

a trade secret, must be clearly designated as such to insure confidential treatment by the Fund Administrator, under 5 U.S.C. 552, the Freedom of Information Act, which provides for exemption from disclosure of trade secret data.

(e) If any of the information submitted for certification is determined by the Fund Administrator to be insufficient the Fund Administrator may require additional information before final consideration of the application.

(f) Certificates, as issued, are to be considered property of the U.S. Government, are not to be altered in any manner, and must be surrendered on demand when revoked in accordance with § 135.223 of this subpart.

(g) Applicants shall obtain a Certificate of Financial Responsibility for each facility.

**§ 135.219 Notification of changes affecting certification.**

(a) Each owner, operator, or guarantor of an offshore facility shall within ten days notify the Fund Administrator in writing when any changes occur which prevent the owner, operator, or guarantor, from meeting the obligations for which a Certificate of Financial Responsibility has been issued.

(b) Based on notice of a change in financial capability under paragraph (a) of this section, the Fund Administrator may revoke a Certificate of Financial Responsibility.

**§ 135.221 Reapplication for certification.**

(a) If a Certificate of Financial Responsibility becomes invalid for any reason, an application for a new certificate must be immediately submitted to the Fund Administrator in accordance with § 135.204.

**§ 135.223 Certificates, denial or revocation.**

(a) A certificate may be denied or revoked for any of the following reasons:

(1) Making any willfully false statement to the Fund Administrator in connection with establishing or maintaining evidence of financial responsibility.

(2) Failure of an applicant or certificant to establish or maintain evidence of financial responsibility as required by the regulations in this subpart.

(3) Failure to comply with or respond to inquiries, regulations, or orders of the Fund Administrator concerning establishing or maintaining evidence of financial responsibility.

(4) Failure to timely file the reports or documents required by § 135.213 (c) and (d).

(5) Cancellation or termination of any insurance policy, surety bond, indemnity, or guaranty issued under this subpart or modification thereto which reduces the financial capacity of the applicant or certificant to meet the requirements of this subpart, unless substitute evidence of financial responsibility has been submitted to and accepted by the Fund Administrator.

(b) Denial or revocation of a certificate shall be immediate and without prior notice in a case where the applicant or certificant:

(1) Is no longer the owner or operator of the offshore facility in question;

(2) Fails to furnish acceptable evidence of financial responsibility in support of an application; or

(3) Permits the cancellation or termination of the insurance policy, surety bond, indemnity, or guaranty upon which the continued validity of the certificate is based.

(c) In any other case, before the denial or revocation of a certificate, the Fund Administrator advises the applicant or certificant, in writing, of the intention to deny or revoke the certificate, and shall state the reason therefor.

(d) If the reason for an intended revocation is failure to file the reports or documents required by § 135.213 (c) and (d) the revocation shall be effective 10 days after the date of receipt of the notice of intention to revoke, unless the certificant shall, before revocation, submit the required material or demonstrate that the required material was timely filed.

(e) If the intended denial or revocation is based upon one of the reasons in paragraph (a)(1) or (a)(3) of this section, the applicant or certificant may request, in writing, a hearing to show

**§ 135.303**

that the applicant or certificant is in compliance with this subpart. If the applicant or certificant fails to file a timely request for a hearing, the denial or revocation is effective 10 days after receipt of the notice.

(f) If a request for a hearing under paragraph (e) of this section is received by the Fund Administrator within 10 days after the date of receipt of a notice of intention to deny or revoke, the Fund Administrator grants a hearing and notifies the requesting party of the date, time, and location of the hearing. If a requesting party fails to enter an appearance at the scheduled hearing, or in lieu thereof fails to submit written evidence for the consideration of the hearing official, denial or revocation is effective as of the scheduled date and time of the hearing, unless an extension of time is granted by the Fund Administrator for good cause shown.

(g) Hearings under this section are informal and are conducted by an official designated by the Fund Administrator. The official conducting the hearing considers all relevant material submitted and makes recommendations to the Fund Administrator.

(h) The Fund Administrator's decision is final agency action.

**Subpart D—Notification of Pollution Incidents**

**§ 135.303 Definitions.**

As used in this subpart:

*Occurrences which pose an imminent threat of oil pollution* means those incidents that are likely to result in a discharge of oil and include, but are not limited to: vessel collisions, grounding or stranding; structural failure in a tank, pipeline or other oil handling system; fire, explosion or other events which may cause structural damage to a vessel or offshore facility.

[CGD 77-055, 44 FR 16868, Mar. 19, 1979, as amended by CGD 91-035, 57 FR 36316, Aug. 12, 1992]

**§ 135.305 Notification procedures.**

(a) The person in charge of a vessel or offshore facility that is involved in an incident, including occurrences which pose an imminent threat of oil pollu-

**33 CFR Ch. I (7-1-10 Edition)**

tion shall, as soon as that person has knowledge of the incident, immediately notify by telephone, radio telecommunication or a similar rapid means of communication, in the following order of preference:

(1) (Within or offshore of the 48 contiguous States only) The Duty Officer, National Response Center, U.S. Coast Guard, (CG-3112), 2100 2nd St. SW., Stop 7238, Washington, DC 20593-7238, *toll free telephone number: 800-424-8802, direct telephone: 202-267-2675, or Fax: 202-267-1322*; or

(2) The commanding officer or supervisor of any Coast Guard Sector Office, Captain of the Port Office, Marine Safety Unit or Port Safety Detachment in the vicinity of the incident; or

(3) The commanding officer or officer in charge of any other Coast Guard unit in the vicinity of the incident; or

(4) The Commander of any Coast Guard District.

(b) Notification given in accordance with this subpart constitutes fulfillment of the requirements of Subpart B of 33 CFR part 153 concerning Notice of the Discharge of Oil.

[CGD 77-055, 44 FR 16868, Mar. 19, 1979, as amended by USCG-1998-3799, 63 FR 35530, June 30, 1998; USCG-2006-25150, 71 FR 39209, July 12, 2006; USCG-2006-25556, 72 FR 36328, July 2, 2007; USCG-2008-0179, 73 FR 35013, June 19, 2008; USCG-2010-0351, 75 FR 36283, June 25, 2010]

**§ 135.307 Notification contents.**

(a) In each notification provided under § 135.305, the person in charge of the vessel or offshore facility involved in the incident shall provide his or her name and telephone number, or radio call sign, and, to the extent known, the:

(1) Location, date and time of the incident;

(2) Quantity of oil involved;

(3) Cause of the incident;

(4) Name or other identification of the vessel or offshore facility involved;

(5) Size and color of any slick or sheen and the direction of movement;

(6) Observed on scene weather conditions, including wind speed and direction, height and direction of seas, and any tidal or current influence present;