3. **REGULATIONS**

A. Response Plans for Hazardous Substances (CG)

On March 31, 2000, (65 FR 17416), the Coast Guard (CG), U.S. Department of Transportation, published proposed regulations (33 CFR part 154) that would require response plans for marine transportation-related (MTR) facilities that could reasonably be expected to cause substantial or significant and substantial harm to the environment by releasing a hazardous substance into the navigable waters of the United States. These regulations are mandated by the Oil Pollution Act of 1990 (OPA 90), which requires the President to issue regulations requiring the preparation of hazardous substance response plans. The purpose of requiring response plans is to minimize the impact of a hazardous substance discharge on human health and the environment.

Required contents of a response plan would be: (1) general information; (2) notification procedures and list of contacts; (3) worst case discharge impact analysis; (4) facility discharge mitigation procedures; (5) facility response organization; (6) risk-based decision support process; (7) response resources; (8) training requirements; (9) exercise requirements; and (10) appendices, including facility-specific information, hazardous substance-specific information, site-specific safety and health plan, and disposal plan. Each plan would have to be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP, 40 CFR part 300) and the Area Contingency Plan (ACP) in effect 6 months prior to the submission of the plan.

For further information, contact Lt. Michael Rolden, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-0106).

B. Recreational Activities to Control the Spread of ANS (CG)

On April 13, 2000, (65 FR 19953), the Coast Guard (CG), U.S. Department of Transportation, in order to comply with the National Invasive Species Act of 1996 (NISA), published voluntary guidelines for recreational activities to control the spread of zebra mussels and other aquatic nuisance species (ANS), with a request for comments. After considering the comments on these guidelines, the Coast Guard will issue a final version of the voluntary guidelines. These guidelines will be explained in pamphlets, videos, and other types of outreach media. The voluntary guidelines in this notice are based on the ones drafted and recommended by the Recreational Activities Committee of the Aquatic Nuisance Species Task Force.

ANS are organisms introduced into non-native habitats and are often freed from the natural predators, parasites, pathogens, and competitors that have kept them in check. Once established, these organisms can displace native species; they can impede municipal, industrial, and private water-intake systems; and they can degrade aquatic ecosystems. The introduction of most ANS is the work of humans. In some cases this is intentional, but in many it is accidental. In addition to overland transport of boats, which has long been identified as a key dispersal pathway, there are many others. Establishing these voluntary guidelines will help to promote good habits that

will control the spread of ANS. Surveys have shown that participants in recreational activities will take necessary precautions if they know what to do. Conversely, they will not take precautions unless they know what to do.

These voluntary guidelines address the following water-related recreational activities: scuba diving, waterfowl hunting, harvesting of bait by recreational anglers, angling, boating, operating seaplanes, and operating personal watercraft. They are intended to assist natural-resource managers and others involved in educating individuals who participate in these recreational activities about the problems associated with the spread of ANS in the United States.

For further information, contact Lt. Karen Weaver, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-2079).

C. Coastal Zone Management Act Federal Consistency (NOAA)

On April 14, 2000, (65 FR 20270), the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, issued a proposed rule (15 CFR part 930) to revise the federal consistency regulations under the 1972 Coastal Zone Management (CZMA). The Coastal Zone Act Reauthorization Amendments of 1990, as well as the Coastal Zone Protection Act of 1996, amended and reauthorized the CZMA. Among the amendments were revisions to the federal consistency requirement contained in section 307 of the CZMA. Current federal consistency regulations were promulgated in 1979 and are in need of revision after 18 years of implementation. The purpose of this proposed rule is to make these regulatory revisions and to codify the 1990 and 1996 statutory changes to section 307.

The CZMA was enacted to develop a national coastal management program that comprehensively manages and balances competing uses of and impacts to any coastal use or resource. The national coastal management program is implemented by individual state coastal management programs in partnership with the federal government. The CZMA federal consistency requirement requires that federal agency activities be consistent to the maximum extent practicable with the enforceable policies of a state's coastal management program. The federal consistency requirement also requires that indirect federal activities (i.e., nonfederal activities requiring federal permits, licenses, or financial assistance activities) be fully consistent with a state's federally approved coastal management program. The federal consistency requirement is an important mechanism to address coastal effects, to ensure adequate federal consideration of state coastal management programs, and to avoid conflicts between states and federal agencies by fostering early consultation and coordination.

For further information, contact Mr. David W. Kaiser, Federal Consistency Coordinator, Office of Ocean and Coastal Resource Management (N/ORM3), National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, MD 20910, (phone: (301-713-3098, extension 144).

D. Fill Material and Discharge of Fill Material (ACE and EPA)

On April 20, 2000, (65 FR 21292), the U.S. Army Corps of Engineers (ACE) and the U.S. Environmental Protection Agency (EPA) jointly proposed revising their Clean Water Act (CWA) regulations (33 CFR part 323 and 40 CFR part 232) defining the term "fill material." At present, the ACE and EPA definitions of "fill material" differ from each other, and this has resulted in regulatory uncertainty and confusion. The existing Army definition defines "fill material" as any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body, and specifically excludes from that definition any material discharged into the water primarily to dispose of waste, as that activity is regulated under section 402 of the Clean Water Act. The existing EPA definition defines " fill material" as any pollutant which replaces a portion of the waters of the United States with dry land or which changes the bottom elevation of such waters, regardless of the purpose of the discharge.

This proposed rule would amend both the Army and EPA definitions of "fill material" to provide a single definition of that term, and thus ensure proper, consistent, and more effective regulation under the CWA of materials that have the effect of replacing any portion of a water of the United States with dry land or of changing the bottom elevation of any portion of a water of the United States. This proposal would also make a change to the definition of the term "discharge of fill material" in order to provide further clarification.

For further information, contact Mr. Thaddeus Rugiel, U.S. Army Corps of Engineers, Code CECW-OR, 20 Massachusetts Avenue, NW, Washington, DC 20314, (phone: (202) 761-0199), or Mr. John Lishman, Office of Wetlands, Oceans, and Watersheds (4502F), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 260-9180).

E. Vessel Traffic Service on the Lower Mississippi River (CG)

On April 26, 2000, (65 FR 24616), the Coast Guard (CG), U.S. Department of Transportation, issued a proposed rule (33 CFR parts 26, 161, and 165) that proposes to establish a Vessel Traffic Service (VTS) on the Lower Mississippi River and transfer certain vessel traffic management provisions of the Mississippi River, LA – Regulated Navigation Area, to the VTS. The Coast Guard would implement the proposed transition to VTS in a phased manner that would allow for the orderly transition from existing regulations and practices to operating procedures appropriate to an Automatic Identification System (AIS)-based VTS. This proposed rule would facilitate vessel transits, enhance good order, promote safe navigation, and improve upon existing operating measures on the waterway. In addition to establishing a VTS, minor revisions to the existing vessel traffic management provisions and related regulations are proposed.

For further information, contact Mr. Jorge Arroyo, Office of Vessel Traffic Management (G-MWV), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-6277).

F. Asbestos Worker Protection (EPA)

On April 27, 2000, (65 FR 24806), the U.S. Environmental Protection Agency (EPA) issued a proposed rule (40 CFR part 763) to modify a previously published proposed rule to amend the Asbestos Worker Protection Rule (WPR). This modified proposal would protect state and local government employees from the health risks of exposure to asbestos to the same extent as private sector workers by adopting for such employees the Asbestos Standards of the Occupational Safety and Health Administration (OSHA). The modified proposal would expand the WPR's coverage to state and local government employees who are performing construction work, custodial work, and automotive brake and clutch repair work. The WPR now applies solely to asbestos abatement projects, a subset of construction work. The proposed rule would cross-reference the OSHA Asbestos Standards for Construction and for General Industry, so that amendments to these OSHA standards are directly and equally effective for employees covered by the WPR. It would also amend the Asbestos-in-Schools Rule to provide coverage under the WPR for employees of public local education agencies who perform operations, maintenance, and repair activities. EPA is proposing this rule under section 6 of the Toxic Substances Control Act (TSCA).

For further information, contact Ms. Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 554-1404).

G. Accidental Release Prevention (EPA and DOJ)

On April 27, 2000, (65 FR 24834), the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) published a proposed rule (40 CFR chapter IV) that would provide for access to information concerning the potential off-site consequences of hypothetical accidental chemical releases from industrial facilities. Under section 112(r) of the Clean Air Act, facilities handling large amounts of extremely hazardous chemicals are required to include this information in risk management plans that are submitted to EPA. As required by the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, the proposed rule would provide for access by the members of the public and government officials to this information in ways that are designed to minimize the likelihood of accidental releases, the risk to national security associated with posting the information on the Internet, and the likelihood of harm to public health and welfare.

For further information, contact Ms. Brenda Sue Thornton, Criminal Division, Terrorism and Violent Crime Section, U.S. Department of Justice, 601 D Street, NW, Washington, DC 20530, (phone: (202) 616-5210), or Mr. John Ferris, Chemical Emergency Preparedness and Prevention Office (5104), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 260-4043).

H. Listing the Alabama Sturgeon as Endangered (FWS)

On May 5, 2000, (65 FR 26438), the Fish and Wildlife Service (FWS), U.S. Department of the Interior, issued a final rule (50 CFR part 17) that adds the Alabama sturgeon (*Scaphirhynchus suttkusi*) to the List of Endangered and Threatened Wildlife as endangered under the authority of the 1973 Endangered Species Act, as amended. The Alabama sturgeon's historic range once included about 1,600 kilometers (1,000 miles) of the Mobile River system in Alabama (Black Warrior, Tombigbee, Alabama, Coosa, Tallapoosa, Mobile, Tensaw, and Cahaba Rivers) and Mississippi (Tombigbee River). Since 1985, all confirmed captures have been from a short, free-flowing reach of the Alabama River below Millers Ferry and Claiborne Locks and Dams in Clarke, Monroe, and Wilcox Counties, Alabama. The decline of the Alabama sturgeon is attributed to over-fishing, loss and fragmentation of habitat as a result of historical navigation-related development, and water quality degradation. Current threats primarily result from its reduced range and its small population numbers. These threats are compounded by a lack of information on Alabama sturgeon habitat and life history requirements. This action extends the Endangered Species Act's protection to the Alabama sturgeon.

For further information, contact Mr. Paul Hartfield, Mississippi Field Office, U.S. Fish and Wildlife Service, U.S. Department of the Interior, 6578 Dogwood View Parkway, Jackson, MS 39213, (phone: (601) 321-1125).

I. Ocean Dumping in the Gulf of Mexico (EPA)

On May 18, 2000, (65 FR 31492), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR part 228) that designates an existing dredged material site located in the Gulf of Mexico at the mouth of Atchafalaya Bay for the continued disposal of dredged material removed from the bar channel of the Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana. This action is necessary to provide an acceptable ocean dumping site for current and future disposal of this material. This final site designation is for an indefinite period and is subject to monitoring to insure that unacceptable adverse environmental impacts do not occur.

For further information, contact Ms. Monica Young, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733, (phone: (214) 665-7349).

J. Florida Keys National Marine Sanctuary (NOAA)

On May 18, 2000, (65 FR 31634), the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, published a proposed rule (15 CFR part 922) and other information concerning the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary). By this document, NOAA is proposing to expand the boundary of the FKNMS in the remote westernmost portion of the Sanctuary by 96 square nautical miles (nm^2) and to establish a 151 nm^2 no-take ecological reserve in the expanded area and in 55 nm^2 of the existing Sanctuary, to protect important coral reef resources. This document publishes the coordinates for the proposed expansion area and for the proposed ecological reserve, summarizes the draft supplemental

management plan for the proposed ecological reserve, and publishes the text of the proposed revised designation document for the Sanctuary. By this document, NOAA also proposes regulations to implement the proposed boundary expansion and establishment of an ecological reserve and to regulate activities in the reserve consistent with the purposes of its establishment.

This action is necessary to comprehensively protect some of the healthiest and most diverse coral reefs in the Florida Keys. The intended effect of this proposed rule is to protect the deepwater coral reef community in this area from being degraded by human activities.

For further information, contact Mr. Billy Causey, Sanctuary Superintendent, Florida Keys National Marine Sanctuary, P.O. Box 500368, Marathon, Florida, 33050, (phone: (305) 743-2437).

K. Numeric Criteria for Priority Toxic Pollutants for California (EPA)

On May 18, 2000, (65 FR 31682), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR part 131) that promulgates numeric aquatic life criteria for 23 priority toxic pollutants; numeric human health criteria for 57 priority toxic pollutants; and a compliance schedule provision which authorizes the State of California to issue schedules of compliance for new or revised National Pollutant Discharge Elimination System (NPDES) permit limits based on the federal criteria when certain conditions are met. EPA promulgated this rule based on the determination that numeric criteria are necessary in the State of California to protect human health and the environment. The Clean Water Act requires states to adopt numeric water quality criteria for priority toxic pollutants for which EPA has issued criteria guidance, the presence or discharge of which could reasonably be expected to interfere with maintaining designated uses. EPA promulgated this rule to fill a gap in California water quality standards that was created in 1994 when a State court overturned the State's water quality control plans which contained water quality criteria for priority toxic pollutants.

For further information, contact Ms. Diane Fleck or Mr. Philip Woods, U.S. Environmental Protection Agency, Region 9, Water Division, 75 Hawthorne Street, San Francisco, CA 94105, (phone: (415) 744-1984 or (415) 744-1997, respectively).

L. Emergency Control Measures for Tank Barges (CG)

As a result of the NORTH CAPE oil spill off the coast of Rhode Island in January 1996, the U.S. Congress added, in section 901 of the 1996 Coast Guard Authorization Act (P.L. 104-324), a new statute that directs the Secretary of Transportation to issue rules necessary to reduce oil spills from single-hull non-self-propelled tank vessels. On May 19, 2000, (65 FR 31806), the Coast Guard (CG), U.S. Department of Transportation, published a final rule (33 CFR part 155) that implements measures for maintaining or regaining control of a tank barge that will reduce the likelihood of a tank barge's grounding and spilling its cargo. These measures are necessary because without them a tug that loses its tow lacks ready means for regaining control of it. They should increase the safety of marine transport and protect the environment. With this rule,

instead of requiring just one emergency control measure, the Coast Guard is requiring an anchoring system (on single-hull tank barges) plus one other (backup) measure.

For further information, contact Mr. Robert Spears, Office of Standards Evaluation and Development (G-MSR), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1099).

M. Air Pollution Standards for Heavy-Duty Engines and Vehicles (EPA)

On June 2, 2000, (65 FR 35430), the U.S. Environmental Protection Agency (EPA) published a proposed rule (40 CFR parts 69, 80, and 86) for a comprehensive national control program that would regulate the heavy-duty vehicle and its fuel as a single system. EPA is proposing new emission standards that would begin to take effect in 2007, and would apply to heavy-duty highway engines and vehicles. These proposed standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. Because these devices are damaged by sulfur, EPA is also proposing to reduce significantly the level of sulfur in highway diesel fuel by the middle of 2006.

According to EPA, diesel engines contribute considerable pollution to the continuing air quality problems of the United States. Even with more stringent heavy-duty highway engine standards set to take effect in 2004, these engines will continue to emit large amounts of nitrogen oxides and particulate matter, both of which contribute to serious public health problems. Diesel engines are more durable and get better fuel economy than gasoline engines, but also pollute significantly more. Diesels overwhelmingly dominate the bus and large truck markets and have been capturing a growing share of the light heavy-duty vehicle market over the last decade. If this program is implemented as proposed, diesel trucks and buses will have dramatically reduced emission levels. This proposed program would bring heavy-duty diesel emissions on par with new cars. The results of this historic proposal would be comparable to the advent of the catalytic converter on cars, as the proposed standards would, for the first time, result in widespread introduction of exhaust emission control devices on diesel engines.

This proposed program would result in particulate matter and oxides of nitrogen emission levels that are 90% and 95% below current standards levels, respectively. In order to meet these more stringent standards for diesel engines, the proposal calls for a 97% reduction in the sulfur content of diesel fuel. As a result, diesel vehicles would achieve gasoline-like exhaust emission levels, in addition to their inherent advantages over gasoline vehicles with respect to fuel economy, lower greenhouse gas emissions, and lower evaporative hydrocarbon emissions. EPA is also proposing more stringent standards for heavy-duty gasoline vehicles.

For further information, contact Ms. Margaret Borushko, National Vehicle and Fuel Emissions Laboratory, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, (phone: (734) 214-4334).

N. Training and Certification for Mariners (CG)

On June 15, 2000, (65 FR 37507), the Coast Guard (CG), U.S. Department of Transportation, published a proposed rule (46 CFR parts 10, 12, and 15) to establish requirements of training and certification for mariners serving on ships – other than roll-on/roll-off (ro-ro) ships, covered by another rule – carrying more than 12 passengers on international voyages. These requirements would not apply to any passenger ships on domestic voyages. Regulation V/3 of the 1978 International Convention for Standards of Training, Certification and Watchkeeping for Seafarers, as amended, (STCW Convention) mandates that its parties ensure this training and certification. This rule would reduce human error, improve the ability of crewmembers to assist passengers during emergencies, and promote safety.

For further information, contact Mr. Mark Gould, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-0229).