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CG-FAC Policy Letter  
No. 14-01  
21 February 2014

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COMDT (CG-FAC)

To: Distribution

Subj: FACILITIES RECEIVING VEHICLES FROM ROLL-ON/ROLL-OFF (RO/RO)  
VESSELS BEING REGULATED UNDER 33 CFR 126

Ref: (a) Title 33, Code of Federal Regulations, Chapter I, Subchapter L, Part 126  
(b) Title 49, Code of Federal Regulations, Chapter I, Subchapter C, Part 172  
(c) Title 49, Code of Federal Regulations, Chapter I, Subchapter C, Part 173  
(d) Title 49, Code of Federal Regulations, Chapter I, Subchapter C, Part 176  
(e) Marine Safety Manual Volume II, COMDTINST M16000.7A

1. Purpose. Provide guidance regarding the applicability of 33 CFR Part 126 to facilities that receive and store vehicles from RO/RO (roll on/roll off) vessels.
2. Action. COTPs should use the guidance in this policy letter to determine the applicability of 33 CFR 126 to facilities that receive and store vehicles from RO/RO vessels. This policy letter will be distributed by electronic means only. It is available by accessing Homeport at <https://homeport.uscg.mil>.
3. Background.
  - a. Historically, the Coast Guard has regulated facilities that receive and store vehicles as cargo from RO/RO vessels under 33 CFR Part 126. However, over time a misunderstanding regarding the application of the regulations to these facilities has grown and regulatory oversight of these facilities has and continues to vary from unit to unit. The Coast Guard's inconsistent application of the regulations to these types of facilities throughout the country necessitates additional clarification and policy guidance for COTPs with RO/RO facilities in their area of responsibility.
  - b. In 1957, the Coast Guard amended 33 CFR 126.15, and added paragraph (d) which allowed motor vehicles to remain or park upon the waterfront facility "when a vehicle is handled and stored as an item of cargo and gasoline tanks are empty" (22 FR 10301, 10303 (Dec. 20, 1957)). In 1964, the Coast Guard amended the regulation to remove the requirement for the gasoline tanks to be empty (29 FR 1569 (Jan. 30, 1964)), because the dangerous cargo regulations at that time, (46 CFR 146.27-30) allowed such vehicles to be transported with gasoline in the tanks. As a result, from 1964 through 2003, 33 CFR 126.15(d)(4) stated that motor vehicles could remain or park upon the waterfront facility "when a vehicle is handled and stored as an item of cargo."

c. In 1978, 1993 (43 Fed.Reg. 15107, 15108 (Apr. 10, 1978) and 1998 (63 FR 57964 (Oct. 29, 1998), the Coast Guard proposed major changes to Part 126 to account for the growth of the container industry and the use of new types of vessels, such as ro-ro, lash, and container vessels. Additionally, the Coast Guard sought to make the regulations more consistent with industry standards and therefore incorporated different commercial codes, such as National Fire Protection Association (NFPA) standards and the International Maritime Dangerous Goods (IMDG) Code by reference. Notably, NFPA 307 (Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves, 1995 Edition), states that, “RO/RO operations involving self-propelled motor vehicle cargo shall conform to all applicable laws, ordinances, regulations, and the authority having jurisdiction.”

4. Applicability.

a. 33 CFR Part 126 applies to waterfront facilities handling packaged and bulk-solid dangerous cargo and to vessels at those facilities.<sup>1</sup>

i. Vehicles shipped on vessels are not bulk solids (defined in 33 CFR 126.3 as “without mark or count and directly loaded or unloaded to or from a hold or tank on a vessel without the use of containers or break-bulk packaging”), so the applicability of this Part depends on whether a vehicle is considered packaging for the dangerous cargoes carried.

ii. Dangerous cargo is defined in 33 CFR 126.3 as encompassing, among other things, all hazardous materials listed in 49 CFR Parts 171-177. The hazardous materials table (“the 101 table”) located in 49 CFR 172.101 is the starting point for determining whether an item is listed in 49 CFR Parts 171-177. Vehicles are listed in the 101 table as seen in Figure 1 below.

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued													
Sym- bols  (1)	Hazardous materials descriptions and proper shipping names  (2)	Hazard class or Division  (3)	Identi- fication Numbers  (4)	PG  (5)	Label Codes  (6)	Special provisions (§ 172.102)  (7)	(8)			(9)		(10) Vessel stowage	
							Packaging (§ 173.***)			Quantity limitations (see §§ 173.27 and 175.75)		Loca- tion  (10A)	Other  (10B)
							Excep- tions  (8A)	Non- bulk  (8B)	Bulk  (8C)	Passenger aircraft/rail  (9A)	Cargo air- craft only  (9B)		
	Vanadium tetrachloride .....	8	UN2444	I	8 .....	A3, A6, A7, B4, N34, T10, TP2	None ...	201 ...	243 ...	Forbidden	2.5 L	C	40
	Vanadium trichloride .....	8	UN2475	III	8 .....	IB8, IP3, T1, TP33	154 .....	213 ...	240 ...	25 kg	100 kg	A	40
	Vanadyl sulfate .....	6.1	UN2931	II	6.1 .....	IB8, IP2, IP4, T3, TP33	153 .....	212 ...	242 ...	25 kg	100 kg	A	
	Vehicle, flammable gas powered or Vehicle, fuel cell, flammable gas powered.	9	UN3166	9	9 .....	135	220 .....	220 ...	220 ...	Forbidden	No limit	A	
	Vehicle, flammable liquid powered or Vehicle, fuel cell, flammable liquid powered.	9	UN3166	9	9 .....	135	220 .....	220 ...	220 ...	No limit	No limit	A	

Figure 1 - Excerpt from the 101 table showing Vehicles listed as hazardous materials. 49 CFR § 172.101 (2012).

<sup>1</sup> 33 CFR § 126.1 (2013).

- iii. Reviewing the table excerpt in Figure 1, vehicles are classified as hazard class 9 (column (3)), which is defined as miscellaneous hazards<sup>2</sup>, and assigned the hazardous materials identification number UN3166 (column (4)). Packaging guidelines prescribed in 49 CFR 173.220 (column (8)) are very detailed and apply to “[a]n internal combustion engine, self-propelled vehicle, ... a battery-powered vehicle or equipment, or any combination thereof” when “transported as cargo on a transport vehicle, vessel, or aircraft if ... (1) [t]he engine contains a liquid or gaseous fuel ...; (2) [t]he fuel tank contains a liquid or gaseous fuel ...; (3) [i]t is equipped with a wet battery ..., a sodium battery, or a lithium battery; or ... it contains other hazardous materials subject to the requirements of this subchapter.”<sup>3</sup> Additionally, it prescribes packaging requirements such as draining fuel in the gas tank to 500 mL, protection of the batteries to prevent leakage or dangerous heat levels, and draining the fluids from the engine for transport on vessels.<sup>4</sup> Essentially, this provision treats the vehicle body as a package for the hazardous materials – battery(ies), fuel, and oils – inside.
  - b. Vehicles are covered in 49 CFR Parts 171-177; packaging requirements are located in 49 CFR 173.220. Additionally, vehicle stowage for transport on vessels is addressed in 49 CFR 176.905.
  - c. In Section B, Chapter 7 of reference (e), the Coast Guard established its policies for the waterfront facility inspection program, and defined “Packaged hazardous materials” as “those materials covered under 49 CFR Parts 171-179 when carried in packages that meet the requirements of those parts.”<sup>5</sup>
5. Policy.
- a. 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.
  - b. In accordance with 33 CFR 126.11, the COTP may waive compliance with any provisions contained in §§126.15 and 126.16, if the COTP finds that the application of such provisions is not necessary to the safety or security of the port and vessels and waterfront facility. The COTP shall document the waiver in writing and provide any information which supports and explains the determination to be included as part of the local facility file and attached in Marine Information for Safety and Law Enforcement (MISLE) system.
  - c. 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 Part 126. The request and response shall be in writing and identify how there is an equivalent or greater level of safety and shall be to be included as part of the local facility file and attached in MISLE.

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<sup>2</sup> Miscellaneous hazardous materials (Class 9) is defined in 49 CFR § 173.140 as materials which present a hazard during transportation but which do not meet the definition of any other hazard class. This class includes any material that is a hazardous substance, a hazardous waste, or a marine pollutant. 49 CFR § 173.140 (b) (2012).

<sup>3</sup> 49 CFR § 173.220 (a) (1) – (4).

<sup>4</sup> 49 CFR § 173.220 (b) – (g).

<sup>5</sup> Marine Safety Manual, Vol. II, Section B, Chapter 7, § C.4.a.

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- d. 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.
- e. This policy will be incorporated into future revisions of the Marine Safety Manual.
6. Disclaimer. This guidance is neither a substitute for applicable legal requirements, nor a rule. It is not intended to, nor does it, impose legally-binding requirements on any party. It represents the Coast Guard's current position on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and state regulators, in appropriately applying statutory and regulatory requirements.
7. Questions concerning this policy should be directed to the Coast Guard Office of Port and Facility Compliance (CG-FAC-2) at (202) 372-1130.

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