SUMMARY: The Coast Guard is delaying the effective date of the interim rule on regatta and marine parades published in the **Federal Register** on June 26, 1996. The interim rule more precisely identifies those marine events that require a permit, those that require only written notice to the Coast Guard, and those that require neither. A change in the effective date from January 1, 1999, to January 2, 2000, is necessary to allow additional time to further assess the potential impact, if any, of the interim rule on the environment.

EFFECTIVE DATE: The interim rule published on June 26, 1996 (61 FR 33027), and delayed by documents published on November 26, 1996 (61 FR 60027), and December 29, 1997 (62 FR 67507), is effective on January 2, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Perry, Project Manager, Office of Boating Safety, Program Management Division, 202–267–0979. You may obtain a copy of the interim rule and subsequent notices by calling the U.S. Coast Guard Infoline at 1–800–368–5647 or read it on the Internet at the Web Site for the Office of Boating Safety at URL address http://www.uscgboating.org.

SUPPLEMENTARY INFORMATION: On June 26, 1996, the Coast Guard published an interim rule and notice of availability of environmental assessment (CGD 95–054) entitled ''Regattas and Marine Parades'' in the **Federal Register** (61 FR 33027). The interim rule revised the Coast Guard's marine event regulations to eliminate unnecessary requirements while continuing to protect the safety of life. The rule more precisely identifies those events that require a permit, those that require only written notice to the Coast Guard, and those that require neither. The environmental assessment and proposed finding of no significant impact that support this rulemaking were made available to the public.

Approximately 85 comments were received in response to the interim rule and notice of availability of the environmental assessment and to the Coast Guard's previous requests for comments. Many of these comments raised concerns regarding the reporting requirements placed on the marine event sponsors and the potential environmental effects associated with changing the current regulations on regatta and marine parade permitting procedures. In addition, several comments received in response to a draft environmental impact statement (EIS) entitled ''U.S. Coast Guard Atlantic Protected Living Marine Resources Initiative'' reiterated concerns raised by the comments on the interim rule. Based on these comments and on the concerns raised during the ongoing consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), the Coast Guard delayed the effective date of the interim rule. Because the Coast Guard has not yet completed its consultation with the FWS and NMFS or the required environmental documentation, the Coast Guard is delaying the effective date to January 2, 2000.

Accordingly, in FR Doc. 96–16319 published in the **Federal Register** on June 26, 1996, at 61 FR 33027, as amended by notices of delay of effective date published on November 26, 1996, at 61 FR 60027 and December 29, 1997, at 62 FR 67570, the effective date for the referenced interim rule is changed from January 1, 1999, to January 2, 2000.

Dated: December 21, 1998.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 98–34442 Filed 12–29–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–98–080]

Drawbridge Operation Regulation; Upper Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulations governing the operation of the Chicago, Milwaukee, St. Paul and Pacific railroad bridge at Mile 1.0, Black River, at La Crosse, Wisconsin. This deviation amends the federal drawbridge operation regulations allowing the bridge owner to close the drawbridge from 12:01 a.m. on January 4, 1999, through 11:59 p.m. on February 4, 1999. This deviation is issued to allow for the removal of mechanical devices for rebuilding to avoid problems during the summer of 1999.

DATES: The deviation is effective from 12:01 a.m. on January 4, 1999, through 11:59 p.m. on February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Director, Western Rivers Operations, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832; telephone: (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: The Chicago, Milwaukee, St. Paul and Pacific railroad bridge has a vertical clearance of 17.0 feet above low water and 4.0 feet above high water in the closed to navigation position. Navigation on the waterway consists primarily of commercial tows. This deviation has been coordinated with the commercial waterway industry, who do not object. The Canadian Pacific Railway has requested a temporary deviation from the normal operation of the bridge to remove the mechanical devices for rebuilding. This work is essential for the continued operation of the drawbridge and to avoid problems in the summer of 1999.

This deviation is for the period of 12:01 a.m. on January 4, 1999, through 11:59 p.m. on February 4, 1999. This temporary deviation allows the draw of the Chicago, Milwaukee, St. Paul and Pacific railroad to remain closed to navigation. The drawbridge operation regulations, when not amended by a deviation, require that the drawbridge open on signal if at least two hours notice is given.

Dated: December 16, 1998.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 98–34632 Filed 12–29–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

46 CFR Part 32

[USCG 1998–4443]

RIN 2115–AF65

Emergency Control Measures for Tank Barges

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule implements measures for maintaining or regaining control of a tank barge that will reduce the likelihood of a tank barge's grounding and spilling its cargo. These measures are necessary because without them a tug that loses its tow lacks ready means for regaining control of it.

DATES: This interim rule is effective March 30, 1999 except for 33 CFR 155.230(b)(1) and 46 CFR 32.15–15(e), which are effective on December 11, 2000. The incorporation by reference of certain publications listed in the rule is

approved by the Director of the Federal Register as of March 30, 1999. Comments must reach the Docket Management Facility on or before March 30, 1999.

ADDRESSES: You may mail your comments to the Docket Management Facility (USCG–1998–4443), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and documents, as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this interim rule, call Mr. Robert Spears, Project Manager, Office of Standards Evaluation and Development, telephone 202–267–1099; or Mr. Allen Penn, Technical Advisor, Office of Design and Engineering Standards, telephone 202–267–2997. For questions on viewing or submitting material to the docket, call Ms. Dorothy Walker, Chief, Documents, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG–1998–4443) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. We may change this interim rule in view of the comments.

The Coast Guard plans to hold public meetings for this interim rule. We will hold these meetings for the purpose of receiving oral opinions and presentations on the interim rule. We will announce the dates, times, and places of the public meetings in a later notice in the **Federal Register**.

Background and Purpose

On January 19, 1996, the tugboat SCANDIA, towing the oil barge NORTH CAPE, caught fire five miles off the coast of Rhode Island. The crew could not control the fire, and without power they were unable to prevent the barge, carrying 4 million gallons of oil, from grounding and spilling about a quarter of its contents into the coastal waters. The NORTH CAPE spill led Congress to add a new law, 46 U.S.C. 3719, in section 901 of the 1996 Coast Guard Authorization Act (Pub. L. 104–324), directing the Secretary of Transportation to prescribe regulations necessary to reduce oil spills from single-hull non-self-propelled tank vessels. A notice of proposed rulemaking (NPRM) on safety of towing vessels and tank barges was published on October 6, 1997 (62 FR 52057).

Statutory Mandate

46 U.S.C. 3719 directs us to issue regulations requiring a single-hull, non-self-propelled tank vessel (or the vessel towing it), operating in the open ocean or coastal waters, to have at least one of the three safety measures listed in the law. Under reasonably foreseeable sea conditions, without additional assistance, either the barge or the vessel towing it must have—

(1) A crewmember and an operable anchor on board the tank barge that together can stop the barge from drifting;

(2) An emergency system that will allow the tank barge to be retrieved by the towing vessel if the towline ruptures; or

(3) Another measure or combination of measures that the Coast Guard determines will provide equivalent protection against grounding of the tank vessel comparable to that provided by the measure(s) described in paragraph (1) or (2).

Another law to reduce oil spills from single-hull tank barges, 46 U.S.C. 4102, requires the Coast Guard to issue regulations on fire suppression systems and other measures for towing vessels. A rulemaking to be published early next year will implement some of the fire protection requirements proposed in the NPRM and another will propose other additional measures in response to comments we received. Both laws mandating new rules require the Coast Guard to consult with the Towing Safety Advisory Committee (TSAC) in developing the new regulations. As noted in the NPRM, the recommendations of the TSAC were considered by the Coast Guard and incorporated as we deemed appropriate.

Regulatory Approach

In response to these statutory mandates, the Coast Guard proposed rules for fire protection and fire-fighting on towing vessels operating anywhere in U.S. waters, and rules for arresting and retrieving tank barges. The rules for barge control would apply to any tank barges being towed on the Great Lakes, the territorial seas of the United States, or the high seas [62 FR 52057 (6 October 1997)]. The NPRM explained why it did not include inland waters. Because the waters of Long Island Sound are inside the baseline of the territorial sea, which generally follows the coastline of the United States, they were inadvertently excluded from that part of the proposed rules applicable on offshore waters only. A correction notice, published in the **Federal Register** on June 11, 1998 (63 FR 31958), clarified that the proposed rules would apply to tank barges and vessels towing them on Long Island Sound.

The extended period for public comment on the NPRM closed on May 11, 1998. After analyzing written comments, statements from two public meetings, and additional casualty and economic data, we made two key decisions. First, to expedite action with respect to emergency control measures for tank barges, the proposals of the NPRM needed to be separated into more manageable parts. Second, an operable anchoring system is an essential part of the combination of measures needed to reduce the chances of oil spills from any single-hull tank barge operating on the waters listed in this interim rule. The marine casualty report (available in the docket) on the fire on the tugboat SCANDIA, resulting in the grounding of the tank barge NORTH CAPE, revealed that the barge's anchoring system was not operable. Consequently, the Captain of the SCANDIA did not have the option of anchoring the barge until weather conditions improved enough to safely continue the voyage. This is exactly what the Captain of the tugboat OSPREY did last February off the coast of North Carolina. There, the towline parted and the tug was unable to retrieve the barge after repeated attempts to do so. The crew then deployed the barge's anchor, which stopped the drift of the barge, and held it until the tug could safely reestablish the tow. The anchoring and

retrieval measures are parts of a total system for preventing barges from grounding, since one measure may work where the other does not. Therefore, we have shifted our approach from the NPRM, which proposed requiring only one of three emergency control systems, to requiring an anchoring system (on single-hull tank barges) plus one additional measure. Other parts of the total system, including measures for fire protection and fire fighting for towing vessels, will be the subjects of later rulemakings.

Human Element

In this interim rule, it is important to acknowledge the roles and responsibilities of vessel management and the people operating the equipment installed on vessels. The training and performance of the crewmembers may be the critical elements in avoiding the actions that contribute to a casualty. The Coast Guard's program of Prevention Through People (PTP) depends on owners, operators, and other people in positions of responsibility to take an active role in developing and enforcing safety measures to improve performance.

Establishing the Lower Limit of Acceptable Safety Practice

Many tank barges already meet the requirements established in this interim rule. They carry anchoring systems and retrieval systems and they follow adequate operational procedures. Many companies maintain and inspect their equipment with regularity and provide their people training beyond that required by this rule. However, a single poor operator can jeopardize the safety of the industry and place the well-being of the public, the crew, and the environment at risk. The necessity still exists for identifying standards that define the lower limit of acceptable practice.

Open Ocean and Coastal Waters

46 U.S.C. 3719 calls for rules applicable to vessels operating in the ''open ocean or coastal waters.'' The Coast Guard previously interpreted this language to be equivalent to the high seas and territorial sea as defined in 33 CFR part 2. After careful review, we have decided not to substitute ''high seas'' for ''open ocean'' as used in 46 U.S.C. 3719. Instead, for the purposes of this rule, we have determined that open ocean includes the territorial seas of the United States, as they are defined in Presidential Proclamation 5928 of December 27, 1988. Under this approach, the inner boundary of ''coastal waters'' is the baseline of the territorial sea. The outer boundary of the waters on which this rule will apply is a line 12 nautical miles offshore from that baseline. On most waters inside the baseline we need not enforce laws of the kind this interim rule applies, because internal waters afford shelter or quick access to it. There are, however, waters that lie inside the baseline and yet need the protection of this rule. The Great Lakes, Long Island Sound, the Strait of Juan de Fuca, and parts of Puget Sound all come within this rule because their environmental conditions (i.e., wind, currents, wave action) present the very hazards to towing vessels and tank barges that prompted this rule in the first place. Making a determination to enforce these rules farther offshore is not deemed necessary, as any tow coming within 12 miles of the baseline, where groundings are most likely to occur, would be subject to these regulations. The one exception would be foreign-flag tows engaged in innocent passage, which rarely occurs. Foreign-flag tows entering U.S. ports however, are subject to these regulations.

Double-hull Tank Barges

This interim rule applies mainly to single-hull tank barges, as specified in 46 U.S.C. 3719. Regulations already in 33 CFR 155.230 require emergency towing capability for both single-hull and double-hull barges operating outside the boundary line. Double-hull tank barges that currently satisfy 33 CFR 155.230 also satisfy 33 CFR 155.230 as amended by this rule.

Grandfathering; Anchoring Standards

Under existing regulations, tankships and manned seagoing barges built before June 15, 1987, may meet a less stringent standard for their anchoring systems. With revised wording in this rule, the Coast Guard is excluding manned, single-hull tank barges from the grandfathering provisions presently contained in 46 CFR 32.15–15. Allowing single-hull tank barges built before June 15, 1987, to meet lesser standards would reduce the effectiveness of this rule.

The Coast Guard understands the effectiveness of the emergency control system using an anchor is highly dependent upon the design standard and equipment arrangement. Under existing regulations, we have only accepted anchoring standards issued by the American Bureau of Shipping (ABS). With this interim rule, we may accept standards of other recognized classification societies as well. Classification societies become recognized by the Commandant under 46 CFR part 8.

Discussion of Comments and Changes

The Coast Guard received a total of 54 documents containing 208 comments to the public docket of the NPRM on safety of towing vessels. Of these, 67 comments concerned anchors and barge retrieval, and they are addressed in this interim rule. All other comments will be addressed in a separate document specifically covering fire protection measures on towing vessels. The 208 comments consisted of both letters to the docket and remarks at the public meetings in St. Louis, Missouri, and Newport, Rhode Island. The following paragraphs contain summaries of comments and an explanation of any changes made by this rule to the proposed rule for emergency control of tank barges.

Comments Requesting Public Hearings

Six comments requested a public hearing for masters, owners, and operators of towboats, and for the public to discuss the NPRM on safety of towing vessels. Three comments requested that, in addition to public hearings, the comment period be extended. As noted earlier, the Coast Guard held two meetings in the spring of 1998. The statements made at the meetings echo the written comments sent to the docket. In fact, many of the attendees offered the same comments both spoken and written. Tape recordings of each session are available at Coast Guard Headquarters (G–LRA). You may call 202–267–1477 to arrange to review the tapes.

Prevention

Six comments concerned prevention of accidents and oil spills.

1. Two comments suggested that the prevention of oil spills and casualties lies primarily with personnel operating equipment properly and navigating vessels safely. We agree with this assessment. However, while people are the key to prevention, they still need the proper equipment readily available, such as fire protection systems and anchoring or retrieval systems, to minimize the impact of such incidents when they do occur.

2. One comment suggested that the Coast Guard's PTP program coupled with other appropriate measures such as proper manning, has the potential for being the most effective prevention tool. We agree; that is why we proposed or recommended measures such as crew training, muster lists, and proper voyage planning in the NPRM. They remain key components of this rulemaking in general, though not of this interim rule in particular.

3. One comment commended the Coast Guard for recognizing that ''proper preparation and response by vessel crew is more important than requiring and install[ing] * * * additional equipment on a vessel.'' As noted in the summary of the previous comment, we agree with this view, while still recognizing the need for appropriate equipment.

4. One comment agreed with the Coast Guard's effort to consider the roles and responsibilities of the people operating the equipment installed on board vessels. However, it suggested that we include the roles and responsibilities of towing vessels' owners or crews, should barges become adrift. This interim rule clearly identifies the owners of vessels as being responsible for ensuring that the new requirements are met.

5. One comment suggested that the proposed rules focused on the prevention of barge casualties rather than the life and safety of the crew. We do not agree. We are taking a systemic approach in preventing barge casualties, by requiring the anchoring capability and other measures on board, as well as requiring crew training, periodic maintenance, and drills and exercises to test continued operability of the equipment. The NPRM also requested comments on voyage planning to provide the crews of tugs and tows with some early awareness of how their trips might proceed. We received six comments on this issue; the Coast Guard plans a separate Supplemental Notice of Proposed Rulemaking (SNPRM) to address the use of voyage planning to improve the safety of towing vessels and tank barges.

Plain Language

One comment stated that the question-and-answer format was very useful in explaining the reasoning behind the proposed change. The comment also recommended using that format in future proposed rulemakings. We agree; and, in keeping with the President's Memorandum of June 1, 1998, endorsing plain language in government writing, we will continue using that format in future rulemakings.

Recommendations of the Regional Risk Assessment Team (RRAT)

Twenty-three comments referred to the recommendations of the RRAT.

1. Twelve comments stated that the proposed rule did not follow the recommendations.

2. Six comments stated that the proposed rule was not strict enough.

3. One comment stated that the recommendations were meant for the waters of the First Coast Guard District only, while four other comments suggested a separate rulemaking for New England. We agree in part. Any rule applying to equipment aboard vessels should be a national rule rather than a rule applicable only to the waters of a specific region. This long-standing principle rests on a number of considerations:

- National rules lie outside the delegated authority of District Commanders.
- National rules issued district by district could increase compliance costs.
- Local rules could lead to potential competitive disadvantages among regions of the country.
- Local rules may interfere with the efficient movement of maritime commerce.
- Local rules could interfere with implementation of treaties.

However, with regard to the operational measures recommended by the RRAT, Coast Guard Headquarters and the First Coast Guard District have worked together in developing appropriate regional requirements proposed in the **Federal Register** [63 FR 54639] on October 13, 1998.

Today, the First Coast Guard District is publishing in the **Federal Register**, those rules establishing a permanent Regulated Navigation Area (RNA) within the navigable waters of the First Coast Guard District, CGD1–98–151, RIN 2115–AE84. The report of the RRAT is available in the docket for this rulemaking. The history of the RRAT is explained in the preamble to the NPRM, also available in the docket.

4. Two comments reported concern over the lack of a requirement for an operable anchor on all barges, including double-hull tank barges, as recommended by the RRAT. This rulemaking is guided by Federal statute that specified application to single-hull tank barges. Barges with double hulls have built-in safety measures. By adding the emergency retrieval systems, they have sufficient measures in place to protect against grounding and spills. It is also important to note that a number of other new requirements and measures affecting tank barges have been and will be instituted since the NORTH CAPE Spill. They already include navigation safety equipment required on towing vessels since August 2, 1996, and will include new standards for licensing and manning for officers of towing vessels. They may also include measures introduced with the American Waterways Operators' Responsible Carrier Program.

Applicability

Two comments referred to applicability of the proposed rule.

1. One comment questioned the authority of the Coast Guard to impose these requirements on foreign-flag vessels that may enter the territorial seas. Foreign vessels engaged in innocent passage are exempted from the requirements of this rule. However, foreign-flag vessels entering inland waters and ports of the United States are subject to our sovereignty and can be required to comply with the regulations set forth in this rule (as a condition of port entry).

2. One comment suggested that rules developed through accident experience should be applied only to the (type of) region where the accident occurred. Deep-sea routes and Inland waterways are very different environments. Blanket applicability of a rule may affect one region differently from, or more adversely than, another. We agree, and 33 CFR part 155 specifically outlines on which waters these rules apply. Generally, the measures for emergency barge control outlined in this interim rule do not apply on inland waters. The Great Lakes, Long Island Sound, portions of Puget Sound, and the Strait of Juan de Fuca are the exceptions.

Towlines

Four comments dealt with towlines.

1. One comment questioned whether it would be appropriate to have an emergency towline of the same towing characteristics as a line or wire that has just parted. It suggested that we should establish requirements for performance and periodic inspection for both primary and emergency towing wires and lines, particularly those used for tank barges.

2. Two comments suggested that a requirement that an emergency towline have the same characteristics as the primary towline would be difficult to comply with. It suggested that a better solution would be a requirement that the emergency towline be sized appropriately for the horsepower or bollard pull of the towing vessel and be adequate for its intended use.

3. One comment suggested that the language requiring the emergency towline to have the same characteristics as the primary towline is misleading and unnecessarily restrictive.

We agree with these comments, and have reworded this requirement. It is now consistent with the requirements introduced in the final rule, *Navigation Safety Equipment for Towing Vessels* [61 FR 35064 (July 3, 1996)], codified at 33 CFR 164.74, Towline and terminal

gear for towing astern. Useful information about this critical aspect of towing also appears in Navigation and Vessel Inspection Circular (NVIC) 5–92, *Guidelines for Wire Rope Towing Hawsers*, and is recommended by the TSAC for owners, operators, and crews of towing vessels.

Emergency Control Systems

Three comments discussed emergency control systems.

1. One comment suggested that the requirements should be more specific so that they are not interpreted improperly. We agree and have reworded the requirements so they are more specific.

2. One comment suggested a systems approach where the vessel, towline, and barge are considered a single system. The State of Washington specifically addresses this issue in WAC 317–21–345 (available in the docket), and recommends that we consider this approach because it works on the West Coast. We agree; that is why we allow components of the emergency control system on either the towing vessel or the barge. Further, we allow each district to modify operational measures (through Regulated Navigation Areas) to fit conditions that may be peculiar to its own waters and vessels within those waters.

3. One comment recommended revising references to anchor chain to read ''anchor chain or cable'' to reflect the range of industry practice in the coastal oil-transportation industry. We agree, and have changed the wording to include cable.

Voyage Planning

As noted earlier in this interim rule, six comments received discussed voyage planning. It will be a major part of an upcoming SNPRM concerning additional measures to improve safety of towing vessels and tank barges.

Comments Relating to Specific Sections of the CFR

1. *46 CFR 32.15–15.* One comment suggested that the specification for anchor and anchor chain required on barges should allow for cost estimates, especially where classification society approval is mandatory. We agree, and have based the economic analysis, which supports requiring anchoring and retrieval equipment on barges, on the application of the ABS Rules for anchors, chains, and towlines. The Regulatory Assessment (RA) looks at the median size of single-hull tank barges. We have found that the typical anchor on a barge of that size weighs about 5,000 pounds, the length of the cable or chain is 800 feet, and the wire-diameter or link diameter is roughly 1¾ inches. The RA is available in the docket.

2. *33 CFR 155.230(b)(2)(iv).* One comment addressed the annual training on the system for recovery of drifting barges. The comment correctly assessed the intent of the rule, to conduct the drills with barges empty of cargo or in a light condition in waters free from navigational hazards. To make the rule clearer, we are amending 33 CFR 155.230(b)(2)(iv) to specify that drills must include actual operation of retrieval systems, and they should be conducted at the master's discretion in open waters free from navigational hazards so as to minimize the risk to personnel and the environment.

3. *33 CFR 155.230(b)(1).* One comment suggested that the anchoring system prescribed in the proposed rule is inadequate. The comment stated that an effective anchor windlass and other ground tackle should be required instead. We agree. An anchoring system without the components needed to raise the anchor is unlikely to be used as a preventive measure. It is likely to be reserved for use when the barge is *in extremis*, when it may be too late. This interim rule requires a complete anchoring system: power source, winch or windlass, chain or cable, and an anchor.

4. *33 CFR 155.230(b)(1), (2), and (3).* Four comments referred to response measures 1, 2, and 3, as outlined in the NPRM.

(i) One comment suggested that the real value of 33 CFR part 155 is prevention rather than response. The comment suggested that only paragraph (b)(1) [anchor system] would achieve the goal of spill prevention, and urged that we should allow as few as one of the three measures. We disagree. While none of the measures guarantees success in preventing a spill, any one of them, if effective, may prevent a spill.

(ii) The second comment suggested that paragraph (b)(1) should be the only measure allowed because paragraph (b)(2) [retrieval system] lends itself to unmanned barges, and paragraph (b)(3) [Coast Guard approved equivalent system] lends itself to repeated petitions to Commandant (G–MSE) to consider either trip-by-trip exemptions or substitute provisions. We do not agree; such a regulation would fail to fully apply the law, reduce the effectiveness of this rule, and disallow newer, equivalent technology from being considered.

(iii) The third comment stated that paragraphs (b)(1) and (2) are industry standards that are in widespread use, but that an emergency retrieval system should be sized for the barge and the towing vessel and not be restricted to a towline of the same size as that of the towing vessel. As noted earlier in the preamble to this interim rule, we agree and have made changes to reflect this view.

(iv) The fourth comment recommended that operators should be required to carry additional safety gear on tugs (meaning required to carry two out of the three safety measures rather than one). For the reasons stated previously under the section titled ''Regulatory Approach'', we agree. For single-hull tank barges we will require compliance with two of the three safety measures listed; one of the measures must be the anchoring system.

General Comments

1. One comment questioned the validity of the joint report from the Coast Guard and the American Waterways Operators (AWO) concerning fatalities among crews of towing vessels, and requested a copy of the report. The report is available online at *http://www.uscg.mil/hq/g-m/moa/docs/cafata.htm* and in this docket through *http//dms.dot.gov*. It is also available by calling 202–267–1099. To reduce the chances of falls overboard during emergency anchoring we have added a requirement for a safety belt or harness to 33 CFR 155.230(b)(1).

2. Four comments voiced concerns that a tug and barge complying with the proposed rules could still have an accident. We partially agree; no rule can guarantee that accidents will not occur in the future. Our goal with this interim rule is to reduce the chances that another accident, similar to the grounding of the NORTH CAPE, will happen. We believe that this rule can and will do that.

3. One comment requested that we issue an interim regional rule while the long-term regional rulemaking proceeds. Coast Guard Headquarters and the First Coast Guard District are in fact working on appropriate regional requirements.

4. One comment requested that the Officer in Charge, Marine Inspection (OCMI), or Captain of the Port (COTP) should accept, trip by trip, alternative technical or operational measures, alone or in combination, that will provide an equivalent degree of protection to that offered by Measure 1. We do not agree. For single-hull tank barges operating in the waters specified, the interim rule will require an anchoring system. It also will require an emergency retrieval system or some equivalent measure(s). In essence, Measure 3 may substitute for Measure 2 with approval of the Commandant.

5. One comment stated that it was good that we were taking steps to improve the safety of towing vessels and tank barges but that it was a disappointment that we missed the congressionally mandated deadline.

6. One comment relayed a concern that an annual drill on retrieval of barges may be inadequate to maintain the proficiency of the crew because of the rate of turnover among personnel. We disagree. Barge retrieval systems are relatively simple in makeup and use. They do not call for skills beyond those generally used in the day-to-day operations of tugs. The turnover among senior crewmembers, who direct emergency evolutions, is not high. The requirement remains as proposed. We believe the best way a company can ensure the proficiency of its crews in barge retrieval is to assign the responsibility of supervising the drills to one of the senior crewmembers. This may be the master or mate of the tug.

7. Five comments stated that the proposed rules failed to require a combination of devices necessary to ensure the stoppage of a runaway barge (for example, retrieval devices to complement anchors). We agree, and the interim rule requires the placement of both anchors and retrieval devices or other measures on all single-hull tank barges.

8. One comment asked whether making the operator of the anchoring system confer with the master regarding the appropriate length of chain to be used is a good practice. We believe it is. The master of the tug should be familiar with the area his or her tug and tow are transiting, including bottom conditions. The master will have access to charts and equipment to assess the bottom and the depth. The master should share this information with the person on the barge conducting the anchoring. The wording from the NPRM persists in this interim rule.

9. One comment suggested that meeting the requirement for a functioning means of releasing the anchor that does not endanger operating personnel is impossible, because there is always some chance of harm to the personnel who operate it. We agree, and have changed the wording.

10. One comment suggested that there should be anonymous polling of tug masters and tug crews concerning fatigue and work hours, as well as the impact on jobs if masters refuse to go out in bad weather. The report of the RRAT also touched on fatigue and work hours. We have forwarded this suggestion to the TSAC for consideration.

11. One comment questioned whether it would be reasonable to have an ordinary seaman thoroughly familiar with the operation of an anchor. It suggested that one able seaman, or in some cases two able seamen, thoroughly familiar with the anchoring operation, should suffice. We agree that an experienced crewmember should operate the anchoring system. However, crews of towing vessels are small, and we believe having all of their crew trained and familiar with the emergency barge control system also enhances safety.

12. Two comments recommended that all barges (non-self-propelled tank vessels), including unmanned barges, carrying oil or other hazardous cargoes between ports must be equipped with working anchoring systems. We partly agree with this assessment. We are requiring anchoring systems on all single-hull tank barges operating either offshore or on the waters specified in 33 CFR 155.230(a).

13. One comment supported the Coast Guard's determination that the high seas and territorial seas as defined in 33 CFR part 2 would be equivalent to the statutory concepts of open ocean and coastal waters respectively for the applicability of the proposed rules. We partly agree; this interim rule applies on the territorial seas as defined in 33 CFR part 2, and on the 9-mile band of ''open ocean'' or high seas adjacent to the seaward boundary of the territorial seas of the U.S.

14. One comment questioned the definition of a permissively manned barge. It asked if the operator of a barge deemed it necessary that persons should be placed on a barge for its operation, whether the added complement would count as the barge's required manning. This comment also asked how the provisional authority of the OCMI differs from the statement of the Secretary regarding the necessary complement. The OCMI exercises authority delegated by the Secretary to determine whether a barge should be manned. The decision depends on safety considerations. Maintenance persons with no duties related to the navigation of the vessel may be permitted by the OCMI without, in effect, increasing the manning of the barge.

15. One comment suggested that the proposed rules were not clear in distinguishing between tank vessels and Oil Spill Response Vessels (OSRVs). It asked that we clarify this in a later rulemaking. We do not see the need, as OSRVs are not tank barges, and section 155.230 makes clear that this interim rule applies to tank barges and vessels towing them on the waters listed.

16. One comment stated that, unlike Rhode Island law, the proposed rules would not require tug escorts, or provide any incentive to accelerate the phase-in of double hulls scheduled for the Northeast. These issues are outside the scope of this rule; however, they are addressed in the regional rulemaking for the waters of the Northeast, published in the **Federal Register** on October 13, 1998 (63 FR 54639). The report of the RRAT recommends that we require twin screws and twin engines for most vessels towing tank barges. For single-screw towing vessels, it recommends that we require tug escort or assist. Owners of double-hull tank barges need not install anchoring systems, whereas owners of single-hull tank barges must install them to operate on the waters specified in this interim rule. While this rule may have the effect of providing an incentive to accelerate the phase-in, it is not the intention of the Coast Guard to change the deadline for double hulls established by Congress in the Oil Pollution Act of 1990 (OPA 90).

17. One comment suggested that we should not include recognized classification societies other than the American Bureau of Shipping (ABS) in this context, because it is highly unlikely that any other standards will be equivalent to those of ABS. This comment suggested that owners or operators wishing to use other standards can use the general equivalency provisions case by case. We disagree; in keeping with the Alternate Compliance Program (see 62 FR 67525 of December 24, 1997, amending 33 CFR Part 151 and 46 CFR Parts 1, 8, 31, 69, 71, 91, 107, 153, and 154), where foreign or international standards are evaluated and may be accepted, Commandant (G–MSE) will decide whether the standards are equivalent. The wording in the NPRM does not change in this interim rule.

18. One comment recommended that the Coast Guard apply its rules for certifying inspected vessels and for manning to uninspected tugs. We disagree; these recommendations are beyond the scope of this rulemaking. A separate interim rule concerning licensing and manning for officers on uninspected towing vessels (CGD 94–055) is nearing completion. The Coast Guard has considered inspection of towing vessels that are now uninspected, and has rejected it as too costly for government when compared to the estimated reduction in casualties. Careful analysis of recent casualties such as that of the NORTH CAPE supports the approaches embodied in

our PTP program and in the AWO's Responsible Carrier Program (RCP). These efforts will improve the safety of uninspected towing vessels by focusing attention on the area most often identified as the root cause of accidents-the human element. We recognize that the actions of a vessel's crew are directly related to its owner's practices, policies, and procedures.

19. One comment suggested that we need to consider the differences between ocean-going tugboats and inland towboats. We agree; and we have, by generally applying this interim rule to ocean-going tank barges and the vessels towing them. This rule applies to vessels towing tank barges seaward of the baseline of the territorial sea, excepting only the Great Lakes, Long Island Sound, and the Strait of Juan de Fuca and portions of Puget Sound.

Incorporation by Reference

Material that will be incorporated by reference is listed in § 155.140. The material is available for inspection where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in § 155.140. The Coast Guard has submitted this material to the director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. However, it is significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because of public interest generated by the NPRM and has been reviewed by the Office of the Secretary.

An interim Regulatory Assessment under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket for inspection or copying where indicated under **ADDRESSES.** A summary of the Assessment follows; unless otherwise indicated, cost and benefit data are expressed in 1998 end-of-year values:

Summary of Benefits

Measures published in this rule are expected to yield a net cost effectiveness of $365 per barrel of oil spillage averted. This prevention cost compares favorably, for example, with property damage and actual restoration and cleanup costs (excluding intangibles and transfer costs such as fines, judgments resulting from litigation, and insurance benefits paid) incurred thus far as a result of the 20,000-barrel spill from the barge NORTH CAPE in January of 1996. The costs of that spill thus far total about $50.2 million, which averages about $2,550 per barrel spilled. This per-barrel cost for only one spill is nearly seven times the per-barrel costs of this rule to avert similar events industry-wide.

The table following this paragraph illustrates the calculation of net cost effectiveness from total quantifiable costs and benefits resulting from implementation of this rule. The benefits are normalized into cost effectiveness ratios to reflect the cost per unit of oil pollution averted. Here's how: the total estimated dollar cost of this rule is shown on Line (1); total property damage averted, a benefit expressed in dollars, is shown on Line (2) and is subtracted from total dollar costs to yield a net cost, which is shown on Line (3); pollution averted, the principal benefit, which is expressed in barrels of oil not spilled, is shown on Line (4); and the bottom line shows the net cost from Line (3) divided by the pollution averted benefit from Line (4) to yield an expression of cost effectiveness shown in units of net discounted dollars per discounted barrels of oil not spilled. This procedure permits us to compare pollution and property damage benefits together in terms of net cost-effectiveness.

TABLE—Control Measures for Tank Barges (Barge Anchoring and Retrieval): Cost effectiveness expressed in dollars per barrel of oil not spilled

Type of benefits & costs	Quantity	Units
(1) Cost of this rule	$ 9,381,255	Dollars (PV).
(2) *Property damage-averted*[1]	*5,657,792*	*Dollars (PV).*
(3) (1) minus (2) Net cost	3,723,463	Dollars (PV).
(4) *Pollution averted*[2]	*10,205*	*Barrels of oil unspilled (PV).*
(3)÷(4) **Net cost effectiveness**	**365**	**Dollars per barrel unspilled.**

NOTE: benefits, shown on lines (2) and (4), are italicized. Net cost effectiveness is shown in bold.
[1] Damage to vessels and equipment.
[2] Oil not spilled overboard into bodies of water.

The principal benefit of this rule is protection against oil spillage and property damage that may result when a tow line to a tank barge parts or its towing vessel otherwise loses control over the tank barge, permitting it to run aground. Quantifiable benefits accrue from averted pollution measured in barrels of oil not spilled and averted damage to property such as vessels and machinery, measured in dollars. The latter are secondary benefits. During the period 1999–2014 inclusive, this rule will avert 10,205 barrels of oil spillage and $5.7 million of property damage.

To construct the benefits analysis, the Coast Guard employed its Marine Safety Management System (MSMS) database and underlying reports to provide a reasonable approximation for modeling marine casualties and pollution incidents. The model postulates that if requirements in this rule were not enacted, the normalized frequency and severity of pollution and damage due to towline ruptures would continue at about the same magnitude as during a representative five-year base period which the Coast Guard identified as 1992–1996. This period captures the post-Oil Pollution Act (OPA 90) maritime environment; the Coast Guard considers the period long enough to capture a representative history, while short enough to be reasonably current. Reports for the 1992–96 period are largely complete. A 1992–1997 period was considered and not chosen because 1997 report histories remain open and we consider them too preliminary to present a fair representation.

The analysis recognized that a range of variables extant in the marine interface of people, vessels, machines, and the sea, may result in the

occurrence of some of the casualties targeted by this rule after it is in force. Accordingly, the Coast Guard assembled an analytical team comprised of marine inspectors, program analysts, and economists, who reviewed data and individual case files, and who obtained consultations from a range of subject matter experts. This team proceeded through a multi-step probabilistic risk assessment that considered the combined and interactive effects of this rule and several other related rules that are in effect or mandated by law for completion in the near future. The analysis yielded a probability of 22 percent that installed and working powered anchoring systems and emergency retrieval devices on the affected tank barge population—both single-hull and double-hull vessels—would have prevented or mitigated casualties, pollution, and damage resulting from that particular casualty.

The benefits analysis uses the OPA 90-scheduled phase-out of tank barge capacity as a proxy for the reduction of exposure and spill potential, an innovation that helped to guard against the overstatement of benefits, since during the 1998–2014 period and prior to the final phase-out of all single-hull tank barges, single-hull tank barge capacity, which represents the industry segment primarily affected by this rule, will likely decrease at a much sharper rate than will the actual count of available in-service single-hull tank barges. This is because the OPA 90-scheduled phase-out favors longevity for the smallest single-hull tank barges.

Capacity weighting based on the phase-out schedule and probabilities of effectiveness are used to calculate both primary and secondary benefits. In addition, the secondary benefits, averted dollar damages to property such as vessels and machinery, are reflated from base period calculations to 1998 end-of-year values, using a Consumer Price Index-based price index adjustment factor.

The Coast Guard considered several non-quantifiable benefits. No injuries, deaths, or missing persons were recorded in base period casualty reports. However, the types of casualties addressed in this rule, particularly ones that occur in inclement weather, are inherently dangerous and a future casualty of the type that will be mitigated by this rule could otherwise result in some deaths and injuries. Additionally, while the oil pollution benefit pool analyzed during the assessment of this rule totaled slightly less than 39,000 barrels of oil during the base period, the upper bound of oil at risk in those casualties—the total cargo of oil aboard affected tank barges when accidents occurred—exceeded 180,000 barrels. Future casualties of the type that will be mitigated by this rule could otherwise result in far more serious spills than are indicated in the regulatory assessment.

Summary of Costs

Tank barge and towing industry firms, along with a few state and local governments, will incur costs primarily to purchase, install, and maintain powered emergency anchoring systems and owner/operators' choices among emergency retrieval systems on certain tank barges and in some instances, towing vessels. The Government will incur modest incremental inspection costs. Costs of this rule will total $9.4 million. We subtracted secondary benefits from the total cost to yield a $3.7 million net cost.

Whereas we adjusted benefit calculations to reflect OPA 90-scheduled phase-out of actual tank barge capacity to approximate declining exposure and spill volume potential, we adjusted cost calculations to accommodate the phase-out of hulls rather than volume, as the purchase, installation, and maintenance of equipment required by this rule is quantified on a per-hull basis.

Initial costs are incurred by owner/operators of tank barges and their towboats between 90 days and two years following the effective date of this rule. Initial costs are expected to total between $7.93 million and $7.99 million. Fleet-wide purchase and installation costs for powered emergency anchoring systems will total $7.8 million, 98 percent of the total; and, fleet-wide emergency retrieval system costs will range between $120,000 and $168,000, depending on how individual owner/operators weigh the lower initial investment required for emergency tow wire systems against lower maintenance costs for hook retrieval systems. A sensitivity analysis contained in the regulatory assessment showed that the decision, if made on an economic basis, will depend on the particular deal that the owner/operator can drive and the remaining life of the barge. Additionally, qualitative decision factors include the availability of up-front capital and personal or corporate preferences.

Recurring costs include training drills, maintenance, repair, and in some cases, replacement of components. The present value of these costs total $751,000 for powered anchoring systems, and range between $55,000 for hook retrieval systems and $140,000 for emergency tow wire systems. In addition, recurring incremental costs borne by the Coast Guard for inspections and law enforcement are expected to total less than $4,500 on a present value basis.

Double-hull tank barges are already in compliance with this rule as a result of their compliance with other existing requirements. This rule is expected to impact 180 single-hull tank barges operating in open ocean or coastal waters. We believe that many of these barges are already in compliance. The costs that we report account for our estimates that of the 180 barges, 97 barges will need to install powered anchoring systems and 24 barges or towing vessels will need to install an emergency retrieval system. The Coast Guard does not expect economic abandonment of any barges as a result of this rule. The per-barge costs are relatively low and the first phase-out among the affected tank barges does not occur until January 1, 2004. A two-year phase-in for the relatively more costly powered anchoring system installation obviates the need for an extra, out-of-cycle dry-dock period for the installation. The majority of tank barges experiencing new costs as a result of this rule are eligible to remain in service until 2015.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub L. 104–4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. Under sections 202 and 205 of the UMRA, the Coast Guard generally must prepare a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, $100 million or more in any one year, an analysis under the UMRA is necessary.

While several State and local governments operate some tank barges, the majority of affected tank barges are owned and operated by entities in the private sector. This interim rule does not now directly affect tribal governments. The total burden of Federal mandates imposed by this rule ranges from $9.3 million–$9.4 million and will not result in annual expenditures of $100 million or more. Therefore, sections 202 and 205 of the UMRA do not apply.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Coast Guard considers the economic impact on small entities of each rule for which a general notice of proposed rulemaking is required. ''Small Entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

An analysis of impacts on small entities for this rule is included in the regulatory assessment; it is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Double-hull tank barges are now in compliance with this rule's equipment requirements in connection with their compliance with other existing requirements. Most towing vessels either are now in voluntary compliance with requirements or will choose an option that shifts an equipment purchase requirement to a few barges that are not now in voluntary compliance. As a result, most towing vessels are not expected to incur compliance costs.

The impact of this rule will fall primarily on single-hull tank barges and perhaps, several towing vessels. The rule will require: (1) owners and operators of tank barges that do not already have emergency anchoring systems to purchase and install them; (2) owners and operators of all towing vessels, regardless of size, to purchase and carry emergency retrieval systems if they do not already have them; and (3) towing vessel masters to learn—and train crews—to deploy anchors and operate retrieval systems. Owners and operators of tank barges and towing vessels are responsible for both inspecting their respective systems and maintaining them in good working order. The purpose is to decrease the probability of barge breakaways and the oil spillage, pollution, and property damage that could result.

The Coast Guard is establishing a two-year phase-in period for the anchoring system requirements. Although the Coast Guard received no comments on the NPRM concerning small entities, we recognize that some of the single-hull tank barge fleet are likely owned and operated by small firms not dominant in the industry. Barges affected by this rule must undergo a drydock inspection twice during a five-year period, no less than two years apart. The two-year phase-in permits barges to undergo the installation of a powered anchoring system during normal yard availability. They may thus avoid incurring the extra cost of both a third drydocking during a five-year period and opportunity costs of lost revenue during a third drydocking. The long phase-in will thus permit most small entities to explore the market, plan, and schedule installations during normal shipyard availability. It reduces the pressure for small entities to compete with major operators for yard availability, a competition that would occur if, for example, the anchoring system phase-in matched the 90-day phase-in for the other requirements included in this rule.

Small owners and operators of single-hull tank barges are affected by the OPA 90-mandated phase-out. However, we believe that smaller barges affected by this rule are the ones most likely to be owned by small owners and operators, many of whom would have the opportunity to amortize purchase and installation costs associated with the rule through the end of the year 2014. The 146 relatively small barges among the 181 barges directly affected by this rule may remain in service until January 1, 2015, the end of the phase-out period, making them the last vessels to be phased out under OPA 90 requirements.

The equipment required by this rule is in common use in the industry and does not represent novel or untried technology. Some small entities are likely to be among the majority of owners and operators who already meet some or all of the requirements. This rule will result in a financial burden for some of those owners and operators who must purchase and install equipment. The costs are fairly low in comparison with the replacement cost of a tank barge, very low in comparison with the replacement cost of a towing vessel, and extremely low in comparison with the damage that could be caused by, and the liability that could result from, an accident and resultant spill.

The crafting of this rule so that many affected vessels are already in compliance, and the two-year phase-in period for installation of retrievable anchoring systems, together provide important accommodations to, and significant flexibility for, small entities and others affected by this rule.

Accordingly, the Commandant certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that this interim rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity, and that this rule will have a significant economic impact on your business or organization, please submit comments (see **ADDRESSES**) explaining why you think it qualifies and in what way, and to what degree, this rule will affect it economically.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please call Mr. Robert Spears, telephone 202–267–1099.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This interim rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Federalism

As this is a statutorily mandated rulemaking, under paragraph IV.C.1 of the Department of Transportation Guidance on Federalism of February 10, 1988, this rule does not require a Federalism Assessment. However, it may preempt portions of State law on towing vessels and tank barges. For instance, on June 30, 1997, Rhode Island enacted a law entitled the ''Tank Vessel Safety Act (46 R.I. Gen. Laws § 12.6).'' That Act promulgated the recommendations of the RRAT. However, these recommendations cover areas addressed by the applicable provisions in the Coast Guard Authorization Act of 1996 or the measures in this rule. Consequently, when this rule goes into effect, it may preempt certain provisions of the Rhode Island law, specifically 46 R.I. Gen. Laws §§ 12.6–9, or of other States' laws. A preemption analysis will be conducted in conjunction with the publication of the Final Rule, which may reflect changes from this interim rule because of comment by the public.

Barges Carrying Non-Petroleum Oil

The Edible Oil Regulatory Reform Act (Pub. L. 104–55, 109 Stat. 546–547

[1995]) requires federal agencies to differentiate between classes of oils and consider different treatment of these classes, if appropriate. 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, tank barges carrying these products must comply with this IR.

Environment

The Coast Guard considered the environmental impact of this interim rule and concluded that under Figure 2–1, paragraphs (34)(c) and (d) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 155 and 46 CFR part 32, as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. The authority citation for part 155 and the note following it are revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715, 3719; sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46, 1.46(iii).

Sections 155.110–155.130, 155.350–155.400, 155.430, 155.440, 155.470, 155.1030 (j) and (k), and 155.1065(g) also issued under 33 U.S.C. 1903(b); and §§ 155.1110–155.1150 also issued under 33 U.S.C. 2735.

Note: Additional requirements for vessels carrying oil or hazardous materials appear in 46 CFR parts 30 through 36, 150, 151, and 153.

2. Amend § 155.140 by revising paragraph (b) introductory text and adding the following standard in alphabetical order to read as follows:

§ 155.140 Incorporation by reference.

* * * * *

(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

American National Standards Institute, Inc. (ANSI) 11 West 42nd Street, New York, NY 10036

ANSI A10.14—Requirements for Safety Belts, Harnesses, Lanyards and Lifelines for Construction and Demolition Use, 1991—155.230

* * * * *

3. Revise § 155.230 to read as follows:

§ 155.230 Emergency control systems for tank barges.

(a) *Application.* This section applies to tank barges and vessels towing them on the following waters:

(1) On the U.S. territorial sea [as defined in Presidential Proclamation 5928 of December 27, 1988, it is the belt of waters 12 nautical miles wide—the shoreward boundary is the territorial sea baseline].

(2) In Great Lakes service.

(3) On Long Island Sound. For the purposes of this section, Long Island Sound includes the waters between the baseline of the territorial sea on the eastern end (from Watch Hill Point, Rhode Island, to Montauk Point, Long Island), and a line drawn north and south from Premium Point, New York (approximately 40°54.5′N, 73°45.5′W), to Hewlett Point, Long Island (approximately 40°50.5′N, 73°45.3′W), on the western end.

(4) In the Strait of Juan de Fuca.

(5) On the waters of Admiralty Inlet north of Marrowstone Point (approximately 48°06′N, 122°41′W). This section (§ 155.230) does not apply to foreign vessels engaged in innocent passage (i.e., not entering or leaving a U.S. port).

(b) *Safety program.* If you are the owner or operator of a single-hull tank barge or of a vessel towing it, you must adequately man and equip each vessel of this kind so that its crew can anchor the barge by employing *Measure 1* in paragraph (b)(1) of this section. Moreover, the crew and vessel together must be capable of arresting or retrieving the barge by employing either *Measure 2* or *Measure 3* as described in paragraphs (b)(2) and (3), respectively. If you are the owner or operator of a double-hull tank barge, you must equip it and train its crew, or if it is unmanned the crew of the vessel towing it, so that crew can retrieve the barge by employing *Measure 2* in paragraph (b)(2).

(1) *Measure 1.* Each single-hull tank barge, whether manned or unmanned, must be equipped with an operable anchoring system that conforms to 46 CFR 32.15–15. Because the anchoring system will also serve as an emergency control system, the owner or operator must ensure that the following criteria are met:

(i) *Operation and performance.* When the barge is underway—

(A) The anchoring system is ready for immediate use;

(B) One person, along with one other crewmember to assist if needed, can operate the system and deploy the anchor;

(C) While preparing to deploy the anchor, the operator of the system must confer with the master of the towing vessel regarding appropriate length of cable or chain to use; and

(D) Each operator of the system must wear a safety belt or harness secured by a lanyard to a lifeline, drop line, or fixed structure such as a welded padeye. Each safety belt, harness, lanyard, lifeline, and drop line must meet the specifications of ANSI A10.14.

(ii) *Maintenance and inspections.* Each anchor, cable, chain, and hawser must be inspected at the time of class survey or inspection for certification. The inspection must cover the features listed under *operation and performance* in paragraph (b)(1)(i) of this section.

(iii) *Training.* On each manned barge, every crewmember must be thoroughly familiar with the operation of the anchoring system. On each vessel towing an unmanned barge, every deck crewmember must be thoroughly familiar with the operation of the anchoring system installed on the barge.

(2) *Measure 2.* Each owner or operator of a barge or towing vessel described in paragraph (a) of this section employing an emergency retrieval system to regain control of a barge must ensure that the following criteria are met:

(i) *Design.* The system must use an emergency towline with *at least* the same pulling strength as required of the primary towline. The emergency towline must be available on either the barge or the vessel towing it. The towing vessel must have on board equipment to regain control of the barge and continue towing (using the emergency towline), without having to place personnel on board the barge.

(ii) *Operation and performance.* The system must use a stowage arrangement that ensures the readiness of the emergency towline and the availability of all retrieval equipment for immediate use in an emergency throughout the voyage.

(iii) *Maintenance and inspection.* The system must be inspected annually by the owner or operator. This inspection can take place at the time of class survey or during an inspection for certification.

It must test the availability of the retrieval system and verify the maintenance of the emergency towline.

(iv) *Training.* Retrieval drills must be conducted within three months after the master or mate responsible for supervising barge retrieval begins employment on a vessel that tows tank barges, and at least annually thereafter. Each drill must—

(A) Include actual operation of a retrieval system to regain control of a barge; and

(B) Be conducted at the master's discretion, under the supervision of the master or mate responsible for barge retrieval, and in open waters free from navigational hazards so as to minimize risk to personnel and the environment.

(3) *Measure 3.* Each owner or operator of a barge or towing vessel described in paragraph (a) of this section may invoke this paragraph as a substitute for Measure 2 in paragraph (b)(2). First, you must ensure that your alternative measure, system, or combination of measures used to arrest or retrieve a barge is approved by the Commandant (G–MSE). To be approved, it must provide protection against grounding of the tank vessel comparable to that provided by the systems and measures described in paragraph (b)(1) or (2) of this section.

TITLE 46—SHIPPING

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

4. The authority citation for part 32 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

5. In § 32.15–15, revise paragraphs (a) and (d); and add new paragraphs (e) and (f) to read as follows:

§ 32.15–15 Anchors, Chains, and Hawsers-TB/ALL.

(a) *Application.* Use the following table to determine which provisions of this section apply to you:

If you own . . .	And . . .	Then . . .
(1) A tankship or a manned seagoing barge	It was constructed before June 15, 1987,	It must meet the requirements of paragraphs (d) and (f).
(2) A tankship or a manned seagoing barge	It was constructed on or after June 15, 1987,	It must meet all the requirements of this section except paragraphs (d) and (e).
(3) An unmanned barge equipped with anchors.		It must meet the requirements of paragraphs (e) and (f).

* * * * *

(d) *Tankships and Barges Constructed Before June 15, 1987.* For each tankship or manned seagoing barge constructed before June 15, 1987, except a barge specified in paragraph (e) of this section, the equipment previously accepted or approved is satisfactory for the same service so long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection (OCMI). If the service of the vessel changes, the OCMI will evaluate the suitability of the equipment.

(e) *Barges Equipped with Anchors to Comply with 33 CFR 155.230(b)(1).* Each barge equipped with an anchor, to comply with 33 CFR 155.230(b)(1), must be fitted with an operable anchoring system that includes a cable or chain, and a winch or windlass. All components of the system must be in substantial agreement with the standards issued by the American Bureau of Shipping (ABS). The current standards of other recognized classification societies are acceptable if they are approved by the Commandant (G–MSE).

(f) *Operation and Performance.* Each anchor, exposed length of chain or cable, and hawser must be visually inspected before the barge begins each voyage. The anchor must be stowed so that it is ready for immediate use in an emergency. The barge must have a working means for releasing the anchor that can be operated safely by one or two persons.

Dated: December 21, 1998.

J.C. Card,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1–98–151]

RIN 2115–AE84

Regulated Navigation Area: Navigable Waters Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent Regulated Navigation Area (RNA) within the navigable waters of the First Coast Guard District to increase operational safety for towing vessels and tank barges. This rulemaking implements section 311(b)(1)(A), Pub. L. 105–383, Coast Guard Authorization Act of 1998, and requires four measures for towing vessels and tank barges operating in the waters of the Northeastern United States: positive control for barges, enhanced communications, voyage planning, and areas of restricted navigation. These measures should reduce the risk of oil spills from the many tank barges operating in the waters of the region, and so to reduce the risk of environmental damage to the unique and extremely sensitive marine environment.

DATES: This final rule is effective January 29, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Commander (m), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02210–3350.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Lieutenant Rich Klein, c/o Commander (m), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02210–3350; telephone 617–223–8243.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 13, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Regulated Navigation Area: Navigable Waters Within the First Coast Guard District'' in the **Federal Register** (63 FR 54639). On November 13, 1998, the Coast Guard Authorization Act of 1998 (Act) was enacted into law. Section 311 of the Act requires the Commandant, under