

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates:* This regulation is effective from 10 a.m. to 5:30 p.m. EDT on September 13 and 14, 1997.

Dated: September 2, 1997.

Roger T. Rufe, Jr.,

*Vice Admiral, U.S. Coast Guard Commander,
Fifth Coast Guard District.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 79-116]

RIN 2115-AA03

Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases

AGENCY: Coast Guard, DOT.

ACTION: Final rule; Extension of a delayed compliance date, request for comments.

SUMMARY: The Coast Guard establishes an extended delay of the date for compliance and invites further public comments on the appropriate qualifications for a person in charge of the transfer of fuel oil as treated in the final rule regulating Qualifications for Tankermen and for Persons in Charge (PICs) of Transfers of Dangerous Liquids and Liquefied Gases, published on May 8, 1997 (62 FR 25115). The delay and additional opportunity for comment are necessary because much of the maritime industry, especially the inland towing segment, has expressed concern that it was not aware of the rule, or was confused about the section that governs fueling. The delay and opportunity for comment will ensure that the Coast Guard fully considers all viewpoints.

EFFECTIVE DATE: The effective date of the final rule published in the Federal Register on May 8, 1997 (62 FR 25115) remains June 9, 1997.

Compliance Dates: The compliance date for the revisions to 33 CFR 155.710(e) introductory text, (e)(1), (e)(2) and (e)(3) is July 1, 1998. Furthermore, the compliance date for 33 CFR 155.710(e)(4), not revised in the final rule, is July 1, 1998.

Comments: Comments must be received by November 17, 1997.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety

Council (G-LRA, 3406) [CGD 79-116], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or deliver them to room 3406 at the above address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 800-842-8740, extension 7-1477.

FOR FURTHER INFORMATION CONTACT:

Mr. Mark C. Gould, Project Manager, Maritime Personnel Qualifications Division. The telephone number is 800-842-8740, extension 7-6890.

SUPPLEMENTARY INFORMATION:

Delay of Date for Compliance

The Coast Guard establishes a further delay of date for compliance with §§ 155.710(e), (e)(1), (e)(2), (e)(3), and (e)(4); The new date is July 1, 1998. The delay for compliance will allow the Coast Guard ample time to evaluate comments received in response to this notice.

Request for Comments

The Coast Guard encourages interested persons to offer comments on the issues set forth in this delay of date for compliance and request for comments. Persons submitting comments should include their names and addresses, identify the docket [CGD 79-116], and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ x 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Background and Purpose

On April 4, 1995, the Coast Guard published an interim rule regulating Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases [60 FR 17134]. On May 8, 1997, the Coast Guard published a final rule revising, among other things, the language of 33 CFR 155.710(e) [62 FR 25115]. The final rule did not change the requirements for fueling in 33 CFR 155.710(e), (e)(1), (e)(2), (e)(3), or (e)(4) from those in the interim rule, but it clarified the applicability of the section and made clear that the regulation covered more of the public than the public had thought. Many members of the maritime industry asked the Coast Guard to delay the date of compliance and to allow the opportunity for additional comments on § 155.710(e).

The language of the interim rule had led many operators of inland towboats

to assume that they could comply with *either* paragraph 155.710(e)(1) or (2). Paragraph (1) requires that the PIC on an inspected or uninspected vessel, required by 46 U.S.C. 8904(a) to have a licensed person aboard, hold a license that authorizes service on that vessel as master, mate, pilot, engineer, or operator, or hold a valid MMD endorsed as Tankerman-PIC or Tankerman-PIC (Barge), appropriate to the fuel oil and vessel. Paragraph (2) requires that, aboard each uninspected vessel of 100 or more gross tons, the PIC of the transfer of fuel oil be instructed both in his or her duties and in the Federal statutes and regulations on water pollution that apply to the vessel. But, as the final rule made plain, paragraph (2) covers only uninspected vessels of 100 or more gross tons *not already covered by paragraph (1)*. And, since each uninspected towing vessel (UTV) of more than 26 feet in length must carry aboard a person licensed to operate that type of vessel under 46 U.S.C. 8904, each of those UTVs must comply with paragraph (1).

After the Coast Guard published the final rule, it learned that from 2,500 to 3,000 mariners will need to obtain the licenses or merchant mariners' documents (MMDs) under paragraphs 155.710(e)(1). To obtain these credentials takes both professional experience and formal training. It will also take more training facilities than are now available. For this reason, on July 11, 1997, the Coast Guard published a notice [62 FR 37134] delaying the date for compliance with § 155.710(e), in its entirety, until January 1, 1998.

An important change in the final rule affected § 155.710(e). The PIC may now hold a merchant mariner's document (MMD) instead of a license. But the MMD must be endorsed as either (1) restricted Tankerman-PIC (as described in the final rule under § 13.111(b)); (2) Tankerman-PIC (as described in the final rule under § 13.201); or, for barges only, (3) Tankerman-PIC (Barge) (as described in the final rule under § 13.301). As the Coast Guard stressed in the final rule, it always intended for § 155.710(e)(1) to apply to UTVs.

Allowing a second person to serve as PIC was appropriate to alleviate the burden on the operator of an uninspected towing vessel (OUTV) during transfers of fuel under way, when the operator's attention and presence are necessary in the wheelhouses to ensure the safe navigation of their vessels. Most UTVs carry just one or two OUTVs. While one is navigating the vessel, the other must be getting his or her mandatory rest

before assuming the watch as OUTV; so neither is generally available for transfers. The usual practice has been for an unlicensed and undocumented person to act as the actual PIC, although the OUTV remains the Legal PIC. Currently, it is not uncommon for an unlicensed and undocumented person to act as the actual PIC, although the OUTV remains the legal PIC. Under paragraph 155.710(e)(1) of the final rule, it may become necessary for a UTV to carry aboard either another licensed person or an unlicensed person with an MMD endorsed as Tankerman-PIC or restricted Tankerman-PIC. The Coast Guard has determined that requiring licensing or documentation for the person in charge of a fueling operation is good marine practice. The fuel transfer process should be such that either the documented person on the fuel flat, or the individual "in charge" of the fuel transfer on the towing vessel, should be knowledgeable enough, and have the authority, to shut down the transfer in the event of a problem. Each should be appropriately qualified to handle their responsibilities, and accountable for any mistakes that they might make.

Beyond any public comments addressing 33 CFR 155.710(e) in general, the Coast Guard also seeks comments on the following issues:

(1) Somebody aboard each UTV must be accountable for the safe completion of every transfer of fuel. Who should be legally responsible for it—an OUTV? Another licensed or documented person? Or an unlicensed and undocumented person? If the last of these, what recourse would the Coast Guard have against that person if a spill occurred during a transfer in which he or she was the legal PIC?

(2) Should the PIC of a transfer of fuel aboard the UTV have to hold either (a) a license; or (b) an MMD endorsed for Tankerman-PIC, restricted Tankerman-PIC, or Tankerman-PIC (Barge)?

(3) What kind of formal training should an applicant have to prove to hold an MMD endorsed in any of these three ways?

Dated: September 4, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 155 and 156

[CGD 90-071a]

RIN 2115-AD87

Overfill Devices

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing minimum standards for overfill devices as required by the Oil Pollution Act of 1990 (OPA 90). The purpose of the overfill device is to warn of cargo tank overfills. This regulation requires the phased-in installation and use of the devices on the cargo tanks of certain tank vessels that carry oil or oil residue as primary cargo. This regulation should reduce the likelihood of spills when oil is loaded as cargo.

DATES: This final rule is effective on October 17, 1997.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001, between 9:30 a.m. and 2:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT:

LTJG J.K. Grzelak, Project Manager, Office of Standards Evaluation and Development (G-MSR), telephone (202) 267-1249.

SUPPLEMENTARY INFORMATION:

Regulatory History

Section 4110 of the Oil Pollution Act of 1990 (OPA 90) [Pub. L. 101-380] adds a statutory note following 46 U.S.C. 3703 requiring, in part, the establishment of minimum standards for overfill devices on certain tank vessels.

To meet the statutory requirements, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled, "Overfill Devices," in the **Federal Register** (58 FR 4040; January 12, 1993). The Coast Guard received 32 letters commenting on the proposal.

In response to some comments, the Coast Guard published a notice (58 FR 54315; October 21, 1993) and held a public meeting at U.S. Coast Guard Headquarters in Washington, DC, on November 17, 1993. Twenty-eight people attended the meeting. A list of the attendees and audio tapes of the meeting are available in the public

docket for this rulemaking [CGD 90-071a] at the address listed under ADDRESSES.

On October 21, 1994, the Coast Guard published an interim rule entitled, "Overfill Devices" in the **Federal Register** (59 FR 53286). On January 19, 1995, the interim rule went into effect and the comment period closed. The Coast Guard received 7 letters commenting on the interim rule. No additional public meeting was requested and none was held.

Background and Purpose

An overfill spill occurs when too much oil is pumped or gravitated into a cargo tank during a transfer operation (e.g., from a facility to a tank vessel or from one tank vessel to another). Human error is the most often reported cause of this type of spill. Many overfill spills are small; however, some reported overfill spills have involved large quantities of oil.

Coast Guard regulations require vessel owners and operators to follow pollution prevention procedures during oil transfer operations (33 CFR parts 155 and 156). Existing regulations did not require devices on cargo tanks to detect and warn of impending overfills until January 19, 1995, when the interim rule for overfill devices went into effect.

More detailed background information on overfill spills and devices can be found in the preamble of the NPRM under Background and Purpose.

Discussion of Comments and Changes

Seven letters were received in response to the interim rule. The Coast Guard has reviewed all of the comments and they are discussed as follows:

Applicability

One comment, writing on behalf of 7 agricultural associations, strongly supported the Coast Guard's interim rule as it applies to animal fats and vegetable oils. This final rule continues to exclude tank vessels carrying animal fats and vegetable oils from overfill device requirements. To make this exclusion clear, paragraph (f) of 33 CFR 155.480 has been revised in this final rule.

One comment expressed opposition to the requirements for overfill devices on black oil barges, specifically those that carry Number 6 oil, because they carry that oil only for a few months out of the year and the heat required to keep the product liquefied renders the equipment useless. The Coast Guard finds that heavy oils are just as likely to overflow from cargo tanks as lower viscosity oils, regardless of the time of year. Vessel