

Mail Stop 2053; 381 Elden Street; Herndon, Virginia 22070-4817 and the Office of Management and Budget; Paperwork Reduction Project (1010-0091); Washington, DC 20503.

#### § 254.1 Purpose and implementation.

(a) With this part, MMS establishes requirements for spill-response plans for facilities located seaward of the coast line, including those facilities in State water located seaward of the coast line. Each owner or operator of a facility located seaward of the coast line must have a spill-response plan that covers each facility.

(b) The provisions of the plan must be carried out whenever there is a release of oil or a hazardous substance into waters adjacent to the facility. If there is a spill, a designated qualified individual must immediately initiate actions described under the plan.

(c) No facility located seaward of the coast line may be used to handle, store, or transport oil unless a response plan has been submitted and approved, and the facility is being operated in compliance with the plan. Owners and operators of abandoned facilities must maintain a current response plan until the facility is physically removed or dismantled and the Regional Supervisor provides written notice that a response plan is no longer required.

(d) Notwithstanding the provisions of paragraph (c) of this section, a facility may continue to be used to handle, store, or transport oil for 2 years after the date of submission of a response plan, pending approval of the plan. In order to continue to operate a facility without an approved plan, the facility owner or operator must certify in writing to the Regional Supervisor that he has ensured by contract the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge. A copy of the contract(s) must accompany the certification.

(e) Owners or operators with spill-response plans currently approved by MMS must submit the information to comply with this part when submitting the first required annual update after [the effective date of the final rule]. The Regional Supervisor may extend this deadline up to 90 days upon request.

(f) Nothing in this section shall relieve the owner or operator from taking all appropriate actions necessary to immediately abate, contain, and remove any oil or hazardous substance spill.

#### § 254.2 Definitions.

For the purposes of this part:

*Adverse weather conditions* means weather conditions that make it difficult

for response equipment and personnel to clean up or remove spilled oil or hazardous substances. These include, but are not limited to: fog, inhospitable water and air temperatures, wind, sea ice, current, and sea states.

*Area Contingency Plan* means the Area Contingency Plan prepared and published under section 311(j) of the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA).

*Coast line* means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

*Facility* means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. The term excludes deepwater ports and their associated pipelines as defined by the Deepwater Port Act of 1974 but includes other pipelines used for one or more of these purposes.

*Hazardous substance* means any substance designated pursuant to section 1321(b)(2)(A) of the FWPCA as amended and listed at 40 CFR 116.4.

*Maximum extent practicable* means the limits of available technology, as well as the practical limits of personnel, to respond to a worst case discharge in adverse weather.

*Mobile Offshore Drilling Unit (MODU)* means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources of oil, gas, or minerals. An MODU is classified as a facility when engaged in drilling or downhole operations.

*National Contingency Plan* means the National Oil and Hazardous Substances Pollution Contingency Plan prepared and published under section 311(d) of the FWPCA, as amended by OPA, (33 U.S.C. 1321(d)) or revised under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9605).

*Oil* means hydrocarbons produced at the wellhead in liquid form (includes distillates or condensate associated with produced natural gas), as well as oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

*Oil spill removal organization (OSRO)* means an entity contracted by an owner or operator to provide spill-response equipment and/or manpower in the event of an oil or hazardous substance spill.

*Outer Continental Shelf* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

*Owner or operator* means the individual, partnership, firm, or corporation having ownership, control, or management of operations on the leased or permitted area where the facility is located or the holder of a pipeline right-of-way or a right of use and easement granted under applicable State law or the OCS Lands Act, as amended, for the area in which the facility is located.

*Pipeline* means pipe and any associated equipment, appurtenance, or building used or intended for use in the transportation of oil located seaward of the coast line, except those used for deepwater ports. Pipelines do not include vessels such as barges or shuttle tankers used to transport oil from facilities located seaward of the coast line.

*Qualified individual* means a person identified in the response plan who has the responsibility and authority to initiate spill cleanup operations, obligate funds to carry out response activities, and act as liaison with the predesignated Federal On-Scene Coordinator. The qualified individual is a member of the spill management team.

*Regional Supervisor* means the MMS officer with responsibility and authority for operations or other designated program functions within an MMS Region.

*Spill management team* means the persons identified in a response plan who staff the organizational structure to manage spill response implementation.

*Spill response operating team* means persons who respond to spills through deployment and operation of oil-spill response equipment.

*State waters located seaward of the coast line* means the belt of the seas measured from the coast line and extending seaward a distance of 3 miles (except for the coast of Texas and the Gulf coast of Florida, where the State waters extend seaward a distance of 3 leagues). Exceptions to this definition may be negotiated between Federal agencies for the purpose of efficient use of Federal regulatory resources. Affected owners or operators will be notified in writing of any such exceptions.

#### § 254.3 General requirements.

(a) When compliance by an owner or operator is required, such compliance