



16711
CG-543 Policy Letter
09-02

AUG 12 2009

From: ERIC P. CHRISTENSEN, CAPT
COMDT (CG-543)

A handwritten signature in black ink, appearing to read "Eric P. Christensen".

To: Distribution

Subj: INDUSTRY GUIDELINES FOR REQUESTING ALTERNATE PLANNING CRITERIA
APPROVAL, ONE TIME WAIVERS AND INTERIM OPERATING AUTHORIZATION

Ref: (a) 33 CFR 155.1065, 33 CFR 155.1025
(b) Guidelines for Implementation and Enforcement of Vessel Response Plans, Facility
Response Plans, and Shipboard Oil Pollution Emergency Plans,
COMDTINST 16450.32a
(c) Marine Safety Manual, Volume IX; Chapter 4, COMDTINST M16000.14

1. Purpose. The enclosure to this letter provides procedures that the maritime industry should follow when applying for alternate planning criteria in accordance with 33 CFR 155.1065. Sector Commanders/Captain of the Port (COTP) should also become familiar with this policy to ensure Coast Guard wide consistent application of the review, approval and enforcement procedures for vessel response plans.
2. Action. Sector Commanders/COTPs should bring this policy to the attention of appropriate individuals in the marine industry.
3. Directives Affected. This policy will be incorporated into the next revision of reference (b).
4. Background. Several areas under U.S. jurisdiction do not have sufficient resources to meet the national planning criteria as described in Appendix B to 33 CFR Part 155. In remote areas, where response resources are not available, or the available commercial resources do not meet the national planning criteria, the owner or operator may request acceptance of alternative planning criteria by the Coast Guard.

Reference (a) lists requirements for vessel owners and operators to follow if they believe that the national planning criteria contained elsewhere in 33 CFR Part 155 are inappropriate for a vessel in areas it is intended to operate. This guidance amplifies policy provided in references (b) and (c) and provides updated information to vessel owners and operators on submitting alternative planning criteria requests.

Sector Commanders/COTPs are reminded that vessel response plans can be approved by CG-5431 using a lesser standard than what is required per 33 CFR 155 Subpart D. When reviewing and endorsing alternative planning criteria requests, Sector Commanders/COTP should ensure the submission identifies prevention measures that are above and beyond existing requirements that would mitigate the risk of a spill proportionate to the limited maximum available response resources in the remote area of operation.

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5. Guidance. The enclosure contains guidance for:

- a. Submitting Alternate Planning Criteria Requests
- b. Requesting a One-Time Port Waiver
- c. Requesting Interim Operating Authorization

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Enclosure (1): Procedures for Requesting Alternate Planning Criteria Approval, One Time
Waivers and Interim Operating Authorizations

Distribution: All FORCECOM/OPCOM/Area/District (dp) offices
All Sectors/MSUs/MSDs

PROCEDURES FOR REQUESTING ALTERNATE PLANNING CRITERIA APPROVAL,
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1. Application. 33 CFR 155 subpart D applies to each vessel that is constructed or adapted to carry, or that carries, oil in bulk as cargo or oil cargo residue, and that: (a) Is a vessel of the United States; (b) Operates on the navigable waters of the United States; or (c) transfers oil in a port or place subject to the jurisdiction of the United States. When the national planning criteria contained in 33 CFR Part 155 cannot be met, the owner or operator of a vessel may request acceptance of alternative planning criteria in accordance with 33 CFR 155.1065.

2. Submission of Alternate Planning Criteria Requests. Vessel owners/operators are required to submit an alternative planning criteria request to the cognizant Sector Commander/COTP 90 days before the vessel intends to operate under a proposed alternative planning criteria plan. If there is insufficient time for the Coast Guard to review an alternative planning criteria request prior to the vessel conducting operations in a COTP Zone, the vessel owner/operator may request that the Coast Guard issue an Interim Operating Authorization (IOA). The Coast Guard may issue an IOA for a temporary period of time, as long as the vessel owner/operator has submitted an alternate planning criteria request to the cognizant COTP.

a. In crafting an endorsement for an alternative planning criteria request, the COTP should reference the response resource inventory (RRI) for information regarding the status of response equipment available in the COTP zone. In addition, the COTP should consider any basic ordering agreements (BOA) that may be in place with pollution response contractors. The COTP should also seek input regarding available response resources from the regional response team, area contingency plan committee members, district response advisory team and other port stakeholders.

b. The COTP should verify the vessel's owner/operator has ensured that the maximum level of response resources are available by contract or other approved means. 33 CFR 155.1020 provides a definition for contract or other approved means. It should be noted that if a vessel chooses to use a per voyage contract with an OSRO, the vessel response plan approval for that zone will be issued only for the duration of the per voyage contract.

c. Upon completion of the review, the COTP should endorse the alternative planning criteria request and forward it to their cognizant district staff. The district staff should then endorse the request and forward it to CG-5431 providing at least 45 days for final review. CG-5431 will review the request and if approved, issue a vessel response plan approval letter.

d. The alternative planning criteria request must detail all the response plan elements where deviations from the requirements are proposed or cannot be met. Response equipment, techniques, or procedures identified in the alternative planning criteria request should be submitted in accordance with the evaluation criteria of Appendix B, 33 CFR 155. A gap analysis should be provided to the Coast Guard indicating how the available resources do not meet the national planning criteria, and how an alternate plan addresses shortfalls. This information can be determined using the Planning Volume Calculation MS excel spreadsheet available at <https://homeport.uscg.mil/vrp>. The OSRO Classification Standards are available at

ENCLOSURE(1)

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<http://www.uscg.mil/hq/nsfweb/nsfcc/> and the OSRO Classification Matrix is available at <https://cgri.uscg.mil/rriadmin/reports/webclassificationreport.aspx> or via the MISLE database under standard reports- Response Resource Inventory for USCG users. The request should contain at a minimum:

- (1) The reason and supporting information for the alternative planning criteria request;
- (2) Identification of specific regulations from which the owner/operator seeks an exemption and which alternative planning criteria would apply;
- (3) Proposals for alternative procedures, methods, or equipment standards, where applicable, to provide for an equivalent level of planning, response, and pollution mitigation strategies;
- (4) Prevention and mitigation strategies that ensure low risk of spills and adequate response measures as a result of the alternative planning criteria;
- (5) Consideration of special measures to the environmentally sensitive areas listed in the respective area contingency plans; and
- (6) Economic impact.

3. Area Contingency Plans. As a means to enhance transparency of alternate planning criteria standards, the COTP and Area Planning Committee may add pre-endorsed alternative planning criteria to the Area Contingency Plan.

4. Vessel Operations While Alternate Planning Criteria Submission is Reviewed. The Coast Guard recognizes that submitting alternate planning criteria 90 days in advance of operating in a COTP zone may not be feasible in all situations. Therefore, the following options are available to vessel owners/operators to manage an interim solution.

a. One-Time Waiver. When a vessel comes to a COTP zone for the first time, the vessel owner or operator can request a one-time waiver from the COTP in accordance with 33 CFR 155.1025(e). Meeting all the requirements does not in itself guarantee that the waiver will be issued; the COTP has the final decision authority. If the vessel desires to return to that COTP zone, the COTP is not authorized to issue an additional one time waiver. The vessel must have an approved vessel response plan (VRP) for that COTP zone or request an Interim Operation Authorization (IOA).

- (1) Tank vessels are authorized a one-time port waiver if all the following requirements are met:
 - A. Owner or operator has a valid VRP or Shipboard Oil Pollution Emergency Plan (SOPEP);
 - B. The plan is onboard the vessel;
 - C. A Qualified Individual (QI) has been identified to the master of the vessel; and
 - D. The owner or operator has identified through a contract or other approved means the private resources necessary to respond to the maximum extent practicable or a worst case discharge from the vessel in that zone.

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b. Interim Operating Authorization (IOA). If the vessel owner/operator has submitted an alternative planning criteria request but there is insufficient time for the Coast Guard to complete a review of the request before the vessel plans to conduct operations in the COTP zone, the owner/operator can request the issuance of an IOA. 33 CFR 155.1025(c)(1) allows a vessel to handle, store, transport, or lighter oil after the submission of a response plan pending approval of that plan, if the vessel owner or operator has received written authorization for continued operations from the Coast Guard. The Coast Guard may issue an IOA for a temporary period of time as long as the owner/operator has submitted an alternate planning criteria request to the Coast Guard.

c. Requesting an IOA. To receive a Coast Guard IOA, the vessel's owner/operator must certify in writing to the Coast Guard that they have identified and ensured the availability of, through contract or other approved means, the necessary private resources to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge from their vessel as described in 33 CFR Sec. 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate.

5. Examples. Enclosed are requests for VRP:

- a. One Time Waiver Request
- b. Interim Operating Authorization (IOA) Request
- c. Alternate Planning Criteria Request with Gap Analysis

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Example: One Time Waiver Request (33 CFR 155.1025(e))

Dear Captain Coastie,

I certify that:

- (1) I have (an approved response plan meeting the requirements of this subpart except for the applicable geographic specific appendix) or (a shipboard oil pollution emergency plan approved by the flag state)*
- (2) The approved response plan or the required plan section(s) is/are aboard the vessel;*
- (3) The designated qualified individual is: QI John Smith he can be reached at (800)888-8888; the vessel master has also been notified of the QI.*
- (4) The OSRO ensured, through contract or other approved means, to meet the criteria in Sec. 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate, to a worst case discharge or substantial threat of discharge from the vessel is XXXX OSRO.*

Sincerely,

Owner/Operator or designated company representative

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Example: Interim Operating Authorization Request (33 CFR 155.1025(c))

Dear Captain Coastie,

The T/V NO SPILL IMO #999999 (VRP control # 99999), will be calling the COTP zone [Enter COTP Zone] on [DATE]. I request this interim operation authorization through (Date 90 days later).

I have identified and ensured the availability of, through contract or other approved means, the necessary private response resources to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge from my vessel(s) as described in title 33 Code of Federal Regulations Sec. 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate. I have submitted an Alternate Planning Criteria Request in accordance with 33 CFR 155.1065(f).

Sincerely,

Owner/Operator or designated company representative

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Example: Alternative Planning Criteria Request with Gap Analysis (33 CFR 155.1065 (f))

Dear Captain Coastie,

I am submitting a letter to Commandant (CG-5431) in accordance with 33 CFR 155.1065(f) and 33 CFR 155.1070 (c) (2) requesting that the Western Alaska COTP zone be added as an approved area for the OPA 90 Tank Vessel Response Plan (TVRP) (PLAN #). I am also requesting an interim operating authorization while this alternative planning criteria request is being considered. This TVRP was prepared by (my plan preparer) on behalf of our client, (Shipping Company X) The vessel(s) covered by the plan and included in this request are:

Vessel: IMO No.

- 1. T/V NO SPILL (IMO #)*
- 2. T/V NEVER SPILL (IMO #)*

Please acknowledge receipt of this request and in accordance with 33 CFR 155.1065 (f) I request a positive endorsement from Sector Western Alaska before the zone authorization amendment will be approved by Coast Guard Headquarters. These vessels will transit your zone on (Date).

We trust that the above proposed criteria will meet your requirements for positive recommendation. If you or your staff should have any questions regarding this matter or suggestions for other response measures to be taken for these transit, please call me at any time.

I have identified and ensured the availability of, through contract or other approved means, the necessary private response resources to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge from my vessel(s) as described in title 33 Code of Federal Regulations Sec. 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate.

Sincerely,

Owner/Operator or designated company representative

*Enclosure (1) Proof of OSRO coverage (no example provided)
(2) Gap Analysis*

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Example: Gap Analysis for Alternate Planning Criteria Request

(1) Reason and supporting information for the alternative planning criteria request:

I intend to conduct operations or transit COTP Western Alaska. I cannot meet the requirements of 33 Code of Federal Regulations Sec. 155.1050 due to unavailability of commercial resources which meet the national planning standards.

(2) Identification of specific regulations from which the owner/operator seeks an exemption and which alternative planning criteria would apply;

Example is based on 33 CFR 155 appendix B 7.4 (oil is type IV .96 specific gravity):

Plan #:	99999	Largest Vessel Name	T/V NEVER SPILL									
Planning Volume Calculations for a Worst Case Discharge												
Enter Cargo Capacity in bbl in Cell C4:												
100000												
On Water Planning Volumes (bbl)												
Oil Group	River	Nearshore / GL	Offshore	Open Ocean								
I	10,000	20000	0	0								
II	27,000	90000	45,000	18,000								
III	30,000	100000	80,000	40,000								
IV	28,000	70000	56,000	28,000								
Required Resources: On-Water Recovery (bbl)												
	River	Inland/Nearshore/Great Lakes			Offshore			Open Ocean				
Oil Group	Tier 1	Tier 2	Tier 3	Tier 1	Tier 2	Tier 3	Tier 1	Tier 2	Tier 3	Tier 1	Tier 2	Tier 3
I	3,000	4000	6,000	3,000	5,000	8,000	0	0	0	0	0	0
II	8,100	10800	16,200	13,500	22,500	36,000	4,500	7,425	9,450	1,080	1,800	2,160
III	9,000	12000	18,000	15,000	25,000	40,000	8,000	13,200	16,800	2,400	4,000	4,800
IV	8,400	11200	16,800	10,500	17,500	28,000	5,600	9,240	11,760	1,680	2,800	3,360

My plan lacks the requisite ability to have the effective daily recovery capacity indicated for type IV oil above. The applicable requirement is outlined in Sec. 155.1050, 155.1052, 155.1230, or 155.2230, as appropriate.

Based on the above requirements necessary resources equal:

Rivers - Tier 3 + twice the cap = WCD 3 OSRO + twice the cap

Inland - Tier 3= WCD 3 OSRO

Nearshore - Tier 3= WCD 3 OSRO

Offshore - Tier 1= WCD 1 OSRO

Open Ocean - Tier 1= WCD 1 OSRO

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My OSRO RDA Super Clean Corporation does not meet this standard as indicated in the chart below excerpted from the National Strike Force Coordination Center's (NSFCC) OSRO classification tables.

(3) Proposals for alternative procedures, methods, or equipment standards, where applicable, to provide for an equivalent level of planning, response, or pollution mitigation strategies:

I have secured the maximum commercial response resources in the area through a contract with [RDA Super Clean Corporation]. A copy of that contract is attached. This OSRO currently has the following capability excerpted from the RRI database which shows the resource gap:

	<i>OSRO Name:</i>			
	<i>RDA Super Clean Corporation - OSRO Number: 93</i>			
	<i>Vessel MMPD</i>	<i>Vessel WCD1</i>	<i>Vessel WCD2</i>	<i>Vessel WCD3</i>
<i>River or Canal</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Inland</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
<i>Nearshore</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>Offshore</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
<i>Open Ocean</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

(4) Prevention and mitigation strategies that ensure low risk of spills and adequate response measures as a result of the alternative planning criteria;

The following list of examples is neither inclusive nor exclusive:

Vessel(s) will:

Operate at a slower speed when within 12nm of the shoreline or any area where there are hazards to navigation

Call port during daylight hours only

Limit transfer operations to seas less than 3 feet

Engage a standby tug in the immediate location of the transfer operation

(5) Consideration of special measures to the environmentally sensitive areas listed in the respective area contingency plans.

The following extra measure(s) will be taken in addition to those measures above while operating in most environmentally sensitive areas (MESA) as outlined in the Alaska Unified Contingency Plan.

Pre-boom the vessel while conducting transfer operation with appropriate protective boom

(6) Economic impact

Specific loss of revenue is \$XXXX. This has been a port regularly called by vessel(s), summary of operational history.