this section, the applicant or
certificant may request, in writing, an
opportunity to present information for
the purpose of showing that the appli-
cant or certificant is in compliance
with the subpart. The request must be
received by the Director, NPFC, within
10 days after the date of the notifica-
tion of intention to deny or revoke. A
Certificate subject to revocation under
this paragraph remains valid until the
Director, NPFC, issues a written deci-
sion revoking the Certificate.

(g) An applicant or certificant whose
Certificate has been denied under para-
graph (a) of this section or revoked
under paragraph (b) or (c) of this sec-
tion may request the Director, NPFC,
to reconsider the denial or revocation.
The certificant must submit a request
for reconsideration, in writing, to the
Director, NPFC, within 20 days of the
date of the denial or revocation. The
certificant must state the reasons for
requesting reconsideration. The Direc-
tor, NPFC, will generally issue a writ-
ten decision on the request within 30
days of receipt, provided that, if the
Director, NPFC, does not issue a deci-
sion within 30 days, the request for re-
consideration will be deemed to have
been denied, and the denial or revoca-
tion will be deemed to have been af-
firmed. Unless the Director, NPFC,
issues a decision reversing the revoca-
tion, a revoked Certificate remains in-
valid. A decision by the Director,
NPFC, affirming a denial or revoca-
tion, is final agency action.

§ 138.130 Fees.

(a) The Director, NPFC, will not
issue or renew a Certificate until the
fees set forth in paragraphs (c) and (d)
of this section have been paid.

(b) For those using E-COFR, credit
card payment is required. Otherwise,
fees must be paid in United States cur-
rency by check, draft, or postal money
order made payable to the "U.S. Coast
Guard".

(c) An applicant who submits an Ap-
lication under this subpart must pay
a non-refundable Application fee of $200
for each Application (i.e., individual
Certificate, Fleet Certificate, or Mas-
ter Certificate), except as follows:

(1) An Application for an additional
(i.e., supplemental) individual Certifi-
cate,

(2) A request to amend or renew an
existing Certificate, or

(3) An Application submitted within
90 days following a revocation or other
invalidation of a Certificate.

(d) In addition to the Application fee
of $200, an applicant must pay a certifi-
cation fee of $100 for each vessel for
which a Certificate is requested. An ap-
plicant must pay the $100 certification
fee for each vessel listed in, or later
added to, an Application for an indi-
vidual Certificate(s). An applicant
must pay the $100 certification fee to
renew or to reissue a Certificate for
any reason, including, but not limited
to, a vessel or operator name change.

(e) A certification fee is refunded,
upon receipt of a written request, if the
Application is denied or withdrawn be-
fore issuance of the Certificate. Over-
payments of Application and certifi-
cation fees are refunded, on request,
only if the refund is for $100 or more.
However, any overpayments not re-
funded will be credited, for a period of
3 years from the date of receipt of the
monies by the Coast Guard, for the ap-
plicant’s possible future use or transfer
to another applicant under this sub-
part.

§ 138.140 Enforcement.

(a) Any person who fails to comply
with this subpart with respect to evi-
dence of financial responsibility under
Section 1016 of OPA 90 (33 U.S.C. 2716)
is subject to a civil penalty under Sec-
tion 4303(a) of OPA 90 (33 U.S.C.
2716a(a)). In addition, under Section
4303(b) of OPA 90 (33 U.S.C. 2716a(b)),
the Attorney General may secure such
relief as may be necessary to compel
compliance with the OPA 90 require-
ments of this subpart, including termi-
nation of operations. Further, any per-
son who fails to comply with this sub-
part with respect to evidence of finan-
cial responsibility under Section 108(a)
of CERCLA (42 U.S.C. 9608(a)), is sub-
ject to a Class I administrative civil
penalty, a Class II administrative civil
penalty or a judicial penalty under
Section 109 of CERCLA (42 U.S.C. 9609).
Coast Guard, DHS § 138.150

(b) The Secretary of the Department in which the U.S. Coast Guard is operating will withhold or revoke the clearance required by 46 U.S.C. 60105 to any vessel subject to this subpart that has not provided the evidence of financial responsibility required by this subpart.

(c) The Coast Guard may deny entry to any port or place in the United States or the navigable waters of the United States, and may detain at a port or place in the United States in which it is located, any vessel subject to this subpart, which has not provided the evidence of financial responsibility required by this subpart.

(d) Any vessel subject to this subpart which is found operating in the navigable waters without having been issued a Certificate or maintained the necessary evidence of financial responsibility as required by this subpart is subject to seizure by, and forfeiture to, the United States.

(e) Knowingly and willfully using an altered copy of a Certificate, or using a copy of a revoked, expired or voided Certificate for anything other than recordkeeping purposes, is prohibited. If a Certificate is revoked, has expired or is rendered void for any reason, the certificant must cease using all copies of the Certificate for anything other than the operator’s own historical recordkeeping purposes.

§ 138.150 Service of process.

(a) When executing the forms required by this subpart, each applicant, certificant and guarantor must designate thereon a person located in the United States as its agent for service of process for purposes of this subpart and for receipt of notices of responsible party designations and presentations of claims under the Acts (collectively referred to herein as “service of process”). Each designated agent must acknowledge the agency designation in writing unless the agent has already furnished the Director, NPFC, with a master (i.e., blanket) agency acknowledgment showing that the agent has agreed in advance to act as the United States agent for service of process for the applicant, certificant, or guarantor in question.

(b) If any applicant, certificant, or guarantor desires, for any reason, to change any designated agent, the applicant, certificant, or guarantor must notify the Director, NPFC, of the change. If a master agency acknowledgment for the new agent is not on file with NPFC, the applicant, certificant, or guarantor must furnish to the Director, NPFC, all the relevant information, including the new agent’s acknowledgment, required in accordance with paragraph (a) of this section. In the event of death, disability, unavailability, or similar event of a designated agent, the applicant, certificant, or guarantor must designate another agent in accordance with paragraph (a) of this section. The Director, NPFC, may deny or revoke a Certificate if an applicant, certificant, or guarantor fails to designate and maintain an agent for service of process.

(c) If a designated agent cannot be served because of death, disability, unavailability, or similar event, and another agent has not been designated under this section, then service of process on the Director, NPFC, will constitute valid service of process. Service of process on the Director, NPFC, will not be effective unless the server—

(1) Sends the applicant, certificant, or guarantor, as applicable (by registered mail, at the last known address on file with the Director, NPFC), a copy of each document served on the Director, NPFC; and

(2) Attest to this registered mailing, at the time process is served upon the Director, NPFC, indicating that the intent of the mailing is to effect service of process on the applicant, certificant, or guarantor and that service on the designated agent is not possible, stating the reason why.

Subpart B—OPA 90 Limits of Liability (Vessels and Deepwater Ports)

SOURCE: USCG–2008–0007, 74 FR 31368, July 1, 2009, unless otherwise noted.