



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 154

[Docket Number USCG-1999-5705]

RIN 1625-AA-12 and 2115-AE87

Marine Transportation-Related Facility 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 “Marine Transportation-Related Facility Response Plans for Hazardous Substances” that we published on March 31, 2000. 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DATES: The notice of proposed rulemaking published March 31, 2000, at 65 FR 17416, is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The docket for this withdrawn rulemaking is available by searching docket number USCG-1999-5705 using the Federal portal at 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 31, 2000, we published a notice of proposed rulemaking (NPRM) in the *Federal Register* entitled “Marine Transportation-Related Facility Response Plans for Hazardous Substances” (65 FR 17416). In the NPRM, we proposed regulations requiring response plans for certain Marine Transportation-Related facilities. 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

¹ 33 U.S.C. 1321(j)(5).

² Pub. L. 101-380, 104 Stat. 484.

Transportation Advisory Committee (CTAC) has shown that implementation of the rules as laid out in the 2000 NPRM would not significantly increase response effectiveness at this time.

CTAC also identified many areas in which the NPRM may overlap with existing local and state regulatory schemes as well as current industry practice. Most coastal states already have regulations in place governing spill response at facilities that handle hazardous substances. Area Planning Committees have also been voluntarily incorporating hazardous substances into their contingency plans, as facilities that handle hazardous chemicals are often located near sites that process oil. Furthermore, organizations like the Chemical Transportation Emergency Center and Spill Center have demonstrated that synergies from oil response may also be utilized in hazardous substance response. Marine transportation related facilities handling oil products must also comply with the Coast Guard's Facility Response Plan requirements³. Although these requirements address planning for oil spill response, these best practices may also be applied to hazardous substance response to an extent. Due to the services and requirements industry frequently engages in to satisfy insurance requirements and company sustainability policies, together with the existence of new terminal inspection protocols like that developed by the Chemical Distribution Institute, CTAC was unable to identify any significant gaps in hazardous substance spill response planning at marine transportation-related facilities that would be reduced by the 2000 proposed rulemaking.

III. Withdrawal

The Coast Guard is withdrawing the proposed rulemaking so as to better analyze the current spill response capabilities of the chemical industry before conducting any further rulemaking on hazardous substance response plans for marine transportation-related facilities.

³ 33 CFR part 154, subpart F.

The Coast Guard remains committed to fulfilling its OPA 90 mandate, however we believe the proposed rules are no longer appropriate as proposed.

The Coast Guard has determined that withdrawing the proposed rule is appropriate based on findings that the proposed rules are no longer applicable to the current state of spill response in the chemical industry. Accordingly, the Coast Guard is withdrawing the “Marine Transportation-Related Facility Response Plans for Hazardous Substances” proposed rulemaking announced in an NPRM published March 31, 2000 (65 FR 17416).

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.

[FR Doc. 2019-01591 Filed: 2/7/2019 8:45 am; Publication Date: 2/8/2019]