federal register

Friday
January 12, 1996

Part II

Department of Transportation

Coast Guard

33 CFR Part 155
Vessel Response Plans; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 91–034]

RIN 2115–AD81

Vessel Response Plans

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: April 11, 1996.

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

FOR FURTHER INFORMATION CONTACT: LCDR Mark Hamilton, Project Manager, Response Division, (202) 267–1983. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Drafting Information

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

Regulatory History

On August 30, 1991, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) entitled Vessel Response Plans and Carriage and Inspection of Discharge-Removal Equipment in the Federal Register (56 FR 43534). The Coast Guard received 172 letters commenting on the proposal.

On November 14, 1991, the Coast Guard held a public workshop in Washington, DC, concerning the development of proposed regulations for vessel response plans. A total of 196 persons participated in the workshop.

On November 18, 1991, the Coast Guard published a Notice of Intent to Form a Negotiated Rulemaking Committee in the Federal Register (56 FR 58202). On January 10, 1992, the Coast Guard published a notice in the Federal Register announcing the establishment of the Oil Spill Response Plan Negotiated Rulemaking Committee (the Committee) (57 FR 1139). Twenty-six organizations and the Coast Guard were members of the Committee. The Committee met between January 8 and March 27, 1992. Copies of the Committee's final report and all documents considered by the Committee are available in the public docket where indicated under **ADDRESSES**.

On June 19, 1992, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Vessel Response Plans'' in the Federal Register (57 FR 27514). A correction notice concerning portions of the NPRM was published on July 1, 1992 in the Federal Register (57 FR 29354). The Coast Guard received 246 letters commenting on the proposal. Additional comments were received after the close of the comment period. They were considered in developing the interim final rule (IFR).

The Oil Spill Response Plan Negotiated Rulemaking Committee reconvened August 18–20, 1992, after the close of the public comment period on the NPRM, to review the comments received on its recommendations. The Committee did not amend its final report. All documents considered by the Committee during the final meeting are available in the public docket where indicated under **ADDRESSES**.

The Coast Guard released Navigation and Vessel Inspection Circular (NVIC) No. 8–92 on September 15, 1992. Change 1 to NVIC No. 8–92 was released on December 4, 1992. NVIC No. 8–92 and Change 1 to it provided immediate guidance to the marine industry for preparing response plans covering certain vessels to meet the February 1993 deadline established by the Oil Pollution Act of 1990 (OPA 90).

On February 5, 1993, the Coast Guard published an Interim Final Rule (IFR) entitled ''Vessel Response Plans'' in the Federal Register (58 FR 7424). The Coast Guard received 68 letters commenting on the IFR. These comments were considered in developing this final rule.

Background and Purpose

Section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)(5)), as amended by section 4202 of OPA 90, requires the owner or operator of a facility, or a tank vessel as defined under 46 U.S.C. 2101, to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance. The worst case discharge for a vessel is defined in section 311(a)(24) of the FWPCA as the loss of the entire cargo in adverse weather conditions (33 U.S.C. 1321(a)(24)).

Oil spill response plan regulations for marine transportation-related onshore facilities are the subject of a separate rulemaking project (CGD 91–036).

Although OPA 90 requires response plans for oil or hazardous substance spills, section 4202(b)(4) establishes an implementation schedule only for oil spill response plans. Response plans for hazardous substance spills will be the subject of a separate rulemaking [Tank Vessel and Facility Response Plans, and Discharge Response Equipment for Hazardous Substances; CGD 94–032 and 94–048].

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

The vessel response plan requirements are applicable to all vessels certificated under 46 CFR chapter 1, subchapter D, vessels that are required to have a Certificate of Compliance or Tank Vessel Examination Letter, other certificated vessels that are permitted to carry limited quantities of oil, and uninspected vessels that carry oil in bulk as cargo or cargo residue. The requirements are also applicable to vessels carrying oil in bulk as cargo or cargo residue pursuant to an International Oil Pollution Prevention (IOPP) or Noxious Liquid Substance (NLS) certificate required by 33 CFR 151.33 or 151.35, and dedicated response vessels carrying oil in bulk as cargo or cargo residue when not engaged in response operations. The Coast Guard Authorization Act of 1992 (Pub. L. 102–587, November 4, 1992) removed offshore supply vessels, and certain fishing or fish tender vessels from the definition of ''tank vessels''; therefore, those vessels do not fall under the FWPCA's vessel response plan requirements.

Section 5005 of OPA 90 sets additional oil spill removal planning requirements for tank vessels and facilities operating on Prince William Sound (PWS), Alaska. On October 5, 1992, section 5005 was amended by the Department of Transportation Appropriations Act (Pub. L. 102–388, 106 Stat. 1520). The only vessels to which the enhanced requirements of section 5005 now apply are tankers loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651 *et seq.*).

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

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

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

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

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

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

Discussion of Comments and Changes

The Coast Guard received 68 comments on the IFR. The following discussion summarizes the comments and explains substantive changes made to the regulation in response to the comments. Comments are categorized by the specific section of the IFR to which they apply. In addition to these changes, editorial changes have been made to clarify the rule or standardize terminology. The authority citation and the following sections have changes which are purely editorial: §§ 155.1025, 155.1026, 155.1052, 155.1062, 155.1115, 155.1125, and tables 1 and 6 of Appendix B to subpart 155. For the convenience of the public, subparts D and E have been reprinted in their entirety.

Section 155.140 Incorporation by Reference

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

Standards that are incorporated by reference into regulations do not change automatically when new standards are issued by ASTM or other third party standards-setting organizations. Extensive review of revisions to an incorporated reference, such as those from the ASTM, is done prior to considering changing the incorporated reference in a regulation.

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

Section 155.1010 Purpose

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

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

Section 155.1015 Applicability

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

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

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

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

requirements. Accordingly, the Coast Guard does not have authority to allow towboats to conduct fuel transfers without a vessel response plan.

One comment urged negotiations between the United States and Canada to minimize the burdens of meeting both nations' requirements for vessel response planning. This comment stated that a vessel may transit the water of one country only incidentally enroute to the other country. This comment further stated that inadvertent rerouting might entail additional collision and pollution risks. The Coast Guard agrees with this comment; however, there is no authority for the Coast Guard to waive the vessel response requirements for vessels transiting the internal waters of the United States enroute to or from Canadian ports. The Coast Guard is currently working with the Canadian government to develop a bilateral agreement on vessel response plan requirements.

Section 155.1020 Definitions

In order to accommodate new provisions regarding non-petroleum oils, the Coast Guard has added several definitions to this section of this final rule. These definitions are for the terms ''animal fat'', ''other non-petroleum oil'', ''petroleum oil'', and ''vegetable oil''.

Average most probable discharge. This definition was modified in the final rule to include a discharge of the lesser of 50 barrels of oil or 1 percent of the cargo to be consistent with the facility response plan requirements. One comment was received responding to this definition in the IFR. It stated that the threshold for this definition should be lowered to 25 barrels for the Great Lakes. The Coast Guard disagrees with this comment. The 50-barrel response planning requirement was based on national operational spill data over a 5-year period and an evaluation of historical trends in smaller size spills. Substantial data supporting a reduction to this requirement for the Great Lakes area was not provided by the comment.

The Coast Guard further clarified the definition of average most probable discharge in this final rule by limiting it to 50-barrel discharges occurring during transfer operations to or from the vessels rather than making the definition applicable to vessel offloading operations alone.

Cargo. Although no comments were received addressing this definition, the Coast Guard modified this definition in this final rule to exclude oil transferred from a towing vessel to a vessel in its tow to operate installed machinery other than the propulsion plant. The IFR contained a similar provision, but this final rule version further clarifies the type of transfer which is excluded and clarifies that the propulsion plant does not qualify as installed machinery for the purposes of this definition.

Contract or other approved means. Nine comments responded to this definition in the IFR. Four comments generally agreed with the definition, especially concerning the addition of the alternatives to a formal contract.

One comment contended that legal contracts would be too restrictive and burdensome. The Coast Guard recognizes the burden of legal contracting, and the IFR provides an alternate means to ensure the availability of response resources. As discussed in the IFR, a document that provides the following information will be considered to provide acceptable assurance that the response resource provider has the capability to respond: (1) Clear identification of the goods and services to be provided; (2) provision of the parties' acknowledgment that the resource provider intends to commit its resources in the event of a response; and (3) permission for the Coast Guard to verify the response resources identified through tests, inspection, and exercise.

One comment argued that the Coast Guard would have difficulty monitoring the identification of resources in a vessel response plan by merely relying on a contractor's written consent. The Coast Guard recognizes the problem of identifying resources that have not been contracted. The Coast Guard has an ongoing effort to ensure that all response plans are valid. Measures are taken whenever the Coast Guard finds false statements in response plans. The Coast Guard encourages continued classification of OSROs in accordance with Navigation and Vessel Inspection Circular 12–92 (NVIC 12–92; December 4, 1992) to ensure organizations identified by the response plan have the equipment necessary to deliver the services in accordance with what they have promised to vessel owners or operators.

Three comment writers believed that the definition of ''contract or other approved means'' should be expanded: one comment writer believed it should include a document designating each party's responsibilities; one comment writer believed that the definition should include a presumption in favor of demonstrating capability; and one comment writer suggested that ''active membership'' be clarified or that language that confirms commitment of response resources to the member of a local or regional oil spill removal organization within this definition be included.

The Coast Guard disagrees. A concerted effort has been made to keep this definition from creating an onerous burden to vessel owners and operators. The legal aspects of the response arrangements must meet the described specific criteria for response resources and their arrival time contained in this rule, but a dictation of specific ''responsibilities'' should be left to the discretion of the owners or operators. Finally, while the term ''active membership'' is general, it can be easily assessed and verified by the Coast Guard during tests, inspections, exercises, or a combination of these three methods of evaluation.

Although nine comments responded to this IFR definition, the Coast Guard has determined that no substantive revisions to this definition in the final rule are necessary. However, technical revisions were made to reference correct section numbers in the final rule.

Dedicated response vessel. There were no comments received responding to this definition. However, the Coast Guard revised this definition to be consistent with escort vessel regulations that are being developed under a separate rulemaking project [Escort Vessels for Certain Tankers; CGD 91–202].

Fish and Wildlife and Sensitive Environments. This final rule adds the definition of the term ''Fish and Wildlife and Sensitive Environments.'' Although not specifically used in this regulation, it is added for the vessel owners and operators information when dealing with facilities. This term is used by the marine transportation-related facility response plan final rule and by the EPA in its final rule. For more information on these areas and how they affect response planning requirements, see the Coast Guard marine transportation-related facility response plan final rule (CDG 91–036), the EPA final rule (59 FR 34070; July 1, 1994), or the ''Notice'' published by the National Oceanic and Atmospheric Administration (NOAA) entitled ''Guidance for Facility and Vessel Response Plans Fish and Wildlife and Sensitive Environments'' published in the Federal Register on March 29, 1994. (59 FR 14714).

Great Lakes. One comment was received in response to this IFR definition. This comment was concerned that the definition did not clearly address the rivers tributary to the Great Lakes. The Coast Guard disagrees. The definition for the Great Lakes specifically includes tributary waters and is consistent with definitions found in Coast Guard regulations governing navigation and navigable waters. This definition treats the Great Lakes as an entire ecosystem, including their connecting and tributary waters which

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

define accurately and fairly. Therefore, this definition has been deleted, and replaced with the term ''response activity.'' This change will allow the Captain of the Port more flexibility in describing the area, vessels, and equipment involved in a spill cleanup.

Rivers and canals. Two comments suggested changes to this definition. One comment suggested that the definition include rivers and tributary waters of the Great Lakes. The Coast Guard disagrees. The definition for the Great Lakes, including its connecting river and tributary waters, is consistent with definitions found in rules governing navigation and navigable waters. This definition treats the Great Lakes as an entire ecosystem, including their connecting and tributary waters which would be adversely affected by an oil spill.

The other comment suggested that the project depth of 12 feet or less be changed to 18 feet to allow for use of offshore response vessels described in the plans. As discussed in the IFR, the Coast Guard disagrees with increasing the project depth from the 12 feet or less mark. The Coast Guard intended the definition to only cover narrow, inland bodies of water that are reasonably protected and typically have wave heights of 1 foot or less on which only shallow draft vessels operate.

Further, the Coast Guard simplified this definition in the final rule by removing the words, ''the outer boundaries of.'' Because this definition covers bodies of water confined within the inland area, which would, by implication, include its outer boundaries, these additional words were removed as redundant.

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

Tier. Because this concept is referenced throughout these regulations and because a number of comments asked for clarification on this term, the Coast Guard has developed a detailed definition to facilitate a clearer understanding of these regulations.

Vessels carrying oil as a secondary cargo. The applicability section of the final rule (33 CFR 155.1015) now excludes oil spill response vessels involved in response activities from the requirement for response plans. This revision reflects a reduction of the previous requirements which provided for these vessels to have approved response plans in accordance with § 155.1045 (vessels carrying oil as a secondary cargo) when not involved in response operations. Under this final rule, these vessels are no longer required to have response plans unless they are carrying oil as cargo outside a response operation. The Coast Guard has therefore removed oil spill response vessel from this definition.

Vessel of opportunity. One comment suggested that this definition include any vessel, used in an emergency situation, that carries oil as a primary cargo. The comment further suggested that if the vessel is responding to a spill of an oil from a different group from that which it carries, that vessel be temporarily relieved from the requirement of revising its vessel response plan. This subpart does not apply to vessels of opportunity. The clause in this definition that excludes vessels that carry oil as a primary cargo was intended to ensure vessels are not used for grades of oil they are not classed to carry. For overall safety, even in an emergency situation, a tank vessel should not load higher grade fuels than it is designed to carry. A vessel that carries oil as a primary cargo must already have a vessel response plan. A vessel of opportunity that is also a primary oil carrier could assist in an oil spill response activity of an oil other than the one for which it holds an approved response plan without approval of a new response plan, as long as this exemption has been granted by the Captain of the Port (COTP). Section 155.1070(c)(4) has been changed to address this situation.

Section 155.1025 Operating Restrictions and Interim Operating Authorization

The Coast Guard modified paragraphs (a) and (b) in § 155.1025 of the final rule to remove the statutory date of compliance which has now passed.

The IFR stated that the Coast Guard was still studying the issue of whether the provision in section 311(j)(5) of the FWPCA (33 U.S.C. 1321(j)(5)), which allows the Coast Guard to authorize vessels to continue operating for up to two years while the response plan is undergoing detailed review, is applicable to both initial submission of response plans and future plan revisions and required resubmissions. After an in-depth evaluation, the Coast Guard has determined that this provision is applicable to all submittals. Therefore, there is no need to revise the regulatory text.

Three comments were received addressing this section. One comment focused on the provision allowing vessel operation for 2 years after submission of the response plan, pending approval, for those vessels granted written authorization for continued operations. The comment suggested that this provision be limited in application to vessels with standards approved by the Secretary of Transportation. One comment urged that the Coast Guard be reasonable and realistic in granting the 2-year interim operation authorization. The Coast Guard evaluates each submittal on a case-by-case basis. This evaluation method ensures that the time frame given for operating in accordance with a response plan that does not have full Coast Guard approval is appropriate for the given vessel and operating conditions.

One comment stated that requiring certification letters before the 6-month allowance provided in OPA 90 nullifies legislative intent and suggested that the Coast Guard rewrite § 155.1025(d) of the IFR. Section 155.1025(d) has been rewritten to eliminate this provision as the 6-month grace period has already ended, and all vessels must be operating in accordance with an approved response plan. Additionally, § 155.1025(e) of the IFR has been reworded to potentially allow a vessel owner or operator to have a vessel make one voyage to transport or handle oil in a ''geographic area'' rather than a ''port.'' This change was made to make this provision more flexible in that such authorization could be granted for voyages other than those to ports.

Section 155.1026 Qualified Individual and Alternate Qualified Individual

The Coast Guard has modified § 155.1026(a) and § 155.1026(b) to clarify that a qualified individual must be available on a 24-hour basis, but it is not necessary to have both the qualified individual and the alternate qualified individual available coincidentally.

In response to requests for clarification, the Coast Guard has modified § 155.1026(d)(1) in this final rule to make explicit the previously implied concept that the qualified individual must have the authority to activate or contract for all appropriate response resources, in addition to activating or contracting with oil spill removal organizations. Fifteen comments were received addressing this section of the IFR. Five of these comments addressed the general requirements of this section. One comment urged the exemption from this provision of vessels carrying light fuel as secondary cargo. The Coast Guard does not have the authority to exempt any type of oil from these regulations.

One comment urged the exemption from this provision of fishing tender vessels. As discussed previously, the applicability of response plan requirements to fishing vessels was revised by legislation subsequent to the IFR which essentially excludes most fishing vessels from these response plan requirements (Pub. L. 103–206, 107 Stat. 2419). However, it is appropriate to require identification of a qualified individual for fish tender vessels over 750 gross tons as the same legislative change did not affect these vessels.

Three of the comments supported the Coast Guard's revision of paragraph (d) of this section of the IFR so that the qualified individual's authority would be ''full'' rather than ''unconditional,'' and argued against the requirement that a qualified individual be an individual rather than an organization. With regard to the latter argument, these comments argued that this provision should be revised because the employees of an organization change frequently. The Coast Guard included in § 155.1026(e) of the IFR a provision which allows the vessel's owner or operator to designate an organization to carry out the responsibilities of the qualified individual. However, the designated organization must have identified specific individuals to act as the qualified individual and the alternate. The individual that assumes this responsibility must be familiar with the implementation of the vessel response plan and be trained in the responsibilities of the qualified individual under the response plan.

In regard to this section, the Coast Guard would like to clarify that it does not intend to limit the discretion of the vessel owner or operator to designate a substitute to assume the full range of responsibilities of the qualified individual named in the response plan. The requirement to designate a qualified individual and at least one alternate is to ensure prompt implementation of the response plan. The owner or operator of a vessel may designate any person to assume the duties of the qualified individual at any time provided the requirements of this section are met. If the substitution takes place during the response to a discharge, there must be no break in availability of the person acting as the qualified individual. The substituted qualified individual must have a document designating them as the qualified individual.

Nine comments suggested new language for this section which would limit the liability of qualified individuals and alternative qualified individuals. Six of these nine comments suggested that the Coast Guard add language to this section stating that the qualified individual or alternate qualified individual would not, *per se*, be considered the vessel's owner, operator, or demise charterer when acting in the capacity of a qualified individual. As stated in the IFR, a person does not become a responsible party under the FWPCA by being designated a qualified individual for response plan purposes. Under 33 U.S.C. 1321(c)(4), a person other than a responsible party is not liable for removal costs or damages which result from actions taken or omitted in the course of rendering care, assistance, or advice consistent with the National Oil and Hazardous Substance Pollution Contingency Plan (NCP) or otherwise directed by the President. Notwithstanding, such a person whose acts or omissions are grossly negligent, or who engages in willful misconduct may, as a result, become liable for the resulting removal costs or damages. The qualified individual is not, however, responsible for the adequacy of response plans prepared by the owner or operator nor is the qualified individual responsible for contacting response resources beyond the authority delegated from the owner or operator.

Four of the comments suggesting revisions in this section supported the addition of language distinguishing the role of qualified individual from the role of the responsible party. One comment suggested that the rules clarify that the qualified individual would generally not be responsible for the adequacy or the sufficiency of the response and suggested that this section limit the liability of the person acting in the capacity of qualified individual. As stated in the IFR, the Coast Guard has no authority to provide a blanket exemption from liability to any persons, including qualified individuals designated for response plan purposes. For vessels, the term ''responsible party'' is defined in section 1001(32)(A) of OPA 90 as any person owning, operating, or demise chartering the vessel (33 U.S.C. 2701(32)(A)). Section 1001(26)(A) of OPA 90 defines owner or operator of a vessel as any person owning, operating, or chartering by demise the vessel (33 U.S.C. 2701(26)(A)). The IFR states that a person does not become a responsible party under FWPCA by being designated a qualified individual for response plan purposes. This rule preserves § 155.1026(g) which states that the liability of a qualified individual is considered to be in accordance with the provisions of 33 U.S.C. 1321(c)(4). Under this section, a person other than a responsible party is not liable for removal costs or damages which result from actions taken or omitted in the course of rendering care, assistance, or advice consistent with the NCP or as otherwise directed by the President. However, as noted in the IFR, even a qualified individual may be liable for the resulting removal costs or damages if it is established that there was gross negligence or willful misconduct while acting in this capacity.

Two comments addressed this section as it relates to dealings with Canada. One comment suggested that residents of Canada be permitted to be qualified individuals. The other comment stated that the Canadian government recently introduced legislation similar to OPA 90 and suggested that the United States and Canada work closely in promulgating their respective regulations regarding oil pollution prevention. The Coast Guard is currently working with the Canadian government to develop a bilateral agreement on vessel response plan requirements. In addition, the Coast Guard modified the IFR to allow Canadian vessels to identify Canadian-based qualified individuals if these individuals meet the same requirements of § 155.1026(b) for individuals based in the United States. This provision only applies to Canadian flag vessels while they are operating on the Great Lakes, the Strait of Juan de Fuca, and Puget Sound, WA. In any other environment, the qualified individual must be based in the United States. The close proximity, reliable communication, and the common water boundary shared by the United States and Canada create a unique situation, which allows a Canadian-based qualified individual to be as effective as a qualified individual based in the United States.

Section 155.1030 General Response Plan Requirements

Required format. One comment supporting the required response plan format was received. The Coast Guard, however, amended the language of this section to further clarify response plan requirements. The Coast Guard has determined that references to §§ 155.1035, 155.1040, and 155.1045 were redundant in that the requirements were repeated in each specific section. Therefore, these references have been deleted.

Paragraph (c)(11) of this section was reworded to delete specific references to vessels carrying oil as a primary cargo and unmanned tank barges. Because this section is supposed to address general requirements of response plans, this subparagraph now addresses the general requirements for inclusion of a vessel-specific appendix for the vessel or vessels covered by the plan.

The requirements of paragraph (d) have been clarified to indicate that vessel owners or operators with multiple vessels may now submit one plan for each class of vessel (i.e., manned vessels carrying oil as primary cargo, unmanned vessels carrying oil as primary cargo, and vessels carrying oil as secondary cargo).

The Coast Guard has added a new paragraph (f) to this section in this final rule in response to questions in comments concerning barges carrying non-hazardous oil field wastes. Further, this paragraph has been reworded to make following the format requirements of § 155.1045 optional in lieu of following the requirements of § 155.1035 or § 155.1040. In the IFR, paragraph (f) of this section required oil spill response vessels to have response plans in accordance with § 155.1045 when operating outside a response area. The applicability section of the final rule (33 CFR 155.1015) now excludes oil spill response vessels involved in response activities from the requirement for response plans. This revision reflects a reduction of the previous requirements which provided for these vessels to have approved response plans in accordance with § 155.1045 (vessels carrying oil as a secondary cargo) when not involved in response operations. Under this final rule, these vessels are no longer required to have response plans unless they are carrying oil as cargo outside a response operation.

The references to ''February 18, 1993'' in paragraph (g) of this section have been deleted. That date has passed and, consequently, is no longer relevant to these regulations.

The Coast Guard has added language to subparagraphs (i)(1) and (2) of this section to allow notarized copies of Coast Guard approval letters to substitute for the actual approval letters which are to be on board vessels under this provision. This provision satisfies the Coast Guard's need for authentication of the document through the notarization requirement while allowing a vessel owner or operator to keep the original approval letter in a place where it would less likely lost or misplaced.

Plan consistency. Nine comments were received which addressed the issue of consistency between the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), Area Contingency Plan (ACP), and vessel response plan (VRP) requirements.

One comment asserted that State and Federal authorities would probably not agree upon a uniform format for response plans. This comment argued that because the authority of States with regard to response plans is not preempted, they will be unwilling to relinquish their authority merely to standardize the format. The Coast Guard has provided for as much flexibility as reasonably possible. The owner or operator is permitted to insert sections as necessary to satisfy any additional State or International Maritime Organization (IMO) requirements. However, the required sections and specific information described in those sections must remain distinct, and the appendix or table of contents must provide sufficient detail on the location of these distinct sections. This standard format eases the administrative burden in reviewing the plans and creates uniformity for responders who may not be familiar with a particular plan. Further, negotiations with various States having response plan requirements have been generally successful in minimizing differences.

Five comments addressed the Coast Guard's development and implementation of the ACPs. One of these comments argued that the existing NCP and LCPs are not adequate nor are they consistent with the legislative intent of OPA 90. This comment writer also expressed concern regarding the IFR's silence on Coast Guard response duties. Another two of these comments also urged consistency between the ACPs and the NCP. Still another comment additionally argued that ACPs should be subject to public comment. One comment concerned the development of ACPs and their impact on planning for shoreline protection, firefighting, and lightering resources. All of the comments discussed in this paragraph are beyond the scope of this rulemaking.

One comment recommended the revision of all VRPs 6 months after the ACPs and the NCP are completed. The Coast Guard disagrees. To provide time for owners or operators to prepare their response plans, the Coast Guard requires consistency with the applicable plans (ACP/NCP) in effect 6 months prior to the submittal date. If the ACP or NCP changes after submittal of the response plan, the plan must be adjusted accordingly when submitted for reapproval.

One comment urged vessel response plan consistency with ACPs so that the Coast Guard could easily identify the inconsistencies between what is stated in the response plan and what is required by the ACP. Another comment stated that vessel response plans may need to be revised in order to remain consistent should ACPs identify equipment or personnel deficiencies in the future. The Coast Guard disagrees. All of these plans will be subject to continuous updating. Periodic resubmittal of vessel response plans will ensure that inconsistencies with ACPs are minimized.

Provisions concerning Regulation 26 of MARPOL. In order to facilitate response plan review, the Coast Guard has modified § 155.1030(j) to require that, when submitting response plans that include provisions of Regulation 26 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78), a cross reference section must be included to identify the location of the general response plan requirements. Six comments were received addressing the portion of this section permitting an owner or operator of a U.S. flag vessel to address the requirements of Regulation 26 of Annex I to MARPOL 73/78 if certain conditions are met.

Three comments supported the change in the rule to make compliance with Regulation 26 optional, two of them arguing that the vessel response plan regulation required planning for responses to discharges of oil carried in bulk as cargo whereas MARPOL applies to all oil discharges, including the ship's fuel oil. One of these three comments continued by contending that the requirement for the master to notify the coastal state and secure its authorization before undertaking mitigating actions is misleading, confusing, and not within the spirit of MARPOL 73/78 or OPA 90. This comment writer stated that such notification is an obvious step.

The Coast Guard agrees that this may have caused some confusion. Therefore, this paragraph has been modified to clearly state that the plan should address the notification of the coastal state to determine whether authorization is required. With reference to all three comments, this section of the regulation blends the requirements for Regulation 26 and the U.S. response requirements. This option will ease the burden on the industry in that a single plan can be used for both requirements. The notification procedures are a requirement of MARPOL 73/78; therefore, the Coast Guard does not have the authority to change them.

The Coast Guard has, however, amended the provision regarding submission of modified Regulation 26 response plans in lieu of response plans under this rulemaking. This provision has been further clarified to indicate the procedure by which a vessel owner or operator may address Regulation 26 provisions in his or her response plan. This paragraph, as revised, also references § 155.1065 which provides procedures for plan submission. These changes make the procedures for

exercising this option clearer for vessel owners or operators who want to take advantage of this provision.

Also, the Coast Guard has added a new paragraph (k) to this section. This new paragraph will allow secondary carriers having response plans approved under Regulation 26 of MARPOL 73/78 to comply with § 155.1045 if identification of the qualified individual and alternate, identification of an oil spill removal organization, identification of an oil spill management team, and a geographic specific appendix are added to the Regulation 26 response plan. This revision would elicit the information needed by the Coast Guard while eliminating the need for owners and operators of secondary carriers to duplicate their efforts.

One comment argued that the Coast Guard should reinstate the requirement for planning for fuel oil discharges, contending that the Coast Guard has the authority to issue such regulations under section 311(j)(1)(C) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)(1)(C)). The Coast Guard disagrees. The intent of OPA 90 was to have vessel owners and operators plan to respond to a spill of oil carried in bulk as cargo. Fuel oil is not considered a cargo. The issuance of regulations that address fuel oil discharges is outside the scope of this rulemaking. Planning for response to such discharges is covered by Regulation 26 of Annex I to MARPOL 73/78.

One comment urged the Coast Guard to withdraw Coast Guard Navigation and Vessel Inspection Circular No. 2–93 (NVIC 2–93; March 5, 1993), arguing that it hampers industry by further regulations. The Coast Guard disagrees. This NVIC only provides guidance on how to address the requirements of Regulation 26 of MARPOL 73/78. It pertains only to vessels which are subject to Annex I of MARPOL (e.g., U.S. flagged seagoing vessels wherever located, and foreign flagged vessels located within the navigable waters of the United States) and are already required to meet the provisions of MARPOL 73/78. Regulation 26 is the subject of a separate but coordinated rulemaking (CGD 93–030) entitled ''Shipboard, Oil Pollution Emergency Plans'' which was published in the Federal Register on October 7, 1994 (59 FR 51332).

Plans submitted prior to effective date of final rule. The Coast Guard has written a provision into the final rule that requires vessel owners or operators making initial response plan submissions after April 11, 1996, the effective date of this final rule, to comply with the requirements of the final rule. As indicated in the IFR, the Coast Guard is not requiring vessel owners or operators who submitted response plans under the IFR or NVIC to revise their response plans to conform with the requirements of the final rule until the plan's 5-year resubmission date. However, a vessel owner or operator who has prepared a response plan under the NVIC or the IFR may comply with any of the provisions of this final rule by revising the appropriate section of the previously submitted plan in accordance with the revision and amendment procedures in § 155.1070. An owner or operator who elects to comply with all of the requirements of the final rule must resubmit the entire plan, for review and approval if appropriate, in accordance with § 155.1065.

Section 155.1035 Response Plan Requirements for Manned Vessels Carrying Oil as a Primary Cargo

General information and introduction. The Coast Guard has revised this section to require an indication of a vessel's IMO international number in the response plan, if applicable. This international number will provide the Coast Guard with a means of accessing Marine Safety Information System (MSIS) data on the vessel. This information already is required in both 33 CFR 151.26 and 33 CFR 160.207.

Notification procedures. Two comments were received which addressed the requirement that a response plan include certain information on notification procedures. One comment called the requirement cumbersome and unrealistic, arguing that all notifications should be the responsibility of the qualified individual. This comment continued by arguing that this paragraph required unnecessary information such as information on ship and crew size, and the date and time of the next report. It contended that this type of information is already known by the owner or operator and that the response plan should only list the procedures needed for the qualified individual to activate the plan. Another comment contended that requiring notification of State authorities is not within the purview of the Coast Guard unless the State specifically required the Coast Guard to do so.

As stated in the IFR, and repeated in the final rule, only the qualified individual must be notified. However, other statutes and regulations establish oil spill reporting requirements, and the Coast Guard has determined that the owners or operators should address procedures for these notifications in their response plans.

The Coast Guard amended § 155.1035(b)(4), the provision in this section which required that descriptions of primary and secondary communications methods be included in response plans. This provision was clarified by now stating that such descriptions should be consistent with § 155.1035(b)(1), the provision requiring a checklist of the notifications to be made in the event of an oil spill. This change was effectuated to clarify the instructions regarding descriptions of communications methods in vessel response plans.

To minimize the burden on vessel owners and operators and facilitate rapid notification of a spill, most of this information can be provided in a checklist, which is consistent with Regulation 26 of MARPOL 73/78. To ensure consistency with IMO Resolution A648(16), the Coast Guard revised the rule to require that response plans include various additional items that must be identified in the initial notification and to establish guidelines for follow-up reports.

Shipboard spill mitigation procedures. Five comments were received in response to this provision. Three comments supported the subparagraph requiring the inclusion in the response plan of the location, crew responsibilities, and procedures for use of shipboard equipment which may be carried to mitigate an oil discharge. Two comments opposed this provision, arguing that vessels lacked storage room for the equipment, that having the equipment on board would reduce crew size, that there would be a lack of trained personnel to use the equipment, that maintenance and inspection of equipment in a special store room would be difficult, and that the crew would have other overriding priorities. The carriage of spill removal equipment is the subject of a separate rulemaking (CDG 91–068). This final rule only requires that procedures be spelled out in the response plan so that the crew knows what its responsibilities are to mitigate an oil discharge.

An IFR entitled ''Discharge Removal Equipment for Vessels Carrying Oil'' was published (58 FR 67995; December 22, 1993). This IFR contains requirements to include in response plan procedures for deployment of discharge removal equipment carried onboard the vessel and for internal transfers of cargo as provided in the discharge removal IFR. Additionally, a provision was added requiring identification in the response plan of the shore location and 24-hour access procedures for the computerized shore-

based damage stability and residual structural strength calculation programs. These computer programs are required by 33 CFR 155.240, which was added to 33 CFR part 155, subpart B by the discharge removal equipment IFR.

Shore-based response activities. The Coast Guard made slight revisions to the provision regarding inclusion in the responses plans of information concerning the organizational structure that will be used to manage response actions. In the IFR, this provision merely required the listing of enumerated functional areas in that part of the response plan. The provision, as revised, requires the inclusion of information regarding key components within each of these enumerated functional areas. This information is currently required for approval of response plans.

This paragraph regarding shore-based response activities have also been reworded so as to require the inclusion in the response plan of the functional job descriptions for each oil spill management team position within the organizational structure. These added requirements will better clarify the responsibilities of those involved in oil spill cleanup, thereby promoting more efficient implementation of response plans.

List of contacts. Two comments were received in response to this paragraph requiring inclusion of 24-hour contact information in response plans. One comment addressed the provision requiring inclusion of applicable insurance representative contacts in vessel response plans and wanted the Coast Guard to clarify that U.S. correspondents identified by P and I (Protection and Indemnity) clubs are independent firms and not representatives of the particular clubs. The Coast Guard confirms this comment writer's interpretation; however the list of contracts is appropriate, and no modification to the regulation is necessary.

The other comment recommended that vessel owners and operators be required to demonstrate that they have a contractual agreement with wildlife response contractors or that the owners and operators demonstrate that they have the equipment, training, and permits to conduct wildlife response efforts themselves. The Coast Guard disagrees. The vessel owner or operator is responsible for treatment or care of damaged natural resources, but the Coast Guard is not requiring a contract for these resources as this is beyond the scope of this rulemaking. However, in order to facilitate wildlife response efforts in the event of oil spills, owners and operators are encouraged to assist in financing qualified volunteer wildlife rescue organizations which would be responding to such spills.

The Coast Guard has added a subparagraph to this provision requiring the list of contacts to include persons to notify for activation of the spill management team for average most probable, maximum most probable, and worst case discharges. This requirement will elicit the necessary information regarding the oil spill management team so that the appropriate person could be contacted promptly in the event of certain oil discharges.

Plan review, update, revision, amendment, and appeal procedure. The title of this section was changed from ''Plan review and update procedures'' to more clearly define the contents of this section.

Geographic-specific appendices for each COTP zone in which a vessel operates. Two comments were received addressing this paragraph which requires the inclusion of geographic-specific appendices in vessel response plans and provides for the contents of such appendices.

Both comments called for more stringent requirements on the OSROs required to be identified in these geographic-specific appendices. One comment argued that the Coast Guard should set nationwide standards for OSRO inspection, approval, and certification. This comment continued by contending that under current regulations OSROs may avoid the voluntary evaluation process. The comment also expressed concern that vessel owners or operators may be left legally responsible for ensuring the adequacy and regulatory compliance of the OSROs identified in their geographic-specific appendices. The other comment urged the Coast Guard to ensure through the certification process that OSROs identified in these appendices have adequate resources to respond on behalf of each of their members. This comment also expressed concern about over-commitment of resources by OSROs. The Coast Guard understands these concerns, but, as previously stated, it is the ultimate responsibility of the owner or operator to ensure that the private resource for which it contracts and upon which it relies in the event of a spill, is qualified and prepared to meet the response capability needed by the vessel. The Coast Guard does have a program for classifying contractors (NVIC 12–92; December 4, 1992) which takes into account the quantity of equipment, its designed purpose, the planning capacity of the resources, and the number of trained personnel the contractor has. A listing of these classified oil spill removal organizations is available from Commanding Officer, National Strike Force Coordination Center; (Attn: OSRO Classification Review); 1461 U.S. 17 North; Elizabeth City, NC 27909; telephone number: (919) 331–6000.

The Coast Guard has amended the provision under this paragraph regarding certain information which is repeated for each geographic area in which the vessel operates. As revised in the final rule, the vessel owner or operator has the option of specifying the location of such information in the plan or providing the information in the particular geographic-specific appendix. This revised measure should save time in the development of vessel response plans in that information would not have to be duplicated.

The Coast Guard also added a subparagraph to this paragraph elaborating upon the requirement to include dispersant capabilities in the geographic-specific appendix if the owner or operator elects to include use of dispersants in the response plan. This subparagraph provides that the appendix, if applicable, must identify dispersant capability, areas of preapproval, and procedures for employing the dispersant. Although, in the IFR, this paragraph previously required the appendix to include information on dispersant capabilities, this new subparagraph reiterates the requirements that were previously only specified in section 8 of Appendix B of this part. It requires the plan to further elaborate upon dispersant capabilities by providing information concerning preapproval areas and dispersant employment procedures. This date will inform the Coast Guard not only about the availability of dispersants but also about where and how such dispersants may be used in an oil spill situation.

Section 155.1040 Response Plan Requirements for Unmanned Tank Barges Carrying Oil as a Primary Cargo

General information and introduction. One comment was received regarding the general requirements of this section. This comment urged the Coast Guard to establish requirements for towboat operators, tankermen, and fleeting and facility operators in addition to those requirements for owners or operators of tank barges. This comment argued that towboat operators, tankermen, and fleeting and facility operators often fail to notify authorities, cause damage to the barges, and fail to implement cleanup activities. This comment contended that these shortcomings leave a barge owner responsible despite his or her lack of knowledge. It is the onus of a barge owner to ensure that the

towboat's operators are familiar with the response plan and can handle a spill situation.

The Coast Guard has also amended this paragraph to clarify that the list of tank barges in the response plan must include each tank barge's country of registry, call sign, and IMO international number, if applicable, as well as its official number. These added requirements will further assist the Coast Guard in identifying a vessel in the event of an oil spill.

Notification procedures. One comment was received addressing this paragraph. It contended that a requirement to notify State authorities is not within the purview of the Coast Guard unless the State has specifically required the Coast Guard to do so. The Coast Guard disagrees. As stated previously, other statutes and regulations establish oil spill reporting requirements, and the Coast Guard has determined that owners or operators should set procedures for these notifications in their response plans. To minimize the burden on vessel owners and operators and facilitate rapid notification of a spill, most of this information can be provided in a checklist, which is consistent with Regulation 26 of MARPOL 73/78. To ensure consistency with IMO Resolution A648(16), the Coast Guard revised the rule to require that response plans include various additional items that must be identified in the initial notification and to establish guidelines for follow-up reports.

Shipboard mitigation procedures. No comments specifically addressing this paragraph were received. However, as the procedures in § 155.1035 regarding shipboard spill mitigation were affected by the subsequent rulemaking on discharge removal equipment (58 FR 67995; December 22, 1993), the procedures regarding shipboard spill mitigation have been affected for unmanned vessels under this section. Consequently, the Coast Guard has amended this paragraph to require the inclusion of procedures for deployment of discharge removal equipment in response plans, and the inclusion of procedures for internal transfer of cargo in response plans as provided in the discharge removal equipment IFR. Additionally, a provision was added requiring identification in the response plan of the shore location and 24-hour access procedures for the computerized shore-based damage stability and residual structural strength calculation programs. These programs are required by 33 CFR 155.240, which was added to 33 CFR part 155 by the discharge removal equipment IFR.

Shore-based response activities. The Coast Guard amended this paragraph by adding a subparagraph requiring the inclusion in the response plan of any applicable procedures for transferring responsibility for direction of response activities from towing vessel personnel or tankermen to the shore-based spill management team. Additionally, the Coast Guard amended the paragraph to require inclusion of more detailed information concerning the organizational structure of response actions. In the IFR, this provision merely required the listing of enumerated functional areas in this part of the response plan. The provision as revised requires the inclusion of information regarding key components within each of these enumerated functional areas. This information is currently required for approval of response plans. This paragraph has also been reworded so as to require the inclusion in the response plan of the functional job descriptions for each oil spill management team position within the organizational structure. These added requirements will better clarify the responsibilities of those involved in oil spill cleanup, thereby promoting more efficient implementation of response plans.

List of contacts. No comments specifically addressing this paragraph were received. However, the Coast Guard has added a subparagraph to this provision requiring the list of contacts to include persons to notify for activation of the spill management team for average most probable, maximum most probable, and worst case discharges. This requirement would elicit the needed information regarding the oil spill management teams so that the appropriate person could be contacted promptly in the event of certain oil discharges. This information is currently required for approval of response plans.

Plan review, update, revision, amendment, and appeal procedure. The title of this section was changed from ''Plan review and update procedures'' to more clearly define the contents of this section.

Geographic-specific appendices for each COTP zone in which a tank barge operates. The Coast Guard has amended the provision under this paragraph regarding certain information which is repeated for each geographic area in which the vessel operates. As revised in the final rule, the vessel owner or operator has the option of merely specifying the location of such information in the plan, rather than duplicating the information in the appendix. This revised measure should save time in the development of vessel response plans in that efforts would not have to be duplicated.

One comment was received addressing this paragraph which requires the inclusion of certain geographic-specific appendices with vessel response plans. This comment objected to the provision requiring that these appendices certain information on the volume and type of oil on which the required response resources are calculated. It argued that the requirement is burdensome and redundant in that this information is readily available on the Certificates of Inspection for barges which already list the cargo that the barges carry and have set allowances for the volumes. The Coast Guard disagrees. This information needs to be included in the response plan to have a consolidated, easy, quick reference to use in a spill situation. However, as stated above, the Coast Guard has eliminated the previously required duplication within the plan by changing the language of paragraph (j) to allow the barge owner or operator to specify the location of volume and type of oil information in the vessel response plan itself rather than including it in the geographic-specific appendix.

If the owner or operator has proposed in the response plan the use of dispersants, the dispersant capabilities must be listed in the geographic-specific appendices. This discussion should identify the following: Dispersant capability; areas of preapproval; and procedures for employing dispersants. This data will inform the Coast Guard not only about the availability of dispersants but also about where and how such dispersants will be used in an oil spill situation.

Appendices for barge-specific information. Two comments were received in response to this section. One comment argued that the requirement to amend the vessel response plan to include required drawings for barge-specific appendices each time an inland barge is chartered or released is an administrative burden. This comment suggested that, as an alternative, the Coast Guard could allow a cross-reference to the drawing submitted in the barge owner's vessel response plan, or the barge owner could submit a letter to the Coast Guard citing changes in lieu of amending the vessel response plan. The Coast Guard agrees. Separate response plans do not need to be submitted for sister vessels and this exclusion holds true for barges.

One comment objected to the provision requiring that these appendices contain information on the volume and type of oil on which the required response resources are calculated. It argued that the

requirement is unclear, burdensome, and redundant in that this information is readily available on the Certificates of Inspection for barges which already list the cargo that the barges carry and have set allowances for the volumes. The Coast Guard disagrees. Although this information is provided in the certificate of inspection, for ease of use during a cleanup, this information should also be listed in the response plan.

In this final rule, the Coast Guard has added the requirement for a list of principal characteristics (i.e., length, beam, gross tonnage, etc.) of the vessel to be included in appendices for barge-specific information. This information will assist the responder in gaining a better understanding of the design of a vessel and will assist in the efficient implementation of a response plan should the need arise. This information is readily available and, therefore, places no extra burden on the plan submitter. It simply presents a clarification of the information required to be submitted in the interim final rule.

Section 155.1045 Response Plan Requirements for Vessels Carrying Oil as a Secondary Cargo

General information and introduction. No comments specifically addressing this paragraph were received. However, the Coast Guard has made various amendments to this paragraph.

Paragraph (a) of the IFR has been revised and placed in new paragraph (a)(6), and the remaining paragraphs redesignated accordingly. In addition to other basic vessel information required to be included in the response plan, paragraph (a)(6), as revised, requires the inclusion of the vessel's IMO international number. This additional requirement will better assist the Coast Guard in identification of vessels which might be involved in an oil spill.

The provision in paragraph (a)(3) requiring inclusion of identification of geographic areas covered by the plan has also been reworded in this final rule. The provision has simplified the requirements so that, with regard to identification of geographic areas under this section, the submitter of the plan need only include a list of COTP zones in which the vessel intends to handle, store, or transport oil. Because the COTP zones would encompass any geographic area covered by the plan, the Coast Guard determined that the additional wording in this provision was redundant.

The provision requiring a vessel owner or operator to develop his or her plan based on the total volume of oil carried in bulk as cargo, which appeared as a separate paragraph (a) in the IFR, has been changed to require that the vessel owner or operator specify in his or her response plan the total volume of oil carried in bulk as cargo [*See* paragraph (a)(6)]. This revision will result in the Coast Guard receiving specific information about how much oil a vessel has on board. This information enables the Coast Guard to better analyze the appropriateness of response measures.

Notification procedures. One comment was received addressing this paragraph which requires the inclusion of certain notification information in the response plan for a secondary cargo vessel. This comment contended that requiring vessel owners and operators to notify State authorities is outside of the purview of the Coast Guard unless the State has specifically required the Coast Guard to do so. The Coast Guard disagrees. As stated previously, other statutes and regulations establish oil spill reporting requirements, and the Coast Guard has determined that the owners or operators should set procedures for these notifications in their response plans. To minimize the burden on vessel owners and operators and facilitate rapid notification of a spill, most of this information can be provided in a checklist, which is consistent with Regulation 26 of MARPOL. To ensure consistency with IMO Resolution A648(16), the Coast Guard revised the rule to require response plans to include the IMO international number, when applicable.

Shipboard spill mitigation procedures. No comments specifically addressing these paragraphs were received. However, the Coast Guard revised this paragraph by condensing the classifications regarding required information about shipboard spill mitigation procedures to be included in response plans. These vessels which would fall into the IFR's classification covering vessels carrying more than 100 but less than 1000 barrels of oil would be covered by the classification for vessels carrying over 100 barrels but less than 5000 barrels of oil. Because even a discharge of over 100 barrels could potentially cause significant environmental damage, more detailed information than that which was previously required will assist the Coast Guard in ascertaining the response capabilities of vessels falling within this category.

Shore-based response activities. Two comments were received in response to this paragraph requiring certain information on shore-based response activities. One comment recommended that vessel owners be required to demonstrate either that they have a contractual agreement with wildlife response contractors or that they have the equipment, training, and permits to conduct wildlife response efforts themselves. The Coast Guard disagrees. However, as stated before, owners and operators are encouraged to financially assist volunteer wildlife rescue organizations who would generally respond to the needs of wildlife in the event of and oil spill.

The other comment objected to the requirement to specify a qualified individual and a spill management team in the response plan as these requirements apply to fishing industry tender vessels. The comment contended that the typical spill from a fishing tender vessel is 10 to 20 gallons, and this spill would be too small to warrant use of such resources. Additionally, this comment argued, this provision would be costly to the fishing industry in that OSROs usually want a retainer of $20,000 annually. The applicability of these requirements to fishing vessels was revised by section 321 of the Coast Guard Authorization Act of 1993 (Pub. L. 103–206, 107 Stat. 2419). When fishing vessels or fish tender vessels are engaged only in the fishing industry and are less than 750 gross tons, they are deemed not be tank vessels. Accordingly, such vessels are now excluded from vessel response plan requirements.

The Coast Guard amended this paragraph by adding a subparagraph requiring the inclusion in the response plan of any applicable procedures for transferring responsibility for direction of response activities from vessel personnel to the shore-based spill management team. Additionally, the Coast Guard amended this paragraph to require inclusion of detailed information concerning the organizational structure that will be used to manage response actions. The provision requires the inclusion of information regarding key components within each of these enumerated functional areas of the organizational structure. This paragraph has also been reworded so as to require the inclusion in the response plan of the functional job descriptions for each oil spill management team position within the organizational structure. These added requirements will better clarify the responsibilities of those involved in oil spill cleanup, thereby promoting more efficient implementation of response plans. All of these provisions are currently required for approval of response plans.

List of contacts. The Coast Guard has added a subparagraph to this provision requiring the list of contacts to include persons to notify for activation of the

spill management team. This requirement would elicit the needed information regarding the oil spill management teams so that the appropriate person could be contacted promptly in the event of an oil spill.

Training procedures. One comment was received which addressed this paragraph regarding the listing of training procedures in response plans for secondary cargo vessels. This comment recommended that the Coast Guard allow a reasonable amount of time of acquire refresher training for each individual with response duties under the vessel's response plan. The Coast Guard agrees. These time frames are addressed by other regulatory requirements.

The Coast Guard added a subparagraph to this paragraph clarifying that nothing in § 155.1040 is meant to relieve the vessel owner or operator from meeting the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.1200.

Plan review, update, revision, amendment, and appeal procedure. The title of this section was changed from ''Plan review, update, and appeal procedures'' to more clearly define the contents of this section. Although no comments were received addressing this paragraph of § 155.1045, the Coast Guard has greatly simplified this paragraph by cross-referencing § 155.1070 which contains similar requirements. This change should facilitate interpretation and implementation of these regulations.

Geographic-specific appendices for each COTP zone in which a vessel operates. The Coast Guard amended this provision by requiring inclusion in the geographic-specific appendix of a list of the spill management team(s) available to respond to the vessel's worst case oil discharge in each COTP zone in which a vessel operates. This requirement will elicit information needed by the Coast Guard to determine the vessel's response capabilities.

If the owner or operator has proposed in the response plan the use of dispersants, the dispersant capabilities must be listed in the geographic-specific appendices. This discussion should identify the following: Dispersant capability; areas of preapproval; and procedures for employing dispersants. This data will inform the Coast Guard not only about the availability of dispersants but also about where and how such dispersants will be used in an oil spill situation.

Appendices for vessel-specific information. The Coast Guard added this paragraph to this section in the final rule. It requires certain information concerning a vessel and its cargo be provided in an appendix to the vessel response plan. This additional information will assist the Coast Guard in determining a vessel's response capabilities. This information is currently required for approval of response plans.

Section 155.1050 Response Plan Development and Evaluation Criteria for Vessels Carrying Groups I Through IV Petroleum Oil as Primary Cargo

Equipment operation criteria. Eight comments were received in response to equipment operation criteria. Five comments addressed the issue of inspection and operation of oil spill response vessels (OSRVs) while responding to spills of different grades of oil.

One comment suggested that the Coast Guard modify Table 1 of Appendix B, to which this section refers, to require that 80% recovery devices operating in wave heights up to 4 feet in the Great Lakes be capable of accommodating the required 20% shallow water (6 feet or less) response capability. Another comment suggested that the Coast Guard amend the nearshore response equipment requirement to exempt shallow water equipment from the operating requirements of Table 1 of Appendix B to which this section refers.

The Coast Guard is aware that it may be difficult to have equipment that meets both the wave height requirement and the shallow water requirement at the same time. The Coast Guard has modified Table 1 to specifically state that the equipment provided for operation in the shallow water depths are exempt from the significant wave height requirements. In other words, the Table 6 response requirement capabilities could be met by separate pieces of equipment: the specified amount of shallow waters equipment must be available, and the complement of equipment necessary to recover the Table 6 volumes must be capable of operating in the specified wave heights.

One comment requested clarification of the requirement to match response equipment with the grade of oil carried. As discussed in the NPRM, the Negotiated Rulemaking Committee originally recommended using two oil categories: persistent and nonpersistent. They also recommended that the Coast Guard consider the relative persistence of oils and emulsification.

The Coast Guard has divided persistent oil into four groups based on a protocol developed by the International Tanker Owners Pollution Federation (ITOPF) to account for the differences in persistence. The Coast Guard has defined oil in five groups: nonpersistent and four other groups based on their specific gravity. While inspection of the response vessel is more appropriately based on specific grades of oil related to volatility; recovery capabilities are more dependent on the specific gravity.

Use of 35% as standard for reclassifying. Three comments were received which addressed this issue. One comment urged that reclassification of the operating environment by a COTP be subject to a national level review and approval in order not to compromise the one nationwide standard which was cited in the ''Discussion of Comments and Changes'' section of the IFR. Another comment suggested lowering the reclassification threshold from 35% to 10% to ensure that the equipment identified in the response plan would be available to operate during all seasonal variations. Another comment suggested that the criteria for reducing the classification of a body of water should be set at 85% rather than 35%. The COTP is authorized to change the classification of a body of water based on 35% of the existing conditions. As discussed in the IFR, the Coast Guard has based the criteria on 35% as this figure is considered to be the most appropriate.

Requirements for response resources. One comment was received which addressed this issue. It requested clarification on how grades of oil correspond to groups of oil and argued that the grade of oil spilled may not be the same as the grade of oil recovered. The Coast Guard recognizes that oil characteristics may change with time and weathering. Basing the response on the grade of oil carried is a starting point. A well-formulated response plan will recognize these possible changes and provide for the recovery of weathered oil.

Average most probable discharge requirements. Eleven comments were received responding to the provision in this paragraph for a waiver for vessels moored at facilities. Four comments supported the provision. One comment supported the provision with reservations: This comment suggested that the requirement that the response resources include a containment boom in a quantity equal to twice the length of the largest vessel involved in the transfer be amended to include an alternative to this requirement. This comment also suggested that, in the alternative, the quantity of the containment boom be in the quantity needed to contain a 50-barrel discharge. The Coast Guard disagrees. Recognizing that oil will react differently depending

on the environmental conditions, the Coast Guard has elected to base the average most probable discharge boom requirements on the length of the vessel.

Two comments objected to this waiver provision for vessels moored at facilities, on contending that a vessel response plan should require that vessels plan for an average most probable discharge and other contending that this provision exposes terminal operators to additional legal and financial liability for acts of third-party vessel operators. The Coast Guard agrees that a vessel owner or operator should plan for responding to such discharges, and has amended the rule to reflect this change. This change will not require the contracting of resources. A vessel's response planning requirements are independent of the legal and financial liability of the terminal operator.

The Coast Guard has determined that it is not necessary to require both the facility and vessel owners or operators to ensure, by contract or other approved means, that resources are available to respond to an average most probable discharge. Requiring the facility to plan for and ensure the availability of these resources is consistent with 33 CFR 154.545, which already requires facilities to have access to discharge containment equipment to control an oil discharge from operations from that facility. If the facility has identified these response resources, the Coast Guard has determined that they will be readily available to respond to an average most probable discharge from the vessel occurring during transfer operations. The wording of the regulation has been modified to clarify the responsibilities.

One comment questioned the provision allowing vessels to name terminals as resources available for vessel discharge response, arguing that the OSRO is placed in a position of initiating work for a party (vessel owner or operator) with whom financial assurance mechanisms have not been established. Likewise, another comment disagreed with this provision, contending that the IFR seems to amend the statute by imposing on terminal owners and operators the duty to respond to any spill during a transfer, even if the spill is from a vessel. This comment argues that the Coast Guard cannot alter respective duties imposed by OPA 90. The Coast Guard agrees. The response plan regulations have not relieved the responsibility of either party from responding to a spill. The responsible party is always required to promptly respond to a spill. Paragraph 1050(d)(3) applies only to average most probable discharges and simply provides that the vessel owner or operator need not ensure the availability of resources to respond to an average most probable discharge through a contract or other approved means.

One comment suggested that the delivering lightering vessel be treated as a vessel delivering at a facility and be granted a waiver from the requirement of identifying resources necessary to respond to an average most probable discharge. This comment further suggested that the receiving vessels be assigned the responsibility of identifying the response resources. The Coast Guard disagrees. Both vessels engaged in cargo transfer operations must plan and ensure resources for an average most probable discharge. These resources may be the same; however, they must be identified and ensured available by contract or other approved means by each vessel.

One comment requested that the Coast Guard clarify that a vessel transferring oil at a facility with a plan in accordance with NVIC 8–92 does not have to secure the resources to respond to an average most probable discharge. This comment further stated that NVIC 8–92 makes this clear, but it is not clear in the IFR. The Coast Guard agrees, and the wording has been changed to clarify this situation.

One comment was received in response to the applicability of the average most probable discharge requirements to bunkering. This comment sought clarification as to whether barges would have to plan for twice the length of the longest vessel in the transfer and whether a waiver could be obtained from the boom deployment requirement when barges are supplying fuel to vessels in the Mississippi River. This comment stated that it would appear more logical to focus efforts on collecting oil where it would be instead of where it was and argued that the containment boom fails in currents greater than 1 knot. It is most effective to contain and remove the oil at the source, not to wait until the oil has flowed down stream and dispersed throughout a wider area. Measure can be taken in currents greater than 1 knot to ensure that response equipment is deployed in an effective manner so that current has as little impact on the equipment as possible.

Ten comments were received in response to the applicability of the average most probable discharge requirements to lightering. One comment urged that tank vessels less than 100 feet long be exempt from the requirements of § 155.1050(d)(1)(i) of the IFR. This comment also suggested that the language of the paragraph regarding the containment boom requirement be amended to require deployment of the containment boom within 2 hours of oil spill detection. The Coast Guard does not consider it appropriate to exempt vessels under 100 feet long from this requirement. Cargo transfer operations involving any vessel pose a risk to the environment; therefore, it is necessary to require equipment to mitigate the effects of that spill. Rapid containment is an essential element of minimizing impact and providing for efficient removal. Therefore, the 1-hour maximum arrival time is appropriate.

Several comments were received regarding lightering operations. They argued that most lightering operations occur at distances in excess of 12 miles offshore. At these distances, they argued that the practical result of requiring an owner or operator to plan for the deployment of boom and skimmers within 1 and 2 hours, respectively, of an operational spill is that the equipment must be maintained on-scene. They further argued that this provision will either require the carriage of the equipment on board one of the vessels engaged in the lightering operation or on board a support vessel which stands by and assists the operation.

These comments stated that the costs of modifying a support vessel with the necessary equipment would be between $400,000 and $600,000, and the costs of having the support vessel stand by on-scene would be in excess of $3,000 per day. They maintained that these costs are not justified by the relatively minimal benefits of having response equipment immediately available on-scene to recover a 50-barrel spill in the open ocean environment. The comments also argued, that for a small operational spill there would be ample time to mobilize the necessary response equipment prior to the spill reaching any sensitive areas. These resources would be the same ones already identified in the response plan, and ensured by contract or other approved means, to respond to a maximum most probable discharge and worst case discharge.

For a maximum most probable discharge or for Tier 1 of the worst case discharge, resources must be capable of arriving on-scene in the open ocean area within 24 hours plus travel time from shore. A further argument presented is that, in a lightering situation, the two vessels are lashed together with large fenders between them, creating positive containment for any oil that may spill. A 50-barrel spill will be captured between the two vessels until voluntary action is taken to separate the vessels and allow response activity to begin. Many comments argued that the

containment created in this manner is more effective than the use of ocean boom.

A number of comments to the docket also recommended that the quantity and size of the required boom be reduced. No specific changes were recommended. The Coast Guard agrees that the time limits for responding to spills beyond 12 miles are inappropriate. However, as stated above, the use of boom is a major factor in the effective cleanup of a spill. The amount of boom required is based on an estimate of how much boom would be needed for initial containment of a 50-barrel oil discharge either alongside or between two vessels involved in an oil transfer operation.

During the course of plan review, the Coast Guard received several requests for waivers from the response time planning requirements for the average most probable discharge for vessels engaged in lightering operations, noting that, for lightering operations well offshore, response equipment would either have to be prestaged or a support vessels would have to be on scene. The costs of a support vessel with the necessary equipment are estimated to be between $400,000 and $600,000. Having the support vessel stand by on-scene would be in excess of $3,000 per day. The regulatory text in the final rule has been modified to make the response time a function of the distance from the nearest shoreline for lightering operations that occur 12 or more miles offshore. For discharges occurring between 0 and 12 miles offshore, no additional travel time is permitted, as these operational transfers occur in the typically more environmentally sensitive areas close to shore. Even in this zone, this may mean that equipment will have to be prestaged and/or on-scene in order to meet these short time requirements. From 12 to 200 miles, the allowed response time is 1 hour plus travel time, using an assumed transit speed of 5 knots. For example, the required response time for boom and skimmers for a vessel lightering anywhere from 0 to 12 miles from shore is 1 and 2 hours, respectively. For a vessel lightering at 12.5 miles, the required response time for both boom and skimmers is 3.5 hours (1 hour plus 12.5 miles/5 knots). The available data on lightering operations and spills incident to these operations did not indicate an obvious break point which could be used to determine which operations should be subject to the stricter response times. The 12 mile distance was selected, in part, because it would have limited impact on industry and, in part, because it is a recognized international boundary for pollution purposes. Since virtually all lightering takes place greater than 12 miles from the shoreline, this change should facilitate response planning for most vessel operators by allowing them to factor in travel time. Vessel operators who contemplate lightering within 12 miles of shore will have to balance the convenience and cost savings of close-in operations against the cost of meeting the short response times specified. The provisions of this change have already been allowed for owners and operators who have submitted written requests for response time alternatives.

One comment questions the advisability of requiring vessels engaged in lightering to plan for a 50-barrel spill by requiring a containment boom of twice the length of the largest vessel and suggested that the average most probable discharge requirements for lightering be combined with the maximum most probable discharge requirements for lightering. The Coast Guard disagrees. The response times required for maximum most probable spills are inappropriate for smaller average most probable discharges. Response to smaller spills may require less equipment; therefore, it is reasonable to expect that the deployments in response to these more frequent spills be extremely timely.

Several comments have encouraged that the Coast Guard address contracting of specific resources for transfer operations. The Coast Guard has amended § 155.1070(c)(5) to permit owners or operators to change the OSRO who has been contracted to provide AMPD response coverage for a transfer operation without having to change the response plan. The vessel response plan must identify a contracted resource for this coverage, however, the owner or operator may substitute another OSRO who is capable of responding in the appropriate operating environment, within the required response time.

Maximum most probable discharge requirements. Three comments suggested the elimination of the language in the preamble stating that response resources should be in an adjacent COTP zone. One of these comments argued that there should be no provision dictating where resources should be located as long as response times are met. The two other comments merely suggested deletion of the word ''adjacent'' from the COTP zone reference in the preamble, citing that the rule itself does not require that resources be located in an adjacent COTP zone. The Coast Guard agrees with these comments that the rule does not include any reference to ''adjacent COTP zone'' in the text. No limitation on the location of these resources was intended.

Worst Case Discharge Requirements

General requirements. Four comments were received in response to worst case discharge requirements in general. One comment requested clarification as to whether the amount of boom identified by the owner or operator of a vessel as sufficient to respond to a worse case discharge would also be considered sufficient to respond to a discharge of lesser size. The Coast Guard has changed the wording of the regulations to clarify that the boom should be sufficient to respond to a discharge up to and including a worst case discharge.

One comment objected to the omission of credit in the form of reduced planning standards or response times for taking preventive measures such as having vessels with double hulls, double bottoms, protective cargo, and ballast pumping. The Coast Guard disagrees with this suggestion. While these preventive measures would probably reduce the likelihood of oil spills and mitigate the damage therefrom, preparation for response to oil spills is still a necessary factor in oil pollution prevention. Accordingly, requirements should not be waived merely because an owner or operator has taken additional precautions against oil pollution.

This comment further asserted that a statement in the ''Summary of Benefits'' section of the IFR that the principle benefit of the vessel response plan requirement is the potential reduction in oil spilled is false and argued that the IFR dealt exclusively with response rather than prevention. The Coast Guard disagrees with this assertion: the goal of preparing for response to oil spills would be to mitigate the amount of pollution resulting from an actual oil spill. Mitigation of oil pollution is prevention; therefore, the IFR is dealing with prevention in that it is providing regulations for preparing for response with the goal of preventing extensive oil spill damage to the marine environment.

One comment recommended that the Coast Guard require owners and operators to ensure availability of response resources for potential spills which would be smaller than a worst case discharge. They argued that such a requirement would minimize the majority of impact on the environment which occur before the 12–24 hour Tier 1 response time is met.

The Coast Guard agrees. The intent of the regulation has always been to have response resources for the full range of spill volumes up to and including a worst case discharge. The Coast Guard has modified the language in the

regulation to clarify that the responsibility of an OSRO for a specific condition (i.e., maximum most probable discharge) is also responsible for response to spills of lesser amounts of oil.

With reference to prepositioned equipment in the State of Washington, one comment recommended that offshore response equipment be staged in Port Angeles until Neah Bay can support offshore response vessels. This comment is beyond the scope of this rulemaking project.

Shallow water response equipment. Seven comments responded to the worst case discharge requirements as they apply to shallow water activities. One comment stated that it was reasonable for the Coast Guard to require 20% of the response equipment to operate in 6 feet or less water depth; however, the comment continued by arguing that the requirements in Table 1 of Appendix B should be reduced to require that only 80% recovery devices operate in wave heights up to 4 feet. As stated previously, the Coast Guard has modified Table 1 of Appendix B to clarify that equipment designed to operate in water of less than 6 feet does not necessarily have to meet the significant wave height planning requirements. The regulatory text of this provision has also been changed to reflect this exemption from the significant wave height planning requirements of Table 1 of Appendix B of part 155.

One comment argued that the requirement may be counterproductive in that it may result in the reduction of the amount of available response equipment capable of operating up to 12 miles offshore. The comment further states that this reduction might be especially likely on the West Coast where deep water and rough conditions are typical. The Coast Guard disagrees with this statement. The response plan must account for the total volume of the response capability caps in Table 6 of Appendix B. The fact that some equipment will be capable of operating offshore and some in shallow water does not detract from this accountability requirement. However, it remains the responsibility of the owner or operator to ensure that the proper equipment necessary for a spill is available. This assurance may include contracting for additional equipment if it is anticipated that it will be needed.

One comment recommended the addition of a provision requiring a minimum level of sorbent material as part of the recovery capacity to support mechanical equipment used in shallow-water operations. The comment argued that because sorbents are the best means of recovery in some areas such as marshes and cattails, failure to include such a requirement would make it difficult or impossible to comply with the 20% standard of this section. The Coast Guard does not dispute the value of sorbent material. The availability of this material and the ease of getting it to the shallow water areas make it unnecessary for the Coast Guard to include it in the regulated planning requirements. A well-developed response plan will recognize the potential benefits of this material and provide for its procurement and use.

One comment agreed that the shallow water requirements were reasonable for the Great Lakes but not for shallow water with waves measuring 4 feet breaking on the shoreline. This comment stated that no recovery equipment capable of operating in these shallow water bodies exists and recommended that the Coast Guard amend the nearshore response equipment requirement so that shallow water equipment would not have to meet the operational requirements of Table 1 of Appendix B. The Coast Guard agrees. As discussed previously, the Coast Guard is aware that it may be difficult to have equipment that meets both the wave height requirement and the shallow water requirement at the same time. Therefore, the Coast Guard is allowing response requirement capabilities of Table 6 of Appendix B to be met by separate pieces of equipment.

One comment generally supported these requirements but not as they apply to operation in waters of 6 feet or less. This comment stated that such application was overly restrictive in that if the vessel owner or operator was responsible for identifying a large number of shallow water skimming systems and shallow water shuttle barges to meet the 20% requirement, the result might be a potentially complex and unsafe operation. The comment suggested that the Coast Guard specify a more practical operating range, such as 6–12 feet of water depth, to allow for the use of crafts with deeper drafts and all the benefits of larger displacement. The Coast Guard disagrees. The requirement for being able to operate in water of 6 feet or less is necessary to allow for cleanup in the area between the 6-foot point and the shoreline. It is not appropriate to ignore this portion of the cleanup area.

One comment questioned the basis for establishing the percentages of response equipment mandated to operate in certain water depths because the majority of equipment available today is capable of being deployed in waters of less than 6 feet. Therefore, this comment states, by necessity, the response equipment will be part of most vessel response plans. The Coast Guard agrees. Because use of this equipment is already a consideration in a properly prepared planning document, inclusion of information on this equipment should not be a burden on industry.

One comment supported the requirement as it applied to shoreline and nearshore operations.

Response times for tiers. Three comments were received regarding response times for the three response tiers established by the IFR. One comment stated that the response times in the IFR were more realistic than in the NPRM, but believed that more time may be required for cascading in larger items (i.e., boats) to remote locations. Prior to the enactment of OPA 90, this belief may have been warranted. However, a basic goal of this rulemaking project is to enhance response resources availability, and for the most part, the project has been successful in this regard. The response tiers in the IFR are reasonable and set realistic goals.

One comment stated that the Great Lakes response times as required in this section of the IFR are a significant improvement over those in the NPRM, but further argued that neither volumes transported, vessel traffic, nor spill history justify more rapid response times than for other inland areas. Due to the confined nature of the Great Lakes system and the imminent impact of spills on the surrounding shoreline, the response times for the Great Lakes are justified and reasonable. The maximum allowable response times provided in the tiers for the other inland areas are based on the remote nature of some of these areas and the difficulty of deploying equipment to those areas.

One comment suggested that the Coast Guard clearly state that the planned-for response times do not include time for deployment of the response equipment. The Coast Guard feels this point is clearly stated in § 155.1050(g). Where it is intended that equipment be deployed in a specific time, as with average most probable discharge requirements in § 155.1050(d), it is specifically stated.

Higher volume port area. In this final rule, this paragraph was moved to § 155.1020. However, six comments were received in response to this paragraph in the IFR. Two comments agreed with these designations.

Two comments suggested designating Cape Flattery as the reference point for the 50-mile seaward arc for the high volume port of Puget Sound. One of these comments suggested that this area be designated in lieu of Port Angeles, WA. The other comment also suggested that the tugs necessary for use with the

response vessels in these areas should have the dual capability to rescue disabled ships within a 6-hour response time. One comment urged the inclusion of Cook Inlet as a higher volume port area. One comment argued that the definition of a higher volume port area avoids the concept of environmental sensitivity.

The higher volume port areas were determined by the Coast Guard based on a study of persistent and non-persistent oil movement by vessels, tank ship and tank barge transits, and overall vessel transits in a port area. Methods for determining the higher volume port areas were addressed in the notice of proposed rulemaking for these regulations (57 FR 27514; June 19, 1992). For a uniform national standard, the Coast Guard has determined that the overall volume of shipped oil, and not environmental sensitivity, is the best indicator of those areas requiring an enhanced standard for response equipment. The area contingency plans may contain additional strategies based on unique local consideration, including environmental sensitivity.

Notification and mobilization times. Two comments were received in response to these provisions. One comment requested clarification as to whether the IFR required that all Tier 1 resources be capable of the initial mobilization within 2 hours after notice as required in this section. All Tier 1 resources must be mobilized within a maximum of 2 hours. Because of the nature of oil spill cleanup, all equipment should be mobilized and deployed on scene as quickly as possible.

The other comment recommended that the Coast Guard require Tier 1 resources to be located within the COTP zone for which the resources are required. The Coast Guard disagrees. The Tier 1 equipment does not have to be located within the COTP zone; however, it must be on the scene within the specified Tier 1 times. The tiered time frames are provided as maximum time frames for the minimum amount of equipment. The equipment should be on-scene and deployed as soon as possible to allow for the most efficient cleanup.

Dispersants. Eight comments were received in response to this paragraph of the IFR. Four comments supported the inclusion of a provision allowing credit for using dispersants. One of these comments also supported making use of dispersants optional. Another of these four comments also recommended allowing a credit as high as 100%. The Coast Guard disagrees. Mechanical recovery is the preferred method as it provides for the removal of the oil from the environment, and the 25% credit value in preapproved areas was a recommendation of the Negotiated Rulemaking Committee. The final rule also retains the language indicating that identification of dispersant capability in a response plan provides no assurance that their use will be authorized during a spill response.

One comment strongly opposed permitting credit, claiming that allowing this credit will not lessen the amount of oil released into the environment. This comment further contended that caps already severely limit on-water mechanical recovery and that mechanical recovery should not be further reduced through dispersant credits. This comment also argued that if dispersants are allowed, the Coast Guard should shorten the required response time to 8 hours to ensure application during the optimal window of opportunity for dispersant use. Two comments recommended that the 12-hour response time be increased to 24 hours. One comment claimed that this increase is supported by current research. The writer of the comment, however, did not reference such research. The other comment argued that the 12-hour response time would only be feasible if a fleet of dedicated aircraft were chartered to respond to the spill. Another comment also recommended shortening the response time to 6 hours, arguing that responding to an oil discharge within 12 hours would be too late. One comment recommended that the final rule provide that during the first day of response activity, dispersants must arrive on scene within 12 hours, and, during the remainder of the response activity, dispersants should be available as needed to sustain the assumed rate of dispersant application.

The Coast Guard disagrees with the comments discussed in the previous paragraph regarding dispersants and response times. The specified caps do not limit mechanical recovery, they only provide a minimum requirement for ensuring equipment by contract or other approved means. Increases in the caps are scheduled for 1998 and possibly in 2003 if further increases are justified. The Coast Guard also disagrees with changing the minimum on-scene arrival time for dispersants. Comments to the NPRM indicated that the recommended arrival times on-scene are between 6 hours to an unspecified time less than 24 hours. The Coast Guard required that dispersants arrive on scene within 12 hours of discovery of the discharge. As with many aspects of oil spill response, early action facilitates efficient cleanup and, if use of dispersants is appropriate, dispersants should normally be applied as soon as possible. However, there is no justification for mandating the shorter time period for planning purposes.

One comment does not support the use of dispersants but argued that, if their usage is permitted, it is not sufficient to merely require identification of dispersants. This comment continued by contending that the Coast Guard should require that sources of dispersants be purchased or contracted for and that the owner or operator of a vessel should be required to contract for equipment, such as planes, that are necessary for the dispersant application. The Coast Guard partially agrees. Although the rule does not require that a supply of dispersants actually be purchased, it does require the owner or operator to make firm arrangements to have dispersants available when needed and authorized. This provision [now § 155.1050(j)] clarifies that the dispersants and the necessary resource to apply them must be ensured by contract or other approved means in order to receive the 25% credit.

Salvage and firefighting. Twelve comments were received responding to this paragraph. One comment supported the Coast Guard's intent of ensuring adequate marine salvage and firefighting capability in the United States.

Four respondents to the IFR commented on the 24-hour required response time for firefighting and salvage resources. Three of these comments stated that they were uncertain whether this 24-hour response time would be realistic in 1998. One comment suggested reducing the time to a maximum of 1 hour for high volume ports and 12 hours in the open ocean. The Coast Guard recognizes that private salvage and marine firefighting capability is currently limited in the United States. Complying with this requirement has been delayed until 1998 to provide sufficient time for the industry to assess the existing capability fully and to take steps to address any shortfalls. As stated many times previously, early action is imperative to efficient cleanup. The Coast Guard, however, does not find justification for shortening the response time planning requirement for firefighting and salvage equipment.

Three comments urged that the Coast Guard provide adequate time for public comment when issuing regulations upgrading salvage requirements in 1998. The Coast Guard agrees that, in the event it intends to increase salvage requirements in excess of the already stated 1998 levels, it will allow for adequate time for public comment.

Two comments expressed concern that implementation of the regulation regarding salvors would result in more owners and operators contracting with non-capitalized salvors rather than legitimate salvors with adequate equipment to conduct salvage operations. Two comments argued that the imposition of minimum standards on salvage and firefighting contractors named in the vessel response plans is consistent with the clear intent of OPA 90. These comments suggested more stringent requirements with regard to salvage contractors, especially in the areas of salvage assets, performance, and response. The Coast Guard did not specify requirements for salvage and firefighting contractors as each situation will require different types of equipment. The salvage or firefighting contractor will need to have sufficient expertise and equipment available to respond to various situations. A prudent owner or operator will ensure that the identified contractor has the ability to respond to his or her anticipated needs.

One comment supported the identification of salvage and firefighting resources as opposed to contracting for these resources. One comment stated that ship incidents requiring salvage and firefighting response occur too infrequently to support the resources that would be necessary to meet proposed response times. The Coast Guard disagrees. Although these incidents may be rare as this comment argued, the damage resulting to the environment from the absence of salvage and firefighting equipment where such equipment is needed could be quite significant.

One comment argued that firefighting and salvage resources should be guaranteed by contract and recommended that resources be on scene within 24 hours. The Coast Guard would like to first point out that the writer of this comment misunderstood the IFR to be requiring contracts after 1998. The IFR requires that owners and operators currently have these resources available through contract or other means. Secondly, the Coast Guard disagrees with this comment's assertion that the salvage and firefighting resources should be on scene within 24 hours of a discharge. While this will essentially be the requirement in 1998, time is needed to establish available firefighting and salvage resources in geographically remote areas.

Emergency lightering. Seven comments were received in response to this provision. One comment agreed that these requirements appear to offer a practical means of controlling a spill at its source. Three comments argued that this requirement to ensure the availability of response resources for lightering operations through contract or other approved means should require assurance through identification of lightering resources rather than contracting for lightering resources. One of these comments asserted that the contracting requirement would require owners and operators to contract with thousands of barge owners to provide adequate response on all coasts.

OPA 90 specified that response resources should be ensured. Identification of resources for offshore areas is not adequate assurance because this capability is not as readily available as in river and canal areas of operation. The Coast Guard is aware that ensuring adequate emergency lightering capability may require contracting with more than one vessel broker for storage capacity.

Three comments argued that the requirement for availability of portable pumps and ancillary equipment necessary to offload the vessel's largest cargo tank in 24 hours of continuous operation should be altered to require that there be adequate equipment to offload the vessel's largest cargo tank in 36 hours of continuous operation for vessels displacing 80,000 deadweight tons or more. The Coast Guard disagrees. It is equally, if not more, important to expeditiously offload cargo from the larger tank vessels as it is from the smaller tank vessels. This equipment is readily available in areas where these vessels operate.

One comment disagreed with the provision that resources reach open ocean locations within 36 hours of notification. This comment argued that meeting this requirement would not be possible, particularly for fendering equipment, larger pumps, and power packs which may be beyond the capability of air delivery. The Coast Guard disagrees. The effective mitigation and prevention of further discharge of rapidly escaping oil is dependent on quick response to the incident: 36 hours is deemed to be a reasonable maximum time for arrival of this equipment in the offshore operating area.

Shoreline protection. Three comments were received in response to this paragraph regarding the assurance of availability of response resources for shoreline protection operations. One comment recommended that requirements for vessel response plans and facility response plans be the same. The Coast Guard disagrees. Because vessels operate in a variety of environments including offshore, the equipment necessary to provide shoreline protection as identified in Table 2 of Appendix B is appropriate for vessels but would not necessarily be appropriate for facilities.

One comment supported the recognition of a national standard rather than resources identified in the area contingency plans; however, this comment takes exception to the preamble text in the IFR which stated that the Coast Guard may adjust requirements if the area contingency plans indicate such a need. This comment asserted the Coast Guard should decide either to have a national standard or to allow the area contingency plans to create area specific standards. The Coast Guard appreciates the concerns expressed in this comment; however, it would not be prudent to adhere to stringent national requirements without being flexible enough to make exceptions where they are warranted.

One comment generally supported the shore protection requirements of this paragraph, particularly the Louisiana Offshore Oil Port (LOOP) exemption. However, this comment also recommended that the area contingency plans adopt a uniform national standard for shoreline protection measures. The Coast Guard does not consider it appropriate to restrict the strategies in the area contingency plans. They are the appropriate forum for addressing local needs.

Shoreline cleanup. Four comments were received in response to this paragraph dealing with assurance of the availability of response resources for shoreline cleanup operation. One comment pointed out that this paragraph fails to address the Great Lakes. The Coast Guard has noted this omission and has included the Great Lakes in the corresponding paragraph in the final rule.

One comment supported the recognition of a national standard rather than resources identified in the area contingency plans; however, this comment takes exception with the preamble text in the IFR which stated that the Coast Guard may adjust requirements if the area contingency plans indicate such a need. This comment asserted the Coast Guard should decide either to have a national standard or to allow the area contingency plans to create area specific standards. Another comment generally supported these requirements with particular support for the LOOP exemption. However, this comment recommended that area contingency plans adopt a uniform national standard for shoreline cleanup. The Coast Guard appreciates the concerns expressed in these comments; however, it would not be prudent to adhere to stringent national requirements without being

flexible enough to make exceptions where warranted.

One comment asserted that national standards for shoreline cleanup might be inadequate because of the unique circumstances of a particular area. This comment further argued that the national standard may be too rigid for one area and leave gaps in another area. The Coast Guard agrees that this may pose a potential problem and, therefore, may adjust these requirements, by the rulemaking process, for specific areas if found to be necessary.

Oil spill removal organizations. Although no comments were received which specifically addressed this provision, the Coast Guard has added the Great Lakes to the enumerated bodies of water in § 155.1050(n) where owners or operators of vessels transiting with primary cargoes of groups I through IV petroleum oil must identify and ensure the availability of oil spill removal organizations. The Great Lakes was inadvertently excluded from this provision in the IFR.

Caps. Nine comments were received in response to this paragraph that references Appendix B of part 155, which establishes the caps recognizing the practical and technical limits of response capabilities for which an individual vessel owner or operator can contract in advance.

One comment supported the 1993 caps. Two comments argued against the 1998 caps as established in the IFR, contending that the caps established were arbitrary. The Coast Guard disagrees. The caps were established to provide a clear upper target for which the vessel owners or operators and the oil equipment response industry must plan. The proposed increase of 25% has already resulted in encouraging industry to increase their response capability. The Coast Guard will evaluate the proposed cap increases before they become effective to determine if they remain practicable. These evaluations will be conducted through public notice and comment before the cap increases become effective.

Two comments recommended that the Coast Guard drop the time requirement of this provision. One of these comments contended that this time requirement overstates the intent of the Negotiated Rulemaking Committee agreement. The Coast Guard disagrees. The concept of response tiers was defined during the regulatory negotiation process. The Coast Guard added the time requirements as they are a critical component of the intended response capability. To eliminate this portion of the requirement would result in greatly reducing the effectiveness of the planning requirements.

One comment asserted that the reduction of the Great Lakes caps in the IFR compared to those in the NPRM are an improvement; however, the comment continued by arguing that the levels of 2,000, 4,000, and 8,000 feet should be considered. The Coast Guard disagrees. The existing caps were developed through public discussions and comment, and it was determined that they are reasonable.

One comment expressed concern over the additional costs which would be incurred by owners and operators by having to comply with this requirement. The Coast Guard is aware of the possible costs of this requirement; however, the Coast Guard did a cost and benefit study prior to developing this regulation, and determined that the benefits justify the costs.

One comment argued that it is impractical for every tank vessel to list all needed equipment above the caps and suggested that the Coast Guard use the data collected by the Coast Guard National Response Center at Elizabeth City, NC in lieu of requiring this listing. Another comment suggested that the availability of any additional resources should be determined in the area contingency plans, and the results should be available to all planholders within a given area. The Coast Guard does not want owners and operators to identify each piece of equipment available above the caps. It only wants the identification of organizations, their locations, and their capabilities (classification), not specific detailed lists of equipment. The source of this additional equipment may be the same provider as that which is providing the contracted capability. The Coast Guard has clarified that the additional resources above the caps must be provided by a commercial source.

One comment asserted that the caps should be at least doubled, arguing that the current level will not be able to respond to a worst case discharge. This comment also suggested that caps for 2003 be set now and be under contract by 1993, 1998, and 2003. The Coast Guard disagrees with increasing the caps at this time. The caps have been set considering the amount of equipment that can reasonably be expected to be available and contracted for as of these effective dates. The Coast Guard has modified the regulations in § 155.1050(o) to require the identification of additional resources, for all three tiers, equal to two times that which has already been ensured available by contract.

One comment argued that identifying equipment in excess of only the Tier 3 cap is inadequate and contrary to the Negotiated Rulemaking Committee agreement. This comment continued by contending that equipment to respond to the entire worst case discharge planning volume must be identified. The Coast Guard has clarified the language of the regulation to reflect that certain vessel owners and operators shall identify sources of additional equipment equal to twice the cap listed *for each tier* or the amount necessary to reach the calculated planning volume, whichever is lower. This policy was published in NVIC 8–92 and has been followed in reviewing plans submitted under the IFR.

One comment asserted that the requirement to identify sources of additional equipment is not practicable. This comment continued by arguing that there will not be sufficient resources in a given area to both satisfy the contracting cap requirement and any additional equipment above the cap which might be required to be identified by the regulations. The response resources above the caps need only be identified to the extent that the equipment is available. The final rule has been changed to clarify this requirement. However, the Coast Guard contends that a prudent owner or operator will research the equipment outside their specific geographic area so that in the event of a spill, the equipment can be located easily to ensure the entire spill is cleaned up.

One comment asserted that the caps may not reflect what is practicable to accomplish in the United States. This comment continued by arguing that there is no information in the IFR to justify that the caps represent the ''maximum extent practicable.'' This comment urged the Coast Guard to reject caps and reevaluate the objective of this provision using rational analysis to determine what is practicable. This comment did not specify to what other methods they were referring. The Coast Guard disagrees with eliminating the concept of caps. The caps were developed through two rulemaking documents and various public meetings, including the Negotiated Rulemaking Committee meetings, to determine what is practicable. There have been no compelling arguments to change these requirements at this time.

Cap review process. Five comments were received in response to this paragraph regarding the review of cap increases and other requirements contained within subpart D that are scheduled to be phased-in over time. One comment supported the Coast Guard's initiating review of the practicality of future cap increases. Three comments supported using factors such as improvement of technology and research and

development efforts in reviewing the caps for determination of possibly new caps in 1998. Four comments urged the Coast Guard to clarify in the final rule that the scheduled increases for equipment in 1998 will not exceed 25% of the current requirement.

There will be a review process prior to the 1998 increase. The possibility exists that the caps could increase above the specified 25% if it is found to be appropriate.

Two comments supported the changes from the NPRM in the language of this review process requirement.

Section 155.1052 Reponse Plan Development and Evaluation Criteria for Vessels Carrying Group V Petroleum Oil as a Primary Cargo

Four comments were received addressing this section. One comment expressed concern that the IFR was requiring equipment and technology which may not be available, proven, or practicable. One comment questioned the need to address this issue with regard to offshore and open ocean operations. One comment supported the different plan requirements applicable to various situations; however, this comment disagreed with the stringent response times required by this section. This comment argued that a 24-hour response time is unnecessary in that once oil sinks it does not migrate. This comment continued by arguing that the longer oil sits, the harder it becomes, and the easier it is to recover by means such as cutting the oil and raising it by nets suspended from a crane. One comment requested that the Coast Guard consider not imposing minimum response standards on salvors.

Group V oils encompass a wide variety of oils which behave differently in the marine environment. The response plan regulations require procedures, strategies, and identification of equipment to locate, recover, and mitigate discharges of these substances. This equipment does exist and has been cited in numerous response plans received to date. The response time for this equipment is considered to be reasonable. The 24-hour deployment requirement applies to the equipment arriving at the port nearest the area where the vessel is operating, not the actual spill location. Minor editorial changes have been made to this section, but no substantive requirements are affected.

Section 155.1054 Response Plan Development and Evaluation Criteria for Vessels Carrying Non-Petroleum Oil as a Primary Cargo

This section covered the specific response plan development and evaluation criteria for vessels carrying non-petroleum oil as a primary cargo. The Coast Guard received nine comments on this section.

One comment argued that Congress did not intend edible oils to be regulated under OPA 90 and that these oils are already adequately regulated by the FWPCA. One comment stated that owners or operators of vessels carrying Group V and non-petroleum oils should be subject to the same planning requirements as vessels carrying other types of oils. The comment suggested that the Coast Guard change Tables 3 and 4 of Appendix B to include these oils or allow the owner or operator to submit a formula for determining the worst case discharge planning volume. One comment recommended that the Coast Guard should delay response requirements for non-petroleum oils until more information about these oils is available.

Five comments stated that response and removal methods for non-petroleum oils should be addressed in a separate rulemaking. In response to the comments received, the Coast Guard has removed this section and replaced it with new Subparts F and G to specifically address non-petroleum oils. These new subparts are discussed subsequently in this section of the preamble.

Section 155.1055 Training

The Coast Guard received several comments on this section. One comment recommended that the Coast Guard provide in the final rule enough time for individuals to receive refresher training. The Coast Guard agrees that refresher training is needed; however, these time frames have already been set in 29 CFR 1910.120.

One comment stated that owners or operators should not be liable for the training of shore-based personnel. That comment and one other stated the requirement that owners ensure that oil spill removal organizations (OSROs) maintain training records is sufficient. However, five comments stated that the 3-year training record maintenance requirement would be an unreasonable burden on the owner or operator, and that this requirement should be the OSRO's or Coast Guard's responsibility. Two of those comments also stated if the Coast Guard certified the OSROs, then recordkeeping would not be necessary. The Coast Guard disagrees. It is the responsibility of the owner or operator to ensure that the organizations upon which they rely for spill response are adequately prepared.

One comment stated that the final rule should clarify that training and drill requirements apply solely to employees and contractors hired by unmanned tank barge owners or operators and not to auxiliary personnel. The Coast Guard disagrees. The training requirements apply to anyone contracted to have involvement in a spill cleanup.

One comment recommended that the word ''or'' be added after § 155.1055(b)(1). Addition of the word ''or'' after § 155.1055(b)(1) is not necessary as the listing of possible locations of training records is in the disjunctive, meaning that the records must be located in one of the three places listed.

One comment suggested that the Coast Guard maintain a list of approved contractors which includes information on equipment and personnel. The Coast Guard does have a program for classifying contractors (NVIC 12–92; December 4, 1992) which takes into account the quantity of equipment, its designed purpose, the planning capacity of the resources, and the number of trained personnel the contractor has. A listing of these classified oil spill removal organizations is available from Commanding Officer, National Strike Force Coordination Center; (Attn: OSRO Classification Review); 1461 U.S. 17 North; Elizabeth City, NC 27909; telephone number: (919) 331–6000.

One comment recommended that the final rule state that the Occupational Safety and Health Administration (OSHA) has the authority to enforce shore-based response personnel working conditions. Although the Coast Guard acknowledges that OSHA does have this authority, there is nothing in these regulations which discredits this authority. Additionally, the language of this section clearly states that nothing in the response plan requirements relieves the shore-based organizations from complying with the OSHA requirements regarding training for emergency response operations. It is the responsibility of the vessel owners and operators contracting with the individual OSROs to ensure that the OSHA requirements are being met.

The Coast Guard has amended this section of the final rule. This section has been reworded to provide for identification of training for persons having responsibilities under the plan, regardless of whether or not such persons are members of the vessel crew. This change was made to ensure that all persons involved in oil spill cleanup operations are adequately trained. Also, the Coast Guard added a subparagraph to this final rule which provides that a training plan may be prepared in accordance with ''Training Elements for Oil Spill Response'' to satisfy the requirements of this section. This

publication along with the added Appendix C to this rulemaking will provide guidance and clarification of the training requirements to owners and operators in the development of the training portions of response plans, no additional requirements have been added.

Section 155.1060 Exercises

The Coast Guard has extensively revised § 155.1060 which was previously entitled ''Drills'' and is now entitled ''Exercises.'' The changes make the terminology in the final rule consistent with the National Preparedness for Response Exercise Program (PREP). In response to the need to provide owners or operators with additional direction on conducting exercises, the Coast Guard has revised this section to specify that compliance with PREP fulfills all exercise requirements. The National Preparedness for Response Exercise Program (PREP) was developed through a joint effort of the Federal agencies implementing OPA 90 response plan regulations and other Federal representatives (e.g., natural resource trustees), State agencies, members of the regulated community, and oil spill removal organizations. These efforts resulted in the creation of unified guidelines that reduce the possibility of owners and operators having to participate in numerous duplicative exercises. Following the PREP guidelines has been determined to be an acceptable means to satisfy the OPA 90 requirements. The changes to the final rule were based on the PREP; therefore, participation in the PREP will result in compliance with this final rule. However, participation in the PREP itself remains voluntary. If owners or operators do not choose to participate in the PREP, they may develop their own program for compliance with the exercise requirements in the regulation. The changes to the wording of the regulatory text provide consistency with the PREP and have resulted in reduced requirements.

Three comments stated that the owner or operator should determine the extent to which the OSROs and spill management teams participate in drills rather than the COTP, while another comment recommended that the qualified individual should decide. One comment suggested that the phrase ''Need not participate'' in § 155.1060(d) be changed to read ''Shall not be required to participate.'' The Coast Guard has determined that in a ''government initiated unannounced exercise,'' the parameters of which are set by the COTP, it is appropriate for the COTP to determine who will participate in the exercise and to what extent they will participate, as this determination will facilitate accurate tests of the preparedness of the responders.

Several comments were received regarding drill credit. Six comments requested that credit for participation in unannounced drills be extended from 24 to 36 months. Credit for participation in a ''government initiated unannounced exercise'' has been extended to 36 months. Three comments stated that the provisions for drill credit need to be clarified. Two comments proposed that credit be given for announced drills with unannounced scenarios. Two comments suggested credit should also be given for responses to actual spills, while another comment recommended credit for table top drills and further suggested combining drills for both vessels and facilities annually. One comment recommended that the Coast Guard should conduct an unannounced drill in higher volume ports once a year and that a vessel should receive credit only if a drill were completed satisfactorily.

Equipment deployment exercises are vital for maintaining readiness and for testing the effectiveness of a response plan. The variety of required exercises test different aspects of a response plan. However, if an exercise includes components which fulfill the requirements for some other type of required exercise (e.g. an equipment deployment exercise that includes a qualified individual notification) then both requirements may be fulfilled by the single exercise. Both announced and unannounced drills are required by the PREP. This promotes full familiarization with the response plans. Under PREP, vessels which have an actual response situation may get exercise credit. The standards in the rule are in accordance with the requirements of the PREP program. For more detailed information, the PREP guidelines should be consulted.

Three comments were concerned with the scope and resulting costs of unannounced drills. These comments suggested that a vessel owner or operator be required to ensure that each element of a plan is exercised at least once every 3 years rather than to ensure a drill which exercises the entire plan. One of the comments also stated that many drill exercises are redundant because most companies employ the same OSROs. This comment also requested 24–48 hour advance notice for unannounced drills. There is usually no advance notice of a spill. Unannounced exercises serve an important purpose in maintaining response resource readiness. The revised exercises section of the final rule includes requirements for unannounced exercises. Section 155.1060(a)(5) states that annually, one of the required exercises (emergency procedures, spill management team tabletop, equipment deployment) must be conducted unannounced. Additionally, the owner or operator may be required by the Coast Guard to conduct an unannounced exercise, which would involve equipment deployment to respond to an average most probable discharge spill scenario. If a vessel participates in an unannounced exercise initiated by the Coast Guard, they will be exempt from participating in another Coast Guard initiated unannounced exercise for at least 3 years.

One comment stated that drill planning requirements should be delayed pending further guidance from the Coast Guard. Two comments suggested that drills should be closely coordinated and coincide with local and State activities. As discussed previously, the PREP was developed, in part, to coordinate all the various drill requirements. This coordination should alleviate some of the burden of the drill requirements.

In response to the need to provide owners or operators with additional direction on conducting exercises and to ease the burden of meeting the OPA 90 requirements, the PREP was developed through a joint effort of the Federal agencies implementing OPA 90 response plan regulations with involvement from other Federal representatives (e.g., natural resource trustees), State agencies, members of the regulated community, and OSROs. These efforts resulted in the creation of unified guidelines that reduce the possibility of owners and operators having to participate in numerous drills. Following the PREP guidelines has been determined to be an acceptable means to satisfy the OPA 90 requirements. The changes to the final rule were based on the PREP; therefore, participation in the PREP will result in compliance with this final rule. However, participation in the PREP itself remains voluntary. If an owner or operator does not choose to participate in the PREP, they may develop their own program for compliance with the exercise requirements in the regulation. The changes to the wording of the regulatory text provide consistency with the PREP, and have resulted in reduced requirements.

One comment agreed with the requirement that vessel owners and operators ensure that the OSROs' records for drills be maintained. Two comment writers felt that this places an excessive burden on owners and operators. The Coast Guard disagrees

that this burden is excessive. Although the owners and operators are still responsible for ensuring that the exercise records are maintained under the final rule, the final rule also maintains the provision allowing records of exercises conducted off the vessel to be maintained at the United States location of either the qualified individual, the spill management team, the vessel owner or operator, or the response organization. The response plan must specify the location of the drill records.

Section 155.1062 Inspection and Maintenance of Equipment

Six comments were received on this section. Four comments stated that the owners or operators, especially overseas shippers, should not be responsible for the inspection and maintenance of shore-based response equipment. One of these comments recommended that the Coast Guard should inspect and certify OSRO response equipment and personnel, while the other three comments did not specify who should be responsible in these areas. One comment stated that the Coast Guard should notify and require the contractor's permission before the OSRO is named in a response plan. Another comment stated that if the Coast Guard classified OSROs, then the owners and operators would not have to keep records of equipment maintenance and inspection.

The Coast Guard disagrees with the comments suggesting that responsibility for inspection and maintenance of equipment be shifted to someone other than the owner or operator. It is the ultimate responsibility of the vessel owner or operator to ensure that the OSRO which he or she has listed is capable of providing the oil spill cleanup services it claims it can provide. The Coast Guard does have a voluntary program to classify OSROs, and the Coast Guard encourages OSROs to participate in this program; however listing an OSRO does not guarantee the capabilities of the OSRO's future performance. The guidelines for classification and inspection of OSROs are contained in the Coast Guard's Navigation and Vessel Inspection Circular No. 12–92 (NVIC 12–92; December 4, 1992) and may be used by vessel owners and operators to evaluate the OSROs they have under contract. Alternatively, the vessel owner or operator may ensure the OSRO's equipment is being maintained properly by having third party inspection of the OSRO by a classification society.

Section 155.1065 Plan Submission, Approval and Appeal Procedures

Several comments were received on this section, and although not discussed in the regulation, the topic of plan review by regional citizens advisory councils (RCACs) has been a topic of previous preamble discussions. One comment argued that the RCACs should not review response plans because of their lack of technical knowledge and objectivity. The Coast Guard disagrees. The RCACs have a particular interest in the adequacy of oil spill prevention and response plans for tankers operating in Prince William Sound or Cook Inlet. The mode of review is to have vessel owners and operators submit plans directly to the RCACs, not via the Coast Guard, and the RCACs provide any comments they may have regarding a specific plan directly to the applicable vessel owner or operator. This method of review provides an opportunity for valuable interaction between the RCACs and the vessel operators or owners.

One comment suggested that the 60-day waiting period for vessels which have submitted response plans be reduced to 30 days for newly-built vessels and for vessels with interim assignments in U.S. waters. One comment requested that response plan submission and approval procedures be shortened for vessels carrying oil as a primary cargo so that the 60-day waiting period could be reduced. One comment requested that the item to correct response plan deficiencies be extended from 45 to 60 days.

The Coast Guard performs a two stage review of vessel response plans in order to expedite authorization of vessel operation in U.S. waters. The initial review provides the vessel owner or operator the list of deficiencies. The Coast Guard has removed the specific time frame of 45 days to respond to deficiencies and has changed this response time to that which is specified in the written deficiency notice provided by the Coast Guard. This revision will allow the Coast Guard to determine the appropriate time frame on a case-by-case basis according to the specific circumstances. The time frame allowed is intended to provide the owner or operator sufficient time to address any deficiencies. Nothing in the regulations prohibits operation in U.S. waters during that time frame permitted for rectifying deficiencies if the Coast Guard has issued a letter authorizing the vessel to operate under the provisions of § 155.1025(c).

One comment expressed concern that contractors reviewing response plans were unfamiliar with fishing vessel tender operations and that, because of work schedules, crewmen would not have the opportunity for redress prior to the implementation of response plans. The applicability of these requirements to fishing vessels was revised by section 321 of the Coast Guard Authorization Act of 1993 (Pub. L. 103–206, 107 Stat. 2419). When fishing vessels or fish tender vessels are engaged only in the fishing industry and are less than 750 gross tons, they are not deemed to be tank vessels. Accordingly, such vessels are now excluded from vessel response plan requirements.

The Coast Guard has modified the IFR provisions to reduce the number of copies of the plan to be submitted to one and to indicate in the certifying statement accompanying the response plan whether the vessel or vessels covered by the plan are primary manned, primary unmanned, or secondary carriers. This added information will facilitate an efficient plan review process.

The Coast Guard has also added two paragraphs to this section in this final rule. One paragraph allows the submission of a request for acceptance of alternative planning criteria for owners or operators of a vessel who believe that national planning criteria contained elsewhere in 33 CFR part 155 are inappropriate. The provision should lessen the burden of owners or operators by providing the possible option of using alternative planning criteria.

The other added paragraph allows an owner or operator to meet the response plan requirements of Regulation 26 of MARPOL and subparts D, E, F, and G by stating this intention in writing when submitting the response plan. This provision should also alleviate the burden of owners and operators in that they would not have to duplicate their efforts.

OPA 90 requires a vessel owner or operator to resubmit response plans to the Coast Guard for information or approval, as appropriate. In the IFR, the Coast Guard required that response plans must be resubmitted every 5 years regardless of whether any revisions have been made. In his memorandum of April 21, 1995, President Clinton directed agencies to reduce by one-half the frequency of regularly scheduled reports that the public is required to provide to the Government. An exception to this requirement is provided when the agency head determines that such action would not adequately protect the environment or would impede the effective administration of the agency's program. The Coast Guard has reviewed the need for resubmission of response plans at 5-year intervals, and has concluded that extending this to 10 years would not

ensure that plans were still viable and would not meet the goal of OPA 90, to improve the response to spills of oil. Changes in technology and in available response resources over a 5-year period may make a response plan fall below acceptable standards. To effectively administer an oversight program and ensure that the maximum practicable response capability is being utilized, review of response plans at 5-year intervals is considered to be an appropriate balance between program needs and reporting burden. The Secretary of Transportation has approved retaining the requirement to submit response plans at a maximum interval of 5 years.

Section 155.1070 Procedures for Plan Review, Revision, Amendment, and Appeal

A number of comments were received on this section. One comment requested clarification as to whether the Coast Guard could complete review of response plans within 60 days after a new certification has been submitted due to a change in the owner or operator of a vessel. With reference to this section, neither the IFR nor this final rule imposes any definite time frame within which the Coast Guard must complete review of a response plan. Additionally, such a time frame could not be definitely established because the length of the review process would be dependent upon unknown factors such as how many response plans would be submitted at a given time, and how many deficiencies would be discovered.

One comment stated that the requirement for response plans to be revised only if significant changes had occurred was too vague and needs to be better defined. The Coast Guard disagrees. The rule specifies many events which will require revisions of the response plans. The provisions covering ''significant'' changes apply to those areas which are uniquely within the knowledge of the vessel owner or operator, such as the vessel's configuration or emergency response procedures, and include a residual requirement for unanticipated changes which may occur. The vessel owner or operator is responsible for knowing what is sufficiently significant to require updating of the plans.

Two comments stated the Coast Guard should evaluate response plans in the broader context of the company's overall response capabilities rather than focusing only on the response requirements of the vessel's crew. The Coast Guard agrees. The means of ensuring effective preparation and actual response to a spill is dependent upon the total preparation of both the vessel crew and the company's support. In evaluating a response plan, the Coast Guard does consider all these factors.

The Coast Guard has made various changes to this section of the IFR to clarify what must be submitted. Under this final rule, revisions to a plan must include a cover page that provides a summary of the changes being made and the pages being affected. Revised pages must further include the number of the revision and date of that revision. This amendment will help facilitate efficient review of response plans in that Coast Guard reviewers will not have to search the entire document to ascertain what revisions have been made.

The Coast Guard has also amended the procedures regarding when an entire plan must be resubmitted to the Coast Guard for reapproval. Although the IFR provided for resubmission for reapproval 6 months before the end of the Coast Guard approval period identified in the initial approval letter from the Coast Guard, this final rule also provides for submission for reapproval of an entire plan whenever there is a change in the owner or operator of the vessel, if that owner or operator provided the certifying statement required by § 155.1065(b). In the IFR, such a change precipitated submission of revisions or amendments rather than the entire plan. If the owner or operator that certified the plan is no longer the owner or operator, major changes to the plan will be necessary to describe the new conditions of the new owner or operator. Alternatively, the new owner or operator needs to certify and resubmit the plan to show that he or she agrees with the existing plan. In the latter case, review will be minimal; but the new owner or operator will be responsible for being familiar with, and ensuring the accuracy of, the plan.

With reference to submission of revisions and amendments for approval, this submission must be effectuated under this revised section when there is a change in the vessel's owner or operator when such owner or operator is not the one who provided the certifying statement under § 155.1065(b). As provided in the IFR, this submission must also be done when there is a change in the vessel's operating area that includes ports or geographic areas not covered by the previously approved plan.

Regarding this change of ports or geographic areas transited, this subparagraph has been changed to provide that a vessel may operate in an area not covered in the previously approved plan upon receipt of the written acknowledgment by the Coast Guard that a new geographic-specific appendix has been submitted for approval by the vessel owner or operator and the certification required in § 155.1025(c) has been provided. In the IFR, such written authorization from the Coast Guard was not required prior to operation.

Under this section as revised, changes in the qualified individual and additions of vessels to the plan are among the revisions and amendments to an approved response plan which must be submitted for approval by the vessel's owner or operator. When a vessel is added to the response plan, it must include a vessel-specific appendix and owner or operator's certification required by § 155.1025(c).

This revised section also provides that when a change in the type of oil cargo carried aboard affects the required response resources but is authorized by the COTP for purposes of assisting in an oil spill response activity, such change does not have to be documented by a revision or amendment submission. As in the IFR, changes in the type of oil cargo carried aboard which affects the required response resources in situations other than those where the vessel is authorized in assisting in an oil spill response activity must be submitted to the Coast Guard for approval as a revision or amendment.

Under this section in the final rule, revisions or amendments must be submitted 30 days in advance of operation, in order to give the Coast Guard time to review the revisions, and must be accompanied by the certification required in § 155.1065(b). These amendments should result in the Coast Guard having more up-to-date information about a vessel's owner or operator. They should also result in more owner or operator accountability with regard to the certifications made by vessel owners and operators.

This section, as revised, also provides for review by the Commandant (G–M) of decisions regarding deficiency determination objections submitted by vessel owners and operators. Previously, in the IFR, such petitions for review were to be done by the District Commander. This revision should result in a more centralized review system which should accordingly streamline the entire response plan review process. The Coast Guard will continue to monitor this appeal process including the time frames for appeals and may modify the process in the future.

Subpart E—Additional Response Plan Requirements for Tankers Loading Cargo at a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

Section 155.1120 Operating Restrictions and Interim Operating Authorization

Four comments were received on this section. One comment pointed out that the vessel response plan approval is contingent on funding of citizen's advisory programs, as provided in section 5002(k) of OPA 90, and requested that our response in the preamble should be revised accordingly. Alternative funding requirements are prescribed under subsections (k) and (o) of section 5002 of OPA 90 (33 U.S.C. 2732 (k) and (o)). If no funding is provided under either subsection, approvals under these rules respecting owners or operators referred to in 33 U.S.C. 2732(k) are rendered ineffective as a matter of law.

One comment recommended that the Coast Guard and not the vessel owners or operators be responsible for certifying shore-based spill response contractors. This comment further stated that the certification requirements should be consistent with the requirements being developed by Alaska. The Coast Guard disagrees. It is the onus of the vessel owner or operator to ensure that the oil spill response organizations with which he or she has contracted meet the requirements of this rulemaking.

One comment stated that the owner or operator certification under this section should be the same as the requirements referenced in § 155.1025(c). The Coast Guard agrees. In both the IFR and this final rule, the Coast Guard has worded the operator certification requirements as similarly as possible to those in § 155.1025(c) within the confines of the statutory requirements.

Section 155.1125 Additional Response Plan Requirements

Two comments were received on this section. One comment recommended that the requirement to submit a drill schedule to the COTP should be deleted because the COTP, the Alaska Department of Environmental Conservation, the vessel owners or operators, and Alyeska already coordinate drill schedules. The comment suggested that this requirement may be more appropriately addressed in the area contingency plan. The Coast Guard agrees that exercise, or drill, requirements should be coordinated with both local and national authorities. As elaborated upon in the discussion of comments with reference to § 155.1060, the PREP was developed to allow for this coordination.

The other comment stated that a specific time for removal of a spill of 200,000 barrels of oil is not mentioned in this section. The comment recommended a period of 4 days since that time would be consistent with the period for nearshore and inland areas included in Table 3. The Coast Guard disagrees. There is no evidence that cleanup in this period of time could be achieved. The Coast Guard has never specified a time for completion of spill removal as this factor is specifically dependent on the circumstances of the spill. This same comment also suggested that the communities of Seward, Seldovia, Homer and Kodiak, Alaska should receive spill training, and that the final rule should specify that a minimum of 2,000 personnel be trained for removal of a discharge of 200,000 barrels of oil. The Coast Guard finds that the existing list of communities is currently sufficient and is not adding the communities suggested in the comment. However, should circumstances change, a COTP may recommend adding ports if the spill training requirements are deemed appropriate. This change would be subject to a notice and comment rulemaking project. There were no specific details included in this comment as to the basis for requiring 2,000 personnel for a spill of 200,000 barrels. The COTP has a great deal of experience in this type of operation, and he or she is the one who makes the determination as to the number of personnel necessary for the cleanup of a spill.

Section 155.1130 Requirements for Prepositioned Response Equipment

Two comments were received on this section. One comment expressed the opinion that the proposed Federal requirement of a daily recovery capacity of 110,000 barrels of oil within 36 hours is below the limit of 200,000 barrel capacity required by Alyeska and that the Federal standards should be raised to reflect Alyeska's capacity requirements. The other comment received recommended that requirements for positive displacement pumps used for transfer of oil for intermediate storage should be added to paragraph (e) of this section.

The Coast Guard disagrees with these comments. The Coast Guard is aware that, in certain geographic areas, the existing response capabilities have increased over the past few years and exceed the 1993 caps. However, the Coast Guard has stated that it will not consider increasing the caps until 1998, and the proposed cap increases will be evaluated at that time to determine if they are still appropriate. These evaluations will be conducted through public notice and comment process before the cap increases become effective.

Section 155.1140 Tankers Contracting With a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

Two comments were received on this section which argued that the Coast Guard seems to be giving special consideration to vessels contracting with a Trans-Alaska Pipeline Authorization Act (TAPAA) facility. The other comment protested the special consideration given to TAPAA tankers which contract with a TAPAA facility. The Coast Guard agrees that this section gives the perception of special consideration. Because the confusion caused by this section outweighs the benefits which might be derived from it, the Coast Guard has removed this section from the final rule.

Section 155.1145 Submission and Approval Procedures

Four comments were received on this section. Two comments concerned vessel response plan review procedures. One comment recommended that the plan review process include a provision to make plans available for public review and that a mechanism for interested parties to appeal Coast Guard determinations on the adequacy of response plans should be provided. The comment also stated that the public has a right to review response plans under the Administrative Procedure Act. The other comment stated that the plan review procedure did not provide for RCAC review, approval, and appeal as set forth in OPA 90. As discussed previously in this preamble, the RCACs have a particular interest in the adequacy of oil spill prevention and response plans for tankers operating in Prince William Sound or Cook Inlet. The mode of review is to have vessel owners and operators consult directly with the RCACs, not via the Coast Guard, and the RCACs provide any comments they may have regarding a specific plan directly to the applicable vessel owner or operator. This method of review provides an opportunity for valuable interaction between the RCACs and the vessel operators or owners.

One of the two other comments on this section suggested that the Coast Guard list facilities that have large storage capacities which could be used to hold recovered oil. This proposed list would be more appropriate for discussion in the area contingency plans

and is beyond the scope of this rulemaking.

New Subpart F—Response Plan Requirements for Vessels Carrying Animal Fats and Vegetable Oils in Bulk as Cargo

In the preamble to the IFR, the Coast Guard stated that it had been unable to verify that the evaporation and emulsification factors in Appendix B of the IFR were applicable to both petroleum oils and non-petroleum oils. As a result of that determination, non-petroleum oils were distinguished from petroleum oils in the regulations. In response to the comments on the IFR on this issue, the Coast Guard is further distinguishing non-petroleum oils by dividing them into three categories. These categories are as follows: Subpart F includes animal fats and vegetable oils, and subpart G includes other non-petroleum oils. Animal fats include lard, tallow and other oils of animal origin. Vegetable oils include oils from seeds, nuts, kernels or fruits of plants such as corn oil, safflower oil, jojoba oil, coconut oil or palm oil. Other non-petroleum oils include those oils which are not animal fats or vegetable oils such as essential oils, turpentine and tung oil. This separation of animal fats and vegetable oils from other non-petroleum oils recognizes that while animal fats and vegetable oils have harmful effects, they are not toxic to the marine environment as may be other non-petroleum oils. These new subparts and categories are intended to form the foundation of possible future rulemaking efforts in this area. The Coast Guard is interested in information that may be useful in determining the types and quantities of response equipment necessary to respond to a discharge of animal fats and vegetable oils and other non-petroleum oils. It also is interested in information on new or innovative response techniques that will be appropriate for non-petroleum oils. This information will be evaluated in determining whether additional rulemaking should be initiated.

In response to comments, the Coast Guard has placed the majority of the response plan requirements for vessels carrying animal fats and vegetable oils in bulk as cargo in a separate subpart. This new subpart requires these vessels to also meet the applicable requirements set forth in subpart D of this part.

Subpart F was created to address concerns that some of the criteria proposed in subpart D of this part were not applicable to animal fats and vegetable oils. The Coast Guard received numerous comments on this issue. The comments proposed that animal fats and vegetable oils should be more clearly differentiated from petroleum-based oils. The comments also suggested allowing unique response procedures for animal fats and vegetable oil spills, and exempting from response plan preparation any vessel carrying animal fats or vegetable oils as a secondary cargo.

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

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

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

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

The agencies attributed the detrimental effects of animal fats and vegetable oils to the similarity in physical properties between petroleum and non-petroleum oils. The effects outlined by DOI and NOAA include physical coating of bird feathers and mammal fur leading to hypothermia, a loss of buoyancy, and subsequent mortality. All three agencies also confirmed the industry report's conclusion that discharges of animal fats and vegetable oils can result in increased Biological Oxygen Demand (BOD) in receiving waters, thereby decreasing available oxygen in the affected waterbody and often resulting in fishkills. NOAA also stated that coconut and palm oils are very viscous and when spilled in most coastal waters would exhibit qualities akin to vegetable shortening which would probably persist for over a decade.

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

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

The FWS was extremely critical of the industry study for suggesting that ingestion of edible oils is harmless to wildlife. The FWS stated that the study misleads uniformed readers by not clarifying that these oils, if consumed in large quantities, will cause harm to organisms through means other than toxicity. For example, according to the FWS, the ingestion of large quantities of animal fats and vegetable oils can cause lipid pneumonia, diarrhea, and

dehydration in birds or other wildlife which try to clean these oils from their feathers or coats by preening. This problem is magnified, also according to the FWS, by the fact that these oils do not have a repugnant smell or iridescent appearance to frighten wildlife away, therefore making it more likely that wildlife will come in contact with them during a spill.

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

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

For these reasons, the Coast Guard has determined that a discharge of animal fats and vegetable oils from a vessel could reasonably be expected to cause harm to the environment. Therefore, vessels that carry non-petroleum oils in bulk as both primary and secondary cargos are required to prepare and submit response plans for Coast Guard approval.

Because there is insufficient data to support a finding that a spill of a large quantity of animal fats and vegetable oils will have less adverse impact on the environment than a spill of other kinds of oil, the Coast Guard does not believe that a vessel carrying non-petroleum oils in bulk as cargo should be allowed reduced response requirements. However, the Coast Guard does acknowledge that non-petroleum oils may behave differently from a petroleum or petroleum-based oil.

Subpart F requires owners or operators of vessels carrying animal fats and vegetable oils in bulk as cargo to identify the procedures and equipment necessary to respond to a worst case discharge of these oils to the maximum extent practicable. The new subpart does not include specific requirements for identifying the amount of response resources. Instead, it allows the owner or operator of the vessel to propose the amount of equipment needed to respond to a worst case discharge of animal fats and vegetable oils to the maximum extent practicable. The Coast Guard will then evaluate the information submitted by the owner or operator of the vessel to determine if the resources identified are consistent with the volume of animal fats and vegetable oils that may be spilled as a result of the worst case discharge.

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

Subpart F also requires the owner or operator of a vessel which carries animal fats and vegetable oils in bulk as cargo to contract for firefighting resources should the vessel not have access to sufficient local firefighting resources. The Coast Guard believes that these procedures meet both the intent and spirit of OPA 90.

The Coast Guard has included in subpart F, for animal fats and vegetable oils, a paragraph on the use of dispersants and other similar, new, or unconventional spill mitigation techniques including mechanical dispersal. Response plans for vessels located in environments with year-round preapproval for use of chemical dispersants will be allowed to identify such devices, substances, and techniques and receive a credit of up to 25 percent of the plan's required worst case planning volume. In all cases the identified response measures must comply with the NCP and the applicable ACP.

New Subpart G—Response Plan Requirements for Vessels Carrying Other Non-Petroleum Oils in Bulk as Cargo

In response to comments the Coast Guard has placed the majority of the response plan requirements for vessels carrying other non-petroleum oils in a separate subpart G entitled ''Response plan requirements for vessels carrying other non-petroleum oils in bulk as cargo.'' This new subpart requires such vessels to also meet the applicable requirements set forth in subpart D of this part.

Subpart G was created to separate other non-petroleum oils from animal fats and vegetable oils to address concerns that some of the criteria proposed in subpart D of this part were not applicable to these oils and that they also differ from animal fats and vegetable oils and petroleum oils. The Coast Guard received numerous comments on this issue. There is a detailed discussion of these comments in the preamble to Subpart F above.

Subpart G requires owners or operators of vessels carrying other non-petroleum oils in bulk as cargo to identify the procedures and equipment necessary to respond to a worst case discharge of these oils to the maximum extent practicable. The new subpart does not include specific requirements for identifying the amount of response resources. Instead, it allows the owner or operator of the vessel to propose the amount of equipment needed to respond to a worst case discharge of other non-petroleum oils to the maximum extent practicable. The Coast Guard will then evaluate the information submitted by the owner or operator of the vessel to determine if the resources identified are consistent with the volume of other non-petroleum oils that may be spilled as a result of the worst case discharge.

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

Subpart G also requires the owner or operator of a vessel which carries non-petroleum oils in bulk as cargo to contract for firefighting resources

should the vessel not have access to sufficient local firefighting resources. The Coast Guard believes that these procedures meet both the intent and spirit of OPA 90.

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

Section 2. Two comments were received on this section. One comment stated that an on-water barge speed of 8 knots was more accurate for response planning purposes than either the 10 knots used by the EPA and the Research and Special Programs Administration (RSPA) or the 5 knots proposed by the Coast Guard. Both EPA and RSPA have reevaluated their regulations and have found 5 knots to be more appropriate. Their respective rules have been changed accordingly. If a vessel owner or operator can show that his or her equipment is capable of arriving on-scene faster, the response plan could reflect this capability. The other comment stated that the owners or operators should be responsible for ensuring compatible connectors only for booms of the same basic type or function. This statement in the regulations is only there to remind vessel owners and operators to ensure that the equipment on which they are going to rely in the event of an oil spill will be capable of carrying out the function for which it is intended. If the boom of varying types will never be used together, the need for compatible connectors is moot.

Section 3. Based on numerous comments fielded, the Coast Guard modified § 155.1050(d)(1) to allow travel time at a speed of 5 knots for equipment responding to an average most probable discharge 12 or more miles from the shoreline. Two additional comments were received on this section. Both comments recommended that paragraph 3.1 should include the exemption in § 155.1050(d)(3) of this part. This exemption concerns average most probable discharge planning criteria for vessels conducting transfer operations at a facility that is required to submit a response plan. The Coast Guard disagrees. The exemption is provided for in § 155.1050(d)(3). The only reason someone would be referring to this part of the regulations is if he or she were required to ascertain their planning requirements.

One of the comments also recommended that the Coast Guard should use the effective daily recovery rate for oil recovery devices—which is defined by the formula in paragraph 6.2.1—in paragraph 3.1.2 and throughout Appendix B. The Coast Guard agrees. The regulatory text has been revised by changing the phrase ''effective recovery rate'' to ''effective daily recovery rate.''

Section 5. One comment was received on this section. The comment stated that the Coast Guard should specify the amount of boom required for a worst case discharge and also argued that, in general, the requirements in this section are too vague for the Coast Guard to use while objectively evaluating response plans. The Coast Guard disagrees. The quantity of boom that is required for oil containment and collection is not explicitly stated, and is left to the owner or operator to determine based on the specific recovery equipment strategies that will be employed.

The same comment also recommended that only vessels which draw a maximum of 6 feet of water when fully loaded should be credited with having shallow water response capabilities. The Coast Guard concludes that the response plan must demonstrate that sufficient resources are available to operate in shallow water. It may be necessary to operate vessels at less than their fully loaded draft. In that event, it may be necessary for the response plan to identify additional resources due to vessels not being able to operate at their fully loaded draft. However, ideally only those vessels which can be utilized in a full range of loading conditions in waters of 6 feet or less depth should be listed for use in close-to-shore response activities (10% of those to be used in the offshore areas and 20% of those to be used in the nearshore, inland, Great Lakes, and rivers and canals).

Section 8. Two comments were received on this section. One comment recommended that the Coast Guard provide an example of dispersant resources needed so that vessels could receive credit for 25% of their Tier 2 and 3 on-water recovery capability. The other comment supported credit for in-situ burning and recommended that the Coast Guard develop criteria for using in-situ burning as a high-rate response method. The Coast Guard disagrees. Mechanical recovery is the preferred method as it provides for the removal of the oil from the environment. The amount of dispersant needed will vary depending on area of operation, type of oil carried, and type of dispersant. Because of these varying factors, the use of dispersants and the amount needed to receive credit will be evaluated on a case-by-case basis. In addition, identification of dispersant capability in a response plan provides no assurance that the dispersant's use will be authorized during a spill response.

Section 9. Several comments were received on this section. One comment opposed requiring additional response equipment on the vessel, arguing that crewmen would be too busy during an accident to perform oil removal operations. It may not be appropriate for the crew to be involved with the specific cleanup of a spill; however, as stated in section 9, the owner or operator of a vessel is responsible for ensuring that sufficient numbers of trained personnel are available to sustain response operations to completion.

One comment recommended that vessel response plans require a minimum amount of sorbent material which could be applied against the 20% equipment requirement for shallow water areas. The Coast Guard disagrees with this comment. Table 1 specifically addresses response equipment, not consumables such as sorbent material. The Coast Guard does not dispute the value of sorbent material. The availability of this material and the ease of getting it to the shallow water areas make it unnecessary for the Coast Guard to include it in the regulated planning requirements. A well-developed response plan will recognize the potential benefits of this material and provide for its procurement and use.

Five comments were received regarding temporary storage for recovered oil. One comment stated that the Coast Guard should keep a list of storage facilities of certain sizes and prearrange for their use in emergencies because foreign operators were unfamiliar with local storage availability. Formulating such a list would be outside the scope of this rulemaking, and it is the vessel owner's or operator's responsibility to arrange for the use of these facilities. However, specific response resources are identified in the Area Contingency Plan.

Two comments supported the reduction in temporary storage capacity when justified by an analysis of the waste stream or the availability of alternative storage areas. One of these comments stated that this incentive could lead to improved technologies. One comment stated that the requirement for temporary storage, equivalent to twice the effective daily recovery capacity required on-scene, may be too low given the 20% downgrading factor for skimming device efficiencies. This comment noted that the State of Washington requires a storage volume of up to five times the daily recovery capacity and recommended further study or raising the amount of storage until such time as skimming efficiencies improve. One comment stated that the owner or

operator should be able to demonstrate the capability to transfer oil to a storage area at a rate which sustains the recovery capacities of equipment identified in the plan. The comment recommended considering factors such as pumping capacity and number of discharge stations in making this determination.

The Coast Guard provided, in the IFR, for vessel owners or operators to identify storage capacity for less than the volume addressed in section 9.2 of this appendix if the owner or operator provides a waste stream analysis to show the efficiencies of its identified recovery devices. The ability to decant water from the storage devices, the availability of alternative storage, or disposal locations in the area where the vessel operates results in reducing the volume of material requiring temporary storage.

Two comments stated that the general requirements in paragraph 9.1 were too vague to allow vessel owners or operators to adequately ensure that sufficient additional equipment was available to sustain response operations to completion. One of these comments recommended that the Coast Guard include specific standards to determine what additional resources are needed. The Coast Guard disagrees. The owner or operator of a vessel should be sufficiently prepared to provide the response resources necessary to complete the cleanup for their particular vessel.

One comment stated that the Coast Guard needs to establish methods for evaluating the adequacy of temporary storage and should assume recovery operations that continue for 10 hours per day. The Coast Guard disagrees. The storage capacity should be based on the types and quantities of oil recovery devices identified in the plan.

One comment suggested a separate section to address disposal requirements, which should identify long and short term disposal sites and include provisions for handling wildlife. These additional requirements would be beyond the scope of this rulemaking.

Table 1. Two comments were received on this table. One comment stated that the Coast Guard should apply rivers and canals criteria to the St. Lawrence, Detroit, St. Clair and St. Mary river areas of the Great Lakes because 4-foot seas do not occur on these rivers. Another comment stated that recovery equipment on the Great Lakes should not be required to operate in 4-foot waves in shallow water areas because recovery equipment cannot operate in shallow water under these conditions.

The Coast Guard disagrees with these comments. Table 1 is based on information for equipment selection in the 1991 World Catalog of Oil Spill Response Products (Schulze, Robert, ed., 1991). The American Society of Testing and Material (ASTM) used this resource as the starting point for its oil recovery equipment standard. The Great Lakes criteria are derived from conditions unique to that area. The equipment operating and design criteria are consistent with specifications noted in the World Catalog for oil recovery operations in areas such as the Great Lakes. As discussed previously, Table 1 has been modified to clarify that equipment designed to operate in shallow water does not necessarily have to be able to operate in the significant wave height planning criteria.

Table 2. Two comments were received on this table. One comment stated that national planning standards are paramount to local standards and that this issue should be addressed in the final rule and in paragraph 2.m of the Commandant's Notice 16471. The other comment stated the boom requirements for vessels should also apply to marine transportation-related facilities because spills from both may involve shoreline protection of a similar magnitude.

The Coast Guard disagrees with these comments. The national planning standards are not necessarily paramount to local standards. The response plans should be consistent with the national response requirements as well as the local requirements. With regard to boom requirements for marine transportation-related facilities, because vessels operate in a variety of environments including offshore, the equipment necessary to provide shoreline protection as identified in Table 2 of Appendix B is appropriate for vessels but would not necessarily be appropriate for facilities.

Table 3. All seven comments on this table argued that the percentages and wide variances in the additive values in the table have no technical basis and that the percentages for a specific geographic area should not total more than 100%. The values in Table 3 were drawn from deliberations among the Negotiated Rulemaking Committee. They are based on the general behavior of oil that has been observed during actual discharges. The variances in values reflect the amount of oil most likely to be available for recovery.

As noted in the preamble to the NPRM, in the inland, nearshore, and offshore portions of the table, the percentages do not add up to 100%. This reflects an adjustment in the on-water percentage to increase the quantity of resources that are planned for mobilization in the first 3 days of the response. Because the oil may rapidly impact the shoreline in these areas, quick mobilization is essential. In addition, the volume of oil that must be recovered may increase due to the effects of emulsification. The intended purpose of having the percentages exceed 100% was to increase the quantity of on-water resources that are planned for mobilization in the first 3 days of the response.

One of the comments stated that the criteria in the table is inconsistent with the approach proposed by ITOPF and that to which was agreed by the Negotiated Rulemaking Committee; however, another comment stated that these values were drawn from Negotiated Rulemaking Committee deliberations. The Coast Guard has made every effort to ensure that the findings of the Negotiated Rulemaking Committee are reflected in these regulations.

Table 4. The Coast Guard received seven comments on the emulsification factors listed in this table. One comment recommended that the owners or operators should have the same option of demonstrating that a lower factor is appropriate as is now afforded for testing recovery devices for 10-hour periods. Because emulsification factors vary considerably within an oil group and are dependent on temperature, weather conditions, and many other factors, it is inappropriate to consider them on a case-by-case basis. The proposed Table 4 values were derived from ITOPF data and reflected the maximum amount of emulsification that could occur over a prolonged period of time in environmental conditions that favored the emulsification process.

Six comments argued that emulsification is already taken into consideration through the 20% rating factor applied to oil recovery devices in section 6 of Appendix B. The Coast Guard disagrees. The emulsification factors listed in Table 4 are to account for emulsification that occurs to the oil prior to the oil being encountered by the skimming equipment. The 20% rating factor includes, among other things, consideration of the efficiency of the actual skimming device to remove oily material from water. The two issues are unrelated.

One of these comments suggested that the factors were too high because evaporation, distance from shore, and future improvements in recovery rates were not considered in establishing such factors. As discussed in the IFR, the Coast Guard recognizes that emulsification depends on a variety of factors. The proposed Table 4 values

were derived from ITOPF data and reflected the maximum amount of emulsification that could occur over a prolonged period of time in environmental conditions that favored the emulsification process. There was no other method suggested to account for the variables.

Table 6. The Coast Guard received three comments on response capability caps in this table. One comment stated that the scientific data is insufficient to support the caps listed. This comment suggested that further review by the Coast Guard would provide more realistic values for caps. One comment objected to the proposed 25% increase in caps in 1998 and welcomed further Coast Guard review of this issue. However, another comment stated that both the 1993 and 1998 caps were too low and recommended that they be doubled.

The caps, as required at this time, are based on the equipment available in the different geographic areas. The proposed increases for 1998 will be reviewed prior to that date and, if revisions are proposed, will be subject to public comment. The Coast Guard is interested in information which concerns possible justifications for proposed increases or which provides substantial documentation to invalidate the increases approximately 2 years prior to the effective date.

Appendix C to Part 155—Training Elements for Oil Spill Response Plans

This appendix was added to the final rule to provide guidance to owners and operators of vessels in the development of the training portions of their response plans. These guidelines were developed in the same manner as the PREP rulemaking project which is addressed in the discussion in this section of the preamble of the revisions to § 155.1060.

Assessment

This final rule is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB) under that order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). A final Assessment has been prepared and is available in the docket for inspection or copying where indicated under **ADDRESSES**. The Assessment is summarized as follows.

1. General costs. This rulemaking will cost the oil transportation industry and the general public more than $100 million annually. It has generated substantial public interest and controversy. These regulations will also impact cleanup contractors, oil spill cooperatives, and other not-for-profit cleanup organizations.

The final rule contains requirements for vessel response plans, as well as additional requirements for certain vessels operating in Prince William Sound, Alaska. The impact of these requirements has been analyzed separately and was discussed in the IFR.

In the IFR, the Coast Guard solicited public comment on the draft Regulatory Impact Analysis (RIA) for vessel response plans and the draft Regulatory Evaluation (RE) for Prince William Sound. A summary of the public comments received appears later in this discussion. The draft RIA and RE have been reviewed based on changes made to the IFR. The effects of these changes on costs were insignificant and did not require alteration of either the RIA or RE.

The final RIA and final RE are available in the docket for inspection or copying, as indicated under **ADDRESSES**. They have also been placed in a separate docket (CGD 91–047) established to facilitate review of the programmatic RIA for titles IV and V of OPA 90.

2. Vessel response plan costs and benefits. In the aggregate, the requirement for vessel response plans will result in substantial costs to the industries affected. The present value of the cost of this regulation for the period 1992 through 2015 is estimated at $2.8 billion. The benefit analysis indicates that the rulemaking will prevent 220,000 discounted barrels of oil from entering the water. The resulting cost per benefit ratio is $12,513 per barrel, net present value.

3. Additional response plan requirements for certain vessels operating in Prince William Sound, Alaska: PWS costs and benefits. Over the 10-year period of 1993 to 2002, the present value of costs for compliance for TAPS vessels will be $164 million. The present value of quantified benefits for the Trans-Alaska Pipeline (TAP) traffic was estimated in total barrels of oil recovered.

For the TAP traffic, quantified benefits from the regulations expressed in present value are estimated at 42,000 barrels of oil recovered over the 10-year study period. This regulation is, therefore, expected to cost $3,899 per discounted barrel of oil recovered, net present value.

There are additional benefits which are not quantifiable. Effectiveness of response operations is enhanced both by the training of citizens and hatchery employees so they may assist in nearshore and onshore operations, and by prepositioning containment and cleanup equipment near where it would be utilized. Also, area drills are expected to improve the proficiency of operations.

4. Public comments on the draft vessel response plan RIA and Prince William Sound RE. Two comments suggested that submitting a letter noting changes in lieu of revising the vessel response plan would reduce the information collection burden when chartering barges. In chartering situations, response plans do not need to be reapproved if the barge owner originally obtained approval for the response plan. If the barge operator changes, only a change to the approved response plan need be submitted, not an entire resubmittal of the response plan. However, if the previous barge operator obtained the approval for the response plan, then it will be necessary to submit a new response plan for approval.

Seven comments expressed the view that placing responsibility for response equipment maintenance, inspection, and training records requirements on oil spill response resource providers would reduce administrative burdens. Vessel owners and operators are not required to keep such records; however, they need to verify that oil spill response resource providers are keeping such records. However, owners and operators must be able to make records available to the Coast Guard upon request. This requirement may be treated in a contract between the owner or operator and the provider.

Four comments expressed the view that the regulatory impact analysis (RIA) understated the costs of the rulemaking or otherwise challenged the RIA's efficacy with respect to cost. One of these comments questioned how overall costs could shift from $1.3 billion as reported in the preliminary RIA to $2.8 billion in the most recent version. The difference in total cost is due to three key factors. The first factor is the reduction of the discount rate from 10 percent to 7 percent, reflecting a change in OMB guidance between publication of the notice of proposed rulemaking (NPRM) and publication of the interim final rule (IFR). This change escalates the estimated cost of the rulemaking by nearly $540 million, 24 percent of the present value of the rulemaking's cost.

The second key factor consists of changes in estimated costs, particularly with respect to spill response capability and the qualified individual. The RIA for the IFR reflected substantial further development in spill response capability analysis, such as the emergence of the National Response Center (NRC), clarification of Marine

Spill Response Corporation (MSRC) costs with proper allocation of costs between vessels and facilities, and the addition of Great Lakes capability. Further development and analysis of these areas revealed cost estimates that together totaled 2.1 billion, an increase of about $970 million compared with estimates contained in the preliminary RIA. The cost element for the qualified individual was virtually unknown at the time of the preliminary RIA's publication. By the time of the Interim RIA's publication, costs for qualified individuals were firmly established and could be estimated with reasonable certainty. Addition of qualified individual cost estimates raised the estimated cost of the rulemaking by an additional $133 million.

The third key factor consists of changes in incremental percentages, the proportion of expenditures directly attributable to this rulemaking. These changes were made in response to comments concerning the preliminary RIA. One-third of cooperative expenditures are apportioned to the rulemaking and nearly all plan development costs are apportioned to the ruleamking, compared with about half in the preliminary RIA. Plan development and maintenance costs, drills and exercises, and Coast Guard costs were very little changed between the two report versions, other than the elevating effect of a reduced discount rate. Changes that were made reflect the development of such more accurate information in these areas during the intervening months between preliminary RIA and the version accompany the IFR.

One comment expressed concerns about impact analysis with respect to the Great Lakes. The comment contended that the RIA did not consider meaningful input from Great Lakes operators and further contends that, as a result of this assertion, the RIA is of questionable value. Great Lakes response requirements were not considered in the preliminary RIA.

In response to comments received on the preliminary RIA and subsequently to guidance issued in NVIC 8–92, Great Lakes response capability requirements and costs were analyzed and included. Given the difficulty of knowing exactly how many resources will be required to meet the relaxed caps for the Great Lakes, the cost estimates were conservatively developed and totaled at $54 million for the 23-year period of the cost analysis.

The comment also expressed concern that there were insufficient petroleum transport businesses on the Great Lakes to spread costs and survive. The cost of preparing a vessel response plan is not significantly affected by the number of businesses requiring a plan in a particular geographic region. A comprehensive RIA for the Great Lakes was suggested; however, the Coast Guard does not consider a separate RIA to be necessary.

Comments from two sources suggested exemption of lightering operations from coverage under vessel response plans. Costs were cited, and one comment expressed the view that no environmental benefits offset the costs. The Coast Guard disagrees with this comment. The risk of spills during transfer operations is considered sufficient to warrant vessel response plans. For further discussion regarding lightering operations, see the reference to § 155.1050 in the ''Discussion of Comments and Changes'' section of this final rule.

Small Entities

Several comments were received addressing this regulation's impact upon small fishing vessels. However, subsequent legislation has essentially exempted vessels under 750 gross tons from vessel response plan requirements under this final rule. This regulation might still have a significant impact upon small operators of inland barges. The Coast Guard has examined the impact of this rule on small entities. Its analysis indicates that the majority of small businesses subject to this regulation should be able to absorb the estimated compliance costs without experiencing significant adverse economic effects. The Coast Guard certifies under the Regulatory Flexibility Act of 1990 that this rule will not have a significant impact on a substantial number of small entities. Copies of the final Regulatory Impact Analysis are available in the docket for inspection or copying where indicated under **ADDRESSES**.

Collection of Information

This rule contains collection of information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The Coast Guard is currently requesting a revision of a currently approved collection, OMB control number 2115–0595. For subpart D, the section numbers are §§ 155.1025, 155.1035, 155.1045, 155.1055, 155.1060, 155.1065, and 155.1070, and the corresponding OMB approval number is OMB Control Number 2115–0595. For subpart E, the section numbers are §§ 155.1125 and 155.1130, and the corresponding OMB approval number is OMB Control Number 2115–0594. Subpart F and subpart G refer to subpart D as it pertains to collection-of-information requirements. Accordingly, additional OMB approval is not needed.

Federalism

The Coast Guard has analyzed this final rule according to the principles and criteria contained in Executive Order 12612 (October 26, 1987), and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12612 and the FWPCA emphasize the Presidential and Congressional intent to preserve State authority to address matters of pollution prevention and response. Executive Order 12612 directs a Federal Executive branch agency (which includes the Coast Guard) to encourage States to develop their own policies to achieve program objectives. Consequently, a Federalism Assessment would be necessary only if the vessel response plan rules unduly impinged on a State's authority to establish its own regulatory structure, or imposed undue costs on a State.

The FWPCA provides convincing evidence of Congress' intent that, within 3 miles of shore, the protection of the marine environment should be a collaborative Federal and State effort. *Chevron* v. *Governor, State of Alaska,* 726 F.2d 483 (9th Cir. 1984), *cert. denied,* 471 U.S. 1140 (1985). For example, section 402 of the FWPCA (33 U.S.C. 1342) establishes the National Pollutant Discharge Elimination System, a regulatory program for regulating the discharge of pollutants into U.S. navigable waters. Minimum Federal standards apply to the discharge of certain pollutants, but the States have authority to establish and administer their own permit systems and to set standards stricter than the Federal ones (33 U.S.C. 1342(b) and 1370). Further, in the Declaration of Goals and Policy contained in section 101 of the FWPCA (33 U.S.C. 1251), Congress states that it is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution of land and water resources.

United States courts have long recognized the rights of States to make both U.S.-flag and foreign-flag vessels conform to ''reasonable, nondiscriminatory conservation and environmental protection measures * * * imposed by a State.'' *Ray* v. *Atlantic Richfield,* 435 U.S. 151, 164 (1973). Also, section 311(o)(3) of the FWPCA (33 U.S.C. 1321(o)(3)) contains express nonpreemption language.

Therefore, a State standard setting more stringent planning requirements for tank vessel owners and operators in the regulating State's waters is encouraged under the FWPCA and is valid as long as the State requirement does not preclude compliance with the Federal requirements. Similarly, if a State chose to establish performance requirements for response to an oil spill, the Federal vessel response plan rules would not preclude that option. The Federal vessel response plan rules preempt State rules only to the extent that State rules may make it impossible to comply with Federal requirements. *Florida Lime and Avocado Growers* v. *Paul*, 373 U.S. 132 (1963).

Environment

The Coast Guard prepared a preliminary Environmental Assessment (EA) for requirements under 311(j) of the FWPCA (33 U.S.C. 1321(j)), and a separate one for Prince William Sound requirements under 5005 of OPA 90. These documents were prepared in accordance with the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and Commandant Instruction M16475.1B implementing the provisions of the National Environmental Policy Act (NEPA).

The Prince William Sound EA was revised entirely when section 352 of the Department of Transportation Appropriations Act, in effect, made section 5005 of OPA 90 inapplicable to non-TAPS-trade vessels. The original language of section 5005 created special response plan provisions applicable to all tank vessels operating in Prince William Sound, including non-TAPS vessels. The EA prepared for section 311(j) requirements was amended when section 5209(b) of the Coast Guard Authorization Act of 1992 (Pub. L. 102–587, Title V, 106 Stat. 5039, 5068) declared offshore supply vessels and certain fishing vessels not to be ''tank vessels'' for purposes of implementing the vessel response plan rule. We received no comments on the EAs.

The Coast Guard has identified and studied the relevant environmental issues and alternatives, and based on its assessment, does not expect this final rule to result in a significant impact on the quality of the human environment. Therefore, Findings of No Significant Impact (FONSIs) have been prepared. The revised and amended EAs and the FONSIs are available in the public docket.

List of Subjects in 33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the interim rule amending 33 CFR part 155, which was published at 58 FR 7424 on February 5, 1993, is adopted as final with the following changes:

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

1. The authority citation for part 155 is revised 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 under 33 U.S.C. 2735.

2. Subpart D, consisting of §§ 155.1010 through 155.1070, is revised to read as follows:

Subpart D—Response Plans

Sec.

155.1010 Purpose.
155.1015 Applicability.
155.1020 Definitions.
155.1025 Operating restrictions and interim operating authorization.
155.1026 Qualified individual and alternate qualified individual.
155.1030 General response plan requirements.
155.1035 Response plan requirements for manned vessels carrying oil as a primary cargo.
155.1040 Response plan requirements for unmanned tank barges carrying oil as a primary cargo.
155.1045 Response plan requirements for vessels carrying oil as a secondary cargo.
155.1050 Response plan development and evaluation criteria for vessels carrying groups I through IV petroleum oil as a primary cargo.
155.1052 Response plan development and evaluation criteria for vessels carrying group V petroleum oil as a primary cargo.
155.1055 Training.
155.1060 Exercises.
155.1062 Inspection and maintenance of response resources.
155.1065 Procedures for plan submission, approval, requests for acceptance of alternative planning criteria, and appeal.
155.1070 Procedures for plan review, revision, amendment, and appeal.

Subpart D—Response Plans

§ 155.1010 Purpose.

The purpose of this subpart is to establish requirements for oil spill response plans for certain vessels. The planning criteria in this subpart are intended for use in response plan development and the identification of resources necessary to respond to the oil spill scenarios prescribed during the planning process. The development of a response plan prepares the vessel owner or operator and the vessel's crew to respond to an oil spill. 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 oil spill incident.

§ 155.1015 Applicability.

(a) Except as provided in paragraph (c) of this section, this subpart applies to each vessel that is constructed or adapted to carry, or that carries, oil 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 oil in a port or place subject to the jurisdiction of the United States.

(b) This subpart also applies to vessels which engage in oil lightering operations in the marine environment beyond the baseline from which the territorial sea is measured, when the cargo lightered is destined for a port or place subject to the jurisdiction of the United States.

(c) This subpart does not apply to the following types of vessels:

(1) Public vessels and vessels deemed public vessels under 14 U.S.C. 827.

(2) Vessels that, although constructed or adapted to carry oil in bulk as cargo or cargo residue, are not storing or carrying oil in bulk as cargo or cargo residue.

(3) Dedicated response vessels when conducting response operations.

(4) Vessels of opportunity when conducting response operations in a response area.

(5) Offshore supply vessels as defined in 46 U.S.C. 2101.

(6) Fishing or fishing tender vessels as defined in 46 U.S.C. 2101 of not more than 750 gross tons when engaged only in the fishing industry.

(7) Foreign flag vessels engaged in innocent passage.

(d) Vessels covered by this subpart that are not operating within the navigable waters or the exclusive economic zone of the United States must meet all requirements of this subpart except for—

(1) Identifying and ensuring, through contract or other approved means, the availability of response resources including the shore-based spill management team;

(2) Providing the geographic-specific appendices required in § 155.1035, 155.1040, or 155.1045, as appropriate; and

(3) Identifying and designating a qualified individual and alternate

qualified individual required in § 155.1026.

§ 155.1020 Definitions.

Except as otherwise defined in this section, the definitions in § 155.110 apply to this subpart and subparts F and G of this part. For the purposes of this subpart only, the term:

Adverse weather means the weather conditions that will be considered when identifying response systems and equipment in a response plan for the applicable operating environment. Factors to consider include, but are not limited to, significant wave height, ice, temperature, weather-related visibility, and currents within the Captain of the Port (COTP) zone in which the systems or equipment are intended to function.

Animal fat means a non-petroleum oil, fat, or grease derived from animals and not specifically identified elsewhere in this part.

Average most probable discharge means a discharge of the lesser of 50 barrels of oil or 1 percent of the cargo from the vessel during cargo oil transfer operations to or from the vessel.

Bulk means any volume of oil carried in an integral tank of the vessel and oil 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).

Cargo means oil that is transported to and off-loaded at a destination by a vessel. It does not include—

(1) Oil carried in integral tanks, marine portable tanks, or independent tanks for use by machinery, helicopters, and boats carried aboard the vessel, or for use by helicopters that are directly supporting the vessel's primary operations; or

(2) Oil transferred from a towing vessel to a vessel in its tow to operate installed machinery other than the propulsion plant.

Contract or other approved means includes—

(1) A written contractual agreement between a vessel owner or operator and an oil spill removal organization. The agreement must identify and ensure the availability of specified personnel and equipment required under this subpart within stipulated response times in the specified geographic areas;

(2) Certification by the vessel owner or operator that specified personnel and equipment required under this subpart are owned, operated, or under the direct control of the vessel owner or operator, and are available within stipulated response times in the specified geographic areas;

(3) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment required under this subpart that are available to respond to a discharge within stipulated response times in the specified geographic areas;

(4) A document which—

(i) Identifies the personnel, equipment, and services capable of being provided by the oil spill removal organization within stipulated response times in the specified geographic areas;

(ii) Sets out the parties' acknowledgment that the oil spill removal organization intends to commit the resources in the event of a response;

(iii) Permits the Coast Guard to verify the availability of the identified response resources through tests, inspections, and exercises; and

(iv) Is referenced in the response plan; or

(5) With the written consent of the oil spill removal organization, the identification of an oil spill removal organization with specified equipment and personnel which are available within stipulated response times in the specified geographic areas. This paragraph is an other approved means for only—

(i) A vessel carrying oil as secondary cargo to meet the requirements under § 155.1045(i)(3);

(ii) A barge operating on rivers and canals to meet the requirements for lightering capability under §§ 155.1050(l), 155.1052(g), 155.1230(g), and 155.2230(g);

(iii) A vessel to meet the salvage and firefighting requirements in §§ 155.1050(k), 155.1052(f), 155.1230(f), and 155.2230(f); and

(iv) A vessel to meet the resource requirements in § 155.1052(c), 155.1230(c), and 155.2230(c).

Dedicated response vessel means a vessel of which the service is limited exclusively to oil and hazardous substance spill response-related activities, including spill recovery and transport, tanker escorting, deployment of spill response equipment, supplies, and personnel, and spill response-related training, testing, exercises, and research.

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

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.

Higher volume port area means the following areas, including any water area within 50 nautical miles seaward of the entrance(s) to the specified port:

(1) Boston, MA.

(2) New York, NY.

(3) Delaware Bay and River to Philadelphia, PA.

(4) St. Croix, VI.

(5) Pascagoula, MS.

(6) Mississippi River from Southwest Pass, LA to Baton Rouge, LA. Note: Vessels destined for, departing from, or offloading at the Louisiana Offshore Oil Port are not considered to be operating in this higher volume port area.

(7) Lake Charles, LA.

(8) Sabine-Neches River, TX.

(9) Galveston Bay and Houston Ship Channel, TX.

(10) Corpus Christi, TX.

(11) Los Angeles/Long Beach Harbor, CA.

(12) San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay to Antioch, CA.

(13) Strait of Juan De Fuca at Port Angeles, WA to and including Puget Sound, WA.

(14) Prince William Sound, AK.

Inland area means the area shoreward of the boundary lines defined in 46 CFR part 7, except that in the Gulf of Mexico, it means the area shoreward of the lines of demarcation (COLREG lines) as defined in §§ 80.740 through 80.850 of this chapter. The inland area does not include the Great Lakes.

Maximum extent practicable means the planned capability to respond to a worst case discharge in adverse weather, as contained in a response plan that meets the criteria in this subpart or in a specific plan approved by the Coast Guard.

Maximum most probable discharge means a discharge of—

(1) 2,500 barrels of oil for vessels with an oil cargo capacity equal to or greater than 25,000 barrels; or

(2) 10% of the vessel's oil cargo capacity for vessels with a capacity of less than 25,000 barrels.

Nearshore area means the area extending seaward 12 miles from the boundary lines defined in 46 CFR part 7, except in the Gulf of Mexico. In the Gulf of Mexico, a nearshore area is one extending seaward 12 miles from the line of demarcation (COLREG lines) as defined in §§ 80.740 through 80.850 of this chapter.

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

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

(2) At least 95% of which by volume, distill at a temperature of 370 degrees C (700 degrees F).

Non-petroleum oil means oil of any kind that is not petroleum-based. It includes, but is not limited to, animal fats and vegetable oils.

Ocean means the open ocean, offshore area, and nearshore area as defined in this subpart.

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

Oil field waste means non-pumpable drilling fluids with possible trace amounts of metal and oil.

Oil spill removal organization means an entity that provides response resources.

On-scene coordinator or OSC means the Federal official predesignated by the Coast Guard or Environmental Protection Agency to coordinate and direct Federal removal efforts at the scene of an oil or hazardous substance discharge as prescribed in the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan) as published in 40 CFR part 300.

Open ocean means the area from 38 nautical miles seaward of the outer boundary of the nearshore area, to the seaward boundary of the exclusive economic zone.

Operating in compliance with the plan means operating in compliance with the provisions of this subpart, including ensuring the availability of the response resources by contract or other approved means and conducting the necessary training and exercises.

Operator means person who is an owner, a demise charterer, or other contractor, who conducts the operation of, or who 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.

Other non-petroleum oil means an oil of any kind that is not a petroleum oil, an animal fat, or a vegetable oil.

Owner or vessel owner means any person holding legal or equitable title to a vessel; provided, however, that a person holding legal or equitable title to a vessel solely as security is not the owner. In a case where a Certificate of Documentation has been issued, the owner is the person or persons whose name or names appear on the vessel's Certificate of Documentation provided, however, that where a Certificate of Documentation has been issued in the name of a president or secretary of an incorporated company, such incorporated company is the owner.

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

(1) Group II—specific gravity of less than .85.

(2) Group III—specific gravity equal to or greater than .85 and less than .95.

(3) Group IV—specific gravity equal to or greater than .95 and less than or equal to 1.0.

(4) Group V—specific gravity greater than 1.0.

Petroleum oil means petroleum in any form including crude oil, fuel oil, mineral oil, sludge, oil refuse, and refined products.

Qualified individual and alternate qualified individual means a shore-based representative of a vessel owner or operator who meets the requirements of 33 CFR 155.1026.

Response activity means the containment and removal of oil from the water and shorelines, the temporary storage and disposal of recovered oil, or the taking of other actions as necessary to minimize or mitigate damage to public health or welfare or the environment.

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

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

Secondary Cargo (see Vessels Carrying Oil as a Secondary Cargo)

Specific gravity means the ratio of the mass of a given volume of liquid at 15 degrees C (60 degrees F) to the mass of an equal volume of pure water at the same temperature.

Spill management team means the personnel identified to staff the organizational structure identified in a response plan to manage response plan implementation.

Substantial threat of such a discharge means any incident involving a vessel that may create a significant risk of discharge of cargo oil. Such incidents include, but are not limited to, groundings, strandings, collisions, hull damage, fire, explosion, loss of propulsion, flooding, on-deck spills, or other similar occurrences.

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

Tier means the combination of required response resources and the times within which the resources must arrive on scene. Appendix B of this part, especially Tables 5 and 6, provide specific guidance on calculating the response resources required by each tier. Sections 155.1050(g), 155.1135, 155.1230(d), and 155.2230(d) set forth the required times within which the response resources must arrive on scene. Tiers are applied in three categories:

(1) Higher volume port areas;

(2) The Great Lakes; and

(3) All other operating environments, including rivers and canals, inland, nearshore, and offshore areas.

Vegetable oil means a non-petroleum oil or fat not specifically identified elsewhere in this part that is derived from plant seeds, nuts, kernels or fruits.

Vessel of opportunity means a vessel engaged in spill response activities that is normally and substantially involved in activities other than spill response and not a vessel carrying oil as a primary cargo.

Vessels carrying oil as a primary cargo means all vessels except dedicated response vessels carrying oil in bulk as cargo or cargo residue that have a Certificate of Inspection issued under 46 CFR Chapter I, subchapter D.

Vessels carrying oil as a secondary cargo means vessels, other than vessels carrying oil as a primary cargo, carrying oil in bulk as cargo or cargo residue pursuant to a permit issued under 46 CFR 30.01–5, 70.05–30, or 90.05–35, an International Oil Pollution Prevention (IOPP) or Noxious Liquid Substance (NLS) certificate required by 33 CFR §§ 151.33 or 151.35; or any uninspected vessel that carries oil in bulk as cargo or cargo residue.

Worst case discharge means a discharge in adverse weather conditions of a vessel's entire oil cargo.

§ 155.1025 Operating restrictions and interim operating authorization.

(a) Vessels subject to this subpart may not perform the following functions, unless operating in compliance with a plan approved under § 155.1065:

(1) Handling, storing, or transporting oil on the navigable waters of the United States; or

(2) Transferring oil in any other port or place subject to U.S. jurisdiction.

(b) Vessels subject to this subpart may not transfer oil in a port or place subject to the jurisdiction of the United States, where the oil to be transferred was received from another vessel subject to this subpart during a lightering operation referred to in § 155.1015(b), unless both vessels engaged in the lightering operation were operating at the time in compliance with a plan approved under § 155.1065.

(c)(1) Notwithstanding the requirements of paragraph (a) of this

section, a vessel may continue to handle, store, transport, transfer, or lighter oil for 2 years after the date of submission of a response plan pending approval of that plan, if the vessel owner or operator has received written authorization for continued operations from the Coast Guard.

(2) To receive this authorization, the vessel owner or operator must certify in writing to the Coast Guard that the owner or operator has identified and ensured the availability of, through contract or other approved means, the necessary private response resources to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge from their vessel as described in §§ 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate.

(d) With respect to paragraph (b) of this section, a vessel may not continue to handle, store, transport, transfer, or lighter oil if—

(1) The Coast Guard determines that the response resources identified in the vessel's certification statement do not meet the requirements of this subpart;

(2) The contracts or agreements cited in the vessel's certification statement are no longer valid;

(3) The vessel is not operating in compliance with the submitted plan; or

(4) The period of this authorization expires.

(e) An owner or operator of a vessel may be authorized by the applicable COTP to have that vessel make one voyage to transport or handle oil in a geographic specific area not covered by the vessel's response plan. All requirements of this subpart must be met for any subsequent voyages to that geographic specific area. To be authorized, the vessel owner or operator shall certify to the COTP in writing, prior to the vessel's entry into the COTP zone, that—

(1) A response plan meeting the requirements of this subpart (except for the applicable geographic specific appendix) or a shipboard oil pollution emergency plan approved by the flag state that meets the requirements of Regulation 26 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78) which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161;

(2) The approved response plan or the required plan section(s) is aboard the vessel;

(3) The vessel owner or operator has identified and informed the vessel master and the COTP of the designated qualified individual prior to the vessel's entry into the COTP zone; and

(4) The vessel owner or operator has identified and ensured the availability of, through contract or other approved means, the private response resources necessary to respond, to the maximum extent practicable under the criteria in §§ 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate, to a worst case discharge or substantial threat of discharge from the vessel in the applicable COTP zone.

§ 155.1026 Qualified individual and alternate qualified individual.

(a) The response plan must identify a qualified individual and at least one alternate who meet the requirements of this section. The qualified individual or alternate qualified individual must be available on a 24-hour basis.

(b) The qualified individual and alternate must—

(1) Speak fluent English;

(2) Except as set out in paragraph (c) of this section, be located in the United States;

(3) Be familiar with the implementation of the vessel response plan; and

(4) Be trained in the responsibilities of the qualified individual under the response plan.

(c) For Canadian flag vessels while operating on the Great Lakes or the Strait of Juan de Fuca and Puget Sound, WA, the qualified individual may be located in Canada if he or she meets all other requirements in paragraph (b) of this section.

(d) The owner operator shall provide each qualified individual and alternate qualified individual identified in the plan with a document designating them as a qualified individual and specifying their full authority to—

(1) Activate and engage in contracting with oil spill removal organization(s) and other response related resources identified in the plan;

(2) Act as a liaison with the predesignated Federal On-Scene Coordinator (OCS); and

(3) Obligate funds required to carry out response activities.

(e) The owner or operator of a vessel may designate an organization to fulfill the role of the qualified individual and alternate qualified individual. The organization must then identify a qualified individual and at least one alternate qualified individual who meet the requirements of this section. The vessel owner or operator is required to list in the response plan the organization, the person identified as the qualified individual, and the person or persons identified as the alternate qualified individual(s).

(f) The qualified individual is not responsible for—

(1) The adequacy of response plans prepared by the owner or operator; or

(2) Contracting or obligating funds for response resources beyond the full authority contained in their designation from the owner or operator of the vessel.

(g) The liability of a qualified individual is considered to be in accordance with the provisions of 33 U.S.C. 1321(c)(4).

§ 155.1030 General response plan requirements.

(a) The plan must cover all geographic areas of the United States in which the vessel intends to handle, store, or transport oil, including port areas and offshore transit areas.

(b) The plan must be written in English and, if applicable, in a language that is understood by the crew members with responsibilities under the plan.

(c) A vessel response plan must be divided into the following sections:

(1) General information and introduction.

(2) Notification procedures.

(3) Shipboard spill mitigation procedures.

(4) Shore-based response activities.

(5) List of contacts.

(6) Training procedures.

(7) Exercise procedures.

(8) Plan review and update procedures.

(9) On board notification checklist and emergency procedures (unmanned tank barges only).

(10) Geographic-specific appendix for each COTP zone in which the vessel or vessels operate.

(11) An appendix for vessel-specific information for the vessel or vessels covered by the plan.

(d) A vessel owner or operator with multiple vessels may submit one plan for each class of vessel (i.e., manned vessels carrying oil as primary cargo, unmanned vessels carrying oil as primary cargo, and vessels carrying oil as secondary cargo) with a separate vessel-specific appendix for each vessel covered by the plan and a separate geographic-specific appendix for each COTP zone in which the vessel(s) will operate.

(e) The required contents for each section of the plan are contained in §§ 155.1035, 155.1040, and 155.1045, as applicable to the type or service of the vessel.

(f) The response plan for a barge carrying nonhazardous oil field waste may follow the same format as that for a vessel carrying oil as a secondary cargo under § 155.1045 in lieu of the plan required under § 155.1035 or § 155.1040.

(g) A response plan must be divided into the sections described in paragraph (c) of this section unless the plan is supplemented with a cross-reference table to identify the location of the information required by this subpart.

(h) The information contained in a response plan must be consistent with the—

(1) National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and the Area Contingency Plan(s) (ACP) in effect on the date 6 months prior to the submission date of the response plan; or

(2) More recent NCP and ACP(s).

(i) Copies of the submitted and approved response plan must be available as follows:

(1) The owner or operator of all vessels, except for unmanned tank barges, shall ensure that one English language copy of the plan sections listed in paragraph (c) (1), (2), (3), (5), (10) and (11) of this section and the Coast Guard approval letter or notarized copy of the approval letter are maintained aboard the vessel. If applicable, additional copies of the required plan sections must be in the language understood by crew members with responsibilities under the plan and maintained aboard the vessel.

(2) The owner or operator of all unmanned tank barges shall ensure that one English language copy of the plan section listed in paragraph (c)(9) of this section and the Coast Guard approval letter or notarized copy of the approval letter are maintained aboard the barge.

(3) The vessel owner or operator shall maintain a current copy of the entire plan, and ensure that each person identified as a qualified individual and alternate qualified individual in the plan has a current copy of the entire plan.

(j) If an owner or operator of a United States flag vessel informs the Coast Guard in writing at the time of the plan submission according to the procedures of § 155.1065, the owner or operator may address the provisions of Regulation 26 of MARPOL 73/78 if the owner or operator—

(1) Develops a vessel response plan under § 155.1030 and §§ 155.1035, 155.1040, or 155.1045, as applicable;

(2) Expands the plan to cover discharges of all oils defined under MARPOL, including fuel oil (bunker) carried on board. The owner or operator is not required to include these additional oils in calculating the planning volumes that are used to determine the quantity of response resources that the owner or operator must ensure through contract or other approved means;

(3) Provides the information on authorities or persons to be contacted in the event of an oil pollution incident as required by Regulation 26 of MARPOL 73/78. This information must include—

(i) An appendix containing coastal State contacts for those coastal States the exclusive economic zone of which the vessel regularly transits. The appendix should list those agencies or officials of administrations responsible for receiving and processing pollution incident reports; and

(ii) An appendix of port contacts for those ports at which the vessel regularly calls; and

(4) Expands the plan to include the procedures and point of contact on the ship for coordinating shipboard activities with national and local authorities in combating an oil spill incident. The plan should address the need to contact the coastal State to advise them of action(s) being implemented and determine what authorization(s), if any, are needed.

(5) Provides a cross reference section to identify the location of the information required by § 155.1030(j).

(k) A vessel carrying oil as a secondary cargo may comply with the requirements of § 155.1045 by having a response plan approved under Regulation 26 of MARPOL 73/78 with the addition of the following—

(1) Identification of the qualified individual and alternate that meets the requirements of § 155.1026;

(2) A geographic specific appendix meeting the requirements of § 155.1045(i), including the identification of a contracted oil spill removal organization;

(3) Identification of a spill management team;

(4) An appendix containing the training procedures required by 155.1045(f); and

(5) An appendix containing the exercise procedures required by 155.1045(g).

(l) For plans submitted prior to the effective date of this final rule, the owner or operator of each vessel may elect to comply with any or all of the provisions of this final rule by amending or revising the appropriate section of the previously submitted plan.

§ 155.1035 Response plan requirements for manned vessels carrying oil as a primary cargo.

(a) *General information and introduction.* This section of the response plan must include—

(1) The vessel's name, country of registry, call sign, official number, and International Maritime Organization (IMO) international number (if applicable). If the plan covers multiple vessels, this information must be provided for each vessel;

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

(3) A list of the COTP zones in which the vessel intends to handle, store, or transport oil;

(4) A table of contents or index of sufficient detail to permit personnel with responsibilities under the response plan to locate the specific sections of the plan; and

(5) A record of change(s) page to record information on plan reviews, updates or revisions.

(b) *Notification procedures.* This section of the response plan must include the following notification information:

(1) A checklist with all notifications, including telephone or other contact numbers, in order of priority to be made by shipboard or shore-based personnel and the information required for those notifications. Notifications must include those required by—

(i) MARPOL 73/78 and 33 CFR part 153; and

(ii) Any applicable State.

(2) Identification of the person(s) to be notified of a discharge or substantial threat of a discharge of oil. If the notifications vary due to vessel location, the persons to be notified also must be identified in a geographic-specific appendix. This section must separately identify—

(i) The individual(s) or organization(s) to be notified by shipboard personnel; and

(ii) The individual(s) or organization(s) to be notified by shore-based personnel.

(3) The procedures for notifying the qualified individual(s) designated by the vessel's owner or operator.

(4) Descriptions of the primary and, if available, secondary communications methods by which the notifications will be made that should be consistent with the regulations in § 155.1035(b)(1).

(5) The information that is to be provided in the initial and any follow up notifications required by paragraph (b)(1) of this section.

(i) The initial notification may be submitted in accordance with IMO Resolution A648(16) ''General Principles for Ship Reporting Systems and Ship Reporting Requirements'' which is available through COMDT G–MOS–4, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. It must include at least the following information:

(A) Vessel name, country of registry, call sign, and official number (if any);

(B) Date and time of the incident;

(C) Location of the incident;
(D) Course, speed, and intended track of vessel;
(E) Radio station(s) and frequencies guarded;
(F) Date and time of next report;
(G) Type and quantity of oil on board;
(H) Nature and detail of defects, deficiencies, and damage (e.g. grounding, collision, hull failure, etc.);
(I) Details of pollution, including estimate of oil discharged or threat of discharge;
(J) Weather and sea conditions on scene;
(K) Ship size and type;
(L) Actions taken or planned by persons on scene;
(M) Current conditions of the vessel; and
(N) Number of crew and details of injuries, if any.
(ii) After the transmission of the initial notification, as much as possible of the information essential for the protection of the marine environment as is appropriate to the incident must be reported to the appropriate on-scene coordinator in a follow-up report. This information must include—
(A) Additional details on the type of cargo on board;
(B) Additional details on the condition of the vessel and ability to transfer cargo, ballast, and fuel;
(C) Additional details on the quantity, extent and movement of the pollution and whether the discharge is continuing;
(D) Any changes in the on-scene weather or sea conditions; and
(E) Actions being taken with regard to the discharge and the movement of the ship.
(6) Identification of the person(s) to be notified of a vessel casualty potentially affecting the seaworthiness of a vessel and the information to be provided by the vessel's crew to shore-based personnel to facilitate the assessment of damage stability and stress.
(c) *Shipboard spill mitigation procedures.* This section of the response plan must include—
(1) Procedures for the crew to mitigate or prevent any discharge or a substantial threat of such discharge of oil resulting from shipboard operational activities associated with internal or external cargo transfers. Responsibilities of vessel personnel should be identified by job title. These procedures must address personnel actions in the event of a—
(i) Transfer system leak;
(ii) Tank overflow; or
(iii) Suspected cargo tank or hull leak;
(2) Procedures in the order of priority for the crew to mitigate or prevent any discharge or a substantial threat of such a discharge in the event of the following casualties or emergencies:
(i) Grounding or stranding.
(ii) Collision.
(iii) Explosion or fire, or both.
(iv) Hull failure.
(v) Excessive list.
(vi) Equipment failure (e.g. main propulsion, steering gear, etc.);
(3) Procedures for the crew to deploy discharge removal equipment as required under subpart B of this part;
(4) The procedures for internal transfers of cargo in an emergency;
(5) The procedures for ship-to-ship transfers of cargo in an emergency:
(i) The format and content of the ship-to-ship transfer procedures must be consistent with the Ship to Ship Transfer Guide (Petroleum) published jointly by the International Chamber of Shipping and the Oil Companies International marine Forum (OCIMF).
(ii) The procedures must identify the response resources necessary to carry out the transfers, including—
(A) Fendering equipment (ship-to-ship only);
(B) Transfer hoses and connection equipment;
(C) Portable pumps and ancillary equipment;
(D) Lightering and mooring masters (ship-to-ship only); and
(E) Vessel and barge brokers (ship-to-ship only).
(iii) Reference can be made to a separate oil transfer procedure and lightering plan carried aboard the vessel, provided that safety considerations are summarized in the response plan.
(iv) The location of all equipment and fittings, if any, carried aboard the vessel to perform such transfers must be identified;
(6) The procedures and arrangements for emergency towing, including the rigging and operation of any emergency towing equipment, including that required by subpart B of this part, aboard the vessel;
(7) The location, crew responsibilities, and procedures for use of shipboard equipment which may be carried to mitigate an oil discharge;
(8) The crew responsibilities, if any, for recordkeeping and sampling of spilled oil. Any requirements for sampling must address safety procedures to be followed by the crew;
(9) The crew's responsibilities, if any, to initiate a response and supervise shore-based response resources;
(10) Damage stability and hull stress considerations when performing shipboard mitigation measures. This section must identify and describe—
(i) Activities in which the crew is trained and qualified to execute absent shore-based support or advice; and
(ii) The information to be collected by the vessel's crew to facilitate shore-based assistance; and
(11)(i) Location of vessel plans necessary to perform salvage, stability, and hull stress assessments. A copy of these plans must be maintained ashore by either the vessel owner or operator or the vessel's recognized classification society unless the vessel has prearranged for a shore-based damage stability and residual strength calculation program with the vessel's baseline strength and stability characteristics pre-entered. The response plan must indicate the shore location and 24-hour access procedures of the calculation program or the following plans:
(A) General arrangement plan.
(B) Midship section plan.
(C) Lines plan or table of offsets.
(D) Tank tables.
(E) Load line assignment.
(F) Light ship characteristics.
(ii) The plan must identify the shore location and 24-hour access procedures for the computerized, shore-based damage stability and residual structural strength calculation programs required by § 155.240.
(d) *Shore-based response activities.* This section of the response plan must include the following information:
(1) The qualified individual's responsibilities and authority, including immediate communication with the Federal on-scene coordinator and notification of the oil spill removal organization(s) identified in the plan.
(2) If applicable, procedures for transferring responsibility for direction of response activities from vessel personnel to the shore-based spill management team.
(3) The procedures for coordinating the actions of the vessel owner or operator or qualified individual with the predesignated Federal on-scene coordinator responsible for overseeing or directing those actions.
(4) The organizational structure that will be used to manage the response actions. This structure must include the following functional areas and must further include information for key components within each functional area:
(i) Command and control;
(ii) Public information;
(iii) Safety;
(iv) Liaison with government agencies;
(v) Spill response operations;
(vi) Planning;
(vii) Logistics support; and
(viii) Finance.
(5) The responsibilities of, duties of, and functional job descriptions for each oil spill management team position

within the organizational structure identified in paragraph (d)(4) of this section.

(e) *List of contacts.* The name, location, and 24-hour contact information for the following key individuals and organizations must be included in this section of the response plan or, if more appropriate, in a geographic-specific appendix and referenced in this section of the response plan:

(1) Vessel owner or operator.

(2) Qualified individual and alternate qualified individual for the vessel's area of operation.

(3) Applicable insurance representatives or surveyors for the vessel's area of operation.

(4) The vessel's local agent(s) for the vessel's area of operation.

(5) Person(s) within the oil spill removal organization to notify for activation of that oil spill removal organization for the three spill scenarios identified in paragraph (i)(5) of this section for the vessel's area of operation.

(6) Person(s) within the identified response organization to notify for activating that organization to provide:

(i) The required emergency lightering required by § 155.1050(l), § 155.1052(g), § 155.1230(g), or § 155.2230(g), as applicable to the type of service of the vessel; and

(ii) The required salvage and firefighting required by § 155.1050(k), § 155.1052(e), § 155.1230(e), and § 155.2230(e), as applicable to the type of service of the vessel.

(7) Person(s) to notify for activation of the spill management team for the spill response scenarios identified in paragraph (i)(5) of this section for the vessel's area of operation.

(f) *Training procedures.* This section of the response plan must address the training procedures and programs of the vessel owner or operator to meet the requirements in § 155.1055.

(g) *Exercise procedures.* This section of the response plan must address the exercise program to be carried out by the vessel owner or operator to meet the requirements in § 155.1060.

(h) *Plan review, update, revision, amendment, and appeal procedure.* This section of the response plan must address—

(1) The procedures to be followed by the vessel owner or operator to meet the requirements of § 155.1070; and

(2) The procedures to be followed for any post-discharge review of the plan to evaluate and validate its effectiveness.

(i) *Geographic-specific appendices for each COTP zone in which a vessel operates.* A geographic-specific appendix must be included for each COTP zone identified. The appendices must include the following information or identify the location of such information within the plan:

(1) A list of the geographic areas (port areas, rivers and canals, Great Lakes, inland, nearshore, offshore, and open ocean areas) in which the vessel intends to handle, store, or transport oil within the applicable COTP zone.

(2) The volume and group of oil on which the required level of response resources are calculated.

(3) Required Federal or State notifications applicable to the geographic areas in which a vessel operates.

(4) Identification of the qualified individuals.

(5) Identification of the oil spill removal organization(s) that are identified and ensured available, through contract or other approved means, and the spill management team to respond to the following spill scenarios:

(i) Average most probable discharge.

(ii) Maximum most probable discharge.

(iii) Worst case discharge.

(6) The organization(s) identified to meet the requirements of paragraph (i)(5) of this section must be capable of providing the equipment and supplies necessary to meet the requirements of §§ 155.1050, 155.1052, 155.1230, and 155.2230, as appropriate, and sources of trained personnel to continue operation of the equipment and staff the oil spill removal organization(s) and spill management team identified for the first 7 days of the response.

(7) The appendix must list the response resources and related information required under §§ 155.1050, 155.1052, 155.1230, 155.2230, and Appendix B of this part, as appropriate.

(8) If an oil spill removal organization(s) has been evaluated by the Coast Guard and their capability has been determined to equal or exceed the response capability needed by the vessel, the appendix may identify only the organization and their applicable classification and not the information required in paragraph (i)(7) of this section.

(9) The appendix must also separately list the companies identified to provide the salvage, vessel firefighting, lightering, and if applicable, dispersant capabilities required in this subpart.

(j) *Appendices for vessel-specific information.* This section must include for each vessel covered by the plan the following information:

(1) List of the vessel's principal characteristics.

(2) Capacities of all cargo, fuel, lube oil, ballast, and fresh water tanks.

(3) The total volume and cargo groups of oil cargo that would be involved in the—

(i) Maximum most probable discharge; and

(ii) Worst case discharge.

(4) Diagrams showing location of all tanks.

(5) General arrangement plan (can be maintained separately aboard the vessel providing the response plan identifies the location).

(6) Midships section plan (can be maintained separately aboard the vessel providing the response plan identifies the location).

(7) Cargo and fuel piping diagrams and pumping plan, as applicable (can be maintained separately aboard the vessel providing the response plan identifies the location).

(8) Damage stability data (can be maintained separately providing the response plan identifies the location).

(9) Location of cargo and fuel stowage plan for vessel (normally maintained separately aboard the vessel).

(10) Location of information on the name, description, physical and chemical characteristics, health and safety hazards, and spill and firefighting procedures for the oil cargo aboard the vessel. A material safety data sheet meeting the requirements of 29 CFR 1910.1200, cargo information required by 33 CFR 154.310, or equivalent will meet this requirement. This information can be maintained separately.

§ 155.1040 Response plan requirements for unmanned tank barges carrying oil as a primary cargo.

(a) *General information and introduction.* This section of the response plan must include—

(1) A list of tank barges covered by the plan, which must include the country of registry, call sign, IMO international numbers (if applicable), and official numbers of the listed tank barges;

(2) The name, address, and procedures for contacting the barge's owner or operator on a 24-hour basis;

(3) A list of the COTP zones in which the tank barges covered by the plan intend to handle, store, or transport oil;

(4) A table of contents or index of sufficient detail to permit personnel with responsibilities under the response plan to locate the specific sections of the plan; and

(5) A record of change(s) page used to record information on plan reviews, updates or revisions.

(b) *Notification procedures.* This section of the response plan must include the following notification information:

(1) A checklist with all notifications. The checklist must include notifications

required by MARPOL 73/78, 33 CFR part 153, and any applicable State, including telephone or other contact numbers, in the order of priority and the information required for those notifications to be made by the—

(i) Towing vessel;

(ii) Vessel owner or operator; or

(iii) Qualified individual.

(2) Identification of the person(s) to be notified of a discharge or substantial threat of a discharge of oil. If the notifications vary due to the location of the barge, the persons to be notified also must be identified in a geographic-specific appendix. This section must separately identify—

(i) The individual(s) or organization(s) to be notified by the towing vessel; and

(ii) The individual(s) or organization(s) to be notified by shore-based personnel.

(3) The procedures for notifying the qualified individuals designated by the barge's owner or operator.

(4) Identification of the primary and, if available, secondary communications methods by which the notifications will be made, consistent with the requirements of paragraph (b)(1) of this section.

(5) The information that is to be provided in the initial and any follow-up notifications required by paragraph (b)(1) of this section.

(i) The initial notification information must include at least the following information:

(A) Towing vessel name (if applicable);

(B) Tank barge name, country of registry, and official number;

(C) Date and time of the incident;

(D) Location of the incident;

(E) Course, speed, and intended track of towing vessel (if applicable);

(F) Radio station(s) frequencies guarded by towing vessel (if applicable);

(G) Date and time of next report;

(H) Type and quantity of oil on board;

(I) Nature and details of defects, deficiencies, and damage (e.g., grounding, collision, hull failure, etc.);

(J) Details of pollution, including estimate of oil discharged or threat of discharge;

(K) Weather and sea conditions on scene;

(L) Barge size and type;

(M) Actions taken or planned by persons on scene;

(N) Current condition of the barge; and

(O) Details of injuries, if any.

(ii) After the transmission of the initial notification, as much as possible of the information essential for the protection of the marine environment as is appropriate to the incident must be reported to the appropriate on-scene coordinator in a follow-up report. This information must include—

(A) Additional detail on the type of cargo on board;

(B) Additional details on the condition of the barge and ability to transfer cargo, ballast, and fuel;

(C) Additional details on the quantity, extent and movement of the pollution and whether the discharge is continuing;

(D) Any changes in the on-scene weather or sea conditions; and

(E) Actions being taken with regard to the discharge and the movement of the vessel.

(6) Identification of the person(s) to be notified of a vessel casualty potentially affecting the seaworthiness of a vessel and the information to be provided by the towing vessel personnel or tankermen, as applicable, to shore-based personnel to facilitate the assessment of damage stability and stress.

(c) *Shipboard spill mitigation procedures.* This section of the response plan must include—

(1) Procedures to be followed by the tankerman, as defined in 46 CFR 35.35–1, to mitigate or prevent any discharge or a substantial threat of such a discharge of oil resulting from operational activities and casualties. These procedures must address personnel actions in the event of a—

(i) Transfer system leak;

(ii) Tank overflow; or

(iii) Suspected cargo tank or hull leak;

(2) Procedures in the order of priority for the towing vessel or barge owner or operator to mitigate or prevent any discharge or a substantial threat of such a discharge of oil in the event of the following casualties or emergencies:

(i) Grounding or stranding;

(ii) Collision;

(iii) Explosion or fire, or both;

(iv) Hull failure;

(v) Excessive list; and

(3) Procedures for tankermen or towing vessel crew to employ discharge removal equipment required by subpart B of this part;

(4) The procedures for the internal transfer of cargo in an emergency;

(5) The procedures for ship-to-ship transfers of cargo in an emergency:

(i) The procedures must identify the response resources necessary to carry out the transfers, including—

(A) Fendering equipment (ship-to-ship only);

(B) Transfer hoses and connection equipment;

(C) Portable pumps and ancillary equipment; and

(D) Lightering vessels (ship-to-ship only).

(ii) Reference can be made to separate oil transfer procedures or a lightering plan provided that safety considerations are summarized in the response plan.

(iii) The location of all equipment and fittings, if any, to perform such transfers must be identified;

(6) The procedures and arrangements for emergency towing, including the rigging and operation of any emergency towing equipment, including that required by subpart B of this part aboard the barge;

(7) The location and procedures for use of equipment stowed aboard either the barge or towing vessel to mitigate an oil discharge;

(8) The responsibilities of the towing vessel crew and facility or fleeting area personnel, if any, to initiate a response and supervise shore-based response resources;

(9) Damage stability, if applicable, and hull stress considerations when performing on board mitigation measures. This section must identify and describe—

(i) Activities in which the towing vessel crew or tankerman is trained and qualified to execute absent shore-based support or advice;

(ii) The individuals who shall be notified of a casualty potentially affecting the seaworthiness of the barge; and

(iii) The information that must be provided by the towing vessel to facilitate the assessment of damage stability and stress; and

(10)(i) Location of barge plans necessary to perform salvage, stability, and hull stress assessments. A copy of these barge plans must be maintained ashore by either the barge owner or operator or the vessel's recognized classification society. The response plan must indicate the shore location and 24-hour access procedures of the following plans:

(A) General arrangement plan.

(B) Midship section plan.

(C) Lines plan or table of offsets, as available.

(D) Tank tables; and

(ii) Plans for offshore oil barges must identify the shore location and 24-hour access procedures for the computerized shore-based damage stability and residual structural strength calculation programs required by § 155.240.

(d) *Shore-based response activities.* This section of the response plan must include the following information:

(1) The qualified individual's responsibilities and authority, including immediate communication with the Federal on-scene coordinator and notification of the oil spill removal organization(s) identified in the plan.

(2) If applicable, procedures for transferring responsibility for direction of response activities from towing vessel

personnel or tankermen to the shore-based spill management team.

(3) The procedures for coordinating the actions of the barge owner or operator of qualified individual with the action of the predesignated Federal on-scene coordinator responsible for overseeing or directing those actions.

(4) The organizational structure that will manage the barge owner or operator's response actions. This structure must include the following functional areas and must further include information for key components within each functional area:

(i) Command and control;

(ii) Public information;

(iii) Safety;

(iv) Liaison with government agencies;

(v) Spill response operations;

(vi) Planning;

(vii) Logistics support; and

(viii) Finance.

(5) The responsibilities of, duties of, and functional job descriptions for each oil spill management team position within the organizational structure identified in paragraph (d)(4) of this section.

(e) *List of contacts.* The name, location, and 24-hour contact information for the following key individuals and organizations must be included in this section or, if more appropriate, in a geographic-specific appendix and referenced in this section:

(1) Barge owner or operator.

(2) Qualified individual and alternate qualified individual for the tank barge's area of operation.

(3) Applicable insurance representatives or surveyors for the barge's area(s) of operation.

(4) Person(s) within the oil spill removal organization to notify for activation of that oil spill removal organization for the spill scenarios identified in paragraph (j)(5) of this section for the barges's area(s) of operation.

(5) Person(s) within the identified response organization to notify for activating that organization to provide:

(i) The required emergency lightering required by §§ 155.1050(l), 155.1052(g), 155.1230(g), and 155.2230(g), as applicable to the type of service of the barge(s); and

(ii) The required salvage and fire fighting required by §§ 155.1050(k), 155.1052(e), 155.1230(e), and 155.2230(e), as applicable to the type of service of the barge(s).

(6) Person(s) to notify for activation of the spill management team for the spill response scenarios identified in paragraph (j)(5) of this section for the vessel's area of operation.

(f) *Training procedures.* This section of the response plan must address the training procedures and programs of the barge owner or operator to meet the requirements in § 155.1055.

(g) *Exercise procedures.* This section of the response plan must address the exercise program carried out by the barge owner or operator to meet the requirements in § 155.1060.

(h) *Plan review, update, revisions amendment, and appeal procedure.* This section of the response plan must address—

(1) The procedures to be followed by the barge owner or operator to meet the requirements of § 155.1070; and

(2) The procedures to be followed for any post-discharge review of the plan to evaluate and validate its effectiveness.

(i) *On board notification checklist and emergency procedures.* This portion of the response plan must be maintained in the documentation container aboard the unmanned barge. The owner or operator of an unmanned tank barge subject to this section shall provide the personnel of the towing vessel, fleeting area, or facility that the barge may be moored at with the information required by this paragraph and the responsibilities that the plan indicates will be carried out by these personnel. The on board notification checklist and emergency procedures must include—

(1) The toll-free number of the National Response Center;

(2) The name and procedures for contacting a primary qualified individual and at least one alternate on a 24-hour basis;

(3) The name, address, and procedure for contacting the vessel's 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 of and actions to be taken by reporting personnel after an oil discharge or substantial threat of such discharge; and

(6) The information contained in paragraph (c)(1) of this section.

(j) *Geographic-specific appendices for each COTP zone in which a tank barge operates.* A geographic-specific appendix must be included for each COTP zone identified. The appendices must include the following information or identify the location of such information within the plan:

(1) A list of the geographic areas (port areas, rivers and canals, Great Lakes, inland, nearshore, offshore, and open ocean areas) in which the barge intends to handle, store, or transport oil within the applicable COTP zone.

(2) The volume and group of oil on which the required level of response resources are calculated.

(3) Required Federal or State notifications applicable to the geographic areas in which the barge operates.

(4) Identification of the qualified individuals.

(5) Identification of the oil spill removal organization(s) that are identified and ensured available, through contract or other approved means and the spill management team to provide the response resources necessary to respond to the following spill scenarios:

(i) An average most probable discharge.

(ii) A maximum most probable discharge.

(iii) A worst case discharge to the maximum extent practicable.

(6) The organization(s) identified to meet the provisions of paragraph (j)(5) of this section must be capable of providing the equipment and supplies necessary to meet the provisions of §§ 155.1050, 155.1052, 155.1230, and 155.2230, as appropriate, and sources of trained personnel to continue operation of the equipment and staff the oil spill removal organization(s) and spill management team identified for the first seven days of the response.

(7) The appendix must list the response resources and related information required under §§ 155.1050, 155.1052, 155.1230, 155.2230, and Appendix B of this part, as appropriate.

(8) If the oil spill removal organization(s) providing the necessary response resources has been evaluated by the Coast Guard and their capability has been determined to equal or exceed the response capability needed by the vessel, the appendix may identify only the organization and their applicable classification and not the information required in paragraph (j)(7) of this section.

(9) The appendix must also separately list the companies identified to provide the salvage, barge firefighting, lightering, and if applicable, dispersant capabilities required in this subpart.

(k) *Appendices for barge-specific information.* Because many of the tank barges covered by a response plan may be of the same design, this information does not need to be repeated provided the plan identifies the tank barges to which the same information would apply. The information must be part of the response plan unless specifically noted. This section must include for each barge covered by the plan the following information:

(1) List of the principal characteristics of the vessel.

(2) Capacities of all cargo, fuel, lube oil, and ballast tanks.

(3) The total volumes and cargo group(s) of oil cargo that would be involved in the—

(i) Maximum most probable discharge; and

(ii) Worst case discharge.

(4) Diagrams showing location of all tanks aboard the barge.

(5) General arrangement plan (can be maintained separately providing that the location is identified).

(6) Midships section plan (can be maintained separately providing that the location is identified).

(7) Cargo and fuel piping diagrams and pumping plan, as applicable (can be maintained separately providing that the location is identified).

(8) Damage stability data, if applicable.

(9) Location of cargo and fuel stowage plan for barge(s) (normally maintained separately).

(10) Location of information on the name, description, physical and chemical characteristics, health and safety hazards, and spill and firefighting procedures for the oil cargo aboard the barge. A material safety data sheet meeting the requirements of 29 CFR 1910.1200, cargo information required by 33 CFR 154.310, or equivalent will meet this requirement. This information can be maintained separately.

§ 155.1045 Response plan requirements for vessels carrying oil as a secondary cargo.

(a) *General information and introduction.* This section of the response plan must include—

(1) The vessel's name, country of registry, call sign, official number, and IMO international number (if applicable). If the plan covers multiple vessels, this information must be provided for each vessel;

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

(3) A list of COTP zones in which the vessel intends to handle, store, or transport oil;

(4) A table of contents or index of sufficient detail to permit personnel with responsibilities under the response plan to locate the specific sections of the plan; and

(5) A record of change(s) page used to record information on plan updates or revisions.

(6) As required in paragraph (c) of this section, the vessel owner or operator must list in his or her plan the total volume of oil carried in bulk as cargo.

(i) For vessels that transfer a portion of their fuel as cargo, 25 percent of the fuel capacity of the vessel plus the capacity of any oil cargo tank(s) will be assumed to be the cargo volume for determining applicable response plan requirements unless the vessel owner or operator indicates otherwise.

(ii) A vessel owner or operator can use a volume less than 25 percent if he or she submits historical data with the plan that substantiates the transfer of a lower percentage of its fuel capacity between refuelings.

(b) *Notification procedures.* This section of the response plan must include the following notification information:

(1) A checklist with all notifications, including telephone or other contact numbers, in the order of priority to be made by shipboard or shore-based personnel and the information required for those notifications. Notifications must include those required by—

(i) MARPOL 73/78 and 33 CFR part 153; and

(ii) Any applicable State.

(2) Identification of the person(s) to be notified of a discharge or substantial threat of discharge of oil. If notifications vary due to vessel location, the person(s) to be notified also must be identified in a geographic-specific appendix. This section must separately identify—

(i) The individual(s) or organization(s) to be notified by shipboard personnel; and

(ii) The individual(s) or organization(s) to be notified by shore-based personnel.

(3) The procedures for notifying the qualified individual and alternate qualified individual.

(4) Descriptions of the primary and, if available, secondary communication methods by which the notifications will be made, consistent with the requirements in paragraph (b)(1) of this section.

(5) The information that is to be provided in the initial and any follow-up notifications required by paragraph (b)(1) of this section.

(i) The initial notification may be submitted in accordance with IMO Resolution A648(16) ''General Principles for Ship Reporting Systems and Ship Reporting Requirements.'' It must include at least the following information:

(A) Vessel name, country of registry, call sign, IMO international number (if applicable), and official number (if any);

(B) Date and time of the incident;

(C) Location of the incident;

(D) Course, speed, and intended track of vessel;

(E) Radio station(s) and frequencies guarded;

(F) Date and time of next report;

(G) Type and quantity of oil on board;

(H) Nature and detail of defects, deficiencies, and damage (e.g., grounding, collision, hull failure, etc.);

(I) Details of pollution, including estimate of oil discharged or threat of discharge;

(J) Weather and sea conditions on scene;

(K) Ship size and type;

(L) Actions taken or planned by persons on scene;

(M) Current conditions of the vessel; and

(N) Number of crew and details of injuries, if any.

(ii) After the transmission of the initial notification, as much as possible of the information essential for the protection of the marine environment as is appropriate to the incident must be reported to the appropriate on-scene coordinator in a follow-up report. This information must include—

(A) Additional details on the type of cargo on board;

(B) Additional details on the condition of the vessel and ability to transfer cargo, ballast, and fuel;

(C) Additional details on the quantity, extent and movement of the pollution and whether the discharge is continuing;

(D) Any changes in the on-scene weather or sea conditions; and

(E) Actions being taken with regard to the discharge and the movement of the ship.

(c) *Shipboard spill mitigation procedures.* This section of the response plan must identify the vessel's total volumes of oil carried in bulk as cargo and meet the applicable requirements of this paragraph as in paragraph (a)(6) of this section.

(1) For vessels carrying 100 barrels or less of oil in bulk as cargo, the plan must include a basic emergency action checklist for vessel personnel including notification and actions to be taken to prevent or mitigate any discharge or substantial threat of such a discharge of oil from the vessel.

(2) For vessels carrying over 100 barrels of oil but not exceeding 5,000 barrels of oil in bulk as cargo, the plan must include—

(i) Detailed information on actions to be taken by vessel personnel to prevent or mitigate any discharge or substantial threat of such a discharge of oil from the vessel due to operational activities or casualties;

(ii) Detailed information on damage control procedures to be followed by vessel personnel;

(iii) Detailed procedures for internal or external transfer of oil in bulk as cargo in an emergency; and

(iv) Procedures for use of any equipment carried aboard the vessel for spill mitigation.

(3) For vessels carrying over 5,000 barrels of oil as a secondary cargo, the plan must provide the information required by § 155.1035(c) for shipboard spill mitigation procedures.

(4) For all vessels, the plan must include responsibilities and actions to be taken by vessel personnel, if any, to initiate a response and supervise shore-based response resources.

(d) *Shore-based response activities.* This section of the response plan must include the following information:

(1) The qualified individual's responsibilities and authority, including immediate communication with the Federal on-scene coordinator and notification of the oil spill removal organization(s) identified in the plan.

(2) If applicable, procedures for transferring responsibility for direction of response activities from vessel personnel to the shore-based spill management team.

(3) The procedures for coordinating the actions of the vessel owner or operator with the actions of the predesignated Federal on-scene coordinator responsible for overseeing or directing those actions.

(4) The organizational structure that will be used to manage the response actions. This structure must include the following functional areas and must further include information for key components within each functional area:

(i) Command and control;

(ii) Public information;

(iii) Safety;

(iv) Liaison with government agencies;

(v) Spill response operations;

(vi) Planning;

(vii) Logistics support; and

(viii) Finance.

(5) The responsibilities, duties, and functional job description for each oil spill management team member within the organizational structure identified in paragraph (d)(4) of this section.

(e) *List of contacts.* The name, location, and 24-hour contact information for the following key individuals or organizations must be included in this section or, if more appropriate, in a geographic-specific appendix and referenced in this section:

(1) Vessel owner or operator, and if applicable, charterer.

(2) Qualified individual and alternate qualified individual for the vessel's area of operation.

(3) Vessel's local agent(s), if applicable, for the vessel's area of operation.

(4) Applicable insurance representatives or surveyors for the vessel's area of operation.

(5) Person(s) within the identified oil spill removal organization(s) to notify for activation of the oil spill removal organization(s) identified under paragraph (i)(3) of this section for the vessel's area of operation.

(6) Person(s) to notify for activation of the spill management team.

(f) *Training procedures.* (1) This section of the response plan must address the training procedures and programs of the vessel owner or operator. The vessel owner or operator shall ensure that—

(i) All personnel with responsibilities under the plan receive training in their assignments and refresher training as necessary, and participate in exercises required under paragraph (g) of this section. Documented work experience can be used instead of training; and

(ii) Records of this training are maintained aboard the vessel, at the U.S. location of the spill management team, or with the qualified individual. The plan must specify where the records are located.

(2) Nothing in this section relieves the vessel owner or operator from responsibility to ensure that all 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.

(g) *Exercise procedures.* This section of the response plan must address the exercise program carried out by the vessel owner or operator to evaluate the ability of vessel and shore-based personnel to perform their identified functions in the plan. The required exercise frequency for each category of vessel is as follows:

(1) For vessels carrying 100 barrels or less of oil as cargo—

(i) On board spill mitigation procedures and qualified individual notification exercises must be conducted annually; and

(ii) Shore-based oil spill removal organization exercises must be conducted biennially.

(2) For vessels carrying over 100 barrels and up to 5,000 barrels of oil in bulk as cargo—

(i) On board emergency procedures and qualified individual notification exercises must be conducted quarterly; and

(ii) Shore-based oil spill removal organization exercises must be conducted annually.

(3) Vessels carrying over 5,000 barrels of oil in bulk as cargo must meet the exercise requirement of § 155.1060.

(h) *Plan review, update, revision, amendment, and appeal procedures.* This section of the response plan must address—

(1) The procedures to be followed by the vessel owner or operator to meet the requirement of § 155.1070; and

(2) The procedures to be followed for any post-discharge review of the plan to evaluate and validate its effectiveness

(i) *Geographic-specific appendices for each COTP zone in which a vessel operates.* A geographic-specific appendix must be included for each COTP zone identified. The appendix must include the following information or identify the location of such information within the plan:

(1) Required Federal or State notifications applicable to the geographic areas in which a vessel operates.

(2) Identification of the qualified individuals.

(3) A list of the oil spill removal organization(s) and the spill management team(s) available to respond to the vessel's worst case oil discharge in each COTP zone in which a vessel operates. The oil spill removal organization(s) identified must be capable of commencing oil spill containment and on-water recovery within the response times listed for Tier 1 in § 155.1050(g); providing temporary storage of recovered oil; and conducting shoreline protection and cleanup operations. An oil spill removal organization may not be identified in the plan unless the organization has provided written consent to being identified in the plan as an available resource.

(j) *Appendices for vessel-specific information.* This section must include for each vessel covered by the plan the following information:

(1) List of the vessel's principal characteristics (i.e., length, beam, gross tonnage, etc.).

(2) Capacities of all cargo, fuel, lube oil, ballast, and fresh water tanks.

(3) The total volume and cargo groups of oil cargo that would be involved in the—

(i) Maximum most probable discharge; and

(ii) Worst case discharge.

(4) Diagrams showing location of all tanks.

(5) Cargo and fuel piping diagrams and pumping plan as applicable. These diagrams and plans can be maintained separately aboard the vessel providing the response plan identifies the location.

(6) Location of information on the name, description, physical and chemical characteristics, health and safety hazards, and spill and firefighting procedures for the oil cargo aboard the vessel. A material safety data sheet meeting the requirements of 29 CFR 1910.1200, cargo information required by 33 CFR 154.310, or the equivalent, will meet this requirement. This information can be maintained separately on board the vessel, providing the response plan identifies the location.

§ 155.1050 Response plan development and evaluation criteria for vessels carrying groups I through IV petroleum oil as a primary cargo.

(a) The following criteria must be used to evaluate the operability of response resources identified in the response plan for the specified operating environment:

(1) Table 1 of Appendix B of this part.

(i) The criteria in Table 1 of Appendix B of this part are to be used solely for identification of appropriate equipment in a response plan.

(ii) These criteria reflect conditions used for planning purposes to select mechanical response equipment and are not conditions that would limit response actions or affect normal vessel operations.

(2) Limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(i) Ice conditions;

(ii) Debris;

(iii) Temperature ranges; and

(iv) Weather-related visibility.

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

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

(c) Response equipment must—

(1) Meet or exceed the criteria listed in Table 1 of Appendix B of this part;

(2) Be capable of functioning in the applicable operating environment; and

(3) Be appropriate for the petroleum oil carried.

(d) The owner or operator of a vessel that carries groups I through IV petroleum oil as a primary cargo shall identify in the response plan and ensure the availability of, through contract or other approved means, the response resources that will respond to a discharge up to the vessel's average most probable discharge.

(1) For a vessel that carries groups I through IV petroleum oil as its primary cargo, the response resources must include—

(i) Containment boom in a quantity equal to twice the length of the largest vessel involved in the transfer and capable of being deployed at the site of oil transfer operations—

(A) Within 1 hour of detection of a spill, when the transfer is conducted between 0 and 12 miles from the nearest shoreline; or

(B) Within 1 hour plus travel time from the nearest shoreline, based on an on-water speed of 5 knots, when the transfer is conducted over 12 miles up to 200 miles from the nearest shoreline; and

(ii) Oil recovery devices and recovered oil storage capacity capable of being at the transfer site—

(A) Within 2 hours of the detection of a spill during transfer operations, when the transfer is conducted between 0 and 12 miles from the nearest shoreline; or

(B) Within 1 hour plus travel time from the nearest shoreline, based on an on-water speed of 5 knots, when the transfer is conducted over 12 miles up to 200 miles from the nearest shoreline.

(2) For locations of multiple vessel transfer operations, a vessel may identify the same equipment as identified by other vessels, provided that each vessel has ensured access to the equipment through contract or other approved means. Under these circumstances, prior approval by the Coast Guard is not required for temporary changes in the contracted oil spill removal organization under § 155.1070(c)(5).

(3) The owner or operator of a vessel conducting transfer operations at a facility required to submit a response plan under 33 CFR 154.1017 is required to plan for and identify the response resources required in paragraph (d)(1) of this section. However, the owner or operator is not required to ensure by contract or other means the availability of such resources.

(e) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, the response resources necessary to respond to a discharge up to the vessel's maximum most probable discharge volume.

(1) These resources must be positioned such that they can arrive at the scene of a discharge within—

(i) 12 hours of the discovery of a discharge in higher volume port areas and the Great Lakes;

(ii) 24 hours of the discovery of a discharge in all rivers and canals, inland, nearshore and offshore areas; and

(iii) 24 hours of the discovery of a discharge plus travel time from shore for open ocean areas.

(2) The necessary response resources include sufficient containment boom, oil recovery devices, and storage capacity for any recovery of up to the maximum most probable discharge planning volume.

(3) The response plan must identify the storage location, make, model, and effective daily recovery capacity of each oil recovery device that is identified for plan credit.

(4) The response resources identified for responding to a maximum most probable discharge must be positioned to be capable of meeting the planned arrival times in this paragraph. The COTP with jurisdiction over the area in which the vessel is operating must be notified whenever the identified response resources are not capable of meeting the planned arrival times.

(f) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, the response resources necessary to respond to discharges up to the worst case discharge volume of the oil cargo to the maximum extent practicable.

(1) The location of these resources must be suitable to meet the response times identified for the applicable geographic area(s) of operation and response tier.

(2) The response resources must be appropriate for—

(i) The capacity of the vessel;

(ii) Group(s) of petroleum oil carried as cargo; and

(iii) The geographic area(s) of vessel operation.

(3) The resources must include sufficient boom, oil recovery devices, and storage capacity to recover the planning volumes.

(4) The response plan must identify the storage location, make, model, and effective daily recovery capacity of each oil recovery device that is identified for plan credit.

(5) The guidelines in Appendix B of this part must be used for calculating the quantity of response resources required to respond at each tier to the worst case discharge to the maximum extent practicable.

(6) When determining response resources necessary to meet the requirements of this paragraph (f)(6), a portion of those resources must be capable of use in close-to-shore response activities in shallow water. The following percentages of the response equipment identified for the applicable geographic area must be capable of operating in waters of 6 feet or less depth:

(i) Open ocean—none.

(ii) Offshore—10 percent.

(iii) Nearshore, inland, Great Lakes, and rivers and canals—20 percent.

(7) Response resources identified to meet the requirements of paragraph

(f)(6) of this section are exempt from the significant wave height planning requirements of Table 1 of Appendix B of this part.

(g) Response equipment identified to respond to a worst case discharge must be capable of arriving on scene within the times specified in this paragraph for the applicable response tier in a higher volume port area, Great Lakes, and in other areas. Response times for these tiers from the time of discovery of a discharge are—

	Tier 1	Tier 2	Tier 3
Higher volume port area (except tankers in Prince William Sound covered by § 155.1135).	12 hrs ..	36 hrs ..	60 hrs
Great Lakes ..	18 hrs ..	42 hrs ..	66 hrs
All other rivers & canals, inland, nearshore, and offshore areas.	24 hrs ..	48 hrs ..	72 hrs
Open ocean (plus travel time from shore).	24 hrs+	48 hrs+	72 hrs+

(h) For the purposes of arranging for response resources through contract or other approved means, response equipment identified for Tier 1 plan credit must be capable of being mobilized and enroute to the scene of a discharge within 2 hours of notification. The notification procedures identified in the plan must provide for notification and authorization for mobilization of identified Tier 1 response resources—

(1) Either directly or through the qualified individual; and

(2) Within 30 minutes of a discovery of a discharge or substantial threat of discharge.

(i) Response resources identified for Tier 2 and Tier 3 plan credit must be capable of arriving on scene within the time listed for the applicable tier.

(j) The response plan for a vessel carrying group II or III persistent petroleum oils as a primary cargo that operates in areas with year-round pre-approval for dispersant use may request a credit against up to 25% of the on-water oil recovery capability for each worst case discharge tier necessary to meet the requirements of this subpart. To receive this credit, the vessel owner or operator shall identify in the response plan and ensure, through contract or other approved means, the availability of the dispersants and the necessary resources to apply those agents appropriate for the type of oil carried and to monitor the effectiveness of the dispersants. The extent of the credit will be based on the volumes of dispersant available to sustain operations at manufacturers' recommended dosage rates. Dispersant resources identified for plan credit must be capable of being on scene within 12 hours of discovery of a discharge.

Note: Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during a spill response will be governed by the provisions of the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300) and the applicable Area Contingency Plan.

(k)(1) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, the following resources:

(i) A salvage company with expertise and equipment.

(ii) A company with vessel firefighting capability that will respond to casualties in the area(s) in which the vessel will operate.

(2) Vessel owners or operators must identify intended sources of the resources required under paragraph (k)(1) of this section capable of being deployed to the areas in which the vessel will operate. Provider(s) of these services may not be listed in the plan unless they have provided written consent to be listed in the plan as an available resource.

(3) To meet this requirement in a response plan submitted for reapproval on or after February 18, 1998, the identified resources must be capable of being deployed to the port nearest to the area in which the vessel operates within 24 hours of notification.

(l) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, certain response resources required by § 155.1035(c)(5)(ii) or § 155.1040(c)(5)(i), as appropriate.

(1) These resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

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

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

(i) Inland (except tankers in Prince William Sound covered by § 155.1130), nearshore, and Great Lakes waters—12 hours.

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

(iii) Open ocean waters—36 hours.

(3) For barges operating on rivers and canals as defined in this subpart, the requirements of this paragraph (l)(3) may be met by listing resources capable of meeting the response times in paragraph (l)(2) of this section. Such resources may not be identified in a plan unless the response organization has provided written consent to be listed in a plan as an available resource.

(m) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, response resources necessary to perform shoreline protection operations.

(1) The response resources must include the quantities of boom listed in Table 2 of Appendix B of this part, based on the areas in which the vessel operates.

(2) Vessels that intend to offload their cargo at the Louisiana Offshore Oil Port (LOOP) marine terminal are not required to comply with the requirements of this paragraph when they are within the offshore area and under one of the following conditions:

(i) Approaching or departing the LOOP marine terminal within the LOOP Shipping Safety Fairway, as defined in 33 CFR 166.200.

(ii) Moored at the LOOP marine terminal for the purposes of cargo transfer operations or anchored in the designated anchorage area awaiting discharge.

(n) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, an oil spill removal organization capable of effecting a shoreline cleanup operation commensurate with the quantity of emulsified petroleum oil to be planned for in shoreline cleanup operations.

(1) The shoreline cleanup resources required must be determined as described in Appendix B of this part.

(2) Vessels that intend to offload their cargo at the Louisiana Offshore Oil Port (LOOP) marine terminal are not required to comply with the requirements of this paragraph when they are within the offshore area and under one of the following conditions:

(i) Approaching or departing the LOOP marine terminal within the LOOP

Shipping Safety Fairway as defined in 33 CFR 166.200.

(ii) Moored at the LOOP marine terminal for the purposes of cargo transfer operations or anchored in the designated anchorage area awaiting discharge.

(o) Appendix B of this part sets out caps that recognize the practical and technical limits of response capabilities for which an individual vessel owner or operator can contract in advance. Table 6 in Appendix B lists the contracting caps that are applicable, as of February 18, 1993, and that are slated to apply on February 18, 1998. The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo, whose required daily recovery capacity exceeds the applicable contracting caps in Table 6, shall identify commercial sources of additional equipment equal to twice the cap listed for each tier or the amount necessary to reach the calculated planning volume, whichever is lower, to the extent that this equipment is available. The equipment so identified must be capable of arriving on scene no later than the applicable tier response times contained in § 155.1050(g) or as quickly as the nearest available resource permits. A response plan must identify the specific sources, locations, and quantities of this additional equipment. No contract is required.

(p) The Coast Guard will initiate a review of cap increases and other requirements contained within this subpart that are scheduled to be phased-in over time. Any changes in the requirements of this section will occur through a public notice and comment process.

(1) During this review, the Coast Guard will determine if the scheduled increase remains practicable, and will also establish a specific cap for 2003. The review will include—

(i) Increases in skimming efficiencies and design technology;

(ii) Oil tracking technology;

(iii) High rate response techniques;

(iv) Other applicable response technologies; and

(v) Increases in the availability of private response resources.

(2) All scheduled future requirements will take effect unless the Coast Guard determines that they are not practicable. Scheduled changes will be effective on February 18, 1998 and 2003 unless the review of the additional requirements have not been completed by the Coast Guard. If this occurs, the changes will not be effective until 90 days after publication of a Federal Register notice with the results of the review.

§ 155.1052 Response plan development and evaluation criteria for vessels carrying group V petroleum oil as a primary cargo.

(a) Owners and operators of vessels that carry group V petroleum oil as a primary cargo must provide information in their plan that identifies—

(1) Procedures and strategies for responding to discharges up to a worst case discharge of group V petroleum oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.

(b) Using the criteria in Table 1 of Appendix B of this part, an owner or operator of a vessel carrying group V petroleum oil as a primary cargo must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the vessel operates. When evaluating the operability of equipment, the vessel owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a vessel carrying group V petroleum oil as a primary cargo must identify in the response plan and ensure, through contract or other approved means, the availability of required equipment, including—

(1) Sonar, sampling equipment, or other methods for locating the oil on the bottom or suspended in the water column;

(2) Containment boom, sorbent boom, silt curtains, or other methods for containing oil that may remain floating on the surface or to reduce spreading on the bottom;

(3) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline; and

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

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of being deployed within 24 hours of discovery of a discharge to the port nearest the area where the vessel is operating. An oil spill removal organization may not be listed in the plan unless the oil spill removal organization has provided written consent to be listed in the plan as an available resource.

(e) The owner or operator of a vessel carrying group V petroleum oil as a primary cargo shall identify in the response plan and ensure the availability of the following resources through contract or other approved means—

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

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

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

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

(1) Resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

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

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

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

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

(iii) Open ocean waters—36 hours.

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

§ 155.1055 Training.

(a) A response plan submitted to meet the requirements of § 155.1035 must

identify the training to be provided to persons having responsibilities under the plan, including members of the vessel crew, the qualified individual, and the spill management team. A response plan submitted to meet the requirements of § 155.1040 must identify the training to be provided to the spill management team, the qualified individual, and other personnel in § 155.1040 with specific responsibilities under the plan including tankermen and members of the towing vessel crew. The training program must differentiate between that training provided to vessel personnel and that training provided to shore-based personnel. Appendix C of this part provides additional guidance regarding training.

(b) A vessel owner or operator shall ensure the maintenance of records sufficient to document this training and make them available for inspection upon request by the Coast Guard. Records must be maintained for 3 years following completion of training. The response plan must identify the location of training records, which must be—

(1) On board the vessel;

(2) With the qualified individual; or

(3) At a U.S. location of the spill management team.

(c) A vessel owner or operator may identify equivalent work experience which fulfills specific training requirements.

(d) The vessel owner or operator shall ensure that any oil spill removal organization identified in a response plan to meet the requirements of this part maintains records sufficient to document training for the organization's personnel. These records must be available for inspection upon request by the Coast Guard. Records must be maintained for 3 years following completion of training.

(e) Nothing in this section relieves the vessel owner or operator from the responsibility to ensure that all 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.

(f) A training plan may be prepared in accordance with Training Elements for Oil Spill Response to satisfy the requirements of this section.

§ 155.1060 Exercises.

(a) A vessel owner or operator required by §§ 155.1035 and 155.1040 to have a response plan shall conduct exercise as necessary to ensure that the plan will function in an emergency. Both announced and unannounced exercises must be included. The following are the minimum exercise requirements for vessels covered by this subpart:

(1) Qualified individual notification exercises, which must be conducted quarterly;

(2) Emergency procedures exercises, which must be conducted quarterly;

(3) Shore-based spill management team tabletop exercises, which must be conducted annually. In a triennial period, at least one of these exercises must include a worst case discharge scenario;

(4) Oil spill removal organization equipment deployment exercises, which must be conducted annually; and

(5) An exercise of the entire response plan, which must be conducted every 3 years. The vessel owner or operator shall design the exercise program so that all components of the response plan are exercised at least once every 3 years. All of the components do not have to be exercised at one time; they may be exercised over the 3-year period through the required exercises or through an area exercise.

(b) Annually, at least one of the exercises listed in § 155.1060(a) (2) and (4) must be unannounced. An unannounced exercise is one in which the personnel participating in the exercise have not been advised in advance of the exact date, time, and scenario of the exercise.

(c) A vessel owner or operator shall participate in unannounced exercises, as directed by the Coast Guard COTP. The objectives of the unannounced exercises will be to evaluate notifications and equipment deployment for responses to average most probable discharge spill scenarios outlined in vessel response plans. The unannounced exercises will be limited to four per area per year, an area being that geographic area for which a separate and distinct Area Contingency Plan has been prepared, as described in the Oil Pollution Act of 1990. After participating in an unannounced exercise directed by a COTP, the owner or operator will not be required to participate in another unannounced exercise for at least 3 years from the date of the exercise.

(d) A vessel owner or operator shall participate in area exercises as directed by the applicable on-scene coordinator. The area exercises will involve equipment deployment to respond to the spill scenario developed by the exercise design team, of which the vessel owner or operator will be a member. After participating in an area exercise, a vessel owner or operator will not be required to participate in another area exercise for at least 6 years.

(e) The vessel owner or operator shall ensure that adequate exercise records are maintained. The following records are required:

(1) On board the vessel, records of the qualified individual notification exercises and the emergency procedures exercises. These exercises may be documented in the ship's log or may be kept in a separate exercise log.

(2) At the United States' location of either the qualified individual, spill management team, the vessel owner or operator, or the oil spill removal organization, records of exercises conducted off the vessel. Response plans must indicate the location of these records.

(f) Records described in paragraph (e) of this section must be maintained and available to the Coast Guard for 3 years following completion of the exercises.

(g) The response plan submitted to meet the requirements of this subpart must specify the planned exercise program. The plan shall detail the exercise program, including the types of exercises, frequencies, scopes, objectives, and the scheme for exercising the entire response plan every 3 years.

(h) Compliance with the National Preparedness for Response Exercise Program (PREP) Guidelines will satisfy the vessel response plan exercise requirements. These guidelines are available from the United States Government Printing Office, North Capitol and H Sts., NW., Washington, DC 20402.

§ 155.1062 Inspection and maintenance of response resources.

(a) The owner or operator of a vessel required to submit a response plan under this part must ensure that—

(1) Containment booms, skimmers, vessels, and other major equipment listed or referenced in the plan are periodically inspected and maintained in good operating condition, in accordance with manufacturer's recommendations and best commercial practices; and

(2) All inspections and maintenance are documented and that these records are maintained for 3 years.

(b) For equipment which must be inspected and maintained under this section the Coast Guard may—

(1) Verify that the equipment inventories exist as represented;

(2) Verify the existence of records required under this section;

(3) Verify that the records of inspection and maintenance reflect the actual condition of any equipment listed or referenced; and

(4) Inspect and require operational tests of equipment.

(c) This section does not apply to containment booms, skimmers, vessels,

and other major equipment listed or referenced in the plan and ensured available through the written consent of an oil spill removal organization, as described in the definition of ''contract or other approved means'' at § 155.1020.

§ 155.1065 Procedures for plan submission, approval, requests for acceptance of alternative planning criteria, and appeal.

(a) An owner or operator of a vessel to which this subpart applies shall submit one complete English language copy of a vessel response plan to Commandant (G–MRO), Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001. The plan must be submitted at least 60 days before the vessel intends to handle, store, transport, transfer, or lighter oil in areas subject to the jurisdiction of the United States.

(b) The owner or operator shall include a statement certifying that the plan meets the applicable requirements of subparts D, E, F, and G of this part and shall include a statement indicating whether the vessel(s) covered by the plan are manned vessels carrying oil as a primary cargo, unmanned vessels carrying oil as a primary cargo, or vessels carrying oil as a secondary cargo.

(c) If the Coast Guard determines that the plan meets all requirements of this subpart, the Coast Guard will notify the vessel owner or operator with an approval letter. The plan will be valid for a period of up to 5 years from the date of approval.

(d) If the Coast Guard reviews the plan and determines that it does not meet all of the requirements, the Coast Guard will notify the vessel owner or operator of the response plan's deficiencies. The vessel owner or operator must then resubmit the revised plan, or corrected portions of the plan, within the time period specified in the written notice provided by the Coast Guard.

(e) For those vessels temporarily authorized under § 155.1025 to operate without an approved plan pending formal Coast Guard approval, the deficiency provisions of § 155.1070(c), (d), and (e) will also apply.

(f) When the owner or operator of a vessel believes that national planning criteria contained elsewhere in this part are inappropriate to the vessel for the areas in which it is intended to operate, the owner or operator may request acceptance of alternative planning criteria by the Coast Guard. Submission of a request must be made 90 days before the vessel intends to operate under the proposed alternative and must be forwarded to the COTP for the geographic area(s) affected.

(g) An owner or operator of a United States flag vessel may meet the response plan requirements of Regulation 26 of MARPOL 73/78 and subparts D, E, F, and G of this part by stating in writing, according to the provisions of § 155.1030(j), that the plan submitted is intended to address the requirements of both Regulation 26 of MARPOL 73/78 and the requirements of subparts D, E, F, and G of this part.

(h) Within 21 days of notification that a plan is not approved, the vessel owner or operator may appeal that determination to the Chief, Office of Marine Safety, Security and Environmental Protection. This appeal must be submitted in writing to Commandant (G–M), Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

§ 155.1070 Procedures for plan review, revision, amendment, and appeal.

(a) A vessel response plan must be reviewed annually by the owner or operator.

(1) This review must occur within 1 month of the anniversary date of Coast Guard approval of the plan.

(2) The owner or operator shall submit any plan amendments to the Coast Guard for information or approval. Revisions to a plan must include a cover page that provides a summary of the changes being made and the pages being affected. Revised pages must further include the number of the revision and date of that revision.

(3) Any required changes must be entered in the plan and noted on the record of changes page. The completion of the annual review must also be noted on the record of changes page.

(b) The owner or operator of a vessel covered by subparts D, E, F, and G of this part shall resubmit the entire plan to the Coast Guard for approval—

(1) Six months before the end of the Coast Guard approval period identified in § 155.1065(c); and

(2) Whenever there is a change in the owner or operator of the vessel, if that owner or operator provided the certifying statement required by § 155.1065(b). If this change occurs, a new statement certifying that the plan continues to meet the applicable requirements of subparts D, E, F, and G of this part must be submitted.

(c) Revisions or amendments to an approved response plan must be submitted for approval by the vessel's owner or operator whenever there is—

(1) A change in the owner or operator of the vessel, if that owner or operator is not the one who provided the certifying statement required by § 155.1065(b);

(2) A change in the vessel's operating area that includes ports or geographic area(s) not covered by the previously approved plan. A vessel may operate in an area not covered in a previously approved plan upon receipt of written acknowledgment by the Coast Guard that a new geographic-specific appendix has been submitted for approval by the vessel's owner or operator and the certification required in § 155.1025(c) has been provided;

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

(4) A change in the type of oil cargo carried aboard (oil group) that affects the required response resources, except as authorized by the COTP for purposes of assisting in an oil spill response activity;

(5) A change in the identification of the oil spill removal organization(s) or other response related resource required by §§ 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate, except an oil spill removal organization required by § 155.1050(d) which may be changed on a case by case basis for an oil spill removal organization previously classified by the Coast Guard which has been ensured available by contract or other approved means;

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

(7) A change in the qualified individual;

(8) The addition of a vessel to the plan. This change must include the vessel-specific appendix required by this subpart and the owner or operator's certification required in § 155.1025(c); or

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

(d) Thirty days in advance of operation, the owner or operator shall submit any revision or amendments identified in paragraph (c) of this section. The certification required in § 155.1065(b) must be submitted along with the revisions or amendments.

(e) The Coast Guard may require a vessel owner or operator to revise a response plan at any time if it is determined that the response plan does not meet the requirements of this subpart. The Coast Guard will notify the vessel owner or operator in writing of any deficiencies and any operating restrictions. Deficiencies must be corrected and submitted for acceptance within the time period specified in the written notice provided by the Coast Guard or the plan will be declared invalid and any further storage, transfer, handling, transporting or lightering of

oil in areas subject to the jurisdiction of the United States will be in violation of section 311(j)(5)(E) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)(5)(E)).

(f) A vessel owner or operator who disagrees with a deficiency determination may submit a petition for reconsideration to Chief, Office of Marine Safety and Environmental Protection, Commandant (G–M), 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 the vessel owner or operator of the final decision.

(1) Unless the vessel owner or operator petitions for reconsideration of the Coast Guard's decision, the vessel's owner or operator must correct the response plan deficiencies within the period specified in the Coast Guard's initial determination.

(2) If the vessel owner or operator petitions the Coast Guard for reconsideration, the effective date of the Coast Guard notice of deficiency determination may be delayed pending a decision by the Coast Guard. 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 5 days of receipt of the notice.

(g) Except as required in paragraph (c) of this section, amendments to personnel and telephone number lists included in the response plan do not require prior Coast Guard approval.

(h) The Coast Guard and all other holders of the response plan shall be advised of any revisions to personnel and telephone numbers and provided a copy of these revisions as they occur.

3. Subpart E, consisting of §§ 155.1110 through 155.1150, is revised to read as follows:

Subpart E—Additional Response Plan Requirements for Tankers Loading Cargo at a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

Sec.

155.1110 Purpose and applicability
155.1115 Definitions
155.1120 Operating restrictions and interim operating authorization.
155.1125 Additional response plan requirements.
155.1130 Requirements for pre-positioned response equipment.
155.1135 Response plan development and evaluation criteria.
155.1145 Submission and approval procedures.
155.1150 Plan revision and amendment procedures.

Subpart E—Additional Response Plan Requirements for Tankers Loading Cargo at a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

§ 155.1110 Purpose and applicability.

(a) This subpart establishes oil spill response planning requirements for an owner or operator of a tanker loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651 *et seq.*) in Prince William Sound, Alaska, in addition to the requirements of subpart D of this part. The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process, they are not performance standards.

(b) The information required in this subpart must be included in a Prince William Sound geographic-specific appendix to the vessel response plan required by subpart D of this part.

§ 155.1115 Definitions.

Except as provided in this section, the definitions in § 155.1020 apply to this subpart.

Prince William Sound means all State and Federal waters within Prince William Sound, Alaska, including the approach to Hinchinbrook Entrance out to and encompassing Seal Rock.

§ 155.1120 Operating restrictions and interim operating authorization.

The owner or operator of a tanker to which this subpart applies may not load cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act unless the requirements of this subpart and § 155.1025 have been met. The owner or operator of such a tanker shall certify to the Coast Guard that they have provided, through an oil spill removal organization required by § 155.1125, the necessary response resources to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater, in Prince William Sound, AK.

§ 155.1125 Additional response plan requirements.

(a) The owner or operator of a tanker subject to this subpart shall include the requirements of this section in the Prince William Sound geographic-specific appendix required by subpart D of this part.

(1) The response plan must include identification of an oil spill removal organization that shall—

(i) Perform response activities;

(ii) Provide oil spill removal and containment training, including training in the operation of prepositioned equipment, for personnel, including local residents and fishermen, from the following locations in Prince William Sound—

(A) Valdez;

(B) Tatitlek;

(C) Cordova;

(D) Whittier;

(E) Chenega; and

(F) Fish hatcheries located at Port San Juan, Main Bay, Esther Island, Cannery Creek, and Solomon Gulch.

(iii) Consist of sufficient numbers of trained personnel with the necessary technical skills to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater;

(iv) Provide a plan for training sufficient numbers of additional personnel to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater; and

(v) Address the responsibilities required in § 155.1035(d)(4).

(2) The response plan must include exercise procedures that must—

(i) Provide two exercises of the oil spill removal organization each year to ensure prepositioned equipment and trained personnel required under this subpart perform effectively;

(ii) Provide for both announced and unannounced exercises; and

(iii) Provide for exercises that test either the entire appendix or individual components.

(3) The response plan must identify a testing, inspection, and certification program for the prepositioned response equipment required in § 155.1130 that must provide for—

(i) Annual testing and equipment inspection in accordance with the manufacturer's recommended procedures, to include—

(A) Start-up and running under load of all electrical motors, pumps, power packs, air compressors, internal combustion engines, and oil recovery devices; and

(B) Removal of no less than one-third of required boom from storage annually, such that all boom will have been removed and examined within a period of 3 years;

(ii) Records of equipment tests and inspection; and

(iii) Use of an independent entity to certify that the equipment is on-site and in good operating condition and that required tests and inspections have been performed. The independent entity must have appropriate training and expertise to provide this certification.

(4) The response plan must identify and give the location of the prepositioned response equipment required in § 155.1130 including the

make, model, and effective daily recovery rate of each oil recovery resource.

(b) The owner or operator shall submit to the COTP for approval, no later than September 30th of each calendar year, a schedule for the training and exercises required by the geographic-specific appendix for Prince William Sound for the following calendar year.

(c) All records required by this section must be available for inspection by the Coast Guard and must be maintained for a period of 3 years.

§ 155.1130 Requirements for prepositioned response equipment.

The owner or operator of a tanker subject to this subpart shall provide the following prepositioned response equipment, located within Prince William Sound, in addition to that required by § 155.1035:

(a) On-water recovery equipment with a minimum effective daily recovery capacity of 30,000 barrels, capable of being on scene within 6 hours of notification of a discharge.

(b) On-water storage capacity of 100,000 barrels, capable of being on scene within 6 hours of notification of a discharge.

(c) Additional on-water recovery equipment with a minimum effective daily recovery capacity of 40,000 barrels capable of being on scene within 18 hours of notification of a discharge.

(d) On-water storage capacity of 300,000 barrels for recovered oily material, capable of being on scene within 24 hours of notification of a discharge.

(e) On-water oil recovery devices and storage equipment located in communities and at strategic locations.

(f) For sufficient protection of the environment in the locations identified in § 155.1125(a)(1)(ii)—

(1) Boom appropriate for the specific locations;

(2) Sufficient boats to deploy boom and sorbents;

(3) Sorbents including booms, sweeps, pads, blankets, drums and plastic bags;

(4) Personnel protective clothing and equipment;

(5) Survival equipment;

(6) First aid supplies;

(7) Buckets, shovels, and various other tools;

(8) Decontamination equipment;

(9) Shoreline cleanup equipment;

(10) Mooring equipment;

(11) Anchored buoys at appropriate locations to facilitate the positioning of defensive boom; and

(12) Other appropriate removal equipment for the protection of the environment as identified by the COTP.

(g) For each oil-laden tanker, an escorting response vessel which is fitted with skimming and on board storage capabilities practicable for the initial oil recovery planned for a cleanup operation, as identified by the oil spill removal organization.

(h) Lightering resources required in § 155.1050(l) capable of arriving on scene within 6 hours of notification of a discharge.

§ 155.1135 Response plan development and evaluation criteria.

For tankers subject to this subpart, the following response times must be used in determining the on-scene arrival time in Prince William Sound, for the response resources required by § 155.1050:

	Tier 1	Tier 2	Tier 3
Prince William Sound.	12 hrs ..	24 hrs ..	36 hrs

§ 155.1145 Submission and approval procedures.

An appendix prepared under this subpart must be submitted and approved in accordance with § 155.1065.

§ 155.1150 Plan revision and amendment procedures.

An appendix prepared and submitted under this subpart must be revised and amended, as necessary, in accordance with § 155.1070.

4. Subpart F, consisting of §§ 155.1210 through 155.1230, is added to read as follows:

Subpart F—Response plan requirements for vessels carrying animal fats and vegetable oils as a primary cargo

Sec.

155.1210 Purpose and applicability.
155.1225 Response plan submission requirements.
155.1230 Response plan development and evaluation criteria.

Subpart F—Response plan requirements for vessels carrying animal fats and vegetable oils as a primary cargo

§ 155.1210 Purpose and applicability.

This subpart establishes oil spill response planning requirements for an owner or operator of a vessel carrying animal fats and vegetable oils as a primary cargo. The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process. They are not performance standards.

§ 155.1225 Response plan submission requirements.

An owner or operator of a vessel carrying animal fats and vegetable oils as a primary cargo shall submit a response plan in accordance with the requirements of this subpart, and with all sections of subpart D of this part, except §§ 155.1050 and 155.1052.

§ 155.1230 Response plan development and evaluation criteria.

(a) Owners and operators of vessels that carry animal fats or vegetable oils as a primary cargo must provide information in their plan that identifies—

(1) Procedures and strategies for responding to a worst case discharge of animal fats or vegetable oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to contain, recover, and mitigate such a discharge.

(b) An owner or operator of a vessel carrying animal fats or vegetable oils as a primary cargo must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the vessel operates using the criteria in Table 1 of Appendix B of this part. When evaluating the operability of equipment, the vessel owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a vessel carrying animal fats or vegetable oils as a primary cargo must identify in the response plan and ensure, through contract or other approved means, the availability of required equipment including—

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

(2) Oil recovery devices appropriate for the type of animal fats or vegetable oils carried; and

(3) Other appropriate equipment necessary to respond to a discharge involving the type of animal fats or vegetable oils carried.

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of arriving on-scene within the applicable Tier 1 response times specified in this paragraph. An oil spill removal organization may not be listed in the plan unless the organization has provided written consent to be listed in the plan as an available resource.

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

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

(e) The owner or operator of a vessel carrying animal fats or vegetable oils as a primary cargo must identify in the response plan and ensure the availability of the following resources through contract or other approved means:

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

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

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

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

(1) Resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

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

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

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

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

(iii) Open ocean waters—36 hours.

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

(h) The response plan for a vessel that is located in any environment with year-round preapproval for use of dispersants suitable for animal fats and vegetable oils and that handles, stores, or transports animal fats or vegetable oils may request a credit for up to 25 percent of the worst case planning volume set forth by subpart D of this part. To receive this credit, the vessel owner or operator must identify in the plan and ensure, by contract or other approved means, the availability of specified resources to apply the dispersants and to monitor their effectiveness. To extent of the credit will be based on the volumes of the dispersant available to sustain operations at the manufacturers' recommended dosage rates. Other spill mitigation techniques, including mechanical dispersal, may be identified in the response plan, provided they are in accordance with the NCP and the applicable ACP. Resources identified for plan credit should be capable of being on scene within 12 hours of a discovery of a discharge. Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during the spill response will be governed by the provisions of the NCP and the applicable ACP.

5. Subpart G, consisting of §§ 155.2210 through 155.2230, is added to read as follows:

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

Sec.
155.2210 Purpose and applicability.
155.2225 Response plan submission requirements.
155.2230 Response plan development and evaluation criteria.

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

§ 155.2210 Purpose and applicability.

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

§ 155.2225 Response plan submission requirements.

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

§ 155.2230 Response plan development and evaluation criteria.

(a) Owners and operators of vessels that carry other non-petroleum oil as a primary cargo must provide information in their plan that identifies—

(1) Procedures and strategies for responding to a worst case discharge of other non-petroleum oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to contain, recover, and mitigate such a discharge.

(b) An owner or operator of a vessel carrying other non-petroleum oil as a primary cargo must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the vessel operates using the criteria in Table 1 of Appendix B of this part. When evaluating the operability of equipment, the vessel owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a vessel carrying other non-petroleum oil as a primary cargo must identify in the response plan and ensure, through contract or other approved means, the availability of required equipment including—

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

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

(3) Other appropriate equipment necessary to respond to a discharge involving the type of other non-petroleum oil carried.

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of arriving on-scene within the applicable Tier 1 response times specified in this paragraph. An oil spill removal organization may not be listed in the plan unless the organization has provided written consent to be listed in the plan as an available resource. Response times from the time of discovery of a discharge are as follow:

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

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

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

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

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

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

(1) Resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

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

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

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

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

(iii) Open ocean waters—36 hours.

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

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

6. Appendix B is revised to read as follows:

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

1. Purpose

1.1 The purpose of this appendix is to describe the procedures for identifying response resources to meet the requirements of subparts D, E, F, and G of this part. These guidelines will be used by the vessel owner or operator in preparing the response plan and by the Coast Guard to review vessel response plans. Response plans submitted under subparts F and G of this part will be evaluated under the guidelines in section 2 and Table 1 of this appendix.

2. Equipment Operability and Readiness

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

2.2 Vessels storing, handling, or transporting oil in more than one operating environment as indicated in Table 1 must identify equipment capable of successfully functioning in each operating environment. For example, vessels moving from the ocean to a river port must identify appropriate equipment designed to meet the criteria for transiting oceans, inland waterways, rivers, and canals. This equipment may be designed to operate in all of these environments or, more likely, different equipment may be designed for use in each area.

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

2.4 Table 1 of this appendix lists criteria for oil recovery devices and boom. All other equipment necessary to sustain or support response operations in a geographic area must be designed to function in the same conditions. For example, boats which deploy or support skimmers or boom must be capable of being safely operated in the significant wave heights listed for the applicable operating environment. The Coast Guard may require documentation that the boom identified in a response plan meets the criteria in Table 1 of this appendix. Absent acceptable documentation, the Coast Guard may require that the boom be tested to demonstrate that it meets the criteria in Table 1 of this appendix. Testing must be in accordance with certain American Society for Testing Materials (ASTM) standards [ASTM F 715–81 (Reapproved 1986), Standard Methods of Testing Spill Control Barrier Membrane Materials, and ASTM F 989–86, Standard Test Methods for Spill Control Barrier Tension Members], or other tests approved by the Coast Guard.

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

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

mobilization and response times. The location that the vessel operates farthest from the storage location of the response resources must be used to determine whether the resources are capable of arriving on scene within the time required. A vessel owner or operator shall include the time for notification, mobilization, and travel time of resources identified to meet the maximum most probable discharge and Tier 1 worst case discharge requirements. For subparts D and E of this part, tier 2 and 3 resources must be notified and mobilized as necessary to meet the requirements for arrival on scene. An on-water speed of 5 knots and a land speed of 35 miles per hour is assumed, unless the vessel owner or operator can demonstrate otherwise.

2.7 For subparts D and E of this part, in identifying equipment, the vessel owner or operator shall list the storage location, quantity, and manufacturer's make and model, unless the oil spill removal organization(s) providing the necessary response resources have been evaluated by the Coast Guard, and their capability has been determined to equal or exceed the response capability needed by the vessel. For oil recovery devices, the effective daily recovery capacity, as determined using section 6 of this appendix, must be included. For boom, the overall boom height (draft plus freeboard) must be included. A vessel owner or operator is responsible for ensuring that identified boom has compatible connectors.

2.8 For subparts F and G of this part, in identifying equipment, the vessel owner or operator shall list the storage location, quantity, and manufacturer's make and model, unless the oil spill removal organization(s) providing the necessary response resources have been evaluated by the Coast Guard, and their capability has been determined to equal or exceed the response capability needed by the vessel. For boom, the overall boom height (draft plus freeboard) must be included. A vessel owner of operator is responsible for ensuring that identified boom has compatible connectors.

3. Determining Response Resources Required for the Average Most Probable Discharge

3.1 A vessel owner or operator shall identify and ensure, by contract or other approved means, that sufficient response resources are available to respond to the 50-barrel average most probable discharge at the point of an oil transfer involving a vessel that carries oil as a primary cargo. The equipment must be designed to function in the operating environment at the point of oil transfer. These resources must include—

3.1.1 Containment boom in a quantity equal to twice the length of the largest vessel involved in the transfer capable of being deployed within 1 hour of the detection of a spill at the site of oil transfer operations. If the transfer operation is more than 12 miles from shore, the containment boom must be deployed within 1 hour plus the travel time from the nearest shoreline at a speed of 5 knots.

3.1.2 Oil recovery devices with an effective daily recovery capacity of 50 barrels or greater available at the transfer site within 2 hours of the detection of an oil discharge.

3.1.3 Oil storage capacity for recovered oily material indicated in section 9.2 of this appendix.

4. Determining Response Resources Required for the Maximum Most Probable Discharge

4.1 A vessel owner or operator shall identify and ensure, by contract or other approved means, that sufficient response resources are available to respond to discharges up to the maximum most probable discharge volume for that vessel. The resources should be capable of containing and collecting up to 2,500 barrels of oil. All equipment identified must be designed to operate in the applicable operating environment specified in table 1 of this appendix.

4.2 To determine the maximum most probable discharge volume to be used for planning, use the lesser of—

4.2.1 2500 barrels; or

4.2.2 10 percent of the total oil cargo capacity.

4.3 Oil recovery devices necessary to meet the applicable maximum most probable discharge volume planning criteria must be located such that they arrive on scene within 12 hours of the discovery of a discharge in higher volume port areas and the Great Lakes, 24 hours in all other rivers and canals, inland, nearshore, and offshore areas, and 24 hours plus travel time from shore in all open ocean areas.

4.3.1 Because rapid control, containment, and removal of oil is critical to reduce spill impact, the effective daily recovery capacity for oil recovery devices must equal 50% of the planning volume applicable for the vessel as determined in section 4.2 of this appendix. The effective daily recovery capacity for oil recovery devices identified in the plan must be determined using the criteria in section 6 of this appendix.

4.4 In addition to oil recovery capacity, the vessel owner or operator must identify in the response plan and ensure the availability of, through contract or other approved means, sufficient boom available within the required response times for oil connection and containment, and for protection of shoreline areas. While the regulation does not set required quantities of boom for oil collection and containment, the owner or operator of a vessel must still identify in a response plan and ensure, through contract or other approved means, the availability of the boom identified in the plan for this purpose.

4.5 The plan must indicate the availability of temporary storage capacity to meet the requirements of section 9.2 of this appendix. If available storage capacity is insufficient to meet this requirement, the effective daily recovery capacity must be downgraded to the limits of the available storage capacity.

4.6 The following is an example of a maximum most probable discharge volume planning calculation for equipment identification in a higher volume port area:

The vessel's cargo capacity is 10,000 barrels, thus the planning volume is 10 percent or 1,000 barrels. The effective daily recovery capacity must be 50 percent of the planning volume, for 500 barrels per day. The ability of oil recovery devices to meet this capacity will be calculated using the procedures in section 6 of this appendix. Temporary storage capacity available on scene must equal twice the daily recovery capacity as indicated in section 9 of this appendix, or 1000 barrels per day. This figure would represent the information the vessel owner or operator would use to identify and ensure the availability of, through contract or other approved means, the required response resources. The vessel owner would also need to identify how much boom was available for use.

5. Determining Response Resources Required for the Worst Case Discharge to the Maximum Extent Practicable

5.1 A vessel owner or operator shall identify and ensure, by contract or other approved means, that sufficient response resources are available to respond to the worst case discharge of oil cargo to the maximum extent practicable. Section 7 of this appendix describes the method to determine the required response resources.

5.2 Oil spill recovery devices identified to meet the applicable worst case discharge planning volume must be located such that they can arrive at the scene of a discharge within the time specified for the applicable response tier listed in § 155.1050(g).

5.3 The effective daily recovery capacity for oil recovery devices identified in a response plan must be determined using the criteria in section 6 of this appendix. A vessel owner or operator shall identify the storage locations of all equipment that must be used to fulfill the requirements for each tier.

5.4 A vessel owner or operator shall identify the availability of temporary storage capacity to meet the requirements of section 9.2 of this appendix. If available storage capacity is insufficient to meet this requirement, then the effective daily recovery capacity must be downgraded to the limits of the available storage capacity.

5.5 When selecting response resources necessary to meet the response plan requirements, the vessel owner or operator must ensure that a portion of those resources are capable of being used in close-to-shore response activities in shallow water. The following percentages of the on-water response equipment identified for the applicable geographic area must be capable of operating in waters of 6 feet or less depth:

(i) Open ocean—none.

(ii) Offshore—10 percent.

(iii) Nearshore, inland, Great Lakes, and rivers and canals—20 percent.

5.6 In addition to oil spill recovery devices and temporary storage capacity, a vessel owner or operator shall identify in the response plan and ensure the availability of, through contract or other approved means, sufficient boom that can arrive on scene within the required response times for oil containment and collection. The specific quantity of boom required for collection and containment will depend on the specific recovery equipment and strategies employed. Table 2 of this appendix lists the minimum quantities of additional boom required for shoreline protection that a vessel owner or operator shall identify in the response plan and ensure the availability of, through contract or other approved means.

5.7 A vessel owner or operator shall also identify in the response plan and ensure, by contract or other approved means, the availability of an oil spill removal organization capable of responding to a shoreline cleanup operation involving the calculated volume of emulsified oil that might impact the affected shoreline. The volume of oil for which a vessel owner or operator should plan should be calculated through the application of factors contained in Tables 3 and 4 of this appendix. The volume calculated from these tables is intended to assist the vessel owner or operator in identifying a contractor with sufficient resources. This planning volume is not used explicitly to determine a required amount of equipment and personnel.

6. Determining Effective Daily Recovery Capacity for Oil Recovery Devices

6.1 Oil recovery devices identified by a vessel owner or operator must be identified by manufacturer, model, and effective daily recovery capacity. These capacities must be to meet the applicable planning criteria for the average most probable discharge; maximum most probable discharge; and worst case discharge to the maximum extent practicable.

6.2 For the purposes of determining the effective daily recovery capacity of oil recovery devices, the following method will be used. This method considers potential limitations due to available daylight, weather, sea state, and percentage of emulsified oil in the recovered material. The Coast Guard may assign a lower efficiency factor to equipment listed in a response plan if it determines that such a reduction is warranted.

6.2.1 The following formula must be used to calculate the effective daily recovery capacity:

$R=T\times24\times E$

R—Effective daily recovery capacity
T—Throughput rate in barrels per hour (nameplate capacity)
E—20% efficiency factor (or lower factor as determined by the Coast Guard)

6.2.2 For those devices in which the pump limits the throughput of liquid, throughput rate will be calculated using the pump capacity.

6.2.3 For belt or mop type devices, the throughput rate will be calculated using data provided by the manufacturer on the nameplate rated capacity for the device.

6.2.4 Vessel owners or operators including in the response plan oil recovery devices whose throughput is not measurable using a pump capacity or belt or mop capacity may provide information to support an alternative method of calculation. This information must be submitted following the procedures in section 6.5 of this appendix.

6.3 As an alternative to section 6.2 of this appendix, a vessel owner or operator may submit adequate evidence that a different effective daily recovery capacity should be applied for a specific oil recovery device. Adequate evidence is actual verified performance data in spill conditions or test using certain ASTM standards [ASTM F 631–80, Reapproved 1985) Standard Method for Testing Full Scale Advancing Spill Removal Devices, and ASTM F 808–83 (1988), Standard Guide for Collecting Skimmer Performance Data in Uncontrolled Environments], or an equivalent test approved by the Coast Guard.

6.3.1 The following formula must be used to calculate the effective daily recovery capacity under this alternative:

$R=D\times U$

R—Effective daily recovery capacity
D—Average Oil Recovery Rate in barrels per hour (Item 26 in ASTM F 808; Item 13.1.15 in ASTM F 631; or actual performance data)
U—Hours per day that a vessel owner or operator can document capability to operate equipment under spill conditions. Ten hours per day must be used unless a vessel owner or operator can demonstrate that the recovery operation can be sustained for longer periods.

6.4 A vessel owner or operator submitting a response plan shall provide data that supports the effective daily recovery capacities for the oil recovery devices listed. The following is an example of these calculations:

A weir skimmer identified in a response plan has a manufacturer's rated throughput at the pump of 267 gallons per minute (gpm).

267 gpm=381 barrels per hour
$R=381\times24\times.2=1{,}829$ barrels per day

After testing using ASTM procedures, the skimmer's oil recovery rate is determined to be 220 gpm. The vessel owner or operator identifies sufficient resources available to support operations 12 hours per day.

220 gpm=314 barrels per hour
$R=314\times12=3{,}768$ barrels per day

A vessel owner or operator will be able to use the higher capacity if sufficient temporary oil storage capacity is available.

6.5 Determinations of alternative efficiency factors under section 6.2 or alternative effective daily recovery capacities under section 6.3 of this appendix will be made by Commandant (G–MRO), Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. Oil spill removal organizations or equipment manufacturers may submit required information on behalf of multiple vessel owners or operators.

7. Calculating the Worst Case Discharge Planning Volumes

7.1 A vessel owner or operator shall plan for a response to a vessel's worst case discharge volume of oil cargo. The planning for on-water recovery must take into account a loss of some oil to the environment due to evaporations and natural dissipation, potential increases in volume due to emulsification, and the potential for deposit of some oil on the shoreline.

7.2 The following procedures must be used to calculate the planning volume used by a vessel owner or operator for determining required on-water recovery capacity:

7.2.1 The following must be determined: the total volume of oil cargo carried; the appropriate cargo group for the type of petroleum oil carried [persistent (groups II, III, and IV) or non-persistent (group I)]; and the geographic area(s) in which the vessel operates. For vessels carrying mixed cargoes from different petroleum oil groups, each group must be calculated separately. This information is to be used with Table 3 of this appendix to determine the percentages of the total cargo volume to be used for removal capacity planning. This table divides the cargo volume into three categories: oil lost to the environment; oil deposited on the shoreline; and oil available for on-water recovery.

7.2.2 The on-water oil recovery volume must be adjusted using the appropriate emulsification factor found in Table 4 of this appendix.

7.2.3 The adjusted volume is multiplied by the on-water oil recovery resource mobilization factor found in Table 5 of this appendix from the appropriate operating area and response tier to determine the total on-water oil recovery capacity in barrels per day that must be identified or contracted for to arrive on scene within the applicable time for each response tier. Three tiers are specified. For higher volume port areas, the contracted tiers of resources must be located such that they can arrive on scene within 12, 36, and 60 hours of the discovery of an oil discharge. For the Great Lakes, these tiers are 18, 42, and 66 hours. For rivers and canals, inland, nearshore, and offshore, these tiers are 24, 48, and 72 hours. For the open ocean area, these tiers are 24, 48, and 72 hours with an additional travel time allowance of 1 hour for every additional 5 nautical miles from shore.

7.2.4 The resulting on-water recovery capacity in barrels per day for each tier is used to identify response resources necessary to sustain operations in the applicable geographic area. The equipment must be capable of sustaining operations for the time period specified in Table 3 of this appendix. A vessel owner or operator shall identify and ensure the availability of, through contract or other approved means, sufficient oil spill recovery devices to provide the effective daily oil recovery capacity required. If the required capacity exceeds the applicable cap described in Table 6 of this appendix, then a vessel owner or operator must contract only for the quantity of resources required to meet the cap, but shall identify sources of additional resources as indicated in § 155.1050(o). The owner or operator of a vessel whose planning volume exceeded the cap in 1993 should plan for additional capacity to be under contract by 1998 or 2003, as appropriate. For a vessel that carries multiple groups of oil, the required effective daily recovery capacity for each group is calculated and summed before applying the cap.

7.3 The following procedures must be used to calculate the planning volume for identifying shoreline cleanup capacity:

7.3.1 The following must be determined: the total volume of oil cargo carried; the appropriate cargo group for the type of petroleum oil carried [persistent (groups II, III, and IV) or non-persistent (group I)]; and the geographic area(s) in which the vessel operates. For a vessel carrying cargoes from different oil groups, each group must be calculated separately. Using this information, Table 3 of this appendix must be used to determine the percentages of the total cargo volume to be used for shoreline cleanup resource planning.

7.3.2 The shoreline cleanup planning volume must be adjusted to reflect an emulsification factor using the same procedure as described in section 7.2.2 of this appendix.

7.3.3 The resulting volume will be used to identify an oil spill removal organization with the appropriate shoreline cleanup capability.

7.4 The following is an example of the procedure described above:

A vessel with a 100,000 barrel capacity for #6 oil (specific gravity .96) will move from a higher volume port area to another area. The vessel's route will be 70 miles from shore.

Cargo carried: 100,000 bbls. Group IV oil
Emulsification factor (from Table 4 of this appendix): 1.4 Areas transited: Inland, Nearshore, Offshore, Open ocean
Planned % on-water recovery (from Table 3 of this appendix):
Inland 50%
Nearshore 50%
Offshore 40%
Open ocean 20%
Planned % oil onshore recovery (from Table 3 of this appendix):
Inland 70%
Nearshore 70%
Offshore 30%
Open ocean 30%
General formula to determine planning volume:
(planning volume)=(capacity)×(% from Table 3 of this appendix)×(emulsification factor from Table 4 of this appendix)
Planning volumes for on-water recovery:
Inland 100,000×.5×1.4=70,000 bbls
Nearshore 100,000×.5×1.4=70,000 bbls
Offshore 100,000×.4×1.4=56,000 bbls
Open ocean 100,000×.2×1.4=28,000 bbls
Planning volumes for on shore recovery:
Inland 100,000×.7×1.4=98,000 bbls
Nearshore 100,000×.7×1.4=98,000 bbls
Offshore 100,000×.3×1.4=42,000 bbls
The vessel owner or operator must contract with a response resource capable of managing a 98,000-barrel shoreline cleanup in those areas where the vessel comes closer than 50 miles to shore.

Determining required resources for on-water recovery for each tier using mobilization factors: (barrel per day on-water recovery requirements)=(on-water planning volume as calculated above)×(mobilization factor from Table 5 of this appendix).

		Tier 1	Tier 2	Tier 3
Inland/Nearshore 70,000	×	.15	.25	.40
Offshore 56,000	×	.10	.165	.21
Open ocean 28,000	×	.06	.10	.12
equals (barrels per day)				
Inland/Nearshore		10,500	17,500	28,000
Offshore		5,600	9,240	11,760
Open ocean		1,680	2,800	3,360

Since the requirements for Tier 1 for inland and nearshore exceed the caps, the vessel owner would only need to contract for 10,000 barrels per day for Tier 1. No additional equipment would be required to be identified because the required Tier 3 resources are below the Tier 3 caps.

10% of the on-water recovery capability for offshore, and 20% of the capability for inland/nearshore, for all tiers, must be capable of operating in water with a depth of 6 feet or less.

The vessel owner or operator would also be required to identify or contract for quantities of boom identified in Table 2 of this appendix for the areas in which the vessel operates.

8. Determining the Availability of High-Rate Response Methods

8.1 Response plans for a vessel carrying group II or III persistent oil as a primary cargo that operates in an area with year-round pre-approval for dispersant use may receive credit for up to 25 percent of their required on-water recovery capacity in that area for 1993 if the availability of these resources are ensured by contract or other approved means. For response plan credit, these resources must be capable of being on scene within 12 hours of the discovery of a discharge.

8.2 To receive credit against any required on-water recovery capacity, a response plan must identify the locations of dispersant stockpiles, methods of transporting to a shoreside staging area, and appropriate aircraft or vessels to apply the dispersant and monitor its effectiveness at the scene of an oil discharge.

8.2.1 Sufficient volumes of dispersants must be available to treat the oil at the dosage rate recommended by the dispersant manufacturer. Dispersants identified in a response plan must be on the National Contingency Plan Product Schedule maintained by the U.S. Environmental Protection Agency. (Some States have a list of approved dispersants and within State waters only they can be used.)

8.2.2 Dispersant application equipment identified in a response plan for credit must be located such that it can be mobilized to shoreside staging areas to meet the time requirements in section 8.1 of this appendix. Sufficient equipment capacity and sources of appropriate dispersants must be identified to sustain dispersant operations for at least 3 days.

8.2.3 Credit against on-water recovery capacity in pre-approved areas will be based on the ability to treat oil at a rate equivalent to this credit. For example, a 2,500 barrels per day credit against the 10,000 barrels per day on-water Tier 1 cap would require the vessel owner or operator to demonstrate the ability to treat 2,500 barrels per day of oil at the manufacturer's recommended dosage rate. Assuming a dosage rate of 10:1, the plan would need to show stockpiles and sources of 750 barrels of dispersants that would be available on scene at a rate of 250 barrels per day and the ability to apply the dispersant at the daily rate for 3 days in the area in which the vessel operates. Similar data would need to be provided for any additional credit against Tier 2 and 3 resources.

8.3 In addition to the equipment and supplies required, a vessel owner or operator shall identify a source of support to conduct the monitoring and post-use effectiveness evaluation required by applicable Local and Area Contingency Plans.

8.4 Identification of the resources for dispersant application does not imply that the use of this technique will be authorized. Actual authorization for use during a spill response will be governed by the provisions of the National Oil and Hazardous Substances Contingency Plan (40 CFR part 300) and the applicable Local or Area Contingency Plan.

8.5 In addition to the credit identified above, a vessel owners or operators that operates in areas pre-approved for dispersant use may reduce their required on-water recovery cap increases for 1998 and 2003 by up to 50% by identifying non-mechanical methods.

8.6 The use of in-situ burning as a non-mechanical response method is still being studied. Because limitations and uncertainties remain for the use of this method, it may not be used to reduce required oil recovery capacity in 1993. Use of this or other alternative high-rate methods for a portion of the required cap increase in 1998 will be determined during the cap increase review in 1996.

9. Additional Equipment Necessary to Sustain Response Operations

9.1 A vessel owner or operator is responsible for ensuring that sufficient numbers of trained personnel, boats, aerial spotting aircraft, sorbent materials, boom anchoring materials, and other resources are a available to sustain response operations to completion. All such equipment must be suitable for use with the primary equipment identified in the response plan. A vessel owner or operator is not required to list these resources in the response plan, but shall certify their availability.

9.2 A vessel owner or operator shall evaluate the availability of adequate temporary storage capacity to sustain the effective daily recovery capacities from equipment identified in the plan. Because of the inefficiencies of oil spill recovery devices, response plans must identify daily storage capacity equivalent to twice the effective daily recovery capacity required on scene. This temporary storage capacity may be reduced if a vessel owner or operator can demonstrate by waste stream analysis that the efficiencies of the oil recovery devices, ability to decant water, or the availability of alternative temporary storage or disposal locations in the area(s) the vessel will operate will reduce the overall volume of oily material storage requirements.

9.3 A vessel owner or operator shall ensure that their planning includes the capability to arrange for disposal of recovered oil products. Specific disposal procedures will be addressed in the applicable Area Contingency Plan.

TABLE 1.—RESPONSE RESOURCE OPERATING CRITERIA

[Oil Recovery Devices]

Operating Environment	Significant Wave Height [1] (feet)	Sea State
Rivers & Canals	≤1	1
Inland	≤3	2
Great Lakes	≤4	2–3
Ocean	≤6	3–4

[Boom]

Boom Property	Use			
	Rivers & Canals	Inland	Great Lakes	Ocean
Significant Wave [1, 2] Height (feet)	≤1	≤3	≤4	≤6
Sea State	1	2	2–3	3–4
Boom height—in. (draft plus freeboard)	6–18	18–42	18–42	≥42
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

[1] Oil 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 environment.

[2] Equipment identified as capable of operating in waters of 6 feet or less depth are exempt from the significant wave height planning requirement.

TABLE 2.—SHORELINE PROTECTION REQUIREMENTS

Location	Boom	Availability hours	
	Ensured by contract or other approved means (ft.)	Higher volume port area	Other areas
Persistent Oils			
Open Ocean	.....	.....	.....
Offshore	15,000	24	48
Nearshore/Inland/Great Lakes	30,000	12	24
Rivers & Canals	25,000	12	24
Non-Persistent Oils			
Open Ocean	.....	.....	.....
Offshore	.....	.....	.....
Nearshore/Inland/Great Lakes	10,000	12	24
Rivers & Canals	15,000	12	24

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Spill Location	Nearshore/Inland/ Great Lakes			River		
Sustainability of on-water oil recovery	4 days			3 days		
Oil Group	% Natural Dissipation	% Recovered Floating oil	% Oil on shore	% Natural Dissipation	% Recovered Floating oil	% Oil on shore
I Non-persistent oils	80	20	10	80	10	10
II Light crudes and fuels	50	50	30	40	15	45
III Medium crudes and fuels	30	50	50	20	15	65
IV Heavy crudes /residual fuels	10	50	70	5	20	75

Note: Percentage may not sum to 100; reflects enhanced on-water recovery capacity

Table 3 Removal Capacity Planning Table

Spill Location	Open ocean			Offshore		
Sustainability of on-water oil recovery	10 days			6 days		
Oil Group	% Natural Dissipation	% Recovered Floating oil	% Oil on shore	% Natural Dissipation	% Recovered Floating oil	% Oil on shore
I Non-persistent oils	100	/	/	95	[5]*	/
II Light crudes	90	10	/	75	25	5
III Medium crudes and fuels	75	20	[5]*	60	40	20
IV Heavy crudes /residual fuels	50	20	[30]*	50	40	30

* Included in table for continuity; no planning required.

Table 3 Removal Capacity Planning Table

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TABLE 4.—EMULSIFICATION FACTORS FOR PETROLEUM OIL CARGO GROUPS

Non-persistent oil 72 G:	
Group I	1.0
Persistent oil:	
Group II	1.8
Group III	2.0
Group IV	1.4

TABLE 5.—ON-WATER OIL RECOVERY RESOURCE MOBILIZATION FACTORS

Area	Tier 1	Tier 2	Tier 3
Rivers and Canals	.30	.40	.60
Inland/Nearshore/Great Lakes	.15	.25	.40
Offshore	.10	.165	.21
Ocean	.06	.10	.12

Note: These mobilization factors are for total resources mobilized, not incremental resources.

TABLE 6.—RESPONSE CAPABILITY CAPS BY GEOGRAPHIC AREA

	Tier 1	Tier 2	Tier 3
As of February 18, 1993:			
All except rivers & canals & Great Lakes	10K bbls/day	20K bbls/day	40K bbls/day.
Great Lakes	5K bbls/day	10K bbls/day	20K bbls/day.
Rivers & canals	1,500 bbls/day	3,000 bbls/day	6,000 bbls/day.
February 18, 1998:			
All except rivers & canals & Great Lakes	12.5K bbls/day	25K bbls/day	50K bbls/day.
Great Lakes	6.35K bbls/day	12.3K bbls/day	25K bbls/day.
Rivers & canals	1,875 bbls/day	3,750 bbls/day	7,500 bbls/day.
February 18, 2003			
All except rivers & canals & Great Lakes	TBD	TBD	TBD
Great Lakes	TBD	TBD	TBD
Rivers & canals	TBD	TBD	TBD

Note: The caps show cumulative overall effective daily recovery capacity, not incremental increases.
K = Thousand
bbls = Barrels
TBD = To be determined

7. Appendix C is added to read as follows:

Appendix C to Part 155—Training Elements for Oil Spill Response Plans

1. General

1.1 The portion of the plan dealing with training is one of the key elements of a response plan. This concept is clearly expressed by the fact that Congress, in writing the Oil Pollution Act of 1990, specifically included training as one of the sections required in a vessel or facility response plan. In reviewing submitted response plans, it has been noted that the plans often do not provide sufficient information in the training section of the plan for either the user or the reviewer of the plan. In some cases, plans simply state that the crew and others will be training in their duties and responsibilities, with no other information being provided. In other plans, information is simply given that required parties will receive the necessary worker safety training (HAZWOPER).

1.2 The training section of the plan need not be a detailed course syllabus, but it must contain sufficient information to allow the user and reviewer (or evaluator) to have an understanding of those areas that are believed to be critical. Plans should identify key skill areas and the training that is required to ensure that the individual identified will be capable of performing the duties prescribed to them. It should also describe how the training will be delivered to the various personnel. Further, this section of the plan must work in harmony with those sections of the plan dealing with exercises, the spill management team, and the qualified individual.

1.3 The material in this appendix C is not all-inclusive and is provided for guidance only.

2. Elements to be Addressed

2.1 To assist in the preparation of the training section of a vessel response plan, some of the key elements that should be addressed are indicated in the following sections. Again, while it is not necessary that the comprehensive training program for the company be included in the response plan, it is necessary for the plan to convey the elements that define the program as appropriate.

2.2 An effective spill response training program should consider and address the following:

2.2.1 Notification requirements and procedures.

2.2.2 Communication system(s) used for the notifications.

2.2.3 Procedures to mitigate or prevent any discharge or a substantial threat of a discharge of oil resulting from—

2.2.3.1 Operational activities associated with internal or external cargo transfers;

2.2.3.2 Grounding or stranding;

2.2.3.3 Collision;

2.2.3.4 Explosion or fire;

2.2.3.5 Hull failure;

2.2.3.6 Excessive list; or

2.2.3.7 Equipment failure.

2.2.4 Procedures and arrangements for emergency towing.

2.2.5 When performing shipboard mitigation measures—

2.2.5.1 Ship salvage procedures;

2.2.5.2 Damage stability; and

2.2.5.3 Hull stress considerations.

2.2.6 Procedures for transferring responsibility for direction of response activities from vessel and facility personnel to the spill management team.

2.2.7 Familiarity with the operational capabilities of the contracted oil spill removal organizations and the procedures to notify and activate such organizations.

2.2.8 Familiarity with the contracting and ordering procedures to acquire oil spill removal organization resources.

2.2.9 Familiarity with the Area Contingency Plans.

2.2.10 Familiarity with the organizational structures that will be used to manage the response actions.

2.2.11 Responsibilities and duties of the spill management team members in

accordance with designated job responsibilities.

2.2.12 Responsibilities and authority of the qualified individual as described in the vessel response plan and company response organization.

2.2.13 Responsibilities of designated individuals to initiate a response and supervise shore-based response resources.

2.2.14 Actions to take, in accordance with designated job responsibilities, in the event of a transfer system leak, tank overflow, or suspected cargo tank or hull leak.

2.2.15 Information on the cargoes handled by the vessel or facility, including familiarity with—

2.2.15.1 Cargo material safety data sheets;

2.2.15.2 Chemical characteristics of the cargo;

2.2.15.3 Special handling procedures for the cargo;

2.2.15.4 Health and safety hazards associated with the cargo; and

2.2.15.5 Spill and firefighting procedures for the cargo.

2.2.16 Occupational Safety and Health Administration requirements for worker health and safety (29 CFR 1910.120).

3. Further Considerations

In drafting the training section of the response plan, some further considerations are noted below (these points are raised simply as a reminder):

3.1 The training program should focus on training provided to vessel personnel.

3.2 An organization is comprised of individuals, and a training program should be structured to recognize this fact by ensuring that training is tailored to the needs of the individuals involved in the program.

3.3 An owner or operator may identify equivalent work experience which fulfills specific training requirements.

3.4 The training program should include participation in periodic announced and unannounced exercises. This participation should approximate the actual roles and responsibilities of individuals as specified in the response plan.

3.5 Training should be conducted periodically to reinforce the required knowledge and to ensure an adequate degree of preparedness by individuals with responsibilities under the vessel response plan.

3.6 Training may be delivered via a number of different means; including classroom sessions, group discussions, video tapes, self study workbooks, resident training courses, on-the-job training, or other means as deemed appropriate to ensure proper instruction.

3.7 New employees should complete the training program prior to being assigned job responsibilities which require participation in emergency response situations.

4. Conclusion

The information in this appendix is only intended to assist response plan preparers in reviewing the content of and in modifying the training section of their response plans. It may be more comprehensive than is needed for some vessels and not comprehensive enough for others. The Coast Guard expects that plan preparers have determined the training needs of their organizations created by the development of the response plans and the actions identified as necessary to increase the preparedness of the company and its personnel to respond to actual or threatened discharges of oil from their vessels.

Dated: December 28, 1995.

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[FR Doc. 96–118 Filed 1–11–96; 8:45 am]

BILLING CODE 4910–14–M