

**Subpart D—Designation of Source and Advertisement**

GENERAL

**§ 136.301 Purpose.**

This subpart prescribes the requirements concerning designation of the source or sources of the discharge or threat of discharge and advertisement of these designations, including the procedures by which claims may be presented to the responsible party or guarantor.

**§ 136.303 Definitions.**

As used in this subpart—

*Advertisement* means the dissemination of information, including but not limited to paid advertisements, that are reasonably calculated to advise the public how to present a claim.

*Designated source* means a source designated under § 136.305.

DESIGNATION OF SOURCE

**§ 136.305 Notice of designation.**

(a) When information of an incident is received, the source or sources of the discharge or threat are designated, where possible and appropriate. If the designated source is a vessel or facility, the responsible party and the guarantor, if known, are notified by telephone, telefax, or other rapid means of that designation. The designation will be confirmed by a written Notice of Designation.

(b) A Notice of Designation normally contains, to the extent known—

- (1) The name of the vessel or facility designated as the source;
- (2) The location, date, and time of the incident;
- (3) The type of quantity of oil involved;
- (4) The date of the designation;
- (5) The procedures for accepting or denying the designation; and
- (6) The name, address, telephone number, and, if available, telefax number of the responsible Federal official to whom further communication regarding the incident, advertisement of the incident, or denial of designation should be directed.

**§ 136.307 Denial of designation.**

(a) Within five days after receiving a Notice of Designation under § 136.305, the responsible party or guarantor may deny the designation.

(b) A denial of designation must—

- (1) Be in writing;
- (2) Identify the Notice of Designation;
- (3) Give the reasons for the denial and provide a copy of all supporting documents; and
- (4) Be submitted to the official named in the Notice of Designation.

(c) A denial is deemed received on the date the denial is actually received by the official named in the Notice of Designation.

ADVERTISEMENT

**§ 136.309 Advertisement determinations.**

(a) The Director, NPFC, determines for each incident the type, geographic scope, frequency, and duration of advertisement required.

(b) In making the determination specified in paragraph (a) of this section, the Director, NPFC, may consider—

- (1) The nature and extent of economic losses that have occurred or are likely to occur;
- (2) The potential claimants who are likely to incur economic losses;
- (3) The geographical area that is or will likely be affected;
- (4) The most effective method of reasonably notifying potential claimants of the designation and procedures of submitting claims; and
- (5) Relevant information or recommendations, if any, submitted by, or on behalf of, the responsible party or guarantor of the designated source.

(c) The Director, NPFC, provides the specific requirements for advertisement for each incident to the responsible party or guarantor of the designated source.

(d) If a responsible party or guarantor has not denied designation in accordance with § 136.307, the party or guarantor shall advertise, in accordance with the requirements of this subpart, the designation and the procedures by which claims may be presented. The advertisement must begin

not later than 15 days after the date of the designation made under §136.305.

(e) If there is no designation under §136.305, if the source of the discharge or threat is a public vessel, or if the responsible party and guarantor of the source designated have denied the designation or failed to meet the requirements for advertisement in this section, the Director, NPFCC, may advertise procedures for presenting claims.

#### § 136.311 Types of advertisement.

Advertisement required by the Director, NPFCC, will normally include one or more of the following:

(a) Paid advertisements in a newspaper or newspapers having general circulation in the area designated by the Director, NPFCC.

(b) Notice posted in marinas, marine supply stores, bait and tackle shops, and other appropriate business establishments or public facilities in the area designated by the Director, NPFCC.

(c) News releases to newspapers, radio stations, television stations, and cable services having general circulation in the area designated by the Director, NPFCC.

(d) Other means approved by the Director, NPFCC, under the circumstances of each case.

#### § 136.313 Content of advertisement.

Each advertisement required by this subpart may be required to contain the following information or to indicate where this information may be contained:

(a) Location, date, and time of the incident.

(b) Geographical area affected, as determined by the FOSC or Director, NPFCC.

(c) Type and quantity of oil involved.

(d) Name or other description of the source designated by the FOSC or Director, NPFCC.

(e) Name of the responsible party and guarantor of the designated source.

(f) Name, address, telephone number, office hours, and work days of the person or persons to whom claims are to be presented and from whom claim information can be obtained.

(g) The procedures by which a claim may be presented.

(h) Other information required by the Director, NPFCC, under the circumstances of each case.

### PART 138—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS)

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APPENDIX A TO PART 138—APPLICATION FORM.

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APPENDIX C TO PART 138—MASTER INSURANCE GUARANTY FORM

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APPENDIX E TO PART 138—FINANCIAL GUARANTY FORM

APPENDIX F TO PART 138—MASTER FINANCIAL GUARANTY FORM

AUTHORITY: 33 U.S.C. 2716, 2716a; 42 U.S.C. 9608, 9609; sec. 7(b), E.O. 12580, 3 CFR, 1987 Comp., p. 198; E.O. 12777, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46.

Section 138.30 also issued under the authority of 46 U.S.C. 2103, 14302.

SOURCE: CGD 91-005, 59 FR 34227, July 1, 1994, unless otherwise noted.

#### § 138.10 Scope.

This part sets forth the procedures by which an operator of a vessel may establish and maintain, for itself, and, where the operator is not the owner or demise charterer, for the owner and demise charterer of the vessel, evidence of financial responsibility to cover liability of the owner, operator, and demise charterer arising under—

(a) Section 1002 of the Oil Pollution Act of 1990 (OPA 90) (33 U.S.C. 2702); and