

**DEPARTMENT OF TRANSPORTATION****Coast Guard****[USCG-1999-5484]****Release of Vessel Response Plan Information on the Internet Under the Freedom of Information Act****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of decision.

**SUMMARY:** This notice is to inform the submitters of vessel response plans that the Coast Guard has determined that the release of information to the general public via the Internet, as described in this notice, will not cause substantial competitive harm to any submitter. The information will be released on the Internet and will be publicly available through our vessel response plan world-wide-web site <http://www.uscg.mil/vrp>.

**DATES:** The release of the VRP information, as described in this notice, is scheduled to occur on or about February 1, 2000.

**ADDRESSES:** The Docket Management Facility maintains the public docket for this notice (USCG-1998-5484). The original predisclosure notice, all comments subsequently received from the submitters of vessel response plans, and this notice are part of the docket and are available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice, call Lieutenant Commander John Caplis, Plans and Preparedness Division, Office of Response, Coast Guard, telephone 202-267-6922, fax 202-267-4065, or at e-mail address [jcaplis@comdt.uscg.mil](mailto:jcaplis@comdt.uscg.mil). For questions on viewing material in the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

**SUPPLEMENTARY INFORMATION:****Background and Purpose**

The owners and operators of tank vessels are required to submit vessel response plans to the Coast Guard for review and approval in accordance with the Oil Pollution Act of 1990 and 33 CFR part 155. An important aspect of the planning and approval process is the submission and review of the preparedness arrangements made by the owner/operator for each Captain of the Port (COTP) zone in which their tank vessel operates. These arrangements

include provisions for a "qualified individual", a spill management team, and contracted response resources. Contracted response resources include arrangements for oil spill removal organizations (OSROs), salvage and firefighting companies, and emergency lightering companies.

As part of our review process, we maintain an electronic database that tracks both the status of these plans as well as many other important elements, such as the contracted response resources listed in the plan for each COTP zone where a vessel operates. We believe that it is important for Federal, State, and local governments, non-governmental organizations, response organizations, and other interested parties within the general public to have ready access to this pre-spill planning information. This information is critical for port state officials who are responsible for monitoring activities within their jurisdictions, as well as entities responsible for planning response activities in our coastal and riverine communities.

The Coast Guard has been working to make this information available to the public. In 1997, we developed an Internet website for disseminating important vessel response plan program information (<http://www.uscg.mil/vrp>). A portion of the Internet website provides the general public with the status of each plan's approval with respect to each COTP zone. The information available to the general public on this website will be expanded to include other important data, such as identity of the contracted response resources listed for each COTP zone included in a plan.

The information submitted in vessel response plans to the Coast Guard is covered by the Freedom of Information Act (FOIA), applicable regulations, and Executive Order 12,600. Exemption 4, which applies to information submitted to the Government by any private person, applies here. Exemption 4 shields from release confidential, commercial, or financial information if the release would cause substantial competitive harm to the submitter. Executive Order 12,600 also applies and requires that before any executive agency releases information to which Exemption 4 would apply, it must give submitters an opportunity to show that the material is confidential, commercial, or financial information and, if released, would cause substantial competitive harm to the themselves. In accordance with Executive Order 12,600, we published a "Predisclosure Notice and Request for Comment" in the **Federal Register** on May 4, 1999, announcing

our intentions to release the information on the Internet, and provided the submitters of response plan information an opportunity to comment.

**Discussion of Comments**

We received sixteen written letters in response to the "Predisclosure Notice and Request for Comment". We received many comments which raised valid concerns regarding the sensitivity of certain information contained within the plans. We agree that some of this information contained within the plans may be inappropriate for release to the general public on the Internet. In response to these comments, we have identified areas of sensitive information in this notice and have restrained certain portions of the information from being released to the public. The following section summarizes the comments received and elaborates on our determinations regarding which information contained within the plans will be released and which information will be withheld.

Four comments stated that the response plan information should not be released because it could be misused by terrorists or radical protest groups. Two comments specifically stated that the ships drawings and diagrams contained within the response plans should not be released because they may be used by terrorists or radical extremists. We are keenly aware of the need to protect people and property from the unwanted actions of terrorist or extremist groups. However, we disagree with the statement that the release of some vessel response plan information will facilitate such actions. The information to be released on the internet does not contain technical or operational details that would facilitate the planning of such terrorist-type activities. The Coast Guard does agree that ship's drawings and diagrams are sensitive in nature. Ships drawings or diagrams of any type will not be released on the Internet.

Five comments stated that the response plan information should not be released because it will make approved plan formats available for other companies to copy free of charge. We disagree. Entire plans or plan format information will not be released, only data tables containing specific pieces of information contained within the plan will be released on the Internet.

One comment stated that the response plan information should not be released because worst case discharge data can be equated to fuel capacities to their vessels. We disagree. The worst case discharge (WCD) data does not necessarily equate to the fuel capacity for a vessel. WCD amounts for

secondary carriers equals 25% of fuel capacity plus cargo tank capacities. The WCD data released only provides a total amount, and does not provide a specific breakdown of cargo or fuel tank capacities that would be needed to determine fuel capacities based on WCD information.

Ten comments stated that the release of phone or pager numbers for qualified individuals (QIs), owners, spill management teams (SMTs), or oil spill removal organizations (OSROs), is an invasion of privacy, and will clog communications during a response. We agree with these comments. Phone, pager, and fax numbers or email addresses listed in the vessel response plans will not be released to the public. For owners or listed points of contact (POC) for a plan, only the corporate address or address listed for the plan preparer will be released. The names of company employees will not be released, except for QIs, or when the plan POC or owner listed is a named individual rather than a corporate entity. For OSROs, only company names and prescribed coverage scenarios (AMPD, MMPD, or WCD) will be released. Since QI's must be named individuals in the plans as per the regulations, QI names will be released, but no personal communication information such as phone numbers, faxes, pagers, home addresses or emails will be released in connection with their designation as a QI.

One comment stated that response plan information should not be released because the listing of designated OSROs within a plan will create controversy between multiple OSROs listed within a plan. We disagree. It is common industry practice for planholders to contract or list more than one OSRO within a plan since the resources of multiple OSROs are likely to mobilize during a response to a large spill. The nature of the contractual relationship between a planholder and its OSROs or the criteria used for selecting an OSRO from a multiple listing of OSROs will not be released on the Internet.

Four comments stated that vessel names, vessel identification numbers (VINs), vessel dimensions, listed cargoes, and cargo capacities should not be released because the release of this information will affect their ability to compete with other companies. We agree that specific cargo information such as specific product names or amounts should not be released. Only the generic cargo types (groups I-V), which are based on a regulatory range of specific gravity's (important for the types of response arrangements that must be made), and the WCD amount

for the vessel's entire cargo will be released. Cargo tank capacities or dimensions will not be released. Vessel dimensions (such as length and beam), vessel name, and vessel identification numbers are commonly available within the public domain through a variety sources, and will be released on the Internet.

Two comments stated that the response plan information should not be released because the release of OSRO data will upset competition between OSROs and create price increases which will negatively impact the planholder. We disagree. Competition and the pricing for OSROs will be driven by market forces. Any price increases for the services of an OSRO that may occur as a result of new information becoming available to the public or planholders at large will not be limited to a single submitter, but is likely to apply equally to all potential planholders.

Two comments stated that the response plan information should not be released because the terms of contractual information is proprietary. We agree that the terms of a contractual relationship between the OSRO and a planholder may be proprietary when the release of financial information is disclosed. For this reason, the provisions of the contracts will not be released. Only the name of a provider and the response coverage to be provided (AMPD, MMPD, WCD) will be released. No financial information will be released.

One comment stated that response plan information should not be released because information pertaining to vessel operations and operating environments is proprietary and will affect their ability to compete with other companies. We disagree. Proprietary information pertaining to precise vessel routes, operational schedules, or transfer points within a specific port will not be released. The designation of generic operating environments (*i.e.*, rivers, inland, or oceans environments), however, and the confirmation of lightering potential for each COTP zone approved in the plan, will be released. This information will help ensure that the types of OSROs and response coverage provided within a plan are appropriate for the vessel's stated operations.

One comment stated that the response plan information should not be released because it may create additional workloads for companies who must answer inquiries from the general public regarding their response plan. We agree that the release of plan information may generate inquiries from the general public to planholders regarding their

response plans. Public scrutiny of plans will help inform the public and help ensure quality assurance within the plan. While companies may receive public inquiries, there is no obligation or requirement being imposed on the planholder to respond, and all submitters are equally subject to receiving such inquiries. Such inquiries will not cause substantial competitive harm to the submitter of a plan.

Two comments stated that the response plan information should not be released because the information released on the Internet may be out of date. We disagree. The information to be released on the Internet will have real time access to the Coast Guard's response plan tracking database, which is updated daily as plan revisions are received and processed. The data will reflect the current version of the plans as they are approved by the Coast Guard at all times.

### Discussion of Decision

The information submitted in vessel response plans to the Coast Guard is covered by the Freedom of Information Act (FOIA), applicable regulations, and Executive Order 12,600. Under FOIA, information must be disclosed unless it falls within one of the statute's listed exemptions. Exemption 4 shields from release confidential, commercial, or financial information if the release would cause substantial competitive harm to the submitter. Under Executive Order 12,600 and 49 CFR 7.17, we must have a detailed justification that shows the likely cause of substantial harm to a submitter's present or future competitive position, in order to withhold such information.

We have reviewed the comments submitted to the docket and, except as discussed in this notice, have determined that none of the objections raised have sufficiently shown that the release of this information would cause the submitters to suffer substantial competitive harm. We have determined that there is no substantial prohibition to the release of the VRP data, as described in this notice, on the Internet. We have taken a hard look at the objections raised, and addressed each concern, to ensure that sensitive response plan information will not be released.

The following general categories of response plan information will be available to the general public via the Internet: (1) Owner name; (2) operator name; (3) point of contact information for owner/operator (addresses only); (4) point of contact information for plan preparer (address only); (5) date of last plan update; (6) plan approval status; (7)

plan approval date; (8) plan expiration date; (9) plan identification number; (10) vessel name; (11) vessel identification number; (12) vessel flag; (13) vessel type; (14) hull configuration; (15) vessel length; (16) cargo types (generic cargo groups based on specific gravity only, *i.e.* Groups I–V); (17) primary or secondary carrier designation; (18) worst case discharge amount; (19) qualified individuals (name and company only); (20) oil spill removal organizations (company name and level of response only); (21) other contracted resources; (22) alternate compliance agreements; (23) navigational restrictions; and (24) operating environments (generic operating areas only, *i.e.* offshore, nearshore, inland, rivers & canals, Great Lakes).

All submitters who responded with comments to the "Predisclosure Notice and Request for Comment" have been notified by written letter of our decision to release their information on the Internet. Executive Order 12,600 provides that before a release of any information to which Exemption 4 might apply, if the submitters' assertions of confidentiality or harm are not accepted, the release must be delayed long enough to allow submitters a reasonable opportunity to obtain a court order preventing the release. The VRP information, as described in this notice, is scheduled for release on or about February 1, 2000.

Dated: December 27, 1999.

**J.P. High,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00–33 Filed 1–3–00; 8:45 am]

**BILLING CODE 4910–15–U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Metropolitan Oakland International Airport, Oakland, CA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan Oakland International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget

Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before February 3, 2000.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steven J. Grossman, Director of Aviation of the Port of Oakland, at the following address: 530 Water Street, Oakland, CA 94604. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Port of Oakland under section 158.23 of Part 158.

#### FOR FURTHER INFORMATION CONTACT:

Marlys Vandervelde, Airports Program Analyst, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan Oakland International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On December 14, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Oakland was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 16, 2000. The following is a brief overview of the impose and use application number 00–09–C–00–OAK:

*Level of proposed PFC:* \$3.00.

*Proposed charge effective date:* June 1, 2000.

*Estimated charge expiration date:* January 1, 2003.

*Total estimated PFC revenue:* \$38,459,000.

*Brief description of the impose and use projects:* Electronic Key Security System, Telecommunication Infrastructure Program, Improve Sewer

System for Terminal 1, Airport Radio System, Taxiway Tango Reconstruction, Airfield Lighting Improvement Program, Airfield Master Plan, Runway 11/29 Conduit and Lighting Project, Purchase New Airport Rescue and Firefighting (AAFF) Vehicle, Emergency Operations Center in ARFF Building, Taxiway Charlie Pavement Improvements, Overlay Runway 9L/27R, Install Taxiway Edge Lights on K, L, M, N, P, & Q, and Install Lighting on Ramp.

*Brief description of impose only projects:* Water Pollution Control Facility and Ground Run-up Enclosure.

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* Air Taxi/Commercial Operators filing FAA Form 1800–31 and Commuters or Small Certificated Air Carriers filing DOT Form 298–C T1 and E1.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Oakland.

Issued in Hawthorne, California, on December 14, 1999.

**Herman C. Bliss,**

*Manager, Airports Division, Western-Pacific Region.*

[FR Doc. 00–95 Filed 01–03–00; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### TSO–C140: Aerospace Fuel, Engine Oil, and Hydraulic Fluid Hose Assemblies

**AGENCY:** Federal Aviation Administration, (DOT).

**ACTION:** Notice of availability for public comment.

**SUMMARY:** This notice announces the availability of, and requests comments on, a proposed Technical Standard Order (TSO) pertaining to minimum performance standards and fire resistance standards that hose assemblies, commonly used in aerospace fuel, engine oil, and hydraulic fluid systems, must meet to be identified with the TSO–C140 marking.

**DATES:** Comments must be received on or before March 31, 2000.