

Collection of Information

This rule calls for a new collection-of-information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection-of-information consists of posting warning signs at all designated waterfront facilities as required in § 126.15(a)(3). These signs must meet the requirements of the National Fire Protection Association (NFPA) 307.

No comments were received regarding the collection-of-information requirement.

This rule amends an existing Office of Management and Budget (OMB) approved collection, OMB control number 1625–0016 (formerly 2115–0054), that expires on November 30, 2004. As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to OMB for its review of the collection-of-information. OMB has not yet completed its review of, or approved, the changes to this collection. Therefore, § 126.15(a)(3) in the final rule will not become effective until approved by OMB. We will publish a document in the **Federal Register** announcing OMB's approval and the effective date of that section.

You are not required to respond to a collection-of-information unless it displays a currently valid OMB control number.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial, direct effect on State or local governments and would either preempt State law or impose a substantial, direct cost of compliance on them. We have analyzed this rule under Executive Order 13132 and have determined that it does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one-year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or, otherwise, have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial, direct effect on one or more Indian tribes, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant, adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule concerns handling and storage procedures and will contribute to a higher level of marine safety at waterfront facilities. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 126

Explosives, Harbors, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 126 as follows:

PART 126—HANDLING OF DANGEROUS CARGO AT WATERFRONT FACILITIES

■ 1. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

■ 2. Revise the part heading to read as set forth above.

§§ 126.01, 126.05, 126.07, 126.09 and 126.10 [Removed]

■ 3. Remove §§ 126.01, 126.05, 126.07, 126.09 and 126.10.

■ 4. Add § 126.1 to read as follows:

§ 126.1 What does this part apply to?

This part applies to waterfront facilities handling packaged and bulk-solid dangerous cargo and to vessels at those facilities.

■ 5. Add § 126.3 to read as follows:

§ 126.3 Definitions.

As used in this part—

Break-bulk means packages that are handled individually, palletized, or unitized for purposes of transportation, as opposed to materials in bulk and containerized freight.

Bulk means 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.

Captain of the port or *COTP* means the officer of the Coast Guard, under the command of a District Commander, is designated by the Commandant for the purpose of giving immediate direction to Coast Guard law enforcement activities within an assigned area.

Cargo of particular hazard means any of the following:

(1) Division 1.1 and 1.2 explosives, as defined in 49 CFR 173.50, for which a permit is required under 33 CFR 126.17.

(2) Ammonium nitrate products, division 5.1 (oxidizing) materials listed in 49 CFR 176.410, for which a permit is required under 49 CFR 176.415.

(3) Division 4.3 dangerous when wet products as defined in 49 CFR 173.124, in excess of 60 mt.

(4) Division 2.3 and 6.1 poison inhalation hazard products as defined in 49 CFR 173.115 and 173.132, respectively.