

§ 137.40

In addition, the inquiry should take into account information provided to the environmental professional by the person specified in §137.1(a) conducting the additional inquiries under §137.40.

(c) The results of the inquiry by an environmental professional must be documented in a written report that, at a minimum, includes the following:

(1) An opinion as to whether the inquiry has identified conditions indicative of the presence or likely presence of oil at the facility and the real property on which the facility is located.

(2) An identification of data gaps in the information developed as part of the inquiry that affect the ability of the environmental professional to identify conditions indicative of the presence or likely presence of oil at the facility and the real property on which the facility is located. The report must also indicate whether the gaps prevented the environmental professional from reaching an opinion regarding the identification of conditions indicative of the presence or likely presence of oil.

(3) The qualifications of the environmental professional.

(4) An opinion regarding whether additional appropriate investigation is necessary.

(d) The environmental professional must place the following statements in the written document identified in paragraph (c) of this section and sign the document: “[I, We] declare that, to the best of [my, our] professional knowledge, [I, we] meet the requirements under 33 CFR 137.25 for an environmental professional.” and “[I, We] have the specific qualifications based on education, training, and experience to assess the nature, history, and setting of a facility and the real property on which it is located. [I, We] have developed and conducted all appropriate inquiries according to the standards and practices in 33 CFR part 137.”

§ 137.40 Additional inquiries.

(a) Persons specified in §137.1(a) must conduct inquiries in addition to those conducted by the environmental professional under §137.35 and may provide the information associated with these additional inquiries to the environmental professional responsible for

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conducting the activities listed in §137.35—

(1) As required by §137.55 and if not otherwise obtained by the environmental professional, environmental cleanup liens against the facility and the real property on which it is located that are filed or recorded under Federal, State, tribal, or local law.

(2) As required by §137.70, specialized knowledge or experience of the person specified in §137.1(a).

(3) As required by §137.75, the relationship of the purchase price to the fair market value of the facility and the real property on which the facility is located if the oil was not at the facility and the real property on which it is located.

(4) As required by §137.80 and if not otherwise obtained by the environmental professional, commonly known or reasonably ascertainable information about the facility and the real property on which it is located.

(b) [Reserved]

§ 137.45 Interviews with past and present owners, operators, and occupants.

(a) Interviews with owners, operators, and occupants of the facility and the real property on which the facility is located must be conducted for the purposes of achieving the objectives and performance factors of §137.30(a) and (b).

(b) The inquiry of the environmental professional must include interviewing the current owner and occupant of the facility and the real property on which the facility is located. If the facility and the real property on which the facility is located has multiple occupants, the inquiry of the environmental professional must include interviewing major occupants, as well as those occupants likely to use, store, treat, handle or dispose of oil or those who have likely done so in the past.

(c) The inquiry of the environmental professional also must include, to the extent necessary to achieve the objectives and performance factors in §137.30(a) and (b), interviewing one or more of the following persons:

(1) Current and past facility and real property managers with relevant