check transfer connections for the number of bolts used. Carefully check questionable connections for leaks. A portable gas detector can be used to check for natural gas leaks.

i. LNG transfer. At all times during the transfer of a liquefied gas to or from a vessel, the transfer system in use must be under the supervision of a qualified PIC who has no other duties. 33 CFR § 127.319 discusses additional requirements.

(1) On a LNG facility, a PIC must be trained and certified in accordance with 33 CFR § 127.301 to be qualified. The training must include at least 48 hours of LNG transfer experience.

(2) Each PIC must know the hazards of the cargo being transferred, the regulations that apply to the operation, and the facility's operating and emergency procedures.

(3) Written certification of the PIC’s training must be maintained at the facility.

(4) The person assigned as PIC at the facility must not be assigned as PIC of the vessel's transfer operation or to any other duties that may prevent them from carrying out the duties as PIC on the facility.

j. Release of LNG. Under 33 CFR § 127.321, the operator of a facility must activate the warning alarm outlined in 33 CFR § 127.207 in the event of a release of LNG. Additionally, they must immediately notify the PIC of the transfer on the vessel of the intent to shutdown transfer operations, and then shutdown transfer operations. They must also notify the COTP of the release and not resume transfer operations until authorized by the COTP. While the definition of “Release” in 33 CFR § 127.005 only specifically mentions LHG releases, the same methodology for minor releases as discussed in the definition of “Release” should be applied to LNG.

(1) There are no reportable quantities of LNG/methane under CERCLA. As vapor clouds from a release of LNG/methane may pose a hazard to marine traffic and necessitate a Safety Zone on waterways adjacent to the facility, COTPs are encouraged to work with facilities to include the COTP on their notification procedures for all LNG/methane releases.

(2) When the COTP receives a report of release of LNG from a facility, they should notify other applicable regulatory agencies, and request those agencies notify the COTP when they receive reports of releases from a LNG facility.

5. Maintenance. 33 CFR § 127.401 requires facilities to maintain equipment under a safe condition so it does not cause a release or ignition of LNG. In the event all requirements of this Part are met and the COTP still has concerns about the safety of the facility, waterway, or port because of a condition on any part of the facility, not just in the MTA, they may control the operations of the facility through a COTP Order under the authority of 33 CFR § 160.109.

a. Inspections. 33 CFR § 127.403 states facility operators must conduct visual inspections for defects of each pressure-relief device not capable of being tested, at least once each calendar year, with intervals between inspections not exceeding 15 months, and make all repairs in accordance with 33 CFR § 127.405. While 33 CFR § 127.409 does not require the facility to maintain these records, without the records the facility cannot prove compliance. As such, Facility Inspectors should request records of such visual inspections to verify compliance with this requirement.

b. Repairs. 33 CFR § 127.405 outlines for requirements for repair of equipment. This requirement should only be applied to components required by other sections of 33 CFR Part 127. In the event a Facility Inspector has question as to the repair of components not covered in 33 CFR Part 127, they should contact the regional PHMSA inspector or other applicable regulatory agency.

c. Testing. 33 CFR § 127.407 discusses testing of transfer system components. On LNG facilities, each transfer hose, loading arm, and transfer pipe must be pressure tested and the set pressure of the safety and relief valves verified:

(1) After the system or the valves are altered or repaired;

(2) After any increase in the maximum allowable working pressure (MAWP); or

(3) For those components not continuously kept at cryogenic temperature, at least once each calendar year, with intervals between testing not exceeding 15 months.

(4) The pressure of the transfer system test must be at least 1.1 times the MAWP and be held for at least 30 minutes.

(5) This cite does not specify the test medium, so hydrostatic or pneumatic tests are permitted by regulation. It is recommended that before a facility uses pneumatic testing they consider:

(a) Length of transfer system under evaluation;

(b) Access to transfer system (buried, elevated, insulated, etc.);

(c) The presence of any relief valves in the system and their routine maintenance schedule;

(d) The age of the system;

(e) The history of the system (e.g., what commodities the system has been used for, major alterations made);

(f) The date of the last hydrostatic test;

(g) Applicable industry consensus standards and best practices.

(6) Other transfer system equipment must be periodically checked or tested to ensure proper operation and maintenance.

(7) The set pressure on each relief valve must be tested or the relief valve must be visually inspected annually.

(8) The date and results of these tests and inspections must be recorded and maintained at the facility.

(9) During facility compliance activities, check facility records to verify that these tests and inspections have been recorded, along with other records required under 33 CFR § 127.409.

d. Personnel Training. Before LNG is transferred, the facility owner/operator must ensure all full time employees and each person assigned for transfer operations have training in the subjects outlined in 33 CFR § 127.503, and no less than once every five years thereafter. Facility Inspectors can verify such training through a spot check of records on facility compliance activities. While there is no requirement in the regulations for facilities to maintain these records, producing records is the most common way for a facility to prove compliance with these requirements.

6. Firefighting. The goal of fire safety practices on waterfront facilities is to prevent fires and explosions, and to ensure the resources necessary to respond to a fire are available and in working order should a fire occur. On bulk LNG waterfront facilities, the threat of fire comes from both flammable products and their vapors. Vapor plumes from an LNG spill can travel a

significant distance from the spilled liquid. The following fire safety requirements apply to LNG facilities:

a. Fire extinguishing and protection equipment is essential to the safe operation of any waterfront facility. See 33 CFR Parts §§ 127.601 through 127.611 for the requirements for firefighting equipment on LNG facilities. These regulations describe the required fire main systems, dry chemical systems, and portable fire extinguishers.

b. Under 33 CFR § 127.601 (b), fire appliances such as hydrants, standpipes, fire extinguishers, hose stations, and fire monitors must be red or some other conspicuous color and must be in readily accessible locations.

c. Once installed, fire extinguishing and protection equipment must be maintained in good condition at all times. See 33 CFR § 127.405 for information about repairs.

d. During facility compliance activities, Facility Inspectors should look for improperly marked fire appliances, material blocking access to fire appliances, and appliances that are not functional (excessive corrosion, missing fire hoses, etc.). In accordance with 33 CFR Part § 127.611, a facility operator should ensure that the international shore connection is available. A waterfront LNG facility must have at least one international shore connection if the facility receives foreign-flagged vessels.

e. Smoking. 33 CFR § 127.613 prohibits smoking in the MTA when LNG is present. For practical purposes, this means smoking is prohibited in the MTA on all active LNG facilities and in the MTA on inactive LNG facilities when the marine transfer line is not gas freed.

   (1) During LNG facility compliance activities, Facility Inspectors should ensure that anyone they see smoking is in an area where smoking is authorized.

   (2) Facility Inspectors should also note anyone smoking on a vessel moored to the facility, since smoking is prohibited on the weather decks of tank vessels moored alongside a dock under 46 CFR § 35.30-5(d).

f. Fires. 33 CFR § 127.615 prohibits fires in the MTA when LNG is present. Open fires in lamps, barrels, drums, or similar apparatus are prohibited. These requirements should be strictly enforced within the MTA when a pipe or tank in the MTA contains LNG or LNG vapors.

g. Hotwork. 33 CFR § 127.617 discusses hotwork on LNG facilities. Hotwork is any welding, burning, cutting, or similar operation that generates heat or sparks that could ignite a flammable material. Prior approval of the COTP is required for such operations under 33 CFR § 127.617.

   (1) The COTP should use Form CG-4201, Welding and Hotwork permit to approve hotwork. Approvals must be issued to the facility person in charge, not to the contractor who will be performing the work, as the owner/operator is responsible for compliance. It is the

responsibility of the permittee to ensure that the requirements on the permit are complied with by contracted workers.

(2) Holding a Coast Guard hotwork permit does not constitute final authority to conduct hotwork; the facility must also comply with other applicable state and local laws and regulations.

(3) In some cases, local or unusual conditions may make these requirements unnecessary or not feasible. In these instances, the COTP may use the alternative authority provided by 33 CFR § 127.017.

(4) In other cases, local or unusual conditions may make the requirements inadequate and additional conditions should be added to the permit.

(5) The permittee must ensure that other federal, state, and local regulations are complied with.

(6) 33 CFR Part 127 currently incorporates by reference NFPA 51B (1994) for procedures to follow for hotwork. In this standard it recommends fire watches be maintained for 30 minutes after hotwork is completed. However, more recent editions of NFPA 51B recommend fire watches be maintained for 60 minutes after the hotwork is completed. While the Coast Guard cannot require fire watches for 60 minutes, it is recommended Facility Inspectors advise facilities requesting hotwork permits of the differences between standards incorporated by reference in 33 CFR Part 127 and current versions of those same standards.

(7) The intent of this requirement is to prohibit indiscriminate hotwork that could cause a fire or explosion by providing the COTP with authority to regulate such an operation. The prime consideration in evaluating hotwork requests must be safety. If the degree of safety is questionable, a permit should not be issued. Liaison with local fire authorities is encouraged when evaluating unusual permit requests.

(8) Extent and Duration of Permits.

(a) Permits may be issued for a single day/event or, up to a maximum of one year to cover continuous operations at a facility subject to the discretion of the COTP.

(b) For a continuing permit, the COTP may require notice from the permittee whenever hotwork is scheduled. Rather than being notified of every instance when hotwork is to be conducted, the COTP may specify on the permit what conditions and criteria require notification by the permittee. Notification may include such information as the start date and time, duration of the operation, and the proximity of any dangerous cargoes to the site of the operation. For facilities holding a continuing permit, conditions should be checked to ensure the validity of the permit during normal and random facility compliance activities.

(9) Enforcement.

(a) The hotwork permit requirements should be enforced to the maximum extent possible. Where practical, hotwork permit enforcement may be performed by local fire departments. However, COTP personnel must occasionally verify that the conditions on the permit are being followed, particularly on facilities that have a history of safety violations.

(b) If hotwork is in progress during facility compliance activities, verify that the facility has a permit for the hotwork and that the conditions of the permit are being met.

(c) If a Facility Inspector witnesses any unsafe hotwork practices, they should immediately halt the activity. The Facility Inspector should ensure the element of concern is corrected before further hotwork is performed. The inspector should make notification to the COTP as soon as practical to inform them of the findings and intended corrective actions.

7. Security. LNG facilities regulated under 33 CFR Part 127 are also applicable to the facility security requirements outlined in 33 CFR Part 105. A facility complying with their approved Facility Security Plan, under 33 CFR Part 105, typically meets the majority of the requirements found in 33 CFR §§ 127.701 through 33 CFR 127.711. While 33 CFR § 127.705 requires security patrols or the use of manned television monitoring systems to detect fires and LNG releases, facility personnel with security duties are required under 33 CFR § 105.210(g) to have knowledge of emergency procedures and contingency plans. As such, facility personnel with security duties should normally be able to demonstrate compliance with 33 CFR § 127.705.

C. Waterfront Facilities Handling LHG.

1. General. This Section includes requirements for LHG facilities. While most sections within 33 CFR 127 Subpart C are outlined in this Chapter, the purpose is not to restate the regulations, but rather, where necessary, provide amplifying information on the regulations and actions Facility Inspectors should take during facility compliance activities. Facility Inspectors must use their knowledge, training, and experience to determine additional items that should be checked during facility compliance activities.

a. LHG. 33 CFR § 127.005 states “LHG means a liquid containing one or more the products listed in Table 127.005”. Table 127.005 lists the commodities considered LHGs under this Part. While the term LPG isn’t used, individual commodities that are considered LPGs are listed on Table 127.005 and therefore must comply with the regulations for LHGs.

b. LHG’s are classified as “Flammable”, “Toxic”, or “Flammable and Toxic”. When applying the regulations of 33 CFR 127 Subpart C, particular attention must be paid to the commodities being handled at the facility and care must be given to apply only the requirements applicable to the commodity(s) handled based on their designation as “Flammable” or “Toxic”.

c. MTA for LHG. The MTA for LHG is defined in 33 CFR § 127.005. MTA for LHG means that part of a waterfront facility handling LHG between the vessel, or where the vessel moors, and the first shutoff valve on the pipeline immediately inland of the terminal manifold or loading arm, including the entire part of a pier or wharf used to serve LHG vessels. As outlined in the preamble to the final rule that created this definition (60 FR 39789), the MTA encompasses the pier or wharf in its entirety, including the cargo manifold, as well as that part of piping cargo and vapor inland from the pier to the first shutoff valve. Here, ‘‘inland’’ refers to the direction along the piping away from the vessel.

(1) The COTP must use their best judgment in determining the jurisdictional boundary for the MTA for LHG. This should be done in coordination with the facility and other agencies that regulate other portions of the facility, such as the OSHA, as their Process Safety Management (PSM) regulations often times start where the Coast Guard's MTA for LHG ends.

(2) After a decision has been made on the MTA for LHG, it is recommended the COTP send a letter to the facility specifically outlining the jurisdictional boundaries for the MTA for LHG. In this letter, the specific cutoff point should be identified with the location on the facility and identifying information of the valve. The letter should be attached to the facility file in MISLE.

(3) The facility should also include clear discussion of this jurisdictional boundary in their Operations Manual.

d. "New" and "Existing" Facilities. Unlike the applicability for LNG facilities, the applicability section in 33 CFR Part 127 does not specify different requirements for "New" and "Existing" facilities for LHG facilities. However, throughout Subpart C of 33 CFR Part 127 there are various requirements that only apply to new or existing facilities. LHG facilities constructed under a contract awarded before January 30, 1996 must meet the requirements for existing facilities outlined throughout Subpart C. LHG facilities constructed under a contract awarded on or after January 30, 1996 must meet the requirements for new facilities outlined in the current edition of 33 CFR Part 127. When new or existing facilities are not discussed in a requirement, every LHG facility must comply with those requirements.

(1) When a certain requirement is not applicable to "existing" LHG facilities under 33 CFR Part 127, those facilities must continue to comply with the requirements of 33 CFR Part 126 for such items that were in place on January 29, 1996. A copy of 33 CFR Part 126 from 1995 is available on the Commandant (CG-FAC-2) CGPortal page.

(2) New construction in the MTA of an "existing" facility must meet the requirements for a "new" facility.

(3) An inactive existing LHG facility that returns to active status must comply with the requirements for existing LHG facilities, with the exception of new construction in the MTA under a contract awarded on or after January 29, 1996, which must meet the requirements outlined in the current edition of 33 CFR Part 127.

2. Design and Construction.

   a. Piping system requirements can be found in 33 CFR § 127.1101.

   b. Transfer hose and loading arm requirements are located at 33 CFR § 127.1102.

   c. Requirements for the construction of piers and wharves can be found in 33 CFR § 127.1103.

   d. Layout and Spacing requirements for MTA for LHG are located at 33 CFR § 127.1105.

   e. Electrical Power Systems are discussed in 33 CFR § 127.1107.

   f. Design and Construction Reviews.

      (1) While vessels regulated by the Coast Guard undergo plan review by the Marine Safety Center, there is no requirement for facilities to submit construction plans to the Coast Guard, and as such there are no equivalent entities or level of review for facilities regulated by the Coast Guard.

      (2) The Coast Guard does not review or approve plans for the construction of the MTA at waterfront facilities handling LHG, but rather verifies compliance with the regulations through other means.

         (a) Coast Guard personnel are typically involved in meetings and discussions held prior to construction where the facility owners and/or their designated representatives convey their intentions to comply with or exceed the construction requirements in 33 CFR Part 127.

         (b) During and after construction and prior to operation, Coast Guard personnel often spot check equipment and systems to ensure they comply with the regulations. Ultimately, it is the facility owner/operators responsibility to ensure the facility is designed, constructed, and operated in accordance with all applicable standards and regulations.

         (c) The COTP may accept a review by another local, state, or Federal agency when they feel an adequate review of the design and construction requirements found in 33 CFR Part 127 has been conducted by, or in coordination with, that agency.

         (d) When the COTP deems an adequate review to verify the construction requirements of 33 CFR Part 127 is not conducted by another agency, the COTP should seek documentation from the facility owner/operator to prove compliance with the applicable regulations. COTPs are not expected to conduct a full design and construction review of the facility's MTA, but rather question the facility owner/operator on the methodology used in designing the facility to ensure the cited regulations or consensus standards were used in the design of the facility. The COTP

should then conduct a spot check of the MTA to ensure it meets the design plans. The spot check is intended to check a representative cross section of components and not be an all-encompassing review.

(3) When verifying compliance with construction requirements, COTPs must pay close attention to whether the facility is a "new facility" or "existing facility" under 33 CFR Part 127 and apply the correct construction requirements.

(4) The requirements in 33 CFR § 127.1105(b) are related to heat flux from a fire over an impounding space not causing damage that could prevent the vessel's movement. This is a performance based regulation and not prescriptive. When questions arise about the impact of heat flux from a fire over an impounding space, COTPs are encouraged to contact their District Prevention staff, who will contact their Area staff, Commandant (CG-FAC-2), and Commandant (CG-OES-2) as appropriate. In some instances, potential issues can be addressed for Coast Guard purposes through operational measures as alternatives such as having towing vessels readily available to assist in moving the LHG vessel away from the dock in the event of a fire in an impounding space.

g. Routine Facility Compliance Activities for Design and Construction Requirements.

(1) Typically, review of compliance with construction requirements will only need to be conducted for compliance with most portions of 33 CFR §§ 127.1101, 127.1102, 127.1103, and 127.1105 when a facility's MTA is first constructed or there is a modification to an existing facility's MTA which involves an item for which there is a specific Coast Guard regulation (e.g. piping system). As such, COTPs should not require an owner/operator to expend extensive time or resources to prove compliance with the construction requirements of 33 CFR Part 127 in the course of regular facility compliance activities unless a change to the facility's MTA has been made.

(2) When there is no record of the Coast Guard verifying compliance with construction requirements in 33 CFR Part 127, in conjunction with the next regular facility inspection the COTP may require a facility already in operation to prove compliance via the means outlined in Chapter 5.C.2.f of this Manual. In all instances where a facility proves compliance to the COTP, the COTP must ensure a complete MISLE narrative is included in the activity, and a Special Note is added to the facility file in MISLE stating the date and method used to verify compliance.

(3) There are certain requirements within 33 CFR §§ 127.1101 and 127.1102 that must be verified on a reoccurring basis. These are:

(a) Piping systems. Under 33 CFR § 127.1101, the following items should be verified by Facility Inspectors during routine compliance activities:

[1] Required isolation valves must remain functional to serve the purposes stated, including closing within 30 seconds without creating excessive stresses on the

system. This requirement can be verified by reviewing facility test records of closure of power-operated isolation valves;

[2] Where two or more LHGs are loaded or unloaded at the same facility, each manifold must be identified or marked to indicate the LHG it handles; and

[3] Grounding/bonding requirements should be verified.

(b) Transfer hoses and loading arms. Under 33 CFR § 127.1102, the following items should be verified by Facility Inspectors during routine compliance activities:

[1] Hoses should be verified to be serviceable in accordance with the stated requirements;

[2] Loading arms should be inspected and tested, as appropriate, to verify alarms for limits of its extension are present when applicable, and have a nameplate or other permanent marking to indicate the LHG it may handle, the MAWP at the corresponding service temperature, and, if it is used at other than ambient temperature, its minimum service temperature.

h. Electrical Power Systems. Electrical power systems (which include electrical wiring and equipment) on LHG facilities must conform to NFPA 70 (1993) in accordance with 33 CFR § 127.1107. Inspectors are not expected to know all of the extensive requirements outlined in NFPA 70 (1993), but rather should be on the lookout for the following hazards that are likely signs of non-compliance with NFPA 70 (1993).

(1) Conditions which could cause arcing;

(2) Electric motors that are:

(a) Located too near combustible material;

(b) Located in damp places or subjected to corrosive vapors;

(c) Covered with rust, lint or dust;

(d) Burning out because of overloading or low voltage at motor terminals;

(e) Protected by improper overcurrent protection; or,

(f) Producing excessive heat.

(3) Bare wires;

(4) Loose or frayed connections;

(5) Overloaded outlets;

(6) Corroded terminals;

(7) Lack of high voltage signs near transformers and switch boxes;

(8) Defective insulation.

i. Lighting Systems. Under 33 CFR § 127.1109, when transfer operations occur between sunset and sunrise, the MTA for LNG must have a lighting system that must be located or shielded so it cannot be mistaken for an aid to navigation and does not interfere with navigation on waterways.

(1) Lighting at the loading flange must have an intensity of 54 lux or five foot-candles. The intensity at work areas must be 11 lux or one foot-candle. Generally, if a piece of paper with 12-point font can be read in all portions of the transfer area, the lighting should normally be considered adequate.

(2) Emergency lighting must provide lighting for the operation of the emergency shutdown system, communications equipment, and firefighting equipment.

(3) In the event a Facility Inspector has a belief that lighting could be mistaken for an aid to navigation or interfere with navigation on adjacent waterways, they must contact the Sector Waterways Management Division.

j. Communication Systems. 33 CFR § 127.1111 discusses communication systems. Communication between the PIC on the facility and the PIC aboard the vessel are vital to the safe transfer of LNG in bulk.

(1) The shoreside PIC must maintain communications in accordance with the requirements in 33 CFR §§ 127.1111 and 127.1319(c)(l).

(2) During transfer monitors, it should be verified that the PIC has an effective means of communication. If there is some doubt as to the effectiveness of communications, a communications check must be conducted.

(3) The communication system utilized may be fixed or portable telephones or portable radios, and be intrinsically safe for use in the hazardous location in which it is used.

k. Warning Signs. Warning signs must be displayed on each LHG waterfront facility at the point of transfer. These signs must be visible from both the shore and the water and must conform to the requirements in 33 CFR § 127.1113.

(1) Vessels carrying LHG in bulk are also required to display warning signs that meet the requirements in 46 CFR § 154.1830.

(2) The intent of this requirement is to warn persons and vessels approaching the facility from water and land of the hazardous nature of the operation.

3. Equipment.

a. Gas Detection. Under 33 CFR § 127.1203, each waterfront facility must have two portable gas detectors, or a fixed gas detector. The requirements for flammable LHGs and toxic LHGs vary, and the Facility Inspector must ensure they are applying the proper requirements to the facility based on the cargo being handled.

(1) When a facility has fixed detectors, during facility compliance activities, Facility Inspectors should spot check the location of the sensors around the facility and records of recent tests/calibration of the required sensors and alarms.

(2) When a facility has portable gas detectors, during facility compliance activities Facility Inspectors should check for the presence of the required portable gas detectors and records of recent tests/calibration.

(3) Records of tests for these items are not required under 33 CFR Part 127. As records of tests for these items are not required under 33 CFR Part 127, if a facility cannot produce such documentation:

(a) A deficiency must not be issued for not providing such documentation;

(b) For fixed gas detectors, the Facility Inspector should require tests or calibration of a representative cross section of the sensors and associated alarms to be conducted in accordance with facility procedures and manufacturer recommendations. Coast Guard Facility Inspectors should not make requirements to test all or the majority of sensors unless the representative portion tested gives them reason to test additional sensors.

(c) For portable gas detectors, the Facility Inspector should require tests or calibration to be conducted in accordance with facility procedures and manufacturer recommendations.

(d) If the facility relies on a third party to conduct these tests, a Form CG-835F should be issued to require proof of required testing.

b. Emergency Shutdown. Under 33 CFR § 127.1205, each piping system used to transfer LHG or its vapors to or from a vessel must have a quick-closing shutoff valve to stop the flow of liquid and vapor from the waterfront facility handling LHG if a transfer hose or loading arm fails. Prescriptive requirements for this valve are outlined in 33 CFR § 127.1205. On facility compliance activities, Facility Inspectors should verify test records that emergency shutdown system tests have been conducted at least once every two months in accordance with 33 CFR § 127.1407(e).

c. Warning Alarms. LHG facilities must have warning alarms installed as specified in 33 CFR § 127.1207 to alert approaching vessels and the local community in the event of an LHG release. Each LHG facility must have both a siren and rotating or flashing amber light that can be heard and seen from one mile away.

(1) Inspectors should verify the presence of the alarms and verify the last time the facility conducted a test. If the facility has not conducted a test of the warning alarms in the last six months as required by 33 CFR § 127.1407, the alarms should be tested during a facility compliance activity. If the facility has conducted a test of the warning alarms in the last six months, the Facility Inspector may require them to be tested during a facility compliance activity.

(2) Any such test should be short in duration, and follow facility procedures for testing, which may include a radio broadcast to marine traffic in the area advising them of the test.

(3) When conducting the test, another member of the Facility Inspection team may be placed one mile away, by water or land, to verify the siren and light are heard and visible from the required distance, paying particular attention to structures or natural land features that impede the siren from being observed.

d. Respiratory protection. 33 CFR § 127.1209 requires facilities that transfer toxic LHGs to provide respiratory protection for each employee of the facility in the MTA during transfer operations. On facility compliance activities, Facility Inspectors should verify the number of facility employees in the MTA during transfer operations, and the facility has an adequate number of respiratory protection equipment. This equipment must be available in the MTA during transfer operations, and may be maintained in the MTA or another location on the facility to protect it from the elements when a transfer is not occurring. Depending on the equipment provided, it may be necessary for Facility Inspectors to verify the expiration date of canisters, etc. for the respiratory protection equipment.

4. Operations.

a. Persons in Charge of Transfers for the Facility. 33 CFR § 127.1301 discusses qualifications and certification requirements for persons in charge of LHG facility transfer operations, and 33 CFR § 127.1302 discusses training requirements for PICs. During facility compliance activities, Facility Inspectors should verify records required under 33 CFR §§ 127.1301(b) and 127.1302(c).

b. Suspension Order. 33 CFR § 127.1303 outlines that if the COTP issues a suspension order, no LHG transfer operations may be conducted by the facility until the order is withdrawn by the COTP. If a facility violates a suspension order, the COTP should initiate enforcement actions against the facility.

c. Operations Manual. The requirements for Operations Manuals are outlined in 33 CFR § 127.1305. The review of Operations Manuals outlined in 33 CFR § 127.019 and Chapter

5.A.11 of this Manual must ensure the requirements of this section are met. On facility compliance activities, Facility Inspectors must ensure facilities have Operations Manuals that were examined by the Coast Guard, and PIC's are aware of the contents of the Operations Manual.

d. Emergency Manual. The requirements for Emergency Manuals are outlined in 33 CFR § 127.1307. The review of Emergency Manuals outlined in 33 CFR § 127.019 and Chapter 5.A.11 of this Manual must ensure the requirements of this section are met. Additionally, the evaluation outlined in 33 CFR § 127.1501(a) must be submitted with the Emergency Manual.

   (1) On facility compliance activities, Facility Inspectors must ensure facilities have Emergency Manuals that were examined by the Coast Guard, and PIC's are aware of the contents of the Emergency Manual.

   (2) Emergency Manuals may be combined with other regulatory agencies required emergency procedures as long as they meet the requirements of 33 CFR § 127.1307.

e. Operations Manual and Emergency Manual: Use. 33 CFR § 127.1309 discusses the use of Operations Manuals and Emergency Manuals by facilities. Unlike Operations Manual requirements in 33 CFR Part 154, Operations Manuals for LHG facilities are not required to be at the transfer point. Rather, each transfer operation must be conducted in accordance with the examined Operations Manual and the PIC must aware of the contents. These same requirements apply to Emergency Manuals.

f. Motor vehicles. 33 CFR § 127.1311 provides prescriptive requirements for motor vehicles within the MTA. Motor vehicles may only stop or park in designated parking spaces on an LHG facility. Motor vehicles also must not be refueled on a LHG facility.

g. Storage of hazardous materials. 33 CFR § 127.1313 prohibits the storage of hazardous materials in the MTA. The exception to this prohibition is LHG being transferred, fuel required by the vessel or by emergency equipment in the area, oily waste from vessels, and solvents, lubricants, paints, and similar materials in the amount required for one day's operations and maintenance.

   (1) These flammable products must be stored in accordance with Chapter 4 of NFPA 30 (1993).

   (2) During facility compliance activities, Facility Inspectors should look for containers of flammable liquids or other hazardous materials left on the pier or wharf. Inspecting personnel should make sure containers in storage compartments are not leaking nor are they left open to allow vapors to accumulate in the storage compartment.

h. Preliminary Transfer Inspection. Before commencing a transfer, the facility PIC must ensure that the conditions for transfer have been met. This includes verifying that the hotwork, warning sign, transfer connection requirements, and other conditions in 33 CFR § 127.1315

have been met, as well as verifying that the PIC aboard the vessel is ready to begin the transfer.

(1) On LHG facilities, the items listed in 33 CFR § 127.1315 must be checked and a DOI completed jointly with the vessel PIC, as required under 33 CFR § 127.1317.

(2) During transfer monitors, ensure the DOI is properly completed and signed, and check transfer connections to ensure they are adequate. Carefully check questionable connections for leaks. A portable gas detector can be used to check for gas leaks.

i. Transfer of LHG. Four hours before transfer of LHG in bulk begins, the facility must notify the COTP of the time and place of each transfer. This requirement should not be confused with 33 CFR § 156.170, which only allows the COTP to require four hours advanced notice of transfer for oil and hazardous material transfer in certain situations. Additional requirements for transfer of LHG can be found 33 CFR § 127.1319.

j. Release of LHG. Under 33 CFR § 127.1321, the operator of a facility must activate the warning alarm outlined in 33 CFR § 127.1207 in the event of a release of LHG that threatens vessels or persons outside the MTA for LHG. Additionally, they must immediately notify the PIC of the transfer on the vessel of the intent to shutdown transfer operations, and then shutdown transfer operations. They must also notify the COTP of the release and not resume transfer operations until authorized by the COTP.

(1) "Release" is defined in 33 CFR § 127.005 and excludes minor release of LHG or its vapor that may occur during the routine handling of LHG. Minor releases may occur during connections and disconnections of hoses, tank gauging, sampling or other routine operations. For example, use of slip tubes which release minor amounts of vapors are permitted under this definition. No release is minor if it creates an atmosphere that exceeds the Lower Flammable Limit (LFL) for a flammable product or any Permissible Exposure Limit (PEL) listed in 29 CFR 1910.1000, Table Z-1 or Z-2, for a toxic product.

(2) There are reportable quantities of some LHGs under CERCLA, and when there are reportable quantities, the reporting threshold may be higher than the size of a release. As vapor clouds from a release of LHGs may pose a hazard to marine traffic and necessitate a Safety Zone on waterways adjacent to the facility, COTPs are encouraged to work with facilities to include the COTP on their notification procedures for all LHG releases.

(3) When the COTP receives a report of release of LHG from a facility, they should notify other applicable regulatory agencies, and request those agencies notify the COTP when they receive reports of releases from a LHG facility.

k. Access to the MTA for LHG. Much of 33 CFR § 127.1325 reads as security requirements. LHG facilities regulated under 33 CFR Part 127 are also applicable to the facility security requirements outlined in 33 CFR Part 105. A facility complying with their approved Facility Security Plan under 33 CFR Part 105 typically meets the majority of the requirements found in 33 CFR § 127.1325. While 33 CFR § 127.1325 requires guards being stationed and fences

or other devices installed to prevent, detect, and respond to fires and releases of LHG, facility personnel with security duties are required under 33 CFR § 105.210(g) to have knowledge of emergency procedures and contingency plans. As such, facility personnel with security duties should normally be able to demonstrate compliance with 33 CFR § 127.1325.

5. Maintenance. 33 CFR § 127.1401 requires facilities to maintain equipment under a safe condition so it does not cause a release or ignition of LHG. In the event all requirements of this Part are met and the COTP still has concerns about the safety of the facility, waterway, or port because of a condition on any part of the facility, not just in the MTA, they may control the operations of the facility through a COTP Order under the authority of 33 CFR § 160.109.

   a. Inspections. 33 CFR § 127.1403 states facility operators must conduct visual inspections for defects of each pressure-relief device not capable of being tested, at least once each calendar year, with intervals between inspections not exceeding 15 months. Repairs should be made in accordance with 33 CFR § 127.1405. 33 CFR § 127.1409 requires the facility to maintain these records. Facility Inspectors should review records of such visual inspections to verify compliance with this requirement.

   b. Repairs. 33 CFR § 127.1405 outlines requirements for repair of equipment. This requirement should only be applied to components required by other sections of 33 CFR Part 127. In the event a Facility Inspector has question as to the repair of components not covered in 33 CFR Part 127, they should contact other applicable regulatory agencies.

   c. Testing. 33 CFR § 127.1407 discusses testing of transfer system components. On LHG facilities, each transfer hose, loading arm, and transfer pipe must be pressure tested and the set pressure of the safety and relief valves verified:

      (1) After the system or the valves are altered;

      (2) After major repairs to the system or the valves;

      (3) After any increase in the MAWP of the system; and

      (4) At least once each calendar year, with intervals between testing not exceeding 15 months.

      (5) The pressure of the transfer system test must be at least 1.1 times the MAWP and be held for at least 30 minutes.

      (6) This cite does not specify the test medium, but does require the test to be a static liquid pressure test. Pneumatic tests may be approved as alternatives, but before doing so the COTP should consider:

         (a) Length of transfer system under evaluation;

         (b) Access to transfer system (buried, elevated, insulated, etc.);

(c) The presence of any relief valves in the system and their routine maintenance schedule;

(d) The age of the system;

(e) The history of the system (e.g., what commodities the system has been used for, major alterations made);

(f) The date of the last hydrostatic test; and

(g) Applicable industry consensus standards and best practices.

(7) Other transfer system equipment must be periodically checked or tested to ensure proper operation and maintenance.

(a) The set pressure on each relief valve must be tested or the relief valve must be visually inspected annually.

(b) The date and results of these tests and inspections must be recorded and maintained at the facility.

(c) Other tests required under 33 CFR § 127.1407 include pressure gauges, remote operating or indicating equipment, emergency shutdowns, and warning alarms.

(8) During facility compliance activities, check facility records to verify these tests and inspections have been recorded, along with other records required under 33 CFR § 127.1409.

6. Firefighting Equipment and Fire Protection. The goal of fire safety practices on waterfront facilities is to prevent fires and explosions. It is also to ensure the resources necessary to respond to a fire are available and in working order should a fire occur. On bulk LHG waterfront facilities, the threat of fire comes from both flammable products and their vapors. Vapor plumes from an LHG release can travel a significant distance from the spilled liquid. The following fire safety requirements apply to LHG facilities:

a. General. 33 CFR § 127.1501 does not include prescriptive requirements for the type or amount of firefighting equipment, but rather requires an evaluation of the needed equipment based upon sound principles of fire-protection engineering, analysis of local conditions, hazards within the waterfront facility handling LHG, and exposure to other property. This evaluation determines the required equipment under 33 CFR § 127.1509, and if less than the prescriptive requirements in 33 CFR § 127.1507 should be permitted. This evaluation must be submitted to the COTP when the Emergency Manual is submitted, and the equipment must be outlined in the Emergency Manual.

(1) Under 33 CFR § 127.1501(c), fire appliances such as hydrants, standpipes, fire extinguishers, hose stations, and fire monitors must be red or some other conspicuous color and must be in readily accessible locations.

(2) During facility compliance activities, inspection personnel should look for improperly marked fire appliances, material blocking access to fire appliances, and appliances that are not functional (excessive corrosion, missing fire hoses, etc.).

b. Portable fire extinguishers. Per 33 CFR § 127.1503, LHG facilities must have the appropriate, number, size, and kind of portable fire extinguishers in accordance with NFPA 10 (1994).

c. Emergency Response and Rescue. Each LHG facility must, by use of facility personnel or an off-site organization, arrange for emergency response and rescue pending arrival of resources for firefighting or pollution control. During facility compliance activities, Facility Inspectors should ensure facility personnel used to meet this requirement have appropriate training and the facility has equipment required by 29 CFR § 1910.120. If an off-site organization is used, Facility Inspectors should review the written agreement the facility has with that organization.

d. Water Systems for Fire Protection. 33 CFR § 127.1507 includes prescriptive requirements for water systems for fire protection that must be met unless the evaluation required by 33 CFR § 127.1501(a) indicates otherwise. If the evaluation does determine requirements less than those outlined in 33 CFR § 127.1507 are appropriate, that should be outlined in the Emergency Manual. In such instances, no alternative under 33 CFR § 127.019 is necessary as the regulations allow for reduced requirements if the evaluation determines it to be appropriate.

e. International Shore Connection. In accordance with 33 CFR § 127.1511, if the facility receives foreign flagged vessels, the facility must have an international shore connection. On facility compliance activities, Facility Inspectors should verify presence of the international shore connection.

f. Smoking. 33 CFR § 127.1601 prohibits smoking in the MTA when flammable LHG or its vapors are present. For practical purposes, this means smoking is prohibited in the MTA on all active LHG facilities that handle flammable cargos, and in the MTA on inactive LHG facilities that handle flammable cargos when the marine transfer line is not gas freed.

(1) During LHG facility compliance activities, Facility Inspectors should ensure that anyone they see smoking is in an area where smoking is authorized.

(2) Facility Inspectors should also note anyone smoking on a vessel moored to the facility, since smoking is prohibited on the weather decks of tank vessels moored alongside a dock under 46 CFR § 35.30-5(d).

g. Hotwork. 33 CFR § 127.1603 discusses hotwork on LHG facilities. Hotwork is any welding, burning, cutting, or similar operation that generates heat or sparks that could ignite a flammable material. Prior approval of the COTP is required for such operations under 33 CFR § 127.1603.

(1) The COTP should use Form CG-4201, Welding and Hotwork permit to approve hotwork. Approvals must be issued to the facility person in charge, not to the contractor who will be performing the work, as the owner/operator is responsible for compliance. It is the responsibility of the permittee to ensure the requirements on the permit are complied with by contracted workers.

(2) Holding a Coast Guard hotwork permit does not constitute final authority to conduct hotwork; the facility must also comply with other applicable state and local laws and regulations.

(3) In some cases, local or unusual conditions may make these requirements unnecessary or not feasible. In these instances, the COTP may use the alternative authority provided by 33 CFR § 127.017.

(4) In other cases, local or unusual conditions may make these requirements inadequate and additional conditions should be added to the permit.

(5) The permittee must ensure that other federal, state, and local regulations are complied with.

(6) 33 CFR Part 127 currently incorporates by reference NFPA 51B (1994) for procedures to follow for hotwork. In this standard it recommends fire watches be maintained for 30 minutes after hotwork is completed. However, more recent editions of NFPA 51B recommend fire watches be maintained for 60 minutes after the hotwork is completed. While the Coast Guard cannot require fire watches for 60 minutes, it is recommended Facility Inspectors advise facilities requesting hotwork permits of the differences between standards incorporated by reference in 33 CFR Part 127 and current versions of those same standards.

(7) The intent of this requirement is to prohibit indiscriminate hotwork that could cause a fire or explosion by providing the COTP with authority to regulate such an operation. The prime consideration in evaluating hotwork requests must be safety. If the degree of safety is questionable, a permit should not be issued. Liaison with local fire authorities is encouraged when evaluating unusual permit requests.

(8) Extent and Duration of Permits.

(a) Permits may be issued for a single day/event or up to a maximum of one year to cover continuous operations at a facility subject to the discretion of the COTP.

(b) For a continuing permit, the COTP may require notice from the permittee whenever hotwork is scheduled. Rather than being notified of every instance when hotwork is to be conducted, the COTP may specify on the permit what conditions and criteria require notification by the permittee. Notification may include such information as the start date and time, duration of the operation, and the proximity of any dangerous cargoes to the site of the operation. For facilities holding a continuing permit, conditions should be checked to ensure the validity of the permit during normal and random facility compliance activities.

(9) Enforcement.

(a) The hotwork permit requirements should be enforced to the maximum extent possible. Where practical, hotwork permit enforcement may be performed by local fire departments. However, COTP personnel must occasionally verify the conditions on the permit are being followed, particularly on facilities that have a history of safety violations.

(b) If hotwork is in progress during facility compliance activities, verify that the facility (or a vessel moored to the facility) has a permit for the hotwork and the conditions of the permit are being met.

(c) If a Facility Inspector witnesses any unsafe hotwork practices, they should immediately halt the activity. The Facility Inspector should ensure the element of concern is corrected before further hotwork is performed. The Facility Inspector should make notification to the COTP as soon as practical to inform them of the findings and intended corrective actions.

h. Other Sources of Ignition. 33 CFR § 127.1605 prohibits certain sources of ignition in the MTA for LHG. These requirements should be strictly enforced.

D. MISLE.

1. Facilities regulated under 33 CFR Part 127 must have the applicability check box selected within the MISLE facility file indicating it is regulated under 33 CFR Part 127, and the proper facility sub-types selected within MISLE.

2. Facilities Ceasing Regulated Operations.

a. Caretaker status is a regulatory term only found in 33 CFR § 154.105. Therefore, facilities regulated under 33 CFR Part 127 must not be placed into caretaker status, and the caretaker status notation and caretaker inspection activity type must not be used for facilities regulated under 33 CFR Part 127.

b. Facilities regulated under 33 CFR Part 127 ceasing regulated activities but remaining an inactive LNG or LHG facility as discussed in Chapter 5.A.1 of this Manual should not have

the 33 CFR Part 127 applicability box unselected in MISLE or the facility sub-types modified.

c. If the facility requests to cease to be a facility under 33 CFR Part 127 and the COTP determines they are no longer a 33 CFR Part 127 facility (as opposed to a facility regulated as an inactive 33 CFR Part 127 facility), the 33 CFR Part 127 applicability box should be unselected in MISLE and the facility sub-type modified as appropriate.

(1) If the facility continues to conduct other activities not regulated under Coast Guard facility compliance regulations the status of the facility should remain active in MISLE.

(2) If all operations on the facility cease, the facility status in MISLE should be set to De-activated.

d. A shutdown inspection on facilities regulated under 33 CFR Part 127 should be conducted when a facility notifies the COTP they are going into an inactive status, or they request to no longer be a facility regulated under 33 CFR Part 127.

3. Units should continually monitor facility entries in MISLE. Duplicated facilities entered in MISLE should have information consolidated into a single facility file, and duplicate entries set as de-activated.

4. Facility Name Changes.

a. When a facility owner/operator changes names, the existing facility file in MISLE should be updated with the new name and contact information. When doing so, an Administrative Activity should be completed in MISLE, and a Special Note should be placed in the facility file for that facility. LOIs, Operations Manuals, and Emergency Manuals can be updated with a new name and contact information, as appropriate. Complete deficiency and enforcement history of the owner/operator should typically be included when taking enforcement action against the owner/operator.

b. When a facility owner and/or operator changes, the previous facility in MISLE should be set to De-activated, the applicability Part boxes unselected, and sub-types unselected. The new facility file should have the appropriate applicability boxes and sub-types selected, and a Special Note should be included of who the previous facility owner/operator was and MISLE facility identification number in order to be able to trace the site history if necessary in the future. Additionally, new LOIs, Operations Manuals, and Emergency Manuals must be submitted, but a WSA is not required unless new construction to expand or modify marine terminal operations in an existing facility handling LNG or LHG, where the construction, expansion, or modification would result in an increase in the size and/or frequency of LNG or LHG marine traffic on the waterway associated with the facility. Deficiency and enforcement history of the previous owner/operator should typically be excluded when taking enforcement action against the new owner/operator, and inspection schedules should be reset by the COTP.

## CHAPTER 6 Facilities Transferring Oil or Hazardous Material in Bulk

A. General. The regulations for the prevention of water pollution are authorized by Section 311 j(1)(C) and (D) of the FWPCA, as amended (33 U.S.C. §§ 1251-1388). Revised regulations, 33 CFR Parts 154 to 156, became effective on March 3, 1980. The regulations were revised to better address routine operations, such as cargo tank cleaning, bilge pumping, ballasting, equipment failure, and human error, which are frequent causes of oil and hazardous material spills. These operational spills can be prevented by maintenance and testing of equipment, personnel awareness, and proper procedural requirements.

1. Purpose. This Chapter includes requirements for facilities transferring oil or hazardous materials in bulk. While many sections within 33 CFR 154 are outlined in this Chapter, the purpose is not to restate the regulations, but rather, where necessary, provide amplifying information on the regulations and actions Facility Inspectors should take during facility compliance activities. Facility Inspectors must use their knowledge, training, and experience to determine additional items that should be checked during facility compliance activities.

2. Applicability.

   a. 33 CFR Part 154 applies to all facilities capable of transferring oil or hazardous material, in bulk, to or from a vessel, where the vessel has a total capacity, from a combination of all products carried, of 250 barrels (39.75 cubic meters) or more.

      (1) The term “capable of transferring” is used in lieu of the term “transferring” due to the requirements of operationally ready facilities having to meet the requirements of 33 CFR § 154.735 (safety requirements) and 33 CFR § 154.740 (records) at all times, not just when conducting a transfer. Facilities not in an operationally ready status (facilities in caretaker status and facilities that have permanently ceased regulated transfers) are never considered as being “capable of transferring”.

      (2) The amount of oil or hazardous material a facility can handle based on tank size, or the amount of oil or hazardous material actually being transferred, has no bearing on the applicability of this Part. For example, a mobile facility cannot hold 250 barrels of a product, but if they transfer to or from a vessel with a total capacity, from a combination of all products carried, of 250 barrels or more, the mobile facility is applicable to 33 CFR Part 154.

      (3) The COTP is authorized to apply, on a case-by-case basis, all or a portion of 33 CFR § 154.735 to facilities that only transfer to or from vessels of less than 250 barrels if necessary for their safety, the safety of their personnel, the safety of the public, or the safety of the environment. In making a decision, the COTP must consider such factors as the frequency of transfers conducted at the facility or the facility's spill history. 33 CFR § 154.100(b) requires written notice to the facility operator of a decision to apply any or all requirements of 33 CFR § 154.735 safety requirements to such a facility.

b. Mobile facility means any facility that can readily change location, such as a tank truck or tank car, other than a vessel or public vessel (33 CFR 154.105). Per Reference (d), Chapter 2.A, the Coast Guard interprets this to mean a tank truck or tank car designed and intended for the transportation of oil or regulated hazardous materials and can readily change location, with the capability to move whether it is loaded or empty.

   (1) Mobile facilities must meet certain requirements of 33 CFR Part 154 as outlined in 33 CFR § 154.100(d).

   (2) See Reference (d) for discussion on Coast Guard management, oversight, administrative tracking, and facility compliance activity procedures for mobile facilities.

c. A facility in caretaker status is not applicable to this Part. Caretaker status is a regulatory term in 33 CFR Part 154. When a facility notifies the COTP of its intent to enter caretaker status, the COTP must ensure an inspection is completed on the facility and it meets the requirements outlined in the definition of caretaker status.

   (1) As discussed in 33 CFR § 154.105, the definition of caretaker status includes all piping, hoses, loading arms, storage tanks, and related equipment in the MTA being completely free of oil or hazardous material, and being certified of being free of such in the form of a gas free certificate issued by a certified marine chemist. Noting that certified marine chemists are not available in all locations, the COTP may deem other certifications appropriate as long as the certification as gas free meets the definition of gas free in 46 CFR § 30.10-29. Note: the requirement for entering caretaker status only applies to the MTA. Storage tanks in other portions of the facility under other agencies jurisdiction are not required to be gas freed under this definition.

   (2) If storage tanks in portions of the facility outside of the Coast Guard regulated MTA are not gas freed the facility may be applicable to CFATS regulations. The Facility Inspector should notify the facility operator of this, as well as notifying the regional CFATS inspector that the facility is no longer regulated under MTSA.

d. This Part does apply to public facilities, including DoD facilities. See Chapter 1.D.6.d of this Manual on information on compliance activities on DoD and other public facilities.

e. Due to the definition of Facility in 33 CFR § 154.105, this part does not apply to offshore facilities operating under the jurisdiction of the Secretary of the Department of Interior. Offshore Facility is defined in 33 CFR § 154.105.

f. Floating Structures. PMCs are considered part of facilities regulated under this Part if they transfer oil or hazardous material in bulk, to or from vessels with a capacity of 250 barrels or more. It must be noted that a “floating structure” that was previously classified as a vessel or looks like a “vessel” might not, as a matter of law, be considered a vessel. Additional details can be found in Reference (a), Chapter B4.I.

(1) A PMC may serve as a component of a facility regulated under 33 CFR Part 154. These may be as a floating structure that looks like a tank barge, a floating structure that looks like a deck barge with oil or hazardous material storage tanks on the deck, or a floating structure that looks like another vessel type (e.g. fish processing vessel) now used as a PMC.

(2) In such instances, the jurisdictional boundaries of 33 CFR Part 154 apply; the Coast Guard jurisdiction goes to the first manifold or shutoff valve on the pipeline encountered after the pipeline enters the secondary containment required by EPA or PHMSA inland of the terminal manifold or loading arm, or, in the absence of secondary containment, to the valve or manifold adjacent to the bulk storage tank

(a) In the event of a PMC, the jurisdictional boundary will typically be the last valve before the bulk storage tank.

(b) Based on past history, EPA, or state agencies acting on their behalf, might not apply the requirements of 40 CFR § 112.7 to PMCs. In such instances, secondary containment will not be required, leaving the Coast Guard as the sole jurisdictional agency.

(c) Under the definition of MTA in 33 CFR § 154.105, the Coast Guard cannot regulate the storage tanks on a PMC under 33 CFR Part 154. As such, the requirements of 33 CFR Part 154 must only be applied to portions of the facility within the MTA. The COTP retains authority to issue COTP Orders or Administrative Orders due to conditions on any portion of the facility that pose a threat to the environment or safety of the facility or waterway, whether the item(s) of concern are in the MTA or not.

[1] When the COTP determines a facility poses a threat to the marine environment and a COTP Order or Administrative Order is warranted, the PMC may be required to be removed from the water for an examination by a marine surveyor or Coast Guard Marine Inspector to determine necessary measures or repairs to ensure the safety of personnel and/or the environment.

[2] When the primary concern from a PMC is the safety of personnel, issues can sometimes be resolved by the Coast Guard Facility Inspectors contacting OSHA or the state agency working on their behalf.

3. Definitions. 33 CFR § 154.105 lists definitions of terms used throughout 33 CFR Part 154. In addition to specific terms outlined below, discussion of additional terms listed in this section are discussed throughout this Chapter in appropriate locations.

a. Hazardous material – this definition points to numerous other regulations to identify what is considered a regulated hazardous material under this Part. When referencing these regulations, the applicability of those regulations must not be considered, but rather just the commodities covered under specific regulations referenced. For example, an inland tank barge is not applicable to MARPOL Annex II, but if an inland tank barge is carrying a cargo

that is a Noxious Liquid Substance (NLS) under MARPOL Annex II, the facility the inland tank barge conducts transfer operations with meets the applicability of 33 CFR Part 154.

(1) One regulation the definition of Hazardous Material in 33 CFR § 154.105 points to is 46 CFR § 153.40(c), which is "Materials listed in Table 1" of 46 CFR § 153.40. Referencing this Table does not automatically bring Table 2 of 46 CFR § 153.40 to exclude cargos from being regulated when carried on inland tank barges. As such, a facility that only receives inland tank barges carrying commodities listed on Table 2 of 46 CFR § 153.40 is still applicable to 33 CFR Part 154.

(2) When a bulk liquid commodity has not been classified, under MARPOL Annex II regulation 6.3, it is the administrations responsibility to categorize that commodity. In the United States, Commandant (CG-ENG-5) is responsible for this. If Commandant (CG-ENG-5) determines a bulk liquid commodity is a MARPOL Annex II cargo (NLS), a facility that conducts bulk transfer with a vessel of a capacity of 250 barrels or more, that facility meets the applicability of 33 CFR Part 154.

b. MTA – the MTA is the Coast Guard regulated portion of a facility regulated under 33 CFR Part 154. The MTA extends from the vessel or where the vessel moors to the first valve inside secondary containment required by the EPA or PHMSA, which is sometimes miles from the vessel or where the vessel moors. Jurisdictional concerns should be discussed directly with EPA and/or PHMSA to determine the jurisdictional boundary, noting the facility may have secondary containment along the transfer pipeline not required by EPA or PHMSA.

4. Incorporated by Reference. 33 CFR § 154.106 lists industry consensus standards incorporated by reference. While newer versions of the standards Incorporated by Reference may exist, only the version listed in this section are enforceable. A facility owner or operator can request to comply with a newer version of the listed industry consensus standards, in which case those approved versions become enforceable. In such instances, the request should be reviewed as an alternative under 33 CFR § 154.107. COTPs may contact their District Prevention staff for assistance in reviewing such requests. If necessary, District Prevention staffs will contact Area staffs, Commandant (CG-FAC-2), and Commandant (CG-OES-2) for higher level review. Additional information on alternatives is discussed in Chapter 6.A.5 of this Manual.

5. Alternatives. Under 33 CFR § 154.107, the COTP may approve alternative procedures, methods, or equipment standards in lieu of any requirements in this Part if the stipulations of the section are met.

a. There are three requirements listed within this section for alternatives, and all three of these requirements must be met in order for the COTP to approve an alternative.

(1) Review and approval must be based on material submitted by the facility owner or operator.

(2) When necessary, meetings with the facility owner or operator, or site visits to the facility should be conducted by the Coast Guard to fully understand the request and verify information submitted in the request.

(3) It is expected that facilities will submit complete packages for their request for alternatives, but if the COTP is considering disapproving the request, the COTP should afford the facility owner or operator an opportunity to submit additional information to support their request prior to disapproving it.

b. Alternative procedures approved by the COTP should be described in the facility's Operations Manual, and the approval of the alternative maintained by the facility.

c. Alternatives should not be issued with an expiration date (e.g. after five years) unless warranted by the situation. Rather, the appropriateness of alternatives should be reviewed by Facility Inspectors during each facility compliance activity.

d. While alternatives can be approved at the COTP level, units may contact their District Prevention staff if technical assistance is desired in reviewing the request for an alternative, or if the alternative would set a national precedent. If necessary, District Prevention staffs will contact Area staffs and Commandant (CG-FAC-2) for higher level review and technical assistance.

e. Upon receipt of a request for an alternative, a MISLE activity should be created. The MISLE activity should be updated throughout the review process, and closed upon completion of the activity with all supporting documentation attached. The COTP must act on requests for alternatives within 30 days of receipt.

f. Upon issuance of an alternative, a Special Note should be entered in MISLE indicating there is an alternative in place at the facility.

6. Exemptions. Under 33 CFR § 154.108, the Assistant Commandant for Prevention Policy, acting for the Commandant, may grant an exemption or partial exemption from compliance with this Part.

a. Requests for exemptions must be submitted to the COTP. Upon receipt of an exemption request, the COTP must:

(1) Create a MISLE activity for the exemption request. The MISLE activity should be updated throughout the review process, and closed upon completion of the activity with all supporting documentation attached;

(2) Review the exemption request to determine if the request is actually for an exemption or if an alternative would be more appropriate. As necessary, the COTP should confer with District, Area, and Commandant (CG-FAC-2) in determining if the request should be processed as an exemption or alternative. If an alternative would be more appropriate, notify the submitter and follow the procedures outlined in Chapter 6.A.5 of this Manual;

(3) When necessary, meet with the facility owner or operator, or conduct a site visit to the facility to fully understand the request and verify information submitted in the request;

(4) Request any additional information necessary to properly evaluate the request; and

(5) Submit a memo to Commandant (CG-FAC), through the applicable District and Area, which recommends approval or disapproval of the exemption request, with all known facts of the request, amplifying information not in the request letter, and the MISLE activity identification number where supporting documentation can be found. By including supporting documentation in MISLE, a historical record is maintained and there is no need to forward those documents up the chain of command with the endorsement memo.

b. Exemption requests must be well justified and clearly outline how all stipulations outlined in 33 CFR § 154.108(a)(2) are met.

c. Upon issuance of an exemption, a Special Note should be entered in MISLE indicating there is an exemption in place at the facility.

7. Letter of Intent. The facility operator must submit a LOI with the information outlined in 33 CFR § 154.110 to the COTP not less than 60 days before the intended operations, unless a shorter period is authorized by the COTP. Whether or not the 60 day threshold must be met is the prerogative of the COTP based on workforce constraints and the complexity of the facility.

a. The LOI must be updated within five days in the event of a change to the information required in 33 CFR § 154.110.

b. The information in the LOI is of great assistance in determining and locating the responsible party during a spill or other emergency. As such, it is vital the LOI be updated, and the COTP should take appropriate actions to compel compliance in the event a facility operator does not update their LOI as required.

8. Facility Examinations. 33 CFR § 154.120 permits the Coast Guard to conduct examinations on the facility at any time, and conduct any test to determine compliance with 33 CFR Parts 154 or 156.

a. The frequency and scope of these examinations are determined by the COTP using the most recent guidance promulgated by Commandant (CG-FAC) as outlined in Chapter 3.A.2 of this Manual.

b. Under this Section, the COTP may require the facility to perform any test to determine compliance with this Part and 33 CFR Part 156. Any such tests required by the Coast Guard must only be to verify compliance, and then only at reasonable times.

(1) Any tests required by the Coast Guard during facility compliance activities that are a requirement in 33 CFR Parts 154 or 33 CFR 156 may be required by the Facility Inspector during that facility compliance activity, taking into account potential damage caused by the test. For example, if a facility PIC says activating an emergency shutdown during a transfer may cause damage to the transfer system during a transfer at MAWP, do not require an emergency shutdown in such instances. Rather, if the Facility Inspector has a reason to test the emergency shutdown (prior non-compliance, questionable entry on DOI, etc.) require the PIC to slow the flow of the cargo to a safe rate or stop it completely prior to testing the emergency shutdown.

(2) Any tests required by the Coast Guard that are not direct requirements of 33 CFR Parts 154 or 33 CFR 156 must not be required unless the Facility Inspector has a concern about the safety of personnel or the environment, and has justification to require the test. Requiring tests beyond the regulations may cause a significant disruption of facility operations or come at a significant financial cost to the facility, so they should be approved, at a minimum, by the Prevention Department Head unless unit MMS procedures permit a lower level approval.

c. Upon completion of the examination, the Coast Guard must provide the facility operator a written report of the results of the examination. This is accomplished through issuance of the Form CG-835F as outlined in Chapter 3.B of this Manual.

B. Operations Manual.

1. Operations Manual: General. Each facility must have an Operations Manual sufficient to guide a person generally qualified in oil or hazardous material transfer operations in performing their duties in an environmentally safe manner. General requirements for Operations Manuals can be found at 33 CFR § 154.300.

a. These manuals are intended to be working documents for the benefit of personnel involved in oil or hazardous material transfer operations.

b. At a minimum, the Operations Manual must:

(1) Be understood by all who are designated as a PIC; and

(2) Serve as the single source for learning standard operations as well as emergency procedures at a facility.

c. The requirement to send a copy of the Operations Manual with the LOI enables the COTP to verify that the owner/operator has established procedures for the facility to operate in an environmentally sound and safe manner.

d. In determining whether the Operations Manual meets the requirements of 33 CFR Parts 154 and 156, the COTP must consider the size, complexity, and capability of the facility. Small facilities typically have more simple manuals, while larger, multi-product facilities normally

require more comprehensive manuals. Regardless of the size of the facility, all Operations Manuals must meet the requirements outlined in 33 CFR Part 154 Subpart B.

e. The contents of certain manuals may be proprietary in nature. Therefore, the contents of Operations Manuals normally must not be released to others unless authorized in writing by the facility owner/operator. Seek legal advice if requests for information contained in Operations Manuals is received.

2. Operations Manual: Contents. 33 CFR § 154.310 specifies prescriptive requirements for Operations Manuals. When COTPs review submitted Operations Manuals or amendments to Operations Manuals, they must ensure the requirements of this section are met.

3. Operations Manual: Amendment. The COTP can direct changes to the Operations Manual, or the facility can propose changes to the Operations Manual to the COTP. Procedures for each scenario are outlined in 33 CFR § 154.320.

   a. The COTP approves or disapproves amendments to the Operations Manual.

   b. Any such approval or disapproval is the COTPs determination of whether or not the manual covers the required content and information, but does not constitute Coast Guard approval or endorsement of any particular procedure or equipment mentioned.

4. Operations Manual: Procedures for examination. 33 CFR § 154.325 specified that the facility operator must submit two copies of the Operations Manual to the COTP of the zone in which the facility is located at least 60 days prior to any transfer operation with the LOI discussed in Chapter 6.A.7 of this Manual.

   a. In order to facilitate commerce, if the COTP can review the Operations Manual in less than 60 days, the facility operator must not be held to the 60 day timeline. Whether or not the full 60 day timeline is necessary is the prerogative of the COTP based on workforce constraints and complexity of the facility.

   b. Coast Guard workforce constraints change over time, so a facility operator must not expect expedited review of Operations Manuals if Coast Guard workforce constraints do not allow, even if reviews had been expedited in the past.

   c. Upon receipt, units must open the appropriate MISLE activity for the review of the manual, and MISLE narratives must be kept up to date throughout the review process. These same procedures should also be followed for amendments to Operations Manuals.

   d. If the COTP finds the Operations Manual does not meet the requirements of 33 CFR Parts 154 and 156, the COTP may correspond with the submitter via email or phone to explain the issues and for the submitter to clarify and rectify issues.

C. Equipment Requirements.

1. Hose assemblies. 33 CFR § 154.500 outlines requirements for hose assemblies. During facility compliance activities, Facility Inspectors should ensure the requirements of this section are met. It must be noted that facilities desiring to use breakaway couplings on hose assemblies must obtain an alternative from the COTP for the requirements of 33 CFR § 154.500(d).

2. Loading arms. 33 CFR § 154.510 discusses loading arm requirements.

   a. On facility compliance activities, Facility Inspectors should verify the markings or documentation requirements in 33 CFR § 154.510(b).

   b. If the Facility Inspector has questions about the certification or modifications to loading arms, they should contact the loading arm manufacturer and/or verify the more specific requirements for loading arms outlined in ANSI B31.3, as incorporated by reference in 33 CFR Part 154.

   c. Loading arms constructed before June 30, 1973, are not required to meet the requirements of this section. In the event a Facility Inspector has safety or environmental concerns on such loading arms, the requirements in ANSI B31.3 can be used as a general guide for safety requirements and industry best practices, and operational controls may be placed on the facility using a COTP Order.

3. Closure devices. 33 CFR § 154.520 requires hoses and loading arms not currently being used for transfer operations to be blanked off. Based on the cargo, the facility may purge the pipelines prior to blanking off the hoses. If the facility does purge, this should be outlined in their Operations Manual. On facility compliance activities, Facility Inspectors should verify hoses and loading arms are blanked off, except for new unused hoses and gas freed hoses, which do not need to meet this requirement.

4. Monitoring devices. 33 CFR § 154.525 states the COTP may require a facility to install monitoring devices at the facility if they would significantly limit the size of a discharge of oil or hazardous material.

   a. Per 33 CFR § 154.105, “monitoring device means any fixed or portable sensing device of oil or hazardous material onto the water, within or around a facility, and designed to notify operating personnel of a discharge of oil or hazardous material”.

   b. This section is intended only for those cases where visual surveillance is not sufficient to detect oil spills in very sensitive areas or where a complex operation would likely result in a spill without the device present. In each case, use of the oil monitor must significantly increase the probability of detection or aid in limiting the spread of a spill by early detection.

   c. The COTP may only require monitoring devices in cases where the specified criteria exist. It would be an unreasonable economic burden to require all transfers to be monitored by devices. In the vast majority of oil transfers visual checks are preferred. However, under the

circumstances specified, continuous monitoring is justified due to the higher risk. Facility operators may also choose to use monitoring devices to supplement their operations.

d. The COTP may consult with other Federal or State agencies before requiring monitoring devices at a specific facility, but consultation is not required.

e. When monitoring devices are required by the COTP or implemented by the facility, they should be discussed in the facilities Operations Manual.

5. Small discharge containment. Regulations for small discharge containment requirements can be found at 33 CFR § 154.530. The goal of this regulation is to control small leaks at connecting points until emergency shutdown or proper removal is possible. The size requirements and condition of the required small discharge containment should be checked during facility compliance activities.

   a. Containment under the entire hose, or at connection points not connected or disconnected during transfer, is not required.

   b. The blanking of a hose until it is connected and the use of hoses complying with 33 CFR § 154.500 requirements should prevent most over the water spills, and the requirement of 33 CFR § 156.120(p) for the PIC to ensure that all connections in the transfer system are leak free prior to transfer farther helps ensure pollution prevention.

6. Discharge removal. 33 CFR § 154.540 discusses discharge removal. On facility compliance activities, Facility Inspectors should verify procedures and equipment facilities use to comply with the requirements of this section.

7. Discharge containment equipment. While the requirements of 33 CFR § 154.545 may seem to be superseded by FRP requirements, it should be noted there are certain portions of this section that are not required in FRPs, and this section applies to oil and hazardous material transfer equally, while FRPs only apply to oil. Equipment and procedures used to comply with this section may also be used to satisfy FRP requirements under Subparts F through I of this Part, or equipment under Subparts F through I may be used to satisfy the requirements of this section.

   a. Each facility must have containment equipment available, whether by direct ownership, membership in a cooperative, or prearrangement with commercial interests.

   b. Shared or contracted equipment must be located so it can be brought on scene in a timely manner, and the determination of location and timeliness should reflect the considerations outlined in 33 CFR § 154.545.

      (1) The operator must take currents into account when establishing time limits for boom deployment. Although booms may not contain oil when deployed

in rapid currents, they may be effective in channeling its movement, and thus protect some areas from damage.

(2) This helps ensure that equipment sharing agreements among facility owners/operators are realistic and provide for adequate response to oil and hazardous material discharges.

c. The COTP may only require pre-transfer booming when the specific requirements of 33 CFR § 154.545(d) are met.

(1) As discussed in 45 FR 7160, it must only be unusual situations that require pre-transfer booming, and there should be no great COTP variance in interpreting the specific requirements of 33 CFR § 154.545(d). Pre-transfer booming under this regulation should not be a common practice without proper justification.

(2) Before requiring pre-transfer booming, the COTP must consider safety hazards that could be created in the event of a spill or discharge. For example, containing gasoline in a restricted area could pose a higher risk to people than the environmental hazard it is preventing.

8. Emergency shutdown. On facility compliance activities, Facility Inspectors should verify emergency shutdown systems meet the requirements of 33 CFR § 154.550. These systems are required to be in place during every oil and hazardous material transfer.

9. Communications. Per 33 CFR § 154.560, each facility must have a means of continuous two-way communication between the PIC of the vessel transfer operation and the PIC of the facility transfer operation.

a. Portable radio devices used to comply with 33 CFR § 154.560 during transfer of flammable of combustible liquids must be marked as intrinsically safe by the manufacturer of the device and certified as safe by a national testing laboratory per 33 CFR § 154.560(e).

b. Cellular telephones are not normally acceptable to meet the requirements for communications under this section. In addition to the time it takes to place a call and no guarantee of continued availability of the cellular phone signal or device, the vast majority of cell phones are not intrinsically safe.

10. Lighting. Under 33 CFR § 154.570, when transfer operations occur between sunset and sunrise, a facility must have lighting that adequately illuminates connection points and transfer operation work areas. This lighting must be fixed, unless authorized by the COTP to be provided by the vessel or portable lighting for small or remote facilities. The lighting system must be located or shielded so it does not interfere with navigation on adjacent waterways.

a. Lighting at transfer connection points must have an intensity of five foot-candles. The intensity at transfer operations work areas must be one foot-candle. Generally, if a piece of

paper with 12-point font can be read in all portions of the transfer area, the lighting should normally be considered adequate.

b. In the event a Facility Inspector has a belief that lighting could be mistaken for an aid to navigation or interfere with navigation on adjacent waterways, they must contact the Sector Waterways Management Division.

D. Facility Operations.

1. General. This Section outlines equipment, personnel, and operating procedures a facility must meet. Like previous parts of this Chapter, the purpose is not to restate the regulations, but rather, where necessary, provide amplifying information on the regulations and actions Facility Inspectors should take during facility compliance activities. Facility Inspectors must use their knowledge, training, and experience to determine additional items that should be checked during facility compliance activities.

2. Persons in charge: Designation and qualification. 33 CFR § 154.710 discusses designation and qualification for persons in charge of facility transfer operations. Satisfaction of these requirements should be checked during facility compliance activities as outlined in Paragraph Chapter 6.D.5 of this Manual, which discusses Records facilities must maintain.

3. Persons in charge: Evidence of designation. 33 CFR § 154.730 states PICs must carry evidence of designation as a PIC when engaged in transfer operations, unless such evidence is immediately available at the facility. In most instances when a PIC does not have individual documentation, such as a "PIC card", the PICs will be listed in the Operations Manual. Facility Inspectors can educate facilities on the requirements of this section during routine compliance activities, but may only cite lack of evidence of designation as a PIC when transfer operations are being conducted, typically checked as part of a Transfer Monitor.

4. Safety requirements. As discussed in Chapter 6.A.2.a(1)(a) of this Manual, 33 CFR § 154.735 pertains to safety requirements, and these safety requirements must be met at all times when a facility is active ("capable of transferring"), and not just during transfer operations. As such, any deficiency identified under this section during routine compliance activities must be issued on a Form CG-835F. See Chapter 3.B of this Manual for additional information on issuing deficiencies.

a. 33 CFR § 154.735(a) outlines the access requirements for firefighting personnel, fire trucks, or other emergency personnel. This is a judgment call the Facility Inspector must make, and it should be based on the layout of the facility and the firefighting equipment that would most likely respond to an incident at the facility.

b. 33 CFR § 154.735(b) allows only hazardous materials needed for the operation or maintenance of the facility to be stored, and they must be stored in storage compartments. As 33 CFR Part 154 applies to the MTA, this requirement applies only to storage of hazardous materials in the MTA.

c. 33 CFR § 154.735(c) prohibits gasoline and other fuel from being stored on a pier, wharf, or other similar structure. When facilities are regulated under multiple Parts due to handling different cargos, an exemption request from this requirement may be necessary in order to comply with other inspection Parts. For example, under 33 CFR Part 127 a diesel tank may be necessary on the dock to fuel a fire pump required by that Part. As this would require fuel to be on the pier and not comply with 33 CFR § 154.735(c), an exemption request would be necessary.

d. 33 CFR § 154.735(d) requires fire extinguishers to fight small, localized fires on the facility. On facility compliance activities, Facility Inspectors should verify the location of fire extinguishers is sufficient using their judgment, that the fire extinguishers are of an approved type for the likely fire type(s) they would be used on, and they have required tests and/or maintenance required by the manufacturer.

e. 33 CFR § 154.735(e) requires the location of each hydrant, standpipe, hose station, fire extinguisher, and fire alarm box to be conspicuously marked and readily accessible. There are no prescriptive requirements, such as the markings being required to be red in color. On facility compliance activities, Facility Inspectors should ensure the markings are adequate and the required equipment is accessible.

f. 33 CFR § 154.735(f) requires that each piece of protection equipment is ready to operate. Facility operators may be required to demonstrate operation of fire hoses or other equipment on facility compliance activities, but should typically not be required to operate all protective equipment. In no instances should Facility Inspectors require fire extinguishers or other expendable systems to be discharged. Rather, inspection and test records serve as proof of this equipment complying with this requirement.

g. 33 CFR § 154.735(g) requires signage in areas where smoking is prohibited. These areas are outlined in 33 CFR § 154.735(u). Facility Inspectors should verify signs are posted as required.

h. 33 CFR § 154.735(h) states trucks and other motor vehicles are operated or parked only in designated areas. These areas are determined by facility operators, but Facility Inspectors should verify such areas comply with applicable regulations, such as 33 CFR § 154.735(a), which outlines the requirements for access by firefighting personnel, fire trucks, or other emergency personnel.

i. 33 CFR § 154.735(i) requires rubbish to be kept in receptacles. Facility Inspectors should be alert to piles of dunnage or scrap, waste materials on piers or wharves, and overflowing rubbish receptacles. Not only do these materials pose a fire hazard, they may also block access paths for firefighting or other emergency equipment.

j. 33 CFR § 154.735(j) requires all equipment with internal combustion engines used on the facility to not constitute a fire hazard, and have an approved fire extinguisher attached unless a fire extinguisher is readily accessible nearby on the facility. Many times a fire extinguisher is readily accessible nearby on the facility, and Facility Inspectors should use their best

judgment in applying this requirement. They must apply it only to equipment in the MTA or that routinely operates in the MTA of the facility rather than the entire facility.

k. 33 CFR § 154.735(k) discusses spark arresters on chimneys or appliances. Facility Inspectors should ensure spark arresters are provided on chimneys or appliances that use solid fuel or are located where sparks constitute a hazard to nearby combustible material.

l. 33 CFR § 154.735(l) outlines requirements for hotwork on the facility. Hotwork is any welding, burning, cutting, or similar operation that generates heat or sparks that could ignite a flammable material. Prior notification of the COTP may be required for such operations under 33 CFR § 154.735(l). Note this requirement is for the COTP to be notified and not for the COTP to issue a permit.

(1) While the COTP may require the facility to notify the COTP of the hotwork, the Form CG-4201 can still be used, with the "Notify" box selected at the top in lieu of the "Permit" box.

(2) When hotwork is conducted on a facility regulated under 33 CFR Part 154, it is the facility operators responsibility to ensure the requirements of 33 CFR § 154.735(l) are met.

(3) Notifying the COTP of hotwork does not constitute final authority to conduct hotwork; the facility must also comply with other applicable state and local laws and regulations.

(4) In instances where the requirements of 33 CFR § 154.735(l) cannot be met, the facility operator must request an alternative from the COTP as outlined in Chapter 6.A.5 of this Manual. In review of the alternative, any conditions specified by the COTP should be based upon sound safety standards, such as NFPA or ANSI standards.

(5) 33 CFR Part 154 currently incorporates by reference NFPA 51B (1994) for procedures to follow for hotwork. In this standard it recommends fire watches be maintained for 30 minutes after hotwork is completed. However, more recent editions of NFPA 51B recommend fire watches be maintained for 60 minutes after the hotwork is completed. The Coast Guard cannot require fire watches for 60 minutes, but it is recommended Facility Inspectors advise facilities requesting hotwork permits of the differences between standards incorporated by reference in 33 CFR Part 154 and current versions of those same standards.

(6) Extent and Duration of Notifications.

(a) When the facility operator notifies the COTP of hotwork, it is typically for a single day or project. In the event a facility operator desires to make a single notification for the duration of a single project, a maximum of one year may be authorized to cover continuous operations at a facility.

(b) Notification may include such information as the start date and time, duration of the operation, and the proximity of any dangerous cargoes to the site of the operation.

(7) Enforcement.

(a) The hotwork requirements should be enforced to the maximum extent possible. Where practical, hotwork enforcement may be performed by the local marshal or fire departments. However, COTP personnel must occasionally verify the requirements of 33 CFR § 154.735(l) are being followed, particularly on facilities that have a history of safety violations.

(b) If hotwork is in progress during a facility compliance activities, verify the facility has made proper notification and all requirements are being met.

(c) If a Facility Inspector witnesses any unsafe hotwork practices, they should immediately halt the activity. The Facility Inspector should ensure the element of concern is corrected before further hotwork is performed. The inspector should make notification to the COTP as soon as practical to inform them of the findings and intended corrective actions.

m. 33 CFR § 154.735(m) requires heating equipment to have sufficient clearance to prevent unsafe heating of nearby combustible materials. This is typically a judgment call made by the Facility Inspector, taking into account the distance to, and combustibility of the nearby material.

n. 33 CFR § 154.735(p) states electric wiring and equipment must be maintained in a safe condition so as to prevent fires, and Paragraphs (q) and (r) outline specific requirements for electrical installations.

(1) Inspectors are not expected to know all of the extensive requirements outlined in NFPA 70 (1987), but rather should be on the lookout for the following hazards that are likely signs of non-compliance with these requirements:

(a) Conditions which could cause arcing;

(b) Electric motors that are:

[1] Located too near combustible material;

[2] Located in damp places or subjected to corrosive vapors;

[3] Covered with rust, lint or dust;

[4] Burning out because of overloading or low voltage at motor terminals;

[5] Protected by improper overcurrent protection; or,

[6] Producing excessive heat.

(c) Bare wires;

(d) Loose or frayed connections;

(e) Overloaded outlets;

(f) Corroded terminals;

(g) Lack of high voltage signs near transformers and switch boxes;

(h) Defective insulation.

o. 33 CFR § 154.735(s) requires the use of International Safety Guide for Oil Tankers and Terminals (ISGOTT) sections 11.3 and 11.4 for facilities conducting tank-cleaning and gas-freeing operations on vessels, whether self-propelled or non-self-propelled, such as a tank barge.

(1) ISGOTT was created for deep draft tank ships that have systems considerably more robust than most, if not all, tank barges. Inert gas systems and vapor control systems (VCS) on tank ships mitigate hazards and risks associated with tank vessel cargo and tank-cleaning operations, while barges being cleaned use a "strip and blow" approach without the built in hazard and risk mitigation systems that tank ships have.

(a) As a result, the Coast Guard added 33 CFR § 154.735(s)(3) which says "Upon the request of the facility owner or operator in accordance with 33 CFR § 154.107, the COTP may approve the use of alternate standards to ISGOTT if the COTP determines that the alternative standards provide an equal level of protection to the ISGOTT standards".

[1] This approach gave the facility the option to use a different standard through the alternative process, but left ISGOTT as the requirement within the regulations.

[2] To this day, facilities may be knowingly or unknowingly placing workers cleaning barges in potentially dangerous situations, despite following what the regulations require (use of ISGOTT).

[3] Under 33 CFR § 154.320, the COTP can only require the facility operator to amend the Operations Manual if the COTP finds the Operations Manual does not meet the requirements of 33 CFR Part 154. Facilities following ISGOTT are following the regulations, so under 33 CFR § 154.320 the COTP cannot require a barge cleaning facility using ISGOTT to amend the Operations Manual.

(b) Facility Inspectors should educate facilities on the concerns and suggest alternatives during the initial review and amendment of Operations Manuals. Operations Manuals do not go through a five-year review, so Facility Inspectors should also discuss this issue with facilities that conduct tank-cleaning and gas-freeing on tank barges during routine compliance activities. Any such discussions should be documented in the narrative of the MISLE activity.

(2) In situations where facilities are stripping fuel tanks rather than cargo tanks, alternatives are also appropriate and must be requested. Additional discussion on considerations for tank cleaning can be found in Section B.6.E.4 of Reference (a).

(3) In all cases when facilities request alternatives, they must propose appropriate procedures or standards to use in place of ISGOTT. Industry consensus standards that facilities may propose to use include but are not limited to the International Safety Guide for Inland Tank Shipping and Terminals (ISGINTT) and American Waterways Operators standards. There may be other standards that can be used, and every request for an alternative must be evaluated on its own merits taking the specifics of each proposal into account.

p. 33 CFR § 154.735(t) requires guards at the facility. Most facilities regulated under 33 CFR Part 154 are also applicable to the facility security requirements outlined in 33 CFR Part 105.

(1) A facility complying with their approved Facility Security Plan under 33 CFR Part 105 typically meets the majority of the requirements found in 33 CFR § 154.735(t). While 33 CFR § 154.735(t) includes the need for guards to be used to detect fires and report emergency conditions, facility personnel with security duties are required under 33 CFR § 105.210(g) to have knowledge of emergency procedures and contingency plans. As such, facility personnel with security duties should normally be able to demonstrate compliance with 33 CFR § 154.735(t).

(2) A facility not applicable to 33 CFR Part 105 should be required to demonstrate how they comply with all of the requirements of 33 CFR § 154.735(t) during facility compliance activities.

q. 33 CFR § 154.735(u) states facility owners and operators may authorize smoking in designated areas if it is done so in accordance with local ordinances and regulations, is marked with signs indicating authorized smoking areas, and no smoking signs are posted elsewhere on the facility. During facility compliance activities, Facility Inspectors should verify the presence of smoking areas and no smoking signs. Questions as to the location of smoking areas in accordance with local ordinances and regulations should be addressed to the appropriate state regulatory agency, local fire marshal, or other similar entity.

5. Records. There are various requirements for maintenance of records on facilities outlined in 33 CFR § 154.740. During full compliance inspections, these records should be reviewed to ensure compliance with the applicable requirements. During spot checks or transfer monitors those records applicable to the scope of the spot check or transfer monitor should be checked. For example, on a transfer monitor the DOI for that transfer should be verified. If it is found to be

adequate, there is no need check previous DOIs as that would expand the scope of the transfer monitor, and possibly take the PIC focus away from the transfer operation.

6. Compliance with Operations Manual. 33 CFR § 154.750 requires the facility operator to require facility personnel to use the procedures in the approved Operations Manual prescribed in 33 CFR § 154.300.

   a. Any violation of the requirements of this Part identified reflect on the facility operator training or holding personnel accountable. As such, deficiencies should be written to the facility and not the PIC.

   b. Violation cases may be initiated against the facility operator or the PIC. When making this determination, the COTP must consider what the specific violation was, and which party should take the corrective action to ensure compliance of that specific requirement in the future.

E. Facility Response Plans.

1. FRPs are required for certain facilities under the following Subparts of 33 CFR Part 154:

   a. Subpart F: Response Plans for Oil Facilities;

   b. Subpart G: Additional Response Plan Requirements for a Trans-Alaska Pipeline Facility;

   c. Subpart H: Response Plans for Animal Fats and Vegetable Oil Facilities; and

   d. Subpart I: Response Plans for Other Non-Petroleum Facilities.

2. Policy for Response Plans required under these Subparts are discussed in the Reference (e). Questions pertaining to response plans may be sent directly to Commandant (CG-MER-1).

F. Marine Vapor Control System. The Coast Guard does not require any facility to have a Vapor Control System (VCS), but when a facility regulated under 33 CFR Part 154 does have a VCS it must comply with the requirements of Subpart P. Subpart P is extensive with many of the requirements being verified by Commandant (CG-ENG-5) instead of Facility Inspectors. The following guidelines are provided for Facility Inspectors to use on routine compliance activities. Questions related to anything in Subpart P may be sent directly to Commandant (CG-ENG-5).

1. Operational Review. 33 CFR § 154.2021(a) requires facility VCS to undergo an operational review by the Certified Entity (CE) within five years of its initial certification or last operational review. Under 33 CFR § 154.2109(b)(3)(i), anti-flashback burners (if installed) must also be inspected every five years and verified by the CE.

   a. During facility compliance activities, Facility Inspectors should review documentation from the facility that shows this required review was conducted within the last five years.

b. See Commandant (CG-ENG) Policy Letter 2-16 for additional information on anti-flashback burners.

2. Personnel: Transfer Facilities. 33 CFR § 154.2030 discusses PIC requirements for VCS. This list is extensive, and covers the entire VCS system. On facility compliance activities, Facility Inspectors should verify facility PICs using VCS are designated in accordance with 33 CFR § 154.710, and have undergone the required training outlined in this section. This can be verified by reviewing documentation outlined in 33 CFR § 154.740(b).

3. Requirements for Facility Vapor Connections. 33 CFR § 154.2101 outlines requirements for facility vapor connections. The requirements of this section are prescriptive in nature and should be inspected by Facility Inspectors during facility compliance activities.

G. Oil and Hazardous Material Transfer Operations. 33 CFR Part 156 discusses the transfer operations between facilities and vessels, vessels and vessels, or within vessels. Reference (a), Chapter B6.E discusses requirements for transfer operations involving vessels. This Manual will not repeat the requirements found in Reference (a), so Facility Inspectors must refer to Reference (a) when conducting transfer monitors. However, facility specific items not discussed, or not discussed in sufficient detail in Reference (a) are discussed in this section.

1. Alternatives and Exemptions. Like 33 CFR Part 154, 33 CFR Part 156 allows alternatives and exemptions for transfer operations. The procedures outlined in Chapter 6.A.5 and 6.A.6 of this Manual applies to review of alternatives and exemptions under 33 CFR Part 156. Additionally, Facility Inspectors reviewing alternative and exemption requests under 33 CFR Part 156 should engage with the Chief, Inspections Division to ensure all vessel equities are addressed in the review.

2. Suspension Orders. 33 CFR § 156.112 allows for issuance of rapid suspension orders when conditions found at the facility are in such variance with the regulations that further operations would constitute an undue threat to the environment. 33 CFR § 156.112 allows for the suspension of transfer operations if Coast Guard personnel are not allowed access to inspect the operation to verify compliance. See Reference (j), Chapter 4.B.5 for additional information on suspending operations.

3. Advanced Notice of Transfer. Per 33 CFR § 156.118, the COTP may require a facility operator to notify the COTP of the time and place of each transfer operation at least four hours before it begins. This requirement can only be applied to mobile facilities, facilities in a remote location, facilities with a prior history of oil or hazardous material spills, or facilities that conduct infrequent transfer operations.

a. Mobile facilities are clearly defined in 33 CFR Part 154. The other three reasons for potentially requiring an advanced notice of transfer are not defined. The COTP must use their best judgment in determining what facilities are remote, have a prior history of oil or hazardous material spills, or conduct infrequent transfer operations.

b. When the COTP requires a facility to submit a four hour advanced notice of transfer, it is recommended the COTP make this notification by certified letter with return receipt to each facility required to make these notifications. Without this documentation, enforcement cases for non-report of advanced notice of transfer may be difficult to support due to a lack of sufficient evidence in a penalty case.

c. Facilities can use any means, with email being the most prevalent, to notify the COTP and satisfy the requirement to make any such notifications.

d. Unless all facilities in a COTP zone meet any or all of the stipulations in 33 CFR § 156.118(a), COTPs must not require every facility in their area of responsibility to submit advanced notice of transfer, as 33 CFR § 156.118 does not permit this.

4. Requirements for Transfer. 33 CFR § 156.120 outlines requirements for transfer. The requirements of this list should be verified on facility compliance activities.

   a. When a certain requirement is not met when a transfer operation is occurring, the COTP may have grounds to issue a suspension order and initiate enforcement actions.

   b. When a certain requirement is not met during other facility compliance activities and there is not a transfer occurring, a deficiency may be written to rectify the issue prior to next transfer or other specified time. In these instances enforcement action should not be initiated, unless evidence exists that a transfer occurred when the facility did not meet a specific requirement(s).

5. Discharge Cleanup. The goal of 33 CFR § 156.125 is to control the spread of oil and to check its source before resuming transfer operations. COTP authorization is required for resumption of normal transfer operations but not for the removal of discharged oil from the water and its return to proper storage. As long as removal by the responsible party is performed properly, the COTP will not interfere in the cleanup operations. There should be no spills or leaks in the work area during transfer operations. A leak into containment devices is not considered a discharge into the water, and stopping a leak without halting the transfer may be sufficient. However, the specified containment capacity must be available throughout the transfer operation.

6. Connection. 33 CFR § 156.130 discusses connection for transfers. 33 CFR § 156.130(c)(2) discusses the use of quick-connect couplings acceptable to the Commandant.

   a. There are no Coast Guard type approvals for quick-connect couplings.

      (1) If a facility requests to use a quick-connect coupling, the COTP should obtain product specifications and submit them to Commandant (CG-FAC-2) for a coordinated review with Commandant (CG-ENG-3). This review will determine if the equipment is acceptable from a design perspective.

(2) If it is found to be acceptable, the COTP may accept use by the facility. In such instances documentation should be loaded into MISLE, and the facility should amend their Operations Manual to discuss use of this equipment.

b. As with any operation that involves repeated connect/disconnects, there is more operational risk and potential for human error than for systems opened only occasionally for inspection or repair, or systems using bolted connections. As such, Facility Inspectors must pay particular attention to this equipment on future facility compliance activities.

7. Declaration of Inspection. 33 CFR § 156.150 discusses the DOI. A transfer is deemed to begin when the facility PIC and vessel PIC meet to begin completing the DOI. The facility PIC is not required to inspect the requirements of the vessel before completing the DOI, but rather may accept the signature of the vessel PIC as satisfactory evidence of the acceptable condition of the vessel requirements.

a. When, during a transfer operation, PICs are changed out, the new PIC must review the requirements on the DOI with the PIC on the other asset (e.g. when the facility PIC switches out they must review the DOI with the PIC on the vessel). After this review, the new PIC signs the DOI and becomes responsible for their aspect of the transfer operation.

b. Facility Inspectors should verify these records are kept for one month from the date of signature in accordance with 33 CFR § 156.150(f) during routine compliance activities, with the exception of during transfer monitors as these record checks could take the PIC away from their duties as the PIC.

8. Equipment Tests and Inspections. Requirements for facility tests of equipment can be found at 33 CFR § 156.170.

a. Amplifying information industry can use in complying with the pipeline and hose test requirements in this section can be found in Reference (m). COTPs should follow the same guidance provided to facilities in Reference (m) in regulating facilities under this section.

b. All pipelines in the MTA, as defined in 33 CFR § 154.105 and discussed in Chapter 6.A.3.b of this Manual must be tested under the requirements of this section.

c. When requirements of this section are not met during facility compliance activities and there is not a transfer occurring, a deficiency may be written to rectify the issue prior to next transfer or other specified time. In these instances enforcement action should not be initiated, unless evidence exists that a transfer occurred when the facility did not meet a specific requirements outlined in this section.

H. MISLE.

1. Facilities regulated under 33 CFR Part 154 must have the applicability check box selected within the MISLE facility file indicating it is regulated under 33 CFR Part 154 as well as the VCS box selected if they operate a marine VCS, and the proper facility sub-types selected within MISLE.

2. Facilities Ceasing Regulated Operations.

   a. Caretaker status is a regulatory term only found in 33 CFR Part 154. Facilities regulated under 33 CFR Part 154 that enter caretaker status as discussed in Chapter 6.A.2.c of this Manual must have their status in MISLE changed to "Caretaker" and caretaker inspection activity type should be completed.

   b. If the facility requests to cease operations and does not plan to come back into service in the future, a shutdown inspection rather than a caretaker inspection may be more appropriate. On the shutdown inspection, the Facility Inspector should verify the MTA piping is being dismantled to an extent necessary to no longer have a nexus to marine transfer operations. The 33 CFR Part 154 check box (and VCS check box if appropriate) in MISLE should be de-selected, the facility status in MISLE should be changed to "De-activated", the proper facility sub-types selected within MISLE, and a shutdown inspection activity completed.

   c. If the facility communicates their intentions to no longer conduct regulated transfers (e.g. only conduct transfers with vessels with a capacity of less than 250 barrels), the COTP should obtain a letter from the facility stating so, and upload that letter into the facility file in MISLE. The 33 CFR Part 154 check box (and VCS check box if appropriate) in MISLE should be de-selected, the facility status in MISLE should remain "Active", and the proper facility sub-types selected within MISLE. A shutdown inspection activity should only be completed if the unit conducts an onsite inspection or meeting to verify information submitted in the facility's letter to the COTP.

3. Units should continually monitor facility entries in MISLE. Duplicated facilities entered in MISLE should have information consolidated into a single facility file, and duplicate entries set as de-activated.

4. Facility Name Changes.

   a. When a facility owner/operator changes names, the existing facility file in MISLE should be updated with the new name and contact information. When doing so, an Administrative Activity should be completed in MISLE, and a Special Note should be placed in the facility file for that facility. LOIs, Operations Manuals, and FRP's can be updated with a new name and contact information, as appropriate. Complete deficiency and enforcement history of the owner/operator should typically be considered when taking enforcement action against the owner/operator.

   b. When a facility owner and/or operator changes, the previous facility in MISLE should be set to De-activated, the applicability Part boxes unselected, and sub-types unselected. The new facility file should have the appropriate applicability boxes and sub-types selected, and a Special Note should be included of who the previous facility owner/operator was and MISLE facility identification number in order to be able to trace the site history if necessary in the future. Additionally, new LOIs, Operations Manuals, and FRP's must be submitted. Deficiency and enforcement history of the previous owner/operator should typically be

excluded when taking enforcement action against the new owner/operator, and inspection schedules should be reset by the COTP.

5. Facilities with VCS.

   a. When conducting facility compliance activities on a facility with a VCS, obtain a copy of the CE letter for the five year review of the system. Attach this letter in MISLE and enter the appropriate information, including the CE as a "VCS Certifying Entity" under "Role".

   b. Note that a facility may have multiple CEs due to having multiple docks with VCS, or their authorization is updated to add additional cargo(s). In those cases, enter all CE letters and CEs in MISLE.

## APPENDIX A. Acronyms

| Acronym | Meaning |
|---|---|
| ACGIH | American Conference of Governmental Industrial Hygienists |
| ANSI | American National Standards Institute |
| CATEX | Categorical Exclusions |
| CE | Certified Entity |
| CFR | Code of Federal Regulations |
| CG | Coast Guard |
| CGAA 18 | Frank LoBiondo Coast Guard Authorization Act of 2018 |
| CGBI | Coast Guard Business Intelligence |
| CEII | Critical Energy Infrastructure Information |
| CERCLA | Comprehensive Environmental Response, Compensation, and Liability Act |
| CFATS | Chemical Facility Anti-Terrorism Standards |
| CHRIS | Chemical Hazard Response Information Sheet |
| COA | Certificate of Adequacy |
| COMDTINST | Commandant Instruction |
| COTP | Captain of the Port |
| CUI | Controlled Unclassified Information |
| CWA | Clean Water Act |
| dB | Decibel |
| DHS | Department of Homeland Security |
| DoD | Department of Defense |
| DOI | Declaration of Inspection |
| DOT | Department of Transportation |

| | |
|---|---|
| DPA | Deepwater Port Act of 1974 |
| EEBA | Emergency Escape Breathing Apparatus |
| EHS | Explosive Handling Supervisor |
| ERG | Emergency Response Guidebook |
| EPA | Environmental Protection Agency |
| FERC | Federal Energy Regulatory Commission |
| FRP | Facility Response Plan |
| FSP | Facility Security Plan |
| FWPCA | Federal Water Pollution Control Act |
| HMTA | Hazardous Materials Transportation Act |
| IDLH | Immediately Dangerous to Life and Health |
| IMO | International Maritime Organization |
| IPAT | Inspector Proficiency Assessment Tool |
| IMSBC | International Maritime Solid Bulk Cargoes |
| ISGOTT | International Safety Guide for Oil Tankers and Terminals |
| LHG | Liquefied Hazardous Gas |
| LNG | Liquefied Natural Gas |
| LPG | Liquefied Petroleum Gas |
| LOR | Letter of Recommendation |
| LORA | Letter of Recommendation Analysis |
| LOI | Letter of Intent |
| LOW | Letter of Warning |
| MARPOL | International Convention for the Prevention of Pollution from Ships |

| | |
|---|---|
| MAWP | Maximum Allowable Working Pressure |
| MILSTRIP | Military Standard Requisitioning and Issue Procedures |
| MISLE | Marine Information for Safety and Enforcement |
| MHB | Material Hazardous only in Bulk |
| MMS | Mission Management System |
| MSM | Marine Safety Manual |
| MTA | Marine Transfer Area |
| MTSA | Maritime Transportation Security Act |
| NARA | National Archive Records Administration |
| NCIP | National Container Inspection Program |
| NEPA | National Environmental Policy Act |
| NFPA | National Fire Protection Association |
| NIH | National Institute of Health |
| NIOSH | National Institute for Occupational Safety and Health |
| NLS | Noxious Liquid Substance |
| NOV | Notice of Violation |
| NPRM | Notice of Proposed Rule Making |
| NRC | National Response Center |
| NVIC | Navigation and Vessel Inspection Circular |
| OCSLA | Outer Continental Shelf Lands Act of 1953 |
| OHMS | Office of Hazardous Materials Safety |
| OMSEP | Occupational Medical Surveillance and Evaluation Program |
| OPA 90 | Oil Pollution Act of 1990 |

| | |
|---|---|
| OPS | Office of Pipeline Safety |
| OSHA | Occupational Safety and Health Administration |
| OSRO | Oil Spill Removal Organization |
| PDM | Potentially Dangerous Material |
| PHMSA | Pipeline and Hazardous Materials Safety Administration |
| PIC | Person in Charge |
| PIH | Poisonous by Inhalation |
| PMC | Permanently Moored Craft |
| PPE | Personal Protective Equipment |
| PRF | Port Reception Facility |
| PRIV | Privileged Information |
| PQS | Performance and Qualification Standard |
| PWS | Ports and Waterways Safety (46 U.S.C. Chapter 700) |
| PWSA | Ports and Waterways Safety Act |
| RO/RO | Roll-On/Roll-Off |
| SDS | Safety Data Sheet |
| SEHO | Safety and Environmental Health Officer |
| SLA | Submerged Lands Act of 1953 |
| SOLAS | International Convention for the Safety of Life at Sea |
| SSI | Sensitive Security Information |
| STEL | Short Term Exposure Limit |
| TLV | Threshold Limit Value |
| TMT | Training Management Tool |

| | |
|---|---|
| U.S.C. | United States Code |
| VCS | Vapor Control System |
| WMD | Weapon of Mass Destruction |
| WSA | Waterways Suitability Assessment |