

§ 154.1025 Operating restrictions and interim operating authorization.

(a) The owner or operator of an MTR facility who submitted a response plan prior to May 29, 1996, may elect to comply with any of the provisions of this final rule by revising the appropriate section of the previously submitted plan in accordance with § 154.1065. An owner or operator of an MTR facility who elects to comply with all sections of this final rule must resubmit the plan in accordance with § 154.1060 of this part.

(b) No facility subject to this subpart may handle, store, or transport oil unless it is operating in full compliance with a submitted response plan. No facility categorized under § 154.1015(c) as a significant and substantial harm facility may handle, store, or transport oil unless the submitted response plan has been approved by the COTP. The owner or operator of each new facility to which this subpart applies must submit a response plan meeting the requirements listed in § 154.1017 not less than 60 days prior to handling, storing, or transporting oil. Where applicable, the response plan shall be submitted along with the letter of intent required under § 154.110.

(c) Notwithstanding the requirements of paragraph (b) of this section, a facility categorized under § 154.1015(c) as a significant and substantial harm facility may continue to handle, store, or transport oil for 2 years after the date of submission of a response plan, pending approval of that plan. To continue to handle, store, or transport oil without a plan approved by the COTP, the facility owner or operator shall certify in writing to the COTP that the owner or operator has ensured, by contract or other approved means as described in § 154.1028(a), the availability of the necessary private personnel and equipment to respond, to the maximum extent practicable to a worst case discharge or substantial threat of such a discharge from the facility. Provided that the COTP is satisfied with the certification of response resources provided by the owner or operator of the facility, the COTP will provide written authorization for the facility to handle, store, or transport oil while the submitted response plan is being re-

viewed. Pending approval of the submitted response plan, deficiencies noted by the COTP must be corrected in accordance with § 154.1070.

(d) A facility may not continue to handle, store, or transport oil if—

(1) The COTP determines that the response resources identified in the facility certification statement or reference response plan do not substantially meet the requirements of this subpart;

(2) The contracts or agreements cited in the facility's certification statement or referenced response plans are no longer valid;

(3) The facility is not operating in compliance with the submitted plan;

(4) The response plan has not been resubmitted or approved within the last 5 years; or

(5) The period of the authorization under paragraph (c) of this section has expired.

§ 154.1026 Qualified individual and alternate qualified individual.

(a) The response plan must identify a qualified individual and at least one alternate who meet the requirements of this section. The qualified individual or alternate must be available on a 24-hour basis and be able to arrive at the facility in a reasonable time.

(b) The qualified individual and alternate must:

(1) Be located in the United States;

(2) Speak fluent English;

(3) Be familiar with the implementation of the facility response plan; and

(4) Be trained in the responsibilities of the qualified individual under the response plan.

(c) The owner or operator shall provide each qualified individual and alternate qualified individual identified in the plan with a document designating them as a qualified individual and specifying their full authority to:

(1) Activate and engage in contracting with oil spill removal organization(s);

(2) Act as a liaison with the predesignated Federal On-Scene Coordinator (OSC); and

(3) Obligate funds required to carry out response activities.

(d) The owner or operator of a facility may designate an organization to