

Issued in Fort Worth, Texas, on March 10, 1999.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate,  
Aircraft Certification Service.*

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**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Part 204**

RIN 1010-AC30

**Accounting Relief for Marginal Properties**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Proposed rule; notice of extension of public comment period.

**SUMMARY:** The Minerals Management Service hereby gives notice that it is extending the public comment period on a notice of proposed rule, which was published in the **Federal Register** on January 21, 1999, (64 FR 3360). The proposed rule would implement legislation for Federal oil and gas leases. The new regulations would explain to lessees and their designees how to obtain accounting and auditing relief for Federal marginal properties. In response to requests for additional time, MMS will extend the comment period from March 22, 1999, to April 21, 1999.

**DATES:** Comments must be submitted on or before April 21, 1999.

**ADDRESSES:** Written comments, suggestions, or objections regarding this proposed amendment should be sent to the following addresses:

E-mail address is:  
RMP.comments@mms.gov.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225-0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3021, Building 85, Denver Federal Center, Room A-212, Denver, Colorado 80225-0165.

**FOR FURTHER INFORMATION CONTACT:** David S. Guzy, Chief, Rules and Publications Staff, phone (303) 231-3432, FAX (303) 231-3385, e-Mail David\_Guzy@mms.gov.

Dated: March 18, 1999.

**Lucy Querques Denett,**

*Associate Director for Royalty Management.*  
[FR Doc. 99-7060 Filed 3-19-99; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 155**

[USCG-1998-4354]

RIN 2115-AE88

**Tank Vessel Response Plans for Hazardous Substances**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes regulations that would require response plans for certain tank vessels operating on the navigable waters of the United States that could reasonably be expected to cause substantial or significant and substantial harm to the environment by discharging a hazardous substance. These regulations are mandated by the Oil Pollution Act of 1990 (OPA 90), which requires the President to issue regulations requiring the preparation of hazardous substance response plans. The primary purpose of requiring response plans is to minimize the impact of a discharge of hazardous substances into the navigable waters of the United States.

**DATES:** Comments must reach the Coast Guard on or before June 21, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before June 21, 1999.

**ADDRESSES:** You may mail comments to the Docket Management Facility, [USCG-1998-4354], U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001, or deliver them to room PL-401 located 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.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble other than material proposed for incorporation by

reference, will become part of this docket and will be available for inspection or copying at room PL-401, located 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. You may also access this docket on the Internet at <http://dms.dot.gov>.

The material proposed for incorporation by reference is available for inspection at room 2100, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 between 9:00 a.m. and 2:30 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-6716.

**FOR FURTHER INFORMATION CONTACT:** CDR John Weber, Office of Response (G-MOR), (202) 267-6716; e-mail:

Jweber@comdt.uscg.mil or LT Michael Roldan, Office of Standards Evaluation and Development (G-MSR), 202-267-0756; e-mail: mroldan@comdt.uscg.mil. Telephones are equipped to record messages on a 24-hour basis. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, 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-1998-4354), 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. It may change this proposed rule in view of the comments.

The Coast Guard plans to hold public meetings regarding this proposed rulemaking. We will announce the dates and times for the meetings in a later notice in the **Federal Register**. You may request a public meeting by submitting a comment requesting one to the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial.

## Background and Purpose

The Clean Water Act (CWA) [33 U.S.C. 1321(j)(5)], as amended by section 4202(a)(6) of OPA 90, requires owners or operators of tank vessels, offshore facilities, and onshore facilities that could reasonably be expected to cause substantial or significant and substantial harm to the environment to prepare and submit plans for responding to the maximum extent practicable, to a worst case discharge, or a substantial threat of such a discharge, of oil or a hazardous substance into or on navigable waters, adjoining shorelines, or the exclusive economic zone. The Final Rule for oil spill response plans for vessels was published on January 12, 1996 [61 FR 1052]. The Final Rule for oil spill response plans for facilities was published on February 29, 1996 [61 FR 7890]. This proposed rulemaking addresses OPA 90 response planning requirements for tank vessels carrying hazardous substances. A separate rulemaking will propose regulations for facilities.

## Regulatory History

### *Advance Notice of Proposed Rulemaking*

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) addressing vessel and facility response plans for hazardous substances in the **Federal Register** on May 3, 1996 (61 FR 20084). The ANPRM discussed the background, statutory requirements of section 311(j) of the CWA, and possible regulatory approaches. In addition, the ANPRM raised 96 questions for public comment. The Coast Guard received 42 comment letters replying to the ANPRM. All comment letters were considered in developing this NPRM.

### *Public Meetings*

The Coast Guard conducted public meetings on July 30, 1996, in Washington, DC, and August 5, 1996, in Houston, TX. The Coast Guard considered comments made during these meetings.

### *Response Plan Workshop*

In addition to accepting written comments concerning the development of regulations for vessel response plans for hazardous substances, a workshop and meeting were held in Houston, TX, on February 26 and 27, 1997. The workshop engaged various stakeholders in issues that had been identified as significant in response to the ANPRM. Approximately 120 persons participated in the workshop.

The workshop focused on four specific issues identified in advance by the Coast Guard. These issues were: (1) Role and Contents of First Responders' Guides; (2) Role and Capabilities of Decision Support Systems; (3) Chemical Removal Technology; and (4) Public Responder versus Private Responder Issues. While drafting this NPRM, the Coast Guard considered recommendations from the workshop. A summary of the proceedings of the workshop is available for review and copying in the public docket as described under **ADDRESSES**.

### *Advisory Committee*

The Chemical Transportation Advisory Committee (CTAC) formed the Hazardous Substances Response Plan Subcommittee. This subcommittee developed and recommended hazardous substance response plan criteria for the Coast Guard's consideration in developing requirements for OPA 90-mandated response plans. In addition to the formation of a Steering Committee, the subcommittee established the following working groups to address appropriate aspects of response planning: Fate and Effects, Response Resources and Methodology, and Planning Process. Based on work done by the groups, the CTAC subcommittee delivered a report containing findings and recommendations. Input from the committee was used in the development of this NPRM.

### *Discussion of Proposed Rule*

#### 1. General

In response to public comment and recommendations from the Chemical Transportation Advisory Committee, the Coast Guard established several principles to guide the development of this proposed rule. These principles specify that—

- a. The response plans should address human health which, as the primary concern, includes the general public, vessel crew, and responders;
- b. The regulations should recognize and promote existing industry best practices;
- c. The regulations should allow for flexibility in plan development to accommodate other existing practices that are effective;
- d. The Coast Guard should avoid developing prescriptive "one size fits all" regulations;
- e. The Coast Guard should avoid duplicating existing federal regulations;
- f. The Coast Guard should maximize consistency with international standards;
- g. The regulations should reflect the differences in planning requirements

between oil and hazardous substances, specifically as they relate to recoverability and risk of exposure; and

h. The regulations should facilitate amending existing oil response plans to meet requirements for hazardous substances under OPA.

A fundamental underpinning of these proposed regulations is that, for hazardous substance discharges, the availability of information and expertise is essential to support response decision-making, while the mobilization of containment and collection equipment will be feasible only as conditions allow. For oil response planning, some portion of the spilled product may be recoverable through containment and collection. The amount recovered is largely a function of how rapidly response equipment can be deployed. For hazardous substances, containment and collection may be viable for certain chemicals, depending on environmental conditions and safety considerations. Limitations on containment and collection are also imposed by the compatibility of equipment with the hazardous substance in question. The most effective mitigation strategy may be to control the source of the discharge, not contain and collect the hazardous substance. The Coast Guard prefers to foster a "quickly assess the risk and respond accordingly", instead of a "rush in to contain and collect the product" philosophy.

For the reasons previously described, these proposed regulations contain requirements that ensure access to certain information and equipment during a response, and the availability of appropriate technical expertise as necessary. The Coast Guard intends that owners/operators will, through good business practice, identify and perform the most appropriate response strategies.

#### 2. Consistency With International Standards

The International Maritime Organization (IMO) is developing chemical response planning requirements to augment existing oil response planning requirements. Current international standards encompass several hundred chemicals, many of which are outside the Coast Guard's statutory authority in developing hazardous substance response planning regulations. The IMO has a subcommittee on international standards for hazardous material response. The Coast Guard has worked with this subcommittee to ensure our regulations are consistent with international standards.

### 3. Summary of Proposed Requirements

Following is a discussion of sections contained in the proposed rule.

*Section 155.3015* indicates who must comply with these regulations. It applies to owners and operators of tank vessels that carry hazardous substances in bulk as cargo or cargo residue. Tank vessels include both tankers and tank barges that carry any hazardous substance. The term "bulk" means that a hazardous substance is carried in an integral tank, or is transferred into a marine portable tank while on the vessel. These regulations would not apply to packaged or containerized hazardous substances.

The Oil Pollution Act of 1990 amended the Clean Water Act (CWA) with respect to oil and hazardous substances. Accordingly, the determination of what substances are hazardous substances is made under the CWA. The complete list of CWA hazardous substances can be found in 40 CFR 116.4. These regulations would also apply to isomers and hydrates, as well as any solutions and mixtures of 10% or more, by weight.

Some comments made during public meetings and in response to the Advance Notice of Proposed Rulemaking (ANPRM) (61 FR 20084; May 3, 1996) encouraged the Coast Guard to expand the applicability of these regulations beyond the CWA hazardous substances carried in bulk. For the reasons described previously, OPA 90 and the CWA, as amended, prevent the Coast Guard from doing this. However, we ensured response plans contained tools to mitigate incidents involving hazardous substances, including those substances not covered under these regulations.

*Section 155.3020* includes definitions that apply to the subpart. Many of the definitions listed mirror those used in oil spill response planning regulations contained in 33 CFR 155. We added or modified some definitions to make them applicable to hazardous substance response activities or to improve their clarity.

*Section 155.3021* discusses how a plan-holder can "ensure the availability of response resources by contract or other approved means." These provisions are essentially unchanged from oil response plan regulations, although the plan-holder must ensure appropriate resources are available.

*Section 155.3022* contains the requirement to designate a Qualified Individual (QI) and alternate QI in the plan. As prescribed by OPA 90, a QI must have full authority to implement all response actions necessary to

minimize or mitigate damage to public health, the environment, and public and private property. A QI must be able to immediately and continuously communicate with the appropriate federal official and response resource providers, as needed. It is not assumed that a QI for oil spill response will necessarily be an appropriate QI for hazardous substance discharges.

Several comments to the ANPRM and public meetings have indicated that under the oil response planning regulations, some QI's do nothing more than obligate funds. These comments suggest that the role of the QI does not include involvement in decisions relating to a response and therefore, the QI does not need to have any understanding of incident response. This is not the Coast Guard's expectation of a QI.

The Coast Guard understands that Congress intended for a "qualified individual" to have basic qualifications that demonstrate an ability to coordinate, with full authority from the plan-holder, a response to an incident. Early in a response, when the risks are often greatest, the QI may independently make decisions that could impact the overall response. For example, a plan may identify a list of contractors that provide particular response services. Without a basic knowledge of chemical response, a QI may not know which resource provider to contact or be able to characterize the nature of the incident to responders. This knowledge may not be as critical for oil spills, where response options are more standardized, and the immediate threat to human health is not as prevalent. It is critical that QI's are properly trained by establishing a minimum standard training requirement.

To build on an existing standard that is widely accepted and demonstrates the appropriate skill set, the proposed regulations require QI's to meet the requirements of an incident commander under the OSHA hazardous waste operations and emergency response provisions in 29 CFR 1910.120(q)(6)(v). Qualifications are further described in emergency response training guidance for incident commanders contained in Appendix E to § 1910.120. Furthermore, this standard is consistent with the Environmental Protection Agency's expectation of a QI under its facility response plans for oil.

The OSHA training requirement for incident commanders is a minimum qualification, not an absolute measure of expertise in and of itself. Plans require designating each QI in writing, and indicate that the QI is familiar with the

response plan and has full authority to implement actions to contain, remove, or otherwise minimize or mitigate damage to the public health, the environment, and public property. Owners or operators should ensure that their QI's training and experience are adequate to carry out designated responsibilities.

The Coast Guard welcomes comments regarding the recognition of other standards or certifications that demonstrate a working knowledge of hazardous substance response that is adequate for the responsibilities contained in these regulations.

At the time of the discharge, a responsible member of the vessel's crew becomes the incident commander and initiates notification and shipboard mitigation procedures, if appropriate. When that vessel crew member notifies the QI of the hazardous substance discharge, the QI may assume the role of incident commander. The individuals acting as incident commander may change as an incident progresses, particularly if the duration of the event is prolonged.

*Section 155.3026* describes the actions that could be taken to receive authorization to carry hazardous substances after submitting a plan to the Coast Guard, but before it has been approved. These proposed requirements mirror those currently required for oil spill response plans.

*Section 155.3030* contains requirements that pertain to the format and contents of response plans. These requirements are very similar to those contained in vessel oil spill response plans regulations.

Because response plans must be consistent with the National Contingency Plan and appropriate Area Contingency Plans (ACPs), some members of the public suggested that the Coast Guard refrain from developing these regulations prior to November 1998, when ACPs must be updated to include hazardous materials response planning. In consideration of this request, the Coast Guard has concluded that the development of regulatory requirements prior to the final ACP updates would be acceptable, but plans approved prior to the issuance of an updated ACP would be grandfathered until the next required review. The Coast Guard will accept plans written using the Integrated Contingency Plan (ICP) Guidance provided the plan meets all of our proposed requirements. The ICP was published in the **Federal Register** on June 5, 1996 (61 FR 28642).

*Section 155.3031* provides plan-holders with the flexibility of modifying existing oil spill response plans with

additional information that meets hazardous substance response-specific requirements.

Section 155.3035 describes the required contents of a response plan. Some of the requirements mirror those found in the oil spill response planning regulations; some do not. The following is a discussion of some of the proposed requirements that would deviate substantially from existing oil spill response plan provisions.

Paragraph (b) requires a description of the methods used to make notifications, as well as a list of those individuals and organizations required to be notified. Due to the nature of tank vessel operations, the proximity to human populations, and the potential for exposure following a discharge, plans must include notifications to local public response organizations so they may initiate established response procedures and discharge notifications.

Paragraph (b)(4) requires that the incident commander, notified in accordance with paragraph (b)(3)(ii), must have the capability of arriving at the incident command post, if established, or at the immediate vicinity of the incident, within a reasonable time-frame. The Coast Guard intends that a "reasonable time-frame" should reflect the critical factors relevant to the incident and typically may be no more than 2 hours from notification. Current industry practices indicate that private response organizations have established networks of personnel that fulfill the roles of the qualified individual and incident commander. The specific time frame may be influenced by the nature of the discharge, proximity to population centers, weather conditions or other factors.

Provisions contained in paragraph (c) of this section would call for plan-holders to develop a risk-based decision support process. Public commenters suggested that the use of automated "decision support systems" or "expert systems" may be an effective tool for use in determining response strategies. The proposed requirement is intended to provide a tool to be used by responders to ensure thorough consideration of risk factors that may influence response activities. This includes a description of processes which will be used to identify, evaluate, control, and communicate risk presented by the hazardous substance discharge. This requirement could be met through a decision tree, flow diagram, automated system, or any other method that contains the required components.

The provisions in paragraph (e)(4) require that plans describe the

organizational structure that will be used to manage response operations. This structure must outline the roles and responsibilities of the specific functional areas contained in the National Interagency Incident Management System (NIIMS) Incident Command System (ICS). This organizational structure, to include functional area roles and responsibilities, is described in the U.S. Coast Guard Field Operations Guide (ICS-OS-420-1). This document can be requested by contacting the U.S. Coast Guard Headquarters (G-MOR-3), 2100 Second Street SW., Washington, DC 20593-0001, or obtained electronically via Internet URL <http://www.uscg.mil/hq/g-m/nmc/response/fog/fog.htm>.

Paragraph (e)(4)(i) contains a provision that requires an understanding of the unified command. Briefly summarized, the unified command consists of a Federal On Scene Coordinator (Federal OSC), State On Scene Coordinator (SOSC), local emergency coordinator, and responsible party's incident commander, who direct and oversee all public and private resources dedicated to the response. Unified command members are expected to establish joint control over an incident, and develop mutually-agreeable response strategies. If the unified command cannot develop mutually agreeable response strategies, or if the Federal OSC believes that the responsible party's actions are unsatisfactory, the Federal OSC may assume overall control of the response. This action is normally used as a last resort when the responsible party is uncooperative with federal and state representatives.

Paragraph (e)(4)(i) requires that each plan describe the key roles and responsibilities of the incident commander, defined in the proposed regulations as the designated representative of the responsible party in the unified command. This individual may be the QI.

Paragraph (e)(4)(iv) requires that each plan describe how the responsible party will liaison with local public response organizations following a hazardous substance discharge. Although OPA 90 explicitly requires the availability of private resources to respond to these discharges, local responders, such as firefighters and hazardous materials response teams, will probably respond as well. This requirement recognizes the benefits gained by ensuring an effective liaison between the responsible party and these response organizations.

Paragraph (e)(6) contains requirements to have the capability to rapidly integrate the following types of

expertise into the spill management team: product specialist, toxicologist, certified marine chemist, chemist or chemical engineer, and certified industrial hygienist (CIH). The need for these areas of specialty will be dictated by each discharge scenario; however, the response to such a discharge will be more effectively executed if this expertise is available to advise the unified command. Therefore, these specialties must be accessible.

Paragraph (g) describes exercise procedures for hazardous substance response. The proposed requirements are identical to those requirements contained in oil spill response plan regulations, except that plan-holders now conducting oil spill exercises would be allowed to replace between 25 and 75 percent of oil spill exercises with hazardous substance exercises. The percentage would be determined by the plan-holder, and should reflect the relative quantities of oil and hazardous substance cargo carried by the company.

Paragraph (h) "Geographic specific appendix for each COTP zone in which your vessel operates", identifies the operating area(s) within a particular COTP zone in which the vessel will operate. This would not restrict the vessel from operating in the entire zone, however. Additional information found in this appendix would identify response resources that are either listed or ensured by "contract or other approved means" that would respond to a hazardous discharge in the identified operating area.

The determining factors as to whether equipment must be contracted or not relates to the probability of its use following a worst case discharge. It is likely that personal protective equipment, monitoring equipment, and dispersion modeling would be necessary to assess the potential risks and develop response strategies. Unlike oil spills, where containment and collection strategies are standard, many hazardous substances, once discharged, cannot be contained or collected. The first priority for these discharges would be to ensure that peoples' exposure to the hazardous substances is minimized. The proposed equipment requirements are designed to do this.

For hazardous substances that can be contained and collected (e.g., those that are not highly soluble or reactive in water), paragraph (h) proposes that containment and collection equipment be listed in the plan so it could be quickly mobilized when needed. The equipment is not required to be ensured available by contract or other approved means because the probability of its use is limited, and factors influencing a

potential discharge create an almost limitless number of response scenarios. Therefore, the Coast Guard could not assume that the equipment will be needed.

Equipment that must be identified in the plan would correspond to two hazardous substance categories describing behavior following a discharge: "sinkers" and "floaters."

"Sinkers" are those hazardous substances whose physical and chemical properties, following a discharge into water, result in a substance in the water that does not float, react chemically with water, rapidly vaporize, or rapidly dissolve. Under ambient conditions, these chemicals have a solubility of less than .01 percent, specific gravity greater than 1.0, and a vapor pressure less than 1 psig.

"Floaters" are those hazardous substances whose physical and chemical properties, following a discharge into water, result in a substance on the water surface that does not rapidly sink, react chemically with water, vaporize, or dissolve. Under ambient conditions, these hazardous substances have a solubility of less than .01 percent, a specific gravity less than 1.0, and a vapor pressure less than 1 psig.

Neither a "sinker" or "floater" designation is intended to include hazardous substances that are highly reactive in water, and therefore could not be reasonably contained or collected under any conditions. Hazardous substances that do not fall into either of these categories would not be covered by the requirements of §§ 155.3035(h)(3) and (4).

Requirements that pertain to lightering, marine salvage, and firefighting would also be contained in paragraph (h). Lightering requirements would be consistent with the existing requirements for oil spill response plans. Based on comments made during the August 5, 1997 Marine Salvage and Firefighting Workshop, salvage and firefighting requirements are different from those contained in oil spill response planning regulations. The requirement to have the capability of bringing salvage and firefighting resources on-scene within 24 hours would not imply that all equipment must be on-scene within 24 hours. "Salvage resources" and "firefighting resources" include the necessary people and equipment that could evaluate and recommend appropriate salvage or firefighting strategies.

On February 12, 1998, the Coast Guard published a final rule (63 FR 7069) suspending, until February 12,

2001, deployment of salvage and firefighting equipment requirements in oil spill response plans. This suspension addressed public confusion regarding the correct interpretation of the phrase "equipment and expertise" and debate over the 24-hour-response time requirement. The Coast Guard is currently reviewing the salvage and marine firefighting capabilities within the United States and its territories. Results from this analysis may change our proposed salvage and firefighting requirements for vessels carrying hazardous substances. Any changes to our proposed salvage and firefighting requirements would be issued in either a Supplemental Notice of Proposed Rulemaking to this proposal or a separate Notice of Proposed Rulemaking addressing salvage and firefighting requirements for both oil and hazardous substance response plans.

Paragraph (j) would require the inclusion of hazardous-substance-specific information in each plan. The types of information would include cautionary response considerations, health hazards, fire hazards, chemical reactivity, water pollution, shipping information, hazard classifications, and physical and chemical properties.

Hazardous-substance-specific information required in the proposed rule is essentially the same information that is contained in the Chemical Hazards Response Information System (CHRIS). CHRIS is being expanded to include more chemicals, as well as improvements in format, content, and capabilities. It has historically functioned as a widely-accepted source of chemical-specific information for use by responders and response plan developers.

Because CHRIS is one of many tools that responders could use in planning for and during an actual response, and because responders and response planners need the flexibility to choose their own response tools, the Coast Guard does not propose to codify the use of the CHRIS manual.

Unlike previous versions of CHRIS, which were available only as hard-copy manuals, the new version will be available in hard-copy, electronic, and Internet formats. The revised CHRIS will afford users flexibility to tailor the system to meet specific needs. The electronic version will reside in a searchable database that allows for customized queries. Comments on how to further improve CHRIS are welcome and may be forwarded to the location listed under **ADDRESSES**. The Coast Guard intends that CHRIS will be available prior to the publication of a

final rule on hazardous substance response plans.

*Section 155.3055* calls for plan-holders to conduct their own evaluations of response resource providers named in response plans. These evaluations would cover both equipment adequacy and competency of personnel resources. The plan-holder must provide written certification of this evaluation, signed by the owner or operator.

The Coast Guard will consider adopting privately-sponsored programs that establish a standard that assures adequate capabilities of resource providers exist in order to meet plan requirements. The development of such a program will reduce the burden on owners or operators of conducting individual provider evaluations and is encouraged.

Vessel response plans are "self-certifying" in nature, as provided for by 33 CFR 155.3055 and 3065(a)(3). The scope of these certification statements includes the assurance that the response resources required by the applicable subparts have been ensured available through contract or other approved means. As such, it should be noted that any knowingly fraudulent statements or misrepresentations regarding contracted resources within the plan can result in an owner or operator being criminally prosecuted under 18 USC 1001, which, upon conviction, carries criminal penalties of a fine, up to five years of imprisonment, or both.

#### *Incorporation by Reference*

Material that would 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.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

#### *Assessment*

Due to substantial public interest, this proposal is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget. Although the proposed rule is not economically significant, section 6(a)(3) of that order requires an assessment of potential costs and benefits. The proposed rule is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). A draft Assessment has been prepared and is available in the docket for inspection or

copying where indicated under ADDRESSES.

The Coast Guard does not anticipate that the proposed rule will result in a significant economic burden on regulated entities. These proposed regulations are expected to impact only those vessel owner/operators that must comply with any new requirements. The Coast Guard will also incur costs related to plan review and approval.

Benefits are anticipated to result from an increased level of preparedness and efficiency in conducting response operations. Anticipated benefits from these regulations include averted pollution, a reduction in injuries and property damage associated with hazardous substance discharges, the avoidance of costs incurred by both public and private entities directly involved in response operations, and reduction of impacts on populations located in the vicinity of such discharges.

As many as 560 U.S. and foreign flag tankers and 1907 tank barges carry bulk chemicals in U.S. waters. These figures represent vessel ownership by an estimated 367 tanker and 182 barge companies. While all of these vessels do not carry the specific hazardous substances covered under these regulations, the analysis uses the conservative assumption that all of these vessels will be impacted by the regulations.

In determining the costs and benefits of the proposed regulations, the draft regulatory assessment for this proposed rule considered the following potential regulatory components:

1. The Coast Guard will take no action beyond existing regulations.

2. Regulations will require the submission of response plans containing information regarding qualified individuals, training, exercises, hazardous substance characteristics, notification procedures, and other crew procedures. This is identified as component A in the Regulatory Assessment.

3. The availability of a "first responders guide" and the development of a "decision support system" will be a voluntary measure not mandated by the regulations. Based on industry feedback, we expect compliance with these voluntary measures to be at or near 100 percent. This is identified as component B in the Regulatory Assessment.

First responders guides are concise instructions or handbooks that would be immediately available to personnel most likely to be at risk in the event of a hazardous substance discharge, and therefore most likely to take immediate

actions. The level of detail in these guides would be determined by each vessel owner or operator, and each company's expectation of the crew members in the event of a discharge. It is intended that the guides would be as specific as possible, and not include generic guidelines that allow for broad interpretation by those expected to use them.

Decision support systems are tools that responders can use to analyze risks associated with a hazardous substance discharge, and that assist in making decisions related to identifying and evaluating response strategies. Such systems could be automated, manual or human-based.

4. The preferred regulatory approach includes components A and B, plus requiring companies to contract for spill response equipment and having deployment drills. Regulations will essentially mirror requirements for vessel response plans for oil now found in 33 CFR 155 by requiring contracted containment and removal equipment to respond to hazardous substance discharges. This approach, designated as Alternative 1 in the Regulatory Assessment, is reflected in this proposed rule.

#### *Cost-Effectiveness Summary*

The measures included in the selected regulatory alternative are expected to yield a net cost-effectiveness of about \$13,254 per barrel of hazardous substance spillage averted. This cost-effectiveness value is expressed in 1997 dollars and is a ten-year quantifiable present value (PV). The cost of the proposed rule is approximately \$58.6 million, while its benefits are approximately 4000 barrels of pollution averted, and approximately \$5.3 million in avoided costs. Subtracting the avoided costs of the proposed rule from its total cost yields a net rule cost of about \$53.3 million. Dividing this net cost by about 4,000 barrels yields the net cost-effectiveness ratio of \$13,254. This procedure allows us to compare pollution and property damage benefits together.

The total first-year cost of these new requirements to industry is estimated to be a maximum of \$12.9 million. The recurring costs are estimated to be a maximum \$8.3 million per year.

The estimated cost for component A only is \$32.5 million. Its benefits include 2,432 barrels of avoided pollution and \$3.2 million of damages averted. Its net cost-effectiveness is \$12,037 per barrel unspilled.

The marginal cost for the additional measures contained in component B not included in component A is \$3.8

million. Marginal benefits include 651 barrels of avoided pollution and \$0.9 million of damages averted. The marginal net cost effectiveness of these additional measures is \$4,506 per barrel unspilled.

The marginal cost for the additional measures contained in Alternative 1 not included in component B is \$22.3 million. Marginal benefits include 935 barrels of avoided pollution and \$1.2 million of damages averted. The marginal net cost effectiveness of these additional measures is \$22,520 per barrel unspilled.

Non-quantified benefits could further decrease the cost per barrel of pollution averted. The most significant non-quantifiable benefit is the usefulness of response plans in many chemical discharge scenarios, not just those involving a worst case discharge of bulk Clean Water Act hazardous substances. History shows that, while only a limited number of "worst case discharges" of Clean Water Act hazardous substances have occurred in recent years, hundreds of discharges involving other chemicals, and in smaller quantities, have occurred. Response to these discharges would also have been enhanced if response plans had been developed.

#### *A. Costs*

The 10-year PV cost of the proposed rule is approximately \$58.6 million. Costs associated with these proposed regulations are the development of the actual hazardous substance response plans, as well as the costs of operating in compliance with the plan. In calculating costs, the Coast Guard used the estimate that 80% of companies owning/operating tank vessels covered by these regulations are currently holding oil response plans required by 33 CFR 155 Subpart D, and will modify or add to these existing plans rather than develop entirely new plans. Consequently, these companies have been credited with partial compliance with these proposed regulations. To the extent possible, costs reflect input from a range of industry sectors that will be directly or indirectly impacted by these regulations. Unless otherwise specified, "total cost" reflects the aggregate cost to the entire industry impacted by these proposed regulations. The Regulatory Assessment, prepared for this regulatory project, has broken down costs by components. The components and their costs are:

*Baseline.* The Coast Guard will take no action beyond existing regulations. By passing OPA 90, Congress indicated a preference for a statutory solution to oil and hazardous substance response planning rather than a "free market"

solution. Given that OPA 90 has been enacted, "no action" is essentially not a feasible alternative.

**Component A.** The Coast Guard will require that response plans be developed for all vessels and facilities engaged in the handling, transfer, or storage of any of the regulated hazardous substances covered by the regulations. The plans will include—

- General site information;
- Consistency with associated national and area planning requirements;
- Designation of a qualified individual with the authority to activate spill response resources;

- Contact lists;
- Training and drills;
- Submission of plans; and
- Periodic updates as associated changes may occur.

**Component B.** Component B includes cost from the measures in component A, plus the costs from the following two measures—

- First Responders Guides, or handbooks that provide instructions for initial response; and

Subject matter experts and a Decision Support System incorporating expert knowledge to assist in responding to a spill and assessing the risk to the surrounding areas.

**Alternative 1.** Alternative 1 captures what is mandated by statute. In addition to components A and B, companies will be required to contract for spill response capabilities and have equipment deployment drills. This requirement will mirror that required in the oil response plan regulations but will be applied only to those substances that display oil-like characteristics (i.e., those that float on water).

## B. Benefits

Based on the preferred alternative and assuming a 10-year PV, the amount of pollution averted is estimated at 4,000 barrels, while the avoided costs are estimated to be about \$5.3 million. Anticipated benefits from these regulations include averted pollution, a reduction in injuries and property damage associated with hazardous substance discharges, the avoidance of costs incurred by both public and private entities directly involved in response operations, and reduction of impacts on populations located in the vicinity of such discharges.

The degree to which response operations would be improved was estimated by interviewing 11 subject matter experts that have been directly involved with responding to hazardous substance discharges. These individuals represent vessel owners or operators,

local hazardous material response teams, U.S. Coast Guard Federal On-Scene Coordinators and Marine Safety Offices, and the U.S. Environmental Protection Agency.

Each interviewee was asked to estimate the level of effectiveness for each regulatory component. These estimates, ranging from minimal to significant impact on the efficiency of response operations, were averaged to develop an overall "percent efficiency". This in turn reflects the percent to which costs of a response would be reduced and the amount of pollution that could be averted.

An indirect benefit applies to chemical release incidents not covered under these regulations. These regulations apply to worst case discharges and the threat of such discharges. In reality, the vast majority of these incidents occur during transfer operations and are not worst case discharges, and frequently involve chemicals not carried in bulk or not covered by these regulations. Realizing that the benefit of the plans would be limited if they could be applied only to worst case discharges involving specific bulk hazardous substance cargoes, the Coast Guard designed these regulations with enough flexibility to be useful in guiding a wider range of chemical responses.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small business 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.

These regulations are not expected to significantly impact small businesses. No comments were made during two public meetings, one workshop, and in response to an ANPRM, that expressed concerns about impacts on small entities. The Coast Guard further contacted trade associations representing small businesses in the chemical transportation industry and received no indications that these regulations would adversely impact small entities. In total the draft Small Entity Assessment estimates that a maximum of 11 tank barge owners and no tank ship owners are small entities and could be affected by these regulations.

Excluded from these proposed regulations are public vessels, vessels of

opportunity, and fishing or fishing tender vessels of not more than 750 gross tons. The regulations also contain several provisions giving affected small businesses flexibility in complying with the requirements. The proposed regulations provide allowances to modify existing response plans and to take advantage of participation in industry cooperatives. Additionally, the Coast Guard is updating and making CHRIS available, which would essentially provide impacted parties with the hazardous-substance-specific information required in the regulations. For any company that believes it will be significantly impacted, the regulations allow the company to request further flexibility in complying with the requirements.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, 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 proposed rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

## Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact the Project Development Division (G-MSR-2) at 202-267-0756.

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 proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5

CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

*Title:* Tank Vessel Response Plans and Response Equipment for Hazardous Substances.

*Summary of the Collection of Information:* The Coast Guard has prepared and will seek approval for this collection of information under a consolidated collection which applies to these proposed regulations, proposed regulations for Facility Hazardous Substance Response Plans as well as existing regulations for Vessel and Facility Oil Response Plans. This proposal contains collection of information requirements in §§ 155.3022 (What are the requirements for qualified individuals and alternate qualified individuals and what authority do they have?); 155.3025 (When may I engage in hazardous substance operations?); 155.3026 (How do I obtain an interim operating authorization or a one-time authorization?); 155.3030 (What is the general format of a response plan?); 155.3031 (May I augment my vessel response plan for oil with hazardous substance response information?); 155.3032 (How many copies of the plan must I have, and where must they be maintained?); 155.3035 (What are the required contents of each section of the plan?); 155.3055 (How must I certify that my response resource providers are capable of meeting plan requirements?); 155.3065 (What are the procedures for plan submission and receiving approval?); 155.3066 (What are the procedures for submitting a request for acceptance of alternative planning criteria?); and 155.3070 (What are the procedures for plan review, revision, resubmission, and appeal?).

*Need for Information:* This information is necessary to ensure that vessels carrying hazardous substances in bulk as cargo or cargo residue entering and operating in U.S. waters are adequately prepared to respond to a hazardous substance discharge.

*Proposed Use of Information:* In part, the purpose of the OPA 90 amendments to section 311 of the FWPCA is to reduce the number of hazardous substance spills and to minimize the impact of the hazardous substance spills

when they occur in U.S. waters. Without the proposed requirements for vessel response plans, it is possible that some operators will not maintain the necessary internal resources (effective planning, training, drilling, etc.) or external resources (adequate shore-based response capability) to meet the requirements of these proposed regulations. The proposed collection of information requirements help ensure and monitor, through the submission and recurring update of response plans, that vessels entering and operating in U.S. waters have appropriate response plans and shore-based response resources.

Submission of vessel response plans to the U. S. Coast Guard for approval, the onboard verification of an approved plan during routine boarding procedures, and the maintenance of training and drill records is believed to be the best way to ensure compliance.

*Description of the Respondents:* Owners and operators of tank vessels carrying hazardous substances in bulk as cargo or cargo residue while entering or operating in U.S. waters.

*Number of Respondents:* 659.

*Frequency of Response:* Response plan submitted every 5 years; notice of reviews completed annually; updates as necessary.

*Burden of Response:* A one-time burden of 45,960 hours for reporting and an annual recordkeeping burden of 4,600 hours.

*Estimated Total Annual Burden:* One-time reporting burden of 69.7 hours and an annual recordkeeping burden of 6.9 hours.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information. The Coast Guard solicits public comment on the proposed collection of information to (1) evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond, as by allowing the submittal of responses by electronic means or the use of other forms of information technology.

Persons submitting comments on the collection of information should submit

their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES** by the date under **DATES**.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

#### *Federalism*

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

#### *Environment*

The Coast Guard considered the environmental impact of this proposed rule and concluded that preparation of an Environmental Impact Statement is not necessary. A draft Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection or copying where indicated under **ADDRESSES**.

The draft Environmental Assessment indicates that these regulations could be expected to result in a positive impact on the environment through the avoidance of adverse impacts following a hazardous substance discharge. The assessment analyzed the range of environmental impacts associated with several potential regulatory strategies considered by the Coast Guard, with a "no action" option as a baseline. A "no action" regulatory action would essentially result in no impact on the environment. Other regulatory options considered would result in positive impacts by averting pollution.

Estimates of pollution averted were established through interviews with individuals having substantial experience in the area of chemical response. No aspects of these regulations would be expected to result in adverse impacts on the environment.

#### *Unfunded Mandates*

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. UMRA requires a written statement of economic and regulatory approaches 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, the UMRA analysis is required. This rule does not impose Federal mandates on any State, local or tribal governments or the private sector.

#### *Other Executive Orders on the Regulatory Process*

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this notice of proposed rulemaking (NPRM) and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This NPRM will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This NPRM will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This NPRM meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This NPRM is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

#### **List of Subjects 33 CFR Part 155**

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 155 as follows:

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

1. The authority citation for part 155 continues to read as follows:

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

§§ 155.100–155.130, 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 33 U.S.C. 2735.

2. In § 155.140(b), add, in alphabetical order to the organization referenced, the following standard:

#### **§ 155.140 Incorporation by reference.**

\* \* \* \* \*

(b) \* \* \*

#### **International Maritime Organization (IMO)**

\* \* \* \* \*

Resolution A.648(16), General Principles for Ship Reporting System and Ship Reporting Requirements October 19, 1989 .....155.3035

\* \* \* \* \*

3. Revise the heading to subpart D to read as follows:

#### **Subpart D—Response Plans for Oil**

4. Add subpart H, consisting of §§ 155.3010 through 155.3070, to read as follows:

#### **Subpart H—Response Plans for Hazardous Substances**

Sec.

155.3010 What is the purpose of this subpart?

155.3015 Who must follow this subpart?

155.3020 What definitions apply to this subpart?

155.3021 What is a “contract or other approved means”?

155.3022 What are the requirements for qualified individuals and alternate qualified individuals and what authority do they have?

155.3025 When may I engage in hazardous substance operations?

155.3026 How do I obtain an interim operating authorization or a one-time authorization?

155.3030 What is the general format of a response plan?

155.3031 May I augment my vessel response plan for oil with hazardous substance response information?

155.3032 How many copies of the plan must I have, and where must they be maintained?

155.3035 What are the required contents of each section of the plan?

155.3050 What are the operating criteria that apply to response resource equipment?

155.3055 How must I certify that my response resource providers are capable of meeting plan requirements?

155.3065 What are the procedures for plan submission and receiving approval?

155.3066 What are the procedures for submitting a request for acceptance of alternative planning criteria?

155.3067 How do I submit an appeal if my response plan is not approved?

155.3070 What are the procedures for plan review, revision, resubmission, and appeal?

#### **Subpart H—Response Plans for Hazardous Substances**

#### **§ 155.3010 What is the purpose of this subpart?**

The purpose of this subpart is to establish requirements for hazardous substance response plans for certain vessels. The planning criteria in this subpart are intended for use in response plan development and the identification of necessary resources. The development of a response plan prepares the vessel owner or operator and the vessel's crew to respond to a hazardous substance discharge. The specific criteria for response resources and their arrival times are not performance standards. They are planning criteria based on a set of assumptions that may not exist during an actual hazardous substance discharge incident.(3)

#### **§ 155.3015 Who must follow this subpart?**

(a) You must follow this subpart if you are an owner or operator of a tank vessel that carries any bulk hazardous substance as cargo or cargo residue. This includes any hazardous substance, its isomers and hydrates, as well as any mixtures and solutions that contain 10% or more hazardous substance, by weight.

(b) You are not required to follow this subpart if you own or operate any of the following:

(1) Public vessels and vessels deemed public vessels;

(2) A vessel that, although constructed or adapted to carry hazardous substances in bulk as cargo or cargo residue, is not storing or carrying hazardous substances in bulk as cargo or cargo residue;

(3) A dedicated response vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material, when conducting hazardous substance response operations;

(4) A vessel of opportunity that—

(i) Conducts response activities in a response area; and (ii) Does not conduct hazardous substance operations except when involved in response activities;

(5) An offshore supply vessel as defined in 46 U.S.C. 2101;

(6) A fishing or fishing tender vessel as defined in 46 U.S.C. 2101 up to 750 gross tons when operating as such;

(7) A foreign flag vessel engaged in innocent passage.

(c) If you own or operate a vessel that must follow this subpart, but are not operating within the navigable waters or the exclusive economic zone (EEZ) of the United States, then you must meet all requirements of this subpart except:

(1) You do not have to identify and ensure the availability of response resources, including the spill management team;

(2) You do not have to provide the geographic-specific appendices required in § 155.3035(j);

(3) You do not have to designate a qualified individual and alternate qualified individual as required in § 155.3022.

**§ 155.3020 What definitions apply to this subpart?**

As used in this subpart:

*Adverse weather* means the hydrographic, meteorological, and other environmental conditions that magnify the risk of adverse impact to human health and the environment when a hazardous substance is discharged, and must be considered when identifying response resources in a response plan.

*Bulk* means any volume of a hazardous substance carried in an integral cargo tank of a vessel, and any volume of a hazardous substance transferred to or from a marine portable tank or independent tank while on board a vessel.

*Captain of the Port (COTP) Zone* means a zone specified in 33 CFR part 3 and, for coastal ports, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).

*Dedicated response vessel* means a vessel that is designated as an oil spill response vessel in its certificate of inspection, or that is adapted to respond to a discharge of oil or a hazardous substance. Response activities in which such vessels may engage include discharge recovery and transport; tank vessel escorting; deployment of response equipment, supplies, and personnel; and discharge response training, testing, exercises and research.

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

*Federal On-scene coordinator (Federal OSC)* means the Federal official pre-designated by the Coast Guard or Environmental Protection Agency (EPA)

to coordinate and direct response efforts at the scene of a hazardous substance discharge, as prescribed in the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan (NCP)) published in 40 CFR part 300.

*Floater* means any hazardous substance whose physical and chemical properties, when discharged into water, result in a substance on the water surface that does not rapidly sink, react chemically with water, vaporize, or dissolve.

*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.

*Hazardous substance* means any chemical that is listed in 40 CFR 116.4.

*Hazardous substance operations* means the storing, transferring, handling, transporting, or lightering of a hazardous substance in bulk in areas subject to the jurisdiction of the United States.

*Inland area* means either the area shoreward of the boundary lines defined in 46 CFR part 7 or, in the Gulf of Mexico, the area shoreward of the lines of demarcation (COLREG lines) as defined in 33 CFR 80.740 through 80.850. The Great Lakes are not included in the inland area.

*Interim operating authorization* means authorization granted by the Coast Guard for a vessel to handle, store, transport, transfer, or lighter a hazardous substance without having an approved plan.

*Lightering or lightering operation* means the transfer of a hazardous substance in bulk from one vessel to another, and includes all phases of the operation from the mooring of the vessel to the departure of the service vessel from the vessel lightered, except when the cargo is intended only for use as ship's stores aboard the receiving vessel.

*Nearshore area* means either the area extending seaward 12 miles from the boundary lines defined in 46 CFR part 7, or, in the Gulf of Mexico, the area extending seaward 12 miles from the lines of demarcation (COLREG lines) as defined in 33 CFR 80.740 through 80.850.

*Offshore area* means the area from the outer boundary of the nearshore area seaward 38 nautical miles.

*Open ocean area* means the area from the outer boundary of the offshore area to the seaward boundary of the exclusive economic zone.

*Operating area* means any of the following: Rivers and canals, Great Lakes, Inland area, Nearshore area, Offshore area, or Open ocean area.

*Operator* means the owner, demise charterer, or contractor who operates or is responsible for the operation of a vessel. For the purposes of this subpart only, the operator of a towing vessel is not, per se, considered the operator of a vessel being towed.

*Owner or vessel owner* means any person holding legal or equitable title to a vessel unless this person holds the title solely as security and not as the owner. It also means the person(s) whose name(s) appears on a vessel's Certificate of Documentation. If the name of a president or secretary of an incorporated company is on the certificate, then the company is the owner.

*Personal protective equipment (PPE)* means equipment that meets the requirements contained in 29 CFR 1910.120.

*Public vessel* means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision of the United States, or by a foreign nation, except when engaged in commerce.

*Response activity* means any actions necessary to minimize or mitigate damage to human health, the environment, or property.

*Response area* means the area designated by the Federal On-Scene Coordinator in which response activities are occurring.

*Response resources* means the personnel, equipment, supplies, and other capabilities necessary to perform activities identified in a response plan.

*Response resources provider* means an entity that provides response personnel, equipment, supplies, and other capabilities necessary to perform activities identified in a response plan.

*Rivers and canals* means bodies of water confined within the inland area. These include the Intracoastal Waterways and other waterways artificially created for navigation having a project depth of 12 feet or less.

*Sinker* means any hazardous substance whose physical and chemical properties, when discharged into water, result in a substance in the water that does not float, react chemically with water, rapidly vaporize, or rapidly dissolve.

*Spill management team (SMT)* means the personnel identified in a response plan who staff the organizational structure that manages response plan implementation. The term Incident Management Team may also be used.

*Tank barge* means a non-self-propelled tank vessel.

*Tank vessel* means a vessel that is constructed or adapted to carry, or that

carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

- (1) Is a vessel of the United States;
- (2) Operates on the navigable waters of the United States; or
- (3) Transfers a hazardous substance in a place subject to the jurisdiction of the United States.

*Tanker* means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

*Vessel crew* means:

(1) For tankers—those persons required by a Certificate of Inspection or other official manning document to be on board;

(2) For tank barges—those persons manning both the tank barge and the towing vessel.

*Vessel deemed public vessel* means any motorboat or yacht, while assigned to authorized Coast Guard duty.

*Vessel of opportunity* means a vessel that, because of its availability and geographic location, becomes involved in a response to an oil or hazardous substance incident.

*Vessels carrying hazardous substances as cargo* means all vessels carrying hazardous substances in bulk as cargo or cargo residue, except for dedicated response vessels.

*Worst case discharge* means a discharge of a vessel's entire hazardous substance cargo during adverse weather.

**§ 155.3021 What is a "contract or other approved means"?**

A "contract or other approved means" is any of the following methods used to meet the requirements contained in § 155.3035:

- (a) A written contract with a response resources provider;
- (b) A written certification that the personnel, equipment, and capabilities required by your response plan are available and are under your control;
- (c) You have an active membership in a local or regional response resources provider;
- (d) You have a document such as a letter, memorandum, or other form of written consent that specifies the agreement you have with a response resources provider and that the provider is capable of and intends to commit to meet your plan requirements. This document must give permission for the Coast Guard to verify the identified response resources and their capabilities through tests, inspections, and exercises;

(e) You have found another way you can comply with the requirements of this section and it is approved by Commandant (G-MOR).

**§ 155.3022 What are the requirements for qualified individuals (QI) and alternate qualified individuals and what authority do they have?**

(a) You must designate a QI and at least one alternate QI in your response plan. You may designate a third party organization to fulfill the role of the QI and alternate QI. The organization must identify a QI and at least one alternate QI. These individuals must be available on a 24-hour basis.

(b) Qualified individuals and alternates must—

- (1) Speak fluent English;
- (2) Be located in the United States, except your QI or alternate QI may be located in Canada while your Canadian flag vessel is operating on the Great Lakes or the Strait of Juan de Fuca and Puget Sound, WA;
- (3) Be familiar with the implementation of your plan;
- (4) Meet the training requirements contained in 29 CFR 1910.120(q)(6)(v), to include the capabilities contained in Appendix E, 29 CFR 1910.120, in the section entitled "Suggested Training Curriculum Guidelines", in paragraph C.b.(5) entitled "Incident commander."

(c) You must designate each QI and alternate QI in writing. In your designation document you must specify that the QI—

- (1) Has full authority to implement actions to contain, remove, or otherwise minimize or mitigate damage to the public health, the environment, and public property;
- (2) Is able to immediately and continuously communicate with the Federal OSC and persons providing resources and equipment, as needed;
- (3) Is authorized to contracting and obligate funds to carry out response activities; and
- (4) Is adequately trained and experienced to carry out the responsibilities of the QI.

(d) The qualified individual's liability is covered in 33 U.S.C. 1321(c)(4).

(e) As soon as is practicable after a discharge or incident resulting in a substantial threat of a discharge, the QI will provide the Federal OSC with the name of the individual who will direct response activities and act as the owner or operator's incident commander, if other than the QI.

**§ 155.3025 When may I engage in hazardous substance operations?**

(a) If you submit a plan prior to [6 months after publication of Final Rule], you may conduct hazardous substance operations pending receipt of interim operating authorization. These operations must be conducted in accordance with your plan.

(b) If you are awaiting approval of a submitted plan and have received interim operating authorization from the Coast Guard, then you may conduct hazardous substance operations for up to two years after the date your plan was submitted, and if your vessel is fully certificated for its intended service.

(c) If you have an approved plan, and your vessel is fully certificated for its intended service, then your vessel may engage in hazardous substance operations.

(d) Your vessel may not conduct hazardous substance operations if—

- (1) You have not submitted a plan to the Coast Guard prior to [6 months after publication of Final Rule];
- (2) The Coast Guard determines that the response resources referenced in your plan do not substantially meet the requirements of this subpart;
- (3) The contracts or agreements cited in your plan have lapsed or are otherwise no longer valid;
- (4) You are not operating in accordance with your plan;
- (5) The interim operating authorization under paragraph (b) of this section has expired; or
- (6) The plan's approval has expired.

**§ 155.3026 How do I obtain an interim operating authorization or a one-time authorization?**

(a) To obtain an interim operating authorization, you must submit a written request to Commandant (G-MOR) certifying that you have identified and ensured available, by contract or other approved means, the private response resources necessary to respond to a worst case hazardous substance discharge or substantial threat of such a discharge. The interim operating authorization will allow you to conduct hazardous substance operations only in the geographic area covered by your plan.

(b) If you would like your vessel to conduct hazardous substance operations in a geographic area not covered by your plan, then you must get a one-time authorization from the applicable COTP to do so.

(c) To receive a one-time authorization you must submit a written request to the applicable COTP certifying that you have—

(1) An approved hazardous substance response plan or interim operating authorization aboard the vessel (except for the applicable geographic specific appendix);

(2) Given the name of the QI to the master of the vessel and the COTP; and

(3) Identified and ensured available, by contract or other approved means, the private response resources necessary

to respond to a worst case discharge or substantial threat of such a discharge in the area in which you seek to have the vessel operate.

**§ 155.3030 What is the general format of a response plan?**

- (a) Your response plan must—
  - (1) Identify and cover all geographic areas of the United States where your vessel will conduct hazardous substance operations;
  - (2) Be written in English and the languages understood by crew members with responsibilities under the plan;
  - (3) Have the following sections:
    - (i) General information;
    - (ii) Notification procedures and list of contacts;
    - (iii) Risk based decision support process;
    - (iv) Shipboard mitigation procedures;

- (v) Shore-based response organization;
- (vi) Training procedures;
- (vii) Exercise procedures;
- (viii) Geographic—specific appendix for each COTP zone where your vessel(s) operates;
- (ix) Vessel(s)—specific appendix for each vessel covered by the plan;
- (x) An appendix for each hazardous substance aboard the vessel; and
- (4) Have an on-board notification checklist and emergency procedures (tank barges only).
- (b) Your response plan must be divided into the sections described in paragraph (a)(3) of this section unless your plan is supplemented by a cross-reference table showing the location of required information.
- (c) Your plan must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan

(NCP) (40 CFR part 300) and the Area Contingency Plan (ACP) in effect six months prior to the submission of your plan.

**§ 155.3031 May I augment my vessel response plan for oil with hazardous substance response information?**

Yes, you may augment your existing vessel response plan for oil with requirements that are specific to this subpart.

**§ 155.3032 How many copies of the plan must I have, and where must they be maintained?**

- (a) You must maintain a current copy of the complete plan. You must provide a copy to each qualified individual and alternate.
- (b) A copy of the following plan sections must be maintained on board your vessel:

Type of tank vessel	Required plan sections	Approval letter (Notarized copy authorized)
Tanker .....	§ 155.3030(a)(3)(i)–(iv) and (viii)–(x) .....	Yes.
Tank Barge .....	§ 155.3030(a)(3)(x), (4) .....	Yes.

**§ 155.3035 What are the required contents of each section of the plan?**

- (a) *General information.* This section of the plan must include all of the following:
  - (1) A list of vessels covered by the plan;
  - (2) A list of COTP zones in which the vessel intends to conduct hazardous substance operations;
  - (3) A table of contents or index of sufficient detail to permit any user to find a specific section of the plan; and
  - (4) A “Record of Changes” page to record information on plan reviews, updates, or revisions.
- (b) *Notification procedures and list of contacts.* This section of the plan must include notification or contact information. If the notifications vary

due to vessel location, persons to be notified may be listed in a geographic-specific appendix. This section of the plan must also provide all of the following:

- (1) The primary and secondary communication methods to be used in making notifications;
- (2) A checklist showing all notifications required by MARPOL 73/78, 33 CFR part 153, and any appropriate State and designated local authorities. This checklist must include 24-hour telephone numbers or other notification methods and the information required for those notifications. The checklist must also specify notifications to be made by shipboard personnel and shore-based personnel;

- (3) The procedures for notifying all of the following:
  - (i) Qualified individual and alternate;
  - (ii) Incident commander (if other than the QI);
  - (iii) Vessel owner or operator;
  - (iv) Vessel’s local agent;
  - (v) Person(s) able to assess a vessel’s seaworthiness; and
  - (vi) Transfer facility (if applicable);
- (4) The incident commander must have the capability of arriving at the incident command post, if established, or at the immediate vicinity of the incident within a reasonable time-frame; and
- (5) Information that must be provided in initial and follow-up notifications is:

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## (i) Initial notification information.

- (A) Tank vessel name, country of registry, call sign, and official number;
- (B) Towing vessel name;
- (C) Date and time of incident;
- (D) Location of the incident;
- (E) Course, speed, and intended track of vessel;
- (F) Radio stations and frequencies guarded;
- (G) Date and time of next report;
- (H) Names and quantities of hazardous substances on board;
- (I) Nature and detail of defects, deficiencies, and damage (e.g. grounding, collision, hull failure, etc.);
- (J) Details of pollution, including estimate of the quantity of hazardous substance discharged or whether a threat of discharge exists;
- (K) Weather/sea conditions on scene;
- (L) Tank vessel size and type;
- (M) Actions taken or planned by persons on scene;
- (N) Current conditions of vessel;
- (O) Number of crew and details of injuries; and
- (P) Other appropriate information.

## (ii) Follow-up notification information.

- (A) Additional details on cargo on board;
- (B) Additional details on the condition of the tank vessel and ability to transfer cargo, ballast, and fuel;
- (C) Additional details on the quantity, extent, movement and fate and effect of the pollution and whether discharge is continuing;
- (D) Any changes in on scene weather or sea conditions;
- (E) Actions being taken with regard to the discharge and the movement of the tank vessel; and
- (F) Other appropriate information essential for the protection of human populations and the marine environment.

Note to paragraph (b) (5): For tankers, the initial notification may be submitted in accordance with IMO Resolution A.648(16) "General Principles for Ship Reporting Systems and Ship Reporting Requirements" which is available through COMDT (G-MSO-4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

(c) *Risk based decision support processes.* This section of your plan must outline processes which will help responders make decisions relating to the identification, evaluation, and control of risks to human health and the environment following a hazardous substance discharge. These outlined processes do not need to be scenario specific, but can be generic in nature. This section of the plan may take the form of a decision tree, an automated decision support system, or any other format that meets the elements described in this paragraph. As a minimum, the process must include all of the following:

(1) *Risk identification* which describes the process which will be used to determine the extent and route of hazardous substance exposure to humans and the environment;

(2) *Risk evaluation* which describes the process which will be used to establish relative degrees of risk and prioritizing risks;

(3) *Risk control* which describes the process which will be used to determine which response methods are feasible to eliminate or reduce impacts of the hazardous substance discharge on humans and the environment likely to be exposed; and

(4) *Risk communication* which describes the process which will be used to communicate information resulting from paragraphs (c)(1), (2), and (3) of this section to parties internal and external to response activities.

(d) *Shipboard mitigation procedures.* This section of your plan must contain prioritized procedures necessary to protect the vessel's crew, and mitigate, control or prevent the discharge of a hazardous substance. Paragraphs (d)(1) through (4) of this section include the requirements for shipboard mitigation procedures.

(1) All plans must include procedures for—

(i) Crew safety, and if applicable, the use of personal protective equipment;

(ii) Crew responsibilities by job title;

(iii) Crew actions while conducting internal or external cargo transfers during a transfer system leak, overflow, or a suspected cargo tank or hull leak;

(iv) Crew actions during casualties or emergencies which include grounding or stranding, collision, explosion or fire (or both), hull failure, excessive list, or equipment failure such as main propulsion, steering gear, etc.;

(v) Internal or tank to tank transfers of cargo in an emergency (if applicable to type of vessel);

(vi) Emergency ship-to-ship cargo transfers. (Procedures must be consistent with the vessel's transfer

procedures, lightering plan, and safety considerations.);

(vii) Arrangements for emergency towing, to include rigging requirements and operating procedures of any emergency towing equipment; and

(viii) The vessel crew to gather information that must be provided to shore-based personnel who will conduct damage stability and hull stress assessments.

(2) If your crew will engage in shipboard mitigation measures, then include:

(i) The identification and description of the activities that the crew has been trained in and are qualified to do when the crew does not have shore-based support.

(ii) Crew responsibilities to mitigate a hazardous substance discharge. You must include procedures for use of vessel equipment and personal protective equipment carried on board.

(3) If your crew will initiate a shore-based response (beyond required notifications), then include crew responsibilities to initiate a shore-based response, and the crew's supervision responsibilities of the shore-based response resources.

(4) If your crew will conduct air sampling/monitoring or water sampling/monitoring, then include crew responsibilities for recordkeeping and sampling of spilled hazardous substances, personal protective equipment requirements, and safety procedures during the sampling/monitoring operation.

(e) *Shore-based response organization.* This section of your plan must include the following:

(1) The authority and responsibilities of the qualified individual. The authority must allow for immediate and continuous communication with the Federal OSC and notification/activation of the hazardous substance response resource provider(s).

(2) Procedures for transferring the responsibility for direction of response activities from the vessel crew to the qualified individual or incident commander, if other than the QI.

(3) Procedures for coordinating all response actions with the Federal OSC who oversees or directs those actions.

(4) The organizational structure to be used to manage response actions. This structure must outline the key roles and responsibilities of the following functional areas:

(i) Command and control (incident commander);

(ii) Public information;

(iii) Safety;

(iv) Liaison with government agencies and other agencies as appropriate;

(v) Response operations;

(vi) Planning;

(vii) Logistics support; and

(viii) Finance.

(5) You must list the responsibilities, duties, and functional job descriptions for each position of the spill management team that is part of the organizational structure described in paragraph (e)(4) of this section.

(6) You must list individuals with the following specific technical specialties that are available on a 24 hour-a-day basis for integration into the spill management team, as needed:

(i) Product specialist;

(ii) Toxicologist;

(iii) Certified marine chemist;

(iv) Chemist or chemical engineer; and

(v) Certified industrial hygienist.

(7) You will satisfy the requirements of paragraphs (e) (1) through (5) of this section if you design your spill management team in accordance with the U.S. Coast Guard adopted National Inter-agency Incident Management System (NIIMS) Incident Command System (ICS).

(f) *Training.* (1) You must identify the training required for personnel having responsibilities under the response plan.

(2) You must differentiate between that training provided to vessel personnel and shore-based personnel.

(3) You must document the training of your personnel and make your training records available when requested by the Coast Guard. This applies to both initial and refresher training, as applicable. Records must be maintained for 3 years following completion of training.

(4) Nothing in this paragraph (f) relieves you from the responsibility to ensure that private shore-based response personnel are trained to meet the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.120.

(5) This paragraph (f) does not apply to the individuals listed in paragraph (e)(6) of this section.

(g) *Exercise procedures.* This section of the plan addresses your exercise program. These exercises should help to ensure that your plan will function in an emergency. Your exercise program must detail the types of exercises, frequencies, scopes, objectives, and the scheme for exercising your entire response plan every three years. You must include announced and unannounced exercises in your plan.

(1) Minimum exercise requirements are:

Exercise type	Frequency	Comments
(i) Qualified individual notification .....	Quarterly.	
(ii) Emergency procedures .....	Quarterly .....	See note.
(iii) Spill management team tabletop .....	Annually .....	In a 3-year period, one exercise must include a worst case discharge scenario for hazardous substances. See note.
(iv) Response resource provider equipment deployment.	Annually .....	See note.
(v) Entire response plan .....	Every 3 years .....	You must design your exercise program so that every component of the plan is exercised at least once every 3 years. You may exercise the components all at once. The components may be exercised via the required exercises or via an area exercise.

Note to paragraph (g)(1) table: One of these exercises must be unannounced in the three year exercise cycle.

(2) You must participate in unannounced exercises, as directed by the COTP. The objectives of these exercises are to verify the ability and evaluate the performance of shipboard personnel in fulfilling their emergency-related responsibilities under the plan. These exercises will be limited to four per area per year. After participating in an unannounced exercise, you will not be required to participate in another unannounced exercise for at least 3 years from the date of the exercise.

(3) You must participate in area exercises as directed by the Federal OSC. The area exercises will involve those actions necessary to respond to the spill scenario developed by the exercise design team, of which you will be a member. After participating in an area exercise, you will not be required to participate in another area exercise for at least 6 years.

(4) You must maintain adequate exercise records as follows:

(i) Records of the qualified individual notification exercises and the emergency procedures exercises must be maintained on the vessel. You may

document these exercises in the ship's log or in a separate exercise log.

(ii) Exercise records must be maintained and available to the Coast Guard for 3 years following completion of the exercises.

(5) For holders of approved oil response plans augmented for hazardous substances, oil and hazardous substances exercises are interchangeable. However, a minimum of 25 percent to a maximum of 75 percent of all exercises must be for hazardous substances.

(6) You may satisfy the exercise response plan requirements by complying with the National Preparedness for Response Exercise Program (PREP) Guidelines issued by Commandant (G-MOR). These guidelines are available from the United States Government Printing Office, North Capitol and H Sts., NW., Washington, DC 20402.

(h) *Geographic-specific appendix for each COTP zone in which your vessel(s) operates.* This section of your plan must include a geographic-specific appendix for each COTP zone where your vessel

intends to conduct hazardous substance operations.

(1) Each appendix must identify the geographic area(s) within each COTP zone where your vessel intends to operate.

(2) For each COTP zone, you must ensure available, through contract or other approved means, the following response resources to be on-scene within the time-frames indicated from the detection of the discharge and the 24-hour point of contact for the provider of each resource. (NOTE: The response resources contained in paragraphs (h)(2)(i)-(iv) of this section are required when operating in the inland, river and canal, and Great Lakes operating areas.)

(i) Air monitoring in accordance with 29 CFR 1910.120—2 hours.

(ii) Water sampling—2 hours.

(iii) Personal protective equipment—2 hours.

(iv) Modeling capabilities available to include dispersion modeling (water and air)—2 hours.

(v) Lightering resources capable of providing the following equipment and services at your vessel's location within the prescribed time-frame:

If your lightering resource must provide the following equipment and/or services \* \* \*

And your vessel is located in one of the areas listed, then the equipment and/or services must be at your vessel's location within the time-frame indicated:

(A) Lightering equipment (see note):

(1) Fendering equipment .....

Inland, nearshore and Great Lakes waters—12 hours.

Offshore waters and Rivers and canals—18 hours.

Open ocean waters—36 hours.

The same as (A)(1) above.

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

(3) Transfer hoses and connection equipment .....

The same as (A)(1) above.

(B) Access to lightering specialists and mooring masters .....

Any operating area—24 hours.

(C) Access to barge brokers or other entities that can assist in identifying available barges that can be used as lightering vessels.

Any operating area—24 hours.

Note to paragraph (h)(2)(v) table: For tankers the equipment must be onboard.

(vi) Marine firefighting resources with equipment that have the capability to be on-scene within 24 hours.

(vii) Salvage resources that can respond within 24 hours and have the capability to access the necessary salvage equipment.

(3)(i) If you transport a hazardous substance that exhibits the characteristics of a "floater", then you must list the following response

resources capable of being on-scene within 24 hours of detection of the discharge and the 24-hour point of contact for the provider of each resource:

- (A) Sorbent and containment boom;
- (B) Recovery devices; and
- (C) 10,000 feet of inland boom for shoreline protection operations.

(ii) Resources listed in oil response plans will meet the requirement of paragraph (h)(3)(i) of this section.

(4) If you transport a hazardous substance that exhibits the characteristics of a "sinker", then you

must list the following response resources capable of being on-scene within 24 hours of detection of the discharge and the 24-hour point of contact for the provider of each resource:

(i) Sorbent boom, containment boom, silt curtains, or other equipment to contain hazardous substances that may remain floating on the surface or to reduce spreading on the bottom;

(ii) Dredges, pumps, or other equipment necessary to recover hazardous substances from the bottom and shoreline;

(iii) Chemical detection devices, such as sonar or sampling equipment; and  
 (iv) In situ treatment equipment as deemed appropriate by the plan-holder.

(5) The listed response resource providers must meet the equipment criteria contained in § 155.3050. Response resource providers must provide trained personnel to operate equipment, and staff their organization and the spill management team for the first 7 days of the response.

(i) *Vessel(s)-specific appendix for each vessel covered by the plan.* This section of the plan must include:

Required information (where applicable)	Comments
(1) Vessel's name, Country of registry, Call sign, Official number, International Maritime Organization (IMO) international number.	If the plan covers multiple vessels, then this information must be provided for each vessel.
(2) List of the vessel's principal characteristics .....	See note.
(3) Capacities of all cargo, fuel, lube oil, ballast, and fresh water tanks	See note.
(4) Diagrams showing locations of all tanks Vessel plans and information: (i) General arrangement plan. (ii) Midships section. (iii) Cargo and fuel piping diagrams and pumping plan. (iv) Cargo and fuel storage plan.	Can be maintained separately aboard the vessel provided the response plan identifies location. See note.
(5) Location of all equipment and fittings used to perform transfers and lightering.	See note.
(6) Location of equipment and personal protective equipment carried to mitigate a hazardous substance discharge.	See note.
(7) Damage stability data: Locations of plans to perform salvage, stability, and hull stress assessments. These include the general arrangement plan, midship section plan, lines plan or table of offsets, tank tables, load line assignment, and lightship characteristics.	You must maintain a copy of these plans ashore. The vessel's owner or operator or the vessel's classification society may maintain these plans unless you have arranged for a shore-based damage stability and residual strength calculation program with your vessel's baseline strength and stability characteristics pre-entered. If the computerized damage stability calculation program is utilized, then you must provide in the plan the shore location and 24-hour access procedures of the calculation program.

Note to paragraph (i) table: Because many of the tank vessels covered by a response plan may be of the same design, you do not need to repeat this information provided the plan identifies the tank vessels to which the same information applies.

(j) *Hazardous substance specific appendix.* This section of the plan must include a separate appendix for each hazardous substance cargo on board your vessel. The following table represents the types of information which must be included, if pertinent:

Information categories	Types of information
(1) NAME OF HAZARDOUS SUBSTANCE .....	Common Chemical Name, Synonym(s), and Trade Name(s)
(2) CAUTIONARY RESPONSE INFORMATION	First Response Activities for Fire, Exposure, and Water Pollution Physical Description Telephone Number for Medical Treatment
(3) CHEMICAL DESIGNATIONS .....	CAS Registry Number. CG Compatibility Class. DOT ID No. Formula. IMO/UN Designation. NAERG Guide Number. Standard International Trade Classification.
(4) HEALTH HAZARDS .....	Chronic Toxicity. EPS AEGL. IDLH Value. Irritant Characteristics (Liquid, solid, or vapor (gas)). Odor threshold. OSHA PEL-CEILING. OSHA PEL-STEL. OSHA PEL-TWA. PPE. Symptoms Following Exposure. TLC-Ceiling. TLV-STEL. TLV-TWA. Toxicity by ingestion.



Information categories	Types of information
(5) FIRE HAZARDS .....	Toxicity by inhalation. Treatment of exposure. Adiabatic Flame Temperature. Behavior in Fire. Burning Rate. Electrical Hazard. Fire Extinguishing Agents. Fire Extinguishing Agents Not to be Used. Flame Temperature. Flammable Limits in Air. Flash Point. Ignition Temperature. Minimum Oxygen Concentration for Combustion (MOCC). Molar Ratio. Special Hazards of Combustion Products. Stoichiometric Air to Fuel Ratio.
(6) CHEMICAL REACTIVITY .....	Inhibitor of Polymerization. Neutralizing Agents for Acids and Caustics. Polymerization. Reactivity with Common Materials. Reactivity with Water. Stability During Transport.
(7) WATER POLLUTION .....	Aquatic Toxicity. Biochemical Oxygen Demand (BOD). Food Chain Concentration Potential. GESAMP Hazard Profile. Waterfowl Toxicity.
(8) SHIPPING INFORMATION: .....	Barge Hull Type Grades of Purity. IMO Pollution Category. Inert Atmosphere. Ship Type. Storage Temperature. Venting.
(9) HAZARD CLASSIFICATIONS .....	49 CFR Category. 49 CFR Class. 49 CFR Package Group. EPA FWPCA List. EPA Pollution Category. EPA Reportable Quantity. Marine Pollutant. NFPA Hazard Classification. RCRA Waste Number.
(10) PHYSICAL AND CHEMICAL PROPERTIES.	Boiling Point at 1 atm.  Critical Pressure. Critical Temperature. Freezing Point. Heat of Combustion. Heat of Decomposition. Heat of Fusion of Polymerization. Heat of Solution. Latent Heat of Vaporization. Limiting Value. Liquid Surface Tension. Liquid Water Interfacial Tension. Molecular Weight. Physical State. Ratio of Specific heats of Vapor (Gas). Reid Vapor Pressure Heat. Specific Gravity. Vapor (Gas) Specific Gravity.

(k) *On board notification checklist and emergency procedures (for tank barges only).* The checklist and emergency procedures must include—

(1) The telephone number of the National Response Center;

(2) The name of a QI and one alternate QI and the procedures to contact them on a 24-hour basis;

(3) The name and address of the vessel's owner or operator and the procedures for contacting the owner or operator on a 24-hour basis;

(4) The list of information to be provided in the notification by the reporting personnel;

(5) A statement of responsibilities and actions to be taken by reporting personnel after a hazardous substance discharge or substantial threat of one;

(6) A list of responsibilities of the crew; and (7) A statement addressing the crew's safety and personal protective equipment needs.

**§ 155.3050 What are the operating criteria that apply to response resource equipment?**

(a) If you conduct hazardous substance operations with substances

that have the characteristics of a "floater" or "sinker", then the containment boom and recovery devices listed under § 155.3035(h)(3) and (4) must meet the following criteria:

(1) Table 1 must be used to identify appropriate hazardous substance recovery devices in the response plan. These criteria reflect conditions used for

planning purposes to select mechanical response equipment. They are not conditions that would limit response actions or affect a vessel's normal operations. Table 1 follows:

TABLE 1.—RESPONSE RESOURCE OPERATING CRITERIA HAZARDOUS SUBSTANCE RECOVERY DEVICES

Operating area	Significant wave height <sup>1</sup> (in feet)		Sea state	
	≤1	≤3	1	2
Rivers and Canals .....	≤1	≤3	1	2
Inland .....	≤3	≤4	2	2-3
Great Lakes .....	≤4	≤6	2-3	3-4
Nearshore, Offshore, Open Ocean .....	≤6		3-4	

  

Boom	Use			
	Rivers and canals	Inland	Great Lakes	Nearshore, offshore, open ocean
Significant Wave Height .....	≤1	≤3	≤4	≤6
Sea State .....	1	2	2-3	3-4
Boom Height—in (draft plus freeboard) .....	6-18	18-24	18-24	≥24
Reserve Buoyancy to Weight Ratio .....	2:1	2:1	2:1	3:1 to 4:1
Total Tensile Strength—lbs .....	4,500	15-20,000	15-20,000	≥20,000
Skirt Fabric Tensile Strength—lbs .....	200	300	300	500
Skirt Fabric Tear Strength—lbs .....	100	100	100	125

<sup>1</sup> Recovery devices and boom must be at least capable of operating in wave heights up to and including the values listed in Table 1 for each operating area.

(2) When evaluating operability of response equipment you must consider limitations identified in the Area Contingency Plans for the COTP zones in which your vessel operates, including —

- (i) Ice conditions;
- (ii) Debris;
- (iii) Temperature ranges;
- (iv) Weather-related visibility.

(b) The COTP may reclassify a specific body of water or location within the COTP zone. Any reclassifications will be listed in the Area Contingency Plan. Reclassifications may be to—

(1) A more stringent operating area if the prevailing wave conditions exceed the significant wave height criteria during more than 35 percent of the year; or

(2) A less stringent operating area if the prevailing wave conditions do not exceed the significant wave height criteria for the less stringent operating area during more than 35 percent of the year.

- (c) Response equipment must—
  - (1) Meet or exceed the criteria listed in table 1 of (a)(1) of this section;
  - (2) Be capable of functioning in the applicable operating area;

(3) Be appropriate for the hazardous substance carried; and

(4) Be periodically inspected and maintained in accordance with manufacturer's recommendations and best commercial practices. All inspections and maintenance must be documented and these records must be maintained for 3 years.

**§ 155.3055 How must I certify that my response resources providers are capable of meeting plan requirements?**

(a) Your plan must include the original written certification of the following:

- (1) You have evaluated the risks associated with the worst case discharge of a hazardous substance you carry;
- (2) You have contracted or listed, as appropriate, the resources that you have determined are necessary to effectively respond to a worst case hazardous substance discharge or threat of such discharge, and that the response resource providers you listed in your plan have acknowledged being listed;
- (3) You have determined that the technical expertise of the response providers is adequate to carry out the planned response requirements.

(b) This certification must be signed by the owner or operator of the vessel.

**§ 155.3065 What are the procedures for plan submission and receiving approval?**

(a) You must submit your plan to Commandant (G-MOR), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. Your plan must—

- (1) Be complete and in English;
- (2) Be submitted at least 60 days before your vessel intends to perform hazardous substance operations;
- (3) Include a statement certifying that your plan meets the requirements of this subpart; and
- (4) Include a statement noting the plan covers either manned or unmanned vessels.

(b) If your plan is approved, then the Coast Guard will send you an approval letter. Your plan will be valid for up to 5 years from the date the plan was submitted.

(c) If your plan is reviewed and not approved, then you will receive written notification of your plan's deficiencies. You must submit a revised plan or the corrected portions within the time period specified in the Coast Guard's notice.

(d) If you have received interim operating authorization per § 155.3026,

then the provisions of § 155.3070(c), (d), and (f) apply.

**§ 155.3066 What are the procedures for submitting a request for acceptance of alternative planning criteria?**

If you believe that national planning criteria contained elsewhere in this part are not applicable to your vessel for the areas in which you wish to operate, then you may request the Coast Guard to accept alternative planning criteria. Your request must be made 90 days before your vessel operates under the proposed alternative, and must be forwarded via the COTP of the geographic area(s) affected.

**§ 155.3067 How do I submit an appeal if my response plan is not approved?**

If you have been notified that your plan is not approved, then you have 21 days following notification to submit a written appeal of the Coast Guard's decision. Your appeal must be submitted to Commandant (G-M), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

**§ 155.3070 What are the procedures for plan review, revision, resubmission, and appeal?**

(a) You must review your plan—

(1) Annually within one month of the anniversary date of the Coast Guard's approval of your plan; and

(2) After a drill or hazardous substance discharge to evaluate and validate the plan's effectiveness.

(b) After review of your plan, you must submit any amendments or revisions to the Coast Guard for information or approval. A cover page that provides a summary of the changes and the pages affected must be included with the revisions. The revised pages must be annotated with the revision number and effective date of the revision. You must note on the record of changes page what changes were made and the date they were made. You must also note the completion of the annual review on the record of changes page.

(c) You must submit revisions or amendments to your plan whenever any of the following occur:

(1) A change in the owner or operator if that person is not the one who provided the certifying statement required by § 155.3055(a) or § 155.3065(a);

(2) A change in your vessel's operating area that is not covered by your plan. Your vessel may operate in this new area once you have received confirmation from the Coast Guard that you have submitted a new geographic-

specific appendix for approval and the certification required in § 155.3026(a);

(3) A significant change in your vessel's configuration that affects the information in your response plan;

(4) A change in the cargo your vessel carries, except when you are authorized by the COTP to carry this cargo as a result of assisting in a discharge response activity;

(5) A change in response resources required by § 155.3050;

(6) A significant change in your vessel's emergency response procedures;

(7) A change in the qualified individual or alternate;

(8) The addition of a vessel to your plan. You must submit the vessel-specific appendix and certification required in § 155.3026(a); or

(9) Any other changes that affect the implementation of the plan.

(d) At least 30 days in advance of hazardous substance operations, you must submit any revisions or amendments identified in paragraph (c) of this section. You must submit certification as required by § 155.3055(a) or § 155.3065(a) with the revisions or amendments.

(e) You must resubmit your entire plan to the Coast Guard for approval—

(1) Six months before the end of the current approval period identified in § 155.3065(b); and

(2) When the owner or operator changes, if that owner or operator provided the certifying statement required by § 155.3065(a) a new certifying statement must be submitted.

(f) The Coast Guard may require you to revise your response plan if it is determined that your plan does not meet the requirements of this subpart. The Coast Guard will provide to you written notification of any deficiencies and any operating restrictions. Deficiencies must be corrected and submitted for acceptance within the specified timeframe provided by the Coast Guard or your plan will be declared invalid. If you conduct any hazardous substance operations after your plan has been declared invalid, then you will be in violation of the Clean Water Act (CWA) (33 U.S.C. 1321(j)(5)(E)).

(g) If you disagree with a deficiency determination, you may submit a petition for reconsideration to Commandant (G-M), U. S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, within the time period required for compliance or within 7 days from the date of receipt of the Coast Guard notice of a deficiency determination, whichever is less. After considering all relevant material

presented, the Coast Guard will notify you in writing of the final decision.

(1) Unless you petition for reconsideration of the Coast Guard's decision, you must correct the response plan deficiencies within the period specified in the Coast Guard's initial determination.

(2) If you petition the Coast Guard for reconsideration, the effective date of the Coast Guard notice of deficiency determination may be delayed pending their decision. Petitions to the Coast Guard must be submitted in writing, via the Coast Guard official who issued the requirement to amend the response plan, within 7 days of receipt of the notice.

(h) You must advise the Coast Guard and all other holders of the response plan of any revisions to personnel and telephone numbers and provide a copy of these revisions. Amendments to personnel and telephone number lists included in the response plan do not require prior Coast Guard approval, except as required in paragraph (c) of this section.

Dated: February 16, 1999.

**James M. Loy,**

*Admiral, U.S. Coast Guard Commandant.*

[FR Doc. 99-4697 Filed 3-19-99; 8:45 am]

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## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Parts 1190 and 1191

#### Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Regulatory negotiation committee meeting.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public. **DATES:** The committee will meet from Tuesday, April 27, 1999, to Friday, April 30, 1999, 8:30 a.m. to 5:00 p.m. each day.

**ADDRESSES:** The committee will meet at the National Highway Institute, Training