

**Coast Guard, DHS**

**§ 128.311**

Terminal Security Plan that we have examined or a letter from the COTP stating that we are currently reviewing the Plan and that normal operations may continue until the COTP has determined whether the Plan meets the requirements of § 128.300.

[CGD 91-012, 63 FR 53592, Oct. 6, 1998]

**§ 128.309 What do I do if I need to amend my Terminal Security Plan?**

(a) If your passenger terminal is subject to this part, you must amend your Terminal Security Plan when directed by the COTP, and may amend it on your own initiative.

(b) You must submit each proposed amendment to the Terminal Security Plan you initiate to the COTP for review at least 30 days before the amendment is to take effect, unless he or she allows a shorter period. The COTP will examine the amendment and respond according to § 128.307.

(c) The COTP may direct you to amend your Terminal Security Plan if he or she determines that implementation of the Plan is not providing effective security. Except in an emergency,

he or she will issue you a written notice of matters to address and will allow you at least 60 days to submit proposed amendments.

(d) If there is an emergency or other circumstance that makes the procedures in paragraph (c) of this section impracticable, the COTP may give you an order to implement increases in security immediately. The order will incorporate a statement of the reasons for it.

[CGD 91-012, 63 FR 53593, Oct. 6, 1998]

**§ 128.311 What is my right of appeal?**

Any person directly affected by a decision or action taken by the COTP under this part, may appeal that action or decision to the cognizant District Commander according to the procedures in 46 CFR 1.03-15; the District Commander's decision on appeal may be further appealed to the Commandant according to the procedures in 46 CFR 1.03-25.

[CGD 91-012, 61 FR 37654, July 18, 1996. Redesignated by CGD 91-012, 63 FR 53592, Oct. 6, 1998]



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## SUBCHAPTER L—WATERFRONT FACILITIES

EDITORIAL NOTE: This listing is provided for informational purposes only. It is compiled and kept up-to-date by the Coast Guard, Department of Homeland Security, and is revised through July 1, 2005.

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## SUBCHAPTER M—MARINE POLLUTION FINANCIAL RESPONSIBILITY AND COMPENSATION

### PART 133—OIL SPILL LIABILITY TRUST FUND; STATE ACCESS

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AUTHORITY: 33 U.S.C. 2712(e); E.O. 12777 (3 CFR, 1991 Comp., p. 351); 49 CFR 1.46.

SOURCE: CGD 92-014, 57 FR 53969, Nov. 13, 1992, unless otherwise noted.

#### § 133.1 Purpose.

This part prescribes procedures for the Governor of a State to request payments from the Oil Spill Liability trust Fund (the Fund) for oil pollution removal costs under section 1012(d)(1) of the Oil Pollution Act of 1990 (the Act) (33 U.S.C. 2712(d)(1)).

#### § 133.3 Definitions.

(a) As used in this part, the following terms have the same meaning as set forth in section 1001 of the Act (33 U.S.C. 2701): "discharge", "exclusive economic zone", "Fund", "incident", "National Contingency Plan", "navigable waters", "oil", "remove", "removal", "removal costs", "responsible party", "State", and "United States".

(b) As used in this part—

*Act* means Title I of the Oil Pollution Act of 1990 (33 U.S.C. 2701 through 2719).

*Director, NPFC*, means the person in charge of the U.S. Coast Guard National Pollution Funds Center or that person's authorized representative.

*NPFC* means the U.S. Coast Guard National Pollution Funds Center, 4200 Wilson Boulevard, suite 1000, Arlington, Virginia 22203-1804.

*On-Scene Coordinator* or *OSC* means the Federal official predesignated by the Environmental Protection Agency or the U.S. Coast Guard to direct and coordinate all efforts for removal of a discharge, or the mitigation or the prevention of a substantial threat of a discharge, of oil.

*Removal action* means an incident-specific activity taken under this part to contain or remove a discharge, or to mitigate or prevent a substantial threat of a discharge, of oil.

#### § 133.5 Requests: General.

(a) Upon a request submitted in accordance with this part by the Governor of a State or his or her designated State official, the OSC may obtain a Federal Project Number (FPN) and a ceiling not to exceed \$250,000 per incident for removal costs. The removal costs must be for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil.

(b) Before a request under this part is made, the State official shall ensure that the procedures in the National Contingency Plan (40 CFR part 300) for notifying Federal authorities of the discharge or threat of discharge have been met.

(c) The Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301-6308) and 49 CFR parts 18, 20, 29, and 90 apply to Fund monies obligated for payment under this part.

#### § 133.7 Requests: Amount.

(a) The amount of funds that may be requested under this part—

(1) Is limited to the amount anticipated for immediate removal action for a single oil pollution incident, but, in any event, may not exceed \$250,000 per incident;

(2) Must be for removal costs consistent with the National Contingency Plan; and

(3) Must be reasonable for the removal actions proposed, considering such factors as quantity and composition of the oil, weather conditions and