



COMDTINST M16450.29
21 MAR 1987

COMMANDANT INSTRUCTION M16450.29

Subj: Guidance and Procedures for Administering and Enforcing the
Noxious Liquid Substances (NLS) Waste Reception Facility
Program

Ref: (a) USCG CITS-86-1-1 (Commandant International Technical
Series)
(b) 33 CFR Parts 126, 151, 156, 157 and 158
(c) 46 CFR Parts 98, 151, 153
(d) Hazardous Waste Management COMDTINST M16478.1A

1. PURPOSE. This instruction provides guidance and procedures for:
 - a. administering and enforcing regulations for (NLS) waste reception facilities;
 - b. issuing and amending Certificates of Adequacy (COA);
 - c. inspecting reception facilities for (NLS) waste; and
 - d. reporting reception facility information.

2. DIRECTIVES AFFECTED. Delete paragraph 1c of enclosure (3) of Commandant Instruction M16450.50.27 pertaining to suspension and revocation procedures and enter a pen-and-ink correction referring to enclosure (3) of this instruction for guidance and procedures for suspension and revocation of Certificates of Adequacy. This action is necessary due to the revisions in 33 CFR 158.170 - 180.

3. BACKGROUND.

- a. On 6 April 1987, Annex II of MARPOL 73/78 enters into force and the United States, as a Party, commences implementation and enforcement of the Annex II reception facility regulations for the prevention of pollution by noxious liquid substances. This Annex classifies chemicals into four categories with Category A being the most hazardous and Category D being the least hazardous. Annex II also specifies requirements for shipboard equipment, operational procedures, and recordkeeping to reduce pollution and requires inspection and certification to verify compliance.
- b. Originally, Annex II was to enter into force on 2 October 1986. However, it was shown through shipboard testing that the elaborate procedures in Annex II were too cumbersome for shipboard personnel to complete, were unenforceable, required large capacity reception facilities, and, most importantly, did not appreciably reduce the amount of NLS waste being generated.
- c. To make Annex II workable the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) adopted a U.S. proposal that oceangoing chemical tank ships install efficient stripping equipment to minimize the amount of Category B and C NLS cargo remaining in the cargo tanks after transfer. For most chemicals a ship could then wash its cargo tanks and discharge the wash water at sea through a suitably sized outlet. This would cause the concentration of the Category B and C NLS in the wake of the ship to be below 1 ppm or 10 ppm, respectively, which would not cause harm to the marine environment.
- d. The requirements for immediately prewashing cargo tanks import and discharging the prewash waste ashore to a reception facility was retained for unloading Category A or solidifying or high viscosity Category B or C NLS's. This requirement was retained for Category A NLS due to the harm to the marine environment it poses. The requirement for the solidifying and high viscosity Category B and C NLS's was retained because these NLS's when unloaded leave more than the allowed amount of residue in the cargo tank. It should be noted that the definitions of solidifying and high viscosity Category B and C NLS's contain two components. The first component is based upon physical properties (e.g., the viscosity at 20(o) C). NLS's which meet the physical component of these definitions are referred to as "potentially" solidifying or high viscosity. Whether these potentially solidifying or high viscosity NLS's require a prewash after being unloaded depends upon the second component of the definition which is an operational parameter, e.g., the viscosity at the unloading temperature.
- e. The result of adopting these new requirements was to drastically reduce the overall need for reception facilities, to limit the need for reception facilities to only unloading terminals and ports, to reduce the amount of NLS entering the ocean, and to provide a simplified, enforceable set of procedures and arrangements.

3. f. Regulations in 46 CFR 98, 151, and 153 implement the Annex II ship requirements, and regulations in 33 CFR 151 and 158 implement the reception facility and additional ship requirements. Commandant's International Technical Series CITS-86-1-1 provides the text of Annex II, unified interpretations of Annex II, Standards for Procedures and Arrangements, amendments to the Bulk Chemical and International Bulk Chemical Codes, and Guidelines on the Provision of Adequate Reception Facilities in Ports, Part II (NLS). These are the international documents from which the U.S. implementing regulations were developed.
- g. Enclosure (1) provides definitions applicable to implementation of the MARPOL 73/78 Annex II reception facility requirements to assist in better understanding and using this instruction.
4. DISCUSSION.
 - a. Adequacy of reception facilities for NLS waste depends upon capacity, timeliness in transferring waste and in providing reception facility service, meeting the backpressure requirements during cargo stripping operations and complying with other related Federal, state, and local permits and licenses concerning NLS residues. The only requirement which substantially differs from those of Annex I is the backpressure requirement. To receive a COA terminals that unload Category B and C NLS must provide a backpressure of 1 BAR (14.7 psig) or less during cargo stripping operations and have an instructions manual giving the procedures and equipment for complying with this requirement.
 - b. It is expected that the need for reception facilities will be minimal, since only waste generated from the unloading of Category A NLS and from the unloading of potentially solidifying or high viscosity Category B or C NLS, when they are transferred below a given temperature, must come ashore. The temperature above which these NLS are non-solidifying or non-high viscosity NLS are listed on the shipping papers or bill of lading.
 - c. To facilitate the transportation of the NLS's described in the above paragraph, ships may obtain a waiver from the prewash and reception facility requirements in the port of unloading in order to use the reception facilities in another port, or to backload a compatible cargo or remove the residue by ventilation (See specific requirements in 46 CFR 153.1114 and 1119).
 - d. To fulfill the MARPOL 73/78 scheme, terminals unloading NLS must be certified in a timely manner with consistent nationwide procedures. To facilitate COTP certification a standard "Form B" Certificate of Adequacy (COA) application (CG-5401B), an Interim COA Letter, and administrative guidance is provided in enclosure (2).
 - e. The purpose of Form B is to provide the information required by 33 CFR 158 so that the COTP can determine whether the terminal's or port's NLS waste reception facilities meet the criteria for adequacy. Submission of Form B by industry is required by the regulation for certification of NLS waste reception facilities.

4. f. The purpose of the COA is to provide a permanent record indicating that the reception facilities fully meet the adequacy requirements. The COA for certifying NLS reception facilities is the revision dated 1/87 (beige in color) of the form used for certifying oily waste reception facilities.
- g. The purpose of the Interim COA Letter is to provide the COTP flexibility in allowing terminals or ports to continue operating while EPA completes their review of Form B and the Coast Guard completes the inspection of the reception facilities and terminals. A sample Interim COA Letter for this situation is provided at attachment C, page 28-C-1 of enclosure (2).
- h. Upon receipt of a Form B, the COTP reviews the information submitted. If, in the COTP's judgement, the information is complete, accurate, and indicates that the adequacy criteria are met, the COTP then forwards the completed Form B to the appropriate EPA Regional Office for review and comment and may issue the Interim COA Letter.
- i. Consultation with EPA is required prior to the issuance of the COA (CG-5401). If EPA's comments on Form B are not received within 20 days, COTPs should assume EPA has no objection and continue processing the Form B. After consulting with EPA or receiving no reply and completing the inspection of the terminal and reception facilities, the COTP may then issue the COA.
- j. Initial Implementation:
 - (1) On 6 April 1987, COTPs are to deny entry of ships to terminals that have not submitted the Form B application for a Certificate of Adequacy for NLS waste reception facilities.
 - (2) On 6 April 1987, COTPs may use the Interim COA Letter to allow a terminal to continue operations, if they have submitted their Form B and have requested a temporary waiver to install backpressure equipment, to prepare the backpressure instruction manual, or to correct minor adequacy deficiencies e.g., NLS discharge time is 10.5 hours versus 10 hours requirement. Before issuing the Interim COA Letter for the above situations, the COTP should be satisfied that the following criteria are met:
 - the terminal or port is making a good faith effort to obtain a COA for NLA waste reception facilities;
 - the Form B accurately reflects the terminal/port operations;
 - reception facilities for NLS waste that must come ashore are available, and can receive the NLS waste within the time constraints given in the regulations; and
 - the Resource Conservation and Recovery Act (RCRA) requirements will be followed, i.e., Uniform Hazardous Waste Manifest will be properly executed.

- 4.j. (3) COTP's when issuing the Interim COA Letter should allow at least 30 days to correct deficiencies, but no more than 90 days. The terminal also should be informed that, if they do not comply with the conditions in their Interim COA Letters, they will be subject to criminal and civil penalties as well as having their application denied. A sample Interim COA Letter with sample conditions for representative situations is provided at attachment C, page 29-C-2 of enclosure (2).
- k. The purpose of the COA worksheet is to simplify standardize and provide a sound analytical approach when calculating whether the capacity, transfer rate, and backpressure requirements in 33 CFR 158 are met. The worksheet is an optional form. A copy of the standard worksheet for local reproduction is provided as attachment (E) to enclosure (2). The COTP may distribute the worksheet to industry as an aid in determining reception facility requirements or may use the worksheet to verify information supplied on Form B.
- l. The waiver authority in 33 CFR 158.150 allows COPT's flexibility in issuing COA's to account for situations where it is physically or economically impractical to comply with regulatory requirements. Waivers allows alternatives to equipment and operational requirements which in the judgement of the COTP provide an equivalent level of protection to the marine environment and do not cause undue delay to ships. Operational procedures are not an authorized alternative for equipment requirements.
- m. For the smooth initiation and operation of the program, a local industry education and assistance effort is necessary. Timely dissemination of reception facility requirements, COTP responsibilities, and certification procedures through industry meetings, port newsletters, journal articles, personal contacts, speaking engagements, and direct correspondence will help allay industry's concerns and facilitate implementation. It is recommended that COTP's contact terminal operators informing them of their responsibility to apply for an NLS waste reception facility COA and that the COTP will assist them in completing the application and worksheets. A spirit of cooperation will foster better working relationships and will considerably aid the issuance of the COA's.
5. ACTION. An accordance with the guidance and procedures contained in this instruction:
- a. District commanders shall:
- (1) coordinate activities for the implementation and management of the NLS waste reception facility program;
 - (2) take action as set forth in 33 CFR 158.190 on appeals submitted to the district from terminals/ports.

5. b. Commanding officers of MSO's and COTP's shall:

- (1) process Form B COA application from terminals and ports requesting certification that the facilities are adequate for receiving NLS residues including consulting with the environmental Protection Agency, issuing the Interim COA letters, issuing waivers, responding to appeals, and amending COA's and applications in accordance with enclosure (2);
- (2) annually inspect reception facilities for compliance with the waterfront facility regulations in 33 CFR 126 and the reception facility regulations in 33 CFR 158;
- (3) issue COA's with the Form B COA application and waivers attached;
- (4) suspend and/or revoke COA's when appropriate;
- (5) deny entry to terminals and ports not holding Certificates of Adequacy;
- (6) submit program management information in the PES/MER Quarterly Activities Report (CG-4957) via District (m) in accordance with enclosure (4);
- (7) investigate allegations that terminals, ports, reception facilities, and ships are not complying with MARPOL 73/78, the Act to Prevent Pollution from Ships or associated regulations, and initiate enforcement actions in accordance with enclosure (3); and
- (8) commence a public and industry information and assistance program for education and compliance with the regulatory requirements of Annex II of MARPOL 73/78.

6. REPORTS/FORMS REQUIRED. Commanding officers of MSO's and COTP's shall:

- a. submit to Commandant (G-MPS-1) via District (m) copies of Form B for COAs that have been issued; and
- b. submit program information concerning the issuance of Certificates of Adequacy on the PES/MER Quarterly Activities Report (QAR), CG-4957, RCS: G-WP-14013, per enclosure (4). Forms CG-4957 and 5401B may be locally reproduced.

/s/ J. W. KIME
Rear Admiral, U.S. Coast Guard
Chief, Office of Marine
Safety, Security and
Environmental Protection

- Enclosures: (1) Definitions
(2) Guidance and Procedures for Issuing Certificates of Adequacy for NLS Waste Reception Facilities
(3) NLS Waste Reception Facility Enforcement Policy
(4) NLS Waste Reception Facility Reporting Requirements
(5) Generator Policy

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DEFINITIONS

The following definitions are provided to assist in understanding the terminology associated with the regulatory requirements for issuing Certificates of Adequacy. Where headings are enclosed by quotation marks ("..."), the definitions are quoted directly from applicable statutes, international conventions, or regulations and the appropriate citation is provided in brackets []. Headings without quotation marks do not have a legal citation. The abbreviation CFR stands for Code of Federal Regulations and USC stands for United States Code.

1. "Administration" refers to the Government of the State under whose authority the ship is operating. For fixed or floating platforms engaged in exploration and exploitation of the coastal seabed and subsoil, the Administration is the Government of the coastal State exercising sovereign rights for the purpose of exploration and exploitation of their natural resources. [Art. 2(5) MARPOL 73/78]
2. "Certificate of Adequacy" means a Coast Guard issued Certificate of Adequacy with Form A or Form B or both attached. [33 CFR 158.120]
3. "Daily Vessel Average" means the total number of oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil, serviced over a typical continuous 12 month period, divided by 365. [33 CFR 158.20]
4. "Form A" means the application for a reception facility Certificate of Adequacy for Oil, as approved by OMB, Coast Guard form USCG-CG-01(A) (9-85) (OMB Approval NO. 2415-D543). [33 CFR 158.120]
5. "Form B" means the application for a reception facility Certificate of Adequacy for NLS, as approved by OMB, Coast Guard form USCG-CG-5401B(2-87) [33 CFR 158.120]
6. "Harmful Substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by MARPOL 73/78. [33 CFR 158.120]
7. "High Viscosity NLS" includes Category A NLSs having a viscosity of at least 25 mPa.s at 20C and at least 25 mPa.s at the time the are unloaded, high viscosity Category B NLS's and high viscosity Category C NLSs. [33 CFR 158.120]

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8. "High Viscosity Category B NLS" means any Category B NLS having a viscosity of at least 25 mPa.s at 20 C and at least 25 mPa.s at the time it is unloaded. [33 CFR 158.120]
9. "High Viscosity Category C NLS" means any Category C NLS having a viscosity of at least 60 mPa.s at 20C and at least 60 mPa.s at the time it is unloaded. [33 CFR 158.120]
10. "MARPOL Protocol" (MARPOL 73/78) stands for the International Convention for the Prevention of Pollution from Ships, 1973, (done at London, November 2, 1973), as modified by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships 1973 (done at London on February 17, 1978), as ammended, (1985). [33 CFR 151.05(g)]
11. "Noxious Liquid Substance" (NLS) means:
 - a. Each substance listed in 33 CFR 151.47 or CFR 151.49;
 - b. Each substance having an "A", "B", "C" or "D" beside it's name in the column headed "Pollution Category" in Table 1 of 46 CFR 153; and
 - c. Each substance that is identified as an NLS in a written permission issued under 46 CFR 153.900(d). [33 CFR 158.120]
12. "Oceangoing ship" means a ship that:
 - a. is operated under the authority of the United States and engages in international voyages;
 - b. is operated under the authority of the United States and is certificated for ocean service;
 - c. is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land;
 - d. is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in 33 CFR 2.05; or
 - e. is operated under the authority of a country other than the United States.

Note: A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the United States and Canada; is not an "oceangoing" ship. [33 CFR 151.05(j)]

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13. "Owner" means any person holding title to, or in the absence of title, any other evidence of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds evidence of ownership primarily to protect a security interest in the ship or terminal. [33 USC 1901]
14. "Person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body. [33 CFR 151.05(n)]
15. "Person in Charge" means an owner of, an operator of, or a person authorized to act in behalf of a port or terminal. [33 CFR 158.120]

NOTE: The "person in charge" in this part is not necessarily the same person as the "person in charge" referred to in 33 CFR Parts 154, 155, and 156 (as defined in 33 CFR 154.105).

16. "Prewash" means a tank washing operation that meets the procedure in 46 CFR 153.1120. [33 CFR 158.120]
17. "Port" means:
 - a. a group of terminals that elect to be considered a port for the purposes of this part; or
 - b. a port authority or other organization that chooses to be considered a port for the purposes of this part; or
 - c. a place or facility that has been specifically designated as a port by the COTP. [33 CFR 158.120]
18. "Reception Facility" means anything capable of receiving shipboard residues and mixtures containing oil, that includes, but is not limited to:
 - a. fixed piping that conveys residues and mixtures from the ship to a storage or treatment system;
 - b. tank barges, railroad cars or tank trucks and other mobile facilities; and
 - c. any combination of fixed and mobile facilities. [33 CFR 158.120]
19. "Regulated NLS cargo" includes each Category A or high viscosity or solidifying Category B or C NLS cargo listed in Table 1 of 46 CFR Part 153 that contains a reference to 153.908(a) or 153.908(b) in the "Special Requirements" column of that table and is unloaded at the port or terminal within a typical continuous 12 month period either before or after application is made for a Certificate of Adequacy.

Enclosure (1) to COMDTINST M16450.29

20. "Residues and Mixtures Containing NLSs" (NLS residue) means:
- a. Any Category A, B, C, or D NLS cargo retained on the ship because it fails to meet consignee specifications;
 - b. Any part of a Category A, B, C, or D NLS cargo remaining on the ship after the NLS is discharged to the consignee, including but not limited to puddles on the tank bottom and in sumps, clingage in the tanks, and substance remaining in the pipes; or
 - c. Any material contaminated with Category A, B, C, or D NLS cargo including but not limited to bilge slops, ballast, hose drip pan contents, and tanks wash water. [33 CFR 158.05]
21. "Ship" means a vessel of any type whatsoever, operating in the marine environment. This includes hydrofoils, air-cushioned vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating drilling rigs and other platforms. [33 CFR 151.05(q)]
22. "Solidifying NLS" means a Category A, B, or C NLS that has a melting point:
- a. greater than 0C but less than 15 C and has a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 5C above its melting point at the time it is unloaded; or
 - b. 15 C or greater and has a temperature, measured under the procedure in 46 CFR 153.908(a), that is less than 10C above its melting point at the time it is unloaded. [33 CFR 158.120]
23. "Tank Barge" means a tank vessel not equipped with a means of self-propulsion. [33 CFR 157.03(u)]
24. "Terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance. [33 USC 1901]
NOTE: A ship repair yard is a terminal by definition. A fixed or floating drilling rig or other platform is not a terminal because it is, by definition, a "ship" under 33 CFR 151.05(q).
25. "The Act" means the Act to Prevent Pollution from Ships (94 Sta. 2297, 33 U.S.C. 1901 et seq.) [33 CFR 158.120]

GUIDANCE AND PROCEDURES FOR
ISSUING AND AMENDING CERTIFICATES OF ADEQUACY
FOR NOXIOUS LIQUID SUBSTANCE (NLS) WASTE RECEPTION
FACILITIES

To fulfill the requirements of Annex II of MARPOL 73/78 reception facilities for Noxious Liquid Substance (NLS) residues must be certified in a timely manner with consistent nationwide procedures that provide for a thorough review for adequacy. The Coast Guard's goal is to issue each terminal or port either an Interim COA Letter or a Certificate of Adequacy (COA) by 6 April 1987. To meet the above objective this enclosure provides standardized forms together with guidance to minimize the COTP's efforts in issuing COAs. Additionally, policy is given for COTPs to respond to the multitude of special circumstances so they can tailor the program to their geographic areas and terminals. For the smooth initiation and operation of the program, a local industry education and assistance effort is necessary. Timely dissemination of reception facility and COA application requirements through industry meetings, port newsletters, journal articles, personal contacts, speaking engagements, and direct correspondence will allay industry's concerns and facilitate implementation. It is recommended that COTPs contact terminal operators and inform them of their responsibility to apply for a COA, provide them with Form B and the worksheet, and offer them assistance in completing the forms. A spirit of cooperation will foster better working relationships and will considerably aid the issuance of the COAs.

1. Applicability:

- a. The regulations in 33 CFR 158 apply to terminals, ports, and ship repair yards subject to U.S. jurisdiction as follows:
 - (1) terminals and ports that unload NLS cargo in bulk from oceangoing ships and
 - (2) ship repair yards that receive oceangoing chemical tankers.
- b. The regulations in 33 CFR 158 do not apply to the following:
 - (1) terminals and ports that only load oceangoing chemical tankers, since NLS cargo tanks must only be washed and the waste transferred ashore after unloading cargoes;
 - (2) terminals and ports that receive only
 - (a) non-self propelled tank barges carrying NLS that are not configured and are not equipped to ballast or wash cargo tanks while proceeding en route; and/or
 - (b) ships operating under waivers under 46 CFR 153.491(b); and/or

Enclosure (2) to COMDTINST M16450.29

- 1.b.(2) (c) ships that carry NLS in marine portable tanks and transfer the tank itself, since this is a break-bulk (packaged) transfer. If the ship transfers NLS out of the marine portable tank to a terminal, this is a bulk transfer and the terminal must comply with the regulations in 33 CFR 158 and the ship with 46 CFR 153.
 - (3) Fixed or floating drilling rigs or other platforms, since by definition these structures are "ships" under MARPOL 73/78.
2. COTP Authority: Through the delegations in 33 CFR 151 and 158 the COTP:
 - a. issues, denies, suspends and revokes Certificates of Adequacy;
 - b. determines compliance with requirements by an inspection of the reception facility and terminal or port.
 - c. designates ports under the authority in 33 CFR 158.120;
 - d. grants and denies waivers from reception facility requirements in 33 CFR 158;
 - e. denies entry of oceangoing ships to NLS unloading terminals or ports not having a valid COA;
 - f. denies entry of oceangoing ships to terminals and ports that are not in substantial compliance with Annex II of MARPOL 73/78;
 - g. investigates alleged violations of reception facility requirements; and
 - h. issues subpoenas for investigative purposes.
3. COA APPLICATION GUIDANCE AND PROCEDURES:
 - a. General Policy:
 - (1) The purpose of the COA Application (CG-5401B) "Form B," in Attachment (A) to this enclosure, is to provide the COTP with the information required by 33 CFR 158 to determine the adequacy of reception facilities in a standard format. The use of Form B is mandatory and applies only to NLS waste reception facilities. Form B consolidates the requirements of these regulations so both industry and the COTP can immediately evaluate a terminal or port's ability to meet the requirements in 33 CFR 158 for NLS waste reception facilities.
 - (2) As required in 33 CFR 158 Form B shall be attached to and become part of the COA when issued by the COTP. COA Application Form A, pertains to oily waste reception facilities. Guidance for issuance of Form A is contained in Commandant Instruction M16450.27.

Enclosure (2) to COMDTINST M16450.29

- 3.a. (3) The COTP should request supporting information such as completion of the worksheet in attachment E for unclear or questionable data submitted on Form B.
- (4) Based on local experience and knowledge, the COTP will assess the validity of the information supplied on Form B, and, if this information appears accurate and indicates that the reception facility criteria are met, the COTP shall:
- (a) issue an Interim COA Letter, if the conditions in paragraph 6c of this enclosure are met; or
 - (b) issue the COA, if EPA consultation and the reception facility and terminal inspections are satisfactorily completed.
- (5) COTPs will within 15 days after receiving Form B either inform the applicant that the information provided is satisfactory and complete or return Form B for correction and/or additional information.

b. Form B Review Procedures:

- (1) Review Form B for completeness and accuracy by checking that:
- (a) entries are made for every line item except if applicant is a single terminal, line item 1.D. will not be completed.
 - (b) the number of terminals listed in 1.B. is equal to the number of terminal names and addresses entered in 1.D. or on separate pages;
 - (c) each terminal's person in charge signs 1.D. to indicate the terminal is a member of the port, if the Application is for a port;
 - (d) the person in charge of the terminal or port signs at the end of the Application; and
 - (e) if line item 3.A., 3.B., or 3.C. is checked, then the terminal or port must provide a list naming the specific cargoes and categories handled or may check the applicable cargoes on the attached COTP NLS Cargo List.
- (2) For determining the adequacy of a terminal/port use TABLE 1 by finding the appropriate column for the NLS unloaded by the terminal (See section 3 of Form B) or whether the terminal is a ship repair yard. Then verify the application line item entries are the same as those listed under the column heading.

TABLE 1
FORM B CRITERIA FOR DETERMINING ADEQUACY

Terminal unloads only Cat A (mark only in line item 3A)	Terminal unloads s/hv(1) Cat B or C (marks in either line items 3B or 3C)
4A is N/A	4A is YES
4B is N/A	4B is YES
5A is greater than 5B	5A is greater than 5B
5C is YES	5C is YES
5D is YES	5D is YES
5E is YES	5E is YES
5F is YES	5F is YES
5G is N/A	5G is N/A
Terminal <u>ONLY</u> unloads non-s/hv(2) Cat B or C (marks in line items 3D and 3E only)	Ship Repair Yard
4A is YES	4A is N/A
4B is YES	4B is N/A
5A is N/A	5A is greater than 5B
5B is N/A	5C is N/A
5C is N/A	5D is N/A
5D is N/A	5E is YES
5E is N/A	5F is YES
5F is N/A	5G is YES
5G is N/A	

IF A TERMINAL UNLOADS A COMBINATION OF NLS CARGOES, DIVIDE THE NLS CARGOES INTO THE FOUR GROUPS ABOVE AND CHECK TO SEE FOR EACH GROUP IDENTIFIED THAT THE LINE ITEM STATEMENTS ARE CORRECT.

1. s/hv means potentially solidifying and high viscosity NLS
2. non-s/hv means non-solidifying and non-high viscosity NLS

Enclosure (2) to COMDTINST M16450.26

- 3.b. (3) TABLE 2 indicates applicable portions of the regulations which were reflected in the adequacy criteria outlined in TABLE 1. This table is provided for information purposes only.

TABLE 2

Cargoes Unloaded	Transfer Time Requirements 33 CFR 158.310	Capacity Requirements 33 CFR 158.320	Backpressure Requirements 33 CFR 158.330
Category A	X	X	-
s/hv(1) Category B	X	X	X
s/hv(1) Category C	X	X	X
non-s/hv(2) Category B	-	-	X
non-s/hv(2) Category C	-	-	X
Category D	-	-	-
Ship Repair Yard	X*	X	-

1 s/hv means potentially solidifying and high viscosity NLS

2 non-s/hv means non-solidifying and non-high viscosity NLS

* Complete transfer of NLS Residues before ship leaves the ship repair yard

(4) Reception Facility Location Review.

- (a) 46 CFR 153.1119 requires vessels to discharge their NLS residues resulting from prewash operations to reception facilities in the port of unloading. If response to line item 5.E of Form B is "no," the terminal or port must submit a request for a waiver of the requirement. When a waiver request is received compare the location of the reception facility to the location of the terminal or port. If line item 2.E. indicates that the reception facility is mobile, the reception facilities should be provided in the terminal or port. If the location of the reception facility requires ships to travel an unreasonable distance so as to cause undue delay, or if a required movement may endanger ships, e.g. due to channel restrictions, then the reception facilities are inadequate and a COA should not be issued.
- (b) Reasonable distance is a subjective term and relies upon the judgment of the COTP. Having a ship change berths at a terminal to discharge waste or having a ship stop at another terminal enroute to its next port is reasonable. Having the ship travel 100 miles out of its way is unreasonable. Factors which may affect the reasonable distance determination include: tides, vessel traffic, navigational route, pilot requirements, bridge schedules and local port restrictions.

3.b. (5) RECEPTION FACILITY CAPACITY REVIEW:

- (a) Review for the concurrent use of the reception facility by other terminals to ensure capacity is sufficient to meet total demand. Total all of the waste capacity demands for that reception facility to determine whether they exceed the reception facility's daily average capacity. In localities with few available reception facilities, this procedure can be useful in bringing to the COTP's attention when a reception facility may be over extending itself. In this circumstance the COTP should decide whether the reception facility can meet its obligations by considering the frequency of vessels visiting the terminals and the probability that these vessels will need to simultaneously transfer NLS residues ashore. Taking this into consideration, a reception facility could provide service to terminals having a combined capacity requirement from 3 to 5 times or more of the reception facility's capacity.
 - (b) COTP's may issue a waiver to indicate that a reception facility's capacity is less than the sum of the requirements of the terminals it is servicing. The benefit of issuing the waiver is that it documents the shared reception facility situation. Other COTP's have issued the COA's without waivers. In either case, if the terminal repeatedly fails to provide sufficient capacity upon demand, then it will have to increase its capacity by some means, or ships will be denied entry to the terminal.
- (6) COA Application Discrepancy Procedures: For minor discrepancies not affecting the adequacy of the facility COTPs should phone the applicant and discuss the discrepancy. If agreeable to the applicant the COTP may correct the discrepancy in red, record the conversation in the applicant's files giving the name of the person contacted and the date, and continue processing the COA Application. If significant errors, omissions, or discrepancies are noted in the COA Application which affect the adequacy determination, the COTP will inform the applicant of the discrepancy in writing and require resubmission of the Application within 30 days. If the COA Application is not resubmitted within 30 days, the COTP should deny entry of ships to the terminal since it does not have a valid COA or a pending Application.

4. EPA CONSULTATION:

- a. COTPs should contact EPA regional offices to identify points of contact, to discuss the reception facility requirements and procedures, and to resolve discrepancies noted by EPA with individual COA Applications. Close coordination is essential to develop understanding and agreement.

4. b. Upon receipt of a completed COA Application, the COTP shall forward a letter with a copy of the COA Application to the appropriate EPA Regional Administrator for review in accordance with 33 USC 1905(c). The letter will request EPA to submit their comments on the COA Application within 20 working days of the date of the letter and state that negative responses are not required. If a response is not received either verbally or in writing within the 20 day period, the COTP will assume EPA does not object and does not have substantive comments on issuance of the COA.
- c. While all due consideration should be given to EPA comments, ultimately the COTP decides whether or not to issue a COA. A sample letter to the EPA Regional Administrator is provided as Attachment (B) to this enclosure.
- d. COTPs will not deny approval exclusively on the basis of an EPA objection unless EPA's objections impact on CG program missions (e.g., EPA does not approve application because effluent from terminal has exceeded National Point Discharge Elimination System (NPDES) permit conditions. This case would impact on CG missions only if the discharge was causing pollution into the navigable waters of the U.S.). In addition review by EPA of Form B does not constitute approval for any of EPA's other regulatory programs.

5. RECEPTION FACILITY INSPECTIONS:

a. General Policy:

- (1) Inspection of reception facilities is required by 33 CFR 158.160 and will be conducted prior to issuance of the COA to verify compliance with the requirements of 33 CFR 126 and 158. If multiple reception facilities are designated on the COA Application, all of them will be inspected prior to issuance of the COA. COTP's will conduct inspections of reception facilities annually thereafter, and record the results on the inspection endorsement section of the COA. Additional pages may be attached to the COA to record inspections, or the COA may be reissued.
- (2) Once a reception facility satisfactorily passes the COTP's inspection, it is then approved for use by other terminals without re-inspection. In certain cases this may require coordination, between adjacent COTPs; i.e. one COTP may accept another COTPs inspection of mobile reception facilities designated for use in both COTP zones.
- (3) When possible COTP's inspect terminals and the associated reception facilities within 30 days of receipt of Form B. This is necessary due to the potentially harmful environmental effects of improperly handled NLS wastes. Subsequent terminal

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5.a.(3)cont. inspections should be conducted in conjunction with the annual waterfront facility inspections. Reception facilities are inspected prior to initial COA issuance and annually thereafter.

(4) Federal Facilities, Under the Control of Department of Defense:

The regulations for NLS waste reception facilities in 33 CFR 158 apply to Federal facilities receiving oceangoing, commercial ships. The following procedures apply to Federal facilities under the control of the Department of Defense that receive oceangoing, commercial ships.

- (a) COTP's should assist Federal facility managers in understanding and complying with the regulatory requirements.
- (b) Federal facility manager will submit a COA Application to the COTP.
- (c) COTP upon receipt of the completed COA Application will forward it to the EPA Regional Administrator for review.
- (d) Upon completing the above procedures the COTP may either-
 - (1) Conduct an inspection of the reception facility and issue the COA, or
 - (2) Accept the Federal facility managers inspection of the reception facility and issue the COA.

(5) Federal Facilities Receiving Only Public Vessels. The regulations in 33 CFR 158 do not apply to Federal facilities receiving only public vessels, since public vessels are excluded from the requirements of MARPOL and the Act to Prevent Pollution from Ships. For the purposes of MARPOL and the Act to Prevent Pollution from Ships a "public vessel" is a vessel owned or operated by the government and which is not engaged in commercial service. However, Executive Order 12088 does require Federal facilities receiving only public vessels to comply to the best of their ability with U.S. pollution and environmental protection requirements.

b. Reception Facility and Terminal Inspection Procedures: COTPs inspect the following items to ensure the reception facility and terminal complies with applicable pollution prevention regulations and Form B statements:

(1) Initial Inspection:

- (a) Verify that names, addresses and phone numbers of the terminal's reception facilities and persons in charge are correct.

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- 5.b. (1) (b) Verify, to the extent possible, the reception facility's estimated daily average capacity as stated on the COA Application. In the case of mobile reception facilities, it may be necessary to actually count the number of tank trucks or barges available.
- (c) Verify the daily average amounts of waste treated, processed, or otherwise transferred from the reception facility by having reception facility personnel explain the processes and by reviewing documents, equipment, etc. that indicate daily capacities.
- (d) Review recently completed Uniform Hazardous Waste Manifest (see attachment (F)). Check that EPA ID numbers are entered on lines 1, 6, and 9 for the generator, transporter and designated disposal site. Check that line item 20 is signed by the treatment, storage, and disposal (TSDF) facility indicating that the product reached the disposal site.
- (e) Check that reception facility has an EPA hazardous waste contingency plan and a training log (40 CFR 264 subpart C and D).
- (f) Request to see any drums storing hazardous material and ensure that a shipping label is displayed indicating the date the material was generated.
- (g) Verify that the terminal or port meets the 1 BAR backpressure requirements as described in paragraph 5.b.(3). Upon completion of approval indicate date and that verification of 1 BAR backpressure is met by the terminal/port and make an appropriate note in the terminal's file.
- (h) Check the condition of safety equipment e.g. smoking signs, fire hoses, extinguishers, warning alarms.
- (2) Annual Inspection. Prior to departing office review the file on the facility to be inspected. Insure that file contains approval of the terminal's/port's backpressure requirement. If no violations or complaints are recorded, inspect as outlined below. If the Facility has a history of noncompliance a more indepth and detailed inspection similar to the initial inspection should be followed. Copy the COTP file copy of the application and attachments prior to leaving the office for comparison to terminals present trade and operations.
- (a) Compare the COTP file copy of COA with Form B and waivers attached to the COA available at the terminal and resolve any discrepancies.

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- 5.b. (2) (b) Ask the terminal or port person in charge if any new chemicals are being shipped since submission of the application.
- (c) Check that the instruction manual which outlines procedures for reducing backpressure to 1 BAR or less during stripping operations is available.
- (d) Review recently completed Uniform Hazardous Waste Manifest (see attachment (F)). Check that EPA ID numbers are entered on lines 1, 6, and 9 for the generator, transporter and designated disposal site. Check that line item 20 is signed by the treatment, storage, and disposal (TSDF) facility indicating that the product reached the disposal site.
- (3) COTP Verification of Meeting Backpressure Requirement.
The regulations require the terminal or port to facilitate stripping of Category B and C cargoes by providing no more than 1 BAR (14.7 psip) backpressure during cargo stripping operations. Only terminals or ports which checked line items 3B, 3C, 3D, or 3E on Form B must meet this requirement. Additionally, terminals must have an instruction manual which details the equipment and procedures for meeting the backpressure requirement. Terminals that maintain an operations manual under 33 CFR 154.300 may comply by adding a separate section in this manual which gives the backpressure equipment and procedures. To verify that the backpressure requirement is met the COTP will during the reception facility/terminal inspection review the terminal backpressure instruction manual or operations manual and take the following action:
- (a) If the terminal has no pumps or surge tanks to reduce the backpressure, check if the optional COTP worksheet was completed and verify that the value in line item "AH" is less than 1. If the worksheet was not completed, perform the calculations in the Terminal Backpressure Section of the worksheet with information supplied by the terminal. If the criteria are not met (i.e., line item "AH" is greater than 1) inform the terminal that operational or equipment changes must be made.
- (b) If the terminal or port has pumps surge tanks or other equipment to reduce the backpressure, the COTP normally should accept the backpressure arrangement, if it is certified by a Registered Professional Engineer (P.E.). Otherwise the COTP should require the arrangement be tested shown to meet the 1 BAR or less backpressure requirement.

6. COA Application Approval and Denial Procedures:

- a. Approval Procedures: The COTP should issue the COA in attachment(D) only after satisfactory completion of the Form B, EPA consultation, and an inspection of the reception facility and terminal.

- b. Denial Procedures:
 - (1) If Form B indicates the proposed reception facilities are inadequate or if a discrepancy is found during the reception facility inspection, the COTP will inform the terminal of the discrepancy by letter. The letter should state that the terminal has 30 days from the date of the letter to correct the discrepancy or the application for a COA will be denied. If the discrepancy is not corrected within 30 days or substantial progress is not made in correcting the deficiency, then the COTP will inform the terminal by letter that the COA Application is denied and that ships are denied entry to the terminal.

 - (2) If the EPA objects that the reception facility does not comply with EPA regulations, e.g., National Pollutant Discharge Elimination System (NPDES) permit, the COA may be denied using the procedures in paragraph (1), but ultimately the COTP is responsible for deciding whether to issue a COA.

 - (3) Federal Facility Enforcement Policy. If a COA Application from a Federal facility does not meet the criteria for adequacy, the discrepancies noted should be resolved through either issuance of a waiver or through discussions with the Federal facility manager. If discussions do not resolve the discrepancies District (m) should consult with the parent command. The COTP Will not deny ships entry to Federal facilities during negotiations.

- c. Interim COA Letter:
 - (1) The purpose of the Interim COA Letter is to allow terminals and ports to conduct normal operations while EPA completes their review of Form B and the Coast Guard completes the inspection of the reception facilities and terminals. For initial implementation COTPs may also use the Interim COA Letter to permit continued operations as stated on page 4 of this instruction.

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6. c. (2) For issuance of the Interim COA Letter the COTP should be satisfied that the Form B is complete, accurately reflects the terminal's operations, and indicates the adequacy criteria are met. Samples of Interim COA Letters are provided in attachment C of this enclosure.

d. COA Issuance:

(1) Because the COA remains valid until suspended or revoked, the COTP must be sure that the reception facilities are adequate prior to issuance. The COA was revised as of 27 Jan 1987. Only the new "beige" version dated (1/87) should be used for both Oil and NLS Waste Reception facilities. The COTP will issue the COA in attachment (D) only if:

- (a) Form B is complete and accurate;
- (b) Form B and worksheets or other supporting information indicate the reception facility meets the requirements for adequacy or appropriate waivers have been approved;
- (c) EPA consultation is satisfactorily completed; and
- (d) the reception facility and terminal inspection are satisfactorily completed.

(2) COTPs will forward to the person in charge of the terminal or port the original COA with Form B and approved waivers attached. In the case where terminals are grouped as a port, inform the person in charge that he must supply each terminal that is a member of the port with a copy of the COA and attached application.

(3) COTPs will forward a copy of Form B to Commandant (G-MPS-1) via the district (m) office. This information will be used to publish a list of adequate NLS waste reception facilities in the Federal Register.

7. WAIVERS:

a. General Policy:

(1) The waiver authority in 33 CFR 158.150 allows COTPs flexibility in issuing COAs to account for situations where it is physically or economically impractical to comply with regulatory requirements. Waivers allow alternatives to equipment and operational requirements which in the judgment of the COTP provide an equivalent level of protection to the marine environment and do not cause undue delay to ships. Operational procedures are not an authorized alternative for equipment requirements.

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7. a. (2) If a terminal or port has a pending waiver request on file together with its Form B, DO NOT deny ships entry to the terminal. If issuance of a COA depends upon approval of a waiver and the waiver is denied, the terminal or port should be given 30 days to resubmit its Form B prior to denying ships entry to that terminal.
- (3) There is no provision in either MARPOL 73/78 or the Act which authorizes a deviation from compliance with any requirement in 33 CFR 158 without an acceptable, equivalent alternative.

b. Processing Waiver Requests:

- (1) The person in charge of the terminal or port must submit an application in writing for a waiver to the COTP. Applications for waivers must specify the applicable requirement(s) in 33 CFR 158 with which the applicant feels compliance is impracticable and propose specific alternatives. The request must show that:
 - (a) compliance with the requirement is physically or economically impractical for the operation of the port or terminal;
 - (b) the proposed alternative will not cause undue delay to ships; and
 - (c) the proposed alternative provides a level of safety and protection to the marine environment which is equivalent to that provided by 33 CFR 158.
- (2) The COTP may require submission of additional information to support the waiver request.
- (3) When reviewing waiver requests COTPs should consider:
 - (a) whether the cost of compliance economically jeopardizes the economic viability of the company;
 - (b) the availability of mobile reception facilities and the travel distance involved;
 - (c) the cost of purchasing additional equipment versus compliance with either capacity or transfer time requirements;
 - (d) the implications for ships visiting the terminal and if approving zero capacity for remote sites consider whether the ships visiting the terminal or port may approve or disapprove of the proposed alternative;

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7. B. (3) (e) future changes in technology, cost of equipment, vessel traffic and types at the terminal or port, etc.;
- (f) navigational and pollution risks associated with ships traveling to use reception facilities;
- (g) the affects of tides, drawbridge operations, and other local conditions that may have an impact upon delaying the ship should the ship have to travel to another location to discharge NLS waste;
- (h) the impacts upon vessel operations and scheduling; and
- (i) the threat of pollution to the marine environment.
- (4) To account for the above considerations COTPs may place conditions on waivers specifying an expiration date for the waiver at which time the waiver must be reevaluated to insure that the conditions for which the waiver was issued still exist. As long as the waiver condition requirements are met, the waiver and COA remains valid. As an example waivers may be conditioned to remain valid as long as:
- (a) The vessels using the terminal or port do not object to the waiver; and
- (b) the terminal or port receives only certain vessels, types of vessels, or a certain number of vessels.
- (5) The COTP shall either grant or deny the waiver within 30 days of receipt of a written waiver application.
- (6) If in the judgment of the COTP the requirements abovec are met, the COTP should issue the waiver. The waiver must be in writing and must specify each alternative and condition that applies and the regulatory requirement for which the alternative is substituted. The waiver information must be enterd on the COA in the appropriate block and the waiver itself must be attached to the COA.
- (7) Waiver expiration dates, it given, will be for no longer than 5 years, at which time the waiver must be reevaluated. If the person in charge of the terminal or port is unable to justify that the waiver conditions still exist, then the waiver should not be reissued and the COA application should be reevaluated for adequacy.

7. C. Specific Waiver Requests.

- (1) Backpressure Requirement Waiver: The requirement to provide no more than 1 BAR backpressure during stripping cargo should not be waived unless the terminal or port can show:
 - that "all" visiting ships do not need to strip their tanks, e.g. ships that only unload Category A NLS or are in a dedicated trade; or
 - that the ships stripping equipment can efficiently strip to the regulatory quantities against specified higher backpressures.

- (2) Drug Store Terminal Capacity and Waste Transfer Waiver. Terminals which unload many different NLS's during a year may be allowed to base their reception facility capacity needs on the estimated or historical number of regulated NLS's unloaded in a single day at their docks. It is expected that no more than three regulated NLS cargoes normally would be unloaded in any given day. For a terminal handling ten regulated NLS's in a year, this would reduce the daily reception facility capacity from about 500 to 150 cubic meters or less per day. The ability for the reception facility to receive the ship's NLS waste within ten hours of waste discharge commencement would then be based upon the reduced capacity.

- (3) Terminal Capacity Waivers Request Due To Change in Terminal Transfer Requirements: With the capacity of the reception facility partially based on the number of potentially solidifying and high viscosity Category B and C NLS's unloaded, some terminals may request a waiver from providing reception facilities by stating their contracts require transfer temperatures that eliminate prewashes of these NLS's. A waiver under these circumstances is inappropriate, since the cargo transfer temperature is determined by the unloading ship, which in all situations may not be able to heat the cargo to the temperatures required.

8. FILING PROCEDURES:

- a. The COTP should maintain a file system with the ability to locate information pertaining to both terminals/ports and reception facilities. A suggested system is a dual filing system. One set of files would be indexed alphabetically by the terminal or port name and would contain copies of the applicable worksheets, COA Applications, COAs, waivers, violation record and correspondence. The other set of files would be indexed alphabetically by the reception facility name and would contain copies of the COA Applications of the terminals/ports using its services, violation record, and inspection record. A computer program or a cross reference system are examples of other filing systems that may be used.

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8. b. The dual filing system will allow COTPs to better track and schedule reception facility inspections and to determine whether a reception facility's overall capacity is exceeded by terminal demands.
9. COTP DESIGNATION OF PORTS:
 - (a) Ship to ship lightering of NLS cargoes is the only situation where the COTP may need to exercise his authority to designate a port for purposes of requiring the use of reception facilities. Exercising this authority may be necessary since 33 and 46 CFR do not pertain to ship to ship transfers. If lightering is taking place in the COTP zone and the ship unloading cargo transfers prewash NLS residue that must come ashore to a COTP inspected reception facility, no COTP action is necessary, as the NLS residues are being properly disposed.
 - (b) If the ship unloading NLS cargo does not make arrangements for prewash NLS residue to come ashore, then the COTP should inform the ships master of U.S. requirements and provide the master with a list of reception facilities that are inspected and can accept the NLS residues from the ship.
 - (c) COTP may designate the entire COTP zone as a "COTP Designated Port" under 33 CFR 158.130. This may be particularly useful during lightering operations when a master refuses to transfer the NLS residue to a reception facility. By designating the COTP zone as a "COTP Designated Port" ships lightering will have to use adequate reception facilities or they will be denied entry to the COTP zone. If it is necessary to designate a port, contact Commandant (G-MPS-3) for the regulatory procedures to be followed.
 - (d) If a COTP has a question as to whether another situation may require exercising the authority to designate a port, they should present the situation for review to Commandant (G-MPS) via District (m).
10. APPEALS: The appeal procedures found in 33 CFR 158.190 allows persons directly affected by a COTP action to appeal first to the COTP and then to District Commanders and finally to Commandant (G-M) Although no time limit is stipulated for appeal review, the COTP and District should respond to appeals within 10 working days, except for unusual circumstances. Specific procedures for processing appeals are in 33 CFR 158.190.
11. AMENDMENTS TO THE COA AND FORM B APPLICATION: 33 CFR 158.165(a) and (b) require terminals and ports to inform COTPs of changes in information which might affect the adequacy of the reception facility. Note that the terminal or port must notify the COTP in writing within 10 days of changes on Form B in line items 2., 5.A., and 5.C. Similarly, the terminal or port must notify the COTP in writing within 30 days of changes on Form B in line items 1, 3, 4, 5.B., 5.D., 5.E., 5.F. or 5.G. Upon receipt of a change the COTP shall:

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11. a. If changes are minor:
 - (1) make pen and ink corrections to the COA and Application;
 - (2) initial and date each annotation; and
 - (3) return the annotated copy to the terminal for placement at the terminal.
 - b. If the changes are numerous or annotating changes may cause confusion:
 - (1) reissue the COA and/or;
 - (2) request resubmission of updated COA Application; and
 - (3) forward the revised COA and Application to the terminal or port.
 - c. Forward changes to the information previously submitted by copying the newly annotated Application and forward to District (m) for quarterly transmittal to Commandant (G-MPS-1) and subsequent publication in the Federal Register.
 - d. File the letter notification in the terminal or port's COA file and amend reception facility file, as necessary.
12. COA WORKSHEET GUIDANCE AND PROCEDURES:
- a. General Policy:
 - (1) The use of the worksheet by the COTP and industry is optional. The COTP may distribute the worksheet to industry to assist them in calculating their reception facility needs, and determining if their reception facilities meet the adequacy requirements in 33 CFR 158. The COTP also may use the worksheet to verify the accuracy of information submitted on the COA application. Although the worksheet is optional, the COTP has the authority to require submission of the worksheet or other calculations to support statements made on the COA Application under the process mentioned in 33 CFR 158.160. COTPs may use the worksheet in whole or in part, or may modify it to best suit local needs. The purpose of the COA worksheet in attachment (E) is to simplify, standardize and provide a sound analytical approach when calculating the information required by 33 CFR 158, and when determining whether a reception facility meets the criteria for adequacy by:
 - (a) calculating the estimated daily capacity of a reception facility and comparing it to the estimated daily amount of NLS residues generated by vessels using the terminal or port; and

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12. a. (1) (b) determining if the transfer rates and terminal backpressures meet regulatory requirements.
 - (2) The Reception Facility Section consisting of line items "A" through "P" contains procedures to calculate the estimated daily capacity of the reception facility, and record the maximum allowable transfer rates for NLS residues to fixed and mobile reception facilities. COTP's should be open and flexible when reviewing and approving alternative procedures that are based on a logical analytical approach, since the method for calculating the reception facility capacity is not stipulated in the regulations.
 - (3) The Ship NLS Waste Section consisting of line items "Q" Through "S" records what NLS categories and cargoes are handled at the terminal, port and ship repair yard during the last 12 months. For terminals in operation less than 12 months base upon operations expected during the next 12 months. For ports, list the sum of the activities of the individual terminals which make up the port.
 - (4) The Adequacy Criteria Section consisting of line items "T" through "AE" contains procedures for calculating the estimated amounts of NLS residues generated by vessels visiting the terminal, port or ship repair yard. Since these calculations are taken directly from 33 CFR 158, no alternate method of calculation is authorized or acceptable. They directly compare capacity demand to supply, and transfer capabilities to regulatory transfer requirements.
 - (5) The Terminal Backpressure Requirements Section consisting of line items "AF" through "AH" provides a preliminary estimate to determine if a terminal or port meets the backpressure requirements of the regulations.
 - (6) Instructions attached to the worksheet clarify the line item entries, provide appropriate conversion factors, and give directions for calculating the estimated daily capacity for multiple reception facilities and multiple terminals.
- b. COA Worksheet Review Procedures: The following procedures provide guidance for reviewing the COA worksheet, if it is submitted as supporting documentation to the COTP.
- (1) Check that the name and address of the applicant is legible, and that name of the person completing the worksheet is on the last page.
 - (2) Determine whether the entries and calculations seem reasonable based upon COTP knowledge of the terminal's operations.

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12. b. (3) Review several of the calculations to determine whether they are mathematically correct. Give particular attention to the calculations in sections "Q" through "AH" as they are more complicated.
- (4) For determining the adequacy of a terminal/port use TABLE 2 by finding the appropriate category for the NLS unloaded at the terminal. Then verify the application line item entries are the same as those listed under the NLS cargo(es) unloaded.

TABLE 2
WORKSHEET CRITERIA FOR ADEQUACY

1. TERMINAL UNLOADS ONLY CATEGORY A NLS.
LINE ITEM "T" is less than "V"
LINE ITEMS "W," "AA," and "AE" are less than 10 hours
LINE ITEMS "AF" through "AH" are not applicable
2. TERMINAL UNLOADS ONLY POTENTIALLY SOLIDIFYING OR HIGH VISCOSITY CAT B OR C NLS.
LINE ITEM "T" is less than "V"
LINE ITEMS "W," "AA," and "AE" are less than 10 hours
LINE ITEM "AH" is less than 1
3. TERMINAL UNLOADS ONLY NON-SOLIDIFYING/NON-HIGH VISCOSITY CAT B OR C NLS
LINE ITEMS "A" through "AE" are NOT APPLICABLE
LINE ITEMS "AF" and "AG" ARE COMPLETED
LINE ITEM "AH" is less than 1
4. SHIP REPAIR YARDS.
LINE ITEM "U" is less than "V"
LINE ITEMS "W," "AA" and "AE" are NOT APPLICABLE
LINE ITEMS "AF" THROUGH "AH" is N/A
5. TERMINAL UNLOADS A COMBINATION OF NLS CARGOES.
Divide the NLS cargoes into the four groups above and check for each group identified that the line item statements are correct.

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12. C. COA Worksheet Discrepancy Procedures:

- (1) For discrepancies found while conducting worksheet review procedures (1), (2), and (3), such as missing entries, incorrect or questionable entries, or calculation errors, phone the applicant and discuss the discrepancy. If agreeable to the applicant, the COTP may correct the discrepancy in red, reference the conversation on the last page of the worksheet giving the name of the person contacted and the date, and continue processing of the COA Application. If the applicant objects or if the errors are numerous or confusing, return the worksheet for correction and resubmission.

- (2) If any of the statements in the worksheet review procedure 12.b.(4) are NOT TRUE, return the worksheet to the applicant indicating in writing why the reception facilities are inadequate.

APPLICATION FOR A RECEPTION FACILITY
CERTIFICATE OF ADEQUACY FOR
NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES AND
MIXTURES CONTAINING
NLS RESIDUES

1. General. The United States, as a Party to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78), is required by Annex II and the Act to Prevent Pollution from Ships (33 USC 1901) to issue certificates to terminals or ports verifying they have adequate reception facilities to receive NLS residues and mixtures containing NLS residues from ships. Regulations implementing the United States waste reception facility program are in Part 158 of Title 33 Code of Federal Regulations.
2. The Certificate of Adequacy (COA) remains valid until suspended or revoked by the COTP.
3. Upon revocation, a Certificate of Adequacy shall be returned to the issuing U.S. Coast Guard Captain of the Port (COTP) within 5 days after the revocation becomes effective.
4. The Application, as submitted, shall be attached to and become a part of the Certificate of Adequacy upon issuance.
5. A copy of the Certificate of Adequacy with the Application attached shall be available at each port and terminal to which it applies. Persons in charge of a port shall ensure that terminals who are members of the port receive a copy of the certificate of adequacy and all attachments. The Certificate of Adequacy and all attachments shall be available for inspection by Coast Guard personnel and the master, person in charge, or agent of an oceangoing ship using or intending to use the reception facility.
6. The person in charge identified in the Application shall notify the U.S. Coast Guard Captain of the Port (COTP) in writing within 10 days after any of the reception facility information supplied in Sections 2, 5.A., or 5.C. of Application form B changes. The person in charge shall notify the COTP in writing within 30 days after any information supplied in Sections 1, 3, 4, 5.B., 5.D., 5.E., 5.F., or 5.G. of Form B changes.
7. Civil Penalties. A person who after notice and an opportunity for a hearing, is found:
 - a. To have made a false, fictitious or fraudulent statement or representation in any matter in which a statement or representation is required to be made under the Act to Prevent Pollution from Ships, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed \$5,000 for each statement or representation; or

7. b. To have violated the Act to Prevent Pollution from Ships, or the regulations issued thereunder, shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation.

FORM B APPLICATION INSTRUCTIONS
FOR AN NLS WASTE RECEPTION FACILITY CERTIFICATE OF ADEQUACY

The following instructions for individual line items are provided to assist in completing the Application for a Certificate of Adequacy (COA). If you have any questions or need assistance in completing the Application, please contact the U.S. Coast Guard Captain of the Port (COTP) for your area. A list of definitions, which you may find helpful in completing the Application, is in Title 33 Code of Federal Regulations Part 158 (33 CFR 158).

- 1.A. Indicate terminal if you are applying as a single terminal or indicate port if you are applying as a group of terminals. Do not mark "COTP Designated Port". COTP designation of a facility or an area as a port is for unusual situations. If you have a question as to whether COTP designation as a port applies to your situation, contact the COTP for your area.
- 1.C.(1) For a terminal enter the company or corporation name. For a port enter the company, corporation, port authority, or organization by which the group of terminals is known.
- 1.C.(3) Enter the name of a person authorized to act in behalf of the terminal or port.
- 1.C.(5) For a terminal enter the company or corporation name. For a port enter the company, corporation, port authority, or organization of which the person in charge is a member.
- 1.D.(1) Those applying as terminals do not have to complete this section, since the information is the same as in 1.C. Ports are to provide this information for each of the terminals indicated in 1.B. If more room is needed for additional terminals, attach a separate sheet completed with the same information required in 1.D.
- 2.A. Enter the company or corporation name of the reception facility.
- 2.E. Check as many of the types of reception facilities as may be used.

- 3.A. through 3.F. Check the appropriate boxes that apply for NLS cargoes or residues unloaded at the terminal or port during the last 12 months. Terminals not in operation for 12 months should check NLS cargoes and residues expected to be unloaded during the next year. If 3.A., 3.B. or 3.C., is checked, indicate the specific NLS unloaded at the terminal or port on a separate attached sheet of paper or check the applicable NLS cargoes unloaded on the COTP NLS Cargo list provided. If you have any questions concerning cargoes not listed or the classification of any cargo, contact Commandant U.S. Coast Guard (G-MTH), Washington D.C. at (202) 267-1217
4. Terminals or ports which checked boxes B, C, D or E in section 3 must complete section 4.
- 5.A. Terminals or ports which checked line items 3.A., 3.B. or 3.C. and ship repair yards which checked any line item in section 3 must complete this line item and enter the estimated daily capacity of the reception facility in cubic meters. This may include third party contracted tank barges, tank trucks, etc. If using CG Optional Worksheet, enter the value from line item "V." Terminals or Ports which checked only line items 3.D. and 3.E. should enter "N/A."
- 5.B. Terminals or ports which checked line items 3.A., 3.B. or 3.C. and ship repair yards which checked any line item in section 3 must complete this line item. Enter the value in cubic meters from your calculations or from Coast Guard Optional Worksheet line item "T" for terminals or ports, and line item "U" for ship repair yards. Terminals or ports which checked only line items 3.D., 3.E and 3.F. should enter "N/A."
- 5.C. Indicate whether the reception facility can receive those residues resulting from prewashes required by 46 CFR 153.1120 within 10 hours after commencing transfer of these residues.
- 5.G. Only ship repair yards complete this line item.

**APPLICATION FOR A RECEPTION FACILITY CERTIFICATE OF ADEQUACY
FOR NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES
AND
MIXTURES CONTAINING NLS RESIDUES**

1. PARTICULARS OF TERMINAL OR PORT

A. APPLYING AS: (CHECK ONE) Terminal Port COTP Designated Port Ship Repair Yard

B. NUMBER OF TERMINALS TO WHICH THIS APPLICATION APPLIES: _____

C. TERMINAL/PORT INFORMATION:

(1) NAME OF TERMINAL/PORT _____

(2) ADDRESS OF TERMINAL/PORT _____

(3) NAME OF TERMINAL/PORT
PERSON IN CHARGE _____

(4) TITLE/POSITION _____

(5) ORGANIZATION _____

(6) OFFICE PHONE NUMBER _____

(7) TELEX NUMBER _____

D. INDIVIDUAL TERMINAL INFORMATION: If applying as a port, list the information indicated for each terminal in the port. If more space is needed, continue on a separate sheet of paper and attach to the back of the application. The signature of the person in charge of the terminal acknowledges that the terminal agrees and volunteers to being considered as a member of the port, described in section 1, for purposes of these reception facilities. Complete the terminal name, location, etc. below.

(1) NAME OF TERMINAL _____

(a) ADDRESS OF TERMINAL _____

(b) NAME /TITLE PERSON IN CHARGE _____

(c) OFFICE PHONE NUMBER () _____

(d) SIGNATURE OF TERMINAL
PERSON IN CHARGE _____

(2) NAME OF TERMINAL _____

(a) ADDRESS OF TERMINAL _____

(b) NAME /TITLE PERSON IN CHARGE _____

(c) OFFICE PHONE NUMBER () _____

(d) SIGNATURE OF TERMINAL
PERSON IN CHARGE _____

2. PARTICULARS OF RECEPTION FACILITY: Enter information for each reception facility used by the terminal/port. If necessary, continue on a separate sheet and attach to the back of the application.

A. NAME OF RECEPTION FACILITY _____

B. ADDRESS _____

REVERSE OF CG-5401B (2/87)

C. NAME AND TITLE OF PERSON IN CHARGE _____

D. OFFICE PHONE NUMBER OF PERSON IN CHARGE () _____

E. TYPE OF RECEPTION FACILITY: CHECK THOSE THAT APPLY.

FIXED: MOBILE: TANK TRUCK: TANK BARGE: OTHER:

(Describe other) _____

3. TYPE OF NLS CARGO OR RESIDUES UNLOADED AT THE TERMINAL OR PORT DURING THE LAST 12 MONTHS: Check the boxes that apply. If 3.A., 3.B., or 3.C. is checked, indicate the specific NLS handled on an attached sheet or check the appropriate cargoes on the attached COTP NLS cargo list.

- A. Category A
- B. Category B solidifying or high viscosity
- C. Category C solidifying or high viscosity
- D. Category B non-solidifying or non-high viscosity
- E. Category C non-solidifying or non-high viscosity
- F. Category D

4. TERMINAL AND PORT REQUIREMENTS: Only complete this section if line items 3.B., 3.C., 3.D., or 3.E. are checked.

- A. WILL THE PORT OR TERMINAL BE CAPABLE OF RECEIVING NLS CARGO DURING TANK STRIPPING OPERATIONS FROM SHIPS AT AN INSTANTANEOUS FLOW RATE OF 6 CUBIC METERS (158.4 GALLONS) PER HOUR WITHOUT THE BACK PRESSURE EXCEEDING 10.6 kPa/sec (1.7 pounds per square inch gauge) AT THE POINT WHERE THE SHORE CONNECTION MEETS THE SHIP'S MANIFOLD? _____
- B. WILL THE INSTRUCTION MANUAL THAT LISTS THE EQUIPMENT AND PROCEDURES REQUIRED BY LINE ITEM 4.A. BE AVAILABLE AT THE TERMINAL/PORT? _____

5. RECEPTION FACILITY REQUIREMENTS: Only complete this section if line items 3.A., 3.B., or 3.C. are checked. For line items 5.A. and 5.B. enter either the capacity or "N/A." For line items 5.C. through 5.G. enter either "YES," "NO," or "N/A" (if entering "NO" submit a waiver request in accordance with 33 CFR 158.150 on a separate attached sheet).

- A. ESTIMATED DAILY CAPACITY OF RECEPTION FACILITY TO RECEIVE NLS RESIDUES RESULTING FROM PREWASH OPERATIONS: _____ (CUBIC METERS)
- B. ESTIMATED DAILY CAPACITY REQUIREMENT OF THE TERMINAL/PORT TO RECEIVE NLS RESIDUES RESULTING FROM PREWASH OPERATIONS: _____ (CUBIC METERS)
- C. CAN THE RECEPTION FACILITY RECEIVE ALL NLS RESIDUES RESULTING FROM PREWASH OPERATIONS FROM SHIPS WITHIN 10 HOURS AFTER NLS RESIDUE TRANSFER BEGINS? _____
- D. WILL THE RECEPTION FACILITIES FOR NLS RESIDUES BE PROVIDED WITHIN 24 HOURS AFTER NOTIFICATION BY A VESSEL INDICATING THE NEED FOR RECEPTION FACILITIES? _____
- E. WILL RECEPTION FACILITIES BE PROVIDED AT THE UNLOADING TERMINAL/PORT? _____
- F. DOES THE RECEPTION FACILITY HOLD EACH FEDERAL, STATE, AND LOCAL PERMIT AND LICENSE REQUIRED BY ENVIRONMENTAL LAWS AND REGULATIONS CONCERNING NLS RESIDUES? _____
- G. CAN THE RECEPTION FACILITY RECEIVE ALL NLS RESIDUES PRIOR TO THE SHIP LEAVING THE SHIP REPAIR YARD? _____

CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED IN THIS APPLICATION FOR A WASTE RECEPTION FACILITY CERTIFICATE OF ADEQUACY FOR RECEPTION FACILITIES RECEIVING NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES IS COMPLETE, TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

SIGNATURE OF TERMINAL/PORT PERSON IN CHARGE _____

PRINTED OR TYPED NAME OF PERSON IN CHARGE _____

DATE SIGNED _____

COTP NLS CARGO LIST

1 MARCH 1987

CATEGORY A NLS SOLIDIFYING

- Carbolic oil
Chlorotoluenes (mixed isomers)
Cresols
2,4-Dichlorophenol
Diphenyl*
Diphenyl/Diphenyl oxide mixtures*
Diphenyl ether
o-Ethylphenol*
Naphthalene (molten)
OTHERS

CATEGORY A NON-SOLIDIFYING

- Acetone cyanohydrin
Anthracene oil* (coal tar fraction)
Butyl benzenes*
Butyl benzyl phthalate
Calcium bromide/Zinc bromide* mixtures solution
Calcium naphthenate in mineral oil mixtures
4-Chloro-2-methylphenoxyacetic* acid, dimethylamine salt solution
o-Chlorotoluene
Coal tar*
Creosote (wood)
iso + n-Decyl acrylate
Dibutyl phthalate
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution
Diisopropylbenzene (all isomers)
Diphenyl oxide/Diphenyl phenyl ether mixture
Dodecylphenol
alpha-Methylstyrene
Motor fuel anti-knock compounds
Nonylphenol
Pine oil*
Tricresyl phosphate (containing less than 1% ortho-isomer)
Tricresyl phosphate (containing 1% or more ortho-isomer)
Triethylbenzene
Trixylenyl phosphate
Vinyl toluene
OTHERS

CATEGORY B SOLIDIFYING AND HIGH VISCOSITY NLS

- p-Chlorotoluene
n-Decyl alcohol (all isomers)
p-Dichlorobenzene molten*
Diglycidyl ether of Bisphenol A
Diisobutyl phthalate
Dinitrotoluene (molten)
Diphenyl methane diisocyanate
Dodecanol
Dodecyl diphenyl oxide disulphonate solution
Ethylene dibromide
2-Ethyl-3-propylacrolein
Fatty alcohols (C12-C20)
Fumeric adduct of rosin water dispersion
Lactonitrile solution* (80% or less)
4-Methylpyridine
Nitrobenzene
o-Nitrochlorobenzene
o-Nitrophenol (molten)
Octyl aldehydes*
Olefins, straight chain mixtures
Phenol or solutions with 5% or more phenol
Rosin oil
Sodium hydrosulphide solution (45% or less)
Sodium-2-mercapto-benzothiazol solution
Sodium thiocyanate solution* (56% or less)
Tall oil (crude and distilled)
Tall oil soap (disproportionated solution)
1,2,4-Trichlorobenzene
Undecyl alcohol
Xylenol
OTHERS

CATEGORY C SOLIDIFYING AND HIGH VISCOSITY NLS

- Benzene or hydrocarbon mixture containing 10% or more benzene
Caustic potash solution
Chloroacetic acid (80% or less)
2- or 3-Chloropropionic acid
Cyclohexane
Cyclohexanol
Diisopropanolamine
Ethylenediamine
Hexamethylenediamine solution
p-Nitrotoluene
Oleum
Paraldehyde
Phthalic anhydride (molten)
Polyethylene polyamines
n-Propanolamine
iso-Propanolamine
Sodium borohydride (15% or less)/Sodium hydroxide soln.
Sulphuric acid
Tetradecylbenzene*
Toluene diamine
Toluene diisocyanate
Tridecyl benzene*
p-Xylene
OTHERS

Application for a Reception Facility Certificate of Adequacy for Noxious Liquid Substances

ATTACHMENT (B) to Enclosure (2) of COMDTINST M16450.29

SAMPLE EPA CONSULTATION LETTER

COTP XXXXXXXXXX
(111) 123-4567
16450/5
29 Oct 1987

Mr. Maxie Berry
Region XX
U.S. Environmental Protection Agency
123 E. North Hazelton
Hughes, USA 12598

Dear Sir:

In accordance with 33 USC 1905 (c), the Application for a Certificate of Adequacy (COA) Form B for compliance with Noxious Liquid Substance (NLS) waste reception facility requirements in 33 CFR 158 from (enter the terminal/port name) is forwarded for your review and comment. In the absence of receiving verbal or written comments from your office within 20 working days after the date of this letter, I will assume EPA has no objection to issuing the COA and continue with normal processing of the application.

Sincerely,
Thomas H. Robinson
Captain, U.S. Coast Guard

Encl: (1) COA Application from (terminal name)

SAMPLE INTERIM COA LETTER
FOR A TERMINAL WHOSE APPLICATION SHOWS FULL COMPLIANCE

COTP XXXXXXXXXXXXX
(XXX) 222-3459
16450
29 July 1987

MR. Bob H. Ellwein
2235 Tudor Blvd.
Messina, NY 43302

SUBJECT: INTERIM CERTIFICATE OF ADEQUACY LETTER FOR NLS WASTE
RECEPTION FACILITIES

Dear Sir:

We have reviewed your application for a Certificate of Adequacy (COA) for NLS waste reception facilities. Based upon the information contained in the application, the (name of terminal/port) appears to meet the requirements for reception facilities for NLS residues stipulated in Title 33 Code of Federal Regulations Part 158 (33 CFR 158).

Before a COA can be issued, EPA consultation and USCG inspection of the reception facilities and terminal must be satisfactorily completed. Until these actions are completed, the (name of terminal/port) may continue operations using the reception facilities indicated in your Form B application. Each terminal listed in the Form B application shall maintain a copy of this Interim COA Letter, with the Form B attached, available for inspection by Coast Guard personnel and the master, or agent, or owner of any ship using or intending to use the terminal. The terminal/port owner, operator or person in charge is liable for civil penalties of up to \$25,000 for violations of the provisions of 33 USC 1901-1911 pr 33 CFR 158.

(Note: The remainder of the letter is optional and applies to those instances where additional information is needed to process the application.)

To evaluate the adequacy of your (reception facility) (terminal) (waiver request), I request that prior to (enter date) you submit the following information:

(enter specific information required).

Sincerely,

Enclosure (Note: Enclose copy of Form B submitted)

ATTACHMENT (C) to Enclosure (2) of COMDTINST M16450.29
SAMPLE INTERIM COA LETTER WITH DEFICIENCY CONDITIONS

SUBJECT: INTERIM CERTIFICATE OF ADEQUACY (COA) LETTER FOR NLS WASTE
RECEPTION FACILITIES

Dear Sir:

We have reviewed your application for a Certificate of Adequacy (COA) for NLS waste reception facilities. Based upon the information contained in the application, the (name of terminal/port) does not meet the following adequacy criteria: (list the deficiencies).

The (name of terminal/port) may continue operations, using the reception facilities indicated in your Form b application, while correcting these deficiencies according to the conditions below. Each terminal listed in the form B application shall maintain a copy of this Interim COA Letter, with the Form B attached, available for inspection by Coast Guard personnel and the master, or agent, or owner of any ship using or intending to use the terminal.

If the below conditions are not met by the dates stipulated and the terminal receives ships unloading NLS's, the terminal/port owner, operator or person in charge will be subject to a \$50,000 criminal penalty or imprisonment for not more than 5 years, or both and/or a civil penalty not to exceed \$25,000 for each offense and each day an offense continues. Additionally, the COA application may be denied and ships denied entry to your terminal or port. Additionally, before a COA can be issued, EPA consultation and USCG inspection of the reception facilities and terminal must be satisfactorily completed.
Conditions: (NOTE: Dates entered should not be less than 30 days form the date of this Interim COA letter nor greater than 90 days, except for unusual circumstances or situations. The following is provided for example and is not all inclusive.)

1. Install equipment by (enter date) to provide a backpressure of 1 BAR or less during stripping operations of category B or C NLS cargo.

(Note: This is to allow the terminal to continue operating while installing the necessary equipment.)

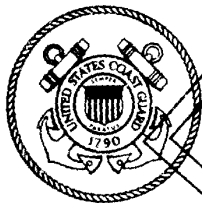
2. Complete instruction manual by (enter date) giving equipment and procedures for meeting backpressure requirements.
3. Arrange to discharge NLS waste form ships to reception facilities in 10 hours or less by (enter date). Present discharge time indicated is (11 hours).

(Note: This condition corrects a MINOR adequacy criteria deficiency.

4. Submit additional information on (list information needed) by (enter date).

Enclosure (Note: Enclose copy of Form B)
29-C-2

United States Coast Guard Certificate of Adequacy for Reception Facilities



SAMPLE

SAMPLE

This Certifies that SAMPLE
(Terminal/Port)
has facilities adequate to receive residues and mixtures containing

(Oil or NLS Residues)

From oceangoing ships, as required by the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the protocol of 1978 (MARPOL 73/78), The Act to Prevent Pollution from Ships, 33 USC 1901-1911 and associated U.S. Regulations in 33 CFR 158.

This certificate is issued pursuant to an application dated _____, a copy of which is attached to, and is a part of this certificate. Each terminal listed in the application shall maintain a copy of this certificate available for inspection by Coast Guard personnel and the master, or agent or owner of any ship using or intending to use the terminal.

Terminals and ports required to have an operations manual for oil transfer described in 33 CFR 154.300 shall attach a copy of this certificate thereto.

The terminal/port person in charge identified in the attached application shall notify the U. S. Coast Guard Captain Of The Port (COTP) in writing after any of the reception facility information or terminal/port information identified in 33 CFR 158.165 changes.

The terminal/port owner, operator or person in charge is liable for civil penalties of up to \$25,000 for violations of the provisions of 33 USC 1901-1911 or 33 CFR 158.

The terminal/port owner, operator, or person in charge shall ensure that the reception facility holds each Federal, state, and local permit and license required by environmental laws and regulations concerning residues and mixtures containing oil or noxious liquid substances. This certificate certifies compliance with applicable sections of 33 CFR 158, but does not certify compliance with any other law or regulation.

This certificate is valid unless suspended or revoked at which time it shall be promptly returned to the U.S. Coast Guard COTP.

Signature of Captain of the Port		Typed Name of Captain of the Port	
COTP Zone		Phone (Area Code)	Date

The following waivers to this certificate of adequacy are granted. These waivers shall be attached to and are a part of this certificate.

Waiver Description	Date

Inspection Endorsement

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

Inspector's Signature _____

Inspector's Name _____

Reception Facility Location _____

Date _____

31-D-2

WORKSHEET FOR A RECEPTION FACILITY CERTIFICATE OF ADEQUACY FOR
NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES

Worksheet Instructions

The following instructions for individual line items are provided to assist in completing the worksheet for a Certificate of Adequacy (COA) Application Form B. If you have any questions or need assistance in completing the worksheet, please contact the U.S. Coast Guard Captain of the Port (COTP) for your area. A list of definitions, which you may find helpful in completing the worksheet is contained in Title 33 Code of Federal Regulations Part 158 (33 CFR 158).

Prior to commencement of the worksheet prepare a list of NLS cargoes or residues unloaded at the terminal/port in the last 12 months, or check the NLS cargoes or residues unloaded on the attached COTP NLS Cargo List. Terminals and ship repair yards not in operation for 12 months should check the NLS cargoes or residues expected to be unloaded in the next 12 months.

Reception Facility Section: This section consisting of line items "A" through "P" is for calculating the estimated capacity of the proposed reception facilities. Those values which require calculation are entered in boxes with the applicable formula printed below.

GENERAL

- "A" Enter data for the types (fixed, tank truck, barge, other) of to reception facilities to receive NLS waste, as appropriate. The "P" types completed should correspond to entries made in line item 2.E. of Form B. Enter estimates of the time requirements to the nearest tenth of an hour, e.g. 3.1 hours.
- "A" Enter the transfer rate based upon receiving NLS through a single connection. This is necessary since ships are not required to discharge waste through multiple connections. Discharge rates may be based on discharging through more than one connection, if all of the vessels and reception facilities have this ability.
- "B" Enter the daily amount of waste that can be removed from the storage tanks by processing or by transfer to a processing or disposal facility.
- "C" Same as "A."
- "D" If more than one mobile tank truck reception facility is used, enter the total number of tank trucks available.
- "I" Same as "A."

- "j" If more than one mobile barge is used, enter the number of barges available.
- "O" If the reception facility used is not described above, describe the & reception facility and show the calculations for daily capacity and "P" transfer time requirements (attach additional sheets if necessary).

Ship NLS Waste Section: This section consisting of line items "Q" through "S" is for identifying the NLS cargoes and residues unloaded at the terminal, port or ship repair yard. Ship repair yards only complete line item "S" in this section.

Ports which have more than one terminal in each category are to enter consolidated information for each port. For example, if a port has three terminals unloading NLS cargoes, the values reported in section "Q" and "R" would be equal to the sum of the cargoes received at each of the terminals. Similarly ship repair yards who elect to become part of a port should be included in the consolidated information. The procedures for calculating the estimated reception facility capacities are based upon the specific values and requirements in 33 CFR 158. Applicable conversion factors are as follows:

- 1 cubic meter equals 264 gallons
- 1 cubic meter equals 34.5 cubic feet
- 1 cubic meter equals 1.308 cubic yards

- "Q" Indicate the total number of potentially solidifying Category A cargoes that were unloaded at the terminal or port during the last 12 months. Terminals in operation less than 12 months should enter the anticipated trade expected during the next 12 months. Ports should enter the sum of cargoes unloaded in the terminals which are members of the port.
- "R" Indicate the total number of potentially high viscosity and solidifying Category B and C NLS and the non-solidifying Category A cargoes unloaded at the terminal or port during the last 12 months. Terminals in operation less than 12 months should enter the anticipated trade expected during the next 12 months. Ports should enter the sum of NLS cargoes unloaded in the terminals which are members of the port.
- "S" Check the applicable category of NLS residues unloaded at the ship repair yard during the last 12 months. For ship repair yards in operation less than 12 months should enter the anticipated trade expected during the next 12 months. Ports should enter the sum of residues unloaded in the ship repair yards which are members of the port.

Adequacy Criteria Section: This section consists of line items

"T" through "AE". These line items compare the capacities, transfer rates and ability to provide timely reception facility service to the regulatory requirements.

Terminal Backpressure Section: This section consisting of line items "AF" through "AH" compares the existing hydrostatic backpressure to the requirement to provide 1 BAR backpressure during stripping operations. This calculation assumes that line pressure losses are negligible. Terminals unloading only Category A and D cargoes should enter N/A not applicable in this section.

"AF" Refer to the terminal transfer line backpressure diagram and enter the height in feet from the base of the tallest tank which will receive NLS cargo during stripping operations to the top of the tank "AG" Refer to the terminal transfer line backpressure diagram and enter the height in feet between a point 10 feet above mean low tide and the base of the storage tank referred to in "AF." In accordance with 33 CFR 158, it is assumed that for purposes of these calculations that the ship's manifold is ten feet above mean low tide.

"AH" Perform the calculation indicated. If the value is 1 BAR or less, the COTP will accept this as indicating that the 1 BAR backpressure requirement is met. In the event the value is greater than 1 BAR you must make operational changes and/or equipment changes to reduce backpressure to 1 BAR or less. If additional equipment is added or modifications are made to the terminal's piping system, show the arrangements in the backpressure instructions manual. The COTP will accept the arrangement meets the 1 BAR backpressure requirement, if the instructions manual is approved and stamped by a Registered Professional Engineer. Otherwise, the COTP may request an operational test of the proposed arrangement.

The Certificate of Adequacy cannot be issued unless the following conditions are met as outlined in TABLE 1. If the following conditions cannot be met, submit a waiver in accordance with the provisions outlined in 33 CFR 158.150 on a separate attached sheet.

TABLE 1
WORKSHEET CRITERIA FOR ADEQUACY

1. TERMINAL UNLOADS ONLY CATEGORY A NLS.
LINE ITEM "T" is less than "V"
LINE ITEMS "W" "AA," and "AE" are less than 10 hours
LINE ITEMS "AF" through "AH" are not applicable

2. TERMINAL UNLOADS ONLY POTENTIALLY SOLIDIFYING OR HIGH VISCOSITY CAT B OR C NLS.
LINE ITEM "T" is less than "V"
LINE ITEMS "W," "AA," and "AE" are less than 10 hours
LINE ITEM "AH" is less than 1

3. TERMINAL UNLOADS ONLY NON-SOLIDIFYING/NON-HIGH VISCOSITY CAT B OR C NLS
LINE ITEMS "A" through "AE" are NOT APPLICABLE
LINE ITEMS "AF" and "AG" ARE COMPLETED
LINE ITEM "AH" is less than 1

4. SHIP REPAIR YARDS
LINE ITEM "U" is less than "V"
LINE ITEMS "W," "AA" and "AE" are NOT APPLICABLE
LINE ITEMS "AF" THROUGH "AH" is N/A

5. TERMINAL UNLOADS A COMBINATION OF NLS CARGOES.
Divide the NLS cargoes into the four groups above and check to see for each group identified that the line item statements are correct

WORKSHEET FOR A RECEPTION FACILITY CERTIFICATE OF ADEQUACY FOR NOXIOUS LIQUID SUBSTANCE (NLS) RESIDUES AND MIXTURES CONTAINING NLS RESIDUES

NAME OF TERMINAL /PORT _____

ADDRESS _____

RECEPTION FACILITY SECTION: This section describes how to calculate the estimated capacity of the reception facility the terminal must provide to be issued a Certificate of Adequacy.

FIXED RECEPTION FACILITIES:

- A MAXIMUM TRANSFER RATE CAPABILITY FOR NLS RESIDUES. _____ CUBIC METERS PER HOUR
- B NLS WASTE PROCESSING CAPABILITY OR TRANSFER FROM STORAGE FACILITY. _____ CUBIC METERS PER DAY

MOBILE TANK TRUCK RECEPTION FACILITIES:

- C MAXIMUM TRANSFER RATE CAPABILITY FOR NLS RESIDUES. _____ CUBIC METERS PER HOUR
- D NUMBER OF TANK TRUCKS AVAILABLE. _____ NO. OF TRUCKS

IF TANK TRUCKS ARE NOT OWNED, LIST THE NAME AND ADDRESS OF COMPANY(IES) WHICH ARE PROVIDING THEM (SUCH AS RENTAL OR LEASING COMPANIES):

- E CAPACITY OF TANK TRUCK. (NOTE: for more than one truck use the average size) _____ CUBIC METERS
- F TIME REQUIRED TO FILL TANK TRUCK WITH NLS RESIDUE. HOURS

$$\frac{"E"}{"C"}$$
- G ESTIMATED TIME BETWEEN FILLING OF TANK TRUCKS: (if line item "D" is "1" or "0" enter "0". If Line item "D" is greater than "1" enter the time it takes a truck once filled with waste to offload and return to begin loading again). _____ HOURS
- H DAILY CAPACITY OF MOBILE TANK TRUCK RECEPTION FACILITIES. CUBIC METERS PER DAY

$$\frac{(24 \times "E" \times "D")}{("F" + "G")}$$

BARGE RECEPTION FACILITIES:

I MAXIMUM TRANSFER RATE CAPABILITY FOR NLS RESIDUES. _____ CUBIC METERS PER HOUR

J NUMBER OF BARGES AVAILABLE. _____ NUMBER OF BARGES

IF BARGES ARE NOT OWNED, LIST THE NAME OF AND ADDRESS OF COMPANY(IES) RENTING LEASING, OR OTHERWISE PROVIDING THEM.

K CAPACITY OF BARGE. (NOTE: for more than one barge use the average size) _____ CUBIC METERS

L TIME REQUIRED TO FILL BARGE WITH NLS RESIDUES. HOURS
 $\frac{\text{"K"}}{\text{"L"}}$

M ESTIMATED TIME BETWEEN FILLING OF BARGES: (If line item "J" is "1" or "0" enter "0". If Line item "J" is greater than "1" enter the time it takes a barge once filled with waste to offload and return to begin loading again). _____ HOURS

N DAILY CAPACITY OF BARGE RECEPTION FACILITIES. CUBIC METERS PER DAY
 $\frac{(24 \times \text{"J"} \times \text{"K"})}{(\text{"L"} + \text{"M"})}$

OTHER RECEPTION FACILITY CAPACITY:

DESCRIBE COMPLETELY AND SHOW CALCULATIONS USED TO ARRIVE AT THE DAILY CAPACITY IN CUBIC METERS AND DAILY AVERAGE TRANSFER RATE IN CUBIC METERS PER HOUR:

O CUBIC METERS PER HOUR

P CUBIC METERS PER DAY

Certificate of Adequacy for Reception Facilities

ATTACHMENT (E) to Enclosure (2) of COMDTINIST M16450.29

SHIP NLS WASTE SECTION: Ports should enter the sum of the operations for the terminals considered part of the port.

TERMINAL OR PORT: (Ship repair yards need not complete this section)

Q NUMBER OF SOLIDIFYING "CATEGORY A" CARGOES HANDLED AT THE TERMINAL/PORT DURING THE LAST 12 MONTHS. If the same Category A NUMBER OF

cargo is carried in two different tanks on the same vessel count this as one cargo. NUMBER OF _____ CARGOES

R NUMBER OF HIGH VISCOSITY AND SOLIDIFYING "CATEGORY B" AND HANDLE AT THE TERMINAL/PORT DURING THE LAST 12 MONTHS.

Ship Repair Yard: (Only Ship Repair Yards complete this section)

S Check the appropriate boxes for cargoes handled in the last 12 months on ships visiting the ship repair yard. The values under the "CAPACITY VALUES" column are used in a calculation in line item "U", they can be ignored here.

CATEGORY	CAPACITY VALUES
() A. Category A solidifying NLS	75 CUBIC METERS
() B. Category A non-solidifying NLS	50 CUBIC METERS
() C. Category B NLS	50 CUBIC METERS
() D. Category C NLS	50 CUBIC METERS
() E. Category D NLS	50 CUBIC METERS

ADEQUACY CRITERIA SECTION: This section calculates the amount of NLS residues that would be expected to be generated by vessels visiting the terminal/port or ship repair yard as determined by the criteria set forth in 33 CFR 158.320.

SHIP NLS WASTE SECTION: Ports should enter the sum of the operations for the terminals considered part of the port.

TERMINAL OR PORT: (Ship repair yards need not complete this section)

Q NUMBER OF SOLIDIFYING "CATEGORY A" CARGOES HANDLED AT THE TERMINAL/PORT DURING THE LAST 12 MONTHS. If the same Category A cargo is carried in two different tanks on the same vessel count this as one cargo. _____ NUMBER OF CARGOES

R NUMBER OF HIGH VISCOSITY AND SOLIDIFYING "CATEGORY B" AND "CATEGORY C," AND NON-SOLIDIFYING "CATEGORY A" CARGOES HANDLED AT THE TERMINAL/PORT DURING THE LAST 12 MONTHS. _____ NUMBER OF CARGOES

Ship Repair Yard: (Only Ship Repair Yards complete this section)

S Check the appropriate boxes for cargoes handled in the last 12 months on ships visiting the ship repair yard. The values under the "CAPACITY VALUES" column are used in a calculation in line item "U", they can be ignored here.

CATEGORY	CAPACITY VALUES
<input type="checkbox"/> A. Category A solidifying NLS	75 CUBIC METERS
<input type="checkbox"/> B. Category A non-solidifying NLS	50 CUBIC METERS
<input type="checkbox"/> C. Category B NLS	50 CUBIC METERS
<input type="checkbox"/> D. Category C NLS	50 CUBIC METERS
<input type="checkbox"/> E. Category D NLS	50 CUBIC METERS

ADEQUACY CRITERIA SECTION: This section calculates the amount of NLS residues that would be expected to be generated by vessels visiting the terminal/port or ship repair yard as determined by the criteria set forth in 33 CFR 158.320.

CAPACITY REQUIREMENT:

T ESTIMATED DAILY CAPACITY REQUIREMENT THE TERMINAL/PORT TO RECEIVE NLS RESIDUES RESULTING FROM PREWASH OPERATIONS. Enter here and on line 5B of FORM B Application. _____ CUBIC METERS
 ((75 X "Q") + (50 X "R"))

U ESTIMATED DAILY CAPACITY REQUIREMENT OF SHIP REPAIR YARD RECEIVE NLS RESIDUES. From Line item "S" add the values under the "CAPACITY VALUES" column for those items checked under the "Category" column and enter the value here and on line 5B of FORM B Application. _____ CUBIC METERS

V ESTIMATED DAILY CAPACITY OF THE RECEPTION FACILITY TO RECEIVE NLS RESIDUES RESULTING FROM PREWASH OPERATIONS OR FROM SHIP REPAIR YARD OPERATIONS. Enter here and on line 5A of FORM B Application. _____ CUBIC METERS
 ("B" + "H" + "N" + ("P" IF APPLICABLE))

WASTE TRANSFER RATE REQUIREMENT:

W TIME REQUIRED TO TRANSFER NLS RESIDUES TO FIXED RECEPTION FACILITIES. _____ HOURS
 $\frac{"T"}{"A"}$

X NUMBER OF TANK TRUCK TRIPS REQUIRED TO HANDLE NLS RESIDUES. _____ NUMBER OF TRIPS
 $\frac{"T"}{"E"}$

Y WHOLE NUMBER OF TANK TRUCK TRIPS. _____ NUMBER OF TRIPS
 ROUND "X" TO THE NEXT HIGHER WHOLE NUMBER

Z TIME NECESSARY TO RECONNECT TRUCKS TO CONTINUE TRANSFER OPERATIONS. _____ HOURS
 ("Y" - 1) X "G"

AA TOTAL TIME REQUIRED TO TRANSFER NLS RESIDUES TO MOBILE TANK TRUCK RECEPTION FACILITIES. _____ HOURS
 $\frac{"T"}{"C"} + "Z"$

- AB** NUMBER OF TANK BARGE TRIPS REQUIRED TO HANDLE NLS RESIDUES. NUMBER OF TANK BARGES
 $\frac{"T"}{"K"}$
- AC** WHOLE NUMBER OF TANK BARGES. NUMBER OF TANK BARGES
 ROUND "AB" TO THE NEXT HIGHER WHOLE NUMBER
- AD** TOTAL TURNAROUND TIME NECESSARY TO RECONNECT BARGES TO CONTINUE TRANSFER OPERATIONS. HOURS
 $("AC" - 1) \times "M"$
- AE** TOTAL TIME REQUIRED TO TRANSFER NLS RESIDUES TO TANK BARGE RECEPTION FACILITIES. HOURS
 $\frac{"T"}{"T"} + "AD"$

TERMINAL BACKPRESSURE SECTION: Refer to the attached transfer line backpressure diagram and enter the values as indicated for line items "AF" and "AG."

- AF** Enter maximum height of the tallest facility storage tank which will be expected to receive NLS residues resulting from stripping operations. _____ FEET
- AG** Enter difference in elevation from level of ship's manifold at mean low water to the base of the facility storage tank to be used to receive NLS residues resulting from stripping operations. _____ FEET
- AH** Estimated backpressure due to elevation difference between facility storage tank and offloading operations. BAR
 $\frac{("AF" + "AG")}{32}$

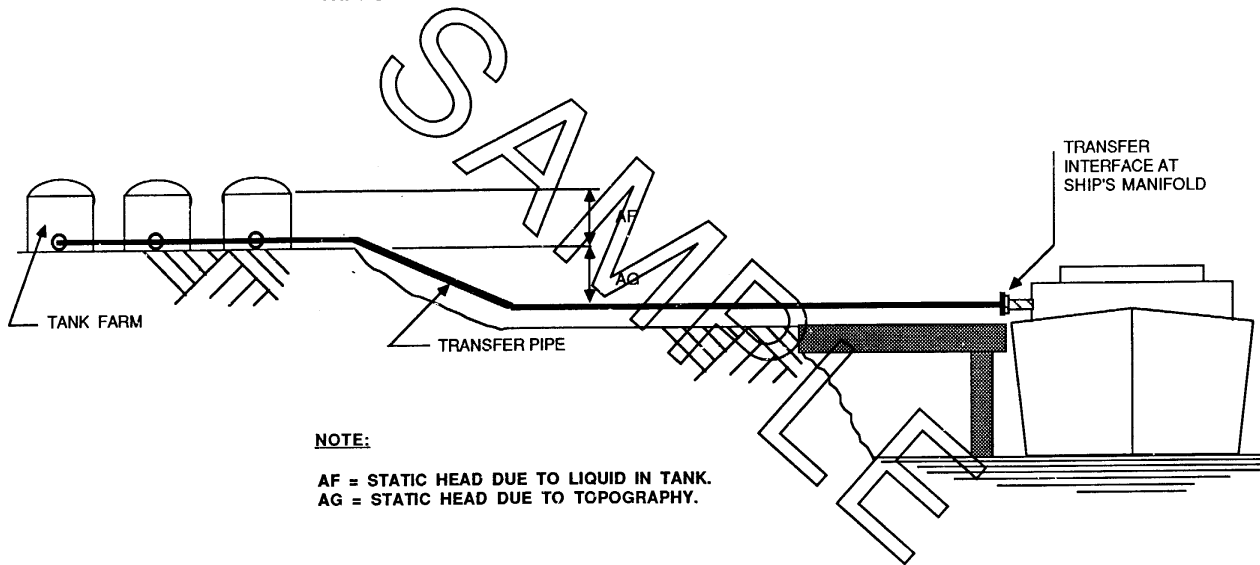
If value is greater than 1 BAR, the terminal or port must make equipment or operational changes which when certified by a professional engineer or demonstrated by an operational test to the COTP indicates the terminal can reduce the backpressure to 1 Bar or less during NLS cargo stripping operations.

PRINTED OR TYPED NAME OF PERSON COMPLETING THIS WORKSHEET: _____

Capacity Requirement

Figure 1.

TRANSFER LINE BACKPRESSURE DIAGRAM



TRANSFER LINE BACKPRESSURE DIAGRAM

Form Approved OMB No 2000-0404 Expires 7-31-86

UNIFORM HAZARDOUS WASTE MANIFEST		1 Generator's US EPA ID No VA D 001234567000000		2 Page 1 of 1		Info. material in the shaded areas is not required by Federal law.									
3 Generator's Name and Mailing Address GENERAL METAL PROCESSING CO 501 MAIN ST SMALLTOWN VA 23000				A State Manifest Document Number											
4 Generator's Phone (804) 555-0509				B State Generator's ID											
5 Transporter's Company Name SAFETY HAULER				6 US EPA ID Number VA D 0008912345		C State Transporter's ID									
7 Transporter's Company Name				8 US EPA ID Number		D Transporter's Phone									
9 Designated Facility Name and Street Address DISPOS-ALL INC 1800 NORTH AVE FRIENDLY TOWN, VA 23000				10 US EPA ID Number VA D 0006789123		E State Transporter's ID									
						F Transporter's Phone									
						G State Facility's ID									
						H Facility's Phone									
11 US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number):						12 Containers									
a HAZARDOUS WASTE LIQUID OR SOLID NOS ORM-E NA9189 b WASTE CYANIDE SOLUTION NOS UN1935 c WASTE FLAMMABLE LIQUID NOS UN1993 d						No		Type		13 Total Quantity		14 Unit Vol		15 Waste No	
										002DM100110GAL					
										001DM100055GAL					
										001DM00055GAL					
16 Additional Descriptions for Materials Listed Above						17 Handling Codes for Wastes Listed Above									
15 Special Materials Codes and Additional Information															
16 GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and a classified packed material and labeled and are in all respects in proper condition for transport by highway according to applicable national and national government regulations.															
I, the undersigned, generator, who has been employed by statute or regulation from the duty to make a waste management certification under Section 3002(b) of RCRA, I also certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to man, health and the environment.															
Printed Name JOSEPHINE K DOE						Signature <i>Josephine K. Doe</i>				Month Day Year 10 8 1986					
17 Transporter's Acknowledgment of Receipt of Materials						Printed Name				Signature					
18 Facility's Acknowledgment of Receipt of Materials						Printed Name				Signature					
19 Discrepancy Indication Space															
20 Facility Owner/Operator Certificate of Receipt of Hazardous Materials Covered by this Manifest except as noted in item 18															
Printed Name						Signature				Month Day Year					

EPA Form 8700-22 (Rev. 4-85) Previous editions obsolete

*Information in the shaded areas is not required by Federal law, but this or other additional information may be required by your state

ENFORCEMENT POLICY FOR NLS WASTE RECEPTION FACILITY REQUIREMENTS

1. GENERAL ENFORCEMENT POLICY. Consistent enforcement is essential for effective implementation of the NLS waste reception facility requirements. Violations of MARPOL 73/78, the Act, or the regulations carry a criminal fine of up to \$50,000 and/or 5 years imprisonment, a civil penalty of up to \$25,000, or for making a false, fictitious, or fraudulent statement, a civil penalty of up to \$5,000 for each such statement.

The types of reception facility violations are categorized as either major or minor according to their impact upon the adequacy of the reception facility, potential for delaying ships and the severity of threat to the marine environment. For each category there is a description of the violations and the enforcement actions considered appropriate. The listing of violations is not all inclusive. For violations not listed, the COTP should assess the seriousness of the discrepancy, classify it as either major or minor and decide upon the appropriate enforcement actions taking into consideration the enforcement actions recommended for similar violations. COTPs in taking enforcement action may modify the guidance herein to better suit the specifics of the violation, the circumstances surrounding the violations, and the local conditions.

The COTPs should strive for cooperation with terminal/port and ship owners and operators to achieve compliance. If cooperation is not forthcoming then enforcement actions are necessary to achieve compliance.

Although many of the violations of the NLS waste reception facility requirements are the same as those for oily waste reception facilities, the enforcement guidance differs as ships are required to transfer certain NLS waste ashore and also must comply with the Resource Conservation and Recovery Act (RCRA). COTPs should develop working relationships with EPA enforcement personnel to pass information and evidence concerning violations of RCRA and associated regulations in 40 CFR parts 260-271 as they pertain to the transfer of NLS waste from ships and the operation of reception facilities.

- a. Targeting Enforcement. To achieve compliance and to fairly administer the reception facility program it is important to direct the Coast Guard's enforcement efforts against those failing to meet their reception facility responsibilities. The COTP can process a violation report for violations of 33 CFR 151 and 158, as appropriate, against:

- (1) the terminal or port to whom the COA is issued;
- (2) a terminal associated with a port to whom the COA is issued;
- (3) a reception facility;

Enclosure (3) to COMDTINST M16450.29

- 1.a. (4) an oceangoing vessel; or
- (5) a person in charge of any of the above.

Do not restrict enforcement actions to only the terminal/port owner, operator, or person in charge to whom the COA is issued. Each violation case will require careful investigation to identify the responsible party or parties prior to taking enforcement actions.

- b. Denial of Entry. The Act states in 33 USC 1905 that ships must be denied entry to terminals and ports not having adequate reception facilities, i.e. holding a COA. All oceangoing chemical tankers carrying Category A,B and C NLS are to be denied entry to unloading terminals not holding a COA whether they have waste to discharge or not.

- c. Suspension and Revocation of a COA.

- (1) General Policy.

- (a) Suspension and revocation of a COA is a serious enforcement action which leads directly to the denial of entry of ships to a terminal or port. Suspension of a COA is the temporary invalidation of a COA and revocation is the permanent invalidation of a specific permit. Suspension i.e., temporary invalidation of a COA, is appropriate for major deficiencies and for recurring or continuing minor deficiencies. Major deficiencies are those which:

- pose an extreme hazard to the operation or the port,
- pose a substantial threat of discharge of oil or NLS into or upon the navigable waters of the United States, or
- cause undue delay to ships, for example by failing to accept NLS waste that is required to come ashore.

Under the authority in 33 CFR 158.170 the COTP may immediately suspend a COA. The COTP may rescind a suspension order when in his judgement the terminal has demonstrated its reception facilities are adequate. When a COA is revoked the terminal or port will have to reapply and follow the procedures for obtaining a new COA given in enclosure (2).

- 1.c.(1). (b) The term "Suspension and Revocation" used here and in 33 CFR 158 pertains to actions by the COTP against a Certificate of Adequacy issued for NLS or oily waste reception facilities. This term should not be confused with the Suspension and Revocation procedures in 46 USC Chapter 77 for the suspension and revocation of merchant mariner's licenses and documents

(2) Suspension Procedures:

- (a) Suspension Order Issuance. To suspend a COA the COTP shall issue the suspension order, orally or in writing, to the person in charge of the terminal or port who is listed on the COA. The suspension order shall state the following:
- reasons for suspension;
 - the date the suspension becomes effective (generally, at least 30 days from the date of issue);
 - when the suspension ends;
 - suspension order requirements (i.e., equipment or conditions which must be repaired, provided, or corrected);
 - how the suspension may be withdrawn; and
 - that ships will be denied entry to the terminal or port during the time the suspension order is in effect.

If the suspension order is given orally, it shall be followed up with a written suspension order within 5 days of the oral suspension order. Immediate suspension is primarily for when an unsafe condition is detected or when the discrepancy is causing undue delay of ships.

- (b) Suspension Order Review. COTPS, except for immediate suspension situations, will normally allow 15 days for the person in charge of the terminal or port to present arguments for the retention of the COA or to correct deficiencies.
- If no response is received within the 15 day time frame, the suspension becomes effective on the date stated in the order.
 - If replies to the suspension order are received during the 15-day period, the COTP shall, after considering the comments, inform the person in charge in writing that the suspension order stands or rescind the suspension order.

- 1.c.(2)(b) - If the suspension order stands, the COTP shall also inform the person in charge of the terminal or port about the appeal procedures in 33 CFR 158.190; that oceangoing ships are denied entry until the suspension order is rescinded or expires; and, for suspensions greater than 5 days, that they are to return the original and copies of their COA to the COTP within 5 days after the suspension becomes effective in accordance with 33 CFR 158.178.
- (c) Immediate suspension orders. For immediate suspension for undue delay of ships or safety reasons, the COTP may issue the suspension order orally giving the same information as in paragraph (b) above, followed by a written suspension order. No comment period is given for immediate suspension.
- (d) Termination Suspension Orders. To terminate a suspension order the COTP shall either rescind the suspension order in writing upon satisfactory compliance with the regulatory requirements or allow the suspension order to expire, if an expiration date is given in the order. The terminal's or port's COA should be returned upon termination of the suspension order.
- (3) Revocation of COA. If no significant measures are undertaken on the part of the person in charge of the terminal or port to resolve the deficiencies which resulted in the suspension of the COA, and if no appeal is pending the COA should be revoked. The COTP will follow similar procedures and guidance to those for the suspension letter. Upon issuance of the revocation letter the terminal or port in order to receive oceangoing ships will have to reapply for a COA. Oceangoing ships will be denied entry to the terminal or port until a new COA is issued. The COTP will recover and retain the original COA. If a new application is received and is found to be satisfactory a new COA will be issued.
- d. Activities Which Are Not Violations. The following described activities are not violations of MARPOL 73/78, the Act or the regulations in 33 CFR part 158 and do not require enforcement action.
- (1) Leaving Port without Discharging NLS Residues after unloading non-solidifying or non-high viscosity Category B and C or Category D NLS. A ship may enter a terminal or port and unload Category B and C non-solidifying or non-high viscosity NLS's and Category D NLS without having to transfer NLS residues from tank cleaning ashore.

This is not a violation as there is no requirement for the ship to transfer NLS Residue ashore even if the ship requested reception facilities in advance.

Enclosure (3) to COMDTINST M16450.29

- 1.d. (2) COA Processing Deficiencies. COA processing deficiencies are not violations of the regulations open to civil penalty proceedings. Deficiencies of this nature are handled as stated in Enclosure (2) and ultimately will result in no COA being issued and denial of entry of ships to the terminal or port.

2. MAJOR VIOLATIONS. These are defined as deficiencies which significantly affect the adequacy of the facility, pose an unreasonable risk of pollution to the marine environment or cause undue delay to ships. In addition, repeated or flagrant minor violations may escalate to the level of a major violation. The following is a list of major violations and the recommended enforcement action for each.
 - a. The applicant INTENTIONALLY provides false information required by 33 CFR 158.140. This is a very serious violation possibly involving criminal liabilities.
Enforcement Action.
 - (1) Deny issuing the COA, or if the COA is issued, immediately suspend the COA under 33 CFR 158.170.
 - (2) If the false statement causes ships undue delay, then initiate civil or criminal penalty action; and deny entry to ships to the terminal or port until the application is corrected and the reception facilities are found adequate.

 - b. Ship transfers other than specified NLS Residues listed on the Uniform Hazardous Waste Manifest or transfers contaminated NLS to a reception facility. Transfers of substances other than the NLS residue specified on the Hazardous Waste Manifest can result in serious safety and health hazards. The transfer system might be damaged as a result of mixing incompatible substances or initiating unexpected chemical reactions. Depending on the substance contaminating the waste a safety hazard may be present due to low flash point or the presence of toxic materials. Enforcement action will vary depending on whether the transfer was intentional or unintentional, and the cause and amount of the contamination.
Enforcement Action. Under the authority of 33 CFR 126 and/or 46 CFR 5:
 - (1) immediately stop transfer operations:
 - (2) consider detaining the vessel until the hazardous material is properly identified and arrangements are made for disposal;
 - (3) refer the case to the EPA and appropriate state hazardous waste enforcement officials, if hazardous materials involved more than minor contamination which can be explained;

Enclosure (3) to COMDTINST M16450.29

2. b. (4) for a U.S. vessel consider suspension and revocation proceeding against the master or other licensed officers implicated in the transfer. For a foreign vessel forward the case via District (m) to Commandant (G-MPS-1) for referral to the ship's flag state.
- c. Reception facility does not hold all Federal, state, or local permits or licenses 33 CFR 158.310(a)(4). This regulation requires terminals and reception facilities to obtain all Federal, state and local permits and licenses required by environmental laws and regulations concerning the discharge and disposal of NLS wastes.

Enforcement Action.

- (1) If the reception facility does not have all applicable Federal, state, and local permits and licenses, do not issue either the COA or Interim COA letter.
 - (2) If the COA or Interim COA Letter has been issued, then the COA or COA Interim Letter should be suspended until the deficiency is corrected.
- d. Reception facility not able to receive the amounts of waste or meet the water discharge time requirements in 33 CFR 158. Terminals are required by the Act and Annex II of MARPOL 73/78 to provide reception facilities for the waste generated by ships complying with the Annex II requirements in 46 CFR 153 for prewashing of cargo tanks and to remove these waste from the ship in a timely manner. In applying for a COA the reception facility operators are required to state the estimated quantities of Category A and solidifying and high viscosity Category B and C NLS residues they will be capable of receiving and that they can meet the wastes discharge time limitations. If the reception facility is unable to handle the quantities stated in its application for a COA or the quantities have been under estimated, it may be necessary to reevaluate the reception facility for adequacy. Enforcement actions will vary depending on the degree and reasons why the reception facility is unable to meet the required quantities, since the calculations for determining the daily capacity of the reception facility are only best estimates. If quantities are grossly inadequate then additional capacity must quickly be made available to prevent future undue delay to ships. If reception facility capacity is not increased, then vigorous enforcement should be pursued. If, however, the facility is just under its prescribed capacities and flow rates, then the enforcement action may not be necessary. Similar actions apply for not meeting the NLS waste transfer time requirements.

Enforcement Action.

- (1) For the first violation of these requirements not involving significant deficiencies in quantity or flow rates, issue a COTP Letter of Warning.

2.d. (2) For subsequent violations not involving significant deficiencies in quantity or waste transfer time, initiate civil penalty proceedings, reevaluate the facility for adequacy and commence COA suspension procedures, if reception facilities are inadequate.

(3) For major violations of these requirements involving significant deficiencies in quantity or transfer times, initiate civil penalty proceedings and COA suspension procedures, as appropriate.

e. Reception facility does not have means to dispose of NLS residues or disposes of NLS residues illegally.

(1) Reception facilities without an adequate means of ultimate disposal of NLS residues and mixtures will eventually run short of storage capacity and not have the capability to receive the amounts of waste listed on the COA. In that case, enforcement should follow that outlined in paragraph 2.d. above, "Reception facility not able to receive...".

(2) The actual disposal of NLS residues and mixtures received from oceangoing ships does not normally fall within the Coast Guard's jurisdiction, except through the requirement that the terminal hold all Federal, state, and local permits and licenses. COTPs discovering a reception facility engaged in the illegal disposal of NLS residues and mixtures should immediately advise appropriate Federal, state and local environmental enforcement agencies.

(3) In the event an illegal disposal involves the actual or potential pollution of a navigable water, the COTP acting under his authority as OSC shall, pursuant to section 311 of the CWA or section 104 of CERCLA, ensure that appropriate action is taken to prevent, minimize, or mitigate damage to public health or welfare, or the environment. The COTP should follow the guidelines provided in the National Oil and Hazardous Substance Contingency Plan, Code of Federal Regulations Title 40, Part 300.

f. Reception facility refuses to accept NLS waste from a ship.

The reason COAs are issued to terminals and ports is to insure they have adequate facilities to receive NLS waste generated by oceangoing ships. Refusal of a terminal or port's reception facility to accept a legitimate NLS waste is a serious matter, unless the facility can produce substantial justification why the NLS waste should not be accepted.

Enforcement Action.

(1) For the first violation; initiate civil penalty proceedings and consider immediate suspension if the reception facilities are not provided in a timely manner.

2. f. (2) For subsequent violations, commence civil penalty proceedings and actions to suspend the facility's COA. NOTE Possible justification for a reception facility refusing to accept a ship's NLS waste include:
- o failure of the ship to pay or provide reasonable assurance of payment;
 - o failure of the ship to provide the information on the NLS waste required by 33 CFR 151.43(b); and
 - o evidence of contamination of NLS residue.

- g. Ship unloading Category A or solidifying or high viscosity Category B or C cargo does not prewash tank or does not discharge NLS residues to an adequate NLS reception facility prior to departing port. Ships are required when unloading Category A or solidifying or high viscosity Category B and C NLS to prewash tanks inport and discharge the waste to an adequate NLS reception facility in the port of unloading (46 CFR 153.1119) (a), unless they have obtained a waiver to use the reception facilities in another port, to backload a compatible cargo, or to remove the residue by ventilation (46 CFR 153.1114 and 1119). To leave port with this waste onboard is a major violation, since there is no way to verify the waste has been safely disposed.

Enforcement Action.

- (1) If the ship has not left port, detain the ship until it complies with the requirements and commence civil penalty proceedings.
 - (2) If the ship has departed, advise the next port of call of the problem and request they investigate whether the tanks was properly washed and the NLS waste properly disposed. If the next port of call is in a foreign country, advise Commandant (G-MPS-1) of the situation. Commence civil penalty proceedings.
- h. Ship while at sea internally transfers Category A or solidifying or high viscosity Category B or C cargo between tanks, prewashes tanks and discharges NLS waste into sea. This is a major violation for Category A NLS residue situation since under 46 CFR 153.1128 water can only be discharged from a tank that has held a Category A NLS after a prewash is conducted. The prewash residue from solidifying or high viscosity Category B or C NLS should be discharged in accordance with the ship's P & A Manual procedures. Washing of the cargo tanks and transfer of the material to a slop tank for discharge to a reception facility would be permitted, even though a surveyor is not present.

2. h. Enforcement Action.
cont'd

- (1) For U.S. ships commence civil penalty proceedings and consider proceedings under 46 U.S.C. Chapter 77 against the Master's license or the license of other responsible ship's officers.
 - (2) For foreign ships submit evidence of the violation via District (m) to Commandant (G-MPS-1) for forwarding to the ship's flag state for action.
- i. Ship unloads Category A or solidifying or high viscosity Category B or C NLS at a terminal or port that does not have adequate reception facilities, washes tanks and discharges the NLS waste at sea. This situation is similar to the one described in paragraph h above since it leads to NLS waste entering the ocean in excess of what is allowed. Enforcement Action. Same as in paragraph above and advise the ship that they should submit a report of inadequate reception facilities to their flag state. U.S. ships should submit the report using the format in the NVIC entitled "Report of Inadequate Reception Facilities" which will be published in early 1987. These reports should be submitted to Commandant (G-MPS-1).
- j. Ship does not have surveyor present during prewash and transfer of NLS residue to reception facility after unloading Category A cargo. This is a major violation since it is difficult to determine if the prewash was properly conducted and ensure that excessive NLS residue does not remain in the tank for discharge to the sea.

Enforcement Action.

- (1) Detain the ship in port. Then determine to the best of your ability whether the prewash was properly conducted by comparing the amount of waste transferred to the reception facility to what should have been generated; reviewing the Cargo Record Book to see if the entries reflect what is required by the ship's P & A Manual; and discussing the prewash actions with vessel and terminal personnel.
 - (a) If in the COTP's judgement the prewash was properly conducted, allow the ship to depart and commence civil penalty proceedings.
 - (b) If in the COTP's judgement the prewash was not properly conducted, require the ship to prewash the cargo tank in accordance with its P & A Manual, under the supervision of a surveyor and transfer the waste to a reception facility. Commence civil penalty proceedings and for a second violation commence proceedings under 46 U.S.C. Chapter 77 against the master's license.

2. k. In the U.S. a ship discharges NLS waste to a reception facility not inspected or listed on a COA for NLS waste reception facilities. This is a violation of 46 CFR 1119 which requires that NLS waste is discharged to a reception facility that is adequate, i.e., in the United States the reception facility is listed on a Form B attached to a COA issued by the Coast Guard, unless the ship is operating under a waiver in 46 CFR 153.1114 and 1119. This is a major violation since without being inspected for compliance with 33 CFR 158, it can not be determined that the waste is being properly disposed and that the reception facility complies with the other requirements for adequacy.

Enforcement Action.

- (1) If the discharge of NLS waste is in progress, stop discharge operation until it is verified that the reception facility meets the requirements for adequacy, or have the NLS waste transferred to a reception facility that is adequate. For the first violation commence civil penalty proceedings, for subsequent violations consider proceedings under 46 U.S.C. Chapter 77 against the Master's license.
 - (2) If the violation is detected after the discharge to the reception facility has taken place, commence civil penalty proceedings, and for repeated violations consider proceedings under 46 U.S.C. Chapter 77 against the Master's license.
1. Reception Facility does not Comply with the Resource Conservation and Recovery Act (RCRA). Violations of RCRA are important, since they may lead to mishandling, unsafe transportation, or unsafe disposal of the NLS residues. The types of discrepancies of RCRA that Coast Guard personnel may detect during the course of inspecting and certifying reception facilities or monitoring NLS cargo operations are as follows:
- (1) reception facility, terminal/port, or ship does not have generator number or EPA identification number,
 - (2) no Uniform Hazardous Waste Manifest for the transfer of the NLS residue,
 - (3) Uniform Hazardous Waste Manifest is incomplete or improperly completed,
 - (4) Treatment, Storage and Disposal (TSD) or other waste storage facility holds the waste longer than allowed,
 - (5) reception facility has improper storage or disposal arrangements,
 - (6) reception facility has improper listing of waste it has received or cannot provide documentation for waste it has received, or
 - (7) reception facility or terminal transfers waste to another facility that is not designated to take the waste.

2. 1. Enforcement Action.

These types of discrepancies are violations of RCRA which are the responsibility of EPA. The COTP should contact EPA enforcement officials to arrange coordination procedures and how to process these types of violations. Depending on the COTP's local working arrangements with EPA, the type of violation, the location of the violation, and available resources this may include notifying EPA for them to investigate, collecting evidence for EPA to take action, or preparing a violation case and submitting it to EPA for prosecution. For major RCRA discrepancies that may lead to incorrect handling, transportation, or disposal of the NLS waste, immediately suspend the COA until the discrepancy is resolved or corrected or until another reception facility which meets the adequacy requirements is provided. Coordinate with EPA enforcement personnel according to local working arrangements.

- m. Terminal does not provide a backpressure of 1 BAR or less during cargo stripping or the terminal does not have an instruction manual providing procedures for meeting the 1 BAR backpressure requirement. These are major discrepancies since if the terminal has more than 1 BAR backpressure, than the stripping pumps on the ship will not reduce the amount of NLS residue remaining in the cargo tank to the regulatory limits. Thus, these violations would lead to excessive amounts of NLS residue entering the sea.

Enforcement Action.

- (1) If noted on Form B, do not issue the COA or Interim COA Letter until the discrepancy is corrected.
 - (2) If the terminal does not provide 1 BAR backpressure during cargo stripping or does not follow the procedures in its instruction manual, require the terminal to provide 1 BAR or less backpressure for stripping in accordance with the procedures in its instruction manual, verify, if possible, that no more than the allowed amounts of residue are left in the cargo tank, or require prewashing of the cargo tank and transfer of the NLS residue to a reception facility as would be done for unloading a solidifying or high viscosity Category B or C NLS. Issue a Letter of Warning (LOW) for the first offense and for intentional or repeated offenses commence civil penalty proceedings.
- n. The terminal drains the cargo hoses back to the ship upon completion of cargo unloading. This is a major discrepancy, since this will cause considerably more NLS residue to be carried to sea for disposal than is allowed.

2. n. Enforcement Action. Require the ship to re-strip cargo tanks according to its P & A Manual and ensure terminal does not re-drain hoses back to the ship or require prewashing of the cargo tank and transfer the NLS residue to a reception facility as would be done for unloading a solidifying or high viscosity Category B or C NLS. Issue a LOW for the first offense and for intentional or repeated offenses commence civil penalty proceedings.

3. MINOR VIOLATIONS. Minor violations are defined as those violations which do not affect the adequacy of the facility, pose only minimal risk of pollution to the marine environment or do not cause undue delay to ships. Minor violations which are flagrant or repeated should be considered major and dealt with accordingly. The following is a list of minor violations and recommended enforcement actions.
 - a. Notification deficiencies. Under the requirements of 33 CFR 151.43 the person in charge of an oceangoing ship must notify the reception facility at least 24-hours prior to the time of entry of the category and volume of NLS residues and mixtures to be discharged and other pertinent information. Notification deficiencies include the following:
 - (1) Ship provides less than 24-hour notification of the need for reception facilities;
 - (2) Ship does not give any information required for notification except that reception facilities are needed;
 - (3) Ship fails to notify the terminal of the ship's reception facility needs;
 - (4) Ship gives incorrect description of waste in notification message; and
 - (5) Ship gives incorrect volume of waste in notification message or other required information.

Enforcement Action. We do not expect enforcement of the notification requirements to present a significant problem. These requirements will, for the most part, be self-enforcing. It is in the ship's best interest to provide the required information. Failing to do so may cause the ship inport delay, if it needs to discharge NLS residues and mixtures to a reception facility.

- (1) In the event a particular ship is determined to have violated the notification requirements on more than one occasion, the COTP should consider a Letter of Warning of initiate civil penalty proceedings.

3. b. Changes in facility information 33 CFR 158.165. The person submitting the COA Application for the terminal or port must notify the COTP within 10 to 30 days of changes to the information submitted on the application. Enforcement action is indicated for failure of the appropriate person in charge to make the notifications required by 33 CFR 158.165.

Enforcement Action.

- (1) For a first violation issue a COTP Letter of Warning.
- (2) For subsequent violations initiate civil penalty proceedings.

- c. Reception facility unable to complete transfer of NLS residues within 10 hours (33 CFR 158.310). Only if the reception facility or terminal is responsible for the delay should enforcement action be considered. Often, the ship's pumps and piping system will be the limiting factor in transfer times.

Enforcement Action.

- (1) For a first violation issue a Letter of Warning.
- (2) For a second violation initiate civil penalty proceedings.
- (3) For repeated violations suspend the terminal's COA as specified in 33 CFR 158.170, since this indicates the reception facility is not adequate and is causing undue delay to ships.

- d. Failure to return a suspended or revoked COA (33 CFR 158.178). Initiate civil penalty actions if a terminal or port will not voluntarily return a suspended or revoked COA after being requested to do so. Deny entry to oceangoing ships requesting to call at those terminals or ports having suspended or revoked COA's.

- e. Miscellaneous violations. This category includes a number of minor violations, primarily administrative or paperwork related, including the following:

- (1) Waiver(s) not attached to COA (33 CFR 158.150).
- (2) The terminal or port covered by the COA does not have a copy of the COA (33 CFR 158.163(b)(1)).
- (3) A copy of the COA is not available for inspection by Coast Guard personnel or the master, or agent of an oceangoing ship (33 CFR 158.163(b)(2)).

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3. e. (4) The terminal's instruction manual for meeting the 1 BAR backpressure requirements is not available.
- (5) Not using Form A or Form B to apply for a COA.

Enforcement Action.

- (1) For the first violation a verbal warning by Coast Guard personnel may be sufficient to achieve compliance.
- (2) For subsequent violations of the same requirement, issue a COTP Letter of Warning or if cooperation is not forthcoming initiate civil penalty proceedings.
- (3) If violations of these requirements continue and the reception facility does not make efforts to comply, suspend the COA.

NLS WASTE RECEPTION FACILITY REPORTING REQUIREMENTS

As a Party to MARPOL 73/78 the United States is required to cooperate in the detection and enforcement of violations and to institute adequate procedures for reporting and accumulating evidence. Additionally, to advise mariners of the availability of reception facilities the Act require publication in the Federal Register of reception facilities that are adequate (33 U.S.C. 1905 (d)). To comply with these provisions this enclosure provides detailed instructions on:

- o Reporting the specifics of reception facilities to which a COA has been issued for publication in the Federal Register, and
- o Reporting program information in the Quarterly Activities Report to evaluate and measure program effectiveness and progress.

1. REPORT OF ADEQUATE RECEPTION FACILITIES:

- a. To assist vessels in locating adequate reception facilities to dispose of their NLS waste retained on board, the Act requires periodic publication in the Federal Register of a list of terminals or ports holding a valid Certificate of Adequacy. Upon issuing the COA the COTP shall copy the Form B COA Application and forward it to the District (m) office. On a quarterly basis the District (m) office shall forward the copied certificates to Commandant (G-MP-5) for periodic publication in the Federal Register.
- b. If a COA is revoked or if the COA becomes invalid due to closing of the terminal or for some other reason, the COTP shall inform Commandant (G-MPS-3) by letter via the District (m) office. The letter should give the reason for the COA becoming invalid and properly identify the terminal or port.

2. PES/MER QUARTERLY ACTIVITIES REPORT (CG-4957): The Quarterly Activities Report is the primary means of obtaining information to assess the progress and effectiveness of the reception facility program. Marine Safety Manual Volume I, Page 12-13 (COMDTINST M16000.6) provides guidance on page 6 of enclosure (1) for entering data for reception facilities. In paragraph c.(3) do not include in column 2 the number of interim COAs issued; only record the number of final COAs. In paragraph c.(4) do not include the inspection time associated with issuing the COA. Include inspection time for the issuance of the COA in paragraph c.(1). The purpose of the information required by c.(2) is to measure whether the reception facilities are being reinspected according to program goals.

RCRA AND CERCLA APPLICABILITY TO NLS WASTES

1. Background.

- a. This enclosure deals with the applicability of EPA's regulations under the Resource Conservation and Recovery Act (RCRA) to operational wastes from ships, and to liability concerns under the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA). RCRA regulations in 40 CFR 260-267, 40 CFR 122-124 and 49 CFR 171-177 outline requirements that insure the proper management and disposal of hazardous materials. In the event of an actual or threatened release of oil or hazardous substance material into the environment, CERCLA regulations in 40 CFR 300-302 describe procedures for cleanup, notification, cost recovery and liability for resulting damages.
- b. With the implementation of Annex II of MARPOL 73/78 the COTP will be called upon to monitor in a more intimate role the flow of hazardous waste from bulk chemical cargo carriers to reception facilities and, ultimately, to an approved disposal site. In addition, the Act to Prevent Pollution from Ships requires close cooperation with the EPA which implements and enforces the RCRA regulations. To fulfill these requirements a deeper understanding of the RCRA regulations and recent interpretations made by EPA is needed by COTP personnel. The following definition and policy statements should provide a broad comprehensive view of the RCRA regulations contained in Title 40 of the Code of Federal Regulations as they apply to wastes from ships. Commandant Instruction M16478.1A entitled "Hazardous Waste Management" provide additional guidance for compliance with RCRA. More detailed information maybe obtained by contacting the Office of Solid Waste at regional EPA offices.

2. Definitions.

The following definitions are provided to assist in understanding the terminology associated with EPA hazardous waste generator policy. The abbreviation CFR stands for Code of Federal Regulations and USC stands for United States Code.

- a. "Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1978, as amended, 42 U.S.C. section 6901 et seq.
- b. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act.

2. c. "Designated facility" means a hazardous waste treatment, storage or disposal facility which has received an EPA permit (or a facility with interim status) in accordance with the requirements of 40 CFR Parts 124 and 270 of this chapter, or a permit from a State, authorized in accordance with Part 271 of this chapter, that has been designated on the manifest by the generator pursuant to 40 CFR 262.20.
- d. "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.
- e. "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in Part 261, Subpart D, of this Chapter and to each characteristic identified in Part 261, Subpart C, of this Chapter.
- f. "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.
- g. "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 40 CFR part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.
- h. "Hazardous waste" means a hazardous waste as defined in 40 CFR 261.3.
- i. "Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located, or his designee.
- j. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, waste supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.
- k. "Solid waste" means a solid waste as defined in 40 CFR 261.2.
- l. "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
- m. "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.
- n. "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

3. Generator Requirements.

- a. The RCRA regulations define a generator as any person or site, whose act or process produces hazardous waste identified or listed in 40 CFR Part 261 or whose act first causes a hazardous waste to become subject to regulations. Any person who generates a solid waste must determine if that waste is hazardous, and, if so, must obtain an EPA identification (ID) number before treating, storing, transporting or disposing of the waste. If the generator plans to move the waste offsite for treatment, storage or disposal, he must comply with certain requirements in Part 262, including preparing a Hazardous Waste Manifest, labeling the container of waste, keeping training records and filing reports. In addition, a generator may accumulate hazardous waste on-site for up to 90 days without a permit, if he complies with the requirements of 40 CFR 262.34(a) (1-4). For the case of NLS waste generated from a required prewash, a terminal or reception facility may store the NLS residue at the site of unloading for up to 90 days without a permit.
- b. For the situation of removing hazardous waste from a ship, EPA has stated that "the operator of the ship, and the person purposefully removing the hazardous waste from the ship would all be considered 'generators,' as defined in 40 CFR 260.10 of the regulations." This means that the ship operator, the terminal operator, the facility owner, or the reception facility operator are considered co-generators. Any of these parties can perform any or all of the generator duties.
- c. Parties liable for performing generator duties may designate among themselves who will actually perform those functions. For example, where both the ship and a central waste removal facility are deemed to be generators, they may mutually agree that the central facility will perform the generator duties.
- d. Where there is disagreement between potential generators as to who will assume the generator responsibilities, EPA has stated it will look primarily to the facility who removed sediments and residues from the ship to perform the generator duties, since it is the entity best able to perform such generator duties as determining whether the waste is hazardous. Where the wastes are not removed at a shoreside facility, however, EPA looks to the operator of the vessel to perform the generator duties. This would be the case in accidental spills and ship to ship transfers.
- e. Whether these wastes are hazardous wastes would be determined under 40 CFR 261.3. In general, the waste would have to be either:
 - (1) listed in Subpart D of Part 261; or

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3. e. (2) identified in Subpart C of Part 261 (e.g., exhibits ignitability characteristic); or
 - (3) a mixture of solid waste and a listed hazardous waste; or
 - (4) derived from treating a listed hazardous waste.
 - f. NLS wastes are not regulated by RCRA until they leave the vessel. Under 40 CFR 261.4(c), a hazardous waste generated in a product or raw material transported by ship is exempt from RCRA regulation until it leaves the ship. The only exception is if it remains in the unit more than 90 days after the ship ceases to be operated for storage or transportation of the product or raw materials.
 - g. As a result of this exemption, parties who remove the waste from the ship at a central facility by either emptying the product-holding unit or cleaning the holding tank are deemed to be generators under 40 CFR 260.10, because their actions cause the hazardous waste to become subject to regulation. In addition, the actions of both the operator and owner of the vessel and the owner of the product or raw material result in production of the hazardous waste.
 - h. The facility may be a transporter (Part 263) or a treatment storage or disposal (TSD) facility (Parts 264-265), depending upon the actions it takes.
4. CERCLA Liability Issues. Although a limited number of persons may be called upon to perform generator duties for RCA, CERCLA holds a wider range of entities potentially liable in the event a release or threatened release of a hazardous waste occurs. The liability implications of CERCLA are of concern to ports and terminals, as well as ship operators, waste transporters, waste disposers, and others involved in the generating, transporting and disposing of NLS wastes. As a consequence of CERCLA, a broader universe of NLS residues than just the RCRA hazardous wastes may be subject to Superfund liability, and handlers of those materials, whether or not they are RCRA generators, may also be liable for cleanup costs. Section 107 of CERCLA holds the following entities liable for all costs of removal or remedial action, damages to natural resources, or other costs associated with a release or threatened release of a hazardous substance (of which RCRA hazardous wastes are only a subset) to the environment:
- a. the owner and operator of a vessel;
 - b. any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed;

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4. c. any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such a person, by any other party or entity, at any facility owned or operated by another party or entity and containing such hazardous substances; and
- d. any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such a person.