

## § 194.103

cubic meters) within the previous five years.

(ii) The pipeline has not experienced at least two reportable releases, as defined in §195.50, within the previous five years.

(iii) A pipeline containing any electric resistance welded pipe, manufactured prior to 1970, does not operate at a maximum operating pressure established under §195.406 that corresponds to a stress level greater than 50 percent of the specified minimum yield strength of the pipe, and

(iv) The pipeline is not in proximity to navigable waters, public drinking water intakes, or environmentally sensitive areas.

(2)(i) A line section that is greater than 6½ inches in outside nominal diameter and is greater than 10 miles in length, where the operator determines that it is unlikely that the worst case discharge from any point on the line section would adversely affect, within 12 hours after the initiation of the discharge, any navigable waters, public drinking water intake, or environmentally sensitive areas.

(ii) A line section that is 6½ inches (168 millimeters) or less in outside nominal diameter and is 10 miles (16 kilometers) or less in length, where the operator determines that it is unlikely that the worst case discharge from any point on the line section would adversely affect, within 4 hours after the initiation of the discharge, any navigable waters, public drinking water intake, or environmentally sensitive areas.

[58 FR 253, Jan. 5, 1993, as amended by Amdt. 194-3, 63 FR 37505, July 13, 1998]

### § 194.103 Significant and substantial harm; operator's statement.

(a) Each operator shall submit a statement with its response plan, as required by §§194.107 and 194.113, identifying which line sections in a response zone can be expected to cause significant and substantial harm to the environment in the event of a discharge of oil into or on the navigable waters or adjoining shorelines.

(b) If an operator expects a line section in a response zone to cause significant and substantial harm, then the entire response zone must, for the pur-

## 49 CFR Ch. I (10-1-02 Edition)

pose of response plan review and approval, be treated as if it is expected to cause significant and substantial harm. However, an operator will not have to submit separate plans for each line section.

(c) A line section can be expected to cause significant and substantial harm to the environment in the event of a discharge of oil into or on the navigable waters or adjoining shorelines if; the pipeline is greater than 6½ inches (168 millimeters) in outside nominal diameter, greater than 10 miles (16 kilometers) in length, and the line section—

(1) Has experienced a release greater than 1,000 barrels (159 cubic meters) within the previous five years,

(2) Has experienced two or more reportable releases, as defined in §195.50, within the previous five years,

(3) Containing any electric resistance welded pipe, manufactured prior to 1970, operates at a maximum operating pressure established under §195.406 that corresponds to a stress level greater than 50 percent of the specified minimum yield strength of the pipe,

(4) Is located within a 5 mile (8 kilometer) radius of potentially affected public drinking water intakes and could reasonably be expected to reach public drinking water intakes, or

(5) Is located within a 1 mile (1.6 kilometer) radius of potentially affected environmentally sensitive areas, and could reasonably be expected to reach these areas.

[58 FR 253, Jan. 5, 1993, as amended by Amdt. 194-3, 63 FR 37505, July 13, 1998]

### § 194.105 Worst case discharge.

(a) Each operator shall determine the worst case discharge for each of its response zones and provide the methodology, including calculations, used to arrive at the volume.

(b) The worst case discharge is the largest volume, in barrels (cubic meters), of the following:

(1) The pipeline's maximum release time in hours, plus the maximum shutdown response time in hours (based on historic discharge data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum

daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s) in the response zone expressed in barrels (cubic meters); or

(2) The largest foreseeable discharge for the line section(s) within a response zone, expressed in barrels (cubic meters), based on the maximum historic discharge, if one exists, adjusted for any subsequent corrective or preventive action taken; or

(3) If the response zone contains one or more breakout tanks, the capacity of the single largest tank or battery of tanks within a single secondary containment system, adjusted for the capacity or size of the secondary containment system, expressed in barrels (cubic meters).

[58 FR 253, Jan. 5, 1993, as amended by Amdt. 194-3, 63 FR 37505, July 13, 1998]

**§ 194.107 General response plan requirements.**

(a) Each response plan must plan for resources for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge.

(b) Each response plan must be written in English and also, if applicable, in a language that is understood by the personnel responsible for carrying out the plan.

(c) Each response plan must be consistent with the National Contingency Plan (NCP) (40 CFR part 300) and each applicable Area Contingency Plan (ACP). An operator must certify that it has reviewed the NCP and each applicable ACP and that its response plan is consistent with the existing NCP and each existing applicable ACP.

(d) Each response plan must include:

- (1) A core plan consisting of—
  - (i) An information summary as required in § 194.113,
  - (ii) Immediate notification procedures,
  - (iii) Spill detection and mitigation procedures,
  - (iv) The name, address, and telephone number of the oil spill response organization, if appropriate,
  - (v) Response activities and response resources,
  - (vi) Names and telephone numbers of Federal, state and local agencies which

the operator expects to have pollution control responsibilities or support,

- (vii) Training procedures,
- (viii) Equipment testing,
- (ix) Drill types, schedules, and procedures, and
- (x) Plan review and update procedures; and

(2) An appendix for each response zone. Each response zone appendix must include the information required in paragraph (d)(1) (i)–(ix) of this section that is specific to the response zone and the worst case discharge calculations.

**§ 194.109 Submission of state response plans.**

(a) In lieu of submitting a response plan required by § 194.103, an operator may submit a response plan that complies with a state law or regulation, if the state law or regulation requires a plan that provides equivalent or greater spill protection than a plan required under this part.

(b) A plan submitted under this section must

- (1) Have an information summary required by § 194.113;
- (2) Name the qualified individual; and
- (3) Ensure through contract or other approved means the necessary private personnel and equipment to respond to a worst case discharge or a substantial threat of such a discharge.

**§ 194.111 Response plan retention.**

(a) Each operator shall maintain relevant portions of its response plan at the following locations:

- (1) The response plan at the operator's headquarters;
- (2) The core plan and relevant response zone appendices for each line section whose pressure may be affected by the operation of a particular pump station, at that pump station; and
- (3) The core plan and relevant response zone appendices at any other locations where response activities may be conducted.

(b) Each operator shall provide a copy of its response plan to each qualified individual.