

Determination and Documentation of the Oil Pollution Act of 1990 (OPA 90) Phase-out Schedule for Existing Single Hull Vessel Carrying Oil in Bulk," provides a detailed explanation of the applicability of section 4115(a). Without conclusively resolving all the complex interplay between the Oil Pollution Act and the Law of the Sea, the Coast Guard presently intends that operational and structural requirements would not apply to foreign tankships engaged in innocent passage on U.S. navigable waters, which includes the territorial sea of the United States and the EEZ.

One comment requested clarification on whether structural measures would apply to Floating Production and Storage Off-loading (FPSO) Systems, Floating Production Systems (FPS), and Mobile Offshore Drilling Units (MODUs). FPSO systems and FPS are tank vessels; however, they would be excluded from this rulemaking if they are less than 5,000 GT, are not engaged in the movement of petroleum oils, and are not used in lightering operations. MODUs are not included under the definition of tank vessel in OPA 90. Therefore, they would not have to comply with structural measures.

One comment asked why the NPRM differentiated between crude tankships of 20,000 deadweight tons (dwt) or more and product carriers of 30,000 dwt or more. The NPRM reflected the distinction in vessel size made by Regulation 13G of Annex I of MARPOL 73/78. This distinction was continued in the regulatory assessment in this SNPRM to enable those companies operating vessels on international routes to compare estimated cost and benefit results.

The Coast Guard received several comments which objected to the imposition of structural measures on tank barges. The regulatory assessment in this SNPRM reviewed several technologically feasible measures that could be implemented on barges to reduce oil outflow. Comments are solicited on the economic feasibility of these measures.

The Coast Guard received one comment on the double hull requirements proposed in § 157.410(a) of the NPRM. The comment recommended the immediate construction of double hull vessels in lieu of retrofitting existing vessels with structural measures. Section 4115(a) of OPA 90 establishes a phase-in schedule for double hull requirements for all existing tank vessels. These section 4115(a) provisions establish a schedule that balances environmental safety with the overall impact on the U.S. economy, worldwide U.S. shipping capability, and

oil availability to U.S. consumers. The Coast Guard does not have the authority to change the phase-out schedule of section 4115(a); rather, it is tasked with issuing interim regulations to protect the marine environment until all vessels are required to be equipped with double hulls under section 4115(a).

2. Consistency With International Standards

The Coast Guard received several comments which expressed support for the development of regulations that are equivalent to Regulation 13G of Annex I of MARPOL 73/78. Another comment stated that for 70 percent of the fleet that it applied to, the NPRM duplicated the requirements of the proposed Regulation 13G of Annex I of MARPOL 73/78. The comment further stated that the Coast Guard has neglected its responsibility to make an independent decision to designate the strongest feasible antipollution measures. As previously stated, the Coast Guard's goal is to implement its statutory mandates in regulations that are consistent with international regulations wherever doing so is lawful, appropriate, and practical. Based on comments from the NPRM, the Coast Guard has reevaluated various pollution prevention measures. Accordingly, the Coast Guard conducted an extensive cost and benefit analysis of structural measures that are both consistent with international standards and that exceed current international agreements. The regulatory assessment in this SNPRM reflects the structural measures deemed technologically feasible for existing tank vessels.

One comment recommended that product tankships from 20,000 dwt to 30,000 dwt be exempted from further rulemaking action because they presently comply with MARPOL 73/78 and the Port and Tanker Safety Act of 1978. The comment contended that these tankers would already be in compliance with the provisions of the published NPRM. The above statements are accurate; however, the Coast Guard also considered requirements above those of MARPOL for the regulatory assessment in this SNPRM and has continued to include this group of vessels to ensure it reflects accurate cost benefits.

3. Protectively-located Spaces (PL/Spaces)

The Coast Guard received several comments on the proposed requirements for PL/spaces. In the NPRM, a PL/space includes any tank or void space that is not used for the carriage of cargo, cargo residue, slops, dirty ballast or fuel oil. The

protectively-located (PL) qualifier refers to the distribution of these spaces along the length of the vessel's hull as described in Appendix C to 33 CFR 157. One comment stated that a requirement for oil-free spaces has already been in effect under international rules and corresponding U.S. law that covers all vessels except for small tank vessels built since 1979; thus, the comment contends, the proposed requirement for PL/spaces would provide no additional improvement for nearly 30 percent of the world's single hull tanker fleet. Another comment contended that approximately 75 to 80 percent of the world fleet of crude carriers consists of tankers that are not fitted with SBT or CBT (pre-MARPOL tankers). The comment indicated that HBL with a safety factor of 1.0 or less, as used in Regulation 13F of MARPOL, is more economical and technically viable in the case of groundings than the originally proposed PL/spaces for these vessels.

The Coast Guard focused its analysis for this SNPRM on determining what would happen if various PL/space requirements were applied to pre-MARPOL vessels. In this assessment, it took into account whether the pre-MARPOL vessels are fitted with SBT or CBT. This SNPRM summarizes a revised regulatory assessment and solicits comments on the economic feasibility of requiring pre-MARPOL tank vessels to be fitted with PL/spaces as compared to HBL.

One comment stated that requiring PL/spaces on non-SBT tankships would lead to greater oil outflow in a grounding or collision. Another comment indicated that, based on recent calculations performed by the oil tanker industry on ships of different sizes, PL/spaces are capable of achieving an improvement in estimated oil outflow reduction, provided certain operating conditions are maintained. The Coast Guard agrees with both comments. When PL/spaces are used in such a way that they result in an increased freeboard, oil outflow in groundings could be expected to increase. However, the use of PL/spaces, in such a way that the operational freeboard is essentially unchanged (by ballasting the PL/spaces), will result in reduced oil outflow. As suggested by several comments, the Coast Guard modified its original assessment and considered the implementation of PL/spaces made in conjunction with HBL.

One comment questioned whether ships that are fitted with SBTs in accordance with the provisions of Regulation 13E of Annex I of MARPOL 73/78 would be accepted as meeting the provisions of § 157.410(a) in the NPRM