

Failure to meet specified criteria during an actual spill response does not necessarily mean that the planning requirements of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1251-1376) and regulations were not met. The Coast Guard will exercise its enforcement discretion in light of all facts and circumstances.

**§ 155.4015 Vessel owners and operators who must follow this subpart.**

You must follow this subpart if your vessel carries group I-IV oils, and is required by § 155.1015 to have a vessel response plan.

**§ 155.4020 Complying with this subpart.**

(a) If you have an existing approved vessel response plan, you must have your vessel response plan updated and submitted to the Coast Guard by February 22, 2011.

(b) All new or existing vessels operating on the navigable waters of the United States or transferring oil in a port or place subject to the jurisdiction of the United States, that meet the applicability requirements of § 155.1015, that do not have an approved vessel response plan, must comply with § 155.1065.

(c) Your vessel may not conduct oil transport or transfer operations if—

(1) You have not submitted a plan to the Coast Guard in accordance with § 155.1065 prior to February 22, 2011;

(2) The Coast Guard determines that the response resources referenced in your plan do not meet the requirements of this subpart;

(3) The contracts or agreements cited in your plan have lapsed or are otherwise no longer valid;

(4) You are not operating in accordance with your plan; or

(5) The plan's approval has expired.

[USCG-1998-3417, 73 FR 80649, Dec. 31, 2008, as amended by USCG-2001-8661, 74 FR 45029, Aug. 31, 2009]

**§ 155.4025 Definitions.**

For the purposes of this subpart, the following definitions apply:

*Assessment of structural stability* means completion of a vessel's stability and structural integrity assessment through the use of a salvage soft-

ware program. The data used for the calculations would include information collected by the on-scene salvage professional. The assessment is intended to allow sound decisions to be made for subsequent salvage efforts. In addition, the assessment must be consistent with the conditions set forth in 33 CFR 155.240 and 155.245, as applicable.

*Boundary lines* are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the seaward, highwater shorelines across entrances to small bays, inlets and rivers as defined in 46 CFR 7.5(c).

*Captain of the Port (COTP) city* means the city which is the geographical location of the COTP office. COTP city locations are listed in 33 CFR part 3.

*Continental United States (CONUS)* means the contiguous 48 States and the District of Columbia.

*Contract or other approved means* is any one of the following:

(1)(i) A written contractual agreement between a vessel owner or operator and resource provider. This agreement must expressly provide that the resource provider is capable of, and intends to commit to, meeting the plan requirements.

(ii) A written certification that the personnel, equipment, and capabilities required by this subpart are available and under the vessel owner or operator's direct control. If the planholder has personnel, equipment and capabilities under their direct control, they need not contract those items with a resource provider.

(iii) An alternative approved by the Coast Guard (Commandant, Director of Prevention Policy (CG-54)) and submitted in accordance with 33 CFR 155.1065(f).

(2) As part of the contract or other approved means you must develop and sign, with your resource provider, a written funding agreement. This funding agreement is to ensure that salvage and marine firefighting responses are not delayed due to funding negotiations. The funding agreement must include a statement of how long the agreement remains in effect, and must be provided to the Coast Guard for VRP approval. In addition any written

agreement with a public resource provider must be included in the planholder's Vessel Response Plan (VRP).

*Diving services support* means divers and their equipment to support salvage operations. This support may include, but not be limited to, underwater repairs, welding, placing lifting slings, or performing damage assessments.

*Emergency lightering* is the process of transferring oil between two ships or other floating or land-based receptacles in an emergency situation and may require pumping equipment, transfer hoses, fenders, portable barges, shore based portable tanks, or other equipment that circumstances may dictate.

*Emergency towing*, also referred to as rescue towing, means the use of towing vessels that can pull, push or make-up alongside a vessel. This is to ensure that a vessel can be stabilized, controlled or removed from a grounded position. Towing vessels must have the proper horsepower or bollard pull compatible with the size and tonnage of the vessel to be assisted.

*External emergency transfer operations* means the use of external pumping equipment placed on board a vessel to move oil from one tank to another, when the vessel's own transfer equipment is not working.

*External firefighting teams* means trained firefighting personnel, aside from the crew, with the capability of boarding and combating a fire on a vessel.

*External vessel firefighting systems* mean firefighting resources (personnel and equipment) that are capable of combating a fire from other than on board the vessel. These resources include, but are not limited to, fire tugs, portable fire pumps, airplanes, helicopters, or shore side fire trucks.

*Funding agreement* is a written agreement between a resource provider and a planholder that identifies agreed upon rates for specific equipment and services to be made available by the resource provider under the agreement. The funding agreement is to ensure that salvage and marine firefighting responses are not delayed due to funding negotiations. This agreement must be part of the contract or other ap-

proved means and must be submitted for review along with the VRP.

*Great Lakes* means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

*Heavy lift* means the use of a salvage crane, A-frames, hydraulic jacks, winches, or other equipment for lifting, righting, or stabilizing a vessel.

*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) as defined in §§80.740 through 80.850 of this chapter. The inland area does not include the Great Lakes.

*Making temporary repairs* means action to temporarily repair a vessel to enable it to safely move to a shipyard or other location for permanent repairs. These services include, but are not limited to, shoring, patching, drill stopping, or structural reinforcement.

*Marine firefighting* means any firefighting related act undertaken to assist a vessel with a potential or actual fire, to prevent loss of life, damage or destruction of the vessel, or damage to the marine environment.

*Marine firefighting pre-fire plan* means a plan that outlines the responsibilities and actions during a marine fire incident. The principle purpose is to explain the resource provider's role, and the support which can be provided, during marine firefighting incidents. Policies, responsibilities and procedures for coordination of on-scene forces are provided in the plan. It should be designed for use in conjunction with other state, regional and local contingency and resource mobilization plans.

*Nearshore area* means the area extending seaward 12 miles from the boundary lines defined in 46 CFR part 7, except in the Gulf of Mexico. In the Gulf of Mexico, a nearshore area is one extending seaward 12 miles from the line of demarcation (COLREG lines) as defined in §§80.740 through 80.850 of this chapter.

*Offshore area* means the area up to 38 nautical miles seaward of the outer boundary of the nearshore area.

*On-site fire assessment* means that a marine firefighting professional is on

scene, at a safe distance from the vessel or on the vessel, who can determine the steps needed to control and extinguish a marine fire in accordance with a vessel's stability and structural integrity assessment if necessary.

*On-site salvage assessment* means that a salvage professional is on scene, at a safe distance from the vessel or on the vessel, who has the ability to assess the vessel's stability and structural integrity. The data collected during this assessment will be used in the salvage software calculations and to determine necessary steps to save the vessel.

*Other refloating methods* means those techniques for refloating a vessel aside from using pumps. These services include, but are not limited to, the use of pontoons, air bags or compressed air.

*Outside continental United States (OCONUS)* means Alaska, Hawaii, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States.

*Primary resource provider* means a resource provider listed in the vessel response plan as the principal entity contracted for providing specific salvage and/or marine firefighting services and resources, when multiple resource providers are listed for that service, for each of the COTP zones in which a vessel operates. The primary resource provider will be the point of contact for the planholder, the Federal On Scene Coordinator (FOSC) and the Unified Command, in matters related to specific resources and services, as required in §155.4030(a).

*Remote assessment and consultation* means contacting the salvage and/or marine firefighting resource providers, by phone or other means of communications to discuss and assess the situation. The person contacted must be competent to consult on a determination of the appropriate course of action and initiation of a response plan.

*Resource provider* means an entity that provides personnel, equipment, supplies, and other capabilities necessary to perform salvage and/or marine firefighting services identified in the response plan, and has been arranged by contract or other approved

means. The resource provider must be selected in accordance with §155.4050. For marine firefighting services, resource providers can include public firefighting resources as long as they are able, in accordance with the requirements of §155.4045(d), and willing to provide the services needed.

*Salvage* means any act undertaken to assist a vessel in potential or actual danger, to prevent loss of life, damage or destruction of the vessel and release of its contents into the marine environment.

*Salvage plan* means a plan developed to guide salvage operations except those identified as specialized salvage operations.

*Special salvage operations plan* means a salvage plan developed to carry out a specialized salvage operation, including heavy lift and/or subsurface product removal.

*Subsurface product removal* means the safe removal of oil from a vessel that has sunk or is partially submerged underwater. These actions can include pumping or other means to transfer the oil to a storage device.

*Underwater vessel and bottom survey* means having salvage resources on scene that can perform examination and analysis of the vessel's hull and equipment below the water surface. These resources also include the ability to determine the bottom configuration and type for the body of water. This service can be accomplished through the use of equipment such as sonar, magnetometers, remotely operated vehicles or divers. When divers are used to perform these services, the time requirements for this service apply and not those of diving services support.

**§155.4030 Required salvage and marine firefighting services to list in response plans.**

(a) You must identify, in the geographical-specific appendices of your VRP, the *salvage* and *marine firefighting* services listed in Table 155.4030(b)—Salvage and Marine Firefighting Services and Response Timeframes. Additionally, you must list those *resource providers* that you have contracted to provide these services. You may list multiple *resource providers* for each service, but you must identify which one is