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contract awarded on or after January 30, 1996.

Person in charge of transfer operations on the vessel is the person designated the person in charge of cargo transfer under 46 CFR 154.1831.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, except a minor release of LHG or its vapor, that may occur during the routine handling of LHG. No release is minor if it creates an atmosphere that exceeds the Lower Flammable Limit (LFL) for a flammable product or any Permissible Exposure Limit (PEL) listed in 29 CFR 1910.1000, Table Z-1 or Z-2, for a toxic product.

Substructure means the deck of a pier or wharf and the structural components below that deck.

Toxic product means a product indicated by the letter "T" or by the letters "F+T" in Table 127.005.

Waterfront facility handling LHG means any structure on, in, or under the navigable waters of the United States, or any structure on land or any area on shore immediately adjacent to such waters, used or capable of being used to transfer liquefied hazardous gas, in bulk, to or from a vessel.

Waterfront facility handling LNG means any structure on, in, or under the navigable waters of the United States, or any structure on land or any area on shore immediately adjacent to such waters, used or capable of being used to transfer liquefied natural gas, in bulk, to or from a vessel.

TABLE 127.005—LIST OF PRODUCTS AND HAZARDS—Continued

Product	Hazard
Sulphur dioxide	T
Vinyl chloride	F+T

NOTE: "F" indicates a flammable product. "T" indicates a toxic product. "F+T" indicates a product both flammable and toxic.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995; CGD 97-023, 62 FR 33363, June 19, 1997]

§ 127.007 Letter of intent and waterway suitability assessment.

(a) An owner or operator intending to build a new facility handling LNG or LHG, or an owner or operator planning new construction to expand or modify marine terminal operations in an existing facility handling LNG or LHG, where the construction, expansion, or modification would result in an increase in the size and/or frequency of LNG or LHG marine traffic on the waterway associated with a proposed facility or modification to an existing facility, must submit a Letter of Intent (LOI) to the Captain of the Port (COTP) of the zone in which the facility is or will be located. The LOI must meet the requirements in paragraph (c) of this section.

(1) The owner or operator of an LNG facility must submit the LOI to the COTP no later than the date that the owner or operator files a pre-filing request with the Federal Energy Regulatory Commission (FERC) under 18 CFR parts 153 and 157, but, in all cases, at least 1 year prior to the start of construction.

(2) The owner or operator of an LHG facility must submit the LOI to the COTP no later than the date that the owner or operator files with the Federal or State agency having jurisdiction, but, in all cases, at least 1 year prior to the start of construction.

(b) An owner or operator intending to reactivate an inactive existing facility must submit an LOI that meets paragraph (c) of this section to the COTP of the zone in which the facility is located.

(1) The owner or operator of an LNG facility must submit the LOI to the COTP no later than the date the owner or operator files a pre-filing request

TABLE 127.005—LIST OF PRODUCTS AND HAZARDS

Product	Hazard
Acetaldehyde	F+T
Ammonia, anhydrous	T
Butadiene	F
Butanes	F
Butane and propane (mixtures)	F
Butylenes	F
Chlorine	T
Dimethylamine	F+T
Ethane	F
Ethyl chloride	F+T
Ethylene	F
Ethylene oxide	F+T
Methyl-acetylene and propadiene (mixtures) ..	F
Methyl bromide	F+T
Methyl chloride	F+T
Propane	F
Propylene	F

with FERC under 18 CFR parts 153 and 157, but, in all cases, at least 1 year prior to the start of LNG transfer operations.

(2) The owner or operator of an LHG facility must submit the LOI to the COTP no later than the date the owner or operator files with the Federal or State agency having jurisdiction, but, in all cases, at least 1 year prior to the start of LHG transfer operations.

(c) Each LOI must contain—

(1) The name, address, and telephone number of the owner and operator;

(2) The name, address, and telephone number of the Federal, State, or local agency having jurisdiction for siting, construction, and operation;

(3) The name, address, and telephone number of the facility;

(4) The physical location of the facility;

(5) A description of the facility;

(6) The LNG or LHG vessels' characteristics and the frequency of LNG or LHG shipments to or from the facility; and

(7) Charts showing waterway channels and identifying commercial, industrial, environmentally sensitive, and residential areas in and adjacent to the waterway used by the LNG or LHG vessels en route to the facility, within at least 25 kilometers (15.5 miles) of the facility.

(d) The owner or operator who submits an LOI under paragraphs (a) or (b) of this section must notify the COTP in writing within 15 days of any of the following:

(1) There is any change in the information submitted under paragraphs (c)(1) through (c)(7) of this section; or

(2) No LNG or LHG transfer operations are scheduled within the next 12 months.

(e) An owner or operator intending to build a new LNG or LHG facility, or an owner or operator planning new construction to expand or modify marine terminal operations in an existing facility handling LNG or LHG, where the construction, expansion, or modification would result in an increase in the size and/or frequency of LNG or LHG marine traffic on the waterway associated with a proposed facility or modification to an existing facility, must file or update as appropriate a water-

way suitability assessment (WSA) with the COTP of the zone in which the facility is or will be located. The WSA must consist of a Preliminary WSA and a Follow-on WSA. A COTP may request additional information during review of the Preliminary WSA or Follow-on WSA.

(f) The Preliminary WSA must—

(1) Be submitted to the COTP with the LOI; and

(2) Provide an initial explanation of the following—

(i) Port characterization;

(ii) Characterization of the LNG or LHG facility and LNG or LHG tanker route;

(iii) Risk assessment for maritime safety and security;

(iv) Risk management strategies; and

(v) Resource needs for maritime safety, security, and response.

(g) The Follow-on WSA must—

(1) Be submitted to the COTP as follows:

(i) The owner or operator of an LNG facility must submit the Follow-on WSA to the COTP no later than the date the owner or operator files its application with FERC pursuant to 18 CFR parts 153 or 157, or if no application to FERC is required, at least 180 days before the owner or operator begins transferring LNG.

(ii) The owner or operator of an LHG facility must submit the Follow-on WSA to the COTP in all cases at least 180 days before the owner or operator begins transferring LHG.

(2) Contain a detailed analysis of the elements listed in §§127.007(f)(2), 127.009(d), and 127.009(e) of this part.

(h) Until the facility begins operation, owners or operators must:

(1) Annually review their WSAs and submit a report to the COTP as to whether changes are required. The deadline for the required annual report should coincide with the date of the COTP's Letter of Recommendation, which indicates review and validation of the Follow-on WSA has been completed.

(2) In the event that revisions to the WSA are needed, report to the COTP the details of the necessary revisions, along with a timeline for completion.

(3) Update the WSA if there are any changes in conditions, such as changes

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to the port environment, the LNG or LHG facility, or the tanker route, that would affect the suitability of the waterway for LNG or LHG traffic.

(4) Submit a final report to the COTP at least 30 days, but not more than 60 days, prior to the start of operations.

[USCG-2007-27022, 75 FR 29426, May 26, 2010]

§ 127.009 Letter of recommendation.

After the COTP receives the Letter of Intent under §127.007(a) or (b), the COTP issues a Letter of Recommendation as to the suitability of the waterway for LNG or LHG marine traffic to the Federal, State, or local government agencies having jurisdiction for siting, construction, and operation, and, at the same time, sends a copy to the owner or operator, based on the—

(a) Information submitted under §127.007;

(b) Density and character of marine traffic in the waterway;

(c) Locks, bridges, or other man-made obstructions in the waterway;

(d) Factors adjacent to the facility such as—

(1) Depths of the water;

(2) Tidal range;

(3) Protection from high seas;

(4) Natural hazards, including reefs, rocks, and sandbars;

(5) Underwater pipelines and cables;

(6) Distance of berthed vessel from the channel and the width of the channel; and

(e) Other safety and security issues identified.

[USCG-2007-27022, 75 FR 29427, May 26, 2010]

§ 127.011 Inspections of waterfront facilities.

The operator shall ensure that the COTP or his representative is allowed to make reasonable examinations and inspections to determine whether the facility meets this part.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995]

§ 127.013 Suspension of transfer operations.

(a) The COTP may issue an order to the operator to suspend LHG or LNG transfer operations if the COTP finds

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any condition requiring immediate action to—

(1) Prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

(2) Protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss.

(b) Each order to suspend transfer operations issued under paragraph (a) of this section—

(1) Is effective immediately;

(2) Contains a statement of each condition requiring immediate action; and

(3) Is withdrawn by the COTP whenever each condition is corrected or no longer exists.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995]

§ 127.015 Appeals.

(a) Any person directly affected by an action taken under this part may request reconsideration by the Coast Guard officer responsible for that action.

(b) Except as provided under paragraph (e) of this section, any person not satisfied with a ruling made under the procedure contained in paragraph (a) of this section may—

(1) Appeal that ruling in writing to the District Commander of the district in which the action was taken; and

(2) Supply supporting documentation and evidence that the appellant wishes to have considered.

(c) The District Commander issues a ruling after reviewing the appeal submitted under paragraph (b) of this section. Except as provided under paragraph (e) of this section, any person not satisfied with this ruling may—

(1) Appeal that ruling in writing to the Assistant Commandant for Marine Safety, Security and Environmental Protection, U.S. Coast Guard, (CG-5), 2100 2nd St., SW., Stop 7355, Washington, DC 20593-7355; and

(2) Supply supporting documentation and evidence that the appellant wishes to have considered.