out responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

C. Delegation Order No. 27 is hereby repealed.

Dated: February 19, 1987.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 87-5295 Filed 3-11-87; 8:45 am]

BILLING CODE 4810-33-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 48
Thursday, March 12, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 6647, March 4, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, March 9, 1987.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Matters relating to the Plans administered under the Federal Reserve System's employee benefits program. (This item was originally announced for a closed meeting on February 18, 1987.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–5393 Filed 3–10–87; 11:23 am]

BILLING CODE 6210–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 6285 March 2, 1987].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, February 25, 1987.

CHANGE IN THE MEETING: Rescheduling.

The following item was not considered at a closed meeting on Tuesday, March 3, 1987, at 2:30 p.m. and has been rescheduled for Tuesday, March 10, 1987, at 2:30 p.m.

Litigation matter.

Commission Cox, as duty officer, determined that Commission business required the above change.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272–2149.

Jonathan G. Katz,

Secretary.

March 4, 1987.

[FR Doc. 87–5421 Filed 3–10–87; 12:56 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 6906 March 5, 1987].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC

DATE PREVIOUSLY ANNOUNCED: Friday, February 27, 1987.

CHANGE IN THE MEETING: Deletion.

The following item will not be considered at an open meeting for Thursday, March 12, 1987, at 10:00 a.m.:

Consideration of whether to issue a notice of and order for hearing on an application under the Investment Company Act of 1940 (File No. 812–6393) filed by American Pathway Fund and Capital Research and Management Company. The requested order would permit shares of certain open-end management companies to be sold to separate accounts of affiliated and unaffiliated life insurance companies in connection with the funding of variable annuity and variable life insurance contracts. The Commission issued a notice of the filing of the above-referenced application (Investment Company Act Release No. 15233) on July 31, 1986, and received a timely request for a hearing on the application from Anchor National Life Insurance Company and its variable annuity separate account. For further information, please contact Joseph R. Fleming at (202) 272–3017.

Commissioner Cox, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272–2149.

Jonathan G. Katz,

Secretary.

March 6, 1987.

[FR Doc. 87–5422 Filed 3–10–87; 12:56 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 52, No. 48
Thursday, March 12, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

Transfer of Administration Jurisdiction; Patoka Lake, IN

Correction

In notice document 87–4482 beginning on page 6592 in the issue of Wednesday, March 4, 1987, make the following correction:

On page 6593, in the first column, in **FOR FURTHER INFORMATION CONTACT**, in the fourth line, the telephone number should read "(202) 235-2493".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 449

[Docket No. 86N-0497]

Antibiotic Drugs; Nystatin Pastilles

Correction

In rule document 87–3078 beginning on page 4616 in the issue of Friday, February 13, 1987, make the following correction:

§ 449.150d [Corrected]

On page 4617, in the second column, in § 449.150d(a)(3)(i)(*a*), in the second line, "driving" should read "drying".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-07-4220-10; I-7322]

Proposed Withdrawal of Public Lands in Owyhee County, Idaho; Public Meeting

Correction

In notice document 87–4102 beginning on page 6079 in the issue of Friday, February 27, 1987, make the following correction:

On page 6080, in the first column, in the third line from the bottom, "I–8322" should read "I–7322".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

[A.G. Order No. 1171-87]

Proceedings To Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal

Correction

In proposed rule document 87–1733 beginning on page 2949 in the issue of Thursday, January 29, 1987, make the following correction:

§ 242.22 [Corrected]

On page 2950, in the first column, in § 242.22, in the 18th line, after "was" insert "not".

BILLING CODE 1505-01-D

federal register

Thursday
March 12, 1987

Part II

Department of Transportation

Coast Guard

33 CFR Parts 151 and 158

Control of Residues and Mixtures Containing Oil or Noxious Liquid Substances

46 CFR Parts 30, 98, 151, 153 and 172

Pollution Rules for Ships Carrying Hazardous Liquids; Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 151 and 158

[CGD 85-010]

Control of Residues and Mixtures Containing Oil or Noxious Liquid Substances

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the pollution regulations. These amendments implement Annex II port and terminal and reception facility requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, (MARPOL 73/78). Annex II of MARPOL 73/78, relating to the carriage of noxious liquid substances (NLS), comes into effect on April 6, 1987. These amendments will reduce the amount of residues and mixtures remaining in ships' cargo tanks, limit the amount of noxious liquid substances discharged into the sea, and ensure that ships experience no undue delay while waiting to discharge NLSs to a reception facility.

EFFECTIVE DATE: April 6, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant Timothy M. Mallon, Office of Marine Safety, Security, and Environmental Protection, (G-MPS-3), telephone 202-267-0494. Normal working hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard has consulted with the Administrator of the Environmental Protection Agency, as required by the Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et. seq*) (the Act). Comments from EPA officials, including informal comments at meetings and formal comments on a draft of this rulemaking, have been considered before issuing this final rule.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Timothy M. Mallon, Office of Marine Safety, Security, and Environmental Protection, and Mr. Stanley M. Colby, Project Counsel, Office of Chief Counsel.

Background to the Proposed Regulation

MARPOL 73/78, including Annex I and II, was ratified by the United States on August 12, 1980. Significant amendments to Annex II were adopted by the International Maritime Organization (IMO) in 1985 to reduce the need for reception facilities and simplify the operational requirements for ships. The vessel requirements of Annex II and the Standards for *Procedures and Arrangements for the Discharge of Noxious Liquid Substances* (Res. MEPC 18 (22), 1985), developed as an adjunct to MARPOL 73/78, are implemented under a final rule (CGD 81-101) appearing elsewhere in this issue of the **Federal Register.**

Regulation 7 of Annex II requires the Government of each Party to the Convention to ensure the provision of reception facilities to receive residues and mixtures containing NLS from ships according to the needs of the ships, in cargo loading and unloading ports and terminals and at "ship repair ports" undertaking repairs to chemical tankers. The NLS residues resulting from the application of Annex II must be accepted without undue delay to the ship. Regulation 7 also requires that cargo unloading terminals provide arrangements to facilitate stripping of cargo tanks of ships unloading NLS at these terminals, and it prohibits draining cargo hoses and piping systems containing NLS back to the ship that unloaded the cargo. The enabling legislation for implementing MARPOL 73/78, mandates the establishment of regulations setting criteria for determining the adequacy of reception facilities of a port or terminal and procedures for certifying that the facilities for receiving residues and mixtures containing oil or NLS from oceangoing ships are adequate.

A Notice of Proposed Rulemaking was published in the September 26, 1986 issue of the **Federal Register** (51 FR 34332). A meeting open to the public was held in Washington, DC on October 31, 1986 where oral and written questions were received and discussed. The **Federal Register** published a correction on October 23, 1986 (51 FR 37607), and a correction and extension of the comment period was published in the **Federal Register** on November 10, 1986 (51 FR 40450). A total of 35 comments were received on the NPRM and considered before this rulemaking was published. These comments are discussed below.

Changes to Part 151 and Part 158 to Implement Annex II

1. A number of editorial changes were made to clarify the requirements that apply to ships under 33 CFR Part 151 and ports and terminals under Part 158. All of these changes are for clarification and do not make any substantive change to the proposed rules.

2. *General Comments*—One commenter recommended that the Coast Guard establish rules that exclude domestic trade. The Coast Guard disagrees inasmuch as MARPOL 73/78 and the Act apply to all oceangoing ships and are not limited to foreign trade.

One commenter asked for clarification of the relationship between the terminal operator and the "person in charge" of the ship with respect to the operational requirements that only apply to the ship. The operating requirements of Part 151 are clearly the responsibility of the master or person in charge of the vessel. There are no operating requirements for vessels in Part 158. The regulations assign responsibilities to the appropriate person, they do not attempt to control the relationship between the terminal operator and the vessel.

One commenter indicated that existing regulations are sufficient to regulate the movement of hazardous chemicals and recommended that the Coast Guard develop regulations only after taking into consideration: (1) The Port and Tanker Safety Act, (33 U.S.C. 1221 through 1231), (2) the Federal Water Pollution Control Act (FWPCA) (1972), as amended by the Clean Water Act (CWA), (33 U.S.C. 1321 *et seq.*) and (3) the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by Superfund Amendments and Reauthorization Act (SARA), 100 Stat. 1613 (1986). As to CERCLA and SARA, Congress recognized the potential overlap between the Act and other U.S. environmental laws administered by the Environmental Protection Agency (EPA) and required the Coast Guard to consult with the Administrator of EPA prior to issuing these regulations. MARPOL 73/78 was ratified by the United States and implementing legislation was enacted, in full awareness of existing legislation, including the first two statutes cited. The intent was to supplement those statutes. The Coast Guard considered all existing statutes affecting pollution of the marine environment in developing these regulations.

Another commenter suggested that more stringent regulations are necessary and recommended that the coastal zone of the United States be considered a special area because of the environmentally sensitive nature of the near coastal waters. The designation of "special areas" was fully considered in drafting MARPOL 73/78. New areas can not be adopted unilaterally. Publishing standards more stringent than those of Annex II would be contrary to the spirit of the convention, would put U.S. ships

at a disadvantage, and have an adverse effect on U.S. commerce.

One commenter questioned the rationale for developing the lower figure of $3.5K per system rather than $7.0K system cost for meeting the backpressure requirements. The rationale is fully developed in the full evaluation. The costs are based on certain assumptions about the configuration of a port or terminal and the various means available to reduce the pressure in the terminal's piping system. The Coast Guard estimated the costs will range from $1,416 to install a diaphram "booster" pump to $7,079 to utilize a surge tank and pump mounted on a flatbed. Since there was no way of determining the layout of every port or terminal, the Coast Guard used the (annualized) cost of $3,540 for one intermediately priced system in estimating the costs of these requirements.

One commenter recommended that the Coast Guard support these costs with empirical data. The regulatory evaluation discusses the costs which have been supported by empirical data from several sources including shipping industry trade associations, terminal owners and operators, independent waste haulers, the Department of Commerce and Army Corps of Engineers.

One commenter requested that the Coast Guard emphasize in the preamble of the final rule, that the lack of federal preemption authority discussed in the preamble to the NPRM was overstated. The Coast Guard agrees with the commenter that where State or local laws conflict with Federal laws in matters embraced by Federal Law, the Federal law would prevail.

Three commenters were concerned about the relationship of the EPA's Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6901 *et seq.*), CERCLA, and the vessel and reception facility requirements and another commenter requested that the regulations be revised to include rules for the handling of hazardous waste. The authority for all of these matters has been given by Congress to the EPA. The Coast Guard recommends that those interested in this matter refer to the discussion given to it in the preamble to the Interim Final Rule on Annex I reception facilities for receiving residues and mixtures containing oil which was published in the **Federal Register** of September 9, 1985 (50 FR 36770).

One commenter suggested that the EPA and Coast Guard enter into a Memorandum of Understanding (MOU) to permit terminal operators to use their RCRA generator numbers without the downstream liability for alleged improper disposal. The Coast Guard disagrees with the commenter over the need to take the action requested. The requirements for a generator to obtain an EPA Id number and the downstream liability for improper waste disposal imposed by CERCLA are within the jurisdiction given by Congress to the EPA which would make an MOU irrelevant.

One commenter suggested the regulation be revised so that waste disposal responsibility is coupled with financial responsibility requirements for violations of the Federal Water Pollution Control Act or CERCLA. The responsibility with respect to the disposal of wastes is not related to the financial responsibility provided by CERCLA as amended by SARA.

One commenter indicated that the information and recordkeeping requirements of the proposed rule duplicate existing RCRA information and recordkeeping requirements. The Coast Guard disagrees with the commenter. The Act mandates that the Coast Guard establish procedures whereby a person in charge of a port or terminal may request certification of the adequacy of its facilities. The information provided in Application Form B is the first step in that procedure, a step the applicant must make. The commenter would have the Coast Guard provide its own information, which would make the process much longer and delay issuance of the certificate.

Two commenters recommended republishing a corrected version of the proposed rule in the **Federal Register.** The Coast Guard disagrees with the commenters over the need to republish the entire regulations. A correction to the NPRM was published in the October 23, 1986 issue of the **Federal Register** (51 FR 37607). In addition, the correction to proposed Table 2 (now, § 151.49) in the **Federal Register** of November 10, 1986 (51 FR 40950) should have alleviated any confusion.

Two commenters recommended publishing the regulations as an Interim Final Rule with a one year comment period to gain operating experience and to identify areas needing change or clarification, while another commenter supported the implementation date of April 6, 1987. There is no advantage to publishing an Interim Final Rule. There is no guarantee that a one year period would be appropriate for further comment. If there are areas that need revision, comments may be submitted at any time and corrective action will be taken as necessary.

3. *Section 151.03 Applicability*—One commenter felt that the regulations were not intended to apply to vessels servicing the offshore industry and requested that the regulations be modified to reflect this. The Coast Guard disagrees with the commenter. The Act applies to oceangoing ships carrying NLSs and the requirements of 33 CFR Part 151 apply to each oceangoing ship carrying NLS. As to the applicability of the requirements of Title 46 CFR to vessels in the offshore industry, see the discussion elsewhere in this issue of the **Federal Register.**

One commenter recommended an exemption from the regulations for inland barges operating on a limited coastwise route. The Coast Guard agrees and added a new § 151.30 to exempt barges operating on a limited shore protected coastwise route from the requirements of Subpart C of Part 151 if the barge is constructed and certificated primarily for service on an inland route.

4. *Sections 151.05 and 158.120 Definitions.* a. "Harmful substance"—One commenter indicated that the addition of the term "harmful substance" to § 151.05 is confusing because the term "harmful material" is used in 46 CFR Part 153. The Coast Guard agrees with the commenter and has removed the definition.

b. "High viscosity NLS"—One commenter requested that when referring to "High viscosity NLS", the figure should include a centipoise (cP) reference and note that viscosity measurements are made with a rotating viscometer. The Coast Guard has chosen not to do this but has added an entry in Appendix III of 46 CFR Part 153 giving the conversion from millipascal-seconds to centipoise. See the discussion elsewhere in this issue of the **Federal Register.** Note that the conversion factor is 1, that is, the numerical value of viscosity is the same in both sets of units.

Another commenter requested that the term "high viscosity substance" be consistent with the definition adopted by the Annex II of MARPOL 73/78. The Coast Guard agrees with the commenter and has omitted the words "but does not include solidifying NLS" from the definitions of "High viscosity NLSs", "High viscosity Category B NLS", and "High viscosity Category C NLS".

c. "NLS residue"—Commenters recommended deleting from this definition the condition of the failure of NLS cargo meeting the consignee's specifications because it would potentially increase the quantity of NLS residue generated. The Coast Guard

disagrees with the need for this change. There is no requirement that the ship discharge the cargo as NLS residue to a reception facility. In 46 CFR 153.1102 (discussed elsewhere in this issue of the **Federal Register**) the Coast Guard has explicitly included returning the cargo to the shipper or discharging the NLS to another consignee among the permissible dispositions.

One commenter thought that the definition of NLS residue should not include ballast since this could create a situation where it is treated as residue without justification. The Coast Guard disagrees with the commenter because the definition only includes that ballast which is contaminated with Category A, B, C or D NLS.

One commenter thought that this definition is not consistent with the intent of the regulations applied under § 158.310 and § 158.320 because the definition includes many types of waste that are not intended to be regulated in these regulations. The Coast Guard disagrees with the commenter. This is a broad definition that uses the connective "or" and not "and"; therefore, any one of the conditions that apply can bring the situation under the definition.

d. "Oil-like substance"—One commenter felt that the term "oil-like substance" was not adequately defined. The Coast Guard disagrees with the commenter that additional clarification of this term is necessary. The Coast Guard has incorporated the list of oil-like Category C and D NLS developed by IMO which was published in proposed Table 2 (now § 151.49). This clearly states which chemicals can be carried as "oil-like". Under the unified interpretations of Regulation 14 of Annex II to MARPOL 73/78 MEPC(22)(21), the list of oil-like substances was published, and criteria were listed that will be used by IMO in deciding whether or not to add a chemical to the list of oil-like substances. As IMO adds to the list, the Coast Guard makes the necessary changes to § 151.49.

e. "Prewash"—One commenter suggested that the term "prewash" should be defined in Part 158. "Prewash" is defined and follows the definition of "Person in charge" in § 158.120 and is identical to the definition in 46 CFR 153.2.

f. "Ship"—One commenter suggested that the definition of ship should be fully defined in § 158.120 rather than referring to § 151.05(q). The Coast Guard agrees and has added the definition of "ship" and "oceangoing ship" to § 158.120.

g. "Terminal"—Four commenters recommended that the definition of "terminal" should be modified to remove the possibility that ships will be considered a terminal. The Coast Guard disagrees with the commenters. The reception facility and terminal requirements will not generally apply to ships. However, the COTP has the authority to designate a place or facility used or intended to be used for the transfer or other handling of a hazardous material as a "port". If the COTP designates an area as a "port", the master or person in charge of a ship involved in the transfer operations could choose to accept the responsibility for obtaining a COA and making reception facilities available in this "port", which will be subject to the regulations in 33 CFR Part 158. In order to avoid further confusion the note at the end of the definition was deleted.

One commenter referred to the differences in the definitions of ports and terminals in both federal statute and international agreements and recommended adopting a narrower definition for terminals. Another commenter recommended that the definition of terminal should be modified to remove the possibility that offshore structures that receive NLS for their "exclusive use" will be considered a terminal. The Coast Guard cannot change this definition which is in the Act.

5. *Section 151.08 Denial of Entry*—One commenter requested that the Coast Guard indicate how the ship operator will know if the port or terminal has a Certificate of Adequacy. The ship would be required under § 151.43 to make an advance notice of the need for reception facilities 24 hours prior to entering the port or terminal. In response, the port or terminal will notify the master or person in charge whether or not it holds a Certificate of Adequacy and whether or not a reception facility will be made available to meet the needs of the ship. In addition, 33 U.S.C. 1905(a) requires periodic publication in the **Federal Register** of a list of ports and terminals holding valid Certificates of Adequacy.

One commenter felt that the denial of entry provisions of § 151.08 should be amended to state that the provisions do not apply to tank barges. The Coast Guard disagrees with the commenter. A ship is defined in part to mean "a vessel of any type whatsoever operating in the marine environment". The regulations in Part 151 apply to all oceangoing ships, including barges, carrying residues and mixtures containing oil in bulk and oceangoing ships, including barges, carrying Category A, B, C or D NLSs.

6. *Section 151.31 Where to find the requirements applying to ships carrying Category A, B, C and D NLS*—Two commenters expressed concern over the lack of a mechanism to quickly add new chemicals to §§ 151.47 and 151.49 so that they may be carried on oceangoing ships. They recommended that the Coast Guard develop a procedure for shippers to ship chemicals found to meet the specifications of an NLS, but not listed in the tables. The Coast Guard agrees with the commenter that this may be confusing. In order to clarify this, a paragraph (d) was added to this section explaining that procedures for carrying NLSs not listed in §§ 151.47 and 151.49 are in 46 CFR 153.900(c).

7. *Sections 151.33 to 151.35 Certificates needed to carry Category D NLS and Category C and D oil-like NLS*—One commenter recommended that the requirements to have an International Pollution Prevention (IOPP) Certificate, Certificate of Inspection (COI), and Certificate of Compliance (COC) be modified to reflect that each cargo tank is certified to carry a particular Annex II category rather than list cargoes that each tank may carry. The Coast Guard disagrees with the commenter since the recommended approach does not recognize the differences between individual chemicals within the same category of chemicals. The equipment and operating requirements in § 151.37 and § 151.41 for each tank vary for the specific chemical being carried. In addition, if the suggestion was adopted, the certificate would have to be changed each time a different category was carried.

One commenter recommended an exemption from the requirements of §§ 151.33 and 151.35 for inland barges operating on a limited coastwise route because they do not have an IOPP Certificate. The Coast Guard agrees and has revised the § 151.03 to exempt barges operating on a limited short protected coastwise route from the requirements of Subpart C of Part 151 if the barge is constructed and certificated primarily for service on an inland route.

One commenter indicated that it is impractical to obtain an endorsement for the various chemical blends and constituents used in the drilling industry since these vary on almost a daily basis. They recommended evaluating a range of chemical blends and constituents. The Coast Guard will consider any request for an authorization under 46 CFR 153.900(c) provided sufficient data is submitted to Commandant (G-MTH) for evaluation and categorization of the material.

8. *Section 151.37 Obtaining an Attachment for NLSs to the IOPP*

Certificate Supplement and obtaining an NLS Certificate—One commenter recommended that the proposal be clarified to indicate that this subpart contains all the rules pertaining to Subchapter D tankers carrying Category C and D oil-like NLSs and Category D NLSs. This is incorrect. Section 151.31 directs the reader where to find additional requirements for the carriage of NLS cargo.

One commenter recommended that an exception to the monitor requirements in the proposed § 151.37(a)(1) be provided if the ship is incapable of being ballasted or configured to wash tanks enroute as was done for Annex I cargoes. A second commenter suggested that the Coast Guard delete the requirement that the ship have an approved monitor until specifications are developed for the monitor and, if different specifications are developed, that sufficient time be provided to allow vessels to come into compliance. A third commenter recommended the Coast Guard permit the use of existing monitors if they can be shown to monitor the oil-like NLSs carried. A fourth commenter recommended that the Coast Guard adopt some shipboard approval process for existing monitors. These requirements would not apply to oceangoing ships that are not configured to wash tanks or ballast enroute. To clarify this the Coast Guard has included an exception to § 151.37(a)(1) for ships that are not configured and are not equipped to ballast or wash cargo tanks while proceeding en route. Cargo monitor specifications presently exist in 46 CFR Part 162.050. To avoid any confusion, the Coast Guard deleted the proposed note at the end of § 151.37. The Coast Guard is preparing an NPRM that would adopt IMO Resolution A586 (1985) regarding specifications for monitors. If the proposal is adopted, the Coast Guard will permit the use of existing monitors that meet these specifications and can detect oil-like NLS cargo.

One commenter requested clarification whether or not oil product carriers with Category C products have to meet the type III hull requirements and another commenter recommended that proposed § 151.37(a) be clarified regarding the stability requirements that barges must meet. The Coast Guard agrees and has revised this section to distinguish the damage stability requirements for ships from the requirements for barges. An oceangoing barge of 150 meters or less in length carrying a Category C oil-like NLS must meet the stability requirements for type III hulls of Regulation 14(c) of Annex II to MARPOL 73/78. An oceangoing ship of 150 meters or less in length carrying a Category C oil-like NLS must meet the stability requirements for type III hulls under 46 CFR Part 172 Subpart F except §§ 172.130 and 172.133.

One commenter requested that the Coast Guard clarify the requirements of § 151.37(b)(2) regarding the exception to the residue discharge system requirements. The Coast Guard agrees that the proposal was confusing and has corrected the reference to read 46 CFR 153.1128(b).

9. *Section 151.41 Operating requirements for oceangoing ships with IOPP Certificates: Category C and D oil-like NLSs*—Two commenters suggested that this section should be revised to provide an exception to barges that are not equipped with cargo monitors when they can neither ballast nor wash cargo tanks enroute. The Coast Guard disagrees with the commenters over the need to make the requested change. The Coast Guard has provided an exception to the monitor requirements in § 151.37(a)(1) for non-self-propelled barges that neither ballast nor wash cargo tanks while proceeding enroute. Therefore, paragraph (b) of § 151.41 would not apply to these barges.

10. *Section 151.43 Control of discharge of NLS residues*—One commenter requested clarification of the situation where the ship is not able to meet the proposed 24 hour advance notification of arrival requirements. The Coast Guard does not feel that a change in the regulations is needed. There is no prohibition against the port or terminal agreeing to receive the ship with less than 24 hours of advance notification; however, this would be a case by case decision for the port or terminal which only must make reception facilities available after 24 hours' advance notification (proposed § 158.310).

Two commenters recommended that the Coast Guard except fixed and floating drilling rigs or platforms operating under an National Pollutant Discharge Elimination Systems (NPDES) permit from the requirements of MARPOL 73/78. The Coast Guard agrees with the commenter and has added the words "Unless the ship is a fixed or floating platform operating under an NPDES permit" in § 151.43(a) in recognition of the restrictions such permits would place on any discharge.

One commenter recommended clarifying § 151.43(b)(7) by adding the words "in the tank washing," at the end. The Coast Guard agrees with the commenter and has added the words "to be used during the prewash" since it is for that procedure the information is needed.

One commenter requested that the Coast Guard clarify the discharge restrictions that apply for NLSs in special areas. For clarification, the Coast Guard has added a new paragraph (c) which informs the reader that operations in a special area must meet 46 CFR 153.903.

11. *Section 151.45 Reporting Spills of Category A, B, C and D NLS*—One commenter suggested adding the name of the NLS spilled to the proposed reporting requirements of this section. The Coast Guard agrees with the commenter and has added this to the required report.

12. *Sections 151.47 and 151.49 Category D NLSs and Category C and D oil-like NLSs allowed for carriage*—One commenter suggested that Tables 1 and 2 should have a specific table number assigned to it. The request is confusing since the tables had specific numbers assigned to them; however, since their form fitted more properly into sections, Table 1 is now § 151.47 and Table 2 is now § 151.49.

One commenter suggested adding two Category D NLSs to § 151.49. The Coast Guard will propose to IMO, based on requests received, to add additional chemicals to the list of oil-like Category C or D and non-oil-like Category D NLS. If this proposal is not approved, the Coast Guard will evaluate the information available on a case by case basis to decide whether or not to authorize the ship to continue operating under 46 CFR 153.900(c).

One commenter suggested that § 151.49 contains more oil-like substances than those in Annex II of MARPOL 73/78 and includes some other Category B NLS cargoes. They recommended that proposed Decene, 1-Dodecene, 1-Octene, and Olefins that are listed as Category B substances be omitted. The Coast Guard published a corrected Table 2 (now, § 151.49) in the correction and extension of the comment period in the November 10, 1986 issue of the **Federal Register** (51 FR 40950).

One commenter requested clarification on how mixtures of NLS will be treated. The Coast Guard has a discussion on the policy concerning mixtures in the changes to 46 CFR Part 153 that appears elsewhere in this issue of the **Federal Register.**

13. *Section 158.110 Applicability*—In response to numerous comments, this section has been rewritten to exclude ports and terminals used by tank barges that carry NLS cargo that are not configured and are not equipped to

ballast or wash cargo tanks while proceeding en route. Further, the applicability regarding ship repair yards has been clarified.

Three commenters requested clarification regarding who must have the Certificate of Adequacy if a ship is transferring a regulated NLS cargo to a lightering ship or barge and another thought that lightering operations are covered by separate regulations and requested that a separate rulemaking be published if the lightering vessel is to be considered a terminal under Annex II. One commenter suggested that the lightering barge should not be considered a terminal for the purposes of Part 158 while another commenter recommended that the Coast Guard require the ship to make their own arrangements for reception facilities. The Coast Guard agrees that the practice of unloading an NLS cargo from a ship to another vessel, particularly when done outside the confines of a port, does not readily fit into commonly accepted concepts or "ports" and "terminals". The statutory definition of "terminal" which is limited to "onshore facility or offshore structure" appears to exclude lightering vessels. However, the clear intent of MARPOL 73/78 and the implementing legislation is to provide reception facilities for ships unloading NLS cargo and it is obvious that a lightering operation is unloading cargo. The vessel regulations in 46 CFR Part 153 require ships to prewash cargo tanks and transfer the contaminated tank washings to onshore reception facilities under specified conditions. Under the regulations, the means for accomplishing this are flexible.

Ships could comply with applicable prewash requirements and offload the resulting mixture of NLS residues to a lightering vessel for transfer to a shore reception facility, or apply for a waiver if the prewash mixture is to be discharged at another port or terminal. It is also possible that no reception facilities would be required if the vessel carries non-solidifying or non-high viscosity Category B or C NLS cargo and meets the efficient stripping requirements. The Coast Guard is of the opinion that no separate regulations are required. Under § 158.130, the COTP can designate the lightering area as a port, determine the availability of reception facilities, and evaluate the adequacy of whatever method is proposed for receiving the NLS residues. There is no restriction on who would be the person in charge of the designated port. The selection of the person in charge would be a decision made by representatives of the ship being offloaded, the lightering vessel, and possibly other parties such as the person in charge of the port or terminal ultimately receiving the cargo or the person in charge of the onshore reception facility.

Parties contemplating lightering operations subject to these rules should contact the cognizant COTP as early in the planning stage as possible. The lightering regulations in § 156.210(b) say in part that no person may transfer a hazardous substance in the marine environment beyond the baseline from which the territorial sea is measured, when the cargo is destined for a port or place subject to the jurisdiction of the United States without specific approval of Commandant (G–MPS).

Three commenters requested the Coast Guard to exempt fixed or floating drilling rigs, and other platforms from the reception facility regulations in 33 CFR Part 158. The Coast Guard disagrees with the commenters over the need to take the action requested. The Act defines a fixed or floating drilling rig, or other platform as a ship. However this does not preclude the platform from being a designated port. The reception facility and terminal requirements will not normally apply to platforms (ships), however, if a platform was involved in the transfer of oil or NLSs under circumstances where reception facilities are appropriate, the COTP has the authority to designate the area as a "port". A blanket exemption from the requirements of 33 CFR Part 158 is not appropriate. If the COTP designates an area as a "port", the master or person in charge of any platform or ship involved could choose to accept the responsibility for obtaining a COA and making reception facilities available in this "port", which would be subject to the regulations in 33 CFR Part 158.

One commenter felt that it is unnecessary to require all terminals to apply for a Certificate of Adequacy and requested that terminals used in support of the offshore oil and gas activities be exempted from the regulations. In order to comply with the convention, the Coast Guard can not make such a blanket exemption from the regulations. However, an exception to the regulations in Part 158 has been provided for ports and terminals used only by ships that are operating under waivers under 46 CFR 153.491 or used only by barges that are not configured to wash tanks or ballast while proceeding en route. All other ports and terminals used by oceangoing ships carrying NLS cargo will have to apply for a Certificate of Adequacy. However, it may be possible for a particular port or terminal to demonstrate that no on site reception facilities are actually required. One commenter felt that § 158.110 should clarify the type of barge that is regulated. The regulations in 33 CFR Part 158 apply to ports and terminals, not vessels. They apply to each port or each terminal located in the United States or subject to the jurisdiction of the United States that is used by oceangoing tankers and other oceangoing ships of 400 gross tons or more carrying oil or oily residues and oceangoing ships carrying NLS. A ship is defined in § 158.120 to mean "a vessel of any type whatsoever operating in the marine environment". The regulations therefore apply to ports and terminals used by oceangoing barges carrying oil or oily residues in bulk and oceangoing barges carrying Category A, B, C or D NLS. AS discussed above, limited exception has been provided for those ports and terminals used only by barges that can not ballast or wash tanks while proceeding enroute.

One commenter thought that the regulations should clearly state that ports and terminals handling only Category D NLSs do not have to apply for a COA. The Coast Guard disagrees with the commenter over the need to make the requested change. Taking the action recommended by the commenter would exempt ship repair yards from the requirement to make reception facilities available to meet the needs of the ship carrying Category D NLS cargo when required to wash cargo tanks while at the ship repair yard. This would cause the United States to deviate from Annex II of MARPOL 73/78. Regulation 7 of Annex II requires that ship repair yards make reception facilities available to receive all NLS residue generated incidental to the repair of the ship.

One commenter requested the Coast Guard to clarify whether facilities that dock oceangoing ships under 400 gross tons need Certificates of Adequacy. The rules for Subpart A and B of 33 CFR Part 158 apply to ports and terminals used by oceangoing tankers and other oceangoing ships of 400 gross tons or more that carry oil in bulk, while Subparts A, C and D of 33 CFR Part 158 apply to ports and terminals used by any oceangoing ships that carry NLS. Two commenters requested the Coast Guard to exempt an offshore operator's supply base from the requirement to have a COA when the base does not transfer liquids. The Coast Guard feels there is no need to take the action requested. These regulations would not apply to an offshore operator's supply base used by ships that do not transfer NLS since it would not be a port as defined in § 158.120, except by choice, or

as specifically designated by the COTP. A COTP would not designate a place or facility as a port unless it transferred or otherwise handled oil or NLS.

One commenter recommended developing a separate subpart in the regulations specifically detailing requirements of the offshore oil and gas industry including offshore supply vessels and associated shore bases. The Coast Guard disagrees with the commenter over the need to make the recommended change. This approach would be confusing because the regulations in Title 33 CFR and Title 46 CFR are organized by subject matter and not by industry.

14. *Section 158.130 Delegations*—One commenter felt that § 158.130(f) leaves open the possibility that a ship carrying a Category A NLS will be able to enter a port having only a Certificate of Adequacy for oil. They recommended rewriting this section to read "Adequacy for oil and for each NLS cargo or cargo residue the ship carries." The Coast Guard disagrees with the proposed change. This section deals with the delegation of authority to the COTP. Application Form B will be attached to and becomes part of the Certificate of Adequacy for ports and terminals that service ships carrying NLS cargo. Form B lists the NLS cargoes that the terminal will handle. The COTP will deny entry of ships carrying NLS cargo to those ports and terminals under § 158.110 that do not hold a Certificate of Adequacy covering the category of cargo carried.

15. *Section 158.140 Applying for a Certificate of Adequacy*—Numerous commenters expressed some concern about the organization of the Form B and suggested that the Coast Guard clarify whether a particular section applied to the reception facility or to port and terminal equipment and operating requirements. In order to avoid confusion, the Coast Guard has revised Form B into three distinct sections. Section 3 requires information on the type of NLS cargo handled; section 4 requires information on the port and terminal; and section 5 requires information on the reception facility. A copy of application Form B is attached as Appendix I to the preamble of this final rule and will be available from the COTP.

One commenter requested clarification regarding the date the application for the Certificate of Adequacy must be submitted. Ports and terminals currently handling NLS should submit their COA application as soon as possible. Others should submit their application as soon as information is available. After the effective date of these regulations, the COTP will deny vessels entry to ports and terminals not holding a COA.

One commenter requested that section 2.A.(5) of application Form B should designate the onsite or offsite location and type of disposal planned for NLS prewash water. The Coast Guard disagrees with the commenter. Taking the action requested by the commenter will impose redundant information collection and recordkeeping requirements on the public since this information is included on EPA's hazardous waste manifest.

One commenter recommended that section 3 titled "Waste Handled at the Port or Terminal" be revised to read "NLS Cargo Handled at the Port or Terminal". The Coast Guard agrees with the commenter and has revised the title. Another commenter suggested that this section 3 should be filled out generically as to the type of NLS cargo the terminal will handle. They thought that when a terminal desired to handle a new NLS, the COA application will have to be amended and the 12 month history will have no bearing on the reception facility capacity. The Coast Guard disagrees with the commenter. The name of the NLS cargo is necessary to determine which cargoes received from oceangoing ships will require a prewash of cargo tanks and discharge to a reception facility. This information is used to determine the required reception facility capacity. If the NLS cargoes change, the person in charge of the port or terminal will be required under § 158.165 to notify the COTP of the change.

One commenter recommended that proposed section 4 be revised by replacing the word "residue" with the words "during cargo tank stripping" because this section applies to cargo tank stripping operations. The Coast Guard agrees and has revised this section by replacing the words "noxious liquid substance residue" with the words "NLS cargo during cargo tank stripping operations". Two commenters recommended revising section 4 by substituting the words "back pressure at the ships manifold" for "pressure at the manifold". The Coast Guard agrees and has made the change since this clarifies the conditions under which the backpressure requirements must be met.

Several commenters requested that the reception facility capacities be clarified to indicate that they apply to NLS prewash water. The Coast Guard agrees with the comments and has revised these provisions. One commenter requested that the provisions concerning the receipt of NLS residues within 10 hours be revised by deleting the word "residues" and substitute "during efficient stripping". The Coast Guard disagrees with the commenter since this provision applies to reception of NLS residues resulting from prewashes, not the stripping operation.

16. *Section 158.160 Issuance and Termination of a Certificate of Adequacy*—One commenter recommended that the Coast Guard revise the regulation to limit the length of time that the Certificate of Adequacy will be valid and add a provision for periodic inspection at an interval of not more than two years. The Coast Guard disagrees with the commenter over the need to make the recommended change. Masters and persons in charge of oceangoing ships will notify the COTP if reception facilities for residues and mixtures containing oil are thought to be inadequate. The COTP has continuing authority to inspect facilities and investigate complaints. If needed corrective action is not taken, the COTP would initiate suspension and revocation procedures. Further, the Coast Guard conducts a facility inspection program whereby ports and terminals including reception facilities are inspected on a regular basis.

17. *Section 158.163 Reception Facility Operations*—One commenter recommended rewording § 158.163(a) to distinguish the responsibilities of the person in charge of the port or terminal from the person in charge of the reception facility. The COTP will make this distinction and initiate civil penalty action against either person as appropriate. The determination of responsibility must be made on a case by case basis because of the variety of different situations that could arise.

18. *Section 158.170 Grounds for suspension*—One commenter recommended that the grounds for suspension of a Certificate of Adequacy should be strengthened, that reference to deficiencies be defined, and that a suspension be imposed if the reception facility fails to comply with applicable regulations or is otherwise deemed inadequate by the COTP. A second commenter recommended adding the phrase "Under normal conditions" to the beginning of § 158.310(a)(5) and § 158.310(a)(6) because there are some instances when reception facilities are not available within 24 hours or capable of receiving NLS residue from the prewash within 10 hours after the start of the transfer of NLS residue. A third commenter recommended adding exceptions for legitimate causes for delay beyond the control of the reception facility. The Coast Guard disagrees with the commenters over the need to make the changes requested. Any substantial deviation from the

Annex II and those

criteria of adequacy that renders the port or terminal equipment or reception facility inadequate can result in suspension until the problem is corrected. The COTP will consider all the evidence available on a case by case basis prior to initiating civil penalty or suspension or revocation proceedings against the Certificate of Adequacy.

19. *Sections 158.200 to 158.230 Subpart B—Criteria for Reception facilities: Residues and mixtures containing oil*—One commenter recommended that § 158.200(a)(3) be revised to indicate that the reception facility should be prepared to receive oily wastes and mixtures from a ship at the estimated time of arrival, provided that notification is given at least 24 hours prior to arrival. The Coast Guard disagrees with the commenter. Ships will not normally need reception facilities until after unloading NLS cargo and completing the prewash. The estimated time of arrival is not as definite as 24 hour advance notice of the need for reception facilities. One commenter felt that the revisions to §§ 158.210 through 158.230 are not relevant for the purposes of Annex II requirements and requested that these changes be made part of a separate rulemaking concerning Annex I requirements. The Coast Guard disagrees with the commenter. The changes that were proposed are editorial in nature because of a change in the definition of "daily vessel average". Since the Annex I and Annex II requirements are interdependent, the regulations were published together.

20. *Section 158.310 Reception facilities: General*—Three commenters recommended that in the interests of operational safety that paragraph (a)(6) of this section should apply to the discharge of prewash residues. The Coast Guard agrees with the commenters and added the words "of NLS residue" between the words "transfer" and "begins" to clarify that the 10 hour time requirement refers to the time after the transfer of NLS residue begins. Another commenter requested clarification regarding whether or not terminals may wait until all cargo is unloaded before providing reception facilities. The Coast Guard disagrees with the commenter over the need to make the clarification. The regulation will not prohibit ports and terminals from waiting until all NLS cargo is offloaded before making reception facilities available. In some situations, ships may not be able to meet the standards for Procedures and Arrangements unless the reception facility is available when the prewash operations are being conducted. Under these circumstances, the requirements of § 158.310 must be met.

One commenter pointed out that § 158.310(a)(6) will cause undue delay to ships. The Coast Guard disagrees with the commenter. The regulations prescribe the maximum amount of time that the ship and reception facility will have to complete the transfer of NLS prewash residue to a reception facility. There is no restriction on the two parties agreeing to complete the transfer in a shorter time frame. However, requiring a faster time for completion of the transfer of NLS residue to a reception facility may preclude the use of tank trucks and require an unnecessary capital expenditure. If the Coast Guard finds that vessels are being unduly delayed because of this requirement, the Coast Guard will revise the regulations.

One commenter felt that the prewash will generate as much as 90 cubic meters of NLS prewash residue per hour and wanted to know whether the line or hose will be properly sized. The Coast Guard has published performance standards for reception facilities to receive NLS residue in the time frame specified. Usually, prewash residue will be pumped from the ship to the reception facility using cargo pumps and the reception facility must be capable of receiving the quantities of NLS residue generated in the time frame specified. In order to do so, the reception facilities must properly size the line or hose to match the pumping capacity of the ship that will discharge NLS residue.

One commenter requested the Coast Guard to clarify the grounds for which the terminal may refuse to accept wash water contaminated with cleaning agents. There are prohibitions on the use of cleaning agents unless specifically authorized by the ships Procedures and Arrangements manual. Under § 151.43, the master or person in charge of the ship will identify the cleaning agents to be used during the prewash when the 24 hour advance notice is given. If the reception facility is unable to receive these chemicals, the reception facility could refuse to take the material. However, the port or terminal will have to make other reception facilities available to meet the needs of the ship, or advise the ship that it can not provide reception facilities and refuse to accept the ship.

One commenter recommended that the Coast Guard revise the regulations to afford the port or terminal some protection against receiving NLS residues that are contaminated with other materials. The Coast Guard disagrees with the commenter that a regulatory requirement will be in accordance with the Act. This and other commercial aspects of the reception facility transactions that were commented on have been discussed in the preamble of the Interim Final Rule on Annex I reception facilities for residues and mixtures containing oil, published in the **Federal Register** of September 9, 1985 (50 FR 36770). The reader is referred to the preamble of the Interim Final Rule for a discussion of this issue since the commercial aspects of the reception facility requirements for NLS residues are the same.

21. *Section 158.320 Reception Facilities: Capacity*—One commenter requested that paragraph (a) be revised to read "each port and each terminal that is used by ships that unload Category A, B, or C NLS cargo" while another commenter requested that paragraph (a) be amended to read "if it is used by ships that unload only Category B or C NLS cargo". The Coast Guard agrees with the commenters over the need to clarify the capacity requirements. The Coast Guard rewrote the reception facility requirements to clarify that the regulations apply to ports and terminals that are used by ships that carry Category A, B, and C NLS cargo and unload these NLS cargoes at the port or terminal. At the same time, the capacity requirements for ship repair yards include all NLS residue generated incident to the repair of the ship. To clarify this, the Coast Guard has added a new paragraph (c) to § 158.320 to distinguish the capacity requirements for ship repair yards from the capacity requirements for other ports and terminals.

The Form B printed in the NPRM indicated that the reception facility must meet daily capacity requirements. To clarify that the reception facility capacity must be available daily, the words "each day the port or terminal is in operation" were added to the capacity criteria in this section. One commenter suggested that an upper limit be placed on the volume of prewash water that must be accepted by terminal operators. The Coast Guard disagrees with the comment. The Coast Guard has established minimum criteria that reception facilities must be capable of meeting based on anticipated normal operating requirements. The Coast Guard will certify the adequacy of reception facilities and issue a Certificate of Adequacy if the requirements of Subpart C are met. Port and terminal operators and vessel agents remain responsible for scheduling vessel movements and cargo to be handled. Under the advance notice

of arrival requirements of § 151.43, the master or person in charge must notify the port or terminal of the amount of NLS residue to be generated during the prewash. The port or terminal will be expected to notify the ship if sufficient reception facility capacity is not available to meet the needs of the ship within the criteria specified. Nothing precludes arrangements exceeding these criteria that are acceptable to the parties involved, however, absent consensual agreements, if the prewash starts and the reception facility has insufficient capacity to take the anticipated volume of NLS residue, the COTP may consider this grounds for suspension or revocation of the Certificate of Adequacy.

One commenter recommended reducing the capacity requirements because they require excess capacity and will require significant expenditure of capital funds. The Coast Guard disagrees with the commenter. The Coast Guard is adopting conservative capacity criteria and has no evidence to indicate that the commenters conclusions are valid. Further, the Coast Guard conducted a survey of available reception facilities and found that there are adequate mobile reception facilities to serve all ports, so a significant expenditure of capital funds will not be necessary.

22. *Section 158.330 Port and Terminal: Equipment*—Two commenters suggested that it is unnecessary to make arrangements for the stripping of all cargoes since ships are only required to meet the stripping standards for Category B or C NLS cargo. They recommended adding the words "Category B or C" between the words "receiving" and "NLS" in the first sentence of paragraph (a). The Coast Guard agrees with the commenter and has made the change requested. Cargo tanks containing Category A NLS must be prewashed and those containing residues of Category D NLS do not have to be stripped.

One commenter suggested that a new paragraph should be added which specifies the time required to complete the efficient stripping operation, while another commenter suggested that the regulations be clarified to indicate that the efficient stripping operation of § 158.330(a) is not also subject to the ten hour requirement for prewash residues in § 158.310(a)(6). These regulations do not specify a time limit for stripping operations, only equipment requirements to facilitate stripping. The 10 hour transfer time in § 158.310(a)(6) only applies to the receipt of NLS residues generated during a prewash. To clarify this, the Coast Guard has added the word "cargo" between "NLS" and "from" in § 158.330(a).

Three commenters requested clarification of the backpressure requirements. The Coast Guard disagrees with the need to further clarify these requirements. Figure 1 of this preamble shows the variables that must be considered in calculating the backpressure in the shore piping. Backpressure consists of the sum of the static head pressure due to liquid in the shore cargo tanks, the pressure drop in the terminals piping system due to friction caused by the ship pumping NLS cargo into terminal piping at the flow rate specified, and static head pressure due to change in the elevation between the ships manifold and the shore tank into which the NLS cargo is being pumped.

One commenter recommended inserting the words "above the static pressure on the line before stripping begins" after the word pressure. A second commenter recommended that the regulations be revised to allow terminals to operate at higher flow rates and a third commenter recommended the terminal be allowed to operate at higher backpressures. A fourth commenter requested that the approval process should be clearly outlined as to the procedures followed and the information required to operate at higher backpressures. The Coast Guard disagrees with the commenters. Taking the action recommended by the first commenter would not be consistent with Regulation 7 of Annex II to MARPOL 73/78 because this may substantially increase the pressure that ships will have to pump against during the last stages of cargo unloading. Nothing precludes operating at higher flow rates provided the specified backpressure is met. The procedures outlined in § 158.150 allow a port or terminal to submit a waiver to operate at higher backpressures. The Coast Guard will consider a waiver if evidence is submitted which demonstrates that the ship has passed the stripping tests while pumping at flow rates and against the backpressure requested in the waiver by the port or terminal.

One commenter suggested that § 158.330(b) should state that the lists of equipment and procedures necessary for receiving NLS can be described in the terminal's operations manual so that the terminal will not be burdened with more than one document dedicated to dock operations and transfers. The Coast Guard agrees with the commenter and has indicated that the instruction manual may be incorporated into the port's or terminal's operations manual required under § 154.300.

25. *Section 158.400 Draining cargo area and piping systems*—One commenter felt that the paragraph should state "the terminal person in charge". The Coast Guard disagrees with the commenter. Since these requirements only apply to NLS cargo, it will be redundant to refer to the terminal person in charge because cargo handling requirements do not apply to the reception facility which handles only residues. One commenter felt that this section should be revised by adding the words "back into the ship's tank" at the end of the last sentence since this will permit the terminal to drain lines back to a temporary storage tank placed on the vessel. The Coast Guard disagrees with the need to make the requested change. Taking the action requested by the commenter would be contrary to the intent of Annex II which prohibits the draining of cargo hoses and piping systems back to the ship, whether it be to the cargo tank or other location.

Regulatory Evaluation

This proposal is considered by the Coast Guard to be non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979) and non-major under Executive Order 12291. A final regulatory evaluation has been prepared and placed in the rulemaking docket. Copies of the evaluation may be obtained as indicated under **"FOR FURTHER INFORMATION CONTACT"** and may be inspected or copied as indicated under **ADDRESSES.** The projected costs are summarized as follows:

1. Costs to the Private Sector

a. Administrative costs associated with preparing the application for a Certificate of Adequacy under 33 CFR Part 158, completing the cargo record book under 46 CFR Part 153, and applying for certificates required to carry NLS cargo under 33 CFR Part 151 and 46 CFR Parts 151 and 153.

b. Equipment and construction costs for ports and terminals to meet Subparts C and D under 33 CFR Part 158.

c. Equipment, operating and disposal costs for ships to meet 33 CFR Part 151 and 46 CFR Parts 151 and 153.

2. Costs to the Federal Government

a. Administrative costs for processing applications and issuing Certificates of Adequacy.

b. Personnel costs for enforcement.

The costs of alterations to existing equipment and increased daily operating costs have been evaluated. The total capital costs for installation of

equipment to facilitate efficient stripping are approximately $12 million. The annualized costs of the backpressure requirements could be as high as $7,081,570 (1985 dollars), assuming that each port or terminal requires the most expensive type of system and each port or terminal will require five of these systems. A more realistic estimate is that 200 ports and terminals will require an average of 3 intermediately priced systems costing approximately $3,540 (annualized). The total anticipated annualized costs for ports and terminals is $2,195,255. Ports and terminals will not incur capital costs for reception facilities but will incur administrative costs to apply for certificates of adequacy in the amount of $23,405. Coast Guard costs, which include the administrative time to process applications for Certificates of Adequacy and personnel costs to conduct inspections to ensure compliance with the regulations amount to $47,850.

The costs to ships as a result of adopting the provisions of Annex II to MARPOL 73/78 include administrative costs for making entries in the cargo record book, and applying for certificates required to carry NLS cargo, equipment costs for ships to meet the efficient stripping requirements, discharge limitations at sea, and operating costs for ships to prewash cargo tanks and discharge the tank washing residues to a reception facility. These costs as well as the information collection costs of §§ 151.33 to 151.37 proposed in this notice are included in the costs discussed in the preamble of CGD 81–101.

Economic benefits could not be accurately quantified. However these regulations are considered to be the minimum necessary to comply with the obligations of the United States under MARPOL 73/78. The proposed regulations are part of the overall scheme to reduce accidental and intentional damage to the marine environment.

The port and terminal equipment requirements permit ships to efficiently strip cargo tanks and increase the amount of cargo recovered as product. Ships will not need to wash tanks as long and this should reduce the need to discharge wastes into the ocean or discharge wastes to a shore reception facility. Due to the variety of NLS carried and the uncertainty as to the damage these products can cause to the marine environment, no dollar value can be assigned to the effect of the reduced pollution anticipated. At the same time, these regulations will allow ports and terminals to minimize disruption of trade and limit involvement in the management of hazardous wastes. Prewashes will not be required in most cases where cargo tanks can be efficiently stripped. This will facilitate compliance with the discharge restrictions imposed elsewhere in CGD 81–101 on vessel operations and reduce the need to dispose of wastes ashore because there will be fewer required prewashes.

The benefits of the reception facility requirements will be to prevent undue delay to oceangoing ships and to minimize the costs to ports and terminals of reduced berth availability. These reception facility regulations will affect the locations where NLS residues are received by reception facilities. If left unregulated, ships would not be able to discharge NLS residue at all ports and terminals because reception facilities would not be readily available. Further, in those ports and terminals where reception facilities were available, the demand for reception facilities would exceed the supply. This will drive up the costs of disposal, contribute to the delay of vessels, and adversely affect compliance with the discharge restrictions imposed on vessels. The Coast Guard projects that oceangoing ships will need to use reception facilities approximately 200 times annually. At $1,000 an hour, the delay to ships awaiting reception facilities could result in lost revenue for ship owners or operators as well as port and terminal operators. However, the capacity requirement, transfer time requirement, and requirement to make arrangements with reception facilities prior to applying for a Certificate of Adequacy should hold delays to a minimum. The actual cost of this regulation will represent a small fraction of revenue to ports and terminals and will have no impact on either domestic or international trade.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, a regulatory flexibility analysis which discusses the impact of the final rule on small entities has been made part of the Final Regulatory Evaluation. The Coast Guard has adopted the Small Business Administration's (SBA) definition of "small business" for SBA loans to concerns engaging in transportation and warehousing (13 CFR 121.3–10(f)). Under this definition, a concern is considered small if its annual receipts do not exceed $1.5 million. The Coast Guard did not receive any comments on the number of terminals or ports affected by the proposed regulations that are considered small entities. The volume of cargo handled is not an accurate criterion because of the variety of business arrangements of ports and terminals and the different chemicals they handle. Some small ports and terminals are affiliated with large corporations having a substantial monetary interest in the cargo while others are independent contractors for wharfage and warehousing. The Coast Guard, recognizing a potential differential cost impact on small terminals, will allow ports and terminals to apply for Certificates of Adequacy as a group, thus reducing the administrative burden on individual operators. Furthermore, the cost for ports and terminals to make arrangements for reception facilities will be proportionate to the number of ships which are handled at the port or terminal that are required to prewash tanks and discharge the residues to a reception facility. The applicant need apply only once for a Certificate of Adequacy unless it is suspended or revoked.

The costs of this regulation on any individual small firm will be low because a small facility will require the installation of less equipment to facilitate efficient stripping. The total costs on small firms will be low because it is anticipated that few small entities will be affected. The small business impact of the regulations in §§ 151.31 to 151.45 proposed in this notice is discussed in the preamble of CGD 81–101, and has also been found to be minimal. Therefore the Coast Guard certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule adopts the information collection requirements in §§ 151.43, 158.140, 158.150, 158.165, and 158.190. Revisions have been approved by the Office of Management and Budget (OMB) for the proposed requirements (which have been assigned RCS/OMB numbers 2115–0543 and 2115–0544).

Environmental Impact

Under MARPOL 73/78, the Act, and final regulations published elsewhere in this **Federal Register** (CGD 81–101), oceangoing ships carrying NLS are severely limited in discharging NLS residue into the sea. This is accomplished by limiting the amount of cargo residues that remain in the tank upon completion of cargo unloading and by requiring the prewashing of tanks and discharge of the tank washings to a reception facility on shore. The port and

terminal equipment requirements will facilitate efficient stripping and help reduce the generation of NLS residue and the type and volume of waste delivered to reception facilities.

A final environmental assessment and a finding of no significant impact have been prepared and are available as detailed under "**ADDRESSES**" above. The environmental impact of the regulations in §§ 151.31 to 151.45 proposed in this notice is discussed in the preamble to CGD 81-101. Appendix I—Mandatory Application Form B and Instructions.

Application for a Reception Facility Certificate of Adequacy for Noxious Liquid Substance (NLS) Residues and Mixtures Containing NLS Residues

1. *General.* The United States, as a Party 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), is required by Annex II and the Act to Prevent Pollution from Ships (33 U.S.C. 1901) to issue certificates to terminals or ports verifying they have adequate reception facilities to receive NLS residues and mixtures containing NLS residues from ships. Regulations implementing the United States waste reception facility program are in Part 158 of Title 33 Code of Federal Regulations.

2. The Certificate of Adequacy (COA) remains valid until suspended or revoked by the COTP.

3. Upon revocation, a Certificate of Adequacy shall be returned to the issuing U.S. Coast Guard Captain of the Port (COTP) within 5 days after the revocation becomes effective.

4. The Application, as submitted, shall be attached to and become a part of the Certificate of Adequacy upon issuance.

5. A copy of the Certificate of Adequacy with the Application attached shall be available at each port and terminal to which it applies. Persons in charge of a port shall ensure that terminals who are members of the port receive a copy of the certificate of adequacy and all attachments. The Certificate of Adequacy and all attachments shall be available for inspection by Coast Guard personnel and the master, person in charge, or agent of an oceangoing ship using or intending to use the reception facility.

6. The person in charge identified in the Application shall notify the U.S. Coast Guard Captain of the Port (COTP) in writing within 10 days after any of the reception facility information supplied in sections 2, 5.A., or 5.C. of Application Form B changes. The person in charge shall notify the COTP in writing within 30 days after any information supplied in sections 1., 3, 4, 5.B., 5.D., 5.E., 5.F., or 5.G. of Form B changes.

7. *Civil Penalties.* A person who, after notice and an opportunity for a hearing, is found:

a. To have made a false, fictitious or fraudulent statement or representation in any matter in which a statement or representation is required to be made under the Act to Prevent Pollution from Ships, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed $5,000 for each statement or representation; or

b. To have violated the Act to Prevent Pollution From Ships, or the regulations issued thereunder, shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation.

Instructions

Application for a Reception Facility Certificate of Adequacy for Residues and Mixtures Containing Noxious Liquid Substances (NLS) Residues

Form B

The following instructions for individual line items are provided to assist in completing the Application for a Certificate of Adequacy (COA). If you have any questions or need assistance in completing the Application, please contact the U.S. Coast Guard Captain of the Port (COTP) for your area. A list of definitions, which you may find helpful in completing the Application, is in Title 33 Code of Federal Regulations Part 158 (33 CFR Part 158).

1.A. Indicate terminal if you are applying as a single terminal or indicate port if you are applying as a group of terminals. Do not mark "COTP Designated Port". COTP designation of a facility or an area as a port is for unusual situations. If you have a question as to whether COTP designation as a port applies to your situation, contact the COTP for your area.

1.C.(1) For a terminal enter the company or corporation name. For a port enter the company, corporation, port authority, or organization by which the group of terminals is known.

1.C.(3) Enter the name of a person authorized to act in behalf of the terminal or port.

1.C.(5) For a terminal enter the company or corporation name. For a port enter the company, corporation, port authority, or organization of which the person in charge is a member.

1.D.(1) Those applying as terminals do not have to complete this section, since the information is the same as in 1.C. Ports are to provide this information for each of the terminals indicated in 1.B. If more room is needed for additional terminals, attach a separate sheet completed with the same information required in 1.D.

2.A. Enter the company or corporation name of the reception facility.

2.E. Check as many of the types of reception facilities as may be used.

3.A. through 3.F. Check the appropriate boxes that apply for cargoes handled at the Port or Terminal during the last 12 months. If 3.A., 3.B., or 3.C., is checked, indicate the specific NLS handled at the port on a separate attached sheet of paper. Applicable terminals and ports may alternatively check the applicable cargoes on the attached optional COTP NLS Cargo list. If you have any questions concerning cargoes not listed or the classification of any cargo, contact Commandant U.S. Coast Guard (G-MTH), Washington DC at (202) 267-1217.

4. Terminals or ports which checked boxes B, C, D or E in section 3 must complete section 4.

5.A. Terminals or ports which checked line items 3.A., 3.B., or 3.C. must complete this line item. Enter the capacity of the Reception Facility to handle the specified wastes in Cubic Meters. This may include third party contracted tank barges, tank trucks, etc. (NOTE: if using CG Optional Worksheet enter value as calculated on line "V".) Terminals or Ports which checked only line items 3.D., and 3.E. should enter "N/A".

5.B. Terminals or ports which checked line items 3.A., 3.B., or 3.C. must complete this line item. Enter value in cubic meters from your calculations or as calculated on Coast Guard Optional Worksheet line "T" for terminals or ports, and line "U" for ship repair yards. The value entered must meet the requirements detailed in 33 CFR 158.320.

Terminals or Ports which checked only line items 3.D., 3.E. and 3.F. should enter "N/A".

5.C. Indicate whether the Reception Facility can receive those residues resulting from prewashes required by 46 CFR 153.1120 within 10 hours after the beginning of the transfer of these residues begins.

5.G. Only ship repair yards complete this line item.

BILLING CODE 4910-14-M

FORM B

OMB No. Approved 2115-0543
Exp. Date 2/28/91

APPLICATION FOR A RECEPTION FACILITY CERTIFICATE OF ADEQUACY FOR NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES AND MIXTURES CONTAINING NLS RESIDUES

1. PARTICULARS OF TERMINAL OR PORT

A. APPLYING AS: *(CHECK ONE)* ☐ Terminal ☐ Port ☐ COTP Designated Port ☐ Ship Repair Yard

B NUMBER OF TERMINALS TO WHICH THIS APPLICATION APPLIES: _____

C TERMINAL/PORT INFORMATION:

(1) NAME OF TERMINAL/PORT _____

(2) ADDRESS OF TERMINAL/PORT _____

(3) NAME OF TERMINAL/PORT PERSON IN CHARGE _____

(4) TITLE/POSITION _____

(5) ORGANIZATION _____

(6) OFFICE PHONE NUMBER ( ) _____

(7) TELEX NUMBER _____

D. INDIVIDUAL TERMINAL INFORMATION: If applying as a port, list the information indicated for each terminal in the port. If more space is needed, continue on a separate sheet of paper and attach to the back of the application. The signature of the person in charge of the terminal acknowledges that the terminal agrees and volunteers to being considered as a member of the port, described in section 1, for purposes of these reception facilities. Complete the terminal name, location, etc. below.

(1) NAME OF TERMINAL _____

(a) ADDRESS OF TERMINAL _____

(b) NAME /TITLE PERSON IN CHARGE _____

(c) OFFICE PHONE NUMBER ( ) _____

(d) SIGNATURE OF TERMINAL PERSON IN CHARGE _____

(2) NAME OF TERMINAL _____

(a) ADDRESS OF TERMINAL _____

(b) NAME /TITLE PERSON IN CHARGE _____

(c) OFFICE PHONE NUMBER ( ) _____

(d) SIGNATURE OF TERMINAL PERSON IN CHARGE _____

2. PARTICULARS OF RECEPTION FACILITY: Enter information for each reception facility used by the terminal/port. If necessary, continue on a separate sheet and attach to the back of the application.

A. NAME OF RECEPTION FACILITY _____

B. ADDRESS _____

DEPT. OF TRANSP., USCG-CG-5401B (2-87)
LOCAL REPRO

REVERSE OF CG-5401B (2/87)

C. NAME AND TITLE OF PERSON IN CHARGE _____

D. OFFICE PHONE NUMBER OF PERSON IN CHARGE ( ) _____

E. TYPE OF RECEPTION FACILITY: CHECK THOSE THAT APPLY.

☐ FIXED: ☐ MOBILE: ☐ TANK TRUCK : ☐ TANK BARGE: ☐ OTHER:

(Describe other) _____

3. TYPE OF NLS CARGO OR RESIDUES UNLOADED AT THE TERMINAL OR PORT DURING THE LAST 12 MONTHS: Check the boxes that apply. If 3.A., 3.B., or 3.C . is checked, indicate the specific NLS handled on an attached sheet or check the appropriate cargoes on the attached COTP NLS cargo list.

☐ A. Category A
☐ B. Category B solidifying or high viscosity
☐ C. Category C solidifying or high viscosity
☐ D. Category B non-solidifying or non-high viscosity
☐ E. Category C non-solidifying or non-high viscosity
☐ F. Category D

4. TERMINAL AND PORT REQUIREMENTS: Only complete this section if line items 3.B., 3.C., 3.D., or 3.E. are checked.

A. WILL THE PORT OR TERMINAL BE CAPABLE OF RECEIVING NLS CARGO DURING TANK STRIPPING OPERATIONS FROM SHIPS AT AN INSTANTANEOUS FLOW RATE OF 6 CUBIC METERS (158.4 GALLONS) PER HOUR WITHOUT THE BACK PRESSURE EXCEEDING 101.6 kPa/sec (14.7 pounds per square inch gauge) AT THE POINT WHERE THE SHORE CONNECTION MEETS THE SHIP'S MANIFOLD? _____

B. WILL THE INSTRUCTION MANUAL THAT LISTS THE EQUIPMENT AND PROCEDURES REQUIRED BY LINE ITEM 4.A. BE AVAILABLE AT THE TERMINAL/PORT? _____

5. RECEPTION FACILITY REQUIREMENTS: Only complete this section if line items 3.A., 3.B., or 3.C. are checked. For line items 5.A. and 5.B. enter either the capacity or " N/A." For line items 5.C. through 5.G. enter either "YES," "NO," or "N/A" (if entering "NO" submit a waiver request in accordance with 33 CFR 158.150 on a separate attached sheet).

A. ESTIMATED DAILY CAPACITY OF RECEPTION FACILITY TO RECEIVE NLS RESIDUES RESULTING FROM PREWASH OPERATIONS: _____ (CUBIC METERS)

B. ESTIMATED DAILY CAPACITY REQUIREMENT OF THE TERMINAL/PORT TO RECEIVE NLS RESIDUES RESULTING FROM PREWASH OPERATIONS: _____ (CUBIC METERS)

C. CAN THE RECEPTION FACILITY RECEIVE ALL NLS RESIDUES RESULTING FROM PREWASH OPERATIONS FROM SHIPS WITHIN 10 HOURS AFTER NLS RESIDUE TRANSFER BEGINS? _____

D WILL THE RECEPTION FACILITIES FOR NLS RESIDUES BE PROVIDED WITHIN 24 HOURS AFTER NOTIFICATION BY A VESSEL INDICATING THE NEED FOR RECEPTION FACILITIES? _____

E. WILL RECEPTION FACILITIES BE PROVIDED AT THE UNLOADING TERMINAL/PORT? _____

F. DOES THE RECEPTION FACILITY HOLD EACH FEDERAL, STATE, AND LOCAL PERMIT AND LICENSE REQUIRED BY ENVIRONMENTAL LAWS AND REGULATIONS CONCERNING NLS RESIDUES? _____

G. CAN THE RECEPTION FACILITY RECEIVE ALL NLS RESIDUES PRIOR TO THE SHIP LEAVING THE SHIP REPAIR YARD? _____

CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED IN THIS APPLICATION FOR A WASTE RECEPTION FACILITY CERTIFICATE OF ADEQUACY FOR RECEPTION FACILITIES RECEIVING NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES IS COMPLETE, TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

SIGNATURE OF TERMINAL/PORT PERSON IN CHARGE _____

PRINTED OR TYPED NAME OF PERSON IN CHARGE _____

DATE SIGNED _____

COTP NLS CARGO LIST

1 MARCH 1987

CATEGORY A NLS SOLIDIFYING

- ___Carbolic oil
- ___Chlorotoluenes (mixed isomers)
- ___Cresols, mixed isomers
- ___2,4-Dichlorophenol
- ___Diphenyl*
- ___Diphenyl/Diphenyl oxide mixtures*
- ___Diphenyl ether
- ___o-Ethylphenol*
- ___Naphthalene (molten)
- ___Phosphorus, yellow or white
- ___OTHERS

CATEGORY A NON-SOLIDIFYING

- ___Acetone cyanohydrin
- ___Anthracene oil* (coal tar fraction)
- ___Butyl benzenes*
- ___Butyl benzyl phthalate
- ___Calcium bromide/Zinc bromide* mixtures solution
- ___Calcium naphthenate in mineral oil
- ___4-Chloro-2-methylphenoxyacetic* acid, dimethylamine salt solution
- ___o-Chlorotoluene
- ___Coal tar*
- ___Creosote (wood)
- ___iso + n-Decyl acrylate
- ___Dibutyl phthalate
- ___2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution
- ___2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution*
- ___2,4-Dichlorophenoxyacetic acid, dimethylamine salt (70% or less) solution
- ___2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution
- ___Diisopropylbenzene (all isomers)
- ___Diphenyl oxide/Diphenyl phenyl ether mixture
- ___Dodecylphenol
- ___alpha-Methylstyrene
- ___Motor fuel anti-knock compounds
- ___Nonylphenol
- ___Pine oil*
- ___Tricresyl phosphate (containing less than 1% ortho-isomer)
- ___Tricresyl phosphate (containing 1% or more ortho-isomer)
- ___Triethylbenzene
- ___Trixylenyl phosphate
- ___Vinyl toluene
- ___OTHERS

CATEGORY B SOLIDIFYING AND HIGH VISCOSITY NLS

- ___p-Chlorotoluene
- ___n-Decyl alcohol (all isomers)
- ___p-Dichlorobenzene molten*
- ___Diglycidyl ether of Bisphenol A
- ___Diisobutyl phthalate
- ___Dinitrotoluene (molten)
- ___Diphenyl methane diisocyanate
- ___Dodecanol
- ___Dodecyl diphenyl oxide disulphonate solution
- ___Ethylene dibromide
- ___2-Ethyl-3-propylacrolein
- ___Fatty alcohols (C12-C20)
- ___Lactonitrile solution* (80% or less)
- ___4-Methylpyridine
- ___Nitrobenzene
- ___o-Nitrochlorobenzene
- ___o-Nitrophenol (molten)
- ___Octyl aldehydes*
- ___Olefins, straight chain mixtures
- ___Phenol or solutions with 5% or more phenol
- ___Rosin oil
- ___Sodium hydrosulphide solution (45% or less)
- ___Sodium-2-mercapto-benzothiazol solution
- ___Sodium thiocyanate solution* (56% or less)
- ___Tall oil (crude and distilled)
- ___1,2,4-Trichlorobenzene
- ___Undecyl alcohol
- ___Xylenol
- ___OTHERS

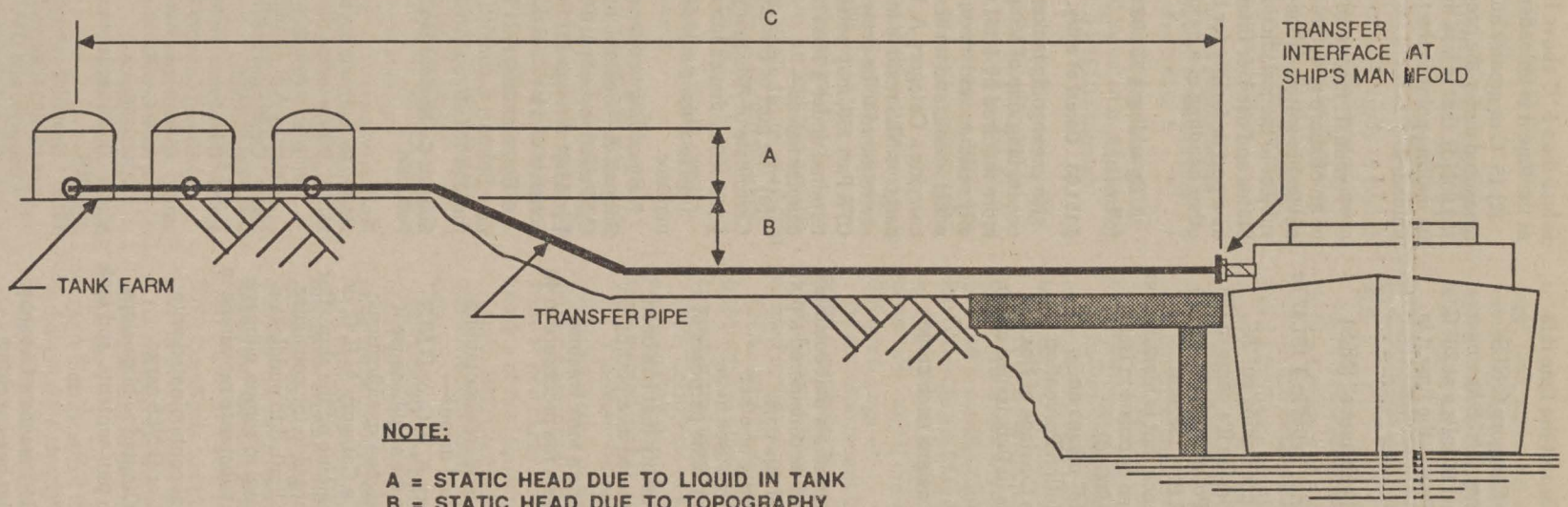
CATEGORY C SOLIDIFYING AND HIGH VISCOSITY NLS

- ___Benzene or hydrocarbon mixture containing 10% or more benzene
- ___Caustic potash solution
- ___Chloroacetic acid (80% or less)
- ___Cyclohexane
- ___Cyclohexanol
- ___Diisopropanolamine
- ___Ethylenediamine
- ___Hexamethylenediamine
- ___p-Nitrotoluene
- ___Oleum
- ___Paraldehyde
- ___Phthalic anhydride (molten)
- ___Polyethylene polyamines
- ___n-Propanolamine
- ___iso-Propanolamine
- ___Sodium borohydride (15% or less)/Sodium hydroxide soln.
- ___Sulphuric acid
- ___Sulphuric acid, spent
- ___Tetradecylbenzene*
- ___Toluene diamine
- ___Toluene diisocyanate
- ___Tridecyl benzene*
- ___p-Xylene
- ___OTHERS

* PROVISIONALLY ASSESSMENTS

Figure 1.

TRANSFER LINE BACKPRESSURE DIAGRAM



NOTE:

A = STATIC HEAD DUE TO LIQUID IN TANK
B = STATIC HEAD DUE TO TOPOGRAPHY
C = PRESSURE DROP DUE TO FRICTION IN PIPE

BILLING CODE 4910-14-C

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List of Subjects

33 CFR Part 151

Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Hazardous waste, Oil pollution, Ports, Reception facilities, Terminals, Vessels.

In consideration of the preceding, it is proposed to amend Parts 151 and 158 of Subchapter O of Chapter I of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C), 1902(c) and 1903(b), E.O. 11735, 49 CFR 1.46(m) and (hh).

2. By revising the title of Part 151 to read as follows:

PART 151—OIL AND NOXIOUS LIQUID SUBSTANCE REGULATIONS

3. By revising § 151.01 to read as follows:

§ 151.01 Purpose.

The purpose of this part is to implement the Act to Prevent Pollution from Ships, 1980, (33 U.S.C. 1901 through 1911) and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), done at London February 17, 1978.

Note.—MARPOL 73/78 is available from the National Technical Information Service, Springfield, VA. Please include reference number "ADA 168 505" in your request.

4. By revising § 151.03(a)(4) to read as follows:

§ 151.03 Applicability.

(a) * * *

(4) Except as provided by § 151.30, is operated under the authority of the United States and operates at any time seaward of the outermost boundry of the territorial sea of the United States as defined in § 2.05–10 of this chapter; or

* * * * *

5. By amending § 151.05 by removing the paragraph designations, alphabetizing the definitions, and by adding new definitions, in proper alphabetical order to read as follows:

§ 151.05 Definitions.

* * * * *

"High viscosity NLS" includes Category A NLSs having a viscosity of at least 25 mPa.s at 20° C and at least 25 mPa.s at the time they are unloaded, high viscosity Category B NLSs, and high viscosity Category C NLSs.

"High viscosity Category B NLS" means any Category B NLS having a viscosity of at least 25 mPa.s at 20° C and at least 25 mPa.s at the time it is unloaded.

"High viscosity Category C NLS" means any Category C NLS having a viscosity of at least 60 mPa.s at 20° C and at least 60 mPa.s at the time it is unloaded.

* * * * *

"Noxious liquid substance" (NLS) means—

(1) Each substance listed in § 151.47 or § 151.49;

(2) Each substance having an "A", "B", "C", or "D" beside it's name in the column headed "Pollution Category" in Table 1 of 46 CFR Part 153; and

(3) Each substance that is identified as an NLS in a written permission issued under 46 CFR 153.900 (d).

"NLS Certificate" means an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under MARPOL 73/78.

* * * * *

"Oil–like NLS" means each cargo listed in § 151.49.

* * * * *

"Port" means—

(1) A group of terminals that combines to act as a unit and be considered a port for the purposes of this part;

(2) A port authority or other organization that chooses to be considered a port for the purposes of this part; or

(3) A place or facility that has been specifically designated as a port by the COTP.

"Prewash" means a tank washing operation that meets the procedure in 46 CFR 153.1120.

* * * * *

"Residues and mixtures containing NLSs" (NLS residue) means—

(1) Any Category A, B, C, or D NLS cargo retained on the ship because it fails to meet consignee specifications;

(2) Any part of a Category A, B, C, or D NLS cargo remaining on the ship after the NLS is discharged to the consignee, including but not limited to puddles on the tank bottom and in sumps, clingage in the tanks, and substance remaining in the pipes; or

(3) Any material contaminated with Category A, B, C, or D NLS cargo, including but not limited to bilge slops, ballast, hose drip pan contents, and tank wash water.

* * * * *

"Solidifying NLS" means a Category A, B, or C NLS that has a melting point—

(1) Greater than 0 °C but less than 15 °C and a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 5 °C above its melting point at the time it is unloaded; or

(2) 15 °C or greater and a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 10 °C above its melting point at the time it is unloaded.

* * * * *

"Terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

* * * * *

6. By adding § 151.08 to read as follows:

§ 151.08 Denial of entry.

No oceangoing tanker or any other oceangoing ship of 400 gross tons or more required by § 151.09 to retain oil or oily residues and mixtures on board while at sea, and no oceangoing ship carrying a Category A, B, or C NLS cargo or NLS residue in cargo tanks that are required to be prewashed under 46 CFR Part 153, may enter any port or terminal under § 158.110(a) or (b) of this chapter unless—

(a) The port or terminal has a Certificate of Adequacy, as defined in § 158.120 of this chapter; or

(b) The ship is entering under force majeure.

7. By adding two new headings, Subpart A—General, and Subpart B—Oil Pollution. Subpart A consists of §§ 151.01 through 151.08 and Subpart B consists of §§ 151.09 through 151.25.

8. By amending Part 151 by adding a new Subpart C consisting of §§ 151.30 through 151.49 to read as follows:

Subpart C—Noxious Liquid Substance Pollution

Sec.

151.30 Exception to applicability.
151.31 Where to find the requirements applying to oceangoing ships carrying Category A, B, C, and D NLS.
151.33 Certificates needed to carry Category C Oil-like NLS.
151.35 Certificates needed to carry Category D NLS and Category D Oil-like NLS.
151.37 Obtaining an Attachment for NLSs to the IOPP Certificate and obtaining an NLS Certificate.
151.39 Operating requirements: Category D NLS.
151.41 Operating requirements for oceangoing ships with IOPP Certificates: Category C and D Oil-like NLSs.
151.43 Control of discharge of NLS residues.
151.45 Reporting spills of NLS: Category A, B, C, and D.
151.47 Category D NLSs Other Than Oil-like Category D NLSs allowed for carriage.

Sec.
151.49 Category C and D Oil-like NLSs allowed for carriage.

Subpart C—Noxious Liquid Substance Pollution

§ 151.30 Exception to applicability.

This subpart does not apply to each tank barge whose certificate is endorsed by the Coast Guard for a limited short protected coastwise route if the barge is constructed and certificated primarily for service on an inland route.

§ 151.31 Where to find requirements applying to oceangoing ships carrying Category A, B, C, and D NLS.

(a) The requirements for oceangoing ships carrying NLSs listed in §§ 151.47 and 151.49 are in §§ 151.33 through 151.45.

(b) The requirements for oceangoing ships carrying NLSs listed in Table 151.05 of 46 CFR Part 151 and Table 1 of 46 CFR Part 153, which are not listed in § 151.47 or § 151.49, are in 46 CFR Parts 98, 151, and 153.

(c) Alternatives to the requirements in this Part for oceangoing ships carrying NLSs are in 46 CFR Part 153.

(d) Procedures for obtaining permission to carry an NLS not listed in § 151.47, § 151.49, Table 151.05 of 46 CFR Part 151, or Table 1 of 46 CFR Part 153 are in 46 CFR 153.900(c).

§ 151.33 Certificates needed to carry Category C oil-like NLS.

(a) A U.S. oceangoing ship may not carry a Category C oil-like NLS listed in § 151.49 in a cargo tank unless the ship has a Certificate of Inspection endorsed to allow the NLS to be carried in that cargo tank, and if the ship engages in a foreign voyage—

(1) An Attachment for NLSs to the IOPP Certificate, issued under § 151.37(a), that allows the NLS to be carried in that cargo tank; or

(2) A Certificate of Fitness issued under 46 CFR Part 153 that allows the NLS to be carried in that cargo tank.

(b) A foreign oceangoing ship operating in the navigable waters of the U.S. may not carry a Category C oil-like NLS listed in § 151.49 in a cargo tank unless the ship has—

(1) An Attachment for NLSs to the IOPP Certificate that allows the NLS to be carried in that cargo tank; or

(2) A Certificate of Compliance issued under 46 CFR Part 153 to allow the NLS to be carried in that cargo tank.

(c) A U.S. oceangoing ship authorized to carry certain dangerous cargoes in bulk under 46 CFR Part 98 may not carry a Category C oil-like NLS listed in § 151.49 in a cargo tank unless the ship has a Certificate of Inspection endorsed to allow the NLS to be carried in that cargo tank, and if the ship engages in a foreign voyage, an NLS Certificate issued under § 151.37(b) that allows the NLS to be carried in that cargo tank.

§ 151.35 Certificates needed to carry Category D NLS and Category D Oil-like NLS.

(a) A U.S. oceangoing ship may not carry a Category D NLS listed in § 151.47 in a cargo tank unless the ship has a Certificate of Inspection endorsed to allow the NLS to be carried in that cargo tank, and if the ship engages if a foreign voyage—

(1) An NLS Certificate issued under § 151.37(b) to allow the NLS to be carried in that cargo tank; or

(2) A Certificate of Fitness issued under 46 CFR Part 153 to allow the NLS to be carried in that cargo tank.

(b) A U.S. oceangoing ship may not carry a Category D oil-like NLS listed in § 151.49 in a cargo tank unless the ship has a Certificate of Inspection endorsed to allow the NLS to be carried in that cargo tank, and if the ship engages if a foreign voyage—

(1) An Attachment for NLSs to the IOPP Certificate, issued under § 151.37(a), to allow the NLS to be carried in that cargo tank; or

(2) An NLS Certificate issued under § 151.37(b) to allow the NLS to be carried in that cargo tank, or

(3) A Certificate of Fitness issued under 46 CFR Part 153 to allow the NLS to be carried in that cargo tank.

(c) A foreign oceangoing ship in the navigable waters of the U.S. may not carry a Category D NLS listed in § 151.47 in a cargo tank unless the ship has one of the following:

(1) An NLS Certificate endorsed to allow the NLS to be carried in that cargo tank; or

(2) A Certificate of Compliance issued under 46 CFR Part 153 to allow the NLS to be carried in that cargo tank.

(d) A foreign oceangoing ship in the navigable waters of the U.S. may not carry a Category D oil-like NLS listed in § 151.49 in a cargo tank unless the ship has one of the following:

(1) An Attachment for NLSs to the IOPP Certificate to allow the NLS to be carried in that cargo tank; or

(2) An NLS Certificate endorsed to allow the NLS to be carried in the cargo tank; or

(3) A Certificate of Compliance issued under 46 CFR Part 153 to allow the NLS to be carried in the cargo tank.

(e) A U.S. oceangoing ship authorized to carry certain dangerous cargoes in bulk under 46 CFR Part 98 may not carry a Category D NLS listed in § 151.47 or a Category D oil-like NLS listed in § 151.49 in a cargo tank unless the ship has a Certificate of Inspection endorsed to allow the NLS to be carried in that cargo tank, and if the ship engages in a foreign voyage, an NLS Certificate issued under § 151.37(b) that allows the NLS to be carried in that cargo tank.

§ 151.37 Obtaining an Attachment for NLSs to the IOPP Certificate and obtaining an NLS Certificate.

(a) The Coast Guard issues an Attachment for NLSs to the IOPP Certificate to an oceangoing ship to allow the carriage of a Category C oil-like NLS or a Category D oil-like NLS if the following requirements are met:

(1) Except for ships that are not configured and are not equipped to ballast or wash cargo tanks while proceeding en route, the ship must have a Coast Guard approved monitor under § 157.12 that is approved for the cargoes that are desired to be carried.

(2) Except as required by paragraph (a)(3), ships of 150 meters or less in length carrying a Category C oil-like NLS must meet the damage stability requirements applying to a Type III hull as provided by Regulation 14 (c) of Annex II.

(3) A U.S. self propelled ship of 150 meters or less in length on a coastwise voyage carrying a Category C oil-like NLS must meet the damage stability requirements applying to a Type III hull as provided by 46 CFR Part 172, Subpart F except §§ 172.130 and 172.133.

(b) Except as allowed in paragraph (c) of this section, the Coast Guard issues an NLS Certificate endorsed to allow the oceangoing ship engaged in a foreign voyage to carry a Category D NLS listed in § 151.47 if the ship has—

(1) An approved Procedures and Arrangements Manual and Cargo Record Book, both meeting the requirements in 46 CFR 153.490; and

(2) A residue discharge system meeting 46 CFR 153.470, unless the approved Procedures and Arrangements Manual limits discharge of Category D NLS residue to the alternative provided by 46 CFR 153.1128(b).

(c) The Coast Guard issues a NLS Certificate with the statement that the vessel is prohibited from discharging NLS residues to the sea if the vessel does not meet 46 CFR 153.470 and 153.490 but meets 46 CFR Subpart 98.31.

§ 151.39 Operating requirements: Category D NLS.

The master or person in charge of an oceangoing ship that carries a Category D NLS listed in § 151.47 shall ensure that the ship is operated as prescribed for the operation of oceangoing ships carrying

Category D NLSs in 46 CFR 153.901, 153.906, 153.909, 153.1100, 153.1104, 153.1106, 153.1124, 153.1126, and 153.1128.

§ 151.41 Operating requirements for oceangoing ships with IOPP Certificates: Category C and D oil-like NLSs.

The master or person in charge of an oceangoing ship certificated under § 151.37(a) shall ensure that—

(a) The carriage and discharge of the oil-like NLS meets §§ 157.29, 157.31, 157.35, 157.37, 157.41, 157.45, 157.47, and 157.49 of this chapter; and

(b) The oil-like NLS is not discharged unless—

(1) The monitor required by § 151.37(a)(1) is set to detect the oil-like NLS; and

(2) A statement that the monitor has been set to detect the oil-like NLS is entered in the Oil Record Book Part II(Cargo/Ballast Operations), required by § 151.25.

§ 151.43 Control of discharge of NLS residues.

(a) Unless the ship is a fixed or floating drilling rig or other platform operating under an National Pollution Discharge Elimination System (NPDES) permit, the master or person in charge of an oceangoing ship that cannot discharge NLS residue into the sea in accordance with 46 CFR 153.1126 or 153.1128 shall ensure that the NLS residue is—

(1) Retained on board; or

(2) Discharged to a reception facility.

(b) If Category A, B, or C NLS cargo or NLS residue is to be transfered at a port or terminal in the United States, the master or person in charge of each oceangoing ship carrying NLS cargo or NLS residue shall notify the port or terminal at least 24 hours before entering the port or terminal of—

(1) The name of the ship;

(2) The name, category and volume of NLS cargo to be unloaded;

(3) If the cargo is a Category B or C high viscosity NLS cargo or solidifying NLS cargo listed in Table 1 of 46 CFR Part 153 with a reference to "§ 153.908(a)" or "§ 153.908(b)" in the "Special Requirements" column of that table, the time of day the ship is estimated to be ready to discharge NLS residue to a reception facility;

(4) If the cargo is any Category B or C NLS cargo not under paragraph (b)(3) of this section, whether or not the ship meets the stripping requirements under 46 CFR 153.480, 153.481, or 153.482;

(5) The name and the estimated volume of NLS in the NLS residue to be discharged;

(6) The total volume of NLS residue to be discharged; and

(7) The name and amount of any cleaning agents to be used during the prewash required by 46 CFR 153.1120.

(c) The master or person in charge of a U.S. ship in a special area shall operate the ship in accordance with 46 CFR 153.903.

Note.—The master or person in charge of a ship carrying Category A NLS that is required to prewash tanks under the procedures in 46 CFR Part 153.1120 is required under 46 CFR 153.1101 to notify the COTP at least 24 hours before a prewash surveyor is needed.

§ 151.45 Reporting spills of NLS: Category A, B, C, and D.

(a) The master or person in charge of an oceangoing ship involved in any incident described in paragraph (d) of this section, shall report the particulars of each incident without delay and to the fullest extent possible in accordance with the requirements of this section.

(b) If a ship involved in an incident is abandoned, or if a report from that ship is incomplete or unobtainable, the owner, charterer, manager, or operator of that ship or their agents shall, to the fullest extent possible, assume the obligations placed upon the master or person in charge under the requirements of this section.

(c) Each report must be made by radio or the fastest means available at the time the report is made to—

(1) The appropriate officer or agency of the government of a country in whose waters the incident occurs; and

(2) For incidents involving U.S. ships, the nearest Coast Guard Captain of the Port (COTP) or the National Response Center (NRC), toll free telephone number 800–424–8802, telex number 892427.

(d) The report must be made whenever an incident involves a discharge or the probability of a discharge—

(1) Other than as allowed by this part; or

(2) Allowed by this part because it—

(i) Secures the safety of the ship or saves lives at sea; or

(ii) It results from damage to the ship or its equipment.

(e) Each report must contain—

(1) The identity of the ship;

(2) The name of the NLS discharged;

(3) The time and date of the occurrence of the incident;

(4) The geographic position of the ship when the incident occurred;

(5) The wind and sea condition prevailing at the time of the incident;

(6) Relevant details respecting the condition of the ship; and

(7) A statement or estimate of the quantity of the NLS cargo or NLS residue discharged or likely to be discharged into the sea.

(f) Each person who is obligated under the provisions of this section to send a report shall—

(1) Supplement the initial report, as necessary, with information concerning further developments; and

(2) Comply as fully as possible with requests from affected countries for additional information concerning the incident.

(h) A report made under this section satisfies the reporting requirement of § 153.203 of this chapter.

§ 151.47 Category D NLSs Other Than Oil-like Category D NLSs Allowed for carriage.

The following is a list of Category D NLSs other than Oil-like Category D NLSs that the Coast Guard allows to be carried:

Ammonium sulfate solution
Amyl alcohol (n-, sec- primary)
sec-Butyl acetate
Butylene glycol
Gamma Butyrolactone
Calcium alkyl salicylate
Calcium chloride solutions
Caprolactam
Coconut oil, fatty acid methyl ester
Diacetone alcohol
Diethylene glycol butyl ether acetate
Diethylene glycol ethyl ether acetate
Diethylene glycol methyl ether acetate
Di-ethyl hexyl adipate
Di-ethyl hexyl phthalate
Diisobutyl ketone
Diisodecyl phthalate
Dinonyl phthalate
Dipropylene glycol methyl ether
Diundecyl phthalate
2-Ethoxy ethanol
Ethyl acetate
Ethyl acetoacetate
Ethylene diamine, tetra-acetic acid, tetrasodium salt
Ethylene glycol butyl ether
Ethylene glycol butyl ether acetate
Ethylene glycol methyl ether
Ethylene glycol methyl ether acetate
Ethylene glycol phenyl ether
2-Ethyl hexanoic acid
Formamide
1-Hexanol
N-Hydroxyethyl ethylene diamine triacetic acid, trisodium salt solution
Isoamyl alcohol
Isobutyl formate
Isophorone
Lactic acid
Latex
3-Methoxybutyl acetate
Methyl-tert-butyl ether
Methyl isobutyl ketone
Oleic Acid
Polypropylene glycols
n-Propyl acetate
n-Propyl alcohol
Propylene glycol methyl ether
Triisopropanolamine
Tripropylene glycol methyl ether
Urea, ammonium phosphate solution

§ 151.49 Category C and D Oil-like NLSs allowed for carriage.

The following is a list of Category C and D Oil-like NLSs that the Coast Guard allows to be carried:

(a) The following Category C oil-like NLSs may be carried:

Cyclohexane
P-Cymene
Decene
Diethyl Benzene
Dipentene
Dodecyl benzene
Ethyl benzene
Heptene (mixed isomers)
1-Hexene
2-Methyl-1-pentene
n-Pentane
Pentene, all isomers
Phenylxylylethane
Propylene dimer
Tetrahydro naphthalene
Toluene
Xylene

(b) The following Category D oil-like NLSs may be carried:

Alkylbenzene (C_9 to C_{17} straight or branched chain)
Butene oligomer
Diisopropyl naphthalene
Dodecane
Ethylcyclohexane
Isopentane
Nonane
Octane
n-Parafins (C_{10} to C_{20})

9. The authority citation to Part 158 is revised to read as follows:

Authority: 33 U.S.C 1903(b); 49 CFR 1.46(hh).

10. By revising the Title to Part 158 to read as follows:

PART 158—CONTROL OF RESIDUES AND MIXTURES CONTAINING OIL OR NOXIOUS LIQUID SUBSTANCES

11. By amending Part 158 by revising Subpart A consisting of §§ 158.100 through 158.190 to read as follows:

Subpart A—Certificates of Adequacy: Obtaining and Retaining

General

Sec.
158.100 Purpose.
158.110 Applicability.
158.120 Definitions and acronyms.
158.130 Delegations.
158.140 Applying for a Certificate of Adequacy.
158.150 Waivers and alternatives.
158.160 Issuance and termination of a Certificate of Adequacy.
158.163 Reception facility operations.
158.165 Certificate of Adequacy: Change of information.

Suspension, Revocation, and Appeals

158.170 Grounds for suspension.
158.172 Notification of a suspension order.
158.174 Suspension of a Certificate of Adequacy: Procedure.
158.176 Effect of Suspension of a Certificate of Adequacy.
158.178 Actions during a suspension.
158.180 Certificate of Adequacy: Procedure after revocation or the part no longer applies.
158.190 Appeals.

Subpart A—Certificate of Adequacy: Obtaining and Retaining

General

§ 158.100 Purpose.

This part establishes the following:

(a) Criteria for determining the adequacy of reception facilities.

(b) Procedures for certifying that reception facilities are adequate for receiving—

(1) Residues and mixtures containing oil from oceangoing tankers and any other oceangoing ships of 400 gross tons or more; or

(2) NLS residue from oceangoing ships.

(c) Standards for ports and terminals to reduce NLS residue.

§ 158.110 Applicability.

This part applies to each port and each terminal located in the United States or subject to the jurisdiction of the United States that is—

(a) Used by oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil, or by oceangoing ships to transfer NLSs, except those ports and terminals that are used only by—

(1) Non-self-propelled tank barges that are not configured and are not equipped to ballast or wash cargo tanks while proceeding enroute; or

(2) Ships carrying NLS operating under waivers under 46 CFR 153.491(b); or

(b) A ship repair yard that services oceangoing ships carrying oil or NLS residue.

§ 158.120 Definitions and acronyms.

As used in this part:

"Bunker oil" means oil loaded into bunker tanks for use as fuel.

"Captain of the Port" (COTP) means the Coast Guard officer commanding a Captain of the Port Zone described in Part 3 of this chapter.

"Certificate of Adequacy" means a Coast Guard issued Certificate of Adequacy with Form A or Form B or both attached.

"Clean ballast" has the same meaning as in § 157.03(e) of this chapter.

"Commandant" means Commandant, U.S. Coast Guard.

"Daily vessel average" means the total number of oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil, serviced over a typical continuous 12 month period, divided by 365.

"Form A" means the application for a reception facility Certificate of Adequacy for oil, Coast Guard form USCG–CG–5401A (9–85).

"Form B" means the application for a reception facility Certificate of Adequacy for NLS, Coast Guard form USCG–CG–5401B(2–87).

"High viscosity NLS" includes Category A NLSs having a viscosity of at least 25 mPa.s at 20 °C and of at least 25 mPa.s at the time they are unloaded, high viscosity Category B NLSs, and high viscosity Category C NLSs.

"High viscosity Category B NLS" means any Category B NLS having a viscosity of at least 25 mPa.s at 20 °C and at least 25 mPa.s at the time it is unloaded.

"High viscosity Category C NLS" means any Category C NLS having a viscosity of at least 60 mPa.s at 20 °C and at least 60 mPa.s at the time it is unloaded.

"MARPOL Protocol" (MARPOL 73/78) stands for the International Convention for the Prevention of Pollution from Ships, 1973, (done at London, November 2, 1973), as modified by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships 1973 (done at London on February 17, 1978), as amended, (1985).

"Noxious liquid substance" (NLS) means—

(1) Each substance listed in § 151.47 or § 151.49 of this chapter;

(2) Each substance having an "A", "B", "C", or "D" beside it's name in the column headed "Pollution Category" in Table 1 of 46 CFR Part 153; and

(3) Each substance that is identified as an NLS in a written permission issued under 46 CFR 153.900(d).

"Oceangoing ship" means a ship that—

(1) Is operated under the authority of the United States and engages in international voyages;

(2) Is operated under the authority of the United States and is certificated for ocean service;

(3) Is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land;

(4) Is operated under the authority of the United States and operates at any

time seaward of the outermost boundary of the territorial sea of the United States as defined in § 2.05 of this chapter; or

(5) Is operated under the authority of a country other than the United States.

Note.—A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the United States and Canada, is not an "oceangoing ship."

"Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse, and refined products (other than petrochemicals that are subject to the provisions of Annex II of MARPOL 73/78) and without limiting the generality of the forgoing, includes the substances listed in Appendix I of Annex I of MARPOL 73/78.

"Person" has the same meaning as in § 151.05(n) of this chapter.

"Person in charge" means an owner, operator, or a person authorized to act on behalf of a port or terminal.

Note.—The "person in charge" under this part is not necessarily the same person as the "person in charge" referred to in Parts 151, 154, 155, and 156 of this chapter (as defined in § 154.105 of this chapter.)

"Prewash" means a tank washing operation that meets the procedure in 46 CFR 153.1120.

"Port" means—

(1) A group of terminals that combines to act as a unit and be considered a port for the purposes of this part;

(2) A port authority or other organization that chooses to be considered a port for the purposes of this part; or

(3) A place or facility that has been specifically designated as a port by the COTP.

"Reception facility" means anything capable of receiving shipboard residues and mixtures containing oil, NLS residue, or both including, but not limited to—

(1) Fixed piping that conveys residues and mixtures from the ship to a storage or treatment system;

(2) Tank barges, railroad cars, tank trucks, or other mobile facilities; and

(3) Any combination of fixed and mobile facilities.

"Regulated NLS cargo" includes each Category A or high viscosity or solidifying Category B or C NLS cargo listed in Table 1 of 46 CFR Part 153 that contains a reference to § 153.908(a) or § 153.908(b) in the "Special Requirements" column of that table and is unloaded at the port or terminal within a typical continuous 12 month period either before or after application is made for a Certificate of Adequacy.

"Residues and mixtures containing NLSs" (NLS residue) means—

(1) Any Category A, B, C, or D NLS cargo retained on the ship because it fails to meet consignee specifications;

(2) Any part of a Category A, B, C or D NLS cargo remaining on the ship after the NLS is discharged to the consignee, including but not limited to puddles on the tank bottom and in sumps, clingage in the tanks, and substance remaining in the pipes; or

(3) Any material contaminated with Category A, B, C, or D NLS cargo, including but not limited to bilge slops, ballast, hose drip pan contents, and tank wash water.

"Segregated ballast" has the same meaning as contained in § 157.03(r) of this chapter.

"Ship" means a vessel of any type whatsoever, operating in the marine environment. This includes hydrofoils, air cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating drilling rigs or other platforms.

"Solidifying NLS" means a Category A, B, or C NLS that has a melting point—

(1) Greater than 0 °C but less than 15 °C and a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 5 °C above its melting point at the time it is unloaded; or

(2) 15 °C or greater and has a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 10 °C above its melting point at the time it is unloaded.

"Tank barge" has the same meaning as contained in 46 CFR 30.10–65.

"Tanker" means a ship constructed or adapted primarily to carry oil in bulk in the cargo spaces.

"Terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

"The Act" means the Act to Prevent Pollution from Ships (94 Stat. 2297, 33 U.S.C. 1901 *et seq*).

§ 158.130 Delegations.

Each COTP is delegated the authority to—

(a) Conduct inspections of each reception facility for which an application under § 158.140 is submitted to determine if it meets Subpart B of this part or Subpart C of this part, or both;

(b) If Form B is submitted, conduct an inspection of each port or terminal to determine if it meets § 158.330;

(c) After determining that the reception facility passes the inspection under paragraph (a) of this section, and if applicable, the inspection under paragraph (b) of this section, issue a Certificate of Adequacy for the port or terminal;

(d) Grant waivers under § 158.150;

(e) Designate ports; and

(f) Except when a ship is entering under force majeure, deny entry of ships to any port or terminal under § 158.110 not having an applicable Certificate of Adequacy to any—

(1) Oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil; or

(2) Oceangoing ships carrying NLSs.

§ 158.140 Applying for a Certificate of Adequacy.

(a) Each port or terminal under this part must have a Certificate of Adequacy for its reception facilities in order for oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil; or oceangoing ships carrying NLSs to continue to call at the port or terminal. To apply for a Certificate of Adequacy, the applicant must apply to the COTP of the Zone in which the port or terminal is located on—

(1) Form A, for each port or terminal used by oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil; and

(2) Form B, for each port or terminal used by oceangoing ships carrying NLSs.

§ 158.150 Waivers and alternatives.

(a) If the person in charge believes that a requirement in this part is unreasonable or impracticable for the port's or terminal's operations, the person in charge may submit a request for a waiver to the COTP. This application must—

(1) Be in writing; and

(2) Include the—

(i) Reasons why the requirement is unreasonable or impracticable;

(ii) Proposed alternatives that meet MARPOL 73/78; and

(iii) Additional information requested by the COTP.

(b) If the COTP allows the alternative proposed under paragraph (a)(2)(ii) of this section, the waiver—

(1) Is in writing; and

(2) States each alternative that applies and the requirement under this part for which the alternative is substituted.

(c) The person in charge shall ensure that each waiver issued under paragraph (b) of this section is attached

to the Certificate of Adequacy issued for the port or terminal.

§ 158.160 Issuance and termination of a Certificate of Adequacy.

(a) After reviewing the application made under § 158.140, the COTP determines by inspection the following:

(1) When the application is made on Form A, whether or not the reception facility meets Subpart B of this part.

(2) When the application is made on Form B, whether or not the reception facility and the port, or the reception facility and the terminal, meet Subpart C of this part.

Note.—If in the instruction manual required by § 158.330(b) there is a certification by a registered professional engineer licensed by a state or the District of Columbia that the backpressure requirements under § 158.330(a) are met, the COTP may accept this finding.

(b) After the inspections under paragraph (a) are conducted, and after consulting with the Administrator of the Environmental Protection Agency (EPA) or his or her designee, the COTP—

(1) Issues a Certificate of Adequacy to the person in charge for the port or terminal; or

(2) Denies the application and informs the person in charge in writing of the reasons for the denial.

(c) The Certificate of Adequacy has attached to it any waivers that are granted under § 158.150 when the Certificate of Adequacy is issued.

(d) Each Certificate of Adequacy remains valid until—

(1) Suspended;

(2) Revoked; or

(3) This part no longer applies to the port or terminal.

§ 158.163 Reception facility operations.

(a) Each person in charge and each person who is in charge of a reception facility shall ensure that the reception facility does not operate in a manner that violates any requirement under this part.

(b) A copy of the Certificate of Adequacy issued for the port or terminal must be—

(1) At each port and terminal under this part; and

(2) Available for inspection by the COTP and the master, person who is in charge, or the agent of an oceangoing ship.

(c) Ports and terminals required to have an Operations Manual under this chapter or 46 CFR Chapter 1 must have a copy of the Certificate of Adequacy issued for the port or terminal, including any waivers, attached to that Operations Manual.

§ 158.165 Certificate of Adequacy: Change of information.

(a) Except as required in paragraph (b) of this section, the person in charge shall notify the COTP in writing within 10 days after any information required in section 2, 3A, 3G, or 3H, of Form A or section 2, 5A, or 5C of Form B changes.

(b) The person in charge shall notify the COTP in writing within 30 days after any information required in section 1, 3B, 3C, 3E, 3F, 3I, or 3J of Form A or section 1, 3, 4, 5B, 5D, 5E, 5F or 5G of Form B changes.

(c) The person in charge shall maintain at the port or terminal a copy of the information submitted under paragraphs (a) and (b) of this section, until a corrected Certificate of Adequacy is received from the COTP.

Suspension and Revocation

§ 158.170 Grounds for suspension.

The COTP may suspend a Certificate of Adequacy if—

(a) Deficiencies recur or significantly affect the adequacy of the reception facility;

(b) Continued operations will result in undue delay to ships calling at the port or terminal;

(c) There is a failure to accept NLS residue from a ship after it's cargo tanks are prewashed in accordance with 46 CFR 153.1120; or

(d) There is a substantial threat of discharge of oil or NLS into or upon the navigable waters of the United States or adjoining shorelines.

§ 158.172 Notification of a suspension order.

(a) If the COTP has grounds for an immediate suspension of or is considering suspending a Certificate of Adequacy, the COTP notifies the person in charge of the intended action. Each notification of a suspension order, whether oral or written, includes—

(1) The grounds for the suspension;

(2) The date when the suspension becomes effective; and

(3) Information on how the suspension may be withdrawn, including all corrective actions required.

(b) If the suspension order is made orally, the COTP issues a suspension order in writing within five days after the initial notification.

§ 158.174 Suspension of a Certificate of Adequacy: Procedure.

(a) If no evidence or arguments are submitted in response to a notification of a suspension order, the suspension is effective on the date stated in the order.

(b) If any petition for withdrawing a suspension order is submitted in response to a notification of a suspension order, the COTP considers the evidence or arguments and notifies the person in charge of any action taken including—

(1) Denial of the petition for withdrawing a suspension order;

(2) Initiation of civil or criminal penalty action under Subpart 1.07 of Part 1 of this chapter; or

(3) Withdrawing the suspension order.

§ 158.176 Effect of suspension of a Certificate of Adequacy.

After the COTP notifies the person in charge and places a suspension order in effect, the COTP denies entry of ships to the port or terminal while the Certificate of Adequacy is suspended.

§ 158.178 Actions during a suspension.

(a) If a Certificate of Adequacy is suspended for longer than a five day period, the person in charge shall return it to the COTP within five days after the suspension becomes effective.

(b) After the suspension is in effect, the COTP may—

(1) Terminate the suspension order after receiving information from the person in charge that corrective action has been taken; or

(2) Revoke the Certificate of Adequacy if no significant action is undertaken by the person in charge to meet any measures ordered by the COTP.

§ 158.180 Certificate of Adequacy: Procedures after revocation or the part no longer applies.

(a) If a Certificate of Adequacy is revoked, the person in charge shall return it to the COTP within five days after the revocation becomes effective.

(b) When this part no longer applies to the port or terminal, the person in charge shall return the Certificate of Adequacy to the COTP within 30 days after this part no longer applies.

(c) After the Certificate of Adequacy has been returned to the COTP under paragraph (a) or (b) of this section, an application for a new Certificate of Adequacy may be submitted under § 158.140.

§ 158.190 Appeals.

(a) Any person directly affected by an action taken under this part may request reconsideration by the Coast Guard officer responsible for that action.

(b) Except as provided under paragraph (e) of this section, the person affected who is not satisfied with a ruling after having it reconsidered under paragraph (a) of this section may—

(1) Appeal that ruling in writing within 30 days after the ruling to the Coast Guard District Commander of the

district in which the action was taken; and

(2) Supply supporting documentation and evidence that the appellant wishes to have considered.

(c) The District Commander issues a ruling after reviewing the appeal submitted under paragraph (b) of this section. Except as provided under paragraph (e) of this section, the person affected who is not satisfied with this ruling may—

(1) Appeal that ruling in writing within 30 days after the ruling to the Chief, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard, Washington, DC, 20593; and

(2) Supply supporting documentation and evidence that the appellant wishes to have considered.

(d) After reviewing the appeal submitted under paragraph (c) of this section, the Chief, Office of Marine Safety, Security and Environmental Protection issues a ruling which is final agency action.

(e) If the delay in presenting a written appeal has an adverse impact on the operations of the appellant, the appeal under paragraph (b) or (c) of this section—

(1) May be presented orally; and

(2) Must be submitted in writing within five days after the oral presentation—

(i) With the basis for the appeal and a summary of the material presented orally; and

(ii) To the same Coast Guard official who heard the oral presentation.

12. By revising § 158.200(a) to read as follows:

§ 158.200 General.

(a) Except as allowed in paragraph (b) of this section, the facility used to meet Regulation 12 of Annex I to MARPOL 73/78 must—

(1) Be a reception facility as defined under § 158.120 that is available at the port or terminal;

(2) Hold each Federal, State, and local permit and license required by environmental laws and regulations concerning residues and mixtures containing oil; and

(3) Be capable of—

(i) Receiving residues and mixtures containing oil from oceangoing ships within 24 hours after notice by that ship;

(ii) Completing the reception of oily ballast from the ship in less than 10 hours after waste transfer operations begin; and

(iii) Completing the reception of other residues and mixtures containing oil in less than 4 hours after the transfer operation begins.

* * * * *

13. By revising § 158.210 (b) and (c) to read as follows:

§ 158.210 Ports and terminals loading crude oil.

* * * * *

(b) Oily bilge water in the amount of 10 metric tons (11 short tons) or 2 metric tons (2.2 short tons) multiplied by the daily vessel average, whichever quantity is greater; and

(c) Oily ballast in the amount of 30% of the deadweight tonnage of the largest of the oceangoing tankers loading crude oil at the port or terminal that do not have clean ballast tanks (CBT), segregated ballast tanks (SBT), or crude oil washing (COW) meeting Part 157 of this subchapter, multiplied by one or the daily vessel average, whichever quantity is greater.

14. By revising § 158.220 (b), (c), and (d) to read as follows:

§ 158.220 Ports and terminals loading more than 1,000 metric tons of oil other than crude oil or bunker oil.

* * * * *

(b) Oily bilge water in the amount of 10 metric tons (11 short tons) or 2 metric tons (2.2 short tons) multiplied by the daily vessel average, whichever quantity is greater;

(c) Oily ballast in the amount of 30% of the deadweight tonnage of the largest of the oceangoing tankers loading oil other than crude oil or bunker oil, at the port or terminal, that do not have CBT or SBT meeting Part 157 of this chapter, multiplied by one or the daily vessel average, whichever quantity is greater; and

(d) Cargo residue in the amount of 0.2% of the total cargo capacity of the largest of the oceangoing tankers loading oil other than crude oil or bunker oil, at the port or terminal, multiplied by one or the daily vessel average, whichever quantity is greater.

15. By revising § 158.230 (a) and (b) to read as follows:

§ 158.230 Ports and terminals other than ports and terminals under §§ 158.210, 158.220, and 158.240.

* * * * *

(a) Sludge from on-board fuel and lubricating oil processing in the amount of 10 metric tons (11 short tons), or 1 metric ton (1.1 short tons) multiplied by the daily vessel average, whichever quantity is greater; and

(b) Oily bilge water in the amount of 10 metric tons (11 short tons) or 2 metric tons (2.2 short tons) multiplied by the daily vessel average, whichever quantity is greater.

16. By amending Part 158 by adding a new Subpart C consisting of §§ 158.300 through 158.330 to read as follows:

Subpart C—Criteria for Certifying That a Port's or Terminal's Facilities Are Adequate for Receiving NLS Residue

Sec.

158.300 Purpose.
158.310 Reception facilities: General.
158.320 Reception facilities: Capacity and exceptions.
158.330 Ports and terminals: Equipment.

Subpart C—Criteria for Certifying That a Port's or Terminal's Facilities Are Adequate for Receiving NLS Residue

§ 158.300 Purpose.

The purpose of this subpart is to supply the criteria needed for ports and terminals under § 158.110 used by oceangoing ships carrying NLS cargo or NLS residue to meet Regulation 7 of Annex II to MARPOL 73/78.

§ 158.310 Reception facilities: General.

(a) Except as allowed in paragraph (b) of this section, each reception facility, in order to pass the inspection under § 158.160, must—

(1) Be a reception facility as defined under § 158.120;

(2) Be available at the port or terminal;

(3) Meet the requirements of § 158.320;

(4) Hold each Federal, State, and local permit and license required by environmental laws and regulations concerning NLS residue;

(5) Be capable of receiving NLS residue from an oceangoing ship within 24 hours after notice by that ship of the need for reception facilities; and

(6) Be capable of completing the transfer of NLS residue within 10 hours after the transfer of NLS residue begins.

(b) A reception facility for a ship repair yard does not have to meet the requirements of paragraphs (a)(5) and (a)(6) of this section if it is capable of completing transfer of NLS residue from an oceangoing ship before the ship departs from the yard.

§ 158.320 Reception facilities: Capacity, and exceptions.

(a) Except as allowed in paragraph (b) of this section, each day the port or terminal is in operation, the port or terminal must have a reception facility that is capable of receiving—

(1) 75 cubic meters (19,810 gallons) of NLS residue for each regulated NLS cargo that is a solidifying Category A NLS; or

(2) 50 cubic meters (13,210 gallons) of NLS residue for each regulated NLS cargo that is not a solidifying Category A.

(b) The port or terminal need only meet § 158.330 if it is used by ships that only transfer Category B or C NLS

cargoes that are not high viscosity or solidifying Category B or C NLSs.

(c) For each category of NLS cargo carried on a ship, each day a ship repair yard is in operation and being used by a ship that must discharge NLS residue in order to proceed with repair work, the ship repair yard must have a reception facility that is capable of receiving—

(1) 50 cubic meters (13,210 gallons) of NLS residue that contains a—

(i) Category A NLS that is not a solidifying NLS;

(ii) Category B NLS; or

(iii) Category C NLS; or

(iv) Category D NLS; or

(2) 75 cubic meters (19,810 gallons) of NLS residue that contains a Category A NLS that is a solidifying NLS cargo.

§ 158.330 Ports and terminals: Equipment.

Each port and terminal except ship repair yards, in order to pass the inspection under § 158.160, must—

(a) At mean low tide and with the ship's manifold 10 feet above the surface of the water, be capable of receiving Category B or C NLS cargo during the stripping operations at an average flow rate of 6 cubic meters (1584 gallons) per hour without the backpressure at the ship's manifold exceeding 101.6 kPa (14.7 pounds per square inch gauge) pressure; and

(b) Have an instruction manual that lists the equipment and procedures for meeting paragraph (a) of this section. The instruction manual may be made part of the operations manual that is required under § 154.300 of this chapter.

17. By amending Part 158 by adding a new Subpart D consisting of §§ 158.400 through 158.420 to read as follows:

Subpart D—Port and Terminal Operations

Sec.

158.400 Draining cargo hose and piping systems.

158.420 Following the instruction manual.

Subpart D—Port and Terminal Operations

§ 158.400 Draining cargo area and piping systems.

The person in charge shall ensure that each cargo hose and each piping system containing NLS received from each oceangoing ship carrying NLS cargo is not drained back into the ship.

§ 158.420 Following the instruction manual.

The person in charge shall ensure that the instruction manual under § 158.330(b) is followed during the transfer of any NLS.

Dated: March 4, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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46 CFR Parts 30, 98, 151, 153, and 172

[CGD 81-101]

Pollution Rules for Ships Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is implementing Annex II of the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78) with design and operating requirements for all ships that are oceangoing United States ships or are foreign ships and trading in United States waters, and that carry bulk cargo of noxious liquid substances. Annex II of MARPOL 73/78 will be effective on April 6, 1987. The requirements will control operational pollution and reduce the chance of accidental pollution from ships carrying the cargoes.

EFFECTIVE DATE: April 6, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Query, Office of Marine Safety, Security, and Environmental Protection, telephone (202)-267-1217 from 8:00 a.m. until 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking (NPRM) on September 26, 1986 (51 FR 34350). Interested persons were given until November 10, 1986 to comment on the proposal, with an extension to November 24, 1986. The Coast Guard received 45 letters commenting on the proposal.

Drafting Information

The principal persons involved in drafting this final rule are: Mr. Robert M. Query, Project Manager, Office of Marine Safety, Security, and Environmental Protection, and Mr. Stanley M. Colby, Project Counsel, Office of Chief Counsel.

Background to Annex II of MARPOL 73/78

The United States has ratified a convention to control marine pollution developed by the International Maritime Organization (IMO). This convention, entitled "International Convention for the Prevention of Pollution from Ships, 1973 (done at London, November 2, 1973), as modified by the Protocol of 1978, relating to the International Convention for the Prevention of Pollution from Ships, 1973 (done at London, February 17, 1978)," and its first two technical annexes, Annex I and Annex II, are referred to in this preamble as MARPOL 73/78. Under the Act to Prevent Pollution from Ships ("the Act") (33 U.S.C. 1901), the Secretary of Transportation is given the task of administering and enforcing MARPOL 73/78 and the Act; the Secretary delegated this task to the Coast Guard (49 CFR 1.46(hh)). Annex I of MARPOL 73/78 was implemented several years ago when the Coast Guard published requirements controlling the accidental and operational discharge of oil by ships (33 CFR Parts 151 and 157) and established criteria for determining the adequacy of reception facilities for receiving residues and mixtures containing oil (33 CFR Part 158). Implementation of Annex II of MARPOL 73/78, which controls accidental and operational discharges of residues and mixtures of noxious liquid substances from ships, typically the result of cargo tank cleaning, is the subject of this final rule and a second final rule mainly concerning reception facilities elsewhere in this edition of the **Federal Register**. This particular final rule contains the changes to Title 46, CFR, and affects ships that carry noxious liquid substances (NLSs). The changes in the other rulemaking affect principally reception facilities for NLSs but also contain requirements for carrying certain Category D and oil-like Category C NLSs that are alternatives to the requirements in this final rule.

The Coast Guard published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** of January 13, 1983 (48 FR 1519) requesting comments from the public on how best to implement the requirements in Annex II of MARPOL 73/78. Six comments were received, of which four were responses to the request for information on cargoes, which the Coast Guard had requested because it had little data on them. The remaining two comments were general but supportive. There were no specific responses to the other areas for which the Coast Guard requested information. The ANPRM described the implementation of Annex II of MARPOL 73/78 as it existed at the time.