

§ 154.1016 Facility classification by COTP.

(a) The COTP may upgrade the classification of:

(1) An MTR facility not specified in § 154.1015 (b) or (c) to a facility that could reasonably be expected to cause substantial harm to the environment; or

(2) An MTR facility specified in § 154.1015(b) to a facility that could reasonably be expected to cause significant and substantial harm to the environment.

(b) The COTP may downgrade, the classification of:

(1) An MTR facility specified in § 154.1015(c) to a facility that could reasonably be expected to cause substantial harm to the environment; or

(2) An MTR facility specified in § 154.1015(b) to a facility that could not reasonably be expected to cause substantial, or significant and substantial harm to the environment.

(3) The COTP will consider downgrading an MTR facility's classification only upon receiving a written request for a downgrade of classification from the facility's owner or operator.

(c) When changing a facility classification the COTP may, as appropriate, consider all relevant factors including, but not limited to: Type and quantity of oils handled in bulk; facility spill history; age of facility; proximity to public and commercial water supply intakes; proximity to navigable waters based on the definition of navigable waters in 33 CFR 2.05-25; and proximity to fish and wildlife and sensitive environments.

154.1017 Response plan submission requirements.

(a) The owner or operator of an MTR facility identified only in § 154.1015(b), or designated by the COTP as a substantial harm facility, shall prepare and submit to the cognizant COTP a response plan that meets the requirements of §§ 154.1030, 154.1040, 154.1045, or § 154.1047, as appropriate. This applies to:

(1) A mobile MTR facility used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more; and

(2) A fixed MTR facility specifically designated as a substantial harm facility by the COTP under § 154.1016.

(b) The owner or operator of an MTR facility identified in § 154.1015(c) or designated by the COTP as a significant and substantial harm facility shall prepare and submit for review and approval of the cognizant COTP a response plan that meets the requirements of §§ 154.1030, 154.1035, 154.1045, or 154.1047, as appropriate. This applies to:

(1) A fixed MTR facility capable of transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more; and

(2) An MTR facility specifically designated as a significant and substantial harm facility by the COTP under § 154.1016.

(c) In addition to the requirements in paragraphs (a) and (b) of this section, the response plan for a mobile MTR facility must meet the requirements of § 154.1041 subpart F.

§ 154.1020 Definitions.

Except as otherwise defined in this section, the definition in 33 CFR 154.105 apply to this subpart and subparts H and I.

Adverse weather means the weather conditions that will be considered when identifying response systems and equipment in a response plan for the applicable operating environment. Factors to consider include, but are not limited to, significant wave height as specified in §§ 154.1045, 154.1047, 154.1225, or 154.1325, as appropriate; ice conditions, temperatures, weather-related visibility, and currents within the COTP zone in which the systems or equipment are intended to function.

Animal fat means a non-petroleum oil, fat, or grease derived from animals, and not specifically identified elsewhere in this part.

Average most probable discharge means a discharge of the lesser of 50 barrels or 1 percent of the volume of the worst case discharge.

Captain of the Port (COTP) Zone means a zone specified in 33 CFR part 3 and, where applicable, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).