

This OC gives details on the Dangerous Substances in Harbour Areas Regulations 1987, Part IX. It lays out the guidelines where HSE is the enforcing authority at places where explosives are handled, and details the liaison/demarcation agreement between FOD and THSD A3 concerning DSHAR Part IX.

Health and Safety Executive OC 783/3

Field Operations Division

To

Factory Inspectors

FCG Specialist Inspectors (Fire and Exp)

DANGEROUS SUBSTANCES IN HARBOUR AREAS REGULATIONS 1987 (DSHAR)

PART IX - EXPLOSIVES

Background

1 Explosives are included in the definition of dangerous substances and, as such, are subject to all parts of the Regulations. However, Part IX of the Regulations is concerned exclusively with explosives.

2 DSHAR Part IX replaces, in Great Britain, legislation contained in:

- (1) sections of the Explosives Act 1875 and 1923,
- (2) the Conveyance in Harbours of Military Explosives Regulations 1977; and
- (3) local byelaws made under the Explosives Act 1875 ss.34 and 36.

3 Enforcement of DSHAR falls to HSE and Statutory Harbour Authorities (SHAs). In Part IX, only reg.38 is enforced within harbour areas by SHAs. It is important that, whenever enforcement activity involving explosives is contemplated by HSE, liaison is set up at an early stage between the relevant explosives inspector and FOD inspector.

Licensing

4 Under DSHAR Part IX reg.34(1) a licence will normally be needed before explosives can be brought into, carried or handled, or loaded or unloaded in harbours or harbour areas or certain other places in territorial waters around the coastline such as beaches and anchorages. HM Explosives Inspectorate (THSD A3) is responsible for all work in connection with the preparation and issue of such licences. A copy of each licence issued is sent to the relevant area office.

5 No licence application form has been printed; anyone seeking information on how to obtain a

licence or alteration to a licence should be advised to apply by letter to HM Explosives Inspectorate (HMEI).

6 Applications may be received directly by FOD offices for licences or for alterations to the terms of existing licences. These should be acknowledged in writing and the applicant informed that HMEI will deal with the matter. The applicant's letter should be forwarded to HMEI for action.

Licensed sites

7 HMEI enforces DHSAR Part IX (other than reg.38 at places where that is enforced by a SHA) at all sites which require licences under these Regulations. This will include the terms and conditions of any explosives licences issued. These duties will be undertaken through inspection visits and incident investigation by HMEI.

8 FOD will enforce all other parts of the Regulations which are enforced by HSE at licensed sites. Specialist advice on explosives matters is available from HMEI.

9 During visits to licensed sites, FOD inspectors may encounter explosives in a variety of situations; eg in road vehicles which have just entered or are about to leave a port (the Road Traffic (Carriage of Explosives) Regulations 1989 also apply - further guidance is in HSEM 1989/11), in rail vehicles (when British Rail byelaws will also apply) or during handling operations on land or on a ship.

10 FOD inspectors are not expected to examine compliance with the terms of a licence when explosives are encountered. However, at their visits, FOD inspectors may encounter matters of evident concern relating to explosives, such as those listed at Appendix 1. In such cases HMEI should be informed by telephone, followed by confirmation in writing to THSD A3.

11 In exceptional circumstances it may be necessary for FOD inspectors to issue prohibition notices in relation to explosives without HMEI support being available, but HMEI should be notified as soon as possible thereafter. Inspectors should ensure that any such action does not, of itself, introduce additional hazards and if they are in any doubt then the advice of HMEI should be obtained. Where a situation is encountered for which an improvement notice might be appropriate, details should be passed on to HMEI for action.

Sites not requiring a licence

12 There are a number of exceptions to the need for a licence to handle explosives. These are set out in DSHAR Part IX reg.33(2) and may relate to activities, types or quantities of explosives, types of vessel or particular places. The enforcement responsibilities for cases falling within these exceptions are set out below.

13 HMEI already has responsibility for enforcing all health and safety legislation in factories and magazines licensed under the Explosives Act and enforce all provisions of DHSAR at berths within such sites.

14 Dockyard ports and Crown-controlled explosives sites are inspected under arrangements made with the Ministry of Defence. A list of such sites is given at Appendix 2. Where FOD inspectors see matters of evident concern in relation to explosives (Appendix 1) at such sites they should contact HMEI (see para 10). If the situation warrants the issue of notices, then the procedures in para 11 should be followed.

15 Ports may handle explosives without the need for a licence, under the exceptions listed in

DSHAR Part IX reg.33(2)(a), (b), (c), (d), (f) and (g). At such sites FOD will enforce all parts of the Regulations, including regs.37 and 39-42. In some cases it may be necessary for FOD inspectors to seek specialist advice from HMEI.

Security

16 FOD inspectors who encounter explosives at unlicensed sites should be particularly aware of the requirements of DHSAR Part IX reg.37 on the security of explosives. Guidance has been issued on this matter in the form of Health and Safety Executive/Statutory Harbour Authorities Enforcement Liaison Committee (HESHA) Circular 1/91 *The security of explosives in transit through ports* (to be issued to file 780) and further advice is available from HMEI.

Deteriorated explosives

17 Where FOD inspectors believe that explosives have deteriorated or are damaged, they should contact HMEI as a matter of urgency. No one should be permitted to move or touch the explosives until expert advice has been received.

18 Any written notification received in accordance with HS(R)27 *A Guide to Dangerous Substances in Harbour Areas Regulations 1987*, para 137 (file 783) should be acknowledged and forwarded to HMEI.

Ammonium nitrate

19 Ammonium nitrate and ammonium nitrate fertilisers are handled in a number of different forms and under differing classifications. Where the classification is United Nations Class 1 (UN No 0222 and 0223) it is an explosive and should be labelled and treated accordingly and will be subject to the provisions of DHSAR Part IX. If the package or container bears any other UN classification (UN Class 5.1 or 9) it is not an explosive and Part IX does not apply. Further advice on the storage and handling of ammonium nitrate is available in Guidance Note CS 18 *Storage and handling of ammonium nitrate* (file 279).

Annotation of instructions

20 FOD Code IN Le heading - note: "see also OC 783/3".

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ASI headings

Ammonium nitrate: Dangerous Substances In Harbour Areas Regulations 1987, Part IX: docks: explosives: licenses.

APPENDIX 1

(paras 10 and 14)

The following are examples of matters which might be considered to be of evident concern in relation to explosives and which should be reported to HMEI.

- 1 Explosives present in an unlicensed place and which are not excepted from the need for a licence (reg.33(2)).
- 2 Explosives operations at a licensed place and which are suspected of being carried on outside the terms of the licence (reg.34(1)).
- 3 Failure to appoint berth and/or harbour explosives security officer (reg. 37).
- 4 Unattended vehicles or vessels carrying explosives, or explosives unloaded on shore and left unattended (reg.37).
- 5 Harbour craft carrying explosives with passengers aboard (reg.39).
- 6 Packages containing explosives which are apparently damaged or leaking or otherwise deteriorated explosives (reg.41).
- 7 Failure to keep records of explosives (reg.42).

NOTE: Item 6 should be considered only where the circumstances allow the load to be observed without entering the load compartment. FOD inspectors should not normally ask for an explosives load compartment to be opened for inspection.

APPENDIX 2

(para 14)

DOCKYARD PORTS AND OTHER CROWN ESTABLISHMENTS EXEMPT FROM THE NEEDFOR A LICENCE UNDER DHSAR PART IX

The Dockyard Port of Plymouth

The Dockyard Port of Portland

Clyde Dockyard Port of Gareloch, Loch Long and Holy Loch

The Dockyard Port of Rosyth

The Dockyard Port of Portsmouth

The Dockyard Port of Pembroke

~~The Dockyard Port of Cromarty Firth~~ (cancelled by OM 1996/25)

~~The Dockyard Port of Scapa Flow~~

Also exempted by reg.33(2)(h) is the Military Port of Marchwood and the associated anchorages at

Netley Moorings.

The BUTEC site at Kyle of Lochalsh is a factory under the control of the Crown and is exempted from the Explosives Act 1875 by s.97 of that Act. Its explosives berth is exempt from the need for a licence under DHSAR Part IX by virtue of reg.33(2)(e).