

a portion of the principal during the life of the loan without penalty.

(f) *Number of ARC Loans per small business.* No small business may obtain more than one ARC Loan, but the proceeds of the ARC loan may be used to pay more than one Qualifying Small Business Loan.

(g) *Personal guarantees.* Holders of at least a 20 percent ownership interest in the borrower generally must guarantee the ARC Loan.

(h) *Collateral.* SBA requires each lender to follow the collateral policies and procedures that it has established and implemented for similarly-sized non-SBA guaranteed commercial loans. The lender's collateral policies must be commercially reasonable and prudent. Lenders will certify that the collateral policies applied to the ARC Loan meet this standard. Lenders may charge borrowers the direct cost of securing and liquidating collateral for ARC Loans. SBA will reimburse Lenders for the direct cost of liquidating collateral that are not reimbursed by the borrower in the event of default. Reimbursement of the direct costs of liquidation by SBA to the Lender is limited to the amount of the recovery received on the ARC Loan.

(i) *Credit criteria.* To be approved for an ARC Loan, the applicant must be a creditworthy small business with a reasonable expectation of repayment, taking into consideration the following:

(1) Character, reputation, and credit history of the applicant (and the Operating Company, if applicable) and its Associates;

(2) Experience and depth of management;

(3) Strength of the business;

(4) Past earnings, current earnings, and projected cash flow; and

(5) Ability to repay the loan with earnings from the business.

(j) *Statement of hardship.* In addition to the certifications required for 7(a) loans generally, ARC Loan recipients must submit a statement certifying that they are experiencing immediate financial hardship and provide documentation to support the certification.

(k) *Loan application.* The provisions of § 120.191 do not apply for ARC Loans. A lender making an ARC Loan will provide an application with information on the small business that includes the nature and history of the business, current and historical financial statements (or tax returns), and other information that SBA may require.

(l) *Preferences and refinancing.* A lender may make an ARC Loan to an Eligible Borrower that intends to use the proceeds of the ARC Loan to make

periodic payments of principal and interest on a Qualifying Small Business Loan that is owned or serviced by that same lender. The provisions of §§ 120.10, 120.536(a)(2) and 120.925 with regard to Preference for repayments without prior SBA approval do not apply to ARC Loans. The provisions of § 120.201 restricting refinancing also do not apply to ARC Loans.

(m) *Loan fees.* Neither the lender nor SBA shall impose any fees or direct costs on a borrower of an ARC Loan, except that lenders may charge borrowers for the direct costs of securing and liquidating collateral for the ARC Loan. Fees include, but are not limited to, points, bonus points, prepayment penalties, brokerage fees, fees for processing, origination, or application, and out of pocket expenses (other than the direct costs of securing and liquidating collateral). SBA will not impose any fees on a lender making an ARC Loan.

(n) *Lender reporting.* Lenders shall report on its ARC Loans in accordance with requirements established by SBA from time to time for 7a loans and loans made under the American Recovery and Reinvestment Act of 2009.

(o) *Loan servicing.* Each originating lender shall service all of its ARC Loans in accordance with the existing practices and procedures that the Lender uses for its non-SBA guaranteed commercial loans. In all circumstances, such practices and procedures must be commercially reasonable and consistent with prudent lending standards and in accordance with SBA Loan Program Requirements as defined in § 120.10. SBA's prior written consent is required for servicing actions that may have significant exposure implications for SBA. SBA may require written notice of other servicing actions it considers necessary for portfolio management purposes.

(p) *Liquidations.* Each Lender shall be responsible for liquidating any defaulted ARC Loan originated by the Lender. ARC Loans will be liquidated in accordance with the existing practices and procedures that the Lender uses for its non-SBA guaranteed commercial loans. In all circumstances, such practices and procedures must be commercially reasonable and consistent with prudent lending standards and in accordance with SBA Loan Program Requirements as defined in Section 120.10. Loans with de minimis value may, at the Lender's request and with SBA's approval, be liquidated by SBA or its agent(s). Significant liquidation actions taken on ARC Loans must be documented. The reimbursement of

liquidation related fees by SBA to the Lender is limited to the amount of the recovery on the ARC Loan.

(q) *Purchase requests.* Any purchase request to SBA to honor its guaranty on a defaulted ARC Loan shall be made by the originating lender. Lenders may request SBA to purchase an ARC Loan when there has been an uncured payment default exceeding 60 days or when the borrower has declared bankruptcy. SBA requires Lenders to submit loans for purchase no later than 120 days after the earliest uncured payment default on the ARC Loan. Additionally, SBA may honor its guarantee and require a Lender to submit an ARC Loan for purchase at any time. Except as noted above, the Lender is required to complete all recovery actions on the ARC Loan after purchase.

(r) *Prohibition on secondary market sales and loan participations.* A lender may not sell an ARC loan into the secondary market nor may a lender participate a portion of an ARC loan with another lender.

(s) *Loan volume.* SBA reserves the right to allocate loan volume under the ARC Loan Program among Lenders (as defined in § 120.10).

(t) *Delegated authority.* SBA may allow lenders to use their delegated authority to process ARC Loans.

(u) *Personal resources test.* The personal resources test provisions of § 120.102 do not apply to ARC Loans.

(v) *Statutory loan limit.* The provisions of § 120.151 do not apply to ARC Loans.

**Karen G. Mills,**

*Administrator.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

#### Labeling Amendment of Blasting Caps

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Consumer Product Safety Commission (Commission or CPSC) is issuing a final rule to supplement the current definition of "blasting cap" in its regulations under the Federal Hazardous Substances Act. The final rule simply uses the term "detonator" in addition to the term "blasting cap" to reflect the current usage of those terms in the explosives industry.

**DATES:** The final rule becomes effective June 9, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Hyun Sun Kim, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7632, e-mail [hkim@cpsc.gov](mailto:hkim@cpsc.gov).

**SUPPLEMENTARY INFORMATION:****A. Background**

The regulations promulgated under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1276, require cautionary labeling of hazardous substances. 16 CFR part 1500. Under 16 CFR 1500.83(a)(35), individual blasting caps are exempt from bearing the statement, "Keep out of the reach of children," or its practical equivalent, if: (i) Each cap bears conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" and; (ii) the outer carton and any accompanying printed matter bear appropriate, complete cautionary labeling.

On October 16, 2006, the Institute of Makers of Explosives (IME) petitioned the Commission to amend the regulations at 16 CFR 1500.83(a)(35), to allow the use of the term "detonator" to be used interchangeably with the term "blasting cap." The petition was docketed as HP 07-1 and, on December 12, 2006, the Commission published a notice in the **Federal Register** (71 FR 74488) stating that it had received the petition and inviting public comment on the petition. No comments were received.

IME specifically requested adding the term "detonator" to the regulation as follows (added text is underlined>:

Individual *detonators* or blasting caps are exempt from bearing the statement, "Keep out of the reach of children," or its practical equivalent, if:

(i) Each *detonator* or cap bears conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" or "DANGEROUS—DETONATOR—EXPLOSIVE";

According to IME, the terms "detonator" and "blasting cap" generally are synonymous in the explosives community. IME asserts that the term "detonator" may be interpreted as being more inclusive and is more commonly used than the term "blasting cap." To minimize the possibility that an individual may not take recommended precautions when handling initiating devices, IME states that it has encouraged the use of the term "detonator" instead of the term "blasting cap" whenever possible. IME states that there is no practical benefit to requiring the use of both the term "detonator" and "blasting cap" on

printed warnings given the limited space available on small detonators. IME does not advocate replacing the term "blasting cap" with "detonator" at this time.

The Commission believes that the technical amendment will convey useful information concerning the scope of the labeling requirements for these devices. Because the term "detonator" is used widely, including "detonator" in 16 CFR 1500.83(a)(35) will clarify that either a blasting cap or a detonator must bear conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" or "DANGEROUS—DETONATOR—EXPLOSIVE" as applicable. The inclusion of the term detonator also will increase safety awareness by warning individuals to take precautions when handling these types of devices whether they are referred to as blasting caps or detonators. Because this amendment is technical in nature rather than substantive, notice and comment are not necessary. See 5 U.S.C. 553(b)(3)(B). Moreover, the amendment does not change the substantive obligations of manufacturers of these devices. Accordingly, there is no need to delay the effective date. *Id.* 553 (d)(3).

**List of Subjects in 16 CFR Part 1500**

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

**Conclusion**

■ For the reasons discussed the Commission amends 16 CFR 1500.83 to read as follows:

**PART 1500—[AMENDED]**

■ 1. The authority citation for part 1500 continues to read as follows:

**Authority:** 15 U.S.C. 1261-1277.

■ 2. Revise paragraphs (a)(35) introductory text and (a)(35)(i) of § 1500.83 to read as follows:

**§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.**

(a) \* \* \*

(35) Individual detonators or blasting caps are exempt from bearing the statement, "Keep out of the reach of children," or its practical equivalent, if:

(i) Each detonator or cap bears conspicuously in the largest type size practicable the statement, "DANGEROUS—BLASTING CAPS—EXPLOSIVE" or "DANGEROUS—DETONATOR—EXPLOSIVE"; and

\* \* \* \* \*

Dated: June 3, 2009.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[USCG-2009-0286]

**Drawbridge Operation Regulations; New Haven Harbor, Quinnipiac and Mill Rivers, CT, Test Schedule Change**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of three bridges; the Ferry Street Bridge and the Grand Avenue Bridge across the Quinnipiac River, and the Chapel Street Bridge across the Mill River, all at New Haven, Connecticut. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed.

**DATES:** This deviation is effective from May 1, 2009 through October 26, 2009. Comments must reach the Coast Guard on or before November 15, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-0286 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* (202) 493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building ground floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone 212-668-7165. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**