MTSA POLICY ADVISORY COUNCIL

July 26, 2011

Waiving Facilities that Transfer Certain Low Risk Commodities
02-11

FINAL

Issue: 33 CFR 105.105(a)(1) requires facilities that are regulated under 33 CFR 126, 127 and 154 to be subject to the security regulations of 33 CFR Subchapter H. This requirement includes the entire category of oil products because of its potential of contributing to a Transportation Security Incident (TSI). TSIs are defined as security incidents that result in significant loss of life, environmental damage, transportation system disruption or economic disruption in a particular area.

Since MTSA was implemented, the Coast Guard has taken a closer look at some of the regulated cargos and their physical properties and has concluded that handling them would likely not contribute to a TSI. Can facilities that transfer and store these specific products be waived from the requirements of 33 CFR Part 105?

References:

33 CFR 105.130	PAC 23-04
PAC 10-04	PAC 33-04
PAC 16-04	PAC 51-05
PAC 21-04	PAC 09-09

Discussion: Because of the physical properties of the specific commodities listed in this PAC, facility owners/operators and U.S. Coast Guard Inspectors have questioned the probability of these commodities contributing to a TSI. After review, it was determined by the USCG Hazardous Materials Standards Office (CG-5223) that the commodities in the following list have little threat of contributing to a TSI and are categorized as low risk. Because of this classification, and in consideration of 46 CFR 148, these commodities should be exempted from the requirements of 33 CFR Part 105. (All cargos listed in the above numbered PACs are included in this list. The above mentioned PAC documents are superseded by this document.)

The following page has two tables. The first table lists commodities exempted from 33 CFR 105. The second table lists commodities that need no exemption at all because they are not, nor have ever been, regulated commodities under 33CFR105.

This PAC relieves facilities only of requirements under 33 CFR 105 and does not relieve the vessel of any requirements.

Low Risk Commodities:

Aggregate	Ferrosilicon (25-30% silicon or more than 90% silicon) *	Pitch prill (prilled coal tar or pencil pitch) *
Asphalt*	Fish oil	Pyrites – calcined (pyritic ash or fly ash) *
Caustic soda*	Fluorspar (calcium fluoride)*	Sawdust*
Cement	Grain	Silicomanganese (25% or more silicon) *
Charcoal	Iron*	Slops & residuals*
Coal*	Lime – unslaked*	Soybean oil
Coal - brown briquettes*	Linted cotton seed	Urea ammonium nitrate solution (2% or less NH3) *
Corn oil	Magnesia – unslaked*	Vanadium ore*
Drilling brine (zinc bromide) *	Metal sulphide concentrates*	Wood pellets
Drilling mud (low toxicity) *	Palm oil	Wood pulp pellets*
Edible oils	Peat moss*	Woodchips*
Ferro phosphorus*	Petroleum coke – calcined or uncalcined*	

(Items marked with an asterisk '*' were already covered in one of the PAC documents listed above. These PACs are superceded by this document.)

Commodities that are not now and have never been regulated:

Aggregate	Linseed oil	Sand
Gravel	Ore	Stone
Gypsum	Rock salt	Taconite
Limestone	Salt	

Policy: The transfer and storage of the products listed below are low TSI risk operations. If storage tanks or transshipment areas containing these commodities were to be attacked it is unlikely there would be significant loss of life, damage to the environment, significant disruption to the transportation system or to the area's economy. Therefore, the Coast Guard is waiving facilities that receive or transfer these products from the requirements of 33 CFR 105 with the following conditions:

1. The facility is not regulated under any other applicability factor;
2. The facility has storage capacity of no more than 42,000 gallons of any other regulated substance;
3. The facility receives no vessels subject to SOLAS;
4. The facility receives no foreign flagged vessels;
5. The facility receives no passenger vessels certificated to carry more than 150 passengers.

Facilities that meet all of the criteria listed above may send a letter to the COTP in their area, requesting that their Facility Security Plan (FSP) be withdrawn. Facilities that meet some, but not all of the criteria may forward a request for a waiver under 33 CFR 105.130 to Commandant (CG-54) requesting permission to waive the requirements of 33 CFR 105 at their facility.

NOTE: For further guidance, facility owners/operators should contact their local Captain of the Port (COTP/FMSC).