

Proposed paragraph 1918.85(f)(3)(iv) would require that liftlocks be regularly examined, including a visual inspection, which could be done by employees involved in the VTL operation, before each use. This is consistent with OSHA standards and with ILO Convention 152 and will help identify defective liftlocks on an on-going basis.

Proposed paragraph 1918.85(f)(3)(v) would require that liftlocks to be certificated with a SWL for lifting of at least 10,000 kg., in accordance with ICHCA guidelines (Ex. 41, Section 8).

Proposed paragraph 1918.85(f)(3)(vi) would require that every liftlock be clearly and durably marked with its SWL for lifting, together with a number or mark that identifies it as a liftlock and connects it with its test certificate. This marking and certification must be done before any liftlock is used for lifting. Although the ICHCA guidelines allow for batch testing, OSHA's proposal would require individual testing in accordance with ILO Convention 152, which is discussed in the next section.

Proposed paragraph 1918.85(f)(3)(vii) addresses the characteristics of the liftlock. All liftlocks on a vessel shall lock and unlock in the same manner. Some liftlocks lock and unlock in a horizontal direction, others in a vertical direction. What is important and required is that all the liftlocks on a vessel work in the same manner to allow employees involved in VTLs to know whether or not the locks are locked or unlocked before a lift is performed. In order for an observer to visually determine whether the liftlocks are locked or unlocked, they must have a "telltale," which is typically a solid metal lever or a flexible wire, possibly painted to enhance visibility. This allows employees working with VTLs to see whether a liftlock is locked or unlocked.

Proposed paragraph 1918.85(f)(4) defines a competent person as "a person familiar with the proper maintenance and use of liftlocks by training or experience. Such a person will be able to detect defects or weaknesses and be able to assess their importance in relation to the safe and continued use of the liftlocks." The proposed definition for competent person is more appropriate for VTL operations than the existing definition found in OSHA's shipyard regulations, 29 CFR 1915.4, which is concerned with atmospheric hazards.

Proposed paragraph 1918.85(f)(5) prohibits the use of manual twistlocks or latchlocks as liftlocks. Manual twistlocks, which have largely been

replaced by SATLs due to OSHA's container top safety regulations and increased productivity (see discussions in 62 FR 40174, Longshoring and Marine Terminals Final Rule), do not have a positive locking mechanism. By contrast, SATLs have a locking device that uses spring tension to prevent it from unlocking. Manual locks could unlock through normal container handling while being used for lifting, making them unsuitable for lifting. The limits and weaknesses of latchlocks for VTLs was discussed earlier in this Preamble.

III. Issues for Discussion

1. In this **Federal Register** notice, OSHA is proposing to permit VTLs containing two containers with a total weight (containers plus cargo) of up to 20 tons. However, the Agency is aware that ISO standards and ICHCA guidelines on VTLs would allow up to three containers with the same total weight (up to 20 tons). Therefore, OSHA is seeking comment on whether three-container VTLs of up to 20 tons can be handled as safely as two-container VTLs with the same weight limitation. Are additional safeguards necessary for safety?

2. A fundamental issue of VTLs is the strength of the containers and liftlocks. As discussed above, OSHA contracted with another Federal agency, NIST, to conduct strength tests for SATLs. The report that NIST issued is Exhibit 40-10. It concluded that SATLs are very strong, noting that container corner castings fail before the SATLs (Ex. 40-10, pp. 43-44). Although the Agency has received considerable information on the topic, it welcomes further comments. Also, is there any scientific or engineering data that addresses maintenance testing and "life" of the components used for lifting purposes?

3. The NIST report also noted that a particular type of locking device known as a "single-sided latchlock" has insufficient surface area (that part of the lock that actually contacts the container corner casting and bears the weight of the lift) and that the strength of that kind of latchlock was less than that of a SATL. The design of the latchlock is such that the extent of the contact made by the lock relies on a spring that can become clogged by debris such as salt or grease which, in turn, can reduce significantly the contact area with the container corner casting (Ex. 20). In addition, by contrast with latchlocks, the handle of SATLs is designed as an integral part of the locking mechanism. The position of the handle allows the employees to be assured that, when the handle is in the locked position, the

lock is engaged. Latchlocks are not designed in the same way. For these reasons, the NIST report, the ICHCA guidelines, and this proposal do not approve of the use of latchlocks for VTLs. OSHA realizes that there are also double-sided latchlocks that have more surface area than single-sided latchlocks; however, their locking mechanism is the same as that of single-sided latchlocks, with the same limitations for VTL purposes. OSHA seeks comment on whether double-sided latchlocks could be used for VTLs, and under what conditions.

4. OSHA seeks public comment on appropriate testing and examination requirements for existing SATLs that are to be used for lifting. OSHA believes that all liftlocks must be individually tested and examined before initial use in VTLs. However, ICHCA guidelines allow for batch testing instead. Batch testing means, instead of testing each liftlock, one liftlock out of every group (for example, 50) of liftlocks made during the same production run is tested and used as a representative sample of the group. If the selected liftlock fails the testing, the whole group of 50 fails. However, the ILO does not allow batch testing for loose gear and, in a response to ICHCA on this issue, has maintained this position specifically for liftlocks. Of particular note, in this regard, is the rough use that SATLs endure when used for securing containers on deck, along with their expected life expectancy of 7 to 10 years.

5. Under the ICHCA guidelines, liftlocks can comply with the ILO Convention 152 loose gear requirement to be inspected annually by using an Approved Container Examination Program-type (ACEP) plan that is used to inspect containers. The ACEP program is a part of the International Maritime Organization's (IMO) Convention for Safe Containers (CSC), which is enforced in the United States by the Coast Guard. Under the ACEP plan, containers are inspected frequently on an irregular basis as opposed to a set time period. This is generally done at the gate of a marine terminal, where containers are inspected as they are brought into the marine terminal, and the custody of the container is transferred from the over-the-road trucker to the marine terminal operator. The same inspection occurs when the over-the-road driver takes a container from the marine terminal, transferring custody of the container from the terminal operator to the truck driver. In both cases, the container is inspected for damage, and, when going out of the terminal, it is also inspected