THE SECRETARY OF TRANSPORTATION

WASHINGTON, DC 20590

April 11, 1997

The Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, DC 20515

Dear Mr. Speaker:

This letter responds to Section 1130 of the Coast Guard Authorization Act of 1996 (PL 104-324). Section 1130 directs the Secretary of Transportation to submit annual reports to Congress on the extent to which Coast Guard regulations concerning oils, including animal fats and vegetable oils, carry out the intent of the Edible Oil Regulatory Reform Act (PL 104-55, enacted November 20, 1995).

Since enactment of PL 104-55, the Coast Guard has addressed animal fats, vegetable oils, and other non-petroleum oils separately in various rulemakings (see enclosures). The Act requires "the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes". The Act does not require regulatory exemptions for non-petroleum oils. The Coast Guard nevertheless recognizes animal fats, vegetable oils, or other non-petroleum oils may behave differently from petroleum or petroleum-based oils, and has differentiated between these oils in its regulations, as appropriate. The Office of Regulations and Administrative Law at Coast Guard Headquarters ensures the intent of Congress, with respect to P.L. 104-55, is carried out. All of the Office's regulatory project counsels consider differentiation between the two classes of oils when reviewing draft rulemakings relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil, or grease.

The following are enclosed: copies of the Coast Guard's current, previously-published lists of products classified as petroleum and non-petroleum oils; excerpts from rule makings showing the differentiation made between petroleum and non-petroleum oils; and a copy of a related policy published subsequent to enactment of P.L. 104-55. Future reports will provide annual updates of the above items, as necessary.

Because vessels commonly carry petroleum oils as well as non petroleum oils, certain rules may not apply to a vessel on one voyage, but may be applicable to the vessel on another voyage, depending on the product(s) being transported. The applicability of certain rules may also be linked to the quantities of oils carried in a given vessel's tanks, since a major spill from a vessel carrying a non petroleum oil could have a devastating impact upon a marine ecosystem.

On November 12, 1996, Coast Guard representatives met with members of the National Oilseed Processors Association to discuss the differentiation between petroleum and non petroleum oils in regulations. The Coast Guard looks forward to continued open dialog and cooperative efforts with industry regarding non petroleum oils in the future.

An identical letter has been sent to the President of the Senate.

Sincerely,
Rodney E. Slater
8 Enclosures

THE SECRETARY OF TRANSPORTATION

WASHINGTON, DC 20590

April 11, 1997

The Honorable Albert Gore, Jr.
President of the Senate
Washington, DC 20510

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Rodney E. Slater
8 Enclosures

Enclosures:

Excerpts from U.S. Coast Guard Regulations and Policies related to the Edible Oil Regulatory Reform Act (P.L. 104-55)

Department of Transportation
U.S. Coast Guard
Marine Safety and Environmental Protection Directorate

LIST OF ENCLOSURES

1. Executive Summary of enclosures

2. Copy of Chief, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard letter of February 24, 1995 listing petroleum and non-petroleum oils

3. Excerpts from Federal Register dated Friday, January 12, 1996 (Vol. 61, No. 9), "Vessel Response Plans; Final Rule"

4. Excerpts from Federal Register dated Thursday, February 29, 1996 (Vol. 61, No. 41), "Response Plans for Marine Transportation-Related Facilities; Final Rule"

5. Excerpts from Federal Register dated Thursday, March 7, 1996 (Vol. 61, No. 46), "Financial Responsibility for Water Pollution (Vessels); Final Rule"

6. Excerpts from Federal Register dated Tuesday, July 30, 1996 (Vol. 61, No. 147), "Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without double hulls; Final Rule"

7. Excerpts from Federal Register dated Thursday, August 8, 1996 (Vol. 61, No. 154), "Facilities Transferring Oil or Hazardous Materials in Bulk; Final Rule"

8. Copy of "Guidelines for Classifying Oil Spill Removal Organizations," with an introductory letter dated December 28, 1995 from Chief, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard

Executive Summary of Enclosures

The Edible Oil Regulatory Reform Act (P.L. 104-55) requires "the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes". The attached enclosures demonstrate Coast Guard compliance with the intent of the Act. Enclosure summaries are as follows:

1. Chief, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard letter of February 24, 1995 (Enclosure 2): provides lists of petroleum and non-petroleum oils, as defined by the Coast Guard and in keeping with the statutory intent of the Federal Water Pollution Control Act.

2. "Vessel Response Plans; Final Rule" (Enclosure 3): outlines specific requirements to minimize the impact of oil spilled from vessels; these requirements apply differently to petroleum and non-petroleum oils.

3. "Response Plans for Marine Transportation-Related Facilities; Final Rule" (Enclosure 4): outlines specific requirements to minimize the impact of oil spilled from marine facilities; these requirements apply differently to petroleum and non-petroleum oils.

4. "Financial Responsibility for Water Pollution (Vessels); Final Rule" (Enclosure 5): establishes a methodology for determining financial responsibility in incidents involving oil spills from vessels; this methodology applies to petroleum oils only.

5. "Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls; Final Rule" (Enclosure 6): outlines specific requirements aimed at reducing the likelihood of oil spills from these vessels; these requirements apply differently to petroleum and non- petroleum oils.

6. "Facilities Transferring Oil or Hazardous Materials in Bulk; Final Rule" (Enclosure 7): updates and clarifies existing regulations; applies to both petroleum and non-petroleum oils. Allows for exemptions and partial exemptions of the requirements.

7. "Guidelines for Classifying Oil Spill Removal Organizations" (OSRO's) (Enclosure 8): provides guidance to owners and operators in the preparation of vessel and facility response plans; applies to both petroleum and non-petroleum oils. The guidelines do not differentiate between petroleum and non-petroleum oils, since the regulations governing response plans (Enclosures 3 and 4) already do so. Petroleum oil response plans require a contract with an OSRO; response plans for non-petroleum oils require only a letter from an OSRO stating it can provide an appropriate level of response.

CHIEF OFFICE OF MARINE SAFETY. SECURITY
AND ENVIRONMENTAL PROTECTION
UNITED STATES COAST GUARD
WASHINGTON, D C 20593-0001

February 24, 1995

Dear Marine Transportation Industry,

Since passage of the Oil Pollution Act of 1990 (QPA 90), there has been considerable discussion regarding what products are "oil", as defined in the Federal Water Pollution Control Act (FWPCA). I recognize and accept that the broad definition of "oil" in the statute has caused some confusion.

To assist the marine transportation community in determining the applicability of various regulations to their operations, the Coast Guard has developed the enclosed list of products that are "oils" for the purposes of the FWPCA. Development of this list was based on a broad definition of oil, in keeping with the statutory intent of the FWPCA as amended by OPA 90.

While the enclosed list is extensive, and contains a large number of products, it does not contain all products that may be considered oil. This list is intended to serve as general guidance to the marine transportation community. We have presented the list first in alphabetical order and then as a petroleum or non-petroleum oil in alphabetical order. Also included is a list of all the products not considered oil as defined by the FWPCA.

I hope that these lists provide assistance in complying with the provisions of OPA, 90. We are currently working with the other regulatory agencies to develop a more comprehensive list of products which may be considered an oil under the FWPCA and OPA 90. We expect the results of that effort will be published as a notice in the Federal Register.

Sincerely,

C. CARD

Rear Admiral, U.S. Coast Guard

3 Enclosures

LIST OF PETROLEUM AND NON-PETROLEUM OILS
FOR THE PURPOSES OF THE FWPCA

ALK-------Alkanes (CS-9)
AKI--------.iso- & cyclo Alkanes (C10-Cll)
AKP--------Alkaryl polyether (C9-C20)
AKM-------Alkenyl (Cll+) amide
AAA-------Alkyl(C8+)amine, alkenyl (C12+)acid ester mixture
AKB--------Alkylbenxenes (C9+)
AIH---------Alkylbenzene,Alkylindane, Alkylindene mixture (each C12-C17)
ADT--------Alkyl dithiothiadiazole (CS-C24)
AES--------Alkyl ester copolymer (C6-C18)
AKS--------Alkyl phenol sulfide (C8-C40)
AFA--------Animal and fish acids oils and Distillates, n.o.s.
AFN--------Animal and Fish oils, n.o.s.
AHO--------Anthracene oil (Coal tar fraction)
AYF---------Aryl polyolefin (C11-C50)
ASP---------Asphalt
ARF---------Asphalt blending stocks: Roofers flux
ASR---------Asphalt blending stocks: Straight run residue
ACU--------Asphalt: cutback Asphalt: emulsion
AVA--------Aviation alkylates
BCA--------Barium long chain alkaryl sulfonate (Cll-CSO)
BCH--------Barium long chain alkyl (C8-C14) phenate sulfide
CPX--------Calcium alkyl (C9) phenol sulfide, polyolofin phosphorosulfide mixture
CAY--------Calcium long chain alkaryl sulfonate (C11-CSO)
CAN--------Calcium long chain alkyl phenate (C8-C40)
CPI---------Calcium long chain alkyl phenate sulfide (C8-C40)
CAK--------Calcium long chain alkyl salicylate (C13+)Calcium long chain phenolic amine (C8-C40)
CPO--------Camphor oil Carbon black base
OCN--------Cashew nut shell oil (untreated)
COR--------Coal tar
CTP---------Coal tar pitch (molten)
CCT--------Creosote (Coal tar)
CWD-------Creosote (Wood)
CNS--------Cobalt naphthenate in Solvent naphtha
CMP--------p-Cymene
DAB--------Dialkyl(C10-C14) benxenes
DII---------Diisopropyl naphthalene
DFF---------Distillates: Flashed feed stocks
DSR---------Distillates: Straight run
ECY---------Ethyl cyclohexane
FAD---------Fatty acid (saturated, C13+)Fatty acid amides
GOC---------Gas oil: Cracked
GAK---------Gasoline blending stocks: Alkylates
GRF---------Gasoline blending stocks: Reformates
GAT---------Gasoline: Automotive (not over 4.23g Pb/gal)
GAV--------Gasoline: Aviation (not over 4.86g Pb/gal)
GCS---------Gasoline: Casinghead (natural)

GPL--------Gasoline: Polymer
GSR--------Gasoline: Straight run
HMX-------Heptane (all isomers)
HPX--------Heptene (all isomers)
HXS--------Hexane (all isomers)
HEX--------Hexene (all isomers)
JAO---------Jet fuel: Jet A-1
JPA---------Jet fuel: Jet A
JPB---------Jet fuel: Jet B
JPF---------Jet fuel: JP-4
JPV---------Jet fuel: JP-5 (Kerosene, heavy)
JPE---------Jet fuel: JP-8
KRS--------Kerosene
LCP---------Long chain alkaryl polyether (Cll-C20)
LCS---------Long chain alkaryl sulfonic acid (C16-C60)
----------Long chain alkylphenate/Phenol sulfide
MAS--------Magnesium long chain alkaryl sulfonate (C11-C50)
MPS---------Magnesium long chain alkylphenate sulfide (C8-C20)
MLS---------Magnesium long chain alkyl salicylata (C11+)
MCY--------Methylcyclohexane
MNS--------Mineral spirits
NCT---------Naphtha: Coal tar solvent
----------Naphtha: Heavy
----------Naphtha: Paraffinic
PTN---------Naphtha: Petroleum
NSV---------Naphtha: Solvent
NSS----------Naphtha: Stoddard solvent
NVM--------Naphtha: VM & P (754 Naphtha)
NAX---------Nonane (all isomers)
OAX---------Octane (all isomers)
OBN---------Oil, edible: Beechnut
OCA---------Oil, edible: Castor
OCB---------Oil, edible: Cocoa butter
OCC---------Oil, edible: Coconut
OCL---------Oil, edible: Cod liver
OCO---------Oil, edible: Corn (maize)
OCS---------Oil, edible: Cottonseed
OFS----------Oil, edible: Fish
OGN---------Oil, edible: Groundnut
OHN---------Oil, edible: Hazelnut
OLD---------Oil, edible: Lard
ONB---------Oil, edible: Nutmeg butter
OOL---------Oil, edible: Olive
OPM---------Oil, edible: Palm
OPO---------Oil, edible: Palm kernel
OPN---------Oil, edible: Peanut
----------Oil, edible: Peel
OPY---------Oil, edible: Poppy
----------Oil, edible: Poppy seed
ORA---------Oil, edible: Raisin seed
ORP---------Oil, edible: Rapeseed
ORB---------Oil, edible: Rice bran
OSF----------Oil, edible: Safflower
OSL----------Oil, edible: Salad

OSS----------Oil, edible: Sesame
OSB----------Oil, edible: Soya bean
OSN---------Oil, edible: Sunflower seed
OTC---------Oil, edible: Tucum
OVG---------Oil, edible: Vegetable
OWN--------Oil, edible: Walnut
OON---------Oil, fuel: No. 1
OOD---------Oil, fuel: No. 1-D
OTW---------Oil, fuel: No. 2
OTD----------Oil, fuel: No. 2-D
OFR----------Oil, fuel: No. 4
OFV----------Oil, fuel: No. 5
OSX----------Oil, fuel: No. 6
----------Oil, misc: Aliphatic
OMA---------Oil, misc: Animal
----------Oil, misc: Aromatic
OCF----------Oil, misc: Clarified
----------Oil, misc: Coal
OCM---------Oil, misc: Coconut, fatty acid methyl ester
CFA----------Oil, misc: Coconut oil, fatty acid
CFY----------Oil, misc: Cottonseed oil, fatty acid
OCR----------Oil, misc: Croton
OIL----------Oil, misc: Crude
ODS----------Oil, misc: Diesel
----------Oil, misc: Gas, low peur
----------Oil, misc: Gas, low sulfur
----------Oil, misc: Heartcut distillate
OLL----------Oil, misc: Lanolin
OLS----------Oil, misc: Linseed
OLB----------Oil, misc: Lubricating
OMN---------Oil, misc: Mineral
OMS----------Oil, misc: Mineral seal
OMT---------Oil, misc: Motor
ONF----------Oil, misc: Neatsfoet
OOI----------Oil, misc: Oiticica
OPE----------Oil, misc: Palm oil, fatty acid methyl ester
OPT----------Oil, misc: Penetrating
OPR----------Oil, misc: Perilla
OPL----------Oil, misc: Pilchard
OPI----------Oil, misc: Pine
----------Oil, misc: Residual
ORD----------Oil, misc: Road
ORN----------Oil, misc: Rosin
----------Oil, misc: Seal
----------Oil, misc: Soapstock
----------Oil, misc: Soybean (epoxidixed)
OSP----------Oil, misc: Sperm
OSD----------Oil, misc: Spindle
OTL----------Oil, misc: Tall
TOF----------Oil, misc: Tall, fatty acid
TLO----------Oil, misc: Tallow
OTF----------Oil, misc: Transformer
OTG----------Oil, misc: Tung
OTB----------Oil, misc: Turbine

OWH----------Oil, misc: Whale
OCP----------Olefin/Alkyl ester copolymer(mole wt. 2000+)
----------Olefin mixtures (C5-C7)
OAM----------alpha-Olefins (CS-C1B) mixtures
----------Olefins(C13+)
PNO----------Palm kernel acid oil
PNF----------Palm kernel acid oil, methyl ester
PFN----------n-Paraffins (C10-C20)(also-n-alkanes(C10+)
PTX----------Pentene (all isomers)
----------Pentene, misc. hydrocarbon mixtures
PXE----------1-Phenyl-1-xylyl ethane
PYR----------Polyether (molecular weight 2000+)
----------Polyolefin (molecular weight 300+)
POD----------Polyolefin amide alkeneamine (C28+)
PAB----------Polyolefin amide alkeneamine borate (C28-C250)
----------Polyolefin amide alkeneamine molybdenum oxysulfide
PAP----------Polyolefin amide alkeneamine polyol
POF----------Polyolefin amino in alkyl (C2-C4) benzenes
POS----------Polyolefin ester (C28-C250)
PPH----------Polyolefin phenolic amine (C28-C250)
PPS----------Polyolefin phosphorosulfide - Barium derivative
IPX----------iso-Propylcyclohacane
SLS----------Sodium long chain alkyl salicylate
SFO----------Sulfohydrocarbon (C3-C88)
SFX----------Sulfohydrocarbon, long chain (C18+) alkylamine mixture
TOB----------Tall oil fatty acid, barium salt
TFD----------Tallow fatty acid
----------Tallow nitrile
THN----------Tetrahydronaphthalene
TPT----------Turpentine
VAO----------Vegetable acid oils and distillates, n.o.a.
VEO----------Vegetable oils, n.o.s.
WSL----------White spirit (low (15-20%) aromatic)
ZAD----------Zinc alkaryl dithiophoephata (C7-C16)
ZAP----------Zinc alkyl dithiophophate (C3-C14)

LIST OP PETROLEUM AND NON-PETROLEUM OILS
POR THE PURPOSES OP THE FWPCA

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GSR----------Gasoline: Straight run
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HPX----------Heptene (all isomers)

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----------Naphtha: Paraifinic
PTN----------Naphtha: Petroleum
NSV----------Naphtha: Solvent
NSS----------Naphtha: Stoddard solvent
NVM----------Naphtha: VM & P (75% Naphtha)
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OAX----------Octane (all isomers)
OON----------Oil, fuel: No. 1
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----------Oil, misc: Heartcut distillate
OLB----------Oil, misc: Lubricating
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OMS----------Oil, misc: Mineral seal
OMT----------Oil, misc: Motor
OPT----------Oil, misc: Penetrating
----------Oil, misc: Residual
ORD----------Oil, misc: Road
----------Oil, misc: Seal
OSD----------Oil, misc: Spindle
OTF----------Oil, misc: Transformer
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----------Polyolefin amide alkeneamine molybdenum oxysulfide
PAP----------Polyolefin amide alkeneamine polyol
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WSL----------White spizit (low (15-20%) aromatic)
ZAD----------Zinc alkaryl dithiophosphate (C7-C16)
ZAP----------Zinc alkyl dithiophophate (C3-C14)

Non-Petroleum Oils

Animal & Vegetable Non-Petroleum Oils

AFN----------Animal and Fish oils, n.o.s.
AFA----------Animal and fish acids oils and distillates, n.o.s.
FAD----------Fatty acid (saturated, C13+)
----------Fatty acid amides
OBN---------Oil, edible: Beechnut
OCA---------Oil, edible: Castor
OCB---------Oil, edible: Cocoa butter
OCC---------Oil, edible: Coconut
OCL---------Oil, edible: Cod liver
OCO---------Oil, edible: Corn (maize)
OCS---------Oil, edible: Cottonseed
OFS----------Oil, edible: Fish
OGN---------Oil, edible: Groundnut
OHN---------Oil, edible: Hazelnut
OLD---------Oil, edible: Lard
ONB---------Oil, edible: Nutmeg butter
OOL---------Oil, edible: Olive
OPM---------Oil, edible: Palm
OPO---------Oil, edible: Palm kernel
OPN---------Oil, edible: Peanut
----------Oil, edible: Peel
OPY---------Oil, edible: Poppy
----------Oil, edible: Poppy seed
ORA---------Oil, edible: Raisin seed
ORP---------Oil, edible: Rapeseed
ORB---------Oil, edible: Rice bran
OSF----------Oil, edible: Safflower
OSL----------Oil, edible: Salad
OSS----------Oil, edible: Sesame
OSB----------Oil, edible: Soya bean
OSN---------Oil, edible: Sunflower seed
OTC---------Oil, edible: Tucum
OVG---------Oil, edible: Vegetable
OWN--------Oil, edible: Walnut
OMA--------Oil, misc: Animal
OCM--------Oil, misc: Coconut, fatty acid methyl ester
CFA---------Oil, misc: Coconut oil, fatty acid
CFY---------Oil, misc: Cottonseed oil, fatty acid
OCR---------Oil, misc: Croton
OLL---------Oil, misc: Lanolin
OLS---------Oil, misc: Linseed
ONF---------Oil, misc: Neatsfoot
OOI----------Oil, misc: Oiticica
OPE----------Oil, misc: Palm oil, fatty acid methyl ester
OPR----------Oil, misc: Perilla
OPL----------Oil, misc: Pilchard

----------Oil, misc: Soapetock
----------Oil, misc: Soybean (epoxidized)
OSP----------Oil, misc: Sperm
TLO----------Oil, misc: Tallow
OWH----------Oil, misc: Whale
PNO---------- Palm kernel acid oil
PNF----------Palm kernel acid oil, methyl ester
TFD----------Tallow fatty acid
----------Tallow nitrite
VAO----------Vegetable acid oils and distillates, n.o.s.
VEO----------Vegetable oils, n.o.s.

Other Non-Petroleum Oils

AHO----------Anthracene oil (Coal far fraction)
---------- Carbon black basa
OCN----------Cashew nut shell oil (untreated)
COR----------Coal tar
CTP----------Coal tar pitch (meltan)
CCT----------Creosote (Coal tar)
CWD----------Creosote (Wood)
NCT----------Naphtha: Coal tar solvent
OPI----------Oil, misc: Pine
ORN----------Oil, misc: Roein
OTL----------Oil, misc: Tall
TOF----------Oil, misc: Tall, fatty acid
OTG----------Oil, misc: Tung
TOB----------Tall oil fatty acid, barivm salt
TPT----------Turpentine

SUBSTANCES WHICH ARE NOT CONSIDERDED OIL
FOR THE PURPOSES OF THE FWPCA

Acetone
Alcohols
Benzene
1,3-Butadine
Butane
2-butene-1, 4 -diol
Butanol
Butylene
Butylene oxide
Calcium chloride
Caprolactam
Crustic potash
Caustic soda
Cumene
Cyclopentadiene
Dichlaroethane
Diethanolamine
Diethylbenzene
Diethylenetriamine
Diisobutylene
Diisopropanolamine
Dipropylere glycol
Dodecene
Dry oil-base paint
Ethane
Ethanol
Ethyl Acetate
Ethyl Chloride
2-Ethyl hexanol
Ethylene
Ethylene glycol
Ethylene hexanol
Fish gurry (unprocessed)
Glycerine
Hydroxethyl acrylate
Glycerine
Hydroxethyl acrylate
Hydroxypropyl acrylate
Isoamylene
MAPP gas
Magnesium hydroxide
Methyl alcohol
Methyl chloride
Methyl ethyl ketone
Methylene chloride
Monoethanolamine
Nonene
Octanol
Oleum
Pentane
Perchloroethylene
Petroleum coke
Phthalata plasticizers
Polyethylene glycols
Propane
Propyl alchol
Propylene
Propylene dichloride
Propylene glycol
Propylene oxide
Tetraethylene glycol
Trichlorobenxene
Trichloroethane
Trichloroethylene
Triethanolamine
Triethylene glycol
Triethylenetetramine
Tripropylene glycol
Vinyl acetate
Vinyl chloride
Vinyltoluene
Vlnylidene chloride
Xylene (m-, o-, p-)
All substances designated by
the EPA in 40 CFR 116-117

federal register

Friday
January 12, 1996

Part II

Department of Transportation

Coast Guard

33 CFR Part 155
Vessel Response Plans; Final Rule

DEPARTMENT OF TRANSPORTATION
Coast Guard
33 CFR Part 155

[CGD 91-034]
RIN 2115-AD81

Vessel Response Plans
AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: The Coast Guard is adopting with some changes, as final, the interim final rule which establishes regulations requiring response plans for certain vessels that carry oil in bulk as cargo and additional requirements for certain vessels operating in Prince William Sound, Alaska. These regulations are mandated by the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90). The purpose of requiring vessel response plans is to enhance private sector planning and response capabilities to minimize the impact of spilled oil.

EFFECTIVE DATE: April 11, 1996.
ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G -- LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington. DC 20593 -- 0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) Z67 -- 1477.

FOR FURTHER INFORMATION CONTACT:
LCDR Mark Hamilton. Project Manager, Response Division, (202) Z67 -- 1983. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Marcia Landman, Project Manager, and Jacqueline Sullivan. Project Counsel, Office of the Chief Counsel.

Regulatory History

On August 30, 1991, the Coast Guard published an advance notice of proposed rule making (ANPRM) entitled Vessel Response Plans and Carriage and Inspection of Discharge-Removal Equipment in the Federal Register (56 FR 43534). The Coast Guard received 17Z letters commenting on the proposal. On November 14, 1991, the Coast Guard held a public workshop in Washington, DC, concerning the development of proposed regulations for vessel response plans. A total of 196 persons participated in the workshop. On November 18, 1991, the Coast Guard published a Notice of Intent to Form a Negotiated Rule making Committee in the Federal Register (56 FR 58Z02). On January 10, 1992, the Coast Guard published a notice in the Federal Register announcing the establishment of the Oil Spill Response Plan Negotiated Rule making Committee (the Committee) (57 FR 1139). Twenty-six organizations and the Coast Guard were members of the Committee. The Committee met between January 8 and March Z7, 1992. Copies of the Committee's final report and all documents considered by the Committee are available in the public docket where indicated under **ADDRESSES.**
On June 19, 1992, the Coast Guard published a notice of proposed rule making (NPRM) entitled "Vessel Response Plans" in the Federal Register (57 FR 27514). A correction notice concerning portions of the NPRM was published on July 1, 1992 in the Federal Register (57 FR 29354). The Coast Guard received 246 letters commenting on the proposal. Additional comments were received after the close of the comment period. They were considered in developing the interim final rule (IFR). The Oil Spill Response Plan Negotiated Rule making Committee reconvened August 18 -- 20, 1992, after the close of the public comment period on the NPRM, to review the comments received on its recommendations. The Committee did not amend its final report. All documents considered by the Committee during the final meeting are available in the public docket where indicated under **ADDRESSES.**
The Coast Guard released Navigation and Vessel Inspection Circular (NVIC) No. 8-92 on September 15, 1992. Change 1 to NVIC No. 8 -- 92 was released on December 4, 1992. NVIC No. 8 -- 9Z and Change 1 to it provided immediate guidance to the marine industry for preparing response plans covering certain vessels to meet the February 1993 deadline established by the Oil Pollution Act of 1990 (OPA 90).
On February 5, 1993, the Coast Guard published an Interim Final Rule (IFR) entitled "Vessel Response Plans" in the Federal Register (58 FR 7424). The Coast Guard received 68 letters commenting on the IFR. These comments were considered in developing this final rule.

Background and Purpose

Section 311(j) (5) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 13Z1(j)(5)), as amended by section 4202 of OPA 90, requires the owner or operator of a facility, or a tank vessel as defined under 46 U.S.C. 2 101. to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance. The worst case discharge for a vessel is defined in section 311(a) (Z4) of the FWPCA as the loss of the entire cargo in adverse weather conditions (33 U.S.C. 1321(a)(24)).
Oil spill response plan regulations for marine transportation-related onshore facilities are the subject of a separate rulemaking project (CGD 91-036). Although OPA 90 requires response plans for oil or hazardous substance spills, section 4ZOZ(b)(4) establishes an implementation schedule only for oil spill response plans. Response plans for hazardous substance spills will be the subject of a separate rulemaking [Tank Vessel and Facility Response Plans, and Discharge Response Equipment for Hazardous Substances; CGD 94 -- 03Z and 94 -- 0481.
Section 311(a)(1) of the FWPCA defines oil as including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredge spoils (33 U.S.C. 1321(a)(1)). While the most common oils are the various petroleum oils (e.g.. crude oil, gasoline, diesel, etc.), non-petroleum oils such as turpentine and the various animal fats (e.g., tallow lard. etc.) and vegetable oils (e.g., corn oil, sunflower seed oil, palm oil. etc.) are included within the ambit of this regulation when carried in bulk as cargo by tank vessels. The vessel response plan requirements are applicable to all vessels certificated under 46 CFR chapter 1, subchapter D, vessels that are required to have a Certificate of Compliance or Tank Vessel Examination Letter, other certificated vessels that are permitted to carry limited quantities of oil, and uninspected vessels that carry oil in bulk as cargo or cargo residue. The requirements are also applicable to vessels carrying oil in bulk as cargo or cargo residue pursuant to an International Oil Pollution Prevention (IOPP) or Noxious Liquid Substance (NLS) certificate required by 33 CFR 151.33 or 151.35, and dedicated response vessels carrying oil in bulk as cargo or cargo residue when not engaged in response operations. The Coast Guard Authorization Act of 1992 (Pub. L. 102-587, November 4, 1992) removed offshore supply vessels, and certain fishing or fish tender vessels from the definition of "tank vessels"; therefore, those vessels do not fall under the FWPCA's vessel response plan requirements.

Section 5005 of OPA 90 sets . additional oil spill removal planning requirements for tank vessels and facilities operating on Prince William Sound (PWS), Alaska. On October 5, 1992. section 5005 was amended by the Department of Transportation Appropriations Act (Pub. L. 102 -- 388, 106 Stat. l520). The only vessels to which the enhanced requirements of section 5005 now apply are tankers loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651 et sag.).

Section 311(j)(5)(C) of the FWPCA requires that response plans must --

(1) Be consistent with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and Area Contingency Plans (ACPs):

(2) Identify the qualified individual with full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the oil spill removal organizations providing personnel and equipment;

(3) Identify and ensure the availability of. by contract or other approved means, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge and to mitigate or prevent a substantial threat of such a discharge;

(4) Describe the training, equipment testing, periodic unannounced exercises, and response actions of persons on the vessel to be carried out under the plan to ensure the safety of the vessel and to mitigate or prevent the discharge, or the substantial threat of a discharge; and

(5) Be updated periodically and resubmitted for approval of each significant change.

Discussion of Comments and Changes

The Coast Guard received 68 comments on the IFR. The following discussion summarizes the comments and explains substantive changes made to the regulation in response to the comments. Comments are categorized by the specific section of the IFR to which they apply. In addition to these changes. editorial changes have been made to clarify the rule or standardize terminology. The authority citation and the following sections have changes which are purely editorial: 5õ 155.1025, 155.1026. 155.1052, 155.1062. 155.1115, 155.1125, and tables l and 6 of Appendix B to subpart 155. For the convenience of the public, subparts D and E have been reprinted in their entirety.

Section 155. l 40 Incorporation by Reference

One comment concerning the possible American Society of Testing and Materials (ASTM) revision of incorporated equipment standards was received in response to this section of the IFR. This comment expressed concern that the Coast Guard might at some time incorporate revised ASTM equipment standards that could result in more stringent standards.

Standards that are incorporated by reference into regulations do not change automatically when new standards are issued by ASTM or other third party standards-setting organizations.

Extensive review of revisions to an incorporated reference, such as those from the ASTM, is done prior to considering changing the incorporated reference in a regulation.

If the Coast Guard determines that a change is warranted, a notice of the change will be published in the Federal Register. While the possibility does exist that a requirement increase would occur from the future incorporation of revised standards, careful consideration of the overall effectiveness of the initial requirement is the primary benchmark. Incorporation of revised or new standards is not proposed unless such change is warranted. If a change is considered necessary, a notice will be published in the Federal Register, and material made available to the public for public comment.

Section 155.1010 Purpose

Three comments were received responding to this section. One comment supported the clarification of purpose in the preamble.

One comment asserted that the purpose of OPA 90 is to establish a National Contingency Plan to devise mechanisms for oil spill cleanup. The National Contingency Plan was established under section 311(4) of the FWPCA (33 U.S.C. 1321) and is the responsibility of the Environmental Protection Agency (EPA). This rule making does not affect the National Contingency Plan, but is complementary to it. As stated in the preamble to the IFR, a major objective of section 311(j)(5) of the FWPCA (33 U.S.C. 1321) is to create a system in which private parties supply the bulk of equipment and personnel needed for an oil spill response. It also requires the vessel owner or operator to be responsible for promptly and properly removing oil and minimizing environmental damage from a discharge without the active participation of any Federal personnel or equipment. The Coast Guard made no revisions to this section of the rule.

Section 155.1015 Applicability

Six comments addressed the issue of applicability of the regulations to animal fats and vegetable oils. One comment stated that tank vessels transporting edible oils should be exempt from these regulations because their inclusion would be contrary to the legislative intent of OPA 90. Five comments suggested that response and removal methodologies for non-petroleum oils be the subject of a separate rule making.

Section 311 of the FWPCA defines "oil" to be oil of any kind or in any form. which includes non-petroleum oils. The Coast Guard does not have the authority to define "oil" differently and must address non-petroleum oils in any response plan requirements. The Coast Guard agrees, however, that separate subparts for animal fats and vegetable oils and for other non-petroleum oils is appropriate and has created new supbarts F and G in this rule. Changes to response plan requirements for these oils are contained in the discussion of those subparts.

Three comments contended that fishing vessels should be exempt from the definition of tank vessel for the purposes of applicability of these regulations. As stated previously. section 321 of the Coast Guard Authorization Act of 1993 (Pub. L. 103-206, 107 Stat. 2419) has essentially resulted in the exemption of fishing vessels or fish tender vessels engaged only in the fishing industry and of less than 750 gross tons from the definition of tank vessel and, consequently, from these requirements. Another comment stated that it was not the intent of OPA 90 to regulate fishing tender vessels carrying light fuel products. The applicability of these requirements to fishing vessels was revised by section 321 of the Coast Guard Authorization Act of 1993 (Pub. L. 103 -- 206, 107 Stat. 2419). When fishing vessels or fish tender vessels are engaged only in the fishing industry and are less than 750 gross tons, they are not deemed to be tank vessels. Accordingly, these vessels are now excluded from vessel response plan requirements.

One comment argued for the exemption from these regulations of inland river towboats operated by the same person conducting fuel transfers. This comment further contended that these vessels should be exempted as a secondary cargo carrier for the same reason Congress exempted certain foreign vessels. The Coast Guard disagrees. Because certain towboats meet the definition of tank vessel in 46 U.S.C. 2101, owners and operators of these vessels must meet these

requirements. Accordingly, the Coast Guard does not have authority to allow towboats to conduct fuel transfers without a vessel response plan.
One comment urged negotiations between the United States and Canada to minimize the burdens of meeting both nations' requirements for vessel response planning. This comment stated that a vessel may transit the water of one country only incidentally enroute to the other country. This comment further stated that inadvertent rerouting might entail additional collision and pollution risks. The Coast Guard agrees with this comment: however, there is no authority for the Coast Guard to waive the vessel response requirements for vessels transiting the internal waters of the United States enroute to or from Canadian ports. The Coast Guard is currently working with the Canadian government to develop a bilateral agreement on vessel response plan requirements.

Section 155.1020 Definitions

In order to accommodate new provisions regarding non-petroleum oils, the Coast Guard has added several definitions to this section of this final rule. These definitions are for the terms "animal fat", "other non-petroleum oil", "petroleum oil", and "vegetable oil"
Average most probable discharge. This definition was modified in the final rule to include a discharge of the lesser of 50 barrels of oil or 1 percent of the cargo to be consistent with the facility response plan requirements. One comment was received responding to this definition in the IFR. It stated that the threshold for this definition should be lowered to 25 barrels for the Great Lakes. The Coast Guard disagrees with this comment. The 50-barrel response planning requirement was based on national operational spill data over a 5-year period and an evaluation of historical trends in smaller size spills. Substantial data supporting a reduction to this requirement for the Great Lakes area was not provided by the comment. The Coast Guard further clarified the definition of average most probable discharge in this final rule by limiting it to 50-barrel discharges occurring during transfer operations to or from the vessels rather than making the definition applicable to vessel offloading operations alone.
Cargo. Although no comments were received addressing this definition, the Coast Guard modified this definition in this final rule to exclude oil transferred from a towing vessel to a vessel in its tow to operate installed machinery other than the propulsion plant. The IFR contained a similar provision. but this final rule version further clarifies the type of transfer which is excluded and clarifies that the propulsion plant does not qualify as installed machinery for the purposes of this definition.
Contract or other approved means. Nine comments responded to this definition in the IFR. Four comments generally agreed with the definition, especially concerning the addition of the alternatives to a formal contract. One comment contended that legal contracts would be too restrictive and burdensome. The Coast Guard recognizes the burden of legal contracting, and the IFR provides an alternate means to ensure the availability of response resources. As discussed in the IFR, a document that provides the following information will be considered to provide acceptable assurance that the response resource provider has the capability to respond: (1) Clear identification of the goods and services to be provided; (2) provision of the parties' acknowledgment that the resource provider intends to commit its resources in the event of a response; and (3) permission for the Coast Guard to verify the response resources identified through tests, inspection, and exercise. One comment argued that the Coast Guard would have difficulty monitoring the identification of resources in a vessel response plan by merely relying on a contractor's written consent. The Coast Guard recognizes the problem of identifying resources that have not been contracted. The Coast Guard has an ongoing effort to ensure that all response plans are valid. Measures are taken whenever the Coast Guard finds false statements in response plans. The Coast Guard encourages continued classification of OSROs in accordance with Navigation and Vessel Inspection Circular 12 -- 92 (NVIC 12 -- 92; December 4, 1992) to ensure organizations identified by the response plan have the equipment necessary to deliver the services in accordance with what they have promised to vessel owners or operators.
Three comment writers believed that the definition of "contract or other approved means" should be expanded: one comment writer believed it should include a document designating each party's responsibilities; one comment writer believed that the definition should include a presumption in favor of demonstrating capability; and one comment writer suggested that "active membership" be clarified or that language that confirms commitment of response resources to the member of a local or regional oil spill removal organization within this definition be included.
The Coast Guard disagrees. A concerted effort has been made to keep this definition from creating an onerous burden to vessel owners and operators. The legal aspects of the response arrangements must meet the described specific criteria for response resources and their arrival time contained in this rule, but a dictation of specific "responsibilities" should be left to the discretion of the owners or operators. Finally, while the term "active membership" is general. it can be easily assessed and verified by the Coast Guard during tests, inspections, exercises, or a combination of these three methods of evaluation.
Although nine comments responded to this IFR definition. the Coast Guard has determined that no substantive revisions to this definition in the final rule are necessary. However. technical revisions were made to reference correct section numbers in the final rule.
Dedicated response vessel. There were no comments received responding to this definition. However, the Coast Guard revised this definition to be consistent with escort vessel regulations that are being developed under a separate rulemaking project lEscort Vessels for Certain Tankers; CGD 91 -- 202 I.
Fish and Wildlife and Sensitive Environments. This final rule adds the definition of the term "Fish and Wildlife and Sensitive Environments." Although not specifically used in this regulation, it is added for the vessel owners and operators information when dealing with facilities. This term is used by the marine transportation-related facility response plan final rule and by the EPA in its final rule. For more information on these areas and how they affect response planning requirements, see the Coast Guard marine transportation-related facility response plan final rule (CDG 91-036), the EPA final rule (59 FR 34070; July 1, 1994), or the "Notice" published by the National Oceanic and Atmospheric Administration (NOAA) entitled "Guidance for Facility and Vessel Response Plans Fish and Wildlife and Sensitive Environments" published in the Federal Register on March 29, 1994. (59 FR 14714).
Great Lakes. One comment was received in response to this IFR definition. This comment was concerned that the definition did not clearly address the rivers tributary to the Great Lakes. The Coast Guard disagrees. The definition for the Great Lakes specifically includes tributary waters and is consistent with definitions found in Coast Guard regulations governing navigation and navigable waters. This definition treats the Great Lakes as an entire ecosystem, including their connecting and tributary waters which

would be adversely affected by an oil spill. Accordingly, the Coast Guard has not modified this definition in this final rule.

Higher volume port area. One comment was received in response to this definition. The comment contended that the material in Q 155.1050(h) of the IFR should be relocated to the definitional section rather than cross-referenced. The Coast Guard agrees and has relocated the material to the definition for higher volume port area.

inland areas. Although not specifically requested by any IFR comments, the Coast Guard has revised this definition in this final rule. A sentence has been added to this definition in the final rule to clarify that the Great Lakes are not included under this definition.

Maximum extent practicable. One comment expressed concern over the meaning of the word "practicable" as used in the statute, and the meaning of the word "possible" as used in this IFR definition at 33 CFR 153.305. The definition used in this rule pertains to the planned capability to respond to an oil spill within the time frame and equipment guidelines for the worst case discharge in adverse weather, whereas 33 CFR 153.305 reflects methods for oil spill cleanup to be applied after a spill has occurred. Because this final rule provides for contingencies prior to a spill, the difference in wording between the two regulations is necessary and appropriate.

Maximum inost probable discharge. Two comments were received in response to this definition. One comment disagreed with this definition, indicating that the 2,500-barrel assignment is excessive for Great Lake operators. This comment argued that, in the past 10 years, the largest spill in the Great Lakes was only 500 barrels of oil. The other comment suggested that the maximum most probable discharge be set at 500 barrels. The maximum most probable spill has been defined as 2,500 barrels based on a statistical analysis of Coast Guard tank vessel spill data for the years 1985 through 1989. The figure of 2,500 barrels encompasses approximately 99'Y<i of the number of spills which occurred during that period. It would not be feasible to change the definition of maximum most probable discharge on a per-location basis.

Nearshore areas. The Coast Guard revised the wording of this definition slightly. Although the language was not substantiveiy changed, the definition as it appears in the final rule is now consistent with that which appeared in the IFR for marine transportation-related facilities (58 FR 7352; February 5, 1993).

Non-petroleum oil. One comment was received in response to this definition. The comment argued that non-petroleum oils should be addressed separately. The Coast Guard agrees and has added new subparts F and G to this rule addressing animal fats and vegetable oils in subpart F and other non-petroleum oils in subpart G. These new subparts are discussed subsequently in this section of the preamble.

Oil field waste. The Coast Guard added this definition in the final rule, which means non-pumpable drilling fluids with possible trace amounts of metal and oil. Reference to response plans for barges carrying nonhazardous oil field wastes is made at 5 155.1030(f) of this final rule. which permits owners or operators of such barges to submit response plans under 5 155.1045 rather than submitting plans under 5 155.1035 or 5 155.1040. This definition was added to distinguish this type of material from other types of material, as owners or operators of these vessels need only plan as secondary carriers in accordance with 5 155.1045 of this final rule.

On-scene coordinator or OSC. One comment was received in response to this definition. The comment requested clarification that the on-scene coordinator (OSC) will coordinate Federal actions with the vessel owner's actions while the vessel owner remains in charge of the spill response. The duties of the OSC are set forth in the National Contingency Plan (40 CFR part 300.120) and may include directing of all response operations.

Operator. Two comments were received. both of which stated that the definition should be the same as it appears in 33 CFR 130.2(q). The wording for this definition has been modified to parallel or more closely follow the wording in 33 CFR 130.2(q) The only difference from the 33 CFR 130.2(q) definition is the deletion of the words "including, but not limited to." This text was not included because the Coast Guard has determined that the present definition properly limits the parties affected by this rule.

Persistent oil. Three comments were received in response to this definition as it appeared in the IFR. All contended that petroleum oils with specific gravity of less than 1.0 should be divided into two, not four, categories. The Coast Guard disagrees. The four categories developed for this regulation are consistent with the protocol developed by the International Tanker Owners Pollution Federation (ITOPF) which reflects differences in persistence. The use of the four categories, rather than two, makes the rule more flexible and facilitates compliance with the requirements. The definition of persistent oil was not changed from its definition in the IFR.

Qualified individual and alternate qualified individual. Three comments were received which addressed this definition. One comment suggested that qualified individuals who are also owners and operators should have the same protection from liability that contracted qualified individuals have. As stated in the preamble to the IFR, the Coast Guard has no authority to provide a blanket exemption from liability to any persons, including qualified individuals designated for response plan purposes.

One comment suggested that this definition be expanded to allow the qualified individual to reside in Canada. Although this definition was not revised in the final rule, the Coast Guard modified õ 155.1026 of the interim final rule to allow Canadian vessels to identify Canadian-based qualified individuals if these individuals meet the same requirements under 5 155.1026(b) for individuals based in the Untied States. This provision only applies to Canadian flag vessels while they are operating on the Great Lakes, the Strait of Juan de Fuca, and Puget Sound. WA. In any other environment, the qualified individual must be based in the United States. The close proximity, reliable communication, and the common water boundary shared by the United States and Canada create a unique situation, which allows a Canadian-based qualified individual to be as effective as a qualified individual based in the United States. In addition, the Coast Guard is presently working with the Canadian government to reach a bilateral agreement on response plans. When this agreement is finalized, an amendment to this definition may he more appropriate.

One comment stated that the requirement that the qualified individual have oil or hazardous materials experience be clarified in this definition. The Coast Guard disagrees. The Coast Guard has left the definition broad so that the owner or operator has the flexibility to designate the qualified individual they feel is most suitable for this responsibility. The Coast Guard has only required that the qualified individual be trained in the responsibilities of the particular response plan he or she will be coordinating.

Response area. One comment was received regarding this definition. It stated that this definition should include predetermined areas. The Coast Guard's experience has proven that the "response area" is very difficult to

Response times from the time of discovery of a discharge are as follows:

see next page for chart

(e) The owner or operator of a vessel carrying animal fats or vegetable oils as a primary cargo must identify in the response plan and ensure the availability of the following resources through contract or other approved means:
(1) A salvage company with appropriate expertise and equipment.
(2) A company with vessel firefighting capability that will respond to casualties in the area(s) in which the vessel is operating.
(f) Vessel owners or operators must identify intended sources of the resources required under paragraph (e) of this section capable of being deployed to the areas in which the vessel will operate. A company may not be listed in the plan unless the company has provided written consent to be listed in the plan as an available resource. To meet this requirement in a response plan submitted for approval or reapproval on or after February 18, 1998, the vessel owner or operator must identify both the intended sources of this capability and demonstrate that the resources are capable of being deployed to the port nearest to the area where the vessel operates within Z4 hours of discovery of a discharge.
(g) The owner or operator of a vessel carrying animal fats or vegetable oils as a primary cargo must identify in the response plan, and ensure the availability of. through contract or other approved means, certain resources required by subpart D, §155.1035(c)(5)(ii) and §155. 1040(c) (5) (i), as applicable.
(1) Resources must include --
(i) Fendering equipment;
(ii) Transfer hoses and connection equipment; and
(iii) Portable pumps and ancillary equipment necessary to offload the vessel's largest cargo tank in 24 hours of continuous operation.
(2) Resources must be capable of reaching the locations in which the vessel operates within the stated times following notification:
(i) Inland, nearshore, and Great Lakes waters -- 12 hours.
(ii) Offshore waters and rivers and canals -- 18 hours.
(iii) Open ocean waters -- 36 hours.
(3) For barges operating in rivers and canals as defined in this subpart, the requirements of this paragraph (g) (3) may be met by listing resources capable of being deployed in an area within the response times in paragraph (g)(2) of this section. A vessel owner or operator may not identify such resources in a plan unless the response organization has provided written consent to be identified in a plan as an available resource.
(h) The response plan for a vessel that is located in any environment with year-round preapproval for use of dispersants suitable for animal fats and vegetable oils and that handles, stores, or transports animal fats or vegetable oils may request a credit for up to 25 percent of the worst case planning volume set forth by subpart D of this part. To receive this credit. the vessel owner or operator must identify in the plan and ensure, by contract or other approved means, the availability of specified resources to apply the dispersants and to monitor their effectiveness. To extent of the credit will be based on the volumes of the dispersant available to sustain operations at the manufacturers' recommended dosage rates. Other spill mitigation techniques, including mechanical dispersal, may be identified in the response plan, provided they are in accordance with the NCP and the applicable ACP. Resources identified for plan credit should be capable of being on scene within 12 hours of a discovery of a discharge. Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during the spill response will be governed by the provisions of the NCP and the applicable ACP.
5. Subpart G, consisting of §§ 155.2210 through 155.2230, is added to read as follows:

Subpart G -- Response Plan Requirements for Vessels Carrying Other Non-Petroleum Oils as a Primary Cargo

Sec.
155.2210 Purpose and applicability.
155.2225 Response plan submission requirements.

155.2230 Response plan development and evaluation criteria.

Subpart G-Response Plan Requirements for Vessels Carrying other Non-Petroleum Oils as a Primary Cargo

§155.2210 Purpose and applicability.
This subpart establishes oil spill response planning requirements for an owner or operator of a vessel carrying other non-petroleum oils as a primary cargo. The requirements of this suhpart are intended for use in developing response plans and identifying response resources during the planning process. They are not performance standards.

§155.2225 Response plan submission requirements.
An owner or operator of a vessel carrying other non-petroleum oils as a primary cargo shall submit a response plan in accordance with the requirements of this subpart, and with all sections of subpart D of this part, except §§ 155.1050 and 155.1052.

§155.2230 Response plan development ' and evaluation criteria.
(a) Owners and operators of vessels that carry other non-petroleum oil as a primary cargo must provide information in their plan that identifies --
(1) Procedures and strategies for responding to a worst case discharge of other non-petroleum oils to the maximum extent practicable; and
(2) Sources of the equipment and supplies necessary to contain, recover, and mitigate such a discharge.
(b) An owner or operator of a vessel carrying other non-petroleum oil as a primary cargo must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the vessel operates using the criteria in Table 1 of Appendix B of this part. When evaluating the operability of equipment, the vessel owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including --
(1) Ice conditions;
(2) Debris;
(3) Temperature ranges; and
(4) Weather-related visibility.
(c) The owner or operator of a vessel carrying other non-petroleum oil as a primary cargo must identify in the response plan and ensure, through contract or other approved means, the availability of required equipment including --
(1) Containment boom, sorbent boom, or other methods for containing oil floating on the surface or to protect shorelines from impact;
(2) Oil recovery devices appropriate for the type of other non-petroleum oil carried; and (3) Other appropriate equipment necessary to respond to a discharge involving the type of other non-petroleum oil carried.
(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of arriving on-scene within the applicable Tier 1 response times specified in this paragraph. An oil spill removal organization may not be listed in the plan unless the organization has provided written consent to be listed in the plan as an available resource. Response times from the time of discovery of a discharge are as follow:

	Tier 1	Tier 2	Tier 3
Higher volume port area.	12 hrs ..	N/A	N/A .....
Great Lakes ..	18 hrs ..	N/A	N/A .....
All other rivers and canals, inland, nearshore. and offshore areas	24 hrs ..	N/A	N/A .....
Open ocean (plus travel time from shore).	24 hrs+	N/A	N/A .....

see chart above

(e) The owner or operator of a vessel carrying other non-petroleum oil as a primary cargo must identify in the response plan and ensure the availability of the following resources through contract or other approved means:

(1) A salvage company with appropriate expertise and equipment.

(2) A company with vessel firefighting capability that will respond to casualties in the area(s) in which the vessel is operating.

(f) Vessel owners or operators must identify intended sources of the resources required under paragraph (e) of this section capable of being deployed to the areas in which the vessel will operate. A company may not be listed in the plan unless the company has provided written consent to be listed in the plan as an available resource. To meet this requirement in a response plan submitted for approval or reapproval on or after February 18, 1998, the vessel owner or operator must identify both the intended sources of this capability and demonstrate that the resources are capable of being deployed to the port nearest to the area where the vessel operates within 24 hours of discovery of a discharge.

(g) The owner or operator of a vessel carrying other non-petroleum oil as a primary cargo must identify in the response plan, and ensure the availability of, through contract or other approved means, certain resources required by subpart D of this part, § 155.1035(c)(5)(ii) and § 155.1040(c)(5)(i) of this part. as applicable.

(1) Resources must include --

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment: and

(iii) Portable pumps and ancillary equipment necessary to offload the vessel's largest cargo tank in 24 hours of continuous operation.

(2) Resources must be capable of reaching the locations in which the vessel operates within the stated times following notification:

(i) Inland, nearshore, and Great Lakes waters -- 12 hours.

(ii) Offshore waters and rivers and canals -- 18 hours.

(iii) Open ocean waters -- 36 hours.

(3) For barges operating in rivers and canals as defined in this subpart, the requirements of this paragraph (g)(3) may be met by listing resources capable of being deployed in an area within the response times in paragraph (g) (2) of this section. A vessel owner or operator may not identify such resources in a plan unless the response organization has provided written consent to be identified in a plan as an available resource.

(h) The response plan for a vessel that is located in any environment with year-round preapproval for use of dispersants and that handles, stores, or transports other non-petroleum oils may request a credit for up to 25 percent of the worst case planning volume set forth by subpart D of this part. To receive this credit. the vessel owner or operator must identify in the plan and ensure, by contract or other approved means, the availability of specified resources to apply the dispersants and to monitor their effectiveness. The extent of the credit will be based on the volumes of the dispersant available to sustain operations at the manufacturers' recommended dosage rates. Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during a spill response will be governed by the provisions of the NCP and the applicable ACP.

6. Appendix B is revised to read as follows:

Appendix B to Part 155 -- Determining and Evaluating Required Response Resources for Vessel Response Plans

1. Purpose

l. l The purpose of this appendix is to describe the procedures for identifying response resources to meet the requirements of subparts D, E, F, and G of this part. These guidelines will be used by the vessel owner or operator in preparing the response plan and by the Coast Guard to review vessel response plans. Response plans submitted under subparts F and G of this part will be evaluated under the guidelines in section 2 and Table l of this appendix.

2. Equipment Operability and Readiness

2.1 All equipment identified in a response plan must be capable of operating in the conditions expected in the geographic area in which a vessel operates. These conditions vary widely based on the location and season. Therefore, it is difficult to identify a single stockpile of response equipment that will function effectively in every geographic location.

2.2 Vessels storing, handling, or transporting oil in more than one operating environment as indicated in Table l must identify equipment capable of successfully functioning in each operating environment. For example, vessels moving from the ocean to a river port must identify appropriate equipment designed to meet the criteria for transiting oceans, inland waterways, rivers, and canals. This equipment may be designed to operate in all of these environments or, more likely, different equipment may be designed for use in each area.

2.3 When identifying equipment for response plan credit, a vessel owner or operator must consider the inherent limitations in the operability of equipment components and response systems. The criteria in Table 1 of this appendix must be used for evaluating the operability in a given environment. These criteria reflect the general conditions in certain operating areas

2.4 Table I of this appendix lists criteria for oil recovery devices and boom. All other equipment necessary to sustain or support response operations in a geographic area must be designed to function in the same conditions. For example, boats which deploy or support skimmers or boom must be capable of being safely operated in the significant wave heights listed for the applicable operating environment. The Coast Guard may require documentation that the boom identified in a response plan meets the criteria in Table l of this appendix. Absent acceptable documentation, the Coast Guard may require that the boom be tested to demonstrate that it meets the criteria in Table l of this appendix. Testing must be in accordance with certain American Society for Testing Materials (ASTM) standards)ASTM F 715 -- 81 (Reapproved 1986). Standard Methods of Testing Spill Control Barrier Membrane Materials, and ASTM F 989 -- 86. Standard Test Methods for Spill Control Barrier Tension Members], or other tests approved by the Coast Guard.

2.5 A vessel owner or operator must refer to the applicable Area Contingency Plan to determine if ice. debris, and weather-related visibility are significant factors in evaluating the operability of equipment. The Area Contingency Plan will also identify the average temperature ranges expected in a geographic area in which a vessel operates. All equipment identified in a response plan must be designed to operate within those conditions or ranges.

2.6 The requirements of subparts D, E, F, and G of this part establish response resource

federal register

Thursday
February 29, 1996

Part III

Department of Transportation

Coast Guard

33 CFR Part 150 and 154
Response Plans for Marine Transportation-Related Facilities; Final Rule

DEPARTMENT OF TRANSPORTATION
Coast Guard

33 CFR Parts 150 and 154
[CGD 91-036]

RIN 2115-AD82
Response Plans for Marine Transportation-Related Facilities
AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: The Coast Guard is adopting with some changes, as final, the interim final rule which establishes regulations requiring response plans for marine transportation-related (MTR) facilities including deepwater ports, certain Coast Guard regulated onshore facilities, marinas. tank trucks. and railroad tank cars. This final rule also adopts with some changes, as final, the interim final rule which establishes additional response plan requirements for facilities located in Prince William Sound, Alaska, permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA). These regulations are mandated by the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90). The purpose of requiring facility response plans is to enhance private sector planning and response capabilities to minimize the environmental impact of spilled oil.

EFFECTIVE DATE: May 29, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G -- LRA/3406) (CGD 91-036), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593 -- 0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267 -- 1477.

FOR FURTHER INFORMATION CONTACT:
LCDR Walter (Bud) Hunt, Response Division (G-MEP), (202) 267 -- 0441. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:
Drafting Information

The principal persons involved in drafting this document are LT Cliff Thomas, Project Manager, Standards Evaluation Branch (G -- MES -- 2), and Jacqueline Sullivan, Project Counsel, Office of Chief Counsel (G -- LRA).

Regulatory History

On March 11, 1992 the Coast Guard published an advance notice of proposed rulemaking (ANPRM) in the Federal Register (57 FR 8708) entitled "Facility Response Plans." The ANPRM discussed the background, statutory requirements of section 311(j) of the FWPCA. and possible regulatory approaches. In addition, the ANPRM posed questions for public comment. The Coast Guard received 116 comments.

On June 19, 1992, the Coast Guard published a notice of proposed rulemaking (NPRM) on the related rulemaking project Vessel Response Plans (VRP) (57 FR 27514). The Coast Guard also gathered public input on the proposed VRP rule through the Oil Spill Response Plan Negotiated Rulemaking Committee. Twenty-six organizations and the Coast Guard were members of the Committee. To maintain consistency between the two regulations, this rule uses certain concepts developed in the VRP NPRM and negotiated rulemaking committee.

The Coast Guard released Navigation and Vessel Inspection Circular (NVIC) No. 7-92 on September 15, 1992. NVIC No. 7-92 provided immediate guidance to the marine industry for preparing facility response plans to meet the February 1993 deadline established by the Oil Pollution Act of 1990 (OPA 90).

On February 5, 1993, the Coast Guard published an Interim Final Rule (IFR) entitled "Response Plans for Marine Transportation-Related Facilities" in the Federal Register (58 FR 7330). The Coast Guard received 55 comments on the IFR. These comments were considered in developing this final rule.

Background and Purpose

In response to several recent major oil spills, Congress passed the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101 -- 380). OPA 90 amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)). It established requirements, and an implementation schedule, for facility response plans and periodic inspections of discharge-removal equipment.

As amended by OPA 90, section 311())(5) directs the President to issue regulations implementing the new FWPCA requirements for facility response plans. The President delegated this authority, in part, to the Secretary of Transportation (DOT) by Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757). The Secretary of Transportation, in 49 CFR 1.46(m) (57 FR 8581; March 11, 1992), further delegated, to the Commandant of the Coast Guard, the authority to regulate marine transportation-related (MTR) onshore facilities, and deepwater ports subject to the Deepwater Ports Act of 1974, as amended (33 U.S.C. 1501, et seq.). This rule addresses only MTR facilities that handle, store, or transport oil. Oil spill response plan regulations for vessels are the subject of a separate rulemaking project (CGD 91 -- 034).

Section 311(a)(1) of the FWPCA defines oil as including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredge spoils (33 U.S.C. 1321(a) (1)). While the most common oils are the various petroleum oils (e.g., crude oil. gasoline, diesel. etc.), non-petroleum oils such as animal fats (e.g., tallow, lard, etc.), vegetable oils (e.g., corn oil, sunflower seed oil, palm oil, etc.), and other non-petroleum oils, such as turpentine, are included within the ambit of this regulation when handled, stored or transported by an MTR facility.

A major objective of the OPA 90 amendments to the FWPCA was to create a national planning and response system. OPA 90 requires the President to develop nationwide criteria for determining those facilities which could reasonably be expected to cause substantial harm to the environment. The OPA 90 Conference Report (Report 101 -- 653) states that the criteria should result in a broad requirement for facility owners or operators to prepare and submit response plans. Those facilities identified by the President are required to submit response plans.

Section 311(j)(5) of the FWPCA requires the preparation and submission of response plans from all onshore facilities that could reasonably be expected to cause either "substantial" or "significant and substantial" harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone of the United States. Response plans must also be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and applicable Area Contingency Plans (ACPs).

Section 311(j)(5) also requires that, in a facility response plan, an owner or operator identify and ensure by contract or other means approved by the President the availability of private personnel and equipment sufficient to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent substantial threat of such a discharge.

Section 311(j)(5)(F) of the FWPCA allows the Coast Guard to authorize an MTR facility requiring plan approval to

oil which is found in the definition of "persistent oils" to mean oil having a specific gravity equal to or greater than .95 and less than or equal to 1.0.

Higher volume port areas. The Coast Guard received one comment which proposed to add Cook Inlet, Alaska to the list of higher volume port areas. The Coast Guard classified higher volume port areas based upon a study of the relative volumes of oil handled, stored or transported. The U.S. Army Corps of Engineers reports on "Waterborne Commerce of the United States" provided the statistics for 34 port areas. The decision to classify some ports as higher volume was based upon the Coast Guard's analysis of the data from the reports. The data revealed a distinct break point. Cook Inlet, Alaska falls below the break point and, as such, does not meet the criteria for designation as a hi her volume port area.

arine transportation-related facility. The Coast Guard received three comments on the definition of MTR facility. One comment requested that the Coast Cuard clarify the definition by citing specific types of facilities to which it refers. The Coast Guard gave examples of MTR facilities in the preamble to the IFR (e.g., fixed onshore MTR facilities include marinas; and mobile MTR facilities include tank trucks and railroad tank cars). Two other comments requested clarification of Coast Guard and RSPA jurisdiction over pipelines at MTR facilities. As stated in the preamble to the IFR, the definition of transportation-related and non-transportation-related facilities appeared in a 1971 Memorandum of Understanding (MOU) between the Environmental Protection Agency and the Department of Transportation. The MOU appears in the appendix to 40 CFR part 112. The Coast Guard definition of MTR is drawn directly from the MOU. The division point between the transportation-related portion of a pipeline. and the non-transportation-related portion of a pipeline is the first design discontinuance (valve) inside the secondary containment surrounding the tanks in the non-transportation-related portion of the facility. The Coast Guard finds that MTR is clearly defined in accordance with the appropriate legal authority. In a particular situation, if the location of the division between the MTR portion and the non-MTR portion is unclear, then the appropriate Federal officials. including the Coast Guard COTP, should be consulted. As set forth in the definition, these officials may agree to a specific location for the separation.

Maximum extent practicable. One comment asserted that the definition of "maximum extent practicable" is too rigid and does not allow for the flexibility that Congress intended. According to the comment, location, size, configuration, and other similar factors, should be considered in developing response plans. The Coast Guard has used a number of factors in determining the need to prepare and submit a response plan. The planning process also considers other factors as provided in gg 154.1035 and 154.1045.

Maximum most probable discharge. The Coast Guard received four comments on the definition of maximum most probable discharge suggesting that the Coast Guard revise the maximum most probable discharge volume of 1,200 barrels or 10 percent of the volume of the worst case discharge to be consistent with the EPA maximum most probable discharge volume of 36,000 gallons. As stated in the preamble to the IFR, the Coast Guard based its maximum most probable discharge definition upon historical spill data which indicated that 99 percent of oil spills from coastal zone facilities were approximately 1,ZOO barrels or less. The Coast Guard concludes that the existing definition is appropriate because it protects the environment while not overly burdening small volume facilities.

Nearshore area. The Coast Guard received two comments on the definition of nearshore area. One comment stated that the definition should exclude areas which also meet the definition of rivers and canals. Another comment requested clarification of the relationship between nearshore areas and other terms such as "close-to-shore" in Appendix C and "close to shore response activities in shallow water" in g 154.1045(e). The definition of "Nearshore area" does not presently include areas which meet the definition of rivers and canals because "Rivers and canals" is a subset of the definition of "Inland areas" not "Nearshore areas." The precise meaning of "close-to-shore" is specified at the point where the term is used. Close-to-shore refers to waters six feet or less in depth.

Notification drill. The Coast Guard received five comments that suggested the addition of the term "notification drill" to the definition section of the final rule. The comments suggested defining the term to mean a test of the facility's system of notifying or activating. according to the facility's response plan, appropriate agencies, the facility spill management team, the oil spill removal organization, and the next higher level of the facility owner's or operator's organization. A notification drill tests the facility's ability to start activation of its plan. To be successful, a notification drill need not result in calls to the top of the facility's response organization. The Coast Guard has extensively revised õ 154.1055 which was previously entitled "Drills" and is now entitled "Exercises." The revised section includes a "Qualified Individual notification exercise" and specifies that compliance with the National Preparedness for Response Exercise Program (PREP) fulfills all exercise requirements. The Coast Guard concludes that these changes adequately address the points raised by the comments.

Oil. The Coast Guard received seven comments on this definition. One comment requested that the Coast Guard narrow the definition of oil to exclude substances which contain small percentages of oil such as ship bilge and ballast water. One comment indicated that the definition of oil in the regulations should be consistent with the definition in OPA 90, which excludes hazardous substances subject to CERCLA. Four comments stated that oil should be limited only to petroleum oils which are liquid under the range of ambient conditions which exist at a facility and which are not considered CERCLA substances. OPA 90 did not amend the definition of oil in section 311 of the FWPCA. The Coast Guard's definition of "oil" is the same definition used by the FWPCA. The statutory definition refers to oil in any form. That includes oily bilge and ballast water because they have been shown to be sources of oil pollution and discharges may result in substantial harm to the environment. The Coast Guard has determined that it is appropriate for response plans to include provisions covering oils which may not be liquid in all conditions. Such oils may sink to the bottom or remain suspended in the water column. In either case, they may cause substantial harm to the environment if not cleaned up as soon as possible. The Coast Guard concludes that the current definition of oil meets both the letter and the spirit of the FWPCA and therefore is not changing the definition of oil.

Another comment stated that the response plan regulations should not apply to edible oils. The comment contended that if edible oils were excluded from the regulations, the owner or operator of a facility handling edible oils still would be required to report and cleanup a spill under the Clean Water Act (CWA). The Coast Guard definition of "oil" is the same definition that is used by the FWPCA. That definition includes edible oils. The

Coast Guard has created new subparts in the final rule to distinguish non-petroleum oils, including edible oils such as animal fats and vegetable oils, from petroleum oils. The scientific data currently available to the Coast Guard strongly indicate that these oils may have an adverse impact upon the environment that is similar. to the impact of petroleum oils. As a result, the Coast Guard is not exempting non-petroleum oils from response planning in the final rule. The Coast Guard will continue to assess its position as further data become available on the subject.

Oil spill removal organization. The Coast Guard received two comments on the definition of oil spill removal organization which suggested that the definition be revised to be more specific. The Coast Guard crafted the definition if oil spill removal organization to be flexible enough to apply to varying types of organizations which may he called upon to respond to a discharge of oil while complying with OPA 90 requirements. A more specific definition. while useful to some in the industry, might exclude organizations which are able to provide useful and needed response capabilities. The Coast Guard is not changing the definition of oil spill removal organization and suggests that any questions regarding the suitability of a particular organization be directed to the COTP for the area in which the facility is located.

Other non-petroleum oil. The Coast Guard has added a definition of "other non-petroleum oil." Other non-petroleum oil means a non-petroleum oil of any kind that is not generally an animal fat or vegetable oil.

Persistent oil. The Coast Guard received two comments on the definition of persistent oil. Both comments indicated that the definition proposed in the IFR does not account for oils that have a specific gravity greater than 1.0 that do not sink in salt water. The comments suggest that the definition be revised to include all products which could reasonably be expected to sink in the environment in which they are likely to be discharged. The definition of persistent oils is subdivided based upon specific gravity into Groups II, III, IV and V. The Coast Guard finds that further subdivision is unnecessary because the definition currently includes all oils with a specific gravity of greater than 1.0, regardless of whether or not they sink in salt water. Furthermore, the Coast Guard concludes that, in combination with other factors, even those oils referred to in the comments are very likely to sink in salt water.

Private shore-based personnel. The Coast Guard received one comment suggesting the addition of this term to the regulation. The comment indicated that certain Occupational Safety and Health Administration (OSHA) standards are not enforced. The Coast Guard is not tasked with enforcement of OSHA standards except in very specific instances. In the context of pollution control regulations such as OPA 90, the Coast Guard is not responsible for enforcing OSHA standards. Therefore, it is unnecessary for the Coast Guard to add this term to the final rule.

Rivers and canals. The Coast Guard received 8 comments on this definition. All eight comments questioned the use of the 12 foot project depth as a criterion for determining whether a waterway is a river or canal. One comment suggested that a project depth of 18 feet be applied as the standard. Four comments suggested that the COTP should be given the discretion to determine which waterways will be determined to be rivers or canals. The 4 comments also stated that the terms rivers and canals should be applied only to certain areas with definite geographical demarcations. Two comments requested clarification on whether the 12-foot project depth criterion applies only to artificially created waterways. Additionally, these 2 comments indicated that the definition of rivers and canals excludes certain rivers. The definition of rivers and canals applies to all waterways with a project depth of 12 feet or less including both naturally and artificially occurring ones. The Coast Guard finds that the 12-foot depth is appropriate to define the inland areas where shallow draft vessels may call at MTR facilities and has not changed it in the final rule. The COTP has the authority to redefine specific operating environments within his or her jurisdiction. This provisions is continued in the final rule.

Specific gravity. Several comments encouraged the Coast Guard to define specific gravity in the final rule. The Coast Guard agrees and has used the definition of specific gravity found in ASTM Standard D 1298 entitled "Standard Practice for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Projects by Hydrometer Method."

Spill management team. The Coast Guard received 5 comments on this definition. Four comments stated that the definition of spill management team should reflect the allowance for tiered spill management teams. Another comment indicated that the FRP regulation should be consistent with the VRP regulation which permits the spill management team function to be fulfilled by an organization outside the planning area of the spill. A "tiered" spill management team is not prohibited by the regulations as they appeared in the IFR and remain in the final rule. The definition is identical in both the VRP and FRP final rules to ensure consistency in spill management team requirements.

The Coast Guard received 5 comments suggesting that it define the term "corporate spill management team. One comment suggested that this term be defined to mean a national team of operational and functional experts and consultants responsible for moving quickly to a spill site to replace or support a facility response team in managing a response. The Coast Guard also received 5 comments requesting that it add the term "facility spill management team" to the regulation. The comments suggested that the term be defined to mean a team responsible for initiating and managing a response to a spill to its conclusion or until a team member from a higher tier in the overall response organization is activated and on-scene to support the facility team or manage the response until its conclusion.

The Coast Guard concludes that the existing definition of "spill management team" already incorporates the elements that the comments suggest. The Coast Guard therefore finds that it is both unnecessary and undesirable to complicate the regulation by subdividing the definition of spill management team. Section 154.1035(b) contains detailed requirements regarding plan content including the spill management team. The spill management team may include all persons relevant to an effective spill response except Federal, State and local authorities. It may include local, as well as regional or national corporate officials. operational, as well as functional experts, and representatives of OSROs. The local or on-site spill response team members can, and should, be prepared to integrate other persons, such as regional and national corporate officials, into their spill response team structure.

Table top. The Coast Guard received 5 comments requesting that it add the term "table top" to the final rule to clarify certain spill drill requirements. The comments suggested that the term be defined as a verbal walk-through to discuss action to be taken during simulated emergency situations, designed to elicit constructive discussion by the participants without time constraints. A table top drill does

resources are currently available to enable facility owners or operators to meet this requirement. The final rule requires the identification of response equipment above the Tier 1 and 2 caps, as well as the Tier 3 cap. Since there is no requirement to contract for these resources, this is not a significant change. Response plans submitted prior to the IFR, following the guidance in NVIC 7 -- 92, readily met this requirement.

Section 154.1047 Response Plan Development and Evaluation Criteria for Facilities That Handle, Store, or Transport Group V Petroleum Oils

The Coast Guard received three comments on this section which requires the inclusion of certain information in response plans for facilities involving Group V petroleum oils. One comment addressed this section generally, asking for clarification of the term "the impact of such discharges" in paragraph (c)(4) of this section which requires the identification of equipment necessary to assess the impact of a worst case discharge of Group V petroleum oils to the maximum extent practicable. The physical characteristics of Group V petroleum oils make them likely to sink when spilled. As a result, traditional response techniques such as containing the spread of the oil on the surface of the water are often ineffective against these petroleum oils. The Coast Guard has required equipment to assess the impact of Group V petroleum oil discharges because that impact cannot be ascertained by the usual methods such as visual examination. The impact of discharges of Group V petroleum oil will only be detectable through the use of such methods as sonar or sampling equipment which can, for example. ascertain what petroleum oil has sunk to the bottom or remains suspended in the water column.

Response time for deployment of response equipment. One comment was received which concerned the provisions in §154.1047(d) regarding the required response time for deployment of equipment. This comment argued that the 24-hour response time would not necessarily be the best for heavy petroleum oils since they are best recovered after hardening. This comment further argued that the Coast Guard should design more appropriate response times for Group V petroleum oils in general and asphalt in particular. The Coast Guard has designed the response times to ensure that an effective response is made while taking into account the different properties of the various petroleum oils, as well as the different natures of the MTR facilities and their operating environments. The Coast Guard recognizes that Group V petroleum oils react differently from other petroleum oils and this is why the Coast Guard separated these oils into a different category. The Coast Guard believes that the 24-hour response time is appropriate given the varied nature of Group V petroleum oils themselves, as well as the varied environments and conditions in which a discharge might occur.

Firefighting capability. The Coast Guard received one comment addressing the requirements for firefighting capability contained within § 154.1047(e). This comment argued that "sufficient firefighting capacity" would be difficult to define and should not be included in the rule. This comment further argued that firefighting should be addressed by the facility itself along with its local fire department. Identical comments were also made to §§ 154.1045 and 154.1049. See § 154.1045 of this preamble for the Coast Guard response.

Section 154.1049 Response Plan Development and Evaluation Criteria for Facilities That Handle, Store, or Transport Non-Petroleum Oil

Firefighting capability. The Coast Guard received one comment addressing the requirements for firefighting capability contained within õ 154.1049(e) of the IFR. This comment argued that "sufficient firefighting capacity" would be difficult to define and should not be included in the rule. This comment further argued that firefighting should be addressed by the facility itself along with its local fire department. Identical comments also were made to §§ 154.1045 and 154.1047. See §154.1045 of this preamble for the Coast Guard response.

Non-Petroleum Oils. The Coast Guard received comments addressing the issue of whether the requirements set forth in the IFR for petroleum oils should apply to animal fats and vegetable oils and other non-petroleum oils. The comments proposed that animal fats and vegetable oils should be more clearly differentiated from petroleum based oils. The comments also suggested allowing unique response procedures for non-petroleum oil spills.

In support of their proposals, the comments provided an industry sponsored study entitled "Environmental Effects of Releases of Animal Fats and Vegetable Oils to Waterways" and an associated study. The study claimed that the presence of these oils in the environment does not cause significant harm. The study reached its conclusion based upon its assertions that animal fats and vegetable oils are not toxic to the environment: are essential components of human and wildlife diets; readily biodegrade; and are not persistent in the environment like petroleum oils. The industry study also found that these oils can coat aquatic biota and foul wildlife. causing matting of fur or feathers which may lead to hypothermia; and that animal fats and vegetable oils in the environment have a high Biological Oxygen Demand which could result in oxygen deprivation where there is a large spill in a confined body of water that has a low flow and a low dilution rate.

The comments acknowledged that the International Maritime Organization (IMO) Subcommittee on Bulk Chemicals recently recognized the potentially harmful effect on birds from contact with floating animal fats and vegetable oils discharged from vessels. The comments also conclude, based upon Coast Guard data, that the likelihood of a non-petroleum oil spill of a magnitude to cause environmental harm is extremely small. Additionally, the comments noted the differences in the average size of the vessels which carry petroleum and non-petroleum oils.

In the preamble to the VRP IFR, the Coast Guard disagreed with comments on the VRP NPRM which claimed that edible oils pose less relative risk to the environment. The environmental effects of discharges of non-petroleum oils are clearly documented and in many respects are similar to the environmental effects of discharges of petroleum oils.

In letters to the docket, the Department of the Interior (DOI), the National Oceanic and Atmospheric Administration (NOAA), and the U.S. Fish and Wildlife Service (FWS) discussed the environmental effects of discharges of animal fats and vegetable oils and other non-petroleum oils. DOI, NOAA and FWS all concluded that these oils pose risks to the marine environment when spilled.

The agencies attributed the detrimental effects of non-petroleum oils to the similarity in physical properties between petroleum and non-petroleum oils. The effects outlined by DOI and NOAA include physical coating of bird feathers and mammal fur leading to hypothermia, a loss of buoyancy, and subsequent morality. All three agencies also confirmed the industry report's conclusion that discharges of non-petroleum oils can result in increased Biological Oxygen Demand in receiving waters, thereby decreasing available oxygen in the

affected waterbody and often resulting in fishkills. NOAA also stated that coconut and palm oils are very viscous and when spilled in most coastal waters would behave like Crisco (a hydrogenated animal fat) probably persisting for over a decade.

The Fish and Wildlife Service letter specifically responded to the industry sponsored study. The FWS expressed great concern over the veracity of many of the study's conclusions. The FWS characterized the industry study as "misleading. weak and erroneous" and stated that "key facts have been misrepresented. are incomplete or are omitted," and that "[t]he biggest oversight of the (industry study) is the insignificance given to the fouling potential of the edible oils."

The FWS acknowledged that there are differences between petroleum and non-petroleum oils including different toxicity levels. It pointed out that physical fouling is similar for both petroleum and non-petroleum oils, and additionally. that the removal of non-petroleum oils can be more difTicult and strenuous for the wildlife because, in many instances, complete removal can only be accomplished with scalding hot water and excessive washing. The FWS also stated that wildlife rehabilitators consider edible oils and fats to be some of the most difficult substances to remove from wildlife because the low viscosity of these oils allows deeper penetration into the plumage of fur, creating a more thoroughly contaminated animal.

The FWS was extremely critical of the industry study for suggesting that ingestion of edible oils is harmless to wildlife. The FWS stated that the study misleads uninformed readers by not clarifying that these oils, if consumed in large quantities, will cause harm to organisms through means other than toxicity. For example, according to the FWS, the ingestion of large quantities of non-petroleum oils can cause lipid pneumonia, diarrhea. and dehydration in birds or other wildlife which try to clean these oils from their feathers or coats by preening. This problem is magnified, also according to the FWS, by the fact that these oils do not have a repugnant smell or iridescent appearance to frighten wildlife away, therefore making it more likely that wildlife will come in contact with them during a spill.

In addition to the agency letters, the Coast Guard has placed in the docket several studies attesting to the harmful effects of non-petroleum oils in the environment. One such study, conducted by the International Maritime Organization (IMO) is titled "Harmful Effects on Birds of Floating Lipophilic Substances Discharged from Ships." This study examined the literature concerning non-petroleum oils spilled into the environment and concluded that a number of lipophilic substances, including vegetable oils, cause lethal harm to birds as a specific group of marine life. The study found that lipophilic substances adhere to the feathers of seahirds due to the lipophilic character of the feathers' wax layer. This causes the grid structure of the plumage to be disrupted thereby destroying its insulating properties.

The IMO study gives numerous examples of lethal contamination of seabirds by lipophilic substances spilled from ships. These examples include the death of thousands of seabirds because of a discharge of palm oil off the Netherlands coast; over 300 dead birds as a result of a 1,000-liter spill of rapeseed oil into the harbor of Vancouver, Canada; diseased gannets found along the Dutch coastline whose plumage was found to be coated with paraffin and consequently was no longer water repellent; and surveys of Dutch beaches in 1990 which found that 25 percent of the dead birds washed ashore were at least partly contaminated with vegetable oils. The IMO study also warns that a serious discharge of lipophilic substances in the open sea would cause more harm to seabirds than a nearshore discharge because the birds in the open sea would be unable to rest on shore to clean their plumage.

For these reasons, the Coast Guard has determined that a worst case discharge of animal fats or vegetable oils or other non-petroleum oils from an MTR facility could reasonably be expected to cause harm to the environment. Therefore, facilities that handle, store, or transport these oils, and meet the requirements of § 154.1015(b), are required to prepare and submit response plans. If the facility meets the criteria in § 154.1015(c) for a facility that could cause significant and substantial harm, the response plan must be approved by the Coast Guard.

Because there is insufficient data to support a finding that a spill of a large quantity of animal fats or vegetable oils or other non-petroleum oils will have less adverse impact on the environment than a spill of other kinds of oil, the Coast Guard does not believe that a facility that handles, stores, or transports these oils should have reduced response requirements from those provided in the IFR. However, the Coast Guard does acknowledge that animal fats and vegetable oils or other non-petroleum oils may behave differently from petroleum or petroleum-based oils and has created new subparts H and I to address response plan requirements for these oils. For further information see the discussions of subparts H and I in this preamble.

The Coast Guard received one comment which requested the suspension of the IFR's implementation until hearings can be held on amending the rule to exclude animal and vegetable fats from these regulations. The Coast Guard disagrees. Animal fats and vegetable oils are considered to be oils under the FWPCA. They are specifically defined as non-petroleum oils in the final rule and may result in serious harm to the environment in the event of a discharge to navigable waters. For additional information on this issue. see response to similar comments in § 154.1015.

Section 154.1050 Training

The Coast Guard received 15 comments on this section. The comments were not in agreement about whether the Coast Guard should include more specific training requirements in the final rule. Three comments stated they wanted more detailed standards to define the frequency of refresher courses and the minimum level of Occupational Safety and Health Administration (OSHA) training required. One comment suggested making training requirements compatible with EPA standards. Five comments were against developing any additional training requirements.

The Coast Guard has not modified the training requirement of this section in the final rule; however, a new appendix D entitled "Training Elements for Oil Spill Response Plans" has been added to subpart 154 to provide guidelines to facility owners or operators for the development of the training portions of their response plans. Additionally, training guidelines for facility response plans, including refresher training, are defined in OSHA standards for emergency response operations in 29 CFR part 1910, appendix D. As indicated in appendix D to part 154, the specifics of the training program should be determined by the facility owner or operator. On the job training and experience may cover parts or all of the training requirements, as appropriate.

Many comments remarked that the responsibility of a facility owner or operator to ensure adequate training of all private response personnel in § 154.1050(d) is inappropriate, costly, and possibly duplicative when an OSRO also is required to demonstrate training, One comment argued that the Coast Guard should require OSROs rather than the owners or operators to be

Prince William Sound. A set 4-day time limit would be too inflexible and would not take into account varying conditions. Section 154.1110 of subpart G requires a TAPAA facility owner or operator to meet all requirements of subpart F in addition to the requirements of subpart G itself. Because subpart F includes requirements for ensuring by contract or other approved means any OSRO, a restatement of the requirement in subpart G is unnecessarily repetitive. The comment also recommended that the Coast Guard include a statement telling facility owners or operators that plan approval for Prince William Sound facilities is valid only as long as the Prince William Sound Regional Citizens Advisory Council is funded in accordance with OPA 90. The Coast Guard agrees with the comment and has added language to 5 154.1120 to that effect.

Section 154. l l25 Additional Response Plan Requirements

The Coast Guard received one comment on this section stating that additional communities should be included for training. The communities suggested are Seward, Seldovia, Homer. and Kodiak, Alaska. The comment also argued that a minimum of 2,000 trained personnel should be required to remove a 200,000 barrel discharge. The Coast Guard finds that the existing list of communities is currently sufficient and is not adding the communities suggested in the comment. However, should circumstances change, a COTP may recommend adding ports if the spill training requirements are deemed appropriate. This change would be subject to a notice and comment rulemaking project. There were no specific details included in this comment as to the basis for requiring 2,000 personnel for a spill of 200,000 barrels. The COTP has a great deal of experience in this type of operation, and he or she is the one who makes the determination as to the number of personnel necessary for the cleanup of a spill.

Section 154.1130 Requirements for Prepositioned Response Equipment

The Coast Guard received one comment on this section of the IFR. The comment agreed that an independent inspection or certification entity was a good idea. The comment also stated that the section should be revised to include the standard for response capabilities which is currently 200.000 barrels per day in the Prince William Sound to reflect the true maximum extent practicable. Maximum extent practicable is based upon the planned capability to respond to a worst case discharge in adverse weather. The standards set forth in the IFR, and continued in the final rule. include a daily recovery rate of 30,000 barrels per day on scene within 2 hours. and a daily recovery rate of 40,000 barrels on scene within 18 hours. In addition, 5 154.1130 also requires on-water storage capability of 100,000 barrels to be on scene within 2 hours, and on-water storage capability of 300,000 barrels to be on scene within 12 hours. The Coast Guard concludes that the standards set forth are sufficient to protect Prince William Sound and meet OPA 90's requirement of a response to the maximum extent practicable.

Section 154.1140 TAPAA Facility Contracting With a Vessel

The Coast Guard received one comment that the section on TAPAA facility contracting with a vessel was unclear because it referred to subpart G of the VRP IFR, which does not exist. The Coast Guard has corrected the cross reference in this section of the FRP final rule to refer to subpart E of the VRP final rule.

Subpart H -- Response Plan Requirements for Facilities That Handle, Store, or Transport Animal Fats and Vegetable Oils

This subpart establishes oil spill response planning requirements for an owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils. It requires such facilities to also meet the applicable requirements set forth in subpart F of this part. This subpart, and subpart I, were created to address concerns that some of the criteria proposed in subpart F of this part were not applicable to animal fats and vegetable oils, and other non-petroleum oils. The specific comments on non-petroleum oils which the Coast Guard received are addressed in this preamble under õ 154.1049 which was the non-petroleum oils section of the IFR.

In the preamble to the VRP IFR, the Coast Guard stated that it had been unable to verify that the evaporation and emulsification factors in appendix B of the VRP IFR were applicable to both petroleum oils and non-petroleum oils. As a result of that determination, non-petroleum oils were divided from petroleum oils in both the Vessel and MTR Facility Response Plan regulations. In response to the comments to the IFR on this issue, the Coast Guard is creating two new subparts and further subdividing non-petroleum oils into three categories. Subpart H covers animal fats and vegetable oils, and subpart I covers other non-petroleum oils.

These new subparts and categories are intended to form the foundation of possible future rulemaking efforts in this area. The Coast Guard welcomes information that may be useful in determining the types and quantities of response equipment necessary to respond to a discharge of these oils, and information on new or innovative response techniques that will be appropriate for these oils. This information would be helpful in deciding whether additional rulemaking is appropriate.

Section 154.1225 requires owners or operators of MTR facilities that handle, store, or transport animal fats and vegetable oils to identify the procedures and equipment necessary to respond to a worst case discharge of these oils to the maximum extent practicable. Animal fats include lard, tallow and other oils of animal origin. Vegetable oils include oils from seeds, nuts, kernels or fruits of plants such as corn oil, safflower oil, jojoba oil, coconut oil or palm oil. Subpart H allows the owner or operator of the facility to propose the amount of equipment needed to respond to a worst case discharge of animal fats or vegetable oils to the maximum extent practicable. It does not include specific requirements for identifying the amount of response resources. The Coast Guard will evaluate the information submitted by the owner or operator of the facility to determine if the resources identified are consistent with the volume of animal fats or vegetable oils that may be spilled as a result of the worst case discharge. This procedure was the same in the IFR.

As with petroleum oils, the owner or operator must ensure the availability of removal equipment through contract or other approved means. At a minimum, the owner or operator of the facility must obtain a letter from an oil spill removal organization stating that it will respond to a worst case discharge from the facility. It is not intended that this letter imply a formal contractual agreement between the parties but that the owner or operator has identified specific response resources and that those resources will respond to a worst case discharge from the facility.

Section 154.1225 also requires the owner or operator of an MTR facility that handles, stores. or transports animal fats and vegetable oils to contract for firefighting resources should the facility not have access to sufficient local firefighting resources. For further discussion of firefighting

resources see the preamble discussion of § 154.1045(j).
The Coast Guard has included in subpart H, for animal fats and vegetable oils, § 154.1225(f) on the use of dispersants, and other similar, new, or unconventional spill mitigation techniques including mechanical dispersal. Response plans for facilities located in environments with year-round preapproval for use of chemical dispersants will be allowed to receive credit up to 25 percent of the plan's required worst case planning volume. In all cases. the identified response measures must comply with the NCP and the applicable ACP.
The Coast Guard has included in appendix C a new paragraph 2.8 covering non-petroleum oils including animal fats and vegetable oils.

Subpart I -- Response Plan Requirements for Facilities That Handle. Store. or Transport Other Non-petroleum Oils

This subpart establishes oil spill response planning requirements for an owner or operator of a facility that handles. stores, or transports non-petroleum oils other than animal fats and vegetable oils. It requires such facilities to also meet the applicable requirements set forth in subpart F of this part. This subpart was created to address industry concerns with grouping animal fats and vegetable oils together with other non-petroleum oils. This separation of animal fats and vegetable oils from other non-petroleum oils recognizes that while animal fats and vegetable oils have harmful effects, they are not toxic to the marine environment as maybe other non-petroleum oils. The specific comments on non-petroleum oils which the Coast Guard received are addressed in this preamble under §154.1049 which was the non-petroleum oils section of the IFR.
Section 154.1325 requires owners or operators of MTR facilities that handle, store, or transport other non-petroleum oils to identify the procedures and equipment necessary to respond to a worst case discharge of these oils to the maximum extent practicable. Other non-petroleum oils include those that are not animal fats or vegetable oils such as essential oils, turpentine and tung oil. Section 154.1325 allows the owner or operator of the facility to propose the amount of equipment needed to respond to a worst case discharge of other non-petroleum oils to the maximum extent practicable. It does not include specific requirements for identifying the amount of response resources. The Coast Guard will evaluate the information submitted by the owner or operator of the facility to determine if the resources identified are consistent with the volume of other non-petroleum oils that may be spilled as a result of the worst case discharge. This procedure was the same in the IFR. As with petroleum oils, 5 154.1325 requires that the owner or operator must ensure the availability of removal equipment through contract or other approved means. At a minimum. the owner or operator of the facility must obtain a letter from an oil spill removal organization stating that it will respond to a worst case discharge from the facility. It is not intended that this letter imply a formal contractual agreement between the parties but that the owner or operator has identified specific response resources and that those resources will respond to a worst case discharge from the facility.
Subpart I also requires the owner or operator of an MTR facility that handles, stores, or transports other non-petroleum oils to contract for firefighting resources should the facility not have access to sufficient local firefighting resources. For further discussion of firefighting resources see the preamble discussion of § 154.1045(j).
Under subpart I, a response plan may propose, for other non-petroleum oils, the use of other spill mitigation techniques provided that the identified response measures comply with the NCP and the applicable ACP.
The Coast Guard has included in appendix C a new paragraph 2.8 covering the evaluation of response plans for non-petroleum oils including other non-petroleum oils.

Appendix C of Part 154. Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans

The Coast Guard received one comment recommending that special allowance be made for harbors since they often have conditions similar to rivers and canals. The comment also recommended that such special allowance not be limited only to waterways having depths of 12 feet or less. The Coast Guard disagrees. The term harbor is a broad term and can be applied to a sheltered part of a body of water deep enough to provide anchorage for ships. In reality, a harbor may range from small embayments to large bodies of water. Under the final rule. a harbor could be considered as either being in a rivers and canals operating environment or an inland operating environment. The 12 feet project depth was selected as part of the rivers and canals operating environment to assist in establishing the ability of response resources to operate in specific water depths. The Coast Guard finds that the depth of 12 feet remains relevant in establishing the rivers and canals environment or the inland operating environment.

1. Purpose

The Coast Guard did not receive comments to this section but has revised appendix C to reference the newly created subparts H and I and indicate the portions of appendix C which are applicable.

2. Equipment Operability and Readiness

2.5 The Coast Guard received 2 comments on this paragraph. Both comments asked whether Table 1 adverse weather conditions can be reduced or increased if the Area Committee determines that the conditions listed in the table are not appropriate. Both comments also recommended that the local COTP be allowed to determine the applicable weather conditions until the ACP is finalized. The comments also requested a mechanism for input by the regulated community to the Area Committee before that committee's determinations are completed.
The COTP may reclassify a specific body of water or location within the COTP zone. Section 154.1045 provides details on COTP reclassification to more or less stringent operating environments. The Coast Guard has issued guidance that strongly encourages Area Committees to solicit advice, guidance, and expertise from all appropriate sources including facility owners or operators, OSROs, environmental groups, members of academia, and concerned citizens.
2.6 The Coast Guard received one comment on this paragraph. The comment noted that currently the Coast Guard, EPA and RSPA each have a different planning speed and recommended that a single standardized speed be adopted. The Coast Guard agrees and the Coast Guard, EPA, and RSPA will use the same planning speeds.
2.7 The Coast Guard received one comment on this paragraph. The comment recommended that each type of boom only be required to have compatible connectors with the same type of boom because, for example, there would be no reason to connect high seas boom to harbor or river boom. This statement in the appendix is there only to remind facility owners or operators to ensure that the equipment on which they are going to rely in the event of an oil spill will be capable of

(iii) Include design(s) for exercises that test either the entire appendix or individual components(s).
(3) Testing, inspection, and certification. Identification of a testing, inspecting, and certification program for the prepositioned response equipment required in § 154.1130 that must provide for --
(i) Annual testing and equipment inspection in accordance with the manufacturer's recommended procedures, to include --
(A) Start-up and running under load all electrical motors. pumps, power packs, air compressors, internal combustion engines, and oil recovery devices; and
(B) Removal for inspection of no less than one-third of required boom from storage annually, such that all boom will have been removed and inspected within a period of 3 years; and
(ii) Records of equipment tests and inspection.
(iii) Use of an independent entity to certify that the equipment is on-site and in good operating condition and that required tests and inspection have been preformed. The independent entity must have appropriate training and expertise to provide this certification.
(4) Prepositioned response equipment. Identification and location of the prepositioned response equipment required in § 154.1130 including the make, model, and effective daily recovery rate of each oil recovery resource.
(b) The owner or operator of a TAPAA facility shall submit to the COTP a schedule for the training and drills required by the geographic-specific appendix for Prince William Sound for the following calendar year.
(c) All records required by this section must be available for inspection by the COTP.

§154.1130 Requirements for prepositioned response equipment.
The owner or operator of a TAPAA facility shall provide the following prepositioned response equipment, located within Prince William Sound, in addition to that required by §§ 154.1035, 154.1045, or 154.1050:
(a) On-water recovery equipment with a minimum effective daily recovery rate of 30,000 barrels capable of being a scene within 2 hours of notification of a discharge.
(b) On-water storage capacity of 100,000 barrels for recovered oily material capable of being on scene within 2 hours of notification of a discharge.
(c) On-water recovery equipment with a minimum effective daily recovery rate of 40,000 barrels capable of being on scene within 18 hours of notification of discharge.
(d) On-water storage capacity of 300.000 barrels for recovered oily material capable of being on scene within 12 hours of notification of a discharge.
(e) On-water recovery devices and storage equipment located in communities at strategic locations.
(fj Equipment as identified below, for the locations identified in §154.1125(a)(1)(ii) sufficient for the protection of the environment in these locations:
(1) Boom appropriate for the specific locations.
(2) Sufficient boats to deploy boom and sorbents.
(3) Sorbent materials.
(4) Personnel protective clothing and equipment.
(5) Survival equipment.
(6) First aid supplies.
(7) Buckets, shovels, and various other tools.
(8) Decontamination equipment.
(9) Shoreline cleanup equipment.
(10) Mooring equipment.
(11) Anchored buoys at appropriate locations to facilitate the positioning of defensive boom.
(12) Other appropriate removal equipment for the protection of the environment as identified by the COTP.

§154.1135 Response plan development and evaluation criteria.

The following response times must be used in determining the on scene arrival time in Prince William Sound for the response resources required by §154.1045:

Prince William Sound Area		
Tier 1	Tier 2	Tier 3
12	24	36

§154.1140 TAPAA facility contract ng with a vessel.
The owner or operator of a TAPAA facility may contract with a vessel owner or operator to meet some of all of the requirements of subpart G of part 155 of this chapter. The extent to which these requirements are met by the contractual arrangement will be determined by the COTP.
4. Subpart H, consisting of §§154.1210 through 154.1228, is added to read as follows:

Subpart H -- Response Plans for Animal Fats and Vegetable Oils Facilities

Sec.
154.1210 Purpose and applicability.
154.1220 Response plan submission requirements.
l54.1225 Response plan development and evaluation criteria for facilities that handle. store. or transport animal fats and vegetable oils.
154.1228 Methods of ensuring the availability of response resources by contract or other approved means.

Subpart H -- Response Plans for Animal Fats and Vegetable Oils Facilities

§154.1210 Purpose and applicability.

This subpart establishes oil spill response planning requirements for an owner or operator of a facility that handles, stores, or transports aninial fats and vegetable oils. The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process. They are not performance standards.

§154.1220 Response plan submission requirements.

An owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils shall submit a response plan in accordance with the requirements of this subpart, and with all sections of subpart F of this part, except §§ 154.1045 and 154.1047, which apply to petroleum oils.

§154.1225 Response plan development and evaluation criteria for facilities that handle, store, or transport animal fats and vegetable oils.

(a) An owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils must provide information in his or her plan that identifies --
(1) Procedures and strategies for responding to a worst case discharge of animal fats and vegetable oils to the maximum extent practicable; and
(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.
(b) An owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the facility operates using the criteria in section 2 and Table 1 of appendix C of this part. When evaluating the operability of equipment, the facility owner or operator must consider limitations that are identified in the ACPs for the COTP zone in which the facility is located, including --
(1) Ice conditions:
(2) Debris;
(3) Temperature ranges: and
(4) Weather-related visibility.

(c) The owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils must identify the response resources that are available by contract or other means as described in § 154.1228(a). The equipment identified in a response plan must include --
(1) Containment boom, sorbent boom, or other methods for containing oil floating on the surface or to protect shorelines from impact;
(2) Oil recovery devices appropriate for the type of animal fats or vegetable oils handled; and
(3) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled.
(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of commencing an effective on-scene response within the times specified in this paragraph for the applicable operating area:

	tier 1 (hrs)	tier 2	tier 3
higher volume port area…….	6	N/A	N/A
Great Lakes…	12	N/A	N/A
all other river and canal, in-land, near-shore, and off-shore areas……	12	N/A	N/A

(e) A response plan for a facility that handles, stores, or transports animal fats and vegetable oils must identify response resources with firefighting capability. The owner or operator of a facility that does not have adequate firefighting resources located at the facility or that can not rely on sufficient local firefighting resources must identify and ensure. by contract or other approved means as described in § 154.1228(a), the availability of adequate firefighting resources. The response plan must also identify an individual located at the facility to work with the fire department on animal fats and vegetable oil fires. This individual shall also verify that sufficient well-trained firefighting resources are available within a reasonable response time to a worst case scenario. The individual may be the qualified individual as defined in § 154.1020 and identified in the response plan or another appropriate individual located at the facility.
(f) The response plan for a facility that is located in any environment with year-round preapproval for use of dispersants and that handles. stores, or transports animal fats and vegetable oils may request a credit for up to 25 percent of the worst case planning volume set forth by subpart F of this part. To receive this credit, the facility owner or operator must identify in the plan and ensure, by contract or other approved means as described in §154.1228(a), the availability of specified resources to apply the dispersants and to monitor their effectiveness. The extent of the credit for dispersants will be based on the volumes of the dispersant available to sustain operations at the manufacturers' recommended dosage rates. Other spill mitigation techniques, including mechanical dispersal, may be identified in the response plan provided they are in accordance with the NCP and the applicable ACP. Resources identified for plan credit should be capable of being on scene within 12 hours of a discovery of a discharge. Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during a spill response will be governed by the provisions of the NCP and the applicable ACP.

§154.1228 Methods of ensuring the availability of response resources by contract or other approved means.

(a) When required in this subpart, the availability of response resources must be ensured by the following methods:
(1) The identification of an oil spill removal organization with specified equipment and personnel available within stipulated response times in specified geographic areas. The organization must provide written consent to being identified in the plan;
(2) A document which --
(i) Identifies the personnel, equipment, and services capable of being provided by the oil spill removal organization within stipulated response times in the specified geographic areas;
(ii) Sets out the parties' acknowledgment that the oil spill removal organization intends to commit the resources in the event of a response;
(iii) Permits the Coast Guard to verify the availability of the identified response resources through tests, inspections, and drills;
(iv) Is referenced in the response plan;
(3) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment required under this subpart that are available to response to a discharge within stipulated response times in the specified geographic areas;
(4) Certification by the facility owner or operator that specified personnel and equipment required under this subpart are owned, operated, or under the direct control of the facility owner or operator, and are available within stipulated response times in the specified geographic areas: or
(5) A written contractual agreement with an oil spill removal organization. The agreement must identify and ensure the availability of specified personnel and equipment required under this subpart within stipulated response times in the specified geographic areas.
(h) The contracts and documents required in paragraph (a) of this section must be retained at the facility and must be produced for review upon request by the COTP.
5. Subpart I, consisting of 55 154.1310 through 154.1325, is added to read as follows:

Subpart I -- Response Plans for Other Non-Petroleum Oil Facilities

Sec.
154.1310 Purpose and applicability.
154.1320 Response plan submission requirements.
154.1325 Response plan development and evaluation criteria for facilities that handle. store, or transport other non-petroleum oils.

Subpart I -- Response Plans for Other Non-Petroleum Oil Facilities

õ154.1310 Purpose and applicability.

This subpart establishes oil spill response planning requirements for an owner or operator of a facility that handles, stores, or transports other non-petroleum oils. The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process. They are not performance standards.

§154.1320 Response plan submission requirements.

An owner or operator of a facility that handles, stores, or transports other non-petroleum oils shall submit a response plan in accordance with the requirements of this subpart, and with all sections of subpart F of this part, except §§ 154.1045 and 154.1047, which apply to petroleum oils.

§154.1325 Response plan development and evaluation criteria for facilities that handle, store, or transport other non-petroleum oils.

(a) An owner or operator of a facility that handles, stores, or transports other non-petroleum oils must provide information in his or her plan that identifies --
(1) Procedures and strategies for responding to a worst case discharge of other non-petroleum oils to the maximum extent practicable; and
(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.

(b) An owner or operator of a facility that handles. stores, or transports other non-petroleum oils must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the facility operates using the criteria in Table l of appendix C of this part. When evaluating the operability of equipment, the facility owner or operator must consider limitations that are identified in the ACPs for the COTP zone in which the facility is located, including --

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a facility that handles, stores, or transports other non-petroleum oils must identify the response resources that are available by contract or other approved means as described in g 154.1028(a). The equipment identified in a response plan must include --

(1) Containment boom, sorbent boom, or other methods for containing oil floating on the surface or to protect shorelines from impact;

(2) Oil recovery devices appropriate for the type of other non-petroleum oils handled; and

(3) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled.

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of commencing an effective on-scene response within the times specified in this paragraph for the applicable operating area:

	Tier 1 (hrs)	Tier 2	Tier 3
Higher Volume port area ……..	6	N/A	N/A
Great Lakes….	12	N/A	N/A
All other river and canal, inland, nearshore, and offshore areas…	12	N/A	N/A

(e) A response plan for a facility that handles. stores. or transports other non-petroleum oils must identify response resources with firefighting capability. The owner or operator of a facility that does not have adequate firefighting resources located at the facility or that cannot rely on sufficient local firefighting resources must identify and ensure, by contract or other approved means as described in 5 154.1028(a), the availability of adequate firefighting resources. The response plan must also identify an individual located at the facility to work with the fire department on other non-petroleum oil fires. This individual shall also verify that sufficient well-trained firefighting resources are available within a reasonable response time to a worst case scenario. The individual may be the qualified individual as defined in 5 154.1020 and identified in the response plan or another appropriate individual located at the facility.

(0 The response plan for a facility that is located in any environment with year-round preapproval for use of dispersants and that handles, stores, or transports other non-petroleum oils may request a credit for up to 25 percent of the worst case planning volume set forth by subpart F of this part. To receive this credit, the facility owner or operator must identify in the plan and ensure, by contract or other approved means as described in 5154.1028(a), the availability of specified resources to apply the dispersants and to monitor their effectiveness. The extent of the credit will be based on the volumes of the dispersant available to sustain operations at the manufacturers' recommended dosage rates. Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during a spill response will be governed by the provisions of the NCP and the applicable ACP.

6. Appendix C is revised to read as follows:

Appendix C -- Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans

1. Purpose

1. 1 The purpose of this appendix is to describe the procedures for identifying response resources to meet the requirements of subpart F of this part. These guidelines will be used by the facility owner or operator in preparing the response plan and by the Captain of the Port (COTP) when reviewing them. Response resources identified in subparts H and I of this part should be selected using the guidelines in section 2 and Table l of this appendix.

2. Equipment Operability and Readiness

2.1 All equipment identified in a response plan must be designed to operate in the conditions expected in the facility's geographic area. These conditions vary widely based on location and season. Therefore, it is difficult to identify a single stockpile of response equipment that will function effectively in each geographic location.

2.2 Facilities handling. storing, or transporting oil in more than one operating environment as indicated in Table 1 of this appendix must identify equipment capable of successfully functioning in each operating environment.

2.3 When identifying equipment for response plan credit, a facility owner or operator must consider the inherent limitations in the operability of equipment components and response systems. The criteria in Table 1 of this appendix should be used for evaluating the operability in a given environment. These criteria reflect the general conditions in certain operating areas.

2.3.1 The Coast Guard may require documentation that the boom identified in a response plan meets the criteria in Table l. Absent acceptable documentation, the Coast Guard may require that the boom be tested to demonstrate that it meets the criteria in Table 1. Testing must be in accordance with ASTM F 715, ASTM F 989, or other tests approved by the Coast Guard.

2.4 Table 1 of this appendix lists criteria for oil recovery devices and boom. All other equipment necessary to sustain or support response operations in the specified operating environment must be designed to function in the same conditions. For example, boats which deploy or support skimmers or boom must be capable of being safely operated in the significant wave heights listed for the applicable operating environment.

2.5 A facility owner or operator must refer to the applicable local contingency plan or ACP, as appropriate, to determine if ice, debris, and weather-related visibility are significant factors in evaluating the operability of equipment. The local contingency plan or ACP will also identify the average temperature ranges expected in the facility's operating area. All equipment identified in a response plan must be designed to operate within those conditions or ranges.

2.6 The requirements of subparts F, G, H and I of this part establish response resource mobilization and response times. The distance of the facility from the storage location of the response resources must be used to determine whether the resources can arrive on scene within the stated time. A facility owner or operator shall include the time for notification, mobilization, and travel time of response resources identified to meet the maximum most probable discharge and Tier 1 worst case discharge response time requirements. For subparts F and G, tier 2 and 3 response resources must be notified and mobilized as necessary to meet the requirements for arrival on scene in accordance with H 154.1045 or 154.1047 of subpart F, or 5 154.1135 of subpart G, as appropriate. An on water speed of 5 knots and a land speed of 35 miles per hour is assumed unless the facility owner or operator can demonstrate otherwise.

2.7 For subparts F and G, in identifying equipment, the facility owner or operator shall list the storage location, quantity, and manufacturer's make and model. For oil recovery devices, the effective daily recovery capacity, as determined using section 6 of this appendix must be included. For boom, the overall boom height (draft plus freeboard) should be included. A facility owner or operator is responsible for ensuring that identified boom has compatible connectors.

2.8 For subparts H and I, in identifying equipment, the facility owner or operator shall list the storage location, quantity, and manufacturer's make and model. For boom,

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Thursday
March 7, 1996

Part IV

Department of Transportation

Coast Guard

33 CFR Part 4, et al.
Financial Responsibility for Water Pollution (Vessels); Final Rule

liquid hazardous material carriers meeting the criteria in 33 U.S.C. 2701(34) be considered tank vessels, the Coast Guard does not have the discretion to adopt this recommendation. It is worthy of mention again, however, that LNG and LPG barges (that do not otherwise carry oil or hazardous substances) are not required by OPA 90 or CERCLA to obtain COFR's, not because LNG and LPG are not hazardous materials, but because they are not hazardous substances as defined in CERCLA.
One commenter suggested that the types of fishing vessels that are considered tank vessels should be clarified. If there is ambiguity in this regard, it stems from the language of section 5209 of Public Law 102-587, which provides that a fishing or fish tender vessel of 750 gross tons or less, that transfers fuel without charge to a fishing vessel owned by the same person. is not a tank vessel. Nevertheless, it is clear that any other fish tender or fishing vessel that transfers fuel to another vessel and that otherwise meets the criteria of the definition must be considered a tank vessel. A fish tender or fishing vessel that is also a tank vessel, as defined in this rule, must demonstrate financial responsibility in accordance with this rule. Part 138 needs no further clarification on this point.

Section 138.30 General

Paragraphs (c), (d), and (e) (gross tons): One commenter asserted that the sentence specifying use of gross tons as measured under the International Convention on Tonnage Measurement of Ships, 1969, for purposes of determining the limit of liability under section 1004(a) of OPA 90 and under section 107(a) of CERCLA was not properly adopted under 46 U.S.C. 14302. The Coast Guard disagrees. Title 46 U.S.C. 14302 clearly authorizes the Secretary (the Secretary delegated this authority to the Commandant of the Coast Guard) to specify the statutes for which tonnage as measured under the Tonnage Convention is to be used to determine the application and effect of those statutes. The Coast Guard has properly exercised this authority, and the authority citation to 33 CFR part 138 identifies 46 V.S.C. 14302 as the authority for paragraphs (c) through (e).

Section 13S.SO Financial Responsibility, How Established

A commenter recommended that the Coast Guard adopt a particular State's method of financial responsibility in fulfillment of OPA 90's requirements, if the State scheme is at least as stringent as the Federal scheme. One State suggested that the Coast Guard not implement the Federal law because the resulting regulations would conflict with and cause disruption to the implementation of that State's own regulations, which did not require direct action and which allowed an unlimited number of defenses and exclusions. OPA 90 does not preempt State law, and therefore. each State may design its own version of a financial responsibility regime. On the other hand. the Coast Guard believes that a uniform financial responsibility regime in the United States is desirable and, rather than adopt a particular State regime, the Coast Guard believes that its regime should serve as the model. In any event, State financial responsibility regimes may address issues not covered by the Federal system or may lack some of the elements in the Federal system. The Coast Guard, therefore, has not adopted this recommendation.
One commenter stated that the Coast Guard should promulgate acceptability standards for guarantors, including insurance guarantors. This issue was discussed in the preamble to the interim rule at 59 FR 34219, wherein the Coast Guard indicated it was evaluating the possibility of a future rulemaking on this subject. No rulemaking on this matter is mandated by statute or other principle of law. Rather, this would be a purely discretionary regulation. In the time period since publication of the interim rule, there has been much debate about regulations in general, with the primary focus being to eliminate all but the most necessary rules. Consequently, the Coast Guard has decided not to proceed with a discretionary rulemaking on this subject, but rather to continue to make its 25-year old acceptability policy available to any interested person upon request.
Also, this section has been amended in response to the passage of the Edible Oil Regulatory Reform Act (Pub. L. 104 -- 55), which was signed by the President on November 20, 1995. This law requires that, in issuing a regulation, the head of any Federal agency shall differentiate between fats, oils, and greases of animal, marine, or vegetable origin and other oils and greases. It also lowers the liability limit of certain tank vessels carrying fats, oils, and greases of animal, marine, or vegetable origin.
Paragraph (b)(1) (Insurance): Two commenters stated that the Coast Guard has failed to address "bad faith" issues respecting an insurance guarantor. The concern is that if an insurer is found by a court to have acted in bad faith with respect to the insured party or a third party claimant. a court might hold a guarantor liable in excess of the amount of the part 138 insurance guaranty. "Bad faith" is an insurance concept that has existed for many years. In some situations, an insurer against whom a bad faith claim has been successfully prosecuted (by an insured) may have to pay a penalty which results in a total payment exceeding policy limits. This is because the bad faith action often may be pursued as a tort, which is an action separate from enforcement of the insurance contract.
The chance of success of a bad faith claim asserted by a claimant other than the insured against a COFR guarantor, for some act or omission by the guarantor, is unknown. COFR guaranties have been required in this country since 1971 and in other countries since the mid seventies. The Coast Guard is unaware of any case in which bad faith has been asserted successfully by a third party claimant against an insurer in the capacity of a COFR guarantor, i.e.. financial responsibility provider.
The Coast Guard nevertheless reads the law to mean that the costs and damages for which a person, as a guarantor, may be liable under OPA 90 or CERCLA are strictly limited to the amount of the guaranty. If a bad faith action were to be pursued successfully in court by a third party claimant against an insurance guarantor, any awarded amount exceeding the guaranty amount would not be considered as compensation under OPA 90 or CERCLA. Such a court award would be considered liability for an amount outside the scope of OPA 90 or CERCLA. Even CERCLA section 108(d)(2) (42 U.S.C. 9608(d)(2)), referenced by one of the commenters, acknowledges the possibility of bad faith actions under laws other than CERCLA. CERCLA, however, does not generally provide third parties with a cause of action for damages. The well known concept of bad faith pertaining to the insurance industry is beyond the scope of this rule, and the Coast Guard has no intent or authority to expand or restrict causes of action related to bad faith.
The Coast Guard does not intend anything in this discussion of bad faith to detract from the central, underlying principle of guarantorship under OPA 90/CERCLA and this rule (as well as predecessor laws and rules). This principle is that, in return for the statutorily guarantied right to limit liability and right to the defenses specified in a guaranty form, a guarantor agrees to waive all other defenses, including nonpayment of premium, non-United States venue, and lack of

APPLICABLE AMOUNT TABLE

(I) Applicable Amount Under the Oil Pollution Act of 1990

VESSEL TYPE	VESSEL'S GROSS TONS	APPLICABLE AMOUNT
Tank Vessel (except tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat of vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons* But not to exceed 3,000 tons.	the greater of $2,000,000 or $1,200 per gross ton
Tank Vessel (except tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat of vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 3,000 gross tons.	The Greater of $10,000,000 or $1,200 per gross ton
Tank Vessel (except tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat of vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons.*	The greater of $500,00 or $600 per gross ton

* this minimum gross ton limit does not apply to any vessel using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined fot a place subject to the jurisdiction of the United States (as specified in 33 CFR 138.12(a)(1)).

federal register

Tuesday
July 30, 1996

Part IV

Department of Transportation

Coast Guard

33 CFR Part 157
46 CFR Parts 31 and 35
Operational Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard
33 CFR Part 157

46 CFR Parts 31 and 35
[CGD 91&45]
RIN 2115-AE01

Operational Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: The Coast Guard issues regulations that will require the owners, masters. or operators of tank vessels of 5,000 gross tons (GT) or more that do not have double hulls and that carry oil in bulk as cargo to comply with certain operational measures. This final rule contains requirements for bridge resource management and vessel specific policy and procedures, enhanced survey programs, maneuvering performance capability tests. and other measures aimed at reducing the likelihood of an oil discharge from these vessels. Additionally, the Coast Guard is amending requirements for the carriage of onboard emergency lightering equipment and has addressed animal fat, vegetahle oil, and other non-petroleum oil in separate sections as required by the Edible Oil Regulatory Reform Act. These requirements will be effective until all existing vessels without double hulls are phased out in 2015.

DATES: This rule is effective on November 27, 1996, except for §§ 157.415 and 157.42O of 33 CFR part 157 which are effective on February 1, 1997; and §§ 157.445 and 157.460(a) of 33 CFR part 157 which are effective on July 29, 1997. The incorporation by reference of certain publications listed in §§157.430, 157.435, 157.450 of 33 CFR part 157 is approved by the Federal Register as of November 27, 1996. The incorporation by reference of certain publications listed in §157.445 of 33 CFR part 157 is approved by the Federal Register as of July 29, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the Office of the Executive Secretary, Marine Safety Council (C -- LRA/3406) (CGD 91-045), U.S. Coast Guard Headquarters. 2100 Second Street SW., room 3406, Washington, DC 20593 -- 0001 between 930 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267 -- 1477.

FOR FURTHER INFORMATION CONTACT:
LCDR Suzanne Englebert, Project Manager, Office of Standards Evaluation and Development, at (202) 267-6490.

SUPPLEMENTARY INFORMATION:

Regulatory History

Section 4115(b) of the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380, 104 Stat. 520), which appears as a statutory note following 46 U.S.C., 3703a, directs the Coast Guard to develop structural and operational requirements for tank vessels of 5,000 gross tons (GT) or more without double hulls to serve as regulations until 2015, when all tank vessels operating in U.S. waters are required to have double hulls under section 4115(a) of OPA 90 (46 U.S.C. 3703a). Any requirements issued under the authority of section 4115(b) must provide as substantial protection to the environment as is economically and technologically feasible.

On November 1, 1991, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) (56 FR 56284), which discussed structural and operational measures intended to meet section 4115(b) of OPA 90. The ANPRM included a request for data on the technical and economic feasibility of those measures for use on vessels covered by section 4115(b). Eighty-eight comments were received by the close of the extended comment period, which ended on January 30. 1992 (57 FR 1243).

After reviewing the comments, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Structural and Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls" (Existing Vessels) on October 22, 1993 (58 FR 54870). The Coast Guard issued two subsequent correction notices on November 19, 1993 (58 FR 61143), and December 14, 1993 (58 FR 65298), which made technical corrections to the NPRM. In response to several comments received on the NPRM, the Coast Guard published, on December 16, 1993, a notice of public meeting and extension of comment period (58 FR 65683).

The Coast Guard held a public meeting on January 20, 1994, to obtain information from the public on the proposed regulations. Topics addressed by speakers included applicability, differences between tank barges and tankships, exemptions, and economic and technical feasibility of the proposed regulations. Some of the basic assumptions of the proposed regulations addressed certain structural measures, particularly their reliance on Regulation 13G of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78). Information on the public meeting is available for public review at the address under **ADDRESSES.**

In light of the comments received at the public meeting and in response to the written comments received on the NPRM, the Coast Guard reviewed the proposed requirements for structural and operational measures. To expedite the implementation of section 4115(b) of OPA 90, the Coast Guard developed a three-pronged approach which encompassed three separate rulemaking projects. First, the Coast Guard issued a final rule on August 5, 1994, requiring the carriage of emergency lightering equipment and the inclusion of the vessel's International Maritime Organization (IMO) number in the advance notice of arrival report (59 FR 40186); second, on November 3, 1995, it issued a supplemental notice of proposed rulemaking (SNPRM) regarding additional operational measures (60 FR 55904); and third, on December 28, 1995, it reviewed comments on the NPRM for major structural measures, revised the Regulatory Assessment (RA), and issued an SNPRM regarding structural requirements for single-hull tank vessels (60 FR 67227). Structural measures addressed in this third project included hydrostatic loading requirements, structural refit of existing hull areas. emergency cargo off-loading capabilities, and other structural adaptations or major cargo carrying adjustments.

Background and Purpose

Section 4115 of OPA 90 mandates regulations to provide improved protection from oil spills from tank vessels in waters subject to the jurisdiction of the United States due to collisions and groundings. This section applies to tank vessels that are constructed, adapted to carry, or that carry oil in bulk as cargo or cargo residue.

The Coast Guard has determined that the applicability of these regulations should reflect section 4115(a) of OPA 90, which requires certain existing tank vessels without double hulls to be phased out of operation by 2015. The Navigation and Vessel Inspection Circular (NVIC) 10-94, "Guidance for Determination and Documentation of the Oil Pollution Act of 1990 (OPA 90) Phaseout Schedule for Existing Single-Hull Vessels Carrying Oil in Bulk," provides a detailed explanation of the applicability of section 4115(a).

151 (1978), any regulations on tankers issued by the Coast Guard should preempt State regulations on the same subject. The Coast Guard believes these Federal requirements are preeminent,

13. Other Comments

The Coast Guard also received several other comments which included the following: Clarify the definition of a double bottom hull; incorporate the strengthened operating procedures and personnel policies used by the Washington State Office of Marine Safety (OMS) because these procedures and policies offer a higher level of protection than Coast Guard regulations; make IMO regulations mandatory rather than optional.
The Coast Guard notes these comments and has reviewed the Washington State Office of Marine Safety procedures and policies. Many of the requirements in this rule complement or parallel these Washington State requirements. Other Washington State requirements are outside the scope of this rulemaking. Certain IMO requirements are made mandatory in this rule; others are not because they are outside the scope of this rulemaking. The term "double bottom hull" is not used in this rule. A vessel that has a double bottom covering the length of the cargo tanks is one that meets the requirement of 33 CFR 157.10.

Solicited Commences

In the preamble of the SNPRM, the Coast Guard solicited comments on various issues relating to this rulemaking. The following discussion addresses the comments made in response to this request.

1. Non-Petroleum Oil

The Coast Guard requested comments on the SNPRM's regulatory impact on vessels that carry only non-petroleum oil. Of the two comments received, one comment writer asserted that the Coast Guard's treatment of animal fat and vegetable oil in the same manner as petroleum oil directly conflicts with the provisions of the Edible Oil Regulatory Reform Act (Pub. L. 104 -- 55, 109 Stat. 546-547 (1995l and, therefore, animal fat and vegetable oil carriers should be exempt. The other comment writer, however, supported extending these regulations to all existing tank vessels carrying non-petroleum oil and remarked that it is economically feasible and environmentally beneficial for these vessels to meet the requirements.
The Coast Guard has addressed animal fat, vegetable oil, and other non-petroleum oil separately in this final rule as required by the Edible Oil Regulatory Reform Act. The Edible Oil Regulatory Reform Act requires federal agencies to differentiate between classes of oils and consider different treatment of these classes, if appropriate. The law does not mandate exemptions. Subparts H and I are now included in 33 CFR part 157 to address these cargoes. The Coast Guard has considered the differences between these cargoes and petroleum cargoes with respect to appropriate operational measures to reduce the risk of an accident on single-hull tank vessels. The development of these operational measures included the presumption that the accidents prevented or mitigated through these measures may result in the loss of the content of an entire cargo tank at one time. As discussed in the SNPRM and in the final rules on Vessel Response Plans (61 FR 1052; January 12, 1996) and Response Plans for Marine Transportation-Related Facilities (61 FR 7890; February 29, 1996), the Coast Guard has determined that bulk spills of animal fat, vegetable oil, and other non-petroleum oil can be damaging to the environment; therefore, the operational requirements for vessels carrying these products are similar to those requirements for petroleum oil carrying vessels in this final rule.

2. Towing Vessel Requirements

The Coast Guard requested comments on the extension of certain towing vessel requirements to the tank barge industry. One comment writer agreed with the Coast Guard and asserted that an owner of a tank barge should be ultimately responsible in the event of a spill and should establish a screening system for selecting safe towing vessels. Several other comments suggested the following: The Coast Guard does not have the legal authority under 4115(b) to place legal obligation upon the tank vessel owner or operator to ensure the competency of individuals assigned to certain duties on primary towing vessels; the minimum rest hour, training, navigational and additional tank barge requirements raise liability questions for tank barge owners who charter a tug and crew from another company and should not shift the burden of compliance to the tank barge owner exclusively; the minimum rest hour requirements. as proposed, are too onerous on towing vessel operators; operational requirements should be included directly into other rulemaking or the final rule should state that the requirement is applicable to the towing vessel with no tank barge owner or operator implication; and barge owners or operators should not be held responsible for the compliance of a primary towing vessel.

The Coast Guard has reviewed these comments and finds that the responsibility of implementing operational measures on tank barges has been appropriately applied to tank barge owners or operators. The ease of implementing these requirements and showing their implementation for tank barge owners and operators. especially as it pertains to leased towing vessel operators, has been addressed in this rule by revising certain sections. The tank barge owner or operator remains responsible for ensuring that certain information is available to the towing vessel master or operator and that certain equipment is onboard the towing vessel. Because the Coast Guard requires the barge owner to be liable for the operation of the barge, the barge owner will actively screen towing vessel operator quality. thus reducing the risk of oil spills from the barge.

3. Economic Impact on Remote Geographic Areas, Tourism, and Fishing

The Coast Guard requested comments on the impact of the SNPRM on areas that are geographically remote, or economically dependent on tourism or fishing. One comment writer, a representative for the Commonwealth of the Northern Mariana Islands (CNMI), a cluster of islands in the Pacific, stated that while the CNMI's economy is heavily dependent upon tourism and fishing and would, therefore, benefit from oil spill prevention, its economy also is dependent upon oil importation for the energy resources needed to maintain its tourism and local economy. This comment writer asserted that if these regulations were applied to vessels serving ports within the CNMI, they would either eliminate their service or raise their prices significantly, causing substantial damage to CNMI's economy. The comment writer requested that the Coast Guard exempt the CNMI or modify the regulations to consider local conditions in remote areas.

The Coast Guard has revised the operational measures, such as under-keel clearance requirements, to ensure that local port conditions are considered. Because the revisions will reduce the risk of an accident from single-hull tank vessels and also be cost effective for tank vessel owners or operators servicing remote locations, an exemption for vessels serving the CNMI is not contained in this rulemaking.

federal register

Thursday
August 8, 1996

Part II

Department of Transportation

Coast Guard

33 CFR Part 154 and 156
Facilities Transferring Oil or Hazardous Materials in bulk: Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard
33 CFR Parts 154 and 156

[CGD 93-056]
RIN 2115-AE59

Facilities Transferring Oil or Hazardous Materials in Bulk

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: The Coast Guard is revising the regulations covering facilities transferring oil or hazardous materials in bulk. These revisions are intended to update and clarify the current regulations. The revisions should result in regulations that are more effective in providing a high level of safety and environmental protection.
DATES: This rule is effective on February 5, 1997. The Director of the Federal Register approves as of February 5, 1997 the incorporation hy reference of certain publications listed in the regulations.
ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G -- LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington. DC 20593 -- 0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT:
Lieutenant Commander, John W. Farthing, Office of Compliance, (202) 267 -- 0505.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 23, l995. the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Facilities Transferring Oil or Hazardous Materials in Bulk" in the Federal Register (60 FR 10044). The Coast Guard received 28 letters commenting on the proposal. One public meeting was requested; however. due to budgetary constraints and limitations imposed by organizational changes. none was held.

Background and Purpose

Until 1990, the regulations covering the transfer of products between vessels and facilities capable of transferring oil or hazardous materials in bulk to or from a vessel with a capacity of 250 barrels or more were contained in two different parts of the Code of Federal Regulations (CFR). Facilities transferring oil in bulk were covered by 33 CFR part 154, while those transferring hazardous materials in bulk were covered by 33 CFR part 126 (Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities)
The Coast Guard consolidated and revised the provisions in part 154 (Facilities Transferring Oil or Hazardous Materials in Bulk) in a final rule published on September 4, 1990 (55 FR 6252). Since that time, numerous comments have been received from industry and Coast Guard personnel about problems arising from implementation of part 154. The NPRM addressed proposed changes to alleviate these problems.
These regulations have also been reviewed under the Coastal Zone Management Act of 1972 (CZMA), (16 U.S.C. 1451 et seq.), as amended, and its implementing regulations, 15 CFR Parts 921, 923, 925, 927, 928, 932 and 933 as promulgated by the National Oceanic and Atmospheric Administration (NOAA). Among other things, the CZMA requires that an applicant for a Federal license or permit to conduct any activity "affecting any land or water use or natural resource of the coastal zone" must provide to the licensing or permitting agency a certification that the proposed activity will comply with the approved Coastal Zone Management Program of any affected State (16 U.S.C. 1456(c)(3)). The CZMA Federal consistency requirements further provide that no Federal license or permit may be granted until the affected State(s) have concurred with the applicant's certification, such concurrence is presumed, or the Secretary of Commerce has found that the activity either is consistent with the CZMA or in the interest of national security (16 U.S.C. 1456(c)(3)(A)).
However, 16 U.S.C. 1456(f) exempts from Federal consistency determinations any requirement imposed by or established pursuant to the Federal Water Pollution Control Act (FWPCA), as amended (33 U.S.C. 1251 et seq.).
Similarly, 16 U.S.C. 1456(e)(1) provides that the CZMA does not diminish Federal or state jurisdiction over the planning, development, or control of water resources, submerged lands, or navigable waters, among other things.
The regulations established in parts 154 and 156 of this rulemaking could appear to implicate the CZMA and its Federal consistency requirement because they require Coast Guard approval for bulk transfers of oil or hazardous materials between facility's and vessels, for approval of a facility's Operations Manual, and for any alternative procedure or equipment used to comply with these regulations. These activities appear to be the type that may affect land or water use or a natural resource of a coastal zone. These requirements are intended to protect the coastal environment. The Coast Guard does not anticipate any conflict between these regulations and a State s coastal zone management plan. However, because these regulations are issued under the authority of the FWPCA, as amended by the Water Quality Act of 1987 (Pub. L. 100 -- 4, 101 Stat. 75) and the Oil Pollution Act of 1990 (Pub. L. 101-380, 104 Stat. 507 et seq.), the Coast Guard finds they are exempt from CZMA consistency requirements under 16 U.S.C. 1456(f). The FWPCA requires the issuance of regulations to prevent the discharge of oil or hazardous materials from vessels and facilities, to require installation and inspection of discharge removal equipment on vessels, and to require monitoring, reporting, and recordkeeping regarding discharges of oil or hazardous materials by facilities (33 U.S.C. 1321(j)(1) (C) and (D), (j)(6) and (m)(2)).
The Coast Guard notes that the existing part 154 and 156 regulations also cite the Ports and Waterways Safety Act (33 U.S.C. 1231) regarding ports and waterways regulations and 46 U.S.C. 3715 regarding lightering; however, those provisions do not address the core purpose of this rulemaking, which is to regulate bulk oil and hazardous materials transfers between facilities and vessels. In contrast, the regulations being implemented today are promulgated under the mandate of the FWPCA and are consequently exempt from the CZMA's Federal consistency requirements (16 U.S.C. 1456(f)).

Discussion of Comments and Changes

The Coast Guard received 28 letters commenting on the NPRM entitled "Facilities Transferring Oil or Hazardous Materials in Bulk" published in the Federal Register on February 23. 1995 (60 FR 10044), and has considered the comments in developing this final rule.

Weights and Measures

Coast Guard regulatory practice is that primary weights and measures be specified in metric units. Therefore, this rule specifies all weights and measures in metric units followed by English equivalents. The conversion of weights and measures ensure that equipment or procedures complying with the English values in the NPRM will also comply with the metric values in this rule.

entities. "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. The majority of facilities are owned by large corporations. The new requirements established by this rule, measured against the proposed relief from other requirements currently in effect, will result in a negligible cost increase for facilities that presently comply with part 154. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule, as adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (0MB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements. This rule contains new collection-of-information requirements in the following sections: 5 154.310 and 5 154.560. The following particulars apply:
DOT No.: 2115.
0MB Control No.: Z115 -- 0078.
Administration: U.S. Coast Guard.
Title: Changes to regulations covering Facilities Transferring Oil or Hazardous Materials in Bulk.
Need for Information: It is required that information, presently kept separately, now be kept in a centralized location. However, little new information is required. Maintaining all records in one location where they are readily accessible will encourage facility owners and operators to be better prepared and thereby help to prevent spills and accidents resulting from improper procedures.
Proposed Use of Information: To determine regulatory compliance.
Frequency of Response: On occasion.
Burden Estimate: 22,632 hours per year.
Respondents: 3,130 operators of bulk oil and hazardous materials transfer facilities.
Form(s): Not applicable.
Average Burden Hours per Respondent: 15.8 hours to prepare and submit an amendment to an existing Operations Manual and 88 hours to prepare and submit a new Operations Manual.

Persons are not required to respond to a collection of information unless it displays a currently valid 0MB control number. This final rule contains information collection requirements which have been approved under 0MB no. 2115 -- 0078 and which expires on July 31, 1996. The Coast Guard has submitted the requirements to 0MB for review and renewal under section 3504(h) of the Paperwork Reduction Act.

The U.S. Coast Guard will publish a notice in the Federal Register prior to the effective date of this final rule of OMB's decision to approve, modify or disapprove the information collection requirements. Individuals and organizations may submit comments on the information collection requirements by October 7, 1996, and should direct them to the Executive Secretary, Marine Safety Council (address above) and to the Office of Information and Regulatory Affairs, 0MB, New Executive Office Bldg., rm 10235, 725 17th St. NW., Washington, DC 20503, Attention: Desk Officer for DOT.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under paragraph 2.B.2.e(34)(A), (D), and (E) of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation.

This rulemaking will have no direct environmental impact. This rulemaking will revise the regulations covering facilities transferring oil or hazardous material in bulk. these revisions will clarify and consolidate the present rules, as well as adding a number of new operational requirements. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **"ADDRESSES".**

List of Subjects
33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Incorporation by reference.

33 CFR Part l56

Hazardous substances, Oil pollution. Reporting and recordkeeping requirements, Water pollution control.
For the reasons set out in the preamble, the Coast Guard is amending 33 CFR parts 154 and 156 as follows:

PART 154 -- FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

1. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. l231, l321(j)(l)(C). (j)(5), (j)(6) and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

Subpart A -- General

2. In § 154.100, paragraph (a) is revised and paragraph (d) is added to read as follows:

§154.100 Applicability.
(a) This part applies to each facility that is capable of transferring oil or hazardous materials, in bulk, to or from a vessel, where the vessel has a total capacity, from a combination of all bulk products carried, of 39.75 cubic meters (Z50 barrels) or more. This part does not apply to the facility when it is in a caretaker status. This part does not apply to any offshore facility operating under the jurisdiction of the Secretary of the Department of Interior.

(d) The following sections of this part apply to mobile facilities:
(1) Section 154.105 Definitions.
(2) Section 154.107 Alternatives.
(3) Section 154.108 Exemptions.
(4) Section 154.110 Letter of Intent.
(5) Section 154.120 Facility examinations.
(6) Section 154.300 Operations Manual: General.
(7) Section 154.310 Operations Manual: Contents. Paragraphs (a)(2), (a)(3), (a)(5) through (a)(7). (a)(9), (a)(12), (a)(14), (a)(16), (a)(17)(ii) through (a)(17)(iv), (a)(18), (a)(20) through (Z3), (c) and (d).
(8) Section 154.320 Operations Manual: Amendment.
(9) Section 154.325 Operations Manual: Procedures for examination.
(10) Section 154.500 Hose assemblies. Paragraphs (a), (b), (c), (4) (1) through (3) and (e)(l) through (3).
(11) Section 154.520 Closure devices.
(12) Section 154.530 Small discharge containment. Paragraphs (a) (1) through (3) and (d).
(13) Section 154.545 Discharge containment equipment.
(14) Section 154.550 Emergency shutdown.

sections 9.1, 9.2. 9.3, and 9.5 of the OCIMF International Safety Guide for Oil Tankers and Terminals (ISGOTT), except that --
(1) Prohibitions in ISGOTT against the use of recirculated wash water do not apply if the wash water is first processed to remove product residues;
(2) The provision in ISGOTT section 9.2.10 concerning flushing the bottom of tanks after every discharge of leaded gasoline does not apply;
(3) The provision in ISGOTT section 9.2.11 concerning that removal of sludge, scale. and sediment does not apply if personnel use breathing apparatus which protect them from the tank atmosphere; and
(4) Upon the request of the facility owner or operator in accordance with § 154.107. the COTP may approve the use of alternative standards to ISGOTT if the COTP determines that the alternative standards provide an equal level of protection to the ISGOTT standards.
(t) Guards are stationed, or equivalent controls acceptable to the COTP are used to detect fires. report emergency conditions, and ensure that access to the marine transfer area is limited to --
(1) Personnel who work at the facility including persons assigned for transfer operations, vessel personnel, and delivery and service personnel in the course of their business;
(2) Coast Guard personnel;
(3) Other Federal. State, or local governmental officials; and
(4) Other persons authorized by the operator.
(u) Smoking shall be prohibited at the facility except that facility owners or operators may authorize smoking in designated areas if --
(1) Smoking areas are designated in accordance with local ordinances and regulations;
(2) Signs are conspicuously posted marking such authorized smoking areas; and
(3) "No Smoking" signs are conspicuously posted elsewhere on the facility.
(v) Warning signs shall be displayed on the facility at each shoreside entry to the dock or berth, without obstruction, at all times for fixed facilities and for mobile facilities during coupling, transfer operation, and uncoupling. The warning signs shall conform to 46 CFR 151.45-2(e)(1) or 46 CFR 153.955.
20. In § 154.740, the introductory text and paragraph (b) are revised and paragraph (j) is added to read as follows

§154.740 Records.
Each facility operator shall maintain at the facility and make available for examination by the COTP:

(b) The name of each person designated as a person in charge of transfer operations at the facility and certification that each person in charge has completed the training requirements of § 154.710 of this part;

(j) If they are not marked as such, documentation that the portable radio devices in use at the facility under §154.560 of this part are intrinsically safe.

PART 156 -- OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

21. The authority citation for part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, l321(j)(1) (C) and (D); 46 U.S.C. 3715; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351, 49 CFR 1.46. Section 156. l20(bb) is issued under the authority of section 4110, Pub. L. 101 -- 380, 104 Stat. 515.

Subpart A -- Oil and Hazardous Materials Transfer Operations

22. Section 156.110 is amended by revising paragraphs (a) introductory text and (d) to read as follows:

§156.110 Exemptions.
(a) The Chief, Marine Safety and Environmental Protection, acting for the Commandant, may grant an exemption or partial exemption from compliance with any requirement in this part. and the District Commander may grant an exemption or partial exemption from compliance with any operating condition or requirement in subpart C of this part, if:

(d) An exemption is granted or denied in writing. The decision of the Chief, Marine Safety and Environmental Protection is a final agency action.
23. In § 156.120, the introductory text and paragraphs (f) and (w)(5) are revised and paragraphs (cc) and (dd) are added to read as follows:

§156.120 Requirements for transfer.
A transfer is considered to begin when the person in charge on the transferring vessel or facility and the person in charge on the receiving facility or vessel first meet to begin completing the declaration of inspection, as required by õ 156.150 of this part. No person shall conduct an oil or hazardous material transfer operation unless:

(f) The end of each hose and loading arm that is not connected for the transfer of oil or hazardous material is blanked off using the closure devices required by §§154.520 and 155.805 of this chapter;

(w) *
(5) Details of the transferring and receiving systems including procedures to ensure that the transfer pressure does not exceed the maximum allowable working pressure (MAWP) for each hose assembly, loading arm and/or transfer pipe system;

(cc) Smoking is not permitted in the facilities marine transfer area except in designated smoking areas.
(dd) Welding, hot work operations and smoking are prohibited on vessels during the transfer of flammable or combustible materials, except that smoking may be permitted in accommodation areas designated by the master.
24. In § 156.150, paragraphs (c) (3) and (c)(5) are revised and paragraph (c)(6) is added to read as follows:

§156.150 Declaration of inspection.

(c) *
(3) The date and time the transfer operation is started;

(5) A space for the date, time of signing, signature, and title of each person in charge during transfer operations on the transferring vessel or facility and a space for the date, time of signing, signature, and title of each person in charge during transfer operations on the receiving facility or vessel certifying that all tests and inspections have been completed and that they are both ready to begin transferring product; and
(6) The date and time the transfer operation is completed.

25. In § 156.170, paragraphs (c) (1) (i), (c) (1) (iv) and (f) (1) are revised, paragraph (f) (2) is revised and redesignated as (f1(3) and paragraphs (f) (2) and (h) are added to read as follows:

§ 156.170 Equipment tests and inspections.

(c) * * *

(i) Have no unrepaired loose covers, kinks, bulges, soft spots or any other defect which would permit the discharge of oil or hazardous material through the hose material. and no

Guidelines for Classifying
Oil Spill Removal Organizations

Table of Contents

Introductory Letter from RADM J. C. Card
Chief, Office Marine Safety, Security and Environmental Protection

16465
December 28, 1995

Attached are the revised guidelines for conducting the Coast Guard's Oil Spill Removal Organization

(OSRO) program. Navigation and Vessel Inspection Circular (NVIC) No. 12-92 is no longer in effect.

The Coast Guard created the voluntary OSRO classification program so that facility and vessel response plan holders could list Coast Guard "evaluated" OSROs in response plans in lieu of providing voluminous detailed lists of response resources. This was, and still is, the only regulatory benefit plan holders receive from utilizing Coast Guard classified OSROs. OSROs and plan holders participate and use the classification program on a strictly voluntary basis.

After the implementation of NVIC 12-92, weaknesses were identified in the classification process that prevented the program from realistically representing the geographic response capabilities of an OSRO. The Coast Guard held public workshops in January 1994 and June 1995 to solicit input for a revised program. Based on the input received from the workshops and from written and verbal comments, draft revised guidelines were developed and released for public review and comment in September 1995.

The Coast Guard received 70 comprehensive, well written and constructive comments on the draft OSRO guidelines. As a result of the comments received, and our own review, the draft has undergone many changes. Many of the public comments have been incorporated into the final guidelines. The cooperation of OSROs, plan holders, and state and federal agencies has been essential to the development of a program which will allow all of us to better meet the intent of the Oil Pollution Act of 1990 (OPA 90).

We continue to stress that using a Coast Guard classified OSRO does not in anyway relieve plan holders of the responsibility to ensure that their specific response needs are met. The revised classification guidelines provide a good indication of an OSRO's response capability by Captain of the Port zone. They do not, however, represent a "one size fits all" solution. Using the computer system, when it comes on line, will allow us to accurately and consistently calculate an OSRO's capability to respond to specific plan holder requirements.

One issue that deserves particular discussion is that of dedicated versus non-dedicated resources. Ideally, dedicated resources provide more of a timely response "guarantee" than non-dedicated resources but, historically, the response industry has depended to varying degrees on non-dedicated resources to meet some critical response functions. We recognize that non-dedicated resources are a valuable tool during response operations. To better ensure the availability of these resources, we have required a redundancy factor of 2: I when using non-dedicated response resources. This means that an OSRO depending on non-dedicated resources must ensure the availability of non-dedicated response resources by contract or other approved means in quantities equal to twice what they actually require of the non-dedicated resources. We plan to use random spot checks to verify the "availability" of ail response resources.

The thrust of OPA 90 is to develop private sector responsibility for all aspects of oil spill response planning. Realistic response capability is a crucial link in this process, so the emphasis on a comprehensive OSRO classification process is well placed. The revised guidelines will give planners a much better tool to use in gauging a classified OSRO's potential to meet specific planning requirements.

Any questions regarding the revised OSRO guidelines should be directed to Lieutenant Terry Hoover at (202) 267-0448.

We in the Coast Guard appreciate the interest shown in this project by plan holders, OSROs, state and federal agencies, and many others. We believe the revised guidelines are significantly better than the previous ones. They represent a partnership among groups that will allow us to better preserve our environment for future generations.

Sincerely,
J. C. Card
Rear Admiral, U.S. Coast Guard
Chief, Office of Marine Safety,

Security, and Environmental Protection
GUIDELINES FOR CLASSIFYING
OIL SPILL REMOVAL ORGANIZATIONS (OSROS)

SECTION 1: INTRODUCTION

Purpose

The Oil Spill Removal Organization (OSRO) classification process was developed to facilitate the preparation and review of vessel and facility response plans. Section 4202 of the Oil Pollution Act of 1990 (OPA 90) amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) to require the preparation and submission of response plans for all vessels defined as "tank vessels" under 46 U.S.C. 2101 and for certain oil-handling facilities. An owner or operator who is required to submit a response plan must, among other things, identify and ensure by contract, or other means approved by the President, the availability of private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge.

The magnitude of the investment in specialized oil recovery equipment, temporary storage capacity, transporting oil for disposal, and in training sufficient numbers of personnel to remove such a discharge, in all foreseeable locations and operating environments, is unprecedented for marine environmental response preparation. The system for assembling, mobilizing, and controlling these resources is extremely complex. To meet the statutory requirements, each response plan must identify the means for accomplishing these tasks.

The OSRO classification process represents standard guidelines by which the Coast Guard and plan preparers can evaluate an Oil Spill Removal Organization's potential to respond to and recover oil spills of various sizes. Plan holders that arrange for the services of a Coast Guard classified OSRO do not have to list their response resources in their plans.

Applicability

The OSRO classification process is a strictly voluntary process in which OSROs can participate and plan holders can utilize for planning purposes. An OSRO does not have to be classified and owners or operators do not have to limit their response resources to Coast Guard classified OSROs.

As already indicated, however, plan holders that use Coast Guard classified OSROs are exempt &om the requirement to list their response resources in their plans. Coast Guard classification of an OSRO does not relieve an owner or operator of their ultimate statutory responsibility to ensure the adequacy of the spill response resources identified in a response plan.

Definitions

a. Classification is a process for identifying oil spill removal organizations within specified geographic locations on the basis of their ownership or control of specialized equipment and trained personnel to remove oil from the environment.

b. Containment boom/Protective boom are descriptive terms describing the intended use of the boom. The Vessel Response Plan regulations require a plan holder to have available a specific amount of boom for shoreline protection purposes. The regulations require containment boom, used for recovery purposes, in addition to the specific protective boom requirements.

c. Effective Daily Recovery Capacity (EDRC) means a calculated oil recovery capacity of oil recovery devices determined by using a formula that takes into account limiting factors such as daylight, weather,

sea state, and emulsified oil in the recovered material.

d. Exclusive economic zone (EEZ) means the zone contiguous to the territorial sea of the United States, extending to a distance up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

e. Great Lakes means Lakes Superior, Michigan, Huron, Erie, and Ontario; their connecting and tributary waters; the Saint Lawrence River as far as Saint Regis; and adjacent port areas.

f. Inland area means the area shoreward of the boundary lines defined in 46 CFR part 7, except that in the Gulf of Mexico, it means the area shoreward of the line of demarcation (COLREG lines) as defined in Sections 80.740 - 80.850 of 33 CFR Chapter I. The inland area does not include the Great Lakes or rivers and canals areas.

g. Nearshore area means the area extending seaward 12 miles &am the boundary lines defined in 46 CFR part 7, except that in the Gulf of Mexico it means the area extending seaward 12 miles from the line of demarcation (COLREG lines) as defined in Sections 80.740 - 80-850 of 33 CFR Chapter I.

h. Non-persistent or Group I oil means a petroleum-based oil that, at the time of shipment. consists of hydrocarbon fractions-

(1) At least 50% of which by volume, distill at a temperature of 340 degrees C (645 degrees F); and

(2) At least 95% of which by volume, distill at a temperature of 370 degrees C (700 degrees F).
i. Ocean means the open ocean, offshore area, and nearshore area as defined in this document.

j. Offshore area means the area up to 38 nautical miles seaward of the outer boundary of the nearshore area.

k. Oil Spill Removal Organization (OSRO) means any person or persons who own or otherwise control oil spill removal resources that are designed for, or are capable of, removing oil &om the water or shoreline. Control of such resources through means other than ownership includes leasing or subcontracting of equipment or, in the case of trained personnel, by having contracts, evidence of employment, or consulting agreements. OSROs provide response equipment and services, individually or in combination with subcontractors or associated contractors, under contract or other means approved by the President, directly to an owner or operator of a tank vessel or facility required to have a response plan under 33 U.S.C. l321(j)(5). OSROs must be able to mobilize and deploy equipment or trained personnel and remove, store, and transfer recovered oil. Persons such as sales and marketing organizations (e.g., distributorships and manufacturer's representatives) that warehouse or store equipment for sale are not OSROs.

l. Open ocean means the area from 38 nautical miles seaward of the outer boundary of the nearshore area, to the seaward boundary of the EEZ.

m. Operating area means Rivers and Canals, Inland, Great Lakes, Nearshore, Offshore, or Open Ocean. These terms are used to define the geographic location(s) in which a vessel or facility is handling, storing, or transporting oil

n. Operating environment means Rivers and Canals, Inland, Great Lakes, or Ocean. These terms are used to define the conditions in which response equipment is designed to function.

o. Persistent oil means a petroleum-based oil that does not meet the distillation criteria for a non-persistent oil. For the purposes of this document, persistent oils are further classified based on specific gravity as follows:

(1) Group II - specific gravity less than.85.
(2) Group III - specific gravity between .85 and less than .95.
(3) Group IV - specific gravity .95 to and including 1.0.
(4) Group V - specific gravity greater than 1.0.

p. Response Resource Inventory (RRI) is the database of oil spill response resources developed by the Coast Guard in response to the requirements of the Oil Pollution Act of 1990.

q. Rivers and canals means bodies of water, including the Intracoastal Waterways and other waterways artificially created for navigation, confined within the inland area that have a project depth of 12 feet or

less.

r. Shallow draft capable means equipment is capable of operating in waters of 6 feet or less depth.

s. Temporary storage capacity means, for the purposes of classification, sufficient storage capacity equal to twice the EDRC of an OSRO. Temporary storage capacity may include inflatable bladders, rubber barges, certificated barge capacity, or other temporary storage that is capable of being utilized on scene at a spill response and which is designed and intended for storage of flammable or combustible liquids. It does not include vessels or barges of opportunity for which no prearrangements have been made. Fixed shore-based storage capacity, ensured available by contract or other approved means, will be acceptable.

SECTION 2: CLASSIFICATION DETAILS

Geographic Specific Classification

The Coast Guard's National Strike Force Coordination Center (NSFCC) classifies OSROs by Captain of the Port (COTP) zones. Classification is assigned based on the information supplied by each OSRO for inclusion in the computer based Response Resource Inventory (RRI). Participation in the RRI is mandatory for an OSRO to receive classification. Using response times and discharge quantiaes specified in the facility and vessel response plan regulations (33 CFR 154/ I 55), and using equipment requirements as specified in the regulations and this document, NSFCC determines the appropriate classification(s) for each OSRO in each COTP zone.

The RRI program automatically takes into account the response capability of an OSRO (using travel speeds specified in the regulations). The maximum response time specified in the regulations is 72 hours (vessel Tier 3 Worst Case Discharge), so the computer generated classification may indicate the capability (travel speed x response time + resources) to respond to a spill in a COTP zone distant &om an OSRO's normal area of response operations. If an OSRO desires to limit its response capability to a selected COTP zone(s), it should indicate this desire in its application. The verification visits conducted by the Coast Guard will confirm the cascading capability of an OSRO that claims remote response capability.

OSRO classifications for each COTP zone are based on a specific geographic location. This location is either the latitude and longitude of the COTP city or the latitude and longitude of a city within the COTP zone that an OSRO specifies. For oceans classification, a position 50 nautical miles seaward of the entrance to the port (COTP city/specified city) is used for classification purposes. Due to the location of the following COTP cities in relation to the boundary line defined in 46 CFR 7, the alternate cities listed below will be utilized, in lieu of the specified COTP cities, to calculate classifications in the oceans environment only:

COTP:	Alternate City:
Baltimore	Ocean City, MD
Philadelphia	Cape May, NJ
Puget Sound	Port Angeles, WA
Portland, OR	Astoria, OR
Anchorage	Homer, AK

Because of the necessity to issue a classification based upon a specific location, an OSRO's actual capability to respond within a COTP zone may vary in relation to its classification. For example, an OSRO may be classified as a "C" Inland for a COTP zone; it may, however, be able to meet the "A" Inland needs of a customer located between the OSRO and the city its classification is based on. The opposite is also true; the "C" Inland classified OSRO may not meet any needs at a location on the other side of the city the classification is based on. The Coast Guard issued classification is only an indication of an OSRO's capability to respond within a COTP zone. Planholders must utilize an OSRO(s) capable of meeting specific response needs.

If the COTP city/specified city is a high volume port, the stricter response times will be used for classification purposes. The designated higher volume port areas are another factor OSROs and planholders must take into account when determining individual plan specific response needs.

The vessel and facility response regulations require planholders to ensure the availability of response resources by contract or other approved means. OSROs must meet these same requirements for all resources (dedicated, non-dedicated, owned and non-owned equipment and personnel) that they claim for classification purposes, including temporary storage and vessels intended to deploy cascaded resources. At the minimum, this requires a written document between the resource supplier and the OSRO which identifies the equipment, personnel, and services intended to be provided in the event of a response. The identified resources must be capable of being provided within stipulated response times in specified geographic areas.

Even though dedicated response resources are ideal, OSROs may utilize non-dedicated resources, If an OSRO elects to use non-dedicated resources, there must be a redundancy factor of 2: i. This means the OSRO must ensure the availability of non-dedicated response resources by contract or other approved means in quantities equal to twice what the OSRO requires of the non-dedicated resources.

As mandated in the regulations, all response times are based on the time of discovery of a discharge. Response times, travel speeds, and the ability to provide recovery systems are ail factors in the classification of OSROs. For classification purposes, travel speed for land transit calculations is 35 miles per hour; travel speed for water transit calculations is 5 knots. If OSROs adequately demonstrate that their response resources are capable of quicker transit speeds than those specified in the regulations, classification may be based on demonstrated transit speeds (including air transit if applicable).

Boom properties for each operating environment are detailed in Table 1 in 33 CFR l54 and 155. Even though the boom properties identified for each operating environment are those that are generally best suited for the environment, waivers may be granted to use boom other than the recommended best suited boom in an environment. An OSRO may receive classification credit for an operating environment using other than the best suited boom for that environment only if the applicable COTP concurs. COTP concurrance is essential due to their knowledge of boom performance relative to the unique local conditions (currents, tides, water depth, etc.) that make a waiver feasible.

Plan holders must evaluate OSROs based on distances stated in the regulations. For a facility, the distance from the storage location of the response resources must be used to determine response time. For a vessel, the farthest distance the vessel operates &am the storage location of the response resources must be used to determine whether the resources are capable of arriving on scene within the time required.

OSROs that have designated equipment to meet state resident equipment requirements must indicate this on their OSRO application. For classification purposes, designated resident equipment is not cascadable outside of the area for which it is designated. In addition, OSROs must indicate on their application whether or not they have the owned or contracted capability to conduct shoreline cleanup operations and whether or not this service is available to planholders.

Systems Approach

During the Coast Guard's evaluation of an OSRO, the systems approach is used. The three components evaluated to classify an OSRO within specific classification levels are containment, recovery, and storage devices. These ail have specific elements, such as connectors and anchors for booms and pumps and hoses for recovery devices. Skimmers without boom to contain the oil or without temporary storage to store the oil are essentially useless in a response. Classification will be issued based upon the response system capability documented by an OSRO and verified by the Coast Guard.

Fixed storage capacity may be located at or near the scene of a spill, so a combination of mobile temporary storage and fixed temporary storage may be adequate to allow an OSRO to conduct efficient response operations. An OSRO that operates in an area where fixed storage is a realistic asset may claim fixed storage as meeting part of an OSRO's temporary storage requirement. The key factor that the Coast Guard will evaluate is whether the temporary storage an OSRO has identified will allow the OSRO to sustain its classified EDRC throughout spill response operations.

In addition to the above requirements, an OSRO's classification within a COTP Zone is limited by the lowest rated component of the recovery system. For example, if an OSRO has a EDRC of 10,000 bbls/day, but only has an ensured available temporary storage capacity of 14,000 bbls/day, then its recovery capacity

is limited to 7,000 bbls/day (by regulation, temporary storage capacity must be twice EDRC).

Even though containment, recovery, and storage devices are used for classification purposes, they alone do not constitute a response system. Other equally important components that are evaluated as part of the system include:

l. personnel with appropriate training
2. proper equipment for the operating environment
3. logistical/sustainability capability
4. alternate response techniques (only if an OSRO claims this capability in order to reduce a planholder's mechanical recovery requirements)

These other factors can vary greatly depending on operating environments, cascading capability, and equipment utilized in response operations, so numerical limits are impractical. The Review Process section of this guide contains a list of some of the items that Coast Guard personnel consider when verifying the capability of an OSRO. An OSRO must have the capability to effectively deploy and operate equipment and sustain response operations in order to receive Coast Guard classification. Classification by the Coast Guard does not guarantee or predict operational performance. Plan holders should consider the actual response history of an OSRO in conjunction with the classification process and the plan holder's evaluation of an OSRO to determine if an OSRO can meet the plan holder's needs.

Proper equipment for the operating environment must be stressed. For example, an ocean capable deck barge that could be used for oil storage equipment would have to consider Load Line, Certificate of Inspection, and Shipboard Oil Pollution Emergency Plan requirements. Vacuum trucks will be limited to shoreline response unless there is a documented capability to utilize them via proper marine transportation. All vessels used in recovery operations must be appropriate for the grade of oil recovered. Certificate of Inspection service, routes, and conditions of operation must be adhered to. Vessels that do not require certification must be registered in accordance with state or federal laws and regulations.

Coastal facilities may be located on or near the dividing line between the Inland and Oceans environments. For on-shore facilities that lie outside of the boundary line or the line of demarcation (see Inland definition), the COTP will determine if Inland or Oceans response capability is required.

Classifications

OSROs are classified geographically with letter designations, A through E, by removal capacity and response times.

OSROs are classified for four different operating environments: rivers and canals, inland, Great Lakes, and oceans. The oceans operating environment includes the nearshore, offshore, and open ocean operating areas as defined in the regulations. The equipment operating parameters for the three operating areas incorporated in oceans are the same, so it is a logical OSRO classification. For VRP/FRP planning purposes, however, the three operating areas incorporated in the oceans classification have different removal capacity and mobilization calculation factors. Plan holders must be aware of the distinction between operating environments and operating areas.

As noted earlier, OSROs are now classified by COTP zone for resource availability. A computer program uses the information submitted by OSROs in the RRI format to calculate classifications based on a specific geographic location(s) within each COTP zone. Classifications correspond to planning quantities and time requirements as outlined in Section 5: Classification Requirements.

Each classification stands on its own; an "E" classification indicates the capability to meet "E" classification requirements; the "E" does not automatically include the capability to meet the requirements for "A", "B", "C", or "D".

Classification does not predict operational performance or relieve an owner or operator from the requirement to consider response times and cargo volumes in the planning process. The use of a classified OSRO does not relieve an owner or operator of the statutory responsibility to effectively and promptly remove spilled oil from the environment.

SECTION 3: APPLICATION PROCESS

Any OSRO may apply for classification. The Coast Guard classifies applicants on the basis of their estimated capacity to remove oil from the marine environment, as calculated from the information provided in the application. In order for an application to be accepted, all pertinent data fields must be completed in the RRI application package. If an OSRO wants to limit the COTP zones for which it will be evaluated, or if an OSRO wants to limit the operating environments for which it will be classified, it must note this in the application package. If an OSRO does not otherwise specify, the computer program will evaluate the OSRO using all classification parameters for all applicable COTP zones.

An OSRO seeking classification shall supply information about its equipment and personnel inventory in the format specified in the RRI instructions. The information must be clear, concise, and complete. Incomplete applications will not be processed.

The applicant shall identify the latitude and longitude of the locations from which oil spill response resources will be mobilized. The applicant shall also identify the COTP zones) in which response resources are located.

OSROs that do not want public availability to the data they supply the Coast Guard should indicate this in their application. Even though the raw data used to calculate classifications may not be available to the public, the resulting classification(s) matrix with resource totals must be publicly available to ensure the viability of the classification process.

An applicant shall attest in writing that the factual information provided regarding the applicant's response equipment and personnel is correct to the best of the applicant's knowledge and belief. The applicant shall agree to be visited by Coast Guard personnel for the purpose of verifying the information contained in the application. All response resources identified for classification purposes are subject to verification visits.

An OSRO may request an application from or submit an application to the following address:

Commanding 0fficer
USCG National Strike Force Coordination Center (NSFCC)
(Attn: OSLO CLASSIFICATIONREVIEQ
146(N. Road Street (U.S. 17 North)
Elizabeth City, NC 27909

The NSFCC can be reached by telephone at (919) 331-6000 or by facsimile at (919) 331-6012. A classified OSRO shall notify, within 24 hours, the NSFCC and the Captain of the Port (COTP) of the zone in which the OSRO's resources are located of significant changes in response capability that might effect the classification and the OSRO's ability to respond to a spill as planned. A "significant" change is a reduction in the OSRO's classified capacity by a factor of 10% for a period of 48 hours or longer.

SECTION 4: REVIEW PROCESS

Resource Assessment

An applicant's resources will be evaluated on the basis of the information provided, the process described in this guidance, and the information provided in the facility and vessel response plan regulations. When assigning OSROs to one or more response classes, the quantity of equipment, its designed purpose, the planning capacity of the resources identified in the application, and the number of trained response personnel will be considered. Incomplete applications will be returned to the applicant immediately with an explanation of the deficiency.

After completing the review of the information provided by the applicant, the Coast Guard will issue an interim letter of classification identifying removal capacity, operating environments), and COTP zone(s). The interim classification letter will remain in effect until a verificauon visit is conducted by the Coast Guard. A final classification letter, valid for three years, will be issued upon completion of verification visits and final review of the findings of these visits.

Coast Guard verification visits, PREP drills, random resource availability spotchecks, actual responses, or information gathered during the course of normal business may, from time to time, give the Coast Guard reason to suspend or revoke an interim or final classification. In ail circumstances, the Coast Guard will give the OSRO written notice of the OSRO's potential classification suspension or revocation. Upon receipt of the written suspension or revocation notice, an OSRO will have the opportunity to document that its capability still justifies its classification. If the OSRO cannot document its capability, its classification will be suspended or revoked, as applicable. Restoration of a revoked classification will require a new application and verification visit. Review for reclassification may be initiated by either the Coast Guard or the OSRO.

The NSFCC is responsible for implementing and conducting the OSRO classification program. There may be times when an OSRO does not agree with a determination by NSFCC personnel on, for example, the suitability of equipment to perform in a designated operating environment. An OSRO may appeal NSFCC decisions, via NSFCC, to:

Commandant (G-MOR-3)
U.S. Coast Guard
2100 Second Street, S.W.
Washington, DC 20593-0001
(202) 267-261 I

Inspection and Verification

After reviewing the application and issuing an interim classification, the Coast Guard will assign a team to visit the OSRO and inspect and validate the resources identified in the application. The inspection team will normally include members &am the National Strike Force and the local Marine Safety Office (MSO), and may include other state and federal agency representatives. OSROs will be contacted by the NSFCC to schedule all verification visits. A final classification will be issued upon completion of verification visits.

The primary purpose of verification visits is to audit the OSRO's equipment and personnel inventory, inspect the personnel training records, inspect equipment maintenance records, verify agreements for non-owned resources, verify equipment condition, and to conduct an overall assessment of the accuracy of the OSRO's representations. The audit is a quality assurance check of the equipment and trained personnel and not a guarantee of performance. If the OSRO's equipment and personnel status does not accurately reflect the information provided in the application, the Coast Guard will issue the final classification at a level which appropriately reflects its actual resources.

The OSRO should ensure that its equipment is in good operating condition, that preventive maintenance is performed as recommended by the manufacturer, that equipment is transportable, and that there is compatibility between system components. Equipment that is inoperable, not mobile or transportable, or that has incompatible system components may not be counted toward overall removal capacity for the purposes of classification. The verification team may consider, among other conditions, the following:

(1) Booms:
(a) Overall condition
(b) Evidence of ownership, lease, or subcontract
(c) Manufacturer, type and quantity
(4) Compatibility of connectors
(e) Number and adequacy of anchors
(f) Transportability
(g) Planned operating environment(s)
(2) Recovery Devices:
(a) Skimmers and vacuum trucks
(b) Evidence of ownership, lease, or subcontract
(c) Manufacturer, type, model and throughput capacity
(4) Compatibility of components (hoses, suction and kimmer head, couplings, connectors, etc.)
(e) Operability and maintenance
(f) Condition of the prime mover and other supporting equipment
(g) Holding capacity

(h) Planned operating environment(s)
(3) Oil Spill Recovery Vessels
(a) Small skimming vessels, small recovery vessels, recovery vessels, tank vessels
(b) Evidence of ownership, lease, or subcontract
(c) Operability and maintenance
(4) Storage capacity
(e) Inspection/Certification
(f) Planned operating environments
(g) Grade of oil carried
(h) Off-load capability
(i) Length, beam, draft, range. transit speed, crew size
(4) Temporary Storage Devices:
(a) Evidence of ownership, lease, or subcontract
(b) Manufacturer, type, model (as applicable)
(c) Capacity (twice the daily capacity of recovery devices)
(d) Inspected and maintained in accordance with manufacturer's recommendations

(e) Contracted barges with current certificates
(f) Planned operating environments
(g) Grade of oil carried
(h) Location of fixed storage
(5) Boats:

(a) Sufficient numbers of trailers, outboard motors and USCG-required safety equipment (life jackets, lights, etc.)

(b) Types and number of boats appropriate to the environment of the classification
(c) Operability and maintenance
(4) Length, beam, draft, range, transit speed, crew size
(e) Adequate working platform for oil spill response
(f) Certification/registration
(6) Records:
(a) Equipment clearly marked for identification
(b) Records supporting claims of ownership, lease, or subcontract
(c) Complete maintenance records reflecting condition of the equipment
(4) personnel training records

Prior to the Coast Guard's visit, the OSRO should check personnel records and subcontracting or consulting agreements to verify the number and availability of trained personnel listed in the application. Minimum training should include HAZWOPER training (29 CFR 1910.120). The numbers of personnel may vary from one OSRO to another depending upon unique needs, classification, and the requirements of major equipment. However, the OSRO may use the following schedule to estimate the number of trained personnel needed to accomplish certain response tasks:

(1) Boats: 2 people per boat (or as per Certificate of Inspection)

(2) Boom deployment: 2-5 people per 1000' of boom', depending upon overall height, weather, current, etc. (probably 2 in harbor environments and 5 in open ocean or high current)

(3) Skimmers: 1-3 people per skimmer, depending on configuration and operating requirements
(4) Storage devices: At least 1 person per storage device

- Numbers are not necessarily cumulative.

The OSRO should be prepared to demonstrate the readiness of its personnel resources, including the following:

(I) Records should verify that training for oil spill response is in accordance with the requirements of 29 CFR 1910.120 (HAZWOPER).

(2) The number of trained personnel employed, subcontracted, or gained through consulting agreemenrs should' equal the resources identified by the OSRO in the application.

(3) There should be a demonstrated capability to train sufficient numbers of "surge" personnel in the time allowed by the response classification for which the OSRO has applied.

Reinspection

At the end of the three year classification period, an OSRO will be revisited by a Coast Guard verification team in order to maintain its classification. In between verification visits, the Coast Guard will conduct random spot checks to confirm resource availability and equipment operability.

SECTION 5: CLASSIFICATION REQUIREMENTS

RIVER AND CANALS ENVIRONMENT

The minimum equipment standards and the maximum response times for classifying OSROs for planned response to spills in a rivers and canals environment are listed below and summarized in Table l. All equipment to be used in this environment must be capable of operating in 1 foot wave heights. Additional boom requirements are:

Boom height (inches, draft plus freeboard) - 6-18
Reserve Buoyancy to Weight Ratio - 2: 1
Total Tensile Strength (1bs) - 4500
Skirt Fabric Tensile Strength (1bs) - 200
Skirt Fabric Tear Strength (lbs) - 100

a: Class A - 50 Bbl/day Recovery
(1) Containment/Protective boom: 2,000 feet total.
(2) Oil recovery equipment (skimmers, vacuums, etc.): 50 Bbl/day of effective daily recovery capacity.
(3) Recovered oil storage: 100 Bbl of temporary storage capacity.
(4) Boom deployment response time: 1 hour.
(5) Oil recovery equipment and temporary storage response time: 2 hours.

b. Class B - 1,250 Bbl/day Recovery
(I) Containment boom: 4,000 feet.
(2) Protective boom: 4,000 feet
(3) Oil recovery equipment (skimmers, vacuums, etc.): 1,250 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 2,500 Bbl of temporary storage capacity.
(5) Facility response times: 6 hours for high volume ports; all other locations 12 hours.
(6) Vessel response times: 12 hours for high volume ports; all other locations 24 hours.

c. Class C - 1,500 Bbl/day Recovery
(1) Containment boom: 4,000 feet.
(2) Protective boom: 10,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 1,500 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 3,000 Bbl of temporary storage capacity.
(5) Facility response times: 6 hours for high volume ports; ail other locations 12 hours.
(6) Vessel response times: l2 hours for high volume ports; ail other locations 24 hours

d. Class D - 3,000 Bbl/day Recovery
(1) Containment boom: 4,000 feet.
(2) Protective boom: 16,000 feet.
(3) Oil recovery equipment (skimmers. vacuums, etc.): 3,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 6,000 Bbl of temporary storage capacity.
(5) Facility response times: 30 hours for high volume ports; all other locations 36 hours.
(6) Vessel response times: 36 hours for high volume ports; all other locations 48 hours.

e. Class E - 6,000 Bbl/day Recovery

(1) Containment boom: 4,000 feet.
(2) Protective boom: 22,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 6,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 12,000 Bbl of temporary storage capacity.
(5) Facility response times: 54 hours for high volume ports; all other locations 60 hours.
(6) Vessel response times: 60 hours for high volume ports; all other locations 72 hours.

GREAT LAKES ENVIRONMENT

The minimum equipment standards and the maximum response times for classifying an OSRO for planned response to spills in a Great Lakes environment are listed below and summarized in Table 2. Ail equipment to be used in this environment must be capable of operating in 4 foot wave heights. Additional boom requirements are:

Boom height (inches, draft plus freeboard) - 18-42
Reserve Buoyancy to Weight Ratio - 2:1
Total Tensile Strength (lbs) - 15-20,000
Skirt Fabric Tensile Strength (lbs) - 300
Skirt Fabric Tear Strength (1bs) - 100

a. Class A - SO Bbl/day Recovery
(l) Containment/Protective boom: 2,000 feet total.
(2) Oil recovery equipment (skimmers, vacuums, etc.): 50 Bbl/day of effective daily recovery capacity.
(3) Recovered oil storage: 100 Bbl of temporary storage capacity.
(4) Boom deployment response time: 1 hour.
(5) Oil recovery equipment and temporary storage response time: 2 hours.

b. Class B - 1p50 Bbl/day Recovery
(1) Containment boom: 6,000 feet.
(2) Protective boom: 6,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 1,250 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 2500 Bbl of temporary storage capacity.
(5) Facility response times: 6 hours.
(6) Vessel response times: 12 hours.

c. Class C - 5,000 Bbl/day Recovery
(1) Containment boom: f2,000 feet.
(2) Protective boom: 12,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 5,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 10,000 Bbl of temporary storage capacity.
(5) Facility response times: 12 hours.
(6) Vessel response times: 18 hours.

d. Class D - 10,000 Bbl/day Recovery
(I) Containment boom: 18,000 feet.
(2) Protective boom: 18,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 10,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 20,000 Bbl of temporary storage capacity.
(5) Facility response times: 36 hours.
I. Vessel response times: 42 hours.

e. Class E - 20,000 Bbl/day Recovery
(I) Containment boom: 24,000 feet.
(2) Protective boom: 24,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 20,000 Bbls/day of effective daily recovery capacity.
(4) Recovered oil storage: 40,000 Bbl of temporary storage capacity.
(5) Facility response times: 60 hours,
(6) Vessel response times: 66 hours.

INLAND ENVIRONMENT

The minimum equipment standards and the maximum response times for classifying an OSRO for planned response to spills in an inland environment are listed below and summarized in Table 3. All equipment to be used in this environment must be capable of operating in 3 foot wave heights. Additional boom requirements are:

Boom height (inches, draft plus freeboard) - 18-42
Reserve Buoyancy to Weight Ratio - 2:1
Total Tensile Strength (lbs) - 15-20,000
Skirt Fabric Tensile Strength (lbs) - 300
Skirt Fabric Tear Strength (lbs) - 100

a. Class A - 50 Bbl/day Recovery

(I) Containment/Protective boom: 2,000 feet total.
(2) Oil recovery equipment (skimmers, vacuums, etc.): 50 Bbl/day of effective daily recovery capacity.
(3) Recovered oil storage: 100 Bbl of temporary storage capacity.
(4) Boom deployment response time: 1 hour
(5) Oil recovery equipment and temporary storage response time: 2 hours.

b. Class B - 1,250 Bbl Recovery

(1) Containment boom: 6,000 feet.
(2) Protective boom: 6,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 1,250 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage. 2,500 Bbls of temporary storage capacity.
(5) Facility response times: 6 hours for high volume ports; all other locations 12 hours.
(6) Vessel response times: 12 hours for high volume ports; all other locations 24 hours.

c. Class C - 10,000 Bbl/day Recovery

(1) Containment boom: 12,000 feet.
(2) Protective boom: 12,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 10,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 20,000 Bbls/day of temporary storage capacity.
(5) Facility response times: 6 hours for high volume ports; all other locations 12 hours.
(6) Vessel response times: 12 hours for high volume ports; all other locations 24 hours.

d. Class D - 20,000 Bbls/day Recovery

(1) Containment boom: 1 8,000 feet.
(2) Protective boom: 18,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 20,000 BbV day of effective daily recovery capacity.
(4) Recovered oil storage: 40,000 Bbls of temporary storage capacity.
(5) Facility response times: 30 hours for high volume ports; all other locations 36 hours.
(6) Vessel response times: 36 hours for high volume ports; all other locations 48 hours.

e. Class E - 40,000 Bbl/day Recovery

(1) Containment boom: 24,000 feet.
(2) Protective boom: 24,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 40,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 80,000 Bbls of temporary storage capacity
(5) Facility response times: 54 hours for high volume ports; ail other locations 60 hours.
(6) Vessel response times: 60 hours for high volume ports; all other locations 72 hours.

OCEANS ENVIRONMENT

The minimum equipment standards and the maximum response times for classifying an OSRO for planned response to spills in an oceans environment (includes nearshore, offshore, and open ocean) are listed below and summarized in Table 4. With the exception of shoreline protection boom, all equipment to be used in this environment must be capable of operating in 6 foot wave heights. Additional containment boom requirements are:

Boom height (inches, draft plus freeboard) - > 42
Reserve Buoyancy to Weight Ratio - 3:1 to 4: I
Total Tensile Strength (1bs) - > 20,000
Skirt Fabric Tensile Strength (1bs) - 500
Skirt Fabric Tear Strength (1bs) - 125
Shoreline protection boom requirements are:
Boom height (inches, draft plus freeboard) - > 18
Reserve Buoyancy to Weight Ratio - > 2:1
Total Tensile Strength (lbs) - > 15,000
Skirt Fabric Tensile Strength (1bs) - > 300
Skirt Fabric Tear Strength (1bs) - > 100

a. Class A - 50 Bbl/day Recovery

(1) Containment/Protective boom: 2,000 feet total.
(2) Oil recovery equipment (skimmers, vacuums, etc.): 50 Bbl/day of effective daily recovery capacity.
(3) Recovered oil storage: 100 Bbls of temporary storage capacity.
(4) Boom deployment response time: l hour (beyond 12 miles from nearest shoreline, l hour plus travel time from shore).
(5) Oil recovery equipment and temporary storage response time: 2 hours beyond 12 miles &om nearest shoreline, l hour plus travel time from shore).

b. Class B - 1250 Bbls Recovery

(1) Containment boom: 8,000 feet (response time to 50 miles seaward of the COTP city is calculated only for 4000 feet; other 4000 feet calculated to shoreside classification point).
(2) Protective boom: 8,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 1,250 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 2,500 Bbls of temporary storage capacity.
(5) Facility response times: 6 hours for high volume ports; all other locations 12 hours.
(6) Vessel response times: 12 hours for high volume ports; all other locations 24 hours (for open ocean, plus travel time &am shore).

c. Class C - 10,000 Bbl/day Recovery

(1) Containment boom: 12,000 feet (response time to 50 miles seaward of the COTP city is calculated only for 5000 feet; other 7000 feet calculated to shoreside classification point).
(2) Protective boom: 12,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 10,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 20,000 Bbls/day of temporary storage capacity.
(5) Facility response times: 6 hours for high volume ports; all other locations 12 hours.
(6) Vessel response times: 12 hours for high volume ports; all other locations 24 hours (for open ocean, plus travel time from shore).

d. Class D - 20,000 Bbls/day Recovery

(1) Containment boom: 18,000 feet (response time to 50 miles seaward of the COTP city is calculated only for 6000 feet; other 12,000 feet calculated to shoreside classification point).
(2) Protective boom: 18,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 20,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 40,000 Bbls of temporary storage capacity.
(5) Facility response times: 30 hours for high volume ports; all other locations 36 hours.
(6) Vessel response times: 36 hours for high volume ports; ail other locatioos 48 hours (for open ocean, plus travel time from shore).

e. Class E - 40,000 Bbls/day Recovery

(1) Containment boom: 24,000 feet (response time to 50 miles seaward of the COTP city is calculated only for 8000 feet; other 16,000 feat calculated to shoreside classification point).
(2) Protective boom: 24,000 feet.
(3) Oil recovery equipment (skimmers, vacuums, etc.): 40,000 Bbl/day of effective daily recovery capacity.
(4) Recovered oil storage: 80,000 Bbls of temporary storage capacity.
(5) Facility response times: 54 hours for high volume ports; ail other locations 60 hours.
(6) Vessel response times: 60 hours for high volume ports; all other locations 72 hours (for open

ocean, plus travel time from shore).