DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1917, and 1918

[Docket No. S–025A]

RIN 1218–AA56

Longshoring and Marine Terminals

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Limited opening of the record; Notice of informal public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) published a final rule on July 25, 1997, revising all of 29 CFR part 1918 (the Longshoring Standard) and related sections of 29 CFR part 1917 (the Marine Terminals Standard) (62 FR 40152). In the preamble of the final rule, OSHA discussed the practice of lifting two empty intermodal containers together, one on top of the other, connected by semi-automatic twist locks (hereafter referred to as ''piggybacking'' of two containers using twist locks). To secure them for shipping, containers have twist locks placed between the corner fittings of one container and the bottom fittings of the container that rests on top of the first. In a piggyback lift, the bottom container's weight is borne by the top container and twist locks. The force of lifting the bottom container is also transferred through the twist locks to the bottom fittings of the top container. Although OSHA expressed safety concerns regarding piggybacking, the rulemaking record did not contain enough information to enable OSHA to determine how to regulate this practice. Therefore, OSHA is reopening the record to conduct a second phase of the rulemaking to determine whether to allow ''piggybacking,'' and if so, under what conditions. Based on the information gathered during this extension of the rulemaking's proceedings, OSHA will issue a proposal to address this practice.

This notice requests written comment and schedules an informal public meeting on safety issues and risks and on the technological and economic feasibility associated with piggybacking of two containers using twist locks.

DATES: Written comments on the proposed standard and notices of intention to appear at the informal public meeting on the proposed standard must be postmarked by December 8, 1997. Parties who request more than 10 minutes for their presentations at the informal public meeting and parties who will submit documentary evidence at the meeting must submit the full text of their testimony and all documentary evidence postmarked no later than January 13, 1998. The informal public meeting will take place in Washington, DC and is scheduled to begin on January 27, 1998.

ADDRESSES: Submit written comments to the Docket Office, Docket S–025A, Room N–2625, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 219–7894. Comments on the proposal are to be submitted in quadruplicate or 1 original (hard copy) and 1 disk (5¼ or 3½ inch) in WP 5.0, 5.1, 6.0 or ASCII. Comments of 10 pages or less may be faxed to the Docket Office, fax number (202) 219–5046, if followed by a hard copy.

Send notices of intention to appear, testimony, and documentary evidence which will be introduced into the meeting record to Mrs. Theda Kenney, OSHA Office of Safety Standards, Docket No. S–025A, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219–8061.

The informal public meeting will be held in Washington, D.C., beginning January 27, 1998 at 10 a.m. in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Liberatore, Director of the Office of Maritime Safety Standards, or Paul Rossi, Project Officer, Office of Maritime Safety Standards, Occupational Safety and Health Administration, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–7234.

SUPPLEMENTARY INFORMATION: In 1993, OSHA received a letter from Sea-Land Service, Inc. requesting that OSHA interpret its existing longshoring standards to allow the lifting of two empty 40-foot International Standards Organization (ISO) freight containers that are vertically coupled using semi-automatic twist locks (Ex. 1, Docket S–025A). OSHA's existing standards did not expressly prohibit this practice, which utilizes the top container and twist locks as a ''lifting appliance'' to lift the bottom container. In its response, OSHA allowed Sea-Land to continue this practice, provided that certain requirements were met (Ex. 2, Docket S–025A). OSHA's response from its Compliance Office identified applicable OSHA standards and related industry practices associated with container cargo handling operations. These requirements addressed: Inspecting containers for visible defects, verifying that both containers are empty, assuring that containers are properly marked, assuring that twist locks operate in the same manner, assuring that the load does not exceed the capacity of the crane, assuring that the top container is vertically lifted, having available for inspection manufacturers' documents that verify the capacities of the twist locks and corner castings, and directing employees to stay clear of the lifting area.

OSHA's existing longshoring standards, which referenced ILO Convention 32, did not require the certification of ''lifting appliances.'' This term was not a part of the existing Convention 32 which was adopted in 1932 before the advent of containers and twist locks that were developed by the marine cargo handling industry in the 1960s.

In the preamble to the proposed rule (59 FR 28602), OSHA discussed differences between ILO Convention 32 and ILO Convention 152, including the requirement in the latter convention to certify lifting appliances. Convention 152, Article 22, adopted June 25, 1979, requires that proof load testing be conducted every 5 years, and applies to all ships' lifting appliances. Within Article 3 of ILO 152, paragraph (e), defines the term ''lifting appliance'' as follows:

> ''lifting appliance'' covers all stationary or mobile cargo handling appliances, including shore-based power-operated ramps, used on shore or on board ship for suspending, raising or lowering loads or moving them from one position to another while suspended or supported (Ex. 3, Docket S–025A). (emphasis added)

Thus, the term ''lifting appliance'' was intended to cover all appliances used to lift or move loads, with no exceptions. OSHA carried this intention forward in its proposal and did not propose to except any lifting equipment from certification.

OSHA stated in the proposed rule that, under Convention 152, when a container was used to lift another container, the top container would fall within the definition of ''lifting appliance'':

> In those situations where one container is used to lift another container, using twist locks, then the upper container and twist locks become, in effect, a lifting appliance and must be certified as such. (59 FR 28602)

In response to this proposed interpretation of Article 3, paragraph (e) of ILO Convention 152, OSHA received comments only from the International

Longshoremen's and Warehousemen's Union (ILWU) (Exs. 4, 5, and 6, Docket S–025A). Although these comments favored the proposed interpretation and requested the Agency to include it as a requirement in the regulatory text, these commenters included no specific information regarding the piggybacking of two containers using twist locks. Sea-Land Services Inc. submitted a detailed six page comment (Ex. 7, Docket S–025A) addressing a number of the proposed changes to the Marine Terminals and Longshoring Standards, but did not address this issue. OSHA received a late, post-hearing submission from the International Longshoremen's Association (ILA), however, that alerted the Agency to what might be a serious problem with this type of lift, citing several incidents at U.S. ports where failures had occurred (Ex. 8, Docket S–025A). OSHA was not able to rely on this letter to support regulatory action in the final rule because it was not a timely submission to the record. However, the letter made OSHA aware of safety concerns that might need to be addressed through supplementary rulemaking. As a result of the dearth of information about safety considerations associated with the practice of piggybacking two containers using twist locks, as well as insufficient information or elements relating to feasibility (such as the capability of top containers and twist locks to withstand such loading and the cost impacts and productivity effects of piggybacking), OSHA reserved judgment on the appropriate regulatory approach to this practice, pending further study.

This notice reopens the record and requests written comment on this narrow issue, and schedules an informal public meeting to consider whether OSHA should allow the practice of lifting vertically coupled containers, and if so, under what circumstances. OSHA solicits all relevant information, including data on the following issues:

Have intermodal containers been designed and tested for the purposes of piggyback lifting?

Have the twist locks been designed and tested for lifting containers?

What information do container and twist lock manufacturers have regarding the use of their products as lifting appliances?

Do any international bodies currently certify containers and twist locks as ''lifting appliances?'

Is there any scientific or engineering data that addresses maintenance testing and ''life'' of the components used for lifting purposes?

Has the impact of adverse weather conditions been evaluated in both design and operational concerns with regard to double container lifts?

What precautions can be taken to assure that the containers being lifted are empty?

What precautions can be taken to assure that the twist locks are all locked properly when the lifting occurs?

What precautions can be taken to assure that employees are not exposed to the hazard of a falling container?

What precautions can be taken to assure that defective or damaged containers are not used to hoist other containers?

To what extent are vertically coupled containers currently being lifted and by whom?

If the standard were to require the employer to certificate the upper container and twist locks for use as a lifting appliance, how many containers and twist locks would need to be certificated? Would vessel sharing agreements have any effect on the ability of employers to do such certification?

What would it cost to certify the upper containers and twist locks for use as lifting appliances?

What are the potential productivity gains, if any, associated with lifting vertically coupled containers?

As noted above, OSHA currently allows Sea-Land to perform piggybacking in accordance with a series of precautions set forth in Exhibit 2. Are these precautions sufficiently protective?

What are the costs and cost-savings (productivity gains) of piggybacking under the current requirements of Exhibit 2? How would they be affected by certification or other requirements?

What information (both statistical and anecdotal) is available on incidents involving vertically coupled containers that have fallen and hurt or killed employees or caused ''near-misses?'

Public Participation

Interested persons are requested to submit written data, views and arguments concerning the issues raised by this notice. These comments must be postmarked by December 8, 1997. Comments are to be submitted in quadruplicate or 1 original (hard copy) and 1 disk (5¼ or 3½) in WP 5.0, 5.1, 6.0 or ASCII. Note: Any information not contained on disk, e.g., studies, articles, etc., must be submitted in quadruplicate to: Docket Office, Docket No. S–025A, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone No. (202) 219–7894.

All written comments received within the specified comment period will be made a part of the record and will be available for public inspection and copying at the above Docket Office address.

Notice of Intention To Appear at the Informal Meeting

An informal public meeting will be held in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 on January 27, 1998, beginning at 10 a.m. The exact location of the meeting will be posted in the lobby.

Persons who wish to participate at this meeting must file a notice of intention to appear by December 8, 1997. The notice of intention to appear must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The issues that will be addressed;
5. A brief statement of the position that will be taken with respect to each issue; and
6. Whether the party intends to submit documentary evidence and, if so, a brief summary of it.

The notice of intention to appear must be mailed to Mrs. Theda Kenney, OSHA Office of Safety Standards, Docket No. S–025A, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–8061.

A notice of intention to appear also may be transmitted by facsimile to (202) 219–7477, by the same date, provided that the original and 3 copies are sent to the same address and postmarked no later than 3 days later.

Filing of Testimony and Evidence Before the Meeting

Any party requesting more than ten (10) minutes for presentation at the informal public meeting, or who intends to submit documentary evidence, must provide in quadruplicate the testimony and evidence to be presented at the informal public meeting. One copy must not be stapled or bound and be suitable for copying. These materials must be provided to Mrs. Theda Kenney, OSHA Office of Safety Standards at the address above and be postmarked no later than 15 days prior to the date of the meeting. Any party who has not substantially complied with the above requirement may be limited to a ten-minute presentation and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify for no more than 10 minutes as time permits, at the discretion of the Facilitator.

Notice of intention to appear, testimony and evidence will be available for inspection and copying at the Docket Office at the address above.

Informal Public Meeting

The informal public meeting will commence at 10 a.m. OSHA has scheduled this meeting to enable interested persons to address the Agency on the issues discussed in this notice. The meeting will be presided over by a Facilitator designated by OSHA.

Authority and Signature

This document has been prepared under the direction of Greg R. Watchman, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), and 29 CFR part 1911.

Signed at Washington, DC this 3rd day of October, 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–26819 Filed 10–8–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 183

[CGD 97–060]

Standards for Navigation Lights Used on Recreational Boats

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: This document solicits comments concerning the desirability of requiring manufacturers and importers of navigation lights used on recreational boats to construct and label their lights in accordance with a recognized industry standard. A request for public input was the recommendation of the National Boating Safety Advisory Council.

DATES: Comments must be received by April 7, 1998.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 97–060), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above 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 notice. Comments will become a part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Doubt, Project Manager, Recreational Boating Product Assurance Division, (202) 267–0984.

You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet at the Web Site for the Office of Boating Safety at URL address www.uscgboating.org/.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to submit comments about this document. Please include your name and address, identify this notice (CGD 97–060) and the specific section of this document 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 larger than 8½ by 11 inches, to assist us with copying and electronic filing. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

Background Information

Prior to April 1997, manufacturers of navigation lights for recreational vessels could voluntarily apply for a Coast Guard ''letter of acceptance'' for each light fixture placed on the market, and if granted, the manufacturer could state that the light was ''USCG Accepted'' on the package. The letter of acceptance was an indication that the Coast Guard had reviewed a laboratory report submitted by the light manufacturer and that based on a comparison of the report with the navigation rules, the Coast Guard did not object to the item being offered for sale to the boating public. Since letters of acceptance were never a requirement, were not equivalent to ''USCG Approval'' and were therefore a source of confusion, as of April 1997, letters of acceptance are no longer issued. Currently there is no way for boat manufacturers and the boating public to determine whether navigation light fixtures they purchase comply with applicable requirements in the Navigation Rules, except for light manufacturers' statements in that regard.

In contrast to Coast Guard practice with regard to recreational vessels, existing regulations applicable to commercial vessels in 46 CFR 111.75–17 require each navigation light to meet the technical details of the applicable navigation rules and to be certified by an independent laboratory to the requirements of Underwriters Laboratories Standard UL 1104 or an equivalent standard. The commercial vessel regulations further require that navigation lights be labeled to indicate: (1) The name or number of the standard to which the light was type-tested; (2) the name or registered certification mark of the independent laboratory that tested the fixture; (3) the fixture manufacturer's name; (4) the model number of the fixture; (5) the visibility of the light in nautical miles; (6) the date on which the fixture was type-tested; and (7) the identification of the bulb used in the compliance test. The independent laboratory must be accepted by the Commandant for the testing and listing or certification of electrical equipment.

The National Boating Safety Advisory Council (NBSAC) is a Federal advisory committee which provides advice and makes recommendations to the Coast Guard regarding regulations and other boating safety matters. At its April 1997 meeting several National Boating Safety Advisory Council members noted that while Annex I to the Navigation Rules in 33 CFR Part 84 specifies technical details for proper cutoff angles, color specifications, and the intensity of navigation lights and Coast Guard regulations require certification of navigation lights installed on commercial vessels, there are no similar regulations for lights offered for sale to recreational boat manufacturers and the boating public.

The NBSAC therefore recommend that the Coast Guard solicit comments on the benefits of, and objections to, requiring navigation light manufacturers and importers to demonstrate that lights offered for sale to boat manufacturers and the boating public comply with applicable requirements in the Navigation Rules. Under 46 USC 4302, 4303, and 33 USC 2071, the Coast Guard has the authority to establish requirements for the installation, carrying, or use of associated equipment on recreational vessels. All comments received during the comment period will be placed in the public docket for review by NBSAC and the Coast Guard in considering the formulation of any