

Coast Guard, DHS

§ 137.30

used to comply with the requirements set forth in §§137.45 through 137.85 of this part. Use of ASTM E 1527-05 for this purpose is optional and not mandatory.

§ 137.25 Qualifications of the environmental professional.

(a) An environmental professional is an individual who possesses sufficient specific education, training, and experience necessary to exercise professional judgment to develop opinions and conclusions regarding conditions indicative of the presence or likely presence of oil at a facility and the real property on which the facility is located sufficient to meet the objectives and performance factors in §137.30(a) and (b).

(1) Such a person must—

(i) Hold a current Professional Engineer's or Professional Geologist's license or registration from a State, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) and have the equivalent of 3 years of full-time relevant experience;

(ii) Be licensed or certified by the Federal government, a State, tribe, or U.S. territory (or the Commonwealth of Puerto Rico) to perform environmental inquiries under §137.35 and have the equivalent of 3 years of full-time relevant experience;

(iii) Have a Baccalaureate or higher degree from an accredited institution of higher education in a discipline of engineering or science and the equivalent of 5 years of full-time relevant experience; or

(iv) Have the equivalent of 10 years of full-time relevant experience.

(2) An environmental professional should remain current in his or her field through participation in continuing education or other activities.

(3) The requirements for an environmental professional in this section do not preempt State professional licensing or registration requirements, such as those for a professional geologist, engineer, or site-remediation professional. Before commencing work, a person should determine the applicability of State professional licensing or registration laws to the activities to be undertaken as part of an inquiry under §137.35(b).

(4) A person who does not qualify as an environmental professional under this section may assist in the conduct of all appropriate inquiries according to this part if the person is under the supervision or responsible charge of an environmental professional meeting the requirements of this section when conducting the inquiries.

§ 137.30 Objectives and performance factors.

(a) *Objectives.* This part is intended to result in the identification of conditions indicative of the presence or likely presence of oil at the facility and the real property on which the facility is located. In order to meet the objectives of this regulation, persons specified in §137.1(a) and the environmental professional must seek to identify, through the conduct of the standards and practices in this subpart, the following types of information about the facility and the real property on which the facility is located:

(1) Current and past uses and occupancies of the facility and the real property on which the facility is located.

(2) Current and past uses of oil.

(3) Waste management and disposal activities that indicate presence or likely presence of oil.

(4) Current and past corrective actions and response activities that indicate presence or likely presence of oil.

(5) Engineering controls.

(6) Institutional controls, such as zoning restrictions, building permits, and easements.

(7) Properties adjoining or located nearby the facility and the real property on which the facility is located that have environmental conditions that could have resulted in conditions indicative of the presence or likely presence of oil at the facility and the real property on which the facility is located.

(b) *Performance factors.* In order to meet this part and to meet the objectives stated in paragraph (a) of this section, the persons specified in §137.1(a) or the environmental professional (as appropriate to the particular standard and practice) must—

(1) Gather the information that is required for each standard and practice

§ 137.33

33 CFR Ch. I (7–1–13 Edition)

listed in this subpart that is publicly available, is obtainable from its source within a reasonable time and cost, and can be reviewed practicably; and

(2) Review and evaluate the thoroughness and reliability of the information gathered in complying with each standard and practice listed in this subpart taking into account information gathered in the course of complying with the other standards and practices of this part.

§ 137.33 General all appropriate inquiries requirements.

(a) All appropriate inquiries must be conducted within 1 year before the date of acquisition of the real property on which the facility is located, as evidenced by the date of receipt of the documentation transferring title to, or possession of, the real property and must include:

(1) An inquiry by an environmental professional, as provided in § 137.35.

(2) The collection of information under § 137.40 by persons specified in § 137.1(a).

(b) The following components of the all appropriate inquiries must be conducted or updated within 180 days before the date of acquisition of the real property on which the facility is located:

(1) Interviews with past and present owners, operators, and occupants. See § 137.45.

(2) Searches for recorded environmental cleanup liens. See § 137.55.

(3) Reviews of Federal, State, tribal, and local government records. See § 137.60.

(4) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties. See § 137.65.

(5) The declaration by the environmental professional. See § 137.35(d).

(c) All appropriate inquiries may include the results of and information contained in an inquiry previously conducted by, or on behalf of, persons specified in § 137.1(a) who are responsible for the inquiries for the facility and the real property on which the facility is located if—

(1) The information was collected during the conduct of an all-appro-

priate-inquiries investigation under this part.

(2) The information was collected or updated within 1 year before the date of acquisition of the real property on which the facility is located.

(3) The following components of the inquiries were conducted or updated within 180 days before the date of acquisition of the real property on which the facility is located:

(i) Interviews with past and present owners, operators, and occupants. See § 137.45.

(ii) Searches for recorded environmental cleanup liens. See § 137.55.

(iii) Reviews of Federal, State, tribal, and local government records. See § 137.60.

(iv) Visual inspections of the facility, the real property on which the facility is located, and the adjoining properties. See § 137.65.

(v) The declaration by the environmental professional. See § 137.35(d).

(4) Previously collected information is updated by including relevant changes in the conditions of the facility and the real property on which the facility is located and specialized knowledge, as outlined in § 137.70, of the persons conducting the all appropriate inquiries for the facility and the real property on which the facility is located, including persons specified in § 137.1(a) and the environmental professional.

(d) All appropriate inquiries may include the results of an environmental professional's report under § 137.35(c) that have been prepared by or for other persons if—

(1) The reports meet the objectives and performance factors in § 137.30(a) and (b); and

(2) The person specified in § 137.1(a) reviews the information and conducts the additional inquiries under §§ 137.70, 137.75, and 137.80 and updates the inquiries requiring an update under paragraph (b) of this section.

(e) To the extent there are data gaps that affect the ability of persons specified in § 137.1(a) and environmental professionals to identify conditions indicative of the presence or likely presence of oil, the gaps must be identified in