

## USA: PREPAREDNESS FOR RESPONSE EXERCISE PROGRAM (PREP) & GOVERNMENT INITIATED UNANNOUNCED EXERCISES (GIUE) GUIDELINES



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On August 15, 2016, The US Coast Guard (USCG) issued Frequently Asked Questions (FAQ) responses ([https://www.uscg.mil/msib/docs/012\\_16\\_8-15-2016.pdf](https://www.uscg.mil/msib/docs/012_16_8-15-2016.pdf)) that were needed as a result of the updated PREP Guidelines that went into effective on June 10, 2016 ([https://www.uscg.mil/msib/docs/008\\_16\\_4-5-2016.pdf](https://www.uscg.mil/msib/docs/008_16_4-5-2016.pdf)).

The Guidelines raised concerns, which a coalition of industry entities raised with the USCG, leading to the USCG issuing their FAQ document. Significantly, despite the implementation of the new Guidelines, there are no immediate actions that vessel owners have to take to remain compliant with the PREP requirements. As background, the PREP Guidelines apply to all vessels meaning both tank and nontank vessels (NTV) that operate in the US. They provide guidance for meeting the vessel response plan (VRP) drill and exercise requirements, including the Salvage and Marine Firefighting (SMFF) exercise requirements. Within a three year cycle, all elements of the response plan must be exercised in drills involving the vessel owner, the Qualified Individual (QI), Oil Spill Removal Organizations (OSRO) and SMFF resource providers. To satisfy the requirements of the three year cycle, it is not necessary to exercise the entire plan at one time. The plan may be exercised in segments over the three years, provided each component of the plan is exercised at least once within the three year period.

Some of you may also be aware that the coalition unsuccessfully requested the USCG postpone the 2016 PREP Guidelines implementation to January 1, 2017. That same coalition continues to have concerns about the Guidelines. While many of the PREP requirements are the same, there are some significant changes including additional SMFF requirements. Further, the 2016 Guidelines, taken in conjunction with the USCG's MER Policy Letter 01-15, Ch-1 (2/28/16) on GUIEs ([http://www.intertanko.com/Global/admin\\_WeeklyNews/MERPL2001-15CH1GIUEPolicy-March2016-2.pdf](http://www.intertanko.com/Global/admin_WeeklyNews/MERPL2001-15CH1GIUEPolicy-March2016-2.pdf)), potentially expand the scope and frequency of exercises beyond that required by OPA 90 and even change the well-known OPA 90 "planning standards" into performance standards. In fact, the coalition suggested that the regulations are overly prescriptive and some requirements have no added value. Two specific concerns are the GUIEs and the remote assessment and consultation requirements. Another concern is that PREP was designed to provide a mechanism for compliance with the exercise requirements, while being economically feasible for the Government and the oil industry to adopt and sustain. The coalition believed the 2002 PREP Guidelines met this objective, but there are concerns that the significant modifications included in the 2016 version do not, particularly with regard to being "economically feasible" and sustainable. Given these and other concerns, the USCG issued clarifications via the above noted FAQ document.

The USCG's FAQ responses make it clear that GUIEs will not be conducted on Tank Vessels while moored at a Marine Transportation Related (MTR) facility for a vessel source discharge scenario. Further, the USCG will not conduct GUIEs on NTVs unless they carry oil as cargo. These two clarifications certainly alleviate some of the concerns.

On the SMFF remote assessment issue, the USCG clarified that the vessel does not have to be in US waters to obtain credit for an exercise, but an exercise must be conducted for each vessel during 2016 that enters US waters. Further, a towboat and barge may take credit for the same exercise provided it is properly documented for both vessels. Also, the Guidelines clearly state that the remote assessment exercise must be conducted separately from the quarterly QI notification drill, but the FAQ response does not offer much explanation as to the reason for this requirement other than to state that the regulations are designed to exercise the individual VRPs and, therefore, the expected role of the QI should be taken directly from the VRP. Hopefully, the coalition will be successful in further clarifying this point with the USCG.

With regard to SMFF equipment deployment exercises, the FAQ clarifies that equipment must be deployed in each COTP zone, but it can be done over the three year PREP cycle and not annually in each COTP zone and, beneficially, actual responses can be used for credit, provided they are properly documented. Further, equipment that can be used for multiple activities can obtain credit for all uses in one drill, provided the different uses are tested and properly documented. As with OSRO equipment deployment requirements, the SMFF equipment deployment exercise must test both the timeliness of the equipment's arrival to the designated site and the ability to operate in its normal environment.

The FAQ also clarifies that SMFF providers are not expected to be on board during emergency procedure exercises. Further, at least some of the SMFF TTX exercise elements must be completed this year, even if a general SMTT has already been conducted, but which did not include any SMFF elements. However, all SMFF elements do not have to be completed in 2016.

Only a commensurate portion of the plan needs to be exercised this year, with the balance being prorated over the remainder of the three year cycle. Importantly, SMFF providers do not need to maintain a full copy of the VRP, but they must have access to the information required by 33 CFR 155.4035(a) including shipboard spill mitigation procedures and a pre-fire plan.

Finally, the SMFF TTX is expected to include the management team from the SMFF provider and the focus of the exercise should be on the SMFF provider's ability to communicate and make decisions pursuant to a salvage and/or marine firefighting scenario.

The USCG's FAQ clarified many issues, but there are still several points that need further attention so stay tuned for additional updates.

If you need any further information about 2016 PREP and GUIE requirements, please contact us at [scandito@foreseaconsulting.com](mailto:scandito@foreseaconsulting.com) or 631 589-3838.