

contamination, the Woodbury Chemical Site was proposed for the NPL in June 1988 and was placed on the final List in August 1990. In January 1990, Woodbury Chemical Company under EPA's and DERM's oversight removed the toxaphene-contaminated soil in the area of the previously-mentioned spill.

In 1992, EPA completed the Remedial Investigation (RI) which encompassed a study of the soil, sediment, and groundwater. Onsite soils contained primarily low levels of pesticides and chromium, while offsite soils contained pesticides and arsenic. Except for nitrates, groundwater contamination was mainly limited to pesticides, arsenic, and chromium in offsite locations. Nitrates were detected in every groundwater sample collected. Their widespread presence is most likely due to the heavy use of fertilizers in the area and is not due to activities at the Site. Arsenic was also determined not to be Site-related due to its presence along the railroad, indicating its source as the arsenic-based herbicides that were historically sprayed by the railroad.

In 1992, EPA conducted a Risk Assessment for the Site to evaluate the public health and environmental problems that could result if the Site were not remediated. The results of the RI and the Risk Assessment indicated that the 1990 removal of toxaphene-contaminated soils at the Woodbury Chemical Site reduced the risk from exposure to Site-related contaminants in the soils to levels which are protective of human health and the environment. On June 25, 1992, EPA signed a Record of Decision (ROD) for the Woodbury Chemical Site.

The ROD called for No Further Action on the soil at the Site. The ROD also stated that No Action was necessary for the groundwater. The ROD determined that no hazardous substances, pollutants, or contaminants were present on the Site above health-based levels and that the five-year review was not warranted. However, because the potential future risk from exposure to the groundwater at the Site was close to the level at which EPA may consider taking action, the groundwater at and around the Site was designated for quarterly monitoring for one year. The purpose of the monitoring was to confirm that the few samples collected during the RI which contained contaminants above drinking water standards were not indicative of a release of contaminants from the Site.

Confirmational monitoring of groundwater demonstrates that no significant risk to public health or the environment is posed by the Site. The

results of the monitoring confirmed that the few groundwater samples collected during the RI which contained contaminants above drinking water standards were not indicative of a release of contaminants from the Woodbury Chemical Site. All Site contaminants were below health-based levels. Due to the removal of toxaphene-contaminated soils, hazardous substances have been removed from the Site so as to allow for unlimited use and unrestricted exposures within the Site, the Site is protective of public health and the environment, and no further remedial action is needed at the Site. Accordingly, EPA will not conduct operation and maintenance activities or five-year reviews at this Site.

EPA, with concurrence of FDEP, has determined that all appropriate actions at the Woodbury Chemical Site have been completed, and that no further remedial action is necessary. Therefore, EPA is proposing deletion of the Site from the NPL.

Dated: August 8, 1995.

**Patrick M. Tobin,**

*Acting Regional Administrator, USEPA  
Region IV.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Part 16

[CGD 95-011]

RIN 2115-AF02

#### **Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Removal of Foreign Implementation Date**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to remove the effective date of regulations governing drug testing onboard vessels within waters that are subject to the jurisdiction of a foreign government, and to amend the regulations to expressly provide that U.S. drug testing requirements do not apply within those waters. Under current regulations, the drug testing regulations would become applicable within those waters effective January 1, 1996. This proposal would ensure that Coast Guard drug testing regulations will not conflict with foreign law or policy and would result in no change to the current applicability of the drug testing requirements. This

action would result in no costs to the regulated industry.

**DATES:** Comments must be received on or before October 20, 1995.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 95-011), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Mark Grossetti, Project Manager, Marine Investigation Division (G-MMI), Office of Marine Safety, Security and Environmental Protection, (202) 267-1421.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 95-011) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no longer than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "ADDRESSES." The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

##### **Drafting Information**

The principal persons involved in drafting this document are LCDR Mark

Grossetti, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Helen Boutrous, Project Council, Office of Chief Counsel.

### Background and Purpose

On November 21, 1988, the Coast Guard, along with other agencies of the Department of Transportation (DOT), adopted regulations requiring pre-employment, post-accident, reasonable cause, periodic, and random drug testing. The drug testing required by the rule applies to some persons located outside of the United States. However, the rules provided that they would not apply outside the United States in any situation in which application of the rules violated foreign local laws or policies.

At the same time, the Coast Guard stated that the DOT and other elements of the government would enter into discussions with foreign governments to attempt to resolve any conflict between our rules and foreign government laws or policies. The Coast Guard stated that if, as a result of those discussions, it was found that amendments to the rule were necessary, timely amendments would be issued. A series of amendments have been issued to delay the application of the requirements to persons onboard U.S. vessels in waters subject to the jurisdiction of a foreign government. Those amendments delayed application to January 2, 1992 (54 FR 53286); January 2, 1993 (56 FR 18982); January 2, 1995 (57 FR 31274); and January 2, 1996 (59 FR 65500).

During the past few years, discussions with other countries have been held, and the difficulty of achieving effective bilateral agreements has become clear. Although the Coast Guard could allow its regulations to take effect in foreign waters, the Coast Guard continues to recognize that it would be difficult for U.S. carriers to effectively implement the regulations without cooperation from foreign governments, and that, in response, foreign governments could impose restrictions on U.S. operations.

### Discussion of Proposed Rules

For the above stated reasons, the Coast Guard is proposing not to apply the requirements of part 16 to operations in waters subject to the jurisdiction of a foreign government. This proposal will ensure there is no conflict with foreign law or policy. This proposal imposes no additional burdens on the regulated industry, and, in fact, would ensure the status quo of the foreign applicability since the chemical testing regulations were implemented in 1988.

### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)]. The economic impact of these proposed changes is so minimal that further evaluation is not necessary. A full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would expressly make drug testing regulations inapplicable within waters subject to the jurisdiction of a foreign government. It does not change the basic regulatory structure of the chemical testing regulations. The proposed revision would result in no additional costs to the regulated industry.

### Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider the economic impact on small entities of a rule which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This proposal would place no additional costs on the public. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This proposal contains no new collection-of-information requirements under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*].

### Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The authority to require programs for chemical drug and alcohol testing of commercial vessel personnel has been committed to the Coast Guard by Federal statutes. The Coast Guard does not expect this

proposal to raise any preemption issues, however, the Coast Guard does intend to preempt State and local actions on the same subject matter.

### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e(34)(c) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. The proposal involves the applicability of drug testing requirements for maritime personnel and clearly has no environmental impact.

### List of Subjects in 46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR part 16 as follows:

### PART 16—CHEMICAL TESTING

1. The authority citation for part 16 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 7101, 7301 and 7701; 49 CFR 1.46.

2. In § 16.207, paragraph (b) is revised to read as follows:

#### § 16.207 Conflict with foreign laws.

\* \* \* \* \*

(b) This part does not apply in waters that are subject to the jurisdiction of a foreign government.

Dated: February 10, 1995.

**J.C. Card,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.*

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### 46 CFR Part 32

[CGD 90-071]

RIN 2115-AD69

### Tank Level or Pressure Monitoring Devices

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes minimum standards for tank level or pressure monitoring devices to be used on tank vessels. The purpose of the devices is to reduce the size and impact of oil spills by alerting the tank vessel operator that an accidental discharge of cargo oil is occurring. Requirements for the installation and use of the devices will be proposed separately.