voting power and value of the stock of both FC1 and FC2. P is a calendar year taxpayer that uses the accrual method of accounting in computing its income and deductions. FC1 is incorporated in Country X, and FC2 is incorporated in Country Y. FC1 and FC2 are controlled foreign corporations within the meaning of section 957, and are both calendar year taxpayers. FC1 computes its taxable income and earnings and profits, for purposes of sections 951 through 964, using the accrual method of accounting, while FC2 uses the cash method. In Year 1 FC1 has gross income of $10,000 that is described in section 952 (a) ("subpart F income"), and which includes interest owed to FC1 by P that is described in paragraph (b) of this section and that is otherwise allowable as a deduction to P under chapter 1. The interest owed to FC1 is allowable as a deduction to P in Year 1.

Example 2. The facts are the same as in *Example 1*, except that in Year 1 FC1 reports no subpart F income because of the application of section 954 (b)(3)(A) (the subpart F de minimis rule). Because the amount owed to FC1 by P is includible in FC1's gross income in Year 1, the interest owed to FC1 is allowable as a deduction to P in Year 1.

Example 3. The facts are the same as in *Example 1*. In Year 1, FC1 accrues interest owed to FC2 that would be allowable as a deduction by FC1 under chapter 1 if FC1 were a domestic corporation. The interest owed to FC2 by FC1 is paid by FC1 in Year 2. Because FC2 uses the cash method of accounting in computing its taxable income for purposes of subpart F, the interest owed by FC1 is allowable as a deduction by FC1 in Year 2, and not in Year 1.

(d) *Effective date.* The rules of this section are effective with respect to interest that is allowable as a deduction under chapter 1 (without regard to the rules of this section) in taxable years beginning after December 31, 1983, but are not effective with respect to interest that is incurred with respect to indebtedness incurred on or before September 29, 1983, or incurred after that date pursuant to a contract that was binding on that date and at all times thereafter (unless the indebtedness or the contract was renegotiated, extended, renewed, or revised after that date). The regulations in this section issued under section 267 apply to all other deductible amounts that are incurred after July 31, 1989, but do not apply to amounts that are incurred pursuant to a contract that was binding on September 29, 1983 and at all times thereafter (unless the contract was renegotiated, extended, renewed, or revised after that date).

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: December 17, 1992.

Alan J. Wilensky,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 92-31618 Filed 12-31-92; 8:45 am]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1602

Records and Reports for Local Unions.

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Extension of deadline for filing report.

SUMMARY: Notice is hereby given that the deadline for filing the 1992 Local Union report (EEO-3) required by 29 CFR 1602.22 is extended from December 31, 1992 to February 28, 1993. The two month period required to report certain information in Schedule I of that report may be any consecutive period of two months beginning no earlier than August 1, 1992 and ending no later than November 30, 1992.

EFFECTIVE DATE: January 5, 1993.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division at (202) 663-4958 (voice) or (202) 663-4593 (TDD).

For the Commission:

Evan J. Kemp, Jr.,

Chairman.

[FR Doc. 93-7 Filed 1-4-93; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 40a

Defense Contracting; Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule is the fiscal year 1992 revision of the section listing DoD contractors receiving contract awards of $10 million or more. This part is published to comply with the provisions of section 1 of the Public Law on Employees or Former Employees of Defense Contractors: Reports.

EFFECTIVE DATE: September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. J.R. Sungenis, Director, Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA, 22202-4302. Telephone (703) 746-0334.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 40a

Armed Forces, Conflict of interests, Government employees, Government procurement, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 40a is revised to read as follows:

PART 40a—DEFENSE CONTRACTING: REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

Authority: 10 U.S.C. 2397.

40a.1—Department of Defense contractors receiving awards of $10 million or more.

Fiscal Year 1992

3D/International, Inc.
3M
A&E Industries, Inc.
AAI Corp.
AAR Allen Airmotive Inc.
AAR Brooks & Perkins Corp.
ABB Flakt, Inc.
ACC Construction Co. Inc.
AEL Defense Corp.
AIL Systems, Inc.
AM General Corp.
AMCA International Construction Corp.
AT&T Communications, Inc.
AW & Associates Inc.
Abacus Technology Corp.
Abbott Laboratories
Accudyne Corp.
Actus Corp. & Sundt Corp. JV
Advanced Marine Enterprises
Advanced Research & Applications
Aepco, Inc.
Aerojet
Aeromet, Inc.
Aeroquip Corp.
Aerospace Corp., The
Afram Lines, Ltd., USA
Age Marketing Co.
Agip Petroli SPA
Ahntech, Inc.
Air Treads, Inc.
Aksarben Foods, Inc.
Alascom, Inc.
Alberici, J.S. Construction Co.
Alisud Handling SPA
All Bann Enterprises, Inc.
All Star Maintenance, Inc.
Alliant Techsystems, Inc.
Allied Signal Aerospace Co.
Allied Signal, Inc.
Altama Delta Corp.
Amerada Hess Corp.
American Auto Carriers
American Engineer Corp.
American Fuel Cell & Coated Fabrics
American International Contractors
American Management Systems, Inc.
American President Lines, Ltd.
American Systems Corp.
American Systems Engineering Corp.

American Telephone & Telegraph Co.
American Trans Air & Connie Kalitta Services JV
American Transport Lines, Ltd.
American Vision Systems, Inc.
Amerind, Inc.
Ametek, Inc.
Amoco Oil Corp.
Amron Corp.
Amtec Corp.
Anadac, Inc.
Analysis & Technology, Inc.
Analytic Science Corp., The
Analytic Services, Inc.
Analytical Systems Engineering Corp.
Andrulis Research Corp.
Applied Data Technology, Inc.
Applied Research Associates, Inc.
Applied Technology Associates, Inc.
Arcata Associates, Inc.
Arco Power Technologies, Inc.
Arinc, Inc.
Arinc Research Corp.
Armtec Defense Products Co.
Arrow Construction, Inc.
Association Momentanee Entre
Assurance Technology Corp.
Astronautics Corp. of America
Atherton Construction
Atlantic Dry Dock Corp.
Atlantic Industries, Inc.
Atlantic Research Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Autec Range Services
Automated Sciences Group, Inc.
Automation Research Systems, Ltd.
Avco Corp.
Avondale Industries, Inc.
BAMSI, Inc.
BBDO Worldwide, Inc.
BBN Communications Corp.
BDM International, Inc.
BDM Management Services Co.
BEI Electronics, Inc.
BFM Aerospace Corp.
BP Oil Co.
BT Marine, Ltd
Babcock & Wilcox Co., The
Bahrain National Oil Co.
Baker TSA, Inc.
Balimoy Mfg. Co. of Venice
Ball Corp.
Baltimore Gas & Electric Co.
Barnhart, Douglas E., Inc.
Barrett Refining Corp.
Basil & Trataros JV
Basil, Frank E., Inc.
Bateson, J.W. Co., Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Bay Tankers, Inc.
Bean Dredging Corp.
Bechtel National, Inc.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Bell Atlantic Corp.
Bell Helicopter Textron & Boeing Co., JV
Bell Helicopter Textron, Inc.
Belleville Shoe Mfg. Co.
Bender, Allen L., Inc.
Bender, Shipbuilding & Repair Co.
Beneco Enterprises, Inc.
Beretta U.S.A. Corp.
Betac Corp.
Bethlehem Steel Corp.
Biehn Construction, Inc.
Big Bear Oil Co., Inc.
Bionetics Corp.
Black & Decker Corp.
Black & Veatch
Black River Constructors
Blake Construction Co., Inc.
Blount, Inc.
Blount/Universal City Construction JV
Blue Cross & Blue Shield of South Carolina
Boeing Aerospace Operations
Boeing Co. & Sikorsky Aircraft JV
Boeing Co., The
Boland, David, Inc.
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Braintree Maritime Corp.
Braswell Services Group, Inc.
Brazos Roofing International
British Aerospace PLC
Broughton, T.T. & Sons
Brown & Root, Inc.
Brown & Root International, Inc.
Brown & Root Services Corp.
Browning Construction Co.
Brunswick Corp.
Buckner & Moore, Inc.
Bulova Technologies Inc.
Bundesamt Fuer Wehrtechnik
Burgos Fred Construction Co.
Burns & Roe Services Corp.
Burnside Ott Aviation Training Center
C3, Inc.
CACI, Inc.
CACI International, Inc.
CAE Link Corp.
CAS, Inc.
CBC Enterprises, Inc.
CFM International, Inc.
CFS Aircargo, Inc.
CRS Sirrine Metcalf & Eddy JV
CTA, Inc.
Cabot Corp.
Caddell Construction Co., Inc.
Calcasieu Refining Co.
California Microwave, Inc.
California Pacific Associates
Calspan Corp.
Caltex Oil Products Co.
Campbell Industries
Canon USA, Inc.
Cargill Petroleum, Inc.
Carnegie Mellon University
Carolina Power & Light Co.
Carothers Construction, Inc.
Casde Corp.
Case, J.I. Co.
Caterpillar, Inc.
Celikcilik San Ve Tic As
Center For Naval Analyses
Central Gulf Lines, Inc.
Centre Mfg. Co., Inc.
Century Technologies, Inc.
Ceridian Corp.
Chamberlain Mfg. Corp.
Chem-Nuclear Systems, Inc.
Chemical Waste Management, Inc.
Chesapeake & Potomac Tel Co VA
Chevron USA, Inc.
Childers Construction Co.
Chrysler Technologies Airborne Systems
Cincinnati Gear Co., The
Cincinnati Milacron Mktg Co.
Coastal Aruba Refining NV
Coastal Eagle Point Oil Co.
Coastal Group, Inc.
Coastal Refining & Marketing
Cobro Corp.
Codar Technology, Inc.
Codex Corp.
Coleman Research Corp.
Collins International Service Co.
Colsa, Inc.
Columbia Research Corp.
Comarco, Inc.
Comcon, Inc.
Communications Satellite Corp.
Compania Espanola De Petroleos
Compliance Corp.
Comprehensive Technologies International
Comptek Research, Inc.
Computer Associates International
Computer Dynamics, Inc.
Computer Sciences Corp.
Conagra, Inc.
Condor Systems, Inc.
Conoco, Inc.
Consolidated Electronics, ITT & Westinghouse JV
Consolidated Services, Inc.
Contel Corp.
Continental Maritime of San Diego
Contraves Goerz Corp.
Control Data Corp.
Cormorant Shipholding Corp.
Cortana Corp.
Cox Construction Co.
Craddock, Terry, Inc.
Craft Machine Works, Inc.
Crowley Marine Services, Inc.
Crysen Refining Inc.
Cubic Corp.
Cummins Engine Co., Inc.
Curtis Wright Corp.
DBA Systems, Inc.
DCS Corp.
Dames & Moore
Dataproducts News England, Inc.
Day & Zimmerman, Inc.
Day & Zimmerman/Basil Corp. JV
De Bra, Fred B. Co., The
De Filippis
Del Jen, Inc.
Delta Air Lines, Inc.
Delta Dental Plan of California
Detroit Diesel Corp.
Detyens Shipyards, Inc.
Deutsche Bundespost

Deval Corp.
Diagnostic Retrieval Systems
Diamond Shamrock Refining
Digital Equipment Corp.
Digital Systems Research, Inc.
Dillingham Construction Corp.
Dipl Ing Hans Schiebel
Dock Express Contractors, Inc.
Douglas Aircraft Co.
Draper, Charles Stark Laboratories, Inc.
Dreyfus Louis Corp.
Du Pont, E.I. De Nemours & Co.
Dual & Associates, Inc.
Dycom Industries, Inc.
Dynamic Science, Inc.
Dynamics Research Corp.
Dyncorp
Dynetics, Inc.
EA Engineering & Science Technology
EC III JV
ECC International Corp.
ECI Construction, Inc.
EDP Enterprises, Inc.
EER Systems Corp.
EG&G, Inc.
EG&G Management Systems
EG&G Riticon
EG&G Washington Analytical Services Center
EOS Technologies, Inc.
ERC Environmental & Energy Service
ESL, Inc.
E Systems, Inc.
Eagle Technology, Inc.
Earl Industries, Inc.
Earth Technology Corp.
East Penn Mfg. Co.
Eastman Kodak Co.
Eaton Corp.
Ebasco Constrs Gust Newberg JV
Ebasco Services, Inc.
Eberharter Construction Group, Inc.
Economics Technology Associates
El Paso Refining Co., Ltd.
Elbit Computers, Ltd.
Eldyne, Inc.
Electro Methods, Inc.
Electronic Data Systems Corp.
Electronics & Space Corp.
Electrospace Systems, Inc.
Elkem Metals Co.
Emco, Inc.
Emergency Medical Services Assoc.
Engineered Air Systems, Inc.
Engineering & Economics Research
Engineering Science, Inc.
Ensco, Inc.
Environmental Research Institute of Michigan
Environmental Technologies Group
Equa Industries, Inc.
Esso Nederland BV
Ex Cell O Corp.
Executive Resource Associates
Exide Electronics Corp.
Expeditor Transport Corp.
Exporter Transport Corp.
Expressor Transport Corp.
Exxon Co., USA
Exxon Corp.
F2M, Inc.
FEL Corp.
FKW, Inc.
FMC Corp.
FMS Corp.
FN Mfg., Inc.
Face, Edward W., Co., Inc.
Fairchild Aircraft Corp.
Fairchild Industries, Inc.
Fairchild Space & Defense Corp.
Falcon Microsystems, Inc.
Farrell Lines, Inc.
Federal Express, Northwest Airlines, PanAm World Airways, Tower Air & United Parcel Service JV
Federal Computer Corp.
Federal Data Corp.
Federal Hoffman, Inc.
Felec Services, Inc.
Ferguson Williams, Inc.
First Hospital Corp.
Flight International Group, Inc.
Flightsafety International, Inc.
Flightsafety Service Co.
Flintco, Inc.
Fluke, John Mfg. Co., Inc.
Fluor Engineers, Inc.
Foley Co.
Fordice Construction Co.
Foundation Health Corp.
Freightliner Corp.
Frito Lay, Inc.
Frontier Engineering, Inc.
Fuller, George A. Co.
G&C Enterprises, Inc.
G&F Co.
GEC Avionics, Ltd.
GEC Marconi Electronic Systems
GLR Constructors JV
GNB Industrial Battery Co.
GTE Government Systems Corp.
Garcia, Luis E., Inc.
Gaskins, L.C., Construction Co.
General Atomics
General Dynamics Corp.
General Dynamics & FMC Corp. JV
General Dynamics & Westinghouse JV
General Electric Co.
General Foods USA
General Mills, Inc.
General Motors Corp.
General Physics Corp.
General Research Corp.
General Ship Corp.
Gentex Corp.
Geo Centers, Inc.
Georgia Power Co.
Georgia Tech Research Corp.
Giant Refining Co.
Gibbs & Cox, Inc.
Giddings & Lewis, Inc.
Gilbert Corp of Delaware
Gold Line Refining, Ltd.
Golden Mfg Co., Inc.
Goodrich, B.F. Co., The
Goodyear Tire & Rubber Co., The
Government Micro Resources
Government Systems, Inc.
Government Technology Services
Granite Construction Co.
Great Lakes Dredge & Dock Co.
Greenbrier Industries, Inc.
Greenwich Air Services, Inc.
Grimberg, John C. Co., Inc.
Grumman Aerospace Corp.
Grumman Corp.
Grumman Data Systems Corp.
Grumman Technical Services, Inc.
Gulf Coast Trailing Co.
Gulfstream Aerospace Corp.
Guyco Engineering Co.
HFSI, Inc.
Halifax Engineering, Inc.
Halter Marine, Inc.
Harbert International, Inc.
Harcon, Inc.
Hardaway Co., Inc., The
Harnischfeger Corp.
Harris Corp.
Harsco Corp.
Hawaiian Airlines, Inc.
Hawaiian Electric Co., Inc.
Hawaiian Independent Refinery
Haworth, Inc.
Hazeltine Corp.
Health Strategies International
Hellenic Fuels & Lubricants
Hensel Phelps Construction Co.
Hercules Construction Corp.
Hercules Engines, Inc.
Hercules, Inc.
Hermes Consolidated, Inc.
Heroux, Inc.
Hewlett Packard Co.
Hilton Systems, Inc.
Hitt Electric Corp.
Hoffman La Roche, Inc.
Holmes & Narver Inc.
Holston Defense Corp.
Honam Oil Refinery Co., Ltd.
Honeywell, Inc.
Hooks, Mike, Inc.
Horizons Technology, Inc.
Horst Mosolf International Sped
Hospital Klean
Howmet Corp.
Hubbard Construction Co.
Hughes Aircraft & Raytheon Co. JV
Hughes Aircraft Co.
Hughes Data Systems & BTG, Inc. JV
Hughes Danbury Optical Systems
Hughes Electronic Technologies
Hughes Training Systems, Inc.
Hunt Building Corp.
Huttenbauer, E. & Son, Inc.
Hyman, George Construction Co.
Hyster Co.
I Net, Inc.
IBP, Inc.
ICF, Inc.
ICI Americas, Inc.
IIT Research Institute
ILC Dover
ILC Industries, Inc.
IPAC
IRISS Co.
IT Corp.

ITT Corp.
ITT Federal Services Corp.
Illinois Glove Co.
Imo Industries, Inc.
Industrial Acoustics Co., Inc.
Industrial Data Link Corp.
Information Handling Services Group
Information Spectrum, Inc.
Information Technology, Inc.
Infotec Development, Inc.
Ingalls Shipbuilding, Inc.
Institute for Defense Analyses
Integrated Systems Analysts
Intel Corp.
Intelcom Support Services, Inc.
Intergraph Corp.
Intermarine, USA
Intermetrics, Inc.
International Business Machines Corp.
International Marine
International Technology Corp.
International Terminal Operating Co.
Interstate Electronics Corp.
Interstate Landscaping Co., Inc.
Ireco, Inc.
Irvin Industries, Inc.
Israel Aircraft Industries, Ltd.
Israeli Military Industries
Isratex, Inc.
Itek Corp.
J&J Maintenance, Inc.
JT Construction Co., Inc.
JWK International Corp.
Jacobs Engineering Group, Inc.
James, T.L. & Co., Inc.
Japan Aircraft MFG Co., Ltd
Jaycor
Jered Brown Brothers, Inc.
Jersey Central Power & Light Co.
Joeris, Inc.
Johns Hopkins University
Johnson, Al Construction Co.
Johnson Controls World Service
Johnson G.E. Construction Co.
Johnson Technology, Inc.
Jonathan Corp., The
Jones Group, Inc., The
Jones, John T. Construction Co.
Jordan, W.M. Co., Inc.
Jowett, Inc.
Junghans Feinwerktechik
K&K Industries, Inc.
K&M Maintenance Services
Kaiser Aerospace & Electronics Corp.
Kaman Aerospace Corp
Kaman Sciences Corp.
Kay & associates, Inc.
Kearfott Guidance & Navigation Corp.
Keco Industries, Inc.
Kidde, Inc.
Kiewit & Johnson, Al JV
Kilgallon Construction Co.
Kilgore Corp.
Koch Fuels, Inc.
Koh Systems, Inc.
Kokosing Construction Co., Inc.
Kollmorgen Corp.
Korea Electric Power Corp.
Korean Air Lines Co., Ltd.
Kraft General Foods, Inc.
Krempp Lumber Co.
Krystal Gas Marketing Co.
Kvaas Construction Co.
Kyung IN Energy Co.
La Barge Products, Inc.
Ladd, Roy E., Inc.
Laguna Industries, Inc.
Laidlaw Environmental Services
Laketon Refining, Inc.
Lane Construction Corp.
Law Co., Inc., The
Law Environmental, Inc.
Lawrence Associates, Inc.
Lear Astronics Corp.
Lear Siegler Management Services
Learjet Corp.
Leland Electrosystems, Inc.
Lewis, Lee General Contractor
Libby Corp.
Life Cycle Engineering, Inc.
Light Helicopter Turbine Engine Co.
Lilly, David B. Co., Inc.
Lilly, Eli & Co.
Little, Arthur D., Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Aeromod Center, Inc.
Lockheed Aeronautical Systems Co.
Lockheed Aircraft Service Co.
Lockheed Corp.
Lockheed Missiles & Space Co.
Lockheed Sanders, Inc.
Locus, Inc.
Loggins Meat Co., Inc.
Logicon, Inc.
Logistics Management Institute
Loral Aerospace Corp.
Loral Corp.
Loral Training & Tech Svcs.
Loral Vought Systems
Lott Constructors, Inc.
Louisville Gas & Electric Co.
Luhr Brothers, Inc.
Lykes Brothers Steamship Co., Inc.
MCC Construction Corp.
MCI Constructors, Inc.
MCI International, Inc.
MCI Telecommunications Corp.
MG Refining & Marketing
MK Ferguson Group
MW Builders
Mac H.B., Inc.
Macalloy Corp.
Macaulay Brown, Inc.
Maden Tech Consulting, Inc.
Maersk, Inc.
Maersk Stevedoring Co.
Magann, W.F. Corp.
Magnavox Government & Industrial Electronics Co.
Mandex, Inc.
Manson Construction & Engineering Co.
Mantech International Corp.
Mantech, VSE, & Potomac Research JV
Mar Ship Operators, Inc.
Marconi Command & Control Systems, Ltd.
Marine Hydraulics International
Mark Diversified, Inc.
Martech USA, Inc.
Martin Baker Aircraft Co., Ltd
Martin Electronics, Inc.
Martin Marietta Corp.
Martin Marietta, Diehl Co's., Thorn & Thompson JV
Martin Marietta Corp. & Westinghouse Electric Co. JV
Marvin Engineering Co., Inc.
Maryland Air International, Inc.
Mason Hanger Silas Mason, Inc.
Massachusetts Institute of Technology
Maxima Corp.
Maxwell Laboratories, Inc.
Mayer, Oscar Foods Corp.
McCarthy Construction Co.
McDonnell Douglas Corp.
McDonnell Douglas Electronic Systems
McDonnell Douglas Helicopter Co.
McDonnell Douglas Missile & Space Systems Co.
McDonnell Douglas Space Systems Co.
McDonnell Douglas Training Systems, Inc.
McKnight Construction Co., Inc.
McLaghlin Research Corp.
McMaster Construction Inc.
McMullan, Robert & Son, Inc.
McMullen, John J. Associates, Inc.
Mercer University
Merchants National Corp.
Merck & Co., Inc.
Meredith, W.B., II., Inc.
Metal Trades, Inc.
Metcalf & Eddy, Inc.
Metric Construction Co., Inc.
Metric Constructors, Inc.
Metric Systems Corp.
Metro Machine Corp.
Metters Industries, Inc.
Mevatec Corp.
Michelin Tire Corp.
Micro Lithics, Inc.
Midgard DSAG
Milcom Systems Corp.
Miles Biological Laboratories
Miller Herman, Inc.
Mills Mfg. Corp.
Miltope Corp.
Mine Safety Appliances Co.
Mip Instandsetzungsbetric
Misener Marine Construction
Mission Research Corp.
Mitre Corp.
Mobil Corp.
Mobility, Inc.
Modern Technologies Corp.
Modular Computer Systems, Inc.
Mohamed A. Kharafi
Monarch Construction Co.
Montgomery, J.M., Consulting Engineers
Moon Engineering Co., Inc.
Morrison Knudsen Co., Inc.
Mortenson, M.A. Companies
Motor Oils Hellas Corinth Refinery
Motorola Communications & Electronics
Motorola, Inc.
NASP National Contractor Team

NCR Comten, Inc.
NUS Corp.
Natco Limited Partnership
National Academy of Sciences
National Airmotive Corp.
National Apparel, Inc.
National Beef Packing Co.
National Forge Co.
National Steel & Shipbuilding Co.
National Systems & Research Co.
Navcom Defense Electronics, Inc.
Navcom Systems, Inc.
Navistar International Transportation
Nero & Associates, Inc.
Net Fed, Inc.
New Mexico State University
Newport News Shipbuilding & Dry Dock Co.
Ni Industries, Inc.
Nichols Research Corp.
Nomura Enterprise, Inc.
Norden Systems, Inc.
Norfolk Dredging Co., Inc.
Norfolk Shipbuilding & Dry Dock Corp.
North American Mechanical Services
North Atlantic Industries, Inc.
North Carolina Dept. of Human Resources
Northeast Construction Co.
Northern Telecom, Inc.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Enviro Service, Inc.
Nova Group, Inc.
Nuclear Research Corp.
OH Materials Corp.
Ocean Star Shipping, Inc.
Ohbayashi Corp.
Oil Refineries, Ltd.
Okinawa Electric Power Co.
Olin Corp.
Olin Ordnance
Olmos Equipment Co., Inc.
Oracle Complex System Corp.
Oregon Iron Works, Inc.
Orincon Corp.
Oshkosh Truck Corp.
Owl International, Inc.
PAE GMBH
PCC Technical Industries, Inc.
PCL Construction Associates, Inc.
PHH Homequity Corp.
PHP Healthcare Corp.
PRC Environmental Management
PRC, Inc.
Pacer Systems, Inc.
Pacific Architects & Engineers, Inc.
Pacific Ship Repair & Fabrication
Pacific Sierra Research Corp.
Pacifica Services, Inc.
Paramax Systems Corp.
Parker Hannifin Corp.
Parsons, Ralph M. Co., The
Patrol Ofisi A S Genel Mud
Patton Tully Transportation Co.
Peat Marwick Mitchell & Co.
Peerless Petrochemicals, Inc.
Pemco Aeroplex, Inc.
Pence, Howard W., Inc.
Pennsylvania State University
Pentastar Electronics, Inc.
Perini Corp. & O&G Industries JV
Perland Environmental
Peterson Builders, Inc.
Philip Morris, Inc.
Phillips & Jordan, Inc.
Phillips Petroleum Co.
Phoenix Construction Services
Physics International Co.
Picker International, Inc.
Pile Foundation, Inc.
Pillsbury Co., The
Pine Bluff Sand & Gravel Co.
Pinner Construction Co., Inc.
Pioneer Recovery Systems, Inc.
Piquniq Management Corp.
Pizzagalli Construction Co.
Placid Oil Co.
Planning Systems, Inc.
Pneumo Abex Corp.
Potomac Electric Power Co.
Potomac Systems Engineering
Power Conversion, Inc.
Powertronic Systems, Inc.
Prestolite Electric, Inc.
Pride Pipeline Co.
Proctor & Gamble Co., The
Producto Electronic Industries
Propellex Corp.
Puerto Rico Sun Oil Co., Inc.
Puget Sound Tug & Barge Co.
Pulau Electronics Corp.
QED Systems, Inc.
Questech, Inc.
Quintron Corp.
R&D Associates
RJO Enterprises, Inc.
Racal Communications, Inc.
Racal Tacticom, Ltd.
Radian Corp.
Rados, Steve P., Inc.
Rafael Armaments Development
Ram Systems GMBH
Rand Corp., The
Rasmussen, C.A., Inc.
Raymond Engineering, Inc.
Raytheon Co.
Raytheon Service Co.
Raytheon Support Services, Co.
Red River Carriers
Refinery Associates of Texas
Reflectone, Inc.
Research Analysis & Maintenance
Resource Consultants, Inc.
Rexon Technology Corp.
Reynolds Metals Co.
Rich International Airways
River City Construction Co.
Riverside Research Institute
Robbins Gioia, Inc.
Rockwell International Corp.
Rockwell Power Systems
Rolls Royce, PLC
Roofing Constructors, Inc.
Rooney, Frank J., Inc.
Rosenblatt, M. & Son, Inc.
Ross, R.G., Construction Co., Inc.
Royal Norwegian Naval Material
Ryan Co., Inc.
Ryan Walsh, Inc.
S Systems Corp.
S&H Mechanical Contractors
S&M Sakamoto, Inc.
SAIC Engineering, Inc.
SCI Systems, Inc.
SCI Technology, Inc.
SFA, Inc.
SMS Data Products Group, Inc.
SPSA Southeastern Public Service
SRA Technologies, Inc.
SRI International
SRS Technologies
Saab Training Systems AB
Sabreliner Corp.
Saco Defense, Inc.
Sacramento Municipal Utility
Sadelmi New York, Inc.
Saft America, Inc.
Salk Institute for Biological Studies
Salomon, Inc.
San Diego Community College District
Sargent Fletcher Co.
Saudi Operations & Maintenance Co.
Schafer, W.J. Associates, Inc.
Schneider, Inc.
Science & Technology, Inc.
Science Applications International Corp.
Scientific Atlanta, Inc.
Scientific Research Corp.
Sea Land Service, Inc.
Sealift, Inc.
Sears Roebuck & Co.
Sechan Electronics, Inc.
Semcor, Inc.
Sequa Corp.
Serv Air, Inc.
Service Engineering Co., Inc.
Sevenson Construction Corp.
Shadrock Petroleum Products
Sharp Construction Co., Inc.
Sharp, George G., Inc.
Shell Oil Co.
Sherikon, Inc.
Shin Cheon Co., Ltd.
Shirley Construction Corp.
Short Brothers PLC
Short, John & Associates
Siemens Elektrogeraete GMBH
Sierra Nevada Corp.
Silicon Graphics, Inc.
Silverton Construction Co., Inc.
Simms Industries, Inc.
Simplex Wire & Cable Co.
Sippican, Inc.
Sisters of Charity
Sligsby Aviation, Ltd.
Smiths Industries, Inc., USA
Sohio Oil Co.
Sonalysts, Inc.
Sony Corporation of America
South Carolina Research Authority
Southeast Atlantic Cargo Operators
Southern Air Transport, Inc.
Southern California Edison Co.
Southern Systems, Inc.

Southfork Systems, Inc.
Southwest Marine, Inc.
Southwest Mobile Systems Corp.
Southwest Research Institute
Space & Sensors Associates
Space Applications Corp.
Space Data Corp.
Sparta, Inc.
Sparton Corp.
Sparton Electronics Florida
Spectrum Emergency Care, Inc.
Sperry Marine, Inc.
Ssangyong Oil Refining Co., Ltd.
Standard Technology, Inc.
Stanford Telecommunications
Stanford University
Statoil North America, Inc.
Sterling Federal Systems, Inc.
Stewart & Stevenson Services, Inc.
Storage Technology Corp.
Strand, Inc.
Strong Bill Enterprises, Inc.
Sumaria Systems, Inc.
Sumitomo Electric
Summa Technology, Inc.
Sun Microsystems, Inc.
Sun Refining & Marketing Co.
Sundstrand Corp.
Sundt Corp.
Sunkyoung, Ltd.
Superfos A/S
Supreme Beef Processors, Inc.
Sverdrup Corp.
Sverdrup Technology, Inc.
Synetics Corp.
Syscon Corp.
System Planning Corp.
System Resources Corp.
Systems & Electronics, Inc.
Systems Control Technology
Systems Engineering & Management Associates
Systems Engineering & Management Co.
Systems Engineering Associates
Systems Planning & Analysis
Systems Research & Applications Corp.
Systems Research Laboratories
TDS, Inc.
TGS Technology, Inc.
TSC, Inc.
TRW, Inc.
Tadiran Israel Electronic Industries
Talley Defense Systems, Inc.
Tampa Shipyards, Inc.
Techmatics, Inc.
Technical & Management Services Corp.
Technology Applications, Inc.
Technology Scientific Services
Tecolote Research, Inc.
Tecom, Inc.
Tektronix, Inc.
Teledyne Industries, Inc.
Telephonics Corp.
Telos Corp.
Tennessee Apparel Corp.
Tennier Industries, Inc.
Texaco Caribbean, Inc.
Texaco International Trader, Inc.
Texaco Instruments & Martin Marietta JV
Texas Instruments Inc.
Texas Utilities Electric Co.
Texcom, Inc.
Textron, Inc.
Thermo Electronic Technologies Corp.
Thiokol Corp.
Thomasville Furniture Industries
Thompson, J. Walter Co.
Tilley Constructors & Engineers
Titan Corp.
Titan Wheel International
Todd Pacific Shipyards Corp.
Tohoku Denryoku KK
Tokyo Denryoku KK
Tracor Aerospace, Inc.
Tracor Applied Sciences, Inc.
Tracor, Inc.
Trans World Airlines, Inc.
Translant, Inc.
Trescomp, Inc.
Tri State Design, Inc.
Trinity Industries, Inc.
Trinity Marine Group
Triton Marine Construction
Tucson Electric Power Co.
Turtle Mountain Mfg. Co.
Tyger Construction Co., Inc.
U.S. Marine Management, Inc.
U.S. Sprint Communications Co.
UNC, Inc.
URS Corp.
Unified Industries, Inc.
Union Carbide Corp.
Union Corp.
Union Oil Co. of California
Uniroyal Chemical Co., Inc.
Unisys Corp.
United Engineers & Constructors
United International Engineers
United Technologies Corp.
United Telecontrol Electronics
Universal Maritime Service
University of California
University of Dayton
University of Florida
University of Minnesota
University of Pennsylvania
University of Pittsburgh
University of Southern California
University of Texas System
University of Washington
Utah Power & Light Co.
Utah State University
VSE Corp.
Valentec International Corp.
Valmac Industries, Inc.
Varian Associates, Inc.
Varo, Inc.
Vector Research, Co., Inc.
Vector Research, Inc.
Veda, Inc.
Viereck Co., Inc.
Vinnell Corp.
Vinnell Corp., & Brown & Root JV
Virtexco Corp.
Vitro Corp.
Vitronics, Inc.
Vought Aircraft
WMP Security Service Co.
Wang Laboratories, Inc.
Waterman Steamship Corp.
Wellco Enterprises, Inc.
Western Gear Corp.
Western Petroleum Co.
Westinghouse Electric Corp.
Westmont Industries
Weston, Roy F., Inc.
Wheeler Brothers, Inc.
Whitesell Green, Inc.
Whittaker Corp.
Willbros Butler Engineers, Inc.
Williams International Corp.
Wisconsin Physicians Service Insurance
Woodward, Clyde Consultants
World Airways, Rosenbalm Aviation, Key Airlines, American Airlines, Evergreen International & Emery Worldwide JV
Wyle Laboratories
Wynn Construction Co.
Xerox Corp.
Xontech, Inc.
Yates, W.G. & Sons Construction Co.
Yeager, E.L. Construction Co.
Young & Rubicam, Inc.
Zachry, H.B. Co.
Zodiac of North America Inc.

Dated: December 28, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–12 Filed 1–4–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 194

[Docket No. PS–130]

RIN 2137–AC30

Response Plans for Onshore Oil Pipelines

December 28, 1992.

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes regulations requiring response plans for certain pipelines that transport oil. These regulations are mandated by the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA 90). The purpose of these requirements is to improve response capabilities and minimize the environmental impact of oil discharges from pipelines. Although RSPA is issuing an interim final rule, it invites comments and will, if appropriate, make changes to the rule.

DATES: The effective date of this interim final rule is January 5, 1993. Comments must be received on or before February 19, 1993.

ADDRESSES: The RSPA Dockets Unit maintains the public docket for this rulemaking. Written comments must be submitted in duplicate and mailed or hand-delivered to: RSPA Dockets Unit, room 8421, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Comments will become part of this docket and will be available for inspection or copying at the Dockets Unit in room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001.

All comments and docketed material will be available for inspection and copying each business day between 8:30 a.m. and 5 p.m. in room 8421. For information concerning comments or copies of this interim final rule, the telephone number of the Dockets Unit is 202–366–5046.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd W. Ulrich, Office of Pipeline Safety Regulatory Programs, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, 202–366–4556, or Mr. Robert A. Monniere, Office of the Chief Counsel, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, 202–366–4400, regarding the contents of this interim final rule; or the RSPA Dockets Unit, room 8421, 400 Seventh Street, SW., Washington, DC 20590–0001, 202–366–5046, regarding copies of this interim final rule or other information in the docket.

SUPPLEMENTARY INFORMATION:

Introduction

In accordance with 5 U.S.C. 553(b)(3)(B), this interim final rule is being issued without a prior notice of proposed rulemaking and opportunity to comment. The Oil Pollution Act of 1990, Pub. L. No. 101–380, 104 Stat. 484, (OPA 90) which amends the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, contains statutory deadlines for the preparation and submission of response plans for onshore pipelines. After these deadlines, a pipeline operator whose pipeline is not in compliance with the statutory requirements would be prohibited from using that pipeline to handle, store, or transport oil.

In order to allow the timely implementation of OPA 90, RSPA has determined that good cause exists for finding that notice and comment is impracticable and contrary to public interest. RSPA believes that any further delay in issuing these regulations would create an undue hardship on the regulated community and have the potential to disrupt the sale and delivery of oil. In order to encourage the prompt filing of response plans and thus avoid the disruptive effect this rule could have on the oil industry, this rule is effective on its publication date.

Although an opportunity for public comment has not been provided prior to issuing this interim final rule, RSPA seeks public comment to assure that the rule is feasible and workable. If appropriate, RSPA will amend the provisions of this rule. RSPA will consider holding public hearings to obtain comments at a later date, if needed. As an interim final rule, this regulation is fully in effect and binding upon publication in the **Federal Register.**

Although no further regulatory action by RSPA is essential to implement this rule, RSPA encourages interested persons to participate in this rulemaking by submitting written views, data, or information on this interim final rule. Persons submitting comments should include their names and addresses, identify this rulemaking by the docket number stated in the heading of this rule and the specific section of the rule to which each comment applies, and give the basis for each comment. RSPA will consider all public comments and will make changes to this rule if public comments indicate a change is necessary.

Prior to the issuance of this rule, the Department engaged in preliminary data-gathering from various sources in order to define such terms as "substantial harm," "significant and substantial harm" and "worst case discharge." A summary of these contacts has been placed in the docket.

Background and Purpose

In recent years, several catastrophic oil spills have damaged the marine environment of the United States. These spills had extensive environmental impact, including the loss of fish and wildlife. In response to these catastrophic spills, Congress passed OPA 90 to establish a new national planning and response system. This system includes the development of facility response plans.

On October 18, 1991, the President, in Executive Order (E.O.) 12777, 56 FR 54757 (October 22, 1991) delegated authority to the Secretary of Transportation (the Secretary) to establish procedures, methods, and requirements for equipment to prevent and contain discharges of oil from pipelines.

The Secretary delegated certain OPA 90 prevention authority to the Administrator, Research and Special Programs Administration (RSPA), 57 FR 8581 (March 11, 1992). Specifically, the Secretary granted the RSPA Administrator (Administrator) authority to establish "procedures, methods, and equipment and other requirements for equipment to prevent discharges from, and to contain oil and hazardous substances in, pipelines, motor carriers, and railways." 33 U.S.C. 1321(j)(1)(C). RSPA believes that, with respect to pipelines, these prevention concerns have been addressed and satisfied by the existing regulations in 49 CFR part 195 (e.g., 49 CFR 195.402, 195.416, 195.418, 195.428, and 195.430). In a subsequent rulemaking, the Secretary also delegated to the appropriate modal administrators the authority to require, review, and approve response plans for pipelines, motor carriers, and railroads. Under a delegation from RSPA's Administrator, the Office of the Associate Administrator for Pipeline Safety will implement this regulation. This rule implements OPA 90 requirements as they apply to response planning for oil discharges from pipelines. Response planning for hazardous substance discharges from pipelines will be the subject of a separate rulemaking.

This rule applies to all oil pipelines whether or not such pipelines are exempt from existing Federal pipeline safety regulations or statutes (e.g., 49 CFR part 195 currently exempts pipelines operating at a stress level of 20 percent or less of specified minimum yield strength (SMYS), onshore gathering lines in rural areas, and pipelines operated by gravity).

This rule implements section 4202(a) and section 4202(b) of OPA 90. Section 4202(a) amended section 311(j) of the FWPCA, 33 U.S.C. 1321(j), and sets out in paragraph (j)(5) response planning requirements relating to pipelines. Section 4202(b) of OPA established the implementation schedule for these provisions. These requirements include the preparation and submission of a response plan addressing a worst case discharge or a substantial threat of a worst case discharge of oil or a hazardous substance.

Definitions

The OPA 90 defines "facility" as "any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing,

handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes." 33 U.S.C. 2701(9). In addition, "onshore facility" is defined as "any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land." 33 U.S.C. 2701(24).

As defined in this rule, oil includes but is not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredge spoils. This definition includes animal, vegetable, and mineral oils in addition to petroleum oil. In addition, the term "navigable waters," as used in section 1001 of FWPCA and this rule, means the waters of the United States, including the territorial sea. This would include such waters as lakes, rivers, streams, waters which are used for public drinking water supplies, recreation, and waters from which fish or shellfish are taken and sold in interstate or foreign commerce. The term "worst case discharge" is defined as the largest foreseeable discharge in adverse weather conditions. 33 U.S.C. 1321(a)(24)(B).

Recommendations of Oil Spill Response Plan Negotiated Rulemaking Committee

The Coast Guard has been drafting regulations requiring response plans for tank vessels and onshore marine transportation-related facilities. To assist with the development of its rules, the Coast Guard established the Oil Spill Response Plan Negotiated Rulemaking Committee. (57 FR 1139, January 10, 1992).

Many of the recommendations developed through the negotiated rulemaking process are relevant to pipeline transportation and have been included in this rule. These include recommendations on definitions of "adverse weather" and "maximum extent practicable."

A copy of the final Committee report is available in the RSPA public docket (Docket No. PS–130).

Response Plans for Onshore Oil Pipelines

Section 4202(b)(4) of OPA 90 establishes statutory deadlines for the submission and approval of response plans regarding onshore oil pipelines. After February 18, 1993, a pipeline for which a response plan is required to be submitted may not be used to handle, store, or transport oil unless a plan for the pipeline has been submitted to RSPA. After August 18, 1993, a pipeline for which a response plan is required, may not handle, store, or transport oil unless the facility is operating in compliance with the applicable response plan.

For those plans addressing "significant and substantial harm" caused by an oil discharge and thus requiring RSPA approval, RSPA may authorize the operation of an onshore oil pipeline for up to two years after the operator has submitted a response plan. The two year authorization is based on the operator certifying, no later than July 18, 1993, that it has obtained sufficient private personnel and equipment to respond to a worst case discharge or a substantial threat of a worst case discharge. RSPA has set the July 18, 1993 deadline for receipt of certifications to allow adequate processing time prior to the statutory deadline. The terms "respond" and "response" include the containment and removal of oil from water and shorelines, the temporary storage and disposal of recovered oil, and other actions needed to minimize or mitigate damage to the environment.

In the vast majority of cases, the operator's response plan will consist of a core plan covering the entire company's pipeline facilities and separate response zone appendices. Each appendix will address a response zone which is a geographic area along a length of pipeline, containing one or more adjacent line sections, for which the operator must provide response capabilities. The size of the response zone is determined by the operator after considering available spill response capability, resources, and geographic characteristics, including number and location of navigable waters, public drinking water intakes and environmentally sensitive areas in or adjacent to navigable waters. An operator must provide sufficient response equipment and response personnel, either by the operator's organization or through contract, to reach a worst case discharge, or a substantial threat of such a discharge, within the times prescribed in this rule. RSPA requires operators to ensure by their response plans that resources can be deployed in required time frames. RSPA requests comments on the definition for response zone.

RSPA believes that many operators already have in place response plans that satisfy, or substantially satisfy, the intent of OPA 90. RSPA intends that the definition for "response zone," as proposed in this rule, will conform with those planning areas already delineated in the operators' existing plans. RSPA's purpose in asking for appendices applicable to separate response zones is to: (1) Allow the operator to add incrementally to the existing plans the information elements required by OPA 90 and (2) provide the operator the convenience of grouping appropriate line sections for which a common set of planning elements would apply in one response zone.

A major objective of OPA 90 is to utilize effective response planning to reduce the likelihood that an accidental oil discharge will reach navigable waters. OPA 90 emphasized facility location as a key element in determining the environmental threat posed by a facility. Therefore, this interim final rule requires operators to identify, within a response zone, areas of greatest vulnerability to an oil discharge, including navigable waters, public drinking water intakes, and environmentally sensitive areas.

RSPA is requiring operators of onshore pipelines that handle, store or transport oil and could reasonably be expected to cause either "substantial harm" or "significant and substantial harm" to the environment by discharging oil into or on the navigable waters or adjoining shorelines, to prepare and submit response plans for a worst case discharge or the substantial threat of a worst case discharge.

In the event of a worst case discharge, or a substantial threat of such a discharge, operators must then take action to protect these navigable waters, public drinking water intakes, and environmentally sensitive areas in accordance with a response plan. Soon after the discovery of a discharge, an operator must determine whether or not it is a substantial threat of becoming a worst case discharge, based on pipe diameter, operating pressure, flow rate, topography, weather conditions and shut down capability. By activating its response plan, the operator can reduce the likelihood that the discharge will become a "worst case" discharge. In determining the adequacy of equipment and personnel involved in responding to such a discharge in vulnerable areas, an operator must consider the range of geographic factors.

This rule requires operators to compute a "worst case discharge" as a basis for response planning. This hypothetical discharge is the largest volume of oil that could reasonably be expected to be discharged in a single event within a response zone, regardless of spill location in that zone. This rule includes factors the operator must use to determine a worst case discharge for each response zone. This computation is a way of measuring discharge volume to ensure the necessary response capability for any location in the response zone.

Since the computation of worst case discharge is hypothetical, operators must consider the need to respond in vulnerable environmentally sensitive areas within the zone, whether or not the worst case discharge is calculated for that specific location.

RSPA encourages operators to plan for responses to discharges that are less severe than the worst case discharge. Although OPA 90 does not require submission of plans for less than worst case discharge, the Coast Guard (USCG) and the Environmental Protection Agency (EPA) are proposing response planning that specifies three separate and distinct planning levels. RSPA is not requiring response planning for less than a worst case discharge; however, an operator may benefit by planning responses to smaller discharges since they are more likely to occur and would likely require different types and quantities of response equipment.

OPA 90 requires that response plans must: (1) Identify the qualified individual with full authority to implement response actions, including liaison with the Federal On-Scene Coordinator (OSC) and response contractors; (2) identify and ensure, by contract or other approved means, the availability of private personnel and equipment sufficient to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of such a discharge from the facility; (3) describe the training, equipment testing, periodic unannounced drills, and response activities of persons at the facility to ensure the safety of the facility and mitigate the effects of an oil discharge; (4) include procedures for periodically updating or resubmitting the response plan for approval when significant changes occur; and (5) be consistent with the National Contingency Plan (NCP) and any Area Contingency Plan (ACP) for the geographic area in which the facility operates.

The NCP provides general organizational structure and procedures for addressing discharges of oil and hazardous substances and specifies responsibilities among all levels of government, resources available for response, emergency planning requirements and procedures for undertaking removal actions. ACPs are prepared by Area Committees, composed of Federal, state and local personnel, under the direction of the Federal OSC for each area, who is either a Captain of the Port for coastal areas, or an EPA regional administrator for inland areas.

ACPs address the removal of a worst case discharge from a facility operating in or near the area covered by the plan and the mitigation and prevention of such a discharge. Further, they describe areas of environmental importance; responsibilities of operators and agencies in removing, mitigating and preventing discharges; equipment available to an operator to ensure effective removal, mitigation or prevention of a discharge, or a threat of such a discharge; procedures for decisions on use of dispersants; and other operating procedures.

ACPs are in early stages of development. As these plans evolve, OPA 90 requires operators to update their facility plans so as to be consistent with corresponding procedures and activities, including any response equipment limitations identified by the Area Committee.

As noted above, OPA 90 requires that response plans identify and ensure the availability of private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge, including a discharge resulting from fire or explosion. For the purposes of this rule, this requirement applies to each response zone covered by a response plan.

Although the intent of OPA 90 is to create a system in which private parties supply the bulk of any equipment and personnel needed for oil spill response in a given area, in the event of a worst case discharge, the private resources are likely to be supplemented by public response resources. Therefore, this rule requires that the response plan identify private resources, either maintained by the operator or other approved means, and the names and telephone numbers of any government agencies expected to assume pollution control responsibilities. The integration and coordination of public and private response resources will be addressed in the applicable ACP. As prescribed in OPA 90, this rule requires that the response plans be consistent with the ACP and the NCP. An operator must certify that it has reviewed the NCP and each applicable ACP and that its response plan is consistent with the NCP and applicable ACPs.

Statutory Criteria: "Substantial Harm" and "Significant and Substantial Harm"

OPA 90 requires that operators of onshore oil pipelines that may reasonably be expected to cause "substantial harm" or "significant and substantial harm," prepare and submit response plans. It also requires RSPA to review and approve those response plans for any onshore oil pipeline that may reasonably be expected to cause "significant and substantial harm."

OPA 90 does not define "substantial harm" or "significant and substantial harm." The OPA 90 Conference Report (H.R. Conf. Report No. 653, 101st Cong., 2d Sess., 101, reprinted in 1990 U.S. Code Cong. & Admin. News 779) states that the President should develop nationwide criteria to determine those facilities which could reasonably be expected to cause "substantial harm" and are therefore required to submit response plans. (OPA Conference Report, p. 829) The report indicates that the criteria should result in a broad requirement for facility owners and operators to prepare and submit plans, but that only a subset of these plans (i.e., those addressing significant and substantial harm) will actually be reviewed and approved. (OPA Conference Report, p. 829)

Substantial Harm; Significant and Substantial Harm

Section 4202(b)(4) of OPA 90 established statutory deadlines for the submission and approval of response plans regarding onshore oil pipelines. After February 18, 1993, a pipeline for which a response plan is required to be submitted may not be used to handle, store, or transport oil unless a response plan for the pipeline has been submitted to RSPA. After August 18, 1993, a pipeline for which a response plan is required, may not handle, store, or transport oil unless the facility is operating in compliance with the applicable response plan.

RSPA has determined that most onshore oil pipelines, because of their locations, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines. This determination is based on the volume of oil transported by pipelines and the fact that they often cross, or are located adjacent to, navigable waters. Thus, most onshore oil pipeline operators will be required to prepare and submit response plans.

Because of varying environmental conditions along the route of a pipeline, RSPA is requiring, in addition to a company-wide core plan, submission of response zone appendices which address geographic variables. Operators will compute a worst case discharge for each response zone. A response zone may include one or more adjacent line sections.

A "line section" is defined in this rule as "a continuous run of pipe that is contained between adjacent pressure pump stations, between a pressure pump station and a terminal or breakout

tank, between a pressure pump station and a block valve, or between adjacent block valves."

Under the rule, the operator must make a determination of whether a response zone contains a line section that may reasonably be expected to cause "significant and substantial harm." The operator must provide this information in the response plan's information summary.

This rule provides exceptions from the requirement to submit plans to certain pipelines operators and establishes criteria developed by RSPA for operators to use in determining which onshore oil pipelines may reasonably be expected to cause "significant and substantial harm" to the environment. If any line section within a response zone is determined to be likely to cause "significant and substantial harm", then, for the purpose of plan review and approval, RSPA will consider all of the operator's pipelines contained in that particular response zone as likely to cause "significant and substantial harm" in the event of a discharge. The operator must be able to deliver response resources adequate for a worse case discharge to any location in that zone.

RSPA will review and approve only those response plans for response zones which include a line section that may reasonably be expected to cause "significant and substantial harm" to the environment. The prohibition on operation of a pipeline without an approved response plan applies only to those pipelines within a response zone containing one or more "significant and substantial harm" line sections.

Exceptions and Requirements for "Small" Pipelines and "Distant" Pipelines

Some pipelines, based on their length and size, are too small to transport a large volume of oil and, consequently, do not have the capacity to discharge a volume of oil large enough to cause substantial harm to the environment. RSPA believes there is no reasonable expectation that these pipelines will cause substantial harm to the environment in the event of a discharge. Therefore, RSPA has created an exception from the response plan submission requirements under this regulation for certain pipelines, unless an OSC recommends otherwise, or they are in proximity to navigable waters, public drinking water intakes or environmentally sensitive areas which are in or adjacent to navigable waters. For the purposes of this rule, "in proximity" means the pipeline is within a distance of navigable waters, public drinking water intakes or environmentally sensitive areas which are in or adjacent to navigable waters such that a discharge could cause substantial harm, even though the pipeline is transporting a "small" volume of oil.

The "small pipeline" exception applies only to a pipeline which is 6⅝ inches or less in outside nominal diameter, is 10 miles or less in length, and meets all of the following conditions:

(1) The pipeline has not experienced a release greater than 1,000 barrels within the previous five years;

(2) The pipeline has not experienced two or more reportable releases, as defined in 49 CFR 195.50, within the previous five years;

(3) A pipeline containing any electric resistance welded pipe, manufactured prior to 1970, does not operate at a maximum operating pressure established under § 195.406 that corresponds to a stress level greater than 50 percent of the specified minimum yield strength of the pipe as defined in this rule; and

(4) The pipeline is not in proximity to public drinking water intakes, navigable waters, or environmentally sensitive areas as defined in this rule.

If the small pipeline meets all of these conditions, it qualifies for the exception, and the operator does not have to submit a response plan. RSPA has determined that even a "small" pipeline can cause "substantial harm" to the environment in the event of a discharge, when it is in proximity to navigable waters, public drinking water intakes or environmentally sensitive areas. Environmentally sensitive areas are those areas of environmental importance which are in or adjacent to navigable waters. These areas may include, wetlands, national parks, wilderness and recreational areas, wildlife refuges marine sanctuaries, and conservation areas. As required by statute, an ACP must describe those areas covered by the ACP that are of environmental importance. The statute also requires that an operator's response plan be consistent with the ACP. Thus, an operator must compare its response plan with the applicable ACP(s) to ensure consistency.

Some other pipelines are located at a distance far enough away from any navigable waters, public drinking water intakes or environmentally sensitive areas that it is not reasonable to expect that a discharge at any point on the pipeline would have an adverse affect within 12 hours after the time of release. RSPA believes it is reasonable to except these "distant" pipelines or line sections of pipelines from the requirement to submit response plans. RSPA encourages an operator to plan a response to such a discharge within 12 hours, so as to prevent it from reaching navigable waters, public drinking water intakes or environmentally sensitive areas.

RSPA believes that a similar distance exception should apply for small pipelines. Therefore, where it is not reasonable to expect that a distance at any point on the small pipeline would have an adverse affect within 4 hours after the time of release, RSPA is not requiring the submission of a response plan.

RSPA was unable to develop specific procedures for determining whether a pipeline would meet this distance exception. Therefore, RSPA is requesting comments on procedures for determining the time it takes for oil to travel from a release site to navigable waters, public drinking water intakes or environmentally sensitive areas and whether the travel time of 4 hours for small pipelines or 12 hours for other pipelines from the time of release to navigable waters is an appropriate criteria for determining "distant" pipelines.

If after February 18, 1993, an operator determines that an exception no longer applies to a previously excepted pipeline, then the operator must prepare and submit a response plan for that pipeline.

While this rule provides exceptions from the requirement to submit response plans for certain pipeline operators, it does not relieve operators from their responsibilities under 49 CFR 195.402 which requires operators to have procedures to provide safety when an emergency condition occurs.

Requirements for All Other Pipelines

Onshore oil pipelines not qualifying for the "small pipeline" or "distant pipeline" exceptions are expected to cause "substantial harm" in the event of a discharge, and the operators of those pipelines must submit response plans to RSPA. Each plan must identify each response zone covered by the plan, and the operator must determine if any line section within a response zone could reasonably be expected to cause "significant and substantial harm" to the environment. If a response zone contains a line section that is expected to cause significant and substantial harm, then the entire response zone must, for response plan approval purposes, be treated as if it is expected to cause significant and substantial harm.

As adopted in the rule, a line section can reasonably be expected to cause "significant and substantial harm" if the pipeline is greater than 6⅝ inches in outside nominal diameter, greater than 10 miles in length, and any of the following conditions exist:

(1) The line section has experienced a release greater than 1,000 barrels within the previous five years;

(2) The line section has experienced at least two reportable releases, as defined in § 195.50, within the previous five years;

(3) A line section containing any electric resistance-welded pipe, manufactured prior to 1970, operates at a maximum operating pressure established under § 195.406 that corresponds to a stress level greater than 50 percent of the specified minimum yield strength of the pipe as defined in this rule;

(4) The line section is located within a five-mile radius of potentially affected public drinking water intakes and could reasonably be expected to reach public drinking water intakes; or

(5) The line section is located within a one-mile radius of potentially affected environmentally sensitive areas, as defined in this rule, and could reasonably be expected to reach these areas.

Potentially affected means that an oil discharge could reach a public drinking water intake or environmentally sensitive area by moving downstream or downhill from the pipeline.

In determining the proximity of a line section to public drinking water intakes and environmentally sensitive areas, until the ACPs are developed, the operator should use its regional knowledge and the existing Local Contingency Plan (LCP), developed by the OSC, for its area of operation.

RSPA requests comments on the criteria it has established to determine which line sections could reasonably be expected to cause significant and substantial harm to the environment. RSPA specifically requests comments on whether it should consider additional facility characteristics and the appropriateness of using the specified distances from navigable waters, public drinking water intakes and environmentally sensitive areas, as criteria.

As a result of new information, changing circumstances, the recommendation of an OSC, and the development of ACPs, RSPA may in the future identify facilities as having the potential to cause either "substantial harm" or "significant and substantial harm".

Requirements for Information Summary

In order to facilitate RSPA's review and approval of response plans, this rule requires all operators to submit an information summary as part of its response plans. The information summary will provide RSPA with the necessary information to determine which response plans require review and approval by RSPA.

The information summary for a core plan must include:

- The name and address of the operator; and
- A listing and description of all response zones, including county(s) and state(s), in which a worst case discharge could cause significant and substantial harm to the environment.

The information summary for a response zone appendix must include:

- The name and telephone number of the qualified individual, available on a 24-hour basis;
- A description of the response zone, including county(s) and state(s), in which a worst case discharge could cause substantial harm to the environment;
- A listing of the line sections in the zone, identified by milepost or survey station number or other operator designation;
- The basis on which the operator determined that the zone meets the criteria for "significant and substantial harm"; and
- The type of oil and volume of the worst case discharge.

Additionally, operators must provide a duplicate copy of the information summary sheet from the core plan with each response zone appendix to assure availability of complete information during the review of the response zone appendices.

Certification

OPA 90 provides the opportunity for an operator, with response zones that contain line sections which can reasonably be expected to cause significant and substantial harm, to seek a waiver from the requirement to have an approved response plan by August 18, 1993. In order to receive a waiver, the operator must submit to RSPA a certification by the qualified individual or appropriate corporate officer that the operator has obtained, through contract or other approved means, the necessary private personnel and equipment to respond, to the maximum extent practicable, to a worst case discharge, or the substantial threat of such a discharge, in each of its response zones.

Given the large number of plans requiring review and approval which RSPA expects to receive in February 1993, RSPA may not complete all the required approvals by August 18, 1993. Therefore, operators may choose to provide a certification at the time of submission of the plan, or up until July 18, 1993. Operators who opt to provide certification are granted an automatic extension for up to two years after plan submission or until the date RSPA approves or disapproves the plan, whichever occurs first. During this period they may operate without response plan approval. Operators who choose this option may provide the certification with the information summary sheet for their core plans.

General Response Plan Requirements

1. Immediate Communications Procedures

Each response plan must provide the name and telephone number of a qualified individual for each response zone and describe a communications network, such as a spill response telephone list, to identify those parties (i.e., Federal, state, and local officials, contractors, and company personnel) who must be immediately contacted in the event of any discharge.

2. Planning for Worst Case Discharge

Each response plan must describe the means by which an operator will respond, to the maximum extent practicable, to its worst case discharge in each response zone. Response to a worst case discharge includes planning for a discharge of the largest foreseeable volume in environmentally sensitive areas.

The definition of "maximum extent practicable," as used in this rule, is based on a recommendation made by the USCG's negotiated rulemaking committee. "Maximum extent practicable" means the limits of available technology and the practical and technical limits on an individual pipeline operator in planning the response resources required to provide the on-water recovery capability and the shoreline protection and cleanup capability to conduct response activities for a worst case discharge from a pipeline in adverse weather.

As used in this rule, a worst case discharge is the largest foreseeable discharge in adverse weather conditions that a pipeline could discharge in a response zone. It is based on a comparison between several factors. First, it could result from the calculation of the rate of flow times the maximum time to detect the spill, plus the rate of flow times the time to shut-down the pipeline, plus the drainage volume after shutdown of the pipeline. The operator must determine and utilize a realistic shut down time based on the pipeline's

operating and design characteristics, including leak detection and shut down capability.

Second, the worst case discharge could be the largest foreseeable discharge for the line section(s) within a response zone, expressed in barrels, based on the maximum historic discharge, if one exists, adjusted for any subsequent corrective or preventive action taken. Subsequent corrective or preventive action may include installation of a Supervisory Control and Data Acquisition (SCADA) based leak detection subsystem, replacement of defective pipe, or the installation of block valves.

Third, if a response zone contains breakout tanks, it could be the total volume of the single largest breakout tank or battery of breakout tanks within a single containment system, adjusted for the capacity of the containment system.

An operator must select the largest of these numbers as the volume for a worst case discharge.

If the worst case discharge is based on one or more breakout tanks, an adjustment or credit can be applied to the capacity of the tank or tanks. This credit in reducing the worst case discharge volume is permissible if the tank is protected by a secondary containment system providing containment of a minimum of 110% of the capacity of the tank. This credit is granted based on the fact that it is unlikely that a facility, with adequate secondary containment, will discharge its entire contents since the secondary containment system will retain a substantial portion of the discharge.

RSPA requests comments on the worst case discharge for pipeline breakout tanks, including the credit adjustment for an adequate secondary containment system. In addition, what other criteria are appropriate for the definition of worst case discharge? Should there be one definition used for pipelines or should there be a separate definition based on each pipeline's unique set of operating conditions and equipment installed? Should there be a tiered approach to the worst case discharge with consideration given to a pipeline having in place a Supervisory and Data Acquisition (SCADA) system with a SCADA-based leak detection subsystem? Should RSPA consider other criteria on the types and locations of valves, the operating parameters of a leak detection systems, and, in the case of breakout tanks, secondary containment?

As stated earlier, the computation of worst case discharge is a method of measuring response capability needed for any location in a response zone. In planning response capabilities and strategies, operators must consider the need to respond in vulnerable areas, where greatest damage could occur, whether or not the worst case discharge could occur in that location.

Several reasons exist for RSPA requiring operators to provide their computation of worst case discharge with the summary of response plan information. In the operator's preparation of plans and in RSPA's review of plans, the operator and RSPA must consider the unique set of variables that determine the potential volume, including line drainage volume after shutdown, which might be discharged at any location along the pipeline. Pipe diameter, operating pressure, flow rate and the topography surrounding the pipeline are among the factors which RSPA believes are most critical in planning and determining the need for personnel and equipment. Operator submission of these data will allow RSPA to effectively assess the operator's leak detection and control measures and other aspects of discharge prevention and mitigation, and thereby improve the response planning process.

Additionally, under this rule, RSPA retains discretion to consider, on a case-by-case basis, the above-mentioned and other risk-based factors in making final determinations of which line sections in response zones could cause significant and substantial harm to the environment, and therefore require review and approval. RSPA believes that the amount of a worst case discharge is a relevant factor for future consideration in determining which zones require review and approval.

3. Consistency with the NCP and ACPs

The rule requires response plans to be consistent with requirements in the NCP and ACPs, as these plans evolve. An operator must certify that it has reviewed the NCP and each applicable ACP and its response plan is consistent with the NCP and ACPs.

Because revisions to the NCP were not completed by the EPA and the USCG prior to August 18, 1992, response plans should be based on the existing NCP published in 40 CFR part 300. ACPs are in various stages of development and, in most cases, will not be completed in time for operators to consult when developing their response plans. Until the applicable ACPs are completed, response plans submitted to meet the February 18, 1993 deadline should be consistent with the LCP or ACP in effect on August 18, 1992.

A response plan submitted after February 18, 1993 must be consistent with the applicable contingency plan (LCP or ACP) in effect when the response plan is submitted. If the NCP or ACP has been revised within six months of the date of submission, the operator's response plan may conform to the prior NCP or ACP.

4. Requirement for Updates

Unless a change in the NCP or an ACP has significant impact on equipment appropriate for response or other geographic-specific considerations, approved response plans will not be required to be resubmitted for approval based solely on a subsequent revision of ACP or an NCP. However, the OPA 90 requires that the operators update their plans "periodically." This rule requires that after a plan is submitted, an operator must perform a periodic update every three years. RSPA believes that significant changes in procedures are not likely to occur once the operator has completed the response planning to comply with the requirements of this regulation. In exercising its enforcement authority for comparable situations (e.g., 49 CFR part 195), OPS has adopted this triennial requirement.

Consistent with the statute, however, an operator must resubmit a response plan in the event of a significant change that affects the response plan's implementation. Significant changes include:

- Change in the type of oil transported,
- Relocation or replacement of a pipeline or a line section in a manner that operationally affects the response plan or the worst case discharge,
- Change in the person(s) qualified to activate the response plan,
- Contracting with new cleanup operators, or
- Any change to information relating to circumstances likely to affect full implementation of the plan.

RSPA may also request a pipeline operator to revise and resubmit a response plan based on the agency's review of the plan, due to a recent discharge from the facility, or at the request of the OSC.

5. Availability of Response Resources

Operators must identify and ensure, by contract or other acceptable means, the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge.

Operators may find it advantageous to place cleanup contractors or spill cooperatives on retainer to ensure their response services are available.

(Operators are reminded that cleanup contractors who may be hired to perform an emergency response function regulated by 49 CFR part 195 may be subject to the drug testing requirements of 49 CFR part 199.)

In order to ensure the availability of private personnel and equipment necessary to remove a worst case discharge, operators need to determine the capabilities of response resources needed for the specific operating environments. Limitations for particular response zones will be identified in the ACPs, including types of equipment permissible for response. Response resources should include sufficient boom, oil recovery devices and storage capacity to recover a worst case discharge. RSPA encourages operators, as part of the planning process, to identify storage location and the make, model and effective daily recovery rate of oil recovery devices.

The USCG, in its Navigation and Vessel Inspection Circular (NVIC) No. 7–92 issued September 15, 1992, provided an appendix with guidelines on what type and amount of equipment are required for a specific discharge volume from a facility based on its capacity. A copy of this NVIC is available in the public docket for this rulemaking. Operators may use this as a reference for determining equipment requirements. Other factors such as the facility's location, the environmental sensitivity of the area, the facility's proximity to public drinking water intakes, and the type of oil transported by the facility (i.e., persistent or non-persistent) need to be considered by the operator in determining the type and amount of required response equipment.

Tiering Response Resources for On Water Recovery

RSPA has structured the requirements for responding, to the maximum extent practicable, to a worst case discharge in a tier system. RSPA has specified the times by which certain response equipment must be present at discharge sites. This rule establishes three tiers to allow the operator to identify response resources from outside a facility's specific geographic location to satisfy its response requirements.

Some fraction of the personnel and equipment necessary to respond to a worst case discharge must be available for each tier standard. For instance, it might be appropriate for the resources to arrive in the first tier to be prepared to address immediate requirements to keep the maximum amount of oil from getting into the water. The second tier might address containment equipment to prevent the discharge from disbursing. The third tier might concentrate on cleanup and storage of the discharge. The intent is to provide the operator latitude in staging resources most efficiently.

The tier approach recognizes two levels of concern based on the areas traversed by pipelines. "High volume areas" means those areas where an oil pipeline having a nominal outside diameter of 20 inches or more crosses a major river or other navigable waters, which, because of the velocity of the river flow and vessel traffic on the river, would require a more rapid response in case of a worst case discharge or substantial threat of such a discharge. "All other areas" include smaller rivers, canals, inland and nearshore areas. The list of "high volume" areas, provided in Appendix B, may not be complete for the purposes of this regulation. Operators should determine, based on their regional knowledge, if there are other areas that contain rivers or other navigable waters which, because of their velocity or traffic, would, in case of discharge, require a more rapid response.

On-scene arrival times in hours for each tier are as follows:

	Tier 1	Tier 2	Tier 3
High volume areas	6	30	54
All other areas	12	36	60

Tier 1 response activities must begin after discovery of a worst case discharge or substantial threat of such a discharge and be completed within the hours prescribed. Response activities must be operational by the tier 3 time. As required by OPA 90, the response plan must identify and ensure the availability of personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge. RSPA believes this should include consideration of mobilization and travel time. In calculating the travel time for personnel and equipment, an on-water speed of 10 knots and a land speed of 35 miles per hour is assumed unless the operator can demonstrate otherwise. RSPA is requesting comments on this approach to tiering response resources.

Recognizing the diversity of situations to be addressed, RSPA has not specified the equipment and personnel to be provided. The operator needs to determine the amount of response resources that need to be mobilized and delivered to respond to a worst case discharge, consistent with the times established in this rule. USCG's NVIC 7–92 lists the response resource mobilization factors.

These factors reflect the organization of on-water oil recovery capacity to be mobilized and delivered within the response times for each tier in order to maximize the oil recovery potential.

The operator is responsible for ensuring that sufficient numbers of trained personnel, boats, aerial spotting aircraft, sorbent materials, boom anchoring materials and other supplies are available to sustain response operations. The operator needs to evaluate the availability of adequate temporary storage capacity to sustain effective daily recovery rates. Based on USCG guidance in NVIC 7–92, temporary storage should be equivalent to twice the daily oil recovery rate due to inefficiency of oil recovery devices which collect approximately equal amounts of oil and water. Since the water is contaminated, storage must be provided for the contaminated water. This capacity may be reduced if the operator can demonstrate a better efficiency rate. The operator needs to also arrange for disposal of recovered oil products, consistent with specifications of the ACP.

6. Training, Equipment Testing, Drills and Response Actions

Each response plan must address training, equipment testing, periodic unannounced drills, and the response actions of operator personnel. This rule establishes levels of training. The amount of training required depends on the complexity of functions performed. Additionally, Occupational Safety and Health Administration (OSHA) rules require that all personnel who are expected to respond to, and control, hazardous discharges will undergo formal worker health and safety training before starting work. These rules also apply to personnel, including volunteers and casual laborers employed during a response, that are subject to those standards pursuant to 40 CFR part 311. Personnel are required to receive refresher training at regular intervals. OSHA considers petroleum products and gases to be hazardous materials.

The response plan must describe equipment testing and the type, schedule, and procedure for drills. It must describe response actions under the plan that ensure the safety of facilities and mitigate or prevent the worst case discharge or the substantial threat of such a discharge. Appropriate types of drills and frequencies need to be selected by the operator. Equipment and procedures used in drills must be consistent with requirements of the ACP.

When the operator is deciding the equipment to test and the drill schedule, the operator should consider drills or

exercises of: (1) Manned pipeline facilities, emergency procedures, and qualified individual notification; (2) emergency actions by assigned operating or maintenance personnel and notification of the qualified individual on pipeline facilities which are normally unmanned; (3) spill management team tabletop exercises; (4) oil spill removal organization field equipment deployment; and (5) exercises of the entire response zone organization.

Operators need to evaluate drills and correct any problems identified. OPA 90 requires operators to participate in any unannounced drills conducted by the appropriate OSC, including the activation of the appropriate oil spill removal organization and spill management team identified in the response plan.

OPA 90 requires operators to describe response actions of assigned personnel in the response plan. In Appendix A, Guidelines for the Preparation of Response Plans, RSPA has provided information to assist operators. Operators are encouraged to consider the information in the guidelines. RSPA considers the following factors priorities in response planning: containment and cleanup activities; assessment of proximity to environmentally sensitive areas; assessment of potential impact of worst case discharge; precautions for worker health and safety; and assessment of the threat to public health and safety from the worst case discharge.

Submission of State Plans

RSPA is aware that many operators are developing response plans that comply with state law or regulation requiring preparation of an oil spill response plan which provides equivalent or greater response capabilities than required in this rule. RSPA believes that the response planning process an operator completes to comply with state requirements will serve to ensure that operators plan for responding to the maximum extent practicable to a worst case discharge. A response plan meeting state law requirements and submitted to RSPA must name the qualified individual and ensure, through contract or other approved means, the necessary private personnel and equipment to respond to a worse case discharge or a substantial threat of such a discharge.

If, to satisfy the requirements of this rule, an operator submits a plan developed to comply with state requirements, an operator must provide an information summary sheet identifying critical information as specified in this rule, as required in 49 CFR 194.113. After review of those plans, RSPA may determine that additional amendments are necessary to ensure adequate response resources for worst case discharge.

Multi-Agency Jurisdiction

Most oil storage facilities are composed of both transportation-related and non-transportation-related facilities as defined in the 1971 Memorandum of Understanding between the Environmental Protection Agency and Department of Transportation (36 FR 24080; December 18, 1971). This combination of transportation-related and non-transportation-related facilities will be subject to multi-agency jurisdiction. The USCG, EPA, and RSPA are discussing how a response plan from such a facility will be reviewed and approved.

Summary of Public Comments Requested

RSPA requests public comment on a variety of issues. As a convenience to the reader, those issues are summarized below:

(1) The definition of "response zone",

(2) The criteria for "distant" pipelines and procedures for determining the time it takes for oil to travel from a release site to navigable waters, public drinking water intakes or environmentally sensitive areas,

(3) The selection criteria used in determining which line sections in response zones could reasonably be expected to cause "significant and substantial harm" to the environment,

(4) The selection criteria and additional facility characteristics, including a facility's location in relation to navigable waters, public drinking water intakes and proximity to environmentally sensitive areas,

(5) The definition of worst case discharge for pipeline breakout tanks,

(6) Other criteria appropriate for the definition of worst case discharge,

(7) The tiered approach to the worst case discharge, with consideration given to a pipeline having in place a Supervisory and Data Acquisition (SCADA) system with a SCADA-based leak detection subsystem,

(8) Other criteria on the types and locations of valves, the operating parameters of leak detection systems, and, in the case of break out tanks, secondary containment, and

(9) The tiered approach to determine the necessary response resources.

Regulatory Analyses and Notices

A. Impact Assessment

This rule does not meet the criteria specified in section 1(b) of Executive Order 12291 and is not, therefore, a major rule, but it is considered a significant rule under the section 5(a)(2)(f) of DOT's Regulatory Policies and Procedures ("the Procedures") (44 FR 11034; February 26, 1979) because of significant public and congressional interest. This rule does not require a Regulatory Impact Analysis. A regulatory evaluation is under development. It will include an analysis of the economic consequences of the regulation and an analysis of its anticipated benefits and impacts.

RSPA has tentatively determined the incremental unit costs of the rule, above and beyond existing response planning costs. They are as follows:

RESPONSE PLAN INCREMENTAL UNIT COST ESTIMATES FOR PIPELINE COMPANIES

Response plan elements	Small	Medium	Large
General information	$70	$110	$190
Emergency response procedures	749	2,639	5,667
Spill detection and mitigation procedures	327	1,447	2,814
Training and drills	18,033	24,754	39,757
Response zone appendices (per zone)	4,291	12,948	19,794
Response capability	10,000	30,000	100,000
Total first-year cost	33,470	71,898	168,222
Plan review and update	399	1,074	1,449
Training and drills	18,033	24,754	39,757

RESPONSE PLAN INCREMENTAL UNIT COST ESTIMATES FOR PIPELINE COMPANIES—Continued

Response plan elements	Small	Medium	Large
Response capability	10,000	30,000	100,000
Subsequent-year cost	28,432	55,828	141,206

Note: Small company model: operates about 275 miles of pipeline and has 7 pipeline facilities; Medium company model: operates about 800 miles of pipeline and has 20 pipeline facilities; and Large company model: operates about 5,300 miles of pipeline and has 128 pipeline facilities.

Comments are requested on these costs so that RSPA may finalize the regulatory evaluation. RSPA specifically requests comments on the cost that operators will incur for retainers associated with response capability.

B. Regulatory Flexibility Act

A majority of the entities composing the regulated pipeline industry are large corporations with both sales and revenue in the million of dollars. For the majority of small businesses that are subject to this interim final rule, the regulatory evaluation under development indicates they should be able to absorb the estimated regulatory compliance costs without experiencing significant adverse economic effects.

Thus, based on information available concerning the size and nature of entities likely affected by this rule, I certify this regulation will not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

However, RSPA specifically requests comments on the impact of this rule on small business concerns and this certification is subject to modification as a result of a review of comments received in response to this regulation. The rule will have no direct impact on small units of government.

C. Federalism Assessment

RSPA has analyzed this regulation in accordance with Executive Order 12612 and has determined that it does not have sufficient Federalism implications to warrant preparing a Federalism Assessment. The regulations have no substantial effects on the states, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. Nothing in this rule shall be construed as preempting any State or a political subdivision of a State from imposing any additional requirement or liability with respect to the discharge of oil into any waters within the State, or with respect to any removal activities related to such a discharge. (33 U.S.C. 2718 Supp. II 1990).

D. Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. chapter 35. OMB NO. New;

Administration: Research and Special Programs Administration. **Title:** Response Plans for Onshore Pipelines;

Need for Information: The Oil Pollution Act of 1990 requires an operator of a pipeline transporting oil to submit a plan for responding to a worst case discharge or the threat of such a discharge; *Proposed Use of Information:* RSPA will use this information to review and approve certain response plans; *Frequency:* one time submission with plan updates every three years;

Burden Estimate: 26,400 hours; *Respondents:* 300 oil pipeline operators; *Forms:* none; *Average Burden Hours per Respondent:* 11.5 hours.

For further information contact: The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590 or Edward Clarke or Ron Minsk, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503.

E. National Environmental Policy Act

RSPA has reviewed these regulations in accordance with its procedures for ensuring full consideration of the environmental impacts of RSPA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1c. RSPA has determined that the rules are not a major Federal action for which an Environmental Impact Statement must be prepared.

List of Subjects in 49 CFR Part 194

Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Administrator, RSPA, adds part 194 to chapter I of title 49 of the Code of Federal Regulations as follows:

Part 194—RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Subpart A—General

Sec.

Subpart B—Response Plans

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5) and (j)(6); sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.53.

Subpart A—General

§ 194.1 Purpose.

This part contains requirements for oil spill response plans to reduce the environmental impact of oil discharged from onshore oil pipelines.

§ 194.3 Applicability.

This part applies to an operator of an onshore oil pipeline that, because of its location, could reasonably be expected to cause substantial harm, or significant and substantial harm to the environment by discharging oil into or on any navigable waters of the United States or adjoining shorelines.

§ 194.5 Definitions.

Adverse weather means the weather conditions considered by the operator in identifying the response systems and equipment to be deployed in accordance with a response plan, including wave height, ice, temperature, visibility, and currents within the inland or Coastal Response Zone (defined in the National

Contingency Plan (40 CFR part 300)) in which those systems or equipment are intended to function.

Barrel means 42 United States gallons at 60 degrees Fahrenheit.

Breakout tank means a tank used to:

(1) relieve surges in an oil pipeline system or

(2) receive and store oil transported by a pipeline for reinjection and continued transportation by pipeline.

Coastal zone means all United States waters subject to the tide, United States waters of the Great Lakes and Lake Champlain, specified ports and harbors on inland rivers, waters of the contiguous zone, other waters of the high seas subject to the National Contingency Plan, and the land surface or land substrate, ground waters, and ambient air proximal to those waters. (The term "coastal zone" delineates an area of federal responsibility for response action. Precise boundaries are determined by agreements between the Environmental Protection Agency (EPA) and the U.S. Coast Guard (USCG), and are identified in Federal Regional Contingency Plans and Area Contingency Plans.)

Contract or other approved means is:

(1) A written contract or other legally binding agreement between the operator and a response contractor or other spill response organization identifying and ensuring the availability of the specified personnel and equipment within stipulated response times for a specified geographic area;

(2) Certification that specified equipment is owned or operated by the pipeline operator, and operator personnel and equipment are available within stipulated response times for a specified geographic area; or

(3) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment to be available within stipulated response times for a specified geographic area.

Environmentally sensitive area means an area of environmental importance which is in or adjacent to navigable waters.

High volume area means an area which an oil pipeline having a nominal outside diameter of 20 inches or more crosses a major river or other navigable waters, which, because of the velocity of the river flow and vessel traffic on the river, would require a more rapid response in case of a worst case discharge or substantial threat of such a discharge. Appendix B to this part contains a list of some of the high volume areas in the United States.

Inland area means the area shoreward of the boundary lines defined in 46 CFR part 7, except that in the Gulf of Mexico, it means the area shoreward of the lines of demarcation (COLREG lines) defined in 33 CFR 80.740–80.850. The inland area does not include the Great Lakes.

Inland zone means the environment inland of the coastal zone excluding the Great Lakes, Lake Champlain, and specified ports and harbors on inland rivers. (The term inland zone delineates an area of federal responsibilities for response actions. Precise boundaries are determined by agreements between the EPA and the USCG and are identified in Federal Regional Contingency Plans.)

Line section means a continuous run of pipe that is contained between adjacent pressure pump stations, between a pressure pump station and a terminal or breakout tank, between a pressure pump station and a block valve, or between adjacent block valves.

Major river means a river that, because of its velocity and vessel traffic, would require a more rapid response in case of a worst case discharge. For a list of rivers see "*Rolling Rivers, An Encyclopedia of America's Rivers,*" Richard A. Bartlett, Editor, McGraw-Hill Book Company, 1984.

Maximum extent practicable means the limits of available technology and the practical and technical limits on a pipeline operator in planning the response resources required to provide the on-water recovery capability and the shoreline protection and cleanup capability to conduct response activities for a worst case discharge from a pipeline in adverse weather.

Navigable waters means the waters of the United States, including the territorial sea and such waters as lakes, rivers, streams; waters which are used for recreation; and waters from which fish or shellfish are taken and sold in interstate or foreign commerce.

Oil means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, vegetable oil, animal oil, sludge, oil refuse, oil mixed with wastes other than dredged spoil.

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

On-Scene Coordinator (OSC) means the federal official designated by the Administrator of the EPA or by the Commandant of the USCG to coordinate and direct federal response under subpart D of the National Contingency Plan (40 CFR part 300).

Onshore oil pipeline facilities means new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of oil located in, on, or under, any land within the United States other than submerged land.

Operator means a person who owns or operates onshore oil pipeline facilities.

Pipeline means all parts of an onshore pipeline facility through which oil moves including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Qualified individual means an English-speaking representative of an operator, located in the United States, available on a 24-hour basis, with full authority to: activate and contract with required oil spill removal organization(s); activate personnel and equipment maintained by the operator; act as liaison with the OSC; and obligate any funds required to carry out all required or directed oil response activities.

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

Response area means the inland zone or coastal zone, as defined in the National Contingency Plan (40 CFR part 300), in which the response activity is occurring.

Response plan means the operator's core plan and the response zone appendices for responding, to the maximum extent practicable, to a worse case discharge of oil, or the substantial threat of such a discharge.

Response resources means the personnel, equipment, supplies, and other resources necessary to conduct response activities.

Response zone means a geographic area either along a length of pipeline or including multiple pipelines, containing one or more adjacent line sections, for which the operator must plan for the deployment of, and provide, spill response capabilities. The size of the zone is determined by the operator after considering available capability, resources, and geographic characteristics.

Specified minimum yield strength means the minimum yield strength, expressed in pounds per square inch, prescribed by the specification under which the material is purchased from the manufacturer.

Stress level means the level of tangential or hoop stress, usually expressed as a percentage of specified minimum yield strength.

Worst case discharge means the largest foreseeable discharge of oil,

including a discharge from fire or explosion, in adverse weather conditions. This volume will be determined by each pipeline operator for each response zone and is calculated according to § 194.105.

§ 194.7 Operating restrictions and interim operating authorization.

(a) After February 18, 1993, an operator of a pipeline for which a response plan is required under § 194.101, may not handle, store, or transport oil in that pipeline unless the operator has submitted a response plan meeting the requirements of this part.

(b) After August 18, 1993, an operator must operate its onshore pipeline facilities in accordance with the applicable response plan.

(c) After August 18, 1993, the operator of a pipeline line section described in § 194.103(c), may continue to operate the pipeline for two years after the date of submission of a response plan, pending approval or disapproval of that plan, only if the operator has submitted the certification required by § 194.119(e).

Subpart B—Response Plans

§ 194.101 Operators required to submit plans.

(a) Except as provided in paragraph (b) of this section, or unless RSPA grants a request from the OSC to require an operator of the following pipelines to submit a response plan or the pipeline is covered by § 194.103, each operator of an onshore pipeline facility shall prepare a response plan and submit the response plan to RSPA, as provided in § 194.119.

(b) *Exception.* An operator need not submit a response plan for:

(1) A pipeline that is 6⅝ inches or less in outside nominal diameter, is 10 miles or less in length, and all of the following conditions apply to the pipeline:

(i) The pipeline has not experienced a release greater than 1,000 barrels within the previous five years,

(ii) The pipeline has not experienced at least two reportable releases, as defined in § 195.50, within the previous five years,

(iii) A pipeline containing any electric resistance welded pipe, manufactured prior to 1970, does not operate at a maximum operating pressure established under § 195.406 that corresponds to a stress level greater than 50 percent of the specified minimum yield strength of the pipe, and

(iv) The pipeline is not in proximity to navigable waters, public drinking water intakes, or environmentally sensitive areas.

(2)(i) A line section that is greater than 6⅝ inches in outside nominal diameter and is greater than 10 miles in length, where the operator determines that it is unlikely that the worst case discharge from any point on the line section would adversely affect, within 12 hours after the initiation of the discharge, any navigable waters, public drinking water intake, or environmentally sensitive areas.

(ii) A line section that is 6⅝ inches or less in outside nominal diameter and is 10 miles or less in length, where the operator determines that it is unlikely that the worst case discharge from any point on the line section would adversely affect, within 4 hours after the initiation of the discharge, any navigable waters, public drinking water intake, or environmentally sensitive areas.

§ 194.103 Significant and substantial harm; operator's statement.

(a) Each operator shall submit a statement with its response plan, as required by §§ 194.107 and 194.113, identifying which line sections in a response zone can be expected to cause significant and substantial harm to the environment in the event of a discharge of oil into or on the navigable waters or adjoining shorelines.

(b) If an operator expects a line section in a response zone to cause significant and substantial harm, then the entire response zone must, for the purpose of response plan review and approval, be treated as if it is expected to cause significant and substantial harm. However, an operator will not have to submit separate plans for each line section.

(c) A line section can be expected to cause significant and substantial harm to the environment in the event of a discharge of oil into or on the navigable waters or adjoining shorelines if; the pipeline is greater than 6⅝ inches in outside nominal diameter, greater than 10 miles in length, and the line section—

(1) Has experienced a release greater than 1,000 barrels within the previous five years,

(2) Has experienced two or more reportable releases, as defined in § 195.50, within the previous five years,

(3) Containing any electric resistance welded pipe, manufactured prior to 1970, operates at a maximum operating pressure established under § 195.406 that corresponds to a stress level greater than 50 percent of the specified minimum yield strength of the pipe,

(4) Is located within a five-mile radius of potentially affected public drinking water intakes and could reasonably be expected to reach public drinking water intakes, or

(5) Is located within a one-mile radius of potentially affected environmentally sensitive areas, and could reasonably be expected to reach these areas.

§ 194.105 Worst case discharge.

(a) Each operator shall determine the worst case discharge for each of its response zones and provide the methodology, including calculations, used to arrive at the volume.

(b) The worst case discharge is the largest volume, in barrels, of the following:

(1) The pipeline's maximum release time in hours, plus the maximum shutdown response time in hours (based on historic discharge data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s) in the response zone expressed in barrels; or

(2) The largest foreseeable discharge for the line section(s) within a response zone, expressed in barrels, based on the maximum historic discharge, if one exists, adjusted for any subsequent corrective or preventive action taken; or

(3) If the response zone contains one or more breakout tanks, the capacity of the single largest tank or battery of tanks within a single secondary containment system, adjusted for the capacity or size of the secondary containment system, expressed in barrels.

§ 194.107 General response plan requirements.

(a) Each response plan must plan for resources for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge.

(b) Each response plan must be written in English and also, if applicable, in a language that is understood by the personnel responsible for carrying out the plan.

(c) Each response plan must be consistent with the National Contingency Plan (NCP) (40 CFR part 300) and each applicable Area Contingency Plan (ACP). An operator must certify that it has reviewed the NCP and each applicable ACP and that its response plan is consistent with the existing NCP and each existing applicable ACP.

(d) Each response plan must include:

(1) A core plan consisting of—

(i) An information summary as required in § 194.113,

(ii) Immediate notification procedures,

(iii) Spill detection and mitigation procedures,

(iv) The name, address, and telephone number of the oil spill response organization, if appropriate,

(v) Response activities and response resources,

(vi) Names and telephone numbers of Federal, state and local agencies which the operator expects to have pollution control responsibilities or support,

(vii) Training procedures,

(viii) Equipment testing,

(ix) Drill types, schedules, and procedures, and

(x) Plan review and update procedures; and

(2) An appendix for each response zone. Each response zone appendix must include the information required in paragraph (d)(1) (i)–(ix) of this section that is specific to the response zone and the worst case discharge calculations.

§ 194.109 Submission of state response plans.

(a) In lieu of submitting a response plan required by § 194.103, an operator may submit a response plan that complies with a state law or regulation, if the state law or regulation requires a plan that provides equivalent or greater spill protection than a plan required under this part.

(b) A plan submitted under this section must

(1) Have an information summary required by § 194.113;

(2) Name the qualified individual; and

(3) Ensure through contract or other approved means the necessary private personnel and equipment to respond to a worst case discharge or a substantial threat of such a discharge.

§ 194.111 Response plan retention.

(a) Each operator shall maintain relevant portions of its response plan at the following locations:

(1) The response plan at the operator's headquarters;

(2) The core plan and relevant response zone appendices for each line section whose pressure may be affected by the operation of a particular pump station, at that pump station; and

(3) The core plan and relevant response zone appendices at any other locations where response activities may be conducted.

(b) Each operator shall provide a copy of its response plan to each qualified individual.

§ 194.113 Information summary.

(a) The information summary for the core plan, required by § 194.107, must include:

(1) The name and address of the operator; and

(2) For each response zone which contains one or more line sections that meet the criteria for determining significant and substantial harm as described in § 194.103, a listing and description of the response zones, including county(s) and state(s).

(b) The information summary for the response zone appendix, required in § 194.107, must include:

(1) The information summary for the core plan;

(2) The name and telephone number of the qualified individual available on a 24-hour basis;

(3) The description of the response zone, including county(s) and state(s), for those zones in which a worst case discharge could cause substantial harm to the environment;

(4) A list of line sections for each pipeline contained in the response zone, identified by milepost or survey station number, or other operator designation;

(5) The basis for the operator's determination of significant and substantial harm; and

(6) The type of oil and volume of the worst case discharge.

§ 194.115 Response resources.

(a) Each operator shall identify and ensure, by contract or other approved means, the resources necessary to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of a worst case discharge.

(b) An operator shall identify in the response plan the response resources which are available to respond within the time specified, after discovery of a worst case discharge, or to mitigate the substantial threat of such a discharge, as follows:

	Tier 1	Tier 2	Tier 3
High volume area	6 hrs	30 hrs ...	54 hrs.
All other areas	12 hrs ...	36 hrs ...	60 hrs.

§ 194.117 Training.

(a) Each operator shall conduct training to ensure that:

(1) All personnel know—

(i) Their responsibilities under the response plan,

(ii) The name and address of, and the procedure for contacting, the operator on a 24-hour basis, and

(iii) The name of, and procedures for contacting, the qualified individual on a 24-hour basis;

(2) Reporting personnel know—

(i) The content of the information summary of the response plan,

(ii) The toll-free telephone number of the National Response Center, and

(iii) The notification process; and

(3) Personnel engaged in response activities know—

(i) The characteristics and hazards of the oil discharged,

(ii) The conditions that are likely to worsen emergencies, including the consequences of facility malfunctions or failures, and the appropriate corrective actions,

(iii) The steps necessary to control any accidental discharge of oil and to minimize the potential for fire, explosion, toxicity, or environmental damage, and

(iv) The proper firefighting procedures and use of equipment, fire suits, and breathing apparatus.

(b) Each operator shall maintain a training record for each individual that has been trained as required by this section. These records must be maintained in the following manner as long as the individual is assigned duties under the response plan:

(1) Records for operator personnel must be maintained at the operator's headquarters; and

(2) Records for personnel engaged in response, other than operator personnel, shall be maintained as determined by the operator.

(c) Nothing in this section relieves an operator from the responsibility to ensure that all response personnel are trained to meet the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.120, including volunteers or casual laborers employed during a response who are subject to those standards pursuant to 40 CFR part 311.

§ 194.119 Submission and approval procedures.

(a) Each operator shall submit two copies of the response plan required by this part. Copies of the response plan shall be submitted to: Pipeline Response Plans Officer, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(b) If RSPA determines that a response plan requiring approval does not meet all the requirements of this part, RSPA will notify the operator of any alleged deficiencies, and to provide the operator an opportunity to respond, including the opportunity for an informal conference, on any proposed plan revisions and an opportunity to correct any deficiencies.

(c) An operator who disagrees with the RSPA determination that a plan contains alleged deficiencies may petition RSPA for reconsideration within 30 days from the date of receipt

of RSPA's notice. After considering all relevant material presented in writing or at an informal conference, RSPA will notify the operator of its final decision. The operator must comply with the final decision within 30 days of issuance unless RSPA allows additional time.

(d) For those response zones of pipelines, described in § 194.103(c), that could reasonably be expected to cause significant and substantial harm, RSPA will approve the response plan if RSPA determines that the response plan meets all requirements of this part, and the OSC raises no objection.

(e) If RSPA has not approved a response plan for a pipeline described in § 194.103(c), the operator may submit a certification to RSPA by July 18, 1993, that the operator has obtained, through contract or other approved means, the necessary private personnel and equipment to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge. The certificate must be signed by the qualified individual or an appropriate corporate officer.

(f) If RSPA receives a request from an OSC to review a response plan, RSPA may require an operator to provide a copy of the response plan to the OSC. If an OSC recommends that an operator not previously required to submit a plan to RSPA, should submit one, RSPA will require the operator to prepare and submit a response plan and send a copy to the OSC.

§ 194.121 Response plan review and update procedures.

(a) Each operator shall review its response plan at least every three years from the date of submission and modify the plan to address new or different operating conditions or information included in the plan.

(b) If a new or different operating condition or information would substantially affect the implementation of a response plan, the operator must immediately modify its response plan to address such a change and, within 30 days of making such a change, submit the change to RSPA. Examples of changes in operating conditions that would cause a significant change to an operator's response plan are:

(1) An extension of the existing pipeline or construction of a new pipeline in a response zone not covered by the previously approved plan;

(2) Relocation or replacement of the pipeline in a way that substantially affects the information included in the response plan, such as a change to the worst case discharge volume;

(3) The type of oil transported, if the type affects the required response resources, such as a change from crude oil to gasoline;

(4) The name of the oil spill removal organization;

(5) Emergency response procedures;

(6) The qualified individual;

(7) A change in the NCP or an ACP that has significant impact on the equipment appropriate for response activities; and

(8) Any other information relating to circumstances that may affect full implementation of the plan.

(c) If RSPA determines that a change to a response plan does not meet the requirements of this part, RSPA will notify the operator of any alleged deficiencies, and provide the operator an opportunity to respond, including an opportunity for an informal conference, to any proposed plan revisions and an opportunity to correct any deficiencies.

(d) An operator who disagrees with a determination that proposed revisions to a plan are deficient may petition RSPA for reconsideration, within 30 days from the date of receipt of RSPA's notice. After considering all relevant material presented in writing or at the conference, RSPA will notify the operator of its final decision. The operator must comply with the final decision within 30 days of issuance unless RSPA allows additional time.

Appendix A to Part 194—Guidelines for the Preparation of Response Plans

This appendix provides a recommended form for the preparation and submission of response plans required by 49 CFR part 194. Operators may use other forms provided the form chosen provides the information required by 49 CFR part 194.

Response Plan: Section 1. Information Summary

Section 1 would include the following:

(a) For the core plan:

(1) The name and address of the operator; and

(2) For each response zone which contains one or more line sections that meet the criteria for determining significant and substantial harm as described in § 194.103, a listing and description of the response zones, including county(s) and state(s).

(b) For each response zone appendix:

(1) The information summary for the core plan;

(2) The name and telephone number of the qualified individual, available on a 24-hour basis;

(3) A description of the response zone, including county(s) and state(s) in which a worst case discharge could cause substantial harm to the environment;

(4) A list of line sections contained in the response zone, identified by milepost or survey station number or other operator designation.

(5) The basis for the operator's determination of significant and substantial harm; and

(6) The type of oil and volume of the worst case discharge.

(c) The certification that the operator has obtained, through contract or other approved means, the necessary private personnel and equipment to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

Response Plan: Section 2. Notification Procedures

Section 2 would include the following:

(a) Notification requirements that apply in each area of operation of pipelines covered by the plan, including applicable State or local requirements;

(b) A checklist of notifications the operator or qualified individual is required to make under the response plan, listed in the order of priority;

(c) Names of persons (individuals or organizations) to be notified of a discharge, indicating whether notification is to be performed by operating personnel or other personnel;

(d) Procedures for notifying qualified individuals;

(e) The primary and secondary communication methods by which notifications can be made; and

(f) The information to be provided in the initial and each follow-up notification, including the following:

(1) Name of pipeline;

(2) Time of discharge;

(3) Location of discharge;

(4) Name of oil involved;

(5) Reason for discharge (e.g., material failure, excavation damage, corrosion);

(6) Estimated volume of oil discharged;

(7) Weather conditions on scene; and

(8) Actions taken or planned by persons on scene.

Response Plan: Section 3. Spill Detection and On-Scene Spill Mitigation Procedures

Section 3 would include the following:

(a) Methods of initial discharge detection;

(b) Procedures, listed in the order of priority, that personnel are required to follow in responding to a pipeline emergency to mitigate or prevent any discharge from the pipeline;

(c) A list of equipment that may be needed in response activities on land and navigable waters, including—

(1) Transfer hoses and connection equipment;

(2) Portable pumps and ancillary equipment; and

(3) Facilities available to transport and receive oil from a leaking pipeline;

(d) Identification of the availability, location, and contact telephone numbers to obtain equipment for response activities on a 24-hour basis; and

(e) Identification of personnel and their location, telephone numbers, and responsibilities for use of equipment in response activities on a 24-hour basis.

Response Plan: Section 4. Response Activities

Section 4 would include the following:

(a) Responsibilities of, and actions to be taken by, operating personnel to initiate and supervise response actions pending the arrival of the qualified individual or other

response resources identified in the response plan;

(b) The qualified individual's responsibilities and authority, including notification of the response resources identified in the plan;

(c) Procedures for coordinating the actions of the operator or qualified individual with the action of the OSC responsible for monitoring or directing those actions;

(d) Oil spill response organizations available, through contract or other approved means, to respond to a worst case discharge to the maximum extent practicable; and

(e) For each organization identified under paragraph (d) of this section, a listing of:

(1) Equipment and supplies available; and

(2) Trained personnel necessary to continue operation of the equipment and staff the oil spill removal organization for the first 7 days of the response.

Response Plan: Section 5. List of Contacts

Section 5 would include the names and addresses of the following individuals or organizations, with telephone numbers at which they can be contacted on a 24-hour basis:

(a) A list of persons the plan requires the operator to contact;

(b) Qualified individuals for the operator's areas of operation;

(c) Applicable insurance representatives or surveyors for the operator's areas of operation; and

(d) Persons or organizations to notify for activation of response resources.

Response plan: Section 6. Training Procedures

Section 6 would include a description of the training procedures and programs of the operator.

Response plan: Section 7. Drill Procedures

Section 7 would include a description of the drill procedures and programs the operator uses to assess whether its response plan will function as planned. It would include:

(a) Announced and unannounced drills;

(b) The types of drills and their frequencies. For example, drills could be described as follows:

(1) Manned pipeline emergency procedures and qualified individual notification drills conducted quarterly.

(2) Drills involving emergency actions by assigned operating or maintenance personnel and notification of the qualified individual on pipeline facilities which are normally unmanned, conducted quarterly.

(3) Shore-based spill management team tabletop drills conducted yearly.

(4) Oil spill removal organization field equipment deployment drills conducted yearly.

(5) A drill that exercises the entire response plan for each response zone, would be conducted at least once every 3 years.

Response plan: Section 8. Response Plan Review and Update Procedures

Section 8 would include the following:

(a) Procedures to meet § 194.121; and

(b) Procedures to review the plan after a worst case discharge and to evaluate and record the plan's effectiveness.

Response plan: Section 9. Response Zone Appendices.

Each response zone appendix would provide the following information:

(a) The name and telephone number of the qualified individual;

(b) Notification procedures;

(c) Spill detection and mitigation procedures;

(d) Name, address, and telephone number of oil spill response organization;

(e) Response activities and response resources including—

(1) Equipment and supplies necessary to meet § 194.115, and

(2) The trained personnel necessary to sustain operation of the equipment and to staff the oil spill removal organization and spill management team for the first 7 days of the response;

(f) Names and telephone numbers of Federal, state and local agencies which the operator expects to assume pollution response responsibilities;

(g) The worst case discharge volume;

(h) The method used to determine the worst case discharge volume, with calculations;

(i) A map that clearly shows—

(1) The location of the worst case discharge, and

(2) The distance between each line section in the response zone and—

(i) Each potentially affected public drinking water intake, lake, river, and stream within a radius of five miles of the line section, and

(ii) Each potentially affected environmentally sensitive area within a radius of one mile of the line section;

(j) A piping diagram and plan-profile drawing of each line section, which may be kept separate from the response plan if the location is identified; and

(k) For every oil transported by each pipeline in the response zone, emergency response data that—

(1) Include the name, description, physical and chemical characteristics, health and safety hazards, and initial spill-handling and firefighting methods; and

(2) Meet 29 CFR 1910.1200 or 49 CFR 172.602.

Appendix B to Part 194—High Volume Areas

As of January 5, 1993 the following areas are high volume areas:

Major rivers	Nearest town and state
Arkansas River	N. Little Rock, AR.
Arkansas River	Jenks, OK.
Arkansas River	Little Rock, AR.
Black Warrior River	Moundville, AL.
Black Warrior River	Akron, AL.
Brazos River	Glen Rose, TX.
Brazos River	Sealy, TX.
Catawba River	Mount Holly, NC.
Chattahoochee River	Sandy Springs, GA.
Colorado River	Yuma, AZ.
Colorado River	LaPaz, AZ.
Connecticut River	Lancaster, NH.
Coosa River	Vincent, AL.
Cumberland River	Clarksville, TN.
Delaware River	Frenchtown, NJ.
Delaware River	Lower Chichester, NJ.
Gila River	Gila Bend, AZ.
Grand River	Bosworth, MO.
Illinois River	Chillicothe, IL.
Illinois River	Havanna, IL.
James River	Arvonia, VA.
Kankakee River	Kankakee, IL.
Kankakee River	South Bend, IN.
Kankakee River	Wilmington, IL.
Kentucky River	Salvisa, KY.
Kentucky River	Worthville, KY
Maumee River	Defiance, OH.
Maumee River	Toledo, OH.
Mississippi River	Myrtle Grove, LA.
Mississippi River	Woodriver, IL.
Mississippi River	Chester, IL.
Mississippi River	Cape Girardeau, MO.
Mississippi River	Woodriver, IL.
Mississippi River	St. James, LA.
Mississippi River	New Roads, LA.
Mississippi River	Ball Club, MN.
Mississippi River	Mayersville, MS.
Mississippi River	New Roads, LA.
Mississippi River	Quincy, IL.
Mississippi River	Ft. Madison, IA.
Missouri River	Waverly, MO.
Missouri River	St. Joseph, MO.
Missouri River	Weldon Springs, MO.
Missouri River	New Frankfort, MO.
Naches River	Beaumont, TX.
Ohio River	Joppa, IL.
Ohio River	Cincinnati, OH.
Ohio River	Owensboro, KY.
Pascagoula River	Lucedale, MS.
Pascagoula River	Wiggins, MS.
Pearl River	Columbia, MS.
Pearl River	Orla, TX.
Platte River	Ogaliala, NE.
Potomac River	Reston, VA.
Rappahannock River	Midland, VA.
Raritan River	South Bound Brook, NJ.
Raritan River	Highland Park, NJ.
Red River (of the South)	Hanna, LA.
Red River (of the South)	Bonham, TX.
Red River (of the South)	Dekalb, TX.
Red River (of the South)	Sentell Plantation, LA.
Red River (of the North)	Wahpeton, ND.
Rio Grande	Anthony, NM.
Sabine River	Edgewood, TX.
Sabine River	Leesville, LA.
Sabine River	Orange, TX.
Sabine River	Echo, TX.
Savannah River	Hartwell, GA.
Smokey Hill River	Abilene, KS.
Susquehanna River	Darlington, MD.
Tenessee River	New Johnsonville, TN.
Wabash River	Harmony, IN.
Wabash River	Terre Haute, IN.
Wabash River	Mt. Carmel, IL.
White River	Batesville, AR.
White River	Grand Glaise, AR.
Wisconsin River	Wisconsin Rapids, WI.
Yukon River	Fairbanks, AK.

Other Navigable Waters
Arthur Kill Channel, NY
Cook Inlet, AK
Freeport, TX
Los Angeles/Long Beach Harbor, CA
Port Lavaca, TX
San Fransico/San Pablo Bay, CA

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Alan I. Roberts,

Acting Administrator, Research and Special Programs Administration.

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