

§ 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

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fulfill the role of the qualified individual and the alternate qualified individual. The organization must then identify a qualified individual and at least one alternate qualified individual who meet the requirements of this section. The facility owner or operator is required to list in the response plan the organization, the person identified as the qualified individual, and the person or person(s) identified as the alternate qualified individual(s).

(e) The qualified individual is not responsible for—

(1) The adequacy of response plans prepared by the owner or operator; or

(2) Contracting or obligating funds for response resources beyond the authority contained in their designation from the owner or operator of the facility.

(f) The liability of a qualified individual is considered to be in accordance with the provisions of 33 USC 1321(c)(4).

§ 154.1028 Methods of ensuring the availability of response resources by contract or other approved means.

(a) When required in this subpart, the availability of response resources must be ensured by the following methods:

(1) A written contractual agreement with an oil spill removal organization. The agreement must identify and ensure the availability of specified personnel and equipment required under this subpart within stipulated response times in the specified geographic areas;

(2) Certification by the facility owner or operator that specified personnel and equipment required under this subpart are owned, operated, or under the direct control of the facility owner or operator, and are available within stipulated response times in the specified geographic areas;

(3) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment required under this subpart that are available to respond to a discharge within stipulated response times in the specified geographic areas;

(4) A document which—

(i) Identifies the personnel, equipment, and services capable of being provided by the oil spill removal orga-

nization within stipulated response times in the specified geographic areas;

(ii) Sets out the parties' acknowledgment that the oil spill removal organization intends to commit the resources in the event of a response;

(iii) Permits the Coast Guard to verify the availability of the identified response resources through tests, inspections, and drills; and

(iv) Is referenced in the response plan; or

(5) The identification of an oil spill removal organization with specified equipment and personnel available within stipulated response times in specified geographic areas. The organization must provide written consent to being identified in the plan.

(b) The contracts and documents required in paragraph (a) of this section must be retained at the facility and must be produced for review upon request by the COTP.

§ 154.1029 Worst case discharge.

(a) The response plan must use the appropriate criteria in this section to develop the worst case discharge.

(b) For the MTR segment of a facility, not less than—

(1) Where applicable, the loss of the entire capacity of all in-line and break out tank(s) needed for the continuous operation of the pipelines used for the purposes of handling or transporting oil, in bulk, to or from a vessel regardless of the presence of secondary containment; plus

(2) The discharge from all piping carrying oil between the marine transfer manifold and the non-transportation-related portion of the facility. The discharge from each pipe is calculated as follows: The maximum time to discover the release from the pipe in hours, plus the maximum time to shut down flow from the pipe in hours (based on historic discharge data or the best estimate in the absence of historic discharge data for the facility) multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum relief valve setting or maximum system pressure when relief valves are not provided) plus the total line drainage volume expressed in barrels for the pipe between the marine