

**§ 154.1028**

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

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 organization 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 manifold and the non-transportation-related portion of the facility;

(c) For a mobile facility it means the loss of the entire contents of the container in which the oil is stored or transported.

**§ 154.1030 General response plan contents.**

(a) The plan must be written in English.

(b) A response plan must be divided into the sections listed in this paragraph and formatted in the order specified herein unless noted otherwise. It must also have some easily found marker identifying each section listed below. The following are the sections and subsections of a facility response plan:

- (1) Introduction and plan contents.
- (2) Emergency response action plan:
  - (i) Notification procedures.
  - (ii) Facility's spill mitigation procedures.
  - (iii) Facility's response activities.
  - (iv) Fish and wildlife and sensitive environments.
  - (v) Disposal plan.
- (3) Training and Exercises:
  - (i) Training procedures.
  - (ii) Exercise procedures.
- (4) Plan review and update procedures.
- (5) Appendices.
  - (i) Facility-specific information.
  - (ii) List of contacts.
  - (iii) Equipment lists and records.
  - (iv) Communications plan.
  - (v) Site-specific safety and health plan.
    - (vi) List of acronyms and definitions.
    - (vii) A geographic-specific appendix for each zone in which a mobile facility operates.
- (c) The required contents for each section and subsection of the plan are contained in §§154.1035, 154.1040, and 154.1041, as appropriate.
- (d) The sections and subsections of response plans submitted to the COTP must contain at a minimum all the information required in §§154.1035, 154.1040, and 154.1041, as appropriate. It may contain other appropriate sections, subsections, or information that are required by other Federal, State, and local agencies.
- (e) For initial and subsequent submission, a plan that does not follow the format specified in paragraph (b) of this section must be supplemented with a detailed cross-reference section to identify the location of the applicable sections required by this subpart.
- (f) The information contained in a response plan must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and the Area

Contingency Plan(s) (ACP) covering the area in which the facility operates. Facility owners or operators shall ensure that their response plans are in accordance with the ACP in effect 6 months prior to initial plan submission or the annual plan review required under §154.1065(a). Facility owners or operators are not required to, but may at their option, conform to an ACP which is less than 6 months old at the time of plan submission.

**§ 154.1035 Specific requirements for facilities that could reasonably be expected to cause significant and substantial harm to the environment.**

(a) *Introduction and plan content.* This section of the plan must include facility and plan information as follows:

- (1) The facility's name, street address, city, county, state, ZIP code, facility telephone number, and telefacsimile number, if so equipped. Include mailing address if different from street address.
- (2) The facility's location described in a manner that could aid both a reviewer and a responder in locating the specific facility covered by the plan, such as, river mile or location from a known landmark that would appear on a map or chart.
- (3) The name, address, and procedures for contacting the facility's owner or operator on a 24-hour basis.
- (4) A table of contents.
- (5) During the period that the submitted plan does not have to conform to the format contained in this subpart, a cross index, if appropriate.
- (6) A record of change(s) to record information on plan updates.

(b) *Emergency Response Action Plan.* This section of the plan must be organized in the subsections described in this paragraph:

- (1) *Notification procedures.* (i) This subsection must contain a prioritized list identifying the person(s), including name, telephone number, and their role in the plan, to be notified of a discharge or substantial threat of a discharge of oil. The telephone number need not be provided if it is listed separately in the list of contacts required in the plan. This Notification Procedures listing must include—