



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 155

[Docket Number USCG-1998-4354]

RIN 1625-AA13 and 2115-AE88

Tank Vessel Response Plans for Hazardous Substances

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking entitled “Tank Vessel Response Plans for Hazardous Substances” that we published on March 22, 1999. The Coast Guard is withdrawing this rulemaking based on findings that the proposed rules are no longer appropriate to the current state of spill response in the chemical industry.

DATES: The notice of proposed rulemaking published March 22, 1999, at 64 FR 13734, is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The docket for this withdrawn rulemaking is available by searching docket number USCG-1998-4354 using the Federal portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of withdrawal, call or email Mr. Christopher Friese, Commercial Vessel Safety Specialist, Office of Marine Environmental Response Policy (CG-MER-1), Coast Guard; telephone 202-372-1227.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

FR	<i>Federal Register</i>
NPRM	Notice of Proposed Rulemaking
OPA 90	Oil Pollution Act of 1990
CTAC	Chemical Transportation Advisory Committee

II. Background

The Clean Water Act¹, as amended by section 4202(a)(6) of the Oil Pollution Act of 1990 (OPA 90)², requires owners or operators of tank vessels, offshore facilities, and onshore facilities to prepare response plans to mitigate spills of both oils and hazardous substances. These plans must address measures to respond, to the maximum extent practicable, to a worst-case discharge or a substantial threat of such a discharge, of oil or a hazardous substance into or on navigable waters, adjoining shorelines, or the exclusive economic zone of the United States. The primary purpose of requiring response plans is to minimize the impact of a discharge of oil or hazardous substances into the navigable waters of the United States.

On May 3, 1996, we published an advance notice of proposed rulemaking soliciting public input on regulations concerning response plans for certain tank vessels and marine transportation-related facilities (61 FR 20083), and subsequently held two public meetings on the subject that were announced in the *Federal Register* (61 FR 34775). On March 22, 1999, we published a notice of proposed rulemaking (NPRM) in the *Federal Register* entitled “Tank Vessel Response Plans for Hazardous Substances” (64 FR 13734). In the NPRM, we proposed regulations that would require response plans for certain tank vessels operating on the navigable waters of the United States. The Coast Guard received feedback from concerned citizens, commercial entities, and trade associations regarding the proposed rulemaking. These comments were made available in the docket. Since then, further analysis by the Coast Guard and the Chemical Transportation Advisory Committee (CTAC) has shown that implementation of the

¹ 33 U.S.C. 1321(j)(5).

² Pub. L. 101-380, 104 Stat. 484.

proposed rules as structured in the 1999 NPRM would not significantly increase response effectiveness at this time.

CTAC also identified many areas in which the NPRM may overlap with existing local, state, and international regulatory schemes as well as current industry practice. The International Maritime Organization's Shipboard Marine Pollution Emergency Plan already requires all foreign flagged vessels and U.S. vessels on international routes carrying noxious liquid substance cargos, to develop and implement spill response plans. U.S. flagged vessels and foreign flag vessels calling on ports or places in the U.S. and carrying oil in bulk as cargo or using oil as fuel for main propulsion, must comply with the Coast Guard's Vessel Response Plan requirements³. Although these requirements address planning for oil spill response, many of these practices may also be applied to hazardous substance responses. Vessels also must comply with numerous state response planning requirements when operating in state waters. The Coast Guard is concerned the proposed rules may create redundancy with some existing rules and be unnecessary due to industry's increased awareness and readiness since OPA 90 was passed. Between the above-mentioned regulations already in place for oil spill response, industry initiatives such as the American Chemistry Council's Responsible Care and the American Waterways Operators' Responsible Carrier programs, and the sustainability policies of individual companies, CTAC was unable to identify large gaps in hazardous substance spill response planning for vessels that would be improved by the 1999 proposed rulemaking.

III. Withdrawal

The Coast Guard is withdrawing its proposed rulemaking in order to better analyze the current spill response capabilities of the chemical industry and gaps in the current regulatory regime before conducting any further rulemaking on hazardous substance response plans for tank

³ 33 CFR part 155, subpart D.

vessels. While the Coast Guard remains committed to fulfilling its OPA 90 mandate, we believe the proposed rules are no longer appropriate in their 1999 form.

The Coast Guard has determined that withdrawing the proposed rule is appropriate based on findings that the 1999 proposed rules are no longer applicable to the current state of spill response in the chemical industry. Accordingly, the Coast Guard is withdrawing the “Tank Vessel Response Plans for Hazardous Substances” proposed rulemaking published March 22, 1999 (64 FR 13734).

IV. Executive Order 13771

The withdrawal of the NPRM qualifies as a deregulatory action under Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), which directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.” *See* the OMB Memorandum titled “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

Dated: February 4, 2019.

Anthony J. Vogt,

REAR ADMIRAL, U.S. Coast Guard,

Assistant Commandant for Response Policy.

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