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DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement (BSEE)

[Docket ID: BSEE-2014-0003; 14XE8370SD ED1OS0000.JAE000 EEGG000000]

Notice of the National Preparedness for Response Exercise Program (PREP)

Guidelines; Comment Request

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice.

SUMMARY: The BSEE is inviting you to provide comments on the Draft National Preparedness for Response Exercise Program (PREP) Guidelines update. The BSEE is publishing this notice on behalf of the National Schedule Coordination Committee (NSCC), which is comprised of representatives from the U.S. Coast Guard (USCG); Environmental Protection Agency (EPA); Pipeline and Hazardous Materials Safety Administration (PHMSA), under the Department of Transportation; and the Bureau of Safety and Environmental Enforcement (BSEE), under the Department of the Interior. These Guidelines were last revised in 2002. This notice solicits comments on the Draft PREP Guidelines document available in the regulations.gov docket ID: BSEE-2014-0003 and on the BSEE website at http://www.bsee.gov/uploadedFiles/BSEE/About_BSEE/Divisions/OSRD/PREPGuidelines%203-2014.pdf.

DATES: You must submit comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The NSCC may not fully consider comments received after this date. After reviewing comments on the Draft PREP Guidelines

available in the docket, the NSCC will determine if a public hearing is necessary before final publication of the revised PREP Guidelines to provide the oil and gas industry and the public with an opportunity to submit additional comments for consideration.

ADDRESSES: You may submit comments and additional materials by any of the following methods.

- Electronically: go to <http://www.regulations.gov>. In the entry entitled, Enter Keyword or ID, enter BSEE-2014-0003, then click search. Follow the instructions to submit public comments and view supporting and related materials available for this notice.
- E-mail: oilspillresponsedivision@bsee.gov or mail or hand-carry comments to the Department of the Interior, Bureau of Safety and Environmental Enforcement, Oil Spill Response Division, 381 Elden Street, HE 3327, Herndon, Virginia, 20170, Attention: Ms. Kelly Schnapp. Please reference *National Preparedness for Response Exercise Planning Guidelines* in your comments and include your name and return address.

FOR FURTHER INFORMATION CONTACT:

For BSEE: Ms. Kelly Schnapp, Oil Spill Response Division, 703-787-1569.

For USCG: Mr. Kevin Sligh, Office of Environmental Response Policy, 202-372-2250.

For EPA: Mr. Troy Swackhammer, Office of Emergency Management, Regulation and Policy Development Division, 202-564-1966.

For PHMSA: Mr. Ed Murphy, Office of Pipeline Safety, 202-366-4595.

SUPPLEMENTARY INFORMATION:

BASIS AND PURPOSE: The Oil Pollution Act of 1990 (OPA 90), signed on August 18, 1990, requires, among other things, that industry representatives and government officials conduct oil spill response exercises to ensure that personnel and equipment are ready to

respond to oil spills. The NSCC focuses on leading a systematic national exercise schedule that applies to all government and oil and gas industry plan holders and creates a workable exercise program consistent with this statutory requirement. The NSCC coordinates on a monthly basis to ensure consistency and efficiency among EPA, USCG, PHMSA, and BSEE activities. Each agency retains regulatory responsibility to oversee the specific regulated community activities under their respective jurisdictions and authorities. The PREP is a voluntary program developed to provide a mechanism for compliance with the exercise requirements in a way that is economically feasible for both the government and the oil industry to adopt and sustain.

The first PREP Guidelines were published in August 1994 and were referred to as the “Red Book.” These Guidelines continue to provide useful information, including the Federal government’s plan to conduct six government-led and 14 industry-led Area Exercises annually. They also communicate the federal government’s plans to ensure that at least one exercise is conducted in each of the 42 USCG Captain of the Port (COTP) zones and each of EPA’s 10 Regions at least every 3 years. The PREP Guidelines continue to outline a comprehensive exercise program option that the regulated community may voluntarily use to meet the requirements of section 4202(a) of OPA 90.

The government and the oil and gas industry must always maintain a high level of preparedness to respond to an oil spill. Even though the average oil spill size and frequency have continued to decline since the adoption of OPA 90, the need for these Guidelines remains evident. There have been several major oil spills over the past decade where preparedness proved key to an effective response. In addition, the NSCC has incorporated key lessons learned from past significant oil spills resulting from natural or man-made

events, including:

1. The 2004 M/V ATHOS I tanker spill;
2. The 2005 Katrina and Rita Hurricanes;
3. The 2007 M/V COSCO BUSAN incident;
4. The 2010 Marshall, Michigan inland oil spill; and
5. The 2010 DEEPWATER HORIZON oil spill.

After the original PREP Guidelines were published, the four referenced Federal agencies revised them in 2002. The 2002 edition is available in the regulations.gov docket USCG-2011-1178. On February 22, 2012, the USCG published a notice and request for public comments in the *Federal Register*, which provided advance notice that the NSCC agencies planned to update the 2002 PREP Guidelines (77 FR 10542). During the 60-day comment period, the USCG, on behalf of the NSCC, received 214 comments from the oil and gas industry, professional organizations, Federal and state government agencies, and non-government organizations (NGOs). The NSCC agencies have revised the PREP Guidelines in order to reflect the comments received on the 2012 notice, and also to reflect, since 2002, agency reorganizations, lessons learned from past incidents, and new regulations, including the USCG's Salvage and Marine Firefighting (SMFF) regulations. We are not publishing the Draft PREP Guidelines in this *Federal Register* notice. However, the Draft PREP Guidelines are available for public viewing and we invite public comment on the draft update to the PREP Guidelines located in regulations.gov docket ID: BSEE-2014-0003 and on the BSEE website at www.bsee.gov.

The Draft PREP Guidelines would include new terminology and definitions that represent agency reorganizations. The Draft PREP Guidelines would incorporate new

requirements, such as those found in the SMFF regulations and requirements related to the exercise credit process and subsea containment equipment. Additionally, these updates would continue to strengthen coordination among the NSCC agencies and emphasize the plan holder's preparedness responsibilities.

The NSCC members would also incorporate agency-specific changes, lessons learned, and their own experiences over the past decade into the Draft PREP Guidelines update. In the following sections, we summarize the changes that would be made to the PREP Guidelines represented in the draft update and discuss the comments the NSCC received in response to the 2012 Federal Register notice.

Summary of Changes

Definitions and Terminology: The draft update would clarify the definition of an "area" using the COTP zone delineations. The update would also add definitions for (a) remote assessment and consultation, (b) resource provider, (c) Marine Firefighting (MFF) Organization, (d) SMFF Organization, and (e) Spill Response Operating Team. The USCG would add references to the COTP and Federal On-Scene Coordinator (FOSC) throughout the guidance. Hazardous substance terminology would be added throughout the document to highlight when it is applicable. References to the Minerals Management Service (MMS) in the 2002 PREP Guidelines would be replaced with BSEE throughout the document to reflect the new bureau that enforces 30 CFR Part 254.

SMFF Additions: The Draft PREP Guidelines would now include guidance for adding SMFF providers and equipment into a plan holder's exercise program. These updates would be included throughout the Guidelines in applicable sections.

Federal Exercise Scheduling and Spill Response Credit: The scheduling process,

maintained by the NSCC, would be further clarified by adding the USCG's HOMEPORT website as another scheduling tool for Outer Continental Shelf-based exercises. The NSCC would also add additional guidance for requesting credit for responses to actual spills.

USCG Specific Guidance Updates: In addition to SMFF exercise requirements, the USCG proposes to add guidance specifically on Vessel of Opportunity Skimming System (VOSS) and Spilled Oil Recovery System (SORS) equipment deployment exercise frequency and on how to incorporate joint exercises into an exercise program to effectively meet the intent of VOSS and SORS exercises.

BSEE Specific Guidance: References to BSEE would replace references to MMS throughout the guidance, since it is now the bureau that has regulatory authority to ensure that offshore facility owners and operators comply with 30 CFR Part 254 preparedness requirements. BSEE's updates would also reflect new technology available for responses during continuous offshore discharges and the integration of offshore subsea containment.

PHMSA Specific Guidance: References to PHMSA would replace references to RSPA throughout the guidance, since it is now the agency that has regulatory authority to ensure that pipeline operators comply with the requirements found in 49 CFR Part 194.

Documentation: Appendix A from the 2002 PREP Guidelines, which contained examples of internal exercise documentation forms, would be replaced. Alternative formats that have been developed by stakeholders contain the same information as the 2002 examples, which should satisfy agency documentation requirements.

Summary of Comments on the Notice and Request for Comments

The USCG, on the behalf of the NSCC, received 214 comments from government agencies, regulated communities, private industry, and NGOs in response to the request for

comments published on February 22, 2012. Some comments were not related to the proposed update. We did not address comments that were outside the scope of this PREP Guidance update. All of the comments received are posted on regulations.gov, under docket number USCG-2011-1178.

Summary of Select Comments and Responses

Comment on Non Tank Vessel Response Plan: One commenter requested that the PREP Guidelines include a new section addressing Non Tank Vessel Response Plan exercise requirements, referenced in 33 CFR Part 155.

Response: The final rule for Non Tank Vessel Response Plan exercise requirements was recently published on September 27, 2013. Exercise requirements for Non Tank Vessels will be evaluated for inclusion into the draft PREP Guidelines final rule by the NSCC member agencies during the draft 2nd Notice Comment adjudication process.

Comments on Sharing Lessons Learned: There were many comments requesting that government and industry make available to the public lessons learned from response exercises.

Response: The NSCC does not have the capability to manage public access to lessons learned at this time. We encourage the regulated community and government agencies to share lessons learned whenever practicable.

Comments on Response Equipment: Commenters asked NSCC to consider adding alternative containment methods, specifically dams and weirs, in the Guidelines. A commenter stated that some inland facilities are drained by small, steep-sided streams where boom deployment is difficult and may not be the most appropriate first response. The commenter stated that underflow dams could be used where the water flow is difficult for

boom deployment, but could contain free-phase oil for recovery. In addition, the commenter stated that weirs could also be used to take advantage of existing infrastructure (*i.e.*, culverts, bridges, piers, etc.). Another commenter raised concern about the 1,000-foot boom requirement for facilities located near small water bodies, whereby less than 1,000 feet of boom could be more appropriate given the small size of the stream and the physical constraints of deployment.

Response: We have found that it is best if the PREP Guidelines avoid specifying particular types of equipment, or advocating use of an approach unique to one geographic area. The PREP Guidelines should be broad enough to encompass changing technology and many different environments. Oil spill response equipment is not limited to those systems mentioned in the PREP Guidelines. The NSCC recognizes that alternatives to containment boom may be more appropriate as part of the initial phase of the oil spill response for certain inland facilities. As such, the NSCC requests that stakeholders provide detailed suggestions for revisions to the “Oil and Hazardous Substance Response Systems” portion of Section 2 in the Guidelines on these alternatives.

Comments pertaining to Exercise Design: There were a number of commenters that suggested adding language to encourage more exercise participation from stakeholders and to enhance scenario design. Many comments provided valuable information about exercise design best practices and considerations. These ranged from specific documentation suggestions to broader exercise design concepts. One consistent recommendation was to acknowledge the Homeland Security Exercise and Evaluation Program (HSEEP) as a planning process for exercise design in the PREP Guidelines. Some commenters requested exercise expectations be scaled back for plan holders that have lower risk operations or

smaller scale response plans. The following are other general ideas that commenters recommended:

- Exercise planners should always plan an exercise with safety objectives as the priorities because that is more important than strictly focusing on response time.
- Exercise designers should conduct equipment deployment exercises in average expected conditions.
- Exercise planners should ensure plan holders are regularly involved with Area Committees and Regional Response Team meetings.
- Exercise planners should document lessons learned as a key exercise component, but they should also recognize that taking action and making changes to processes or plans based on these lessons learned completes the exercise.
- Exercise design (announced and unannounced) should include objectives that focus on critical factors for response success, including the dispersant approval process.
- Exercise design should consider downstream geographic areas and address cross-boundary and downstream issues in the objectives.
- There should not be a reluctance to identify and document problems or challenges during an exercise.
- When applicable, Spill Management Team Tabletop Exercises (TTX) should include communication between the qualified individual and the SMFF first response.
- Exercises should align with staffing levels described in contingency plans. If additional positions are needed during the exercise they should be incorporated into subsequent plans and described under lessons learned.
- Exercise planners should include key principal officials from the design and response

organizations.

- Exercise planners should consider using multiple spills to reach the Worst Case Discharge (WCD) level and avoid designing exercises that are conducted like a rehearsed play.
- Exercise planners should use a tiered exercise structure comprised of quarterly phone confirmations, periodic one-day muster drills (perhaps one location per month), an annual equipment deployment, and an annual TTX.

Response: The PREP Guidelines are not intended to prescribe specific exercise design processes. Exercise development and conduct should be defined by the specific exercise planning team and not by the PREP Guidelines. Therefore, these suggestions are outside the scope of this Notice. However, due to the universal nature of HSEEP, the NSCC acknowledges this design process option in the PREP Guidelines.

Comments pertaining to PREP Guidelines Formatting: One commenter provided a few recommendations to improve the functionality of the Guidelines. Specifically, the commenter found formatting errors and suggested different approaches to the example exercise evaluation forms in Appendix A.

Response: When considering the commenter's format suggestions, the NSCC came to realize that there are two versions of the PREP Guidelines. The General Printing Office's (GPO) hard copy version (GPO 2002-493-463) does not have the same errors identified in the online version. We will ensure these errors do not appear in the updated hard copy or online version. We also made formatting changes throughout the document for consistency. Based on the commenter's recommendation, we would also add an acronym list and remove unnecessary asterisks. Finally, we note that the draft PREP Guidelines update would

replace Appendix A in its entirety.

Comments on Exercise Frequency: One commenter asked for clarification on the number of Government-Initiated Unannounced Exercises (GIUE) that must be conducted annually.

Response: The regulations that govern the number and frequency of GIUEs for marine transportation-related (MTR) facilities and vessels are located in 33 CFR Parts 154 and 155. Each agency determines how many GIUEs are initiated per year within the prescribed limits.

Comments on SMFF: More than a dozen comments were received relating to SMFF exercise requirements. Most of these comments stated that the SMFF exercise requirements should be added to the draft Guidelines. Some of the SMFF-related comments recommended that requirements for plan holders and SMFF providers should be kept separate from other PREP oil spill exercise requirements.

Several commenters recommended that the roles and responsibilities for both plan holder (including vessel owner, operator, and crew) and SMFF providers should be clearly defined in the PREP Guidelines.

Response: SMFF exercise requirements for vessel response plans were implemented by regulation, 33 CFR 155.4052, February 2011. Some of these requirements, including remote assessment and consultation exercises, are unique to SMFF. As a result of this new regulation, SMFF requirements for both announced and unannounced exercises were added to the draft Guidelines.

Although some SMFF exercises can be conducted independently, plan holders are encouraged to incorporate SMFF into their oil spill response scenarios. The Draft

Guidelines describe SMFF exercise requirements, including incorporation of SMFF components into oil spill exercises. Furthermore, the roles and responsibilities for plan holders and SMFF providers have been clearly defined for each SMFF exercise type.

Comments on WCD Definition: Several commenters suggested changing the definition and exercise requirements for the responses to WCD scenarios.

Response: The definitions for vessel and MTR facility WCD were updated to reflect the language found in 33 CFR Parts 154 and 155. However, exercise requirements for vessel and facility plan holder responses to their WCD, as defined in the regulations, will remain unchanged as part of the update to the PREP Guidelines.

Comments on Federal Oversight: There were numerous comments suggesting specific recommendations for Federal regulatory agencies to improve exercise program oversight. The commenters included specific documentation and details that Federal agencies should look for when conducting inspections.

Response: These recommendations are outside the scope of the PREP Guidelines. Each regulatory agency is responsible for establishing procedures for enforcing the regulations where they have jurisdiction and authority.

Paperwork Reduction Act (PRA) of 1995

The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond. While this notice does not have information collection (IC), the PREP document, which we are requesting comments on, may be considered IC. The OMB approved all the ICs and each agency's respective OMB control number is listed on page *iii* of the PREP document.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Otherwise, publicly available docket materials are available electronically in <http://www.regulations.gov>.

March 18, 2014
Date:

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Bureau of Safety and Environmental Enforcement