



Coast Guard Regulated Facility Compliance Program



COMDTINST M16600.10
March 2020



Commandant
United States Coast Guard

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COMMANDANT INSTRUCTION M16600.10

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.

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Exhibit N-5F

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

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.

- 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.

- (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.