

measures it proposed in the NPRM. Instead, the Coast Guard is reexamining the economic and technological feasibility of imposing certain structural requirements in light of the findings contained in the revised regulatory assessment. The Coast Guard also intends to carefully consider all comments received from the public on this analysis of the revised regulatory assessment, and determine whether any structural measure is both economically and technologically feasible.

Background and Purpose

The Coast Guard recognizes that operational and structural measures perform unique and important functions to prevent oil pollution. The second phase of the Coast Guard's three-phase effort to establish measures for existing tank vessels addresses reducing the risk of a grounding, collision, or fire. Many pollution incidents from tank vessels can be prevented by applying operational measures. Common failure modes which lead to pollution incidents include personnel error, navigation problems, and improper maintenance practices. A separate SNPRM entitled "Operational Measures to Reduce Oil Spills From Existing Tank Vessels Without Double Hulls" (Operational Measures SNPRM) (60 FR 55904; November 3, 1995) proposes requirements for bridge resource management training, vessel specific training, rest hour minimums, enhanced structural surveys, maneuvering performance capability requirements, and other requirements aimed at reducing the risk of accidents involving existing tank vessels.

The Coast Guard's third phase of this effort to reduce oil pollution from certain existing tank vessels addresses mitigation of pollution if an accident occurs. The Coast Guard evaluated those structural measures that would reduce the oil outflow on various existing vessel designs. This analysis included measures such as fitting double bottoms or sides, requiring hydrostatic-balanced loading (HBL) for all vessel configurations, and fitting segregated ballast tanks (SBTs) or clean ballast tanks (CBTs) on those vessels presently without them.

Discussion of Comments and Changes

Background information on proposals for structural measures for existing vessels without double hulls is provided in the preambles to the ANPRM and NPRM. These proposals focus on measures to reduce oil outflow after a collision or grounding has occurred.

The Coast Guard received 132 comments on the Existing Vessels

NPRM. Thirty of these comments related to the operational measures phase of this rulemaking project while the remaining 102 comments discussed issues related to reducing the oil outflow on an existing tank vessel after an accident occurs. The following discussion summarizes the comments received on the NPRM and is divided by topic: (1) applicability and treatment of existing double hull or double bottom vessels, (2) consistency with international standards, (3) protectively-located spaces (PL/spaces), (4) hydrostatic-balanced loading (HBL), (5) protectively-located segregated ballast tanks (PL/SBT) requirements, (5) alternative measures, (6) phase-in alternatives and economic incentives, (7) regulatory assessment—general, (8) regulatory assessment—costs, and (9) regulatory assessment—benefits.

1. Applicability and Treatment of Existing Double Hull or Double Bottom Vessels

The Coast Guard received one comment that inquired about the lightering zones referred to in section 4115 of OPA 90. The comment questioned how the lightering zones would impact the vessels that are required to comply with structural requirements for existing tank vessels. The Coast Guard issued a final rule on August 29, 1995, entitled "Designation of Lightering Zones" (60 FR 45006), which established four lightering zones in the Gulf of Mexico. Under the provisions of the final rule, tank vessels without double hulls may lighter in the Exclusive Economic Zone (EEZ) in these zones, including the existing vessels affected by this rulemaking. These vessels would be allowed to continue conducting lightering operations in these zones after they are phased out of service under the provisions of section 4115(a) of OPA 90 until 2015. However, under section 4115(b) of OPA 90, these vessels would also be required to meet any structural and operational measures for tank vessels without double hulls.

Another comment indicated that States should not attempt to preempt this proposed Federal regulation. The Coast Guard works closely with local and State governments and encourages them to actively participate in its regulatory process. There should be no conflict between State and Federal law; however, to the extent there is such a conflict, Federal law remains supreme (U.S. CONST. art. VI, cl. 2).

On comment stated that the more limited definition of oil used in this rulemaking, which excludes animal fats and vegetable oils, should apply to all OPA 90 regulations. Other comments

requested the exemption of vessels which carry non-persistent oils. The NPRM specifically excluded vessels carrying only animal fats and vegetable oils because the proposed structural requirements were believed to be too costly for vessels carrying only non-petroleum oils. Additionally, the exemption was proposed in an effort to be consistent with the international structural measures for existing vessels established in MARPOL 73/78. The Coast Guard has determined that the application of some of the structural measures presented in this SNPRM is technologically feasible for all existing tank vessels. Comments on the economic feasibility of imposing structural measures on vessels that carry only non-petroleum oils are solicited. The Coast Guard also requests comments on the benefits that may result from structural requirements. It should be noted that the Operational Measures SNPRM (60 FR XXXX; date) proposes the application of operational measures to all existing tank vessels, including non-petroleum oil carriers.

Several comments requested clarification on whether the proposed rulemaking would apply to vessels operating in the U.S. EEZ and to vessels that carry cargo to foreign destinations. One comment asked whether the rulemaking would apply to vessels that unload cargo at deepwater ports or that engage in lightering in U.S. waters. The Coast Guard determined that any operational or structural measures rulemaking implementing section 4115(b) would be consistent with the applicability section 4115(a) of OPA 90 which requires certain existing tank vessels without double hulls to be phased out of operation by 2015. Therefore, this SNPRM would apply to vessels unloading cargo at deepwater ports or engaging in lightering in U.S. waters. It would also apply to any other existing tank vessel without a double hull that is required to be phased out under section 4115(a) of OPA 90.

The Coast Guard rulemaking implementing section 4115(a) entitled "Double Hull Standards for Vessels Carrying Oil in Bulk" (CGD 90-051) (60 FR 13318; March 10, 1995) added 33 CFR 157.10(d), which applies the regulations to certain tank vessels carrying oil in bulk as cargo operating in U.S. waters, including vessels unloading oil as cargo at deepwater ports and lightering in established lightering zones more than 60 miles from the territorial sea baseline. The regulations also apply to non-dedicated oil spill response vessels (OSRVs). The Navigation and Inspection Circular (NVIC) 10-94, "Guidance for