

CHAPTER 8: EMERGENCY RESPONSE

8.1 INTRODUCTION

The RMP regulation requires facilities with Program 2 or 3 processes to comply with the applicable provisions of 40 CFR Part 68 Subpart E: Emergency Response. While facilities with only Program 1 processes are not required to comply with the requirements of Subpart E, these sources must still ensure that emergency response actions have been coordinated with local emergency planning and response agencies and are required to comply with the Clean Air Act's (CAA) General Duty Clause, which includes, among other obligations, a duty to minimize the consequences of accidental releases that do occur.

For facilities with Program 2 or 3 processes, Subpart E designates them as either “responding” facilities or “non-responding” facilities. Responding facilities are those that will use properly trained facility employees (or contractors) to respond to accidental releases of regulated substances, whereas non-responding facilities are those whose employees will not respond to accidental releases of regulated substances. Non-responding facilities instead rely on local public responders to respond to accidental releases at the source. Under Subpart E, while both responding and non-responding facilities must conduct and document annual coordination activities and annual notification drills, only responding facilities have additional obligations for implementation of an emergency response program.

EPA understands that there is a wide spectrum of planning, preparedness, and response arrangements available to facilities and local communities, and that the two categories of “responding” and “non-responding” facilities do not fully capture this continuum. As explained above, there is some overlap between the obligations of non-responding and responding facilities. For example, both non-responding and responding facilities must have mechanisms or procedures in place to notify emergency responders about accidental releases, and both types of sources must conduct and document annual coordination activities with local responders. Because the outcome of these coordination activities may result in different types of response arrangements involving regulated facilities and communities, EPA understands that a facility's designation as “responding” or “non-responding” does not, by itself, explain all facets of emergency preparedness and response for the facility.

These designations are still useful, however, because “responding” facilities must meet certain requirements that “non-responding” facilities are not required to meet. Responding facilities must comply with all of the emergency response program provisions of § 68.95, which include developing an emergency response plan, developing procedures for the use, inspection, and testing of emergency response equipment, conducting training for employees in relevant procedures, and updating the emergency response plan to reflect changes at the source. Any facility that plans to use its employees to take offensive response actions as a result of an accidental release at the source – which could include, for example, donning emergency air breathing apparatus in order to enter an area where a toxic gas leak has occurred with the intention of stopping or controlling the release – would be expected to have obtained appropriate equipment and training, and to address these activities in its emergency response program, even if the facility is also relying on local responders to supplement its own response, or to manage off-site response actions such as evacuations and sheltering-in-place. Under § 68.96, responding facilities must also implement an emergency exercise program involving notification, field, and tabletop exercises, whereas non-responding facilities are only

required to perform annual notification exercises, and are not required to perform field or tabletop exercises.

The rule's emergency response requirements do not specify how responding facilities must respond to accidental releases. EPA recognizes that response strategies for responding sources may vary depending on the source, its location, the number and type of regulated substances and processes, available response resources, the surrounding community, and other factors. Regular coordination between facilities and local responders allows both parties to share information about response plans and resources. This is important because even in situations where regulated sources maintain full emergency response capabilities, local responders would still be responsible for managing the aspects of the response external to the source, such as community evacuations and sheltering-in-place and responding facilities may also need or request local response resources to assist with on-site aspects of the response.

Communicating with Local Responders and your Surrounding Community

Effective communication with the public and local emergency planners and responders can be an opportunity to develop robust emergency response efforts at your facility, in coordination with the community and local responders. Relationships thrive and trust is gained when you consider the needs and challenges facing those potentially affected by accidents at your facility.

Cultural and Linguistic Considerations for Effective Communication

Understanding and adapting to cultural sensitivities will help in this effort and allow you to better coordinate with the community in which you operate. Facilities should not only assess and understand the varied needs related to culture and language, but also recognize how other social disparities impact how well community members are able to participate in a response and how their needs are considered. These disparities may include limited access to transportation, healthcare, and the internet, as well as a lack of recognition of their stakeholder status in response issues. In addition, community stakeholders often do not have the technical understanding or assistance to effectively participate in environmental decisions that impact their lives.

A few considerations for communicating with surrounding communities to ensure that all community members are equitably informed include:

- ✓ Demonstrate respect for different cultural customs, norms, and gender roles. It is important to maintain honesty and integrity in the process and articulate goals, expectations, and limitations.
- ✓ Recognize the need to enhance the capacity of community members' understanding of the information to be disseminated:
 - Consider the readability of information before producing outreach materials
 - Explain technical information in lay terms
 - Clearly present information in a way that avoids misunderstandings
- ✓ Recognize community and indigenous knowledge
- ✓ Conduct community forums in accessible locations and at times accessible for community members
- ✓ Leverage non-traditional engagement and communication methods (such as social media) to engaging members of the public in a participatory process. It is important to remember that social media and technology, should enhance, but not take the place of face-to-face engagement with community members
- ✓ Provide both verbal and written information when necessary
- ✓ Ensure the availability of translation services to address language barriers
- ✓ Demonstrate respect for varied occupations and work schedules
- ✓ Avoid use of slang, fast-paced speech, and long monologues.

The reader should consider these tips for all activities specified throughout this document.

8.2 EMERGENCY RESPONSE COORDINATION (§ 68.93)

For facilities with Program 2 or 3 covered processes, emergency response coordination with local officials must occur at least annually, and more frequently if necessary, to address changes at the facility, in the emergency response plan or emergency action plan, and in the community emergency response plan.

To begin coordination, you must open communications with local emergency planning and response officials, particularly your local emergency planning committee (LEPC) if one exists. Because your LEPC consists of representatives from many local emergency planning and response agencies, it is likely to be the best source of information about the critical emergency response issues in your community. However, in some cases, there may not be an active LEPC in your community. If so, or if your state has not designated your community as an emergency planning district under the Emergency Planning and Community Right-to-Know Act (EPCRA), you will likely need to directly contact local agencies individually to determine which entities (e.g., fire department, emergency management agency, police department, civil defense office, public health agency or hospital) have jurisdiction for emergency planning and response of your facility.

What is a Local Emergency Planning Committee?

LEPCs were formed under EPCRA in 1986. The committees are designed to serve as a community forum for issues relating to preparedness for emergencies involving releases of hazardous substances in their jurisdictions. They consist of representatives from local government (including law enforcement and firefighting), local industry, transportation groups, health and medical organizations, community groups, and the media. LEPCs:

- ◆ Collect information from facilities on hazardous substances that pose a risk to the community;
- ◆ Develop a contingency plan for the community based on this information; and
- ◆ Make information on hazardous substances readily available to the general public.

Contact the mayor's office or the county emergency management office for more information on your LEPC.

Coordination must include providing to the local emergency planning and response organizations your facility's emergency response plan (if one exists), the emergency action plan, updated emergency contact information, and other information necessary for developing and implementing the local emergency response plan. The purpose of the annual coordination is to allow you to update and discuss the information being provided to local authorities, and to allow local authorities to provide you with updated information on how the source is addressed in the community emergency response plan. Coordination will also clarify roles and responsibilities of local, state, and Federal responders and facility personnel in the case of an accidental release. Coordination efforts might also help a facility determine whether it will respond to accidental releases of regulated substances or instead, rely on local response authorities.

The forum for coordination meetings is left up to the discretion of the owner or operator and local response authorities. You may choose to hold a meeting specifically for this purpose, or combine the coordination meeting with another appropriate meeting, such as a regularly scheduled LEPC meeting, if both parties agree to the arrangement. Although EPA recommends in person meetings, where necessary, owners and operators and local authorities may hold meetings remotely (e.g., via conference call or webinar). You must document coordination with local authorities, including: the names of individuals involved and their contact information, and the dates and nature of coordination activities.

Regardless of whether your community has an active LEPC, you should make good faith efforts to carry out the coordination activities. If local emergency planning and response organizations decline to participate in coordination activities, or you cannot identify any appropriate local emergency planning and response organization with which to coordinate, you should document your coordination or research efforts, and continue to attempt to perform coordination activities at least annually.

KEY COORDINATION ISSUES

If you have RMP toxic regulated substances above their threshold quantity, you may have already designated an emergency coordinator to work with the LEPC on chemical emergency preparedness issues (a requirement for certain facilities regulated under EPCRA). If you have not (or if your facility has only regulated flammable substances), you may want to do so at this time. The emergency coordinator should be the individual most familiar with your facility's emergency response plan (e.g., the person designated as having overall responsibility for this program in your management system — see Chapter 5).

Involvement in the activities of your LEPC can have a dramatically positive effect on your facility's emergency response, as well as on your relationship with the surrounding community. Your LEPC can provide technical assistance and guidance on a number of topics, such as conducting response training and exercises, developing mutual aid agreements, and evaluating public alert systems. The coordination process will help both the community and the facility prepare for an emergency, reducing expenditures of time and money, as well as helping eliminate redundant efforts. Effective communication with the LEPC and community are key to these coordination and relationship building efforts. Refer to Section 8.1 for tips on effective communication with local responders and your surrounding community.

You should consider providing the LEPC with draft versions of any emergency response plan elements related to local emergency planning efforts. This submission can initiate a dialogue with the community on potential plan improvements and lead to coordinated training and exercise efforts. In return, your LEPC can support your emergency response plan by providing information from its own emergency planning efforts, including:

- ◆ Data on wind direction and weather conditions, or access to local meteorological data, to help you make decisions related to the evacuation of employees and public alert notification;
- ◆ Lists of emergency response training programs available in the area for training police, medical, and fire department personnel, to help you identify what training is already available;

- ◆ Schedules of emergency exercises designed to test the community response plan to spur coordinated community-facility exercises;
- ◆ Lists of emergency response resources available from both public and private sources to help you determine whether and how a mutual aid agreement could support your program; and
- ◆ Details on incident command structure, emergency points of contact, availability of emergency medical services, and public alert and notification systems.

You must coordinate annually with the LEPC, local response organizations, local hospitals, and other response organizations (e.g., state hazmat team) and offer them a copy of the emergency response or action plan. In some instances, only a portion of the plan may be of use to individuals or organizations; in such cases, you should consider making only that portion of the plan available. For instance, it may be appropriate to send a hospital only the sections of your plan that address emergency medical procedures and decontamination.

In addition, at least annually, you must provide your LEPC and local response entities with a description of your emergency response plan, as well as any important subsequent amendments or updates, to ensure that the community is aware of the scope of your facility response efforts prior to an emergency. Although the summary of your emergency response plan will be publicly available as part of your RMP, this information is not intended to be as up-to-date or as comprehensive as your direct coordination efforts will be. Remember, the LEPC has been given the authority under EPCRA and CAA regulations to request any information necessary for preparing the community response plan.

In addition to providing the local emergency planning and response organizations with the emergency response plan (if one exists), the emergency action plan, and updated emergency contact information, the rule requires the owner or operator to provide “other information necessary for developing and implementing the local emergency response plan.” This language is virtually identical to that used in EPCRA section 303(d)(3) and anticipates that there may be additional information that local authorities need in order to develop the community emergency plan. While this language is intended to provide local responders with additional flexibility to obtain important planning information, it is not an open-ended grant of information gathering authority. The authority to obtain such additional information is restricted only to information “necessary” for development and implementation of the local emergency response plan.

Coordinating the transfer of necessary emergency response planning information allows you and local emergency response and planning officials, including the LEPC, to identify information that may need to be maintained securely and discuss strategies to secure such information or to provide only information that is pertinent to emergency response planning without revealing security vulnerabilities. EPA encourages local responders and owners or operators of regulated facilities to discuss the need for such other emergency planning information and come to a reasonable agreement on what additional information, if any, should be provided. Facility owners and operators are not required to disclose classified information or confidential business information during annual coordination activities. The disclosure of information classified or restricted by the Department of Defense or other

Federal agencies must be controlled by applicable laws, regulations, or executive orders concerning the release of that information.

Planning for Flammable Substances

In the case of regulated flammable substances, the fire department with jurisdiction over your facility may already be conducting fire prevention inspections and pre-planning activities under its own authority. Your participation in these efforts (as requested) will allow local responders to gather the information they need to prepare for an emergency. If there is no local fire department, or if there is only a volunteer fire department in your area, you may need to contact other local response or planning officials (e.g., police) to determine how you can work with the community.

8.3 NON-RESPONDING FACILITIES (§ 68.90(b))

EPA has adopted a policy for facilities that do not intend to respond to releases of regulated substances themselves (non-responding facilities), similar to that adopted by Occupational Safety and Health Administration (OSHA) in its Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard (29 CFR 1910.120), which allows certain facilities to develop an emergency action plan to ensure employee safety, rather than a full-fledged emergency response program. EPA recognizes that, in some cases (particularly for retailers and other small operations with few employees), it may not be appropriate for employees to conduct response operations for releases of regulated substances. For example, it would be inappropriate, and probably unsafe, for an ammonia retailer with only one full-time employee to expect that a tank fire could be handled without the help of the local fire department or other emergency responder. EPA does not intend to force such facilities to develop emergency response capabilities.

Ensuring Effective Emergency Response

Although a non-responding facility is not responsible for developing emergency response capabilities, it is responsible for ensuring effective emergency response to any releases at the facility. If your local public responders are not capable of providing such response, you must take steps to ensure that effective response is available. Effective approaches observed and encouraged by EPA include:

- ◆ Supplementing on-site response capability using response contractors, or via mutual aid agreements with other nearby sources.
- ◆ Working with local emergency response officials to identify gaps in local responder capabilities, and assist local authorities in supplementing those capabilities, as appropriate, by providing the equipment or training needed to allow local public responders to prepare for and carry out an appropriate response to accidental releases at the source.
- ◆ Implementing, purely “defensive” response measures, such as evacuating facility employees and members of the public to a safe distance, and using automatic fire suppression systems, or allowing a fire to burn itself out.

If your employees will not respond to accidental releases of regulated substances, you need not comply with the additional emergency response program requirements in § 68.95, provided you annually coordinate with local response agencies to ensure that they will be prepared to respond to an emergency at your facility consistent with § 68.93. (You may want to briefly review the program design issues discussed in Section 8.4 prior to making this decision.) This will help to ensure that your community has a strategy for responding to and mitigating the threat posed by a release of a regulated substance from your facility. To do so, you must ensure that you have set up a way to notify emergency responders when there is need for a response and that you perform annual notification exercises required under § 68.96(a) (discussed in Section 8.6). Effective communication with local responders is key to these coordination efforts. Refer to Section 8.1 for tips on effective communication with local responders and your surrounding community.

What is “Response”?

For purposes of Part 68, “response” has the same meaning as that term has under OSHA’s HAZWOPER Standard. OSHA defines emergency response as “a response effort by employees from outside the immediate release area or by other designated responders ... to an occurrence which results, or is likely to result, in an uncontrolled release of a hazardous substance.” The key factor here is that responders are designated for such tasks by their employer. This definition *excludes* “responses to incidental releases of hazardous substances where the substance can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate release area, or by maintenance personnel” as well as “responses to releases of hazardous substances where there is no potential safety or health hazard.” Thus, if you expect your employees to take action to end a small leak (e.g., shutting a valve) or clean up a spill that does not pose an immediate safety or health hazard, this action could be considered an incidental response and you would not need to develop an emergency response program if your employees are limited to such activities.

However, due to the nature of the regulated substances subject to EPA’s rule, only the most minor incidents would be included in this exception. In general, most activities will qualify as a response due to the immediacy of the dispersion of a toxic plume or spread of a fire, the volatilization of a spill, and the threat to people on and off site. As a result, if you will have your employees involved in any substantial way in responding to releases, you will need to develop an emergency response program. Your emergency response procedures need only apply to “response” actions; other emergency chemical processing activities will be described in your maintenance and operating procedures.

The remainder of this chapter is applicable only to those facilities that will conduct at least some emergency response operations themselves, unless explicitly identified as also being relevant to non-responding facilities such as Notification Exercises in Section 8.6 and Have I Met the Part 68 Requirements in Section 8.8. As noted above, you may want to review the next section before making a decision on whether your facility will take responsibility for conducting any response activities.

8.4 RESPONDING FACILITIES AND THE EMERGENCY RESPONSE PROGRAM (§ 68.95)

If you have at least one Program 2 or Program 3 process at your facility, Part 68 requires you to develop and implement an emergency response program if your employees will respond to some releases involving regulated substances. (See the box above for more information on What is Response?)

Responding facilities with Program 2 and/or Program 3 processes must comply with the emergency response program requirements. (Non-responding facilities do not need to comply with these requirements as long as they satisfy the criteria described in § 68.90(b), including performing the coordination activities required under § 68.93 and the annual notification exercises required under § 68.96.) If you will respond to releases of regulated substances with your own employees, your emergency response program must consist of the following elements:

- ◆ An emergency response plan (maintained at the facility) that includes:
 - Procedures for informing the public and the appropriate Federal, state, and local emergency response agencies about releases,
 - Documentation of proper first aid and emergency medical treatment necessary to treat human exposures, and
 - Procedures and measures for emergency response.
- ◆ Procedures for using, inspecting, testing, and maintaining your emergency response equipment;
- ◆ Training for all employees in relevant procedures; and
- ◆ Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the facility and ensure that employees are informed of changes. This includes updating the plan as appropriate based on changes at the facility or new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information.

Your plan must be coordinated with the community plan developed under EPCRA. In addition, at the request of local emergency planning or response officials, you must provide any information necessary for developing and implementing the community plan. Effective communication with local emergency planning or response officials and surrounding community are key to coordination and relationship building efforts. Refer to Section 8.1 for tips on effective communication with local responders and your surrounding community.

Although EPA's required elements are essential to any emergency response program, they are not comprehensive guidelines for creating an adequate response capability. If you have a regulated substance on site, you are already subject to at least one emergency response rule: OSHA's emergency action plan requirements (29 CFR 1910.38). Under the OSHA HAZWOPER standard, any facility that handles "hazardous substances" (a broad term that includes all of the CAA regulated substances and thus applies to all facilities with covered processes) must comply with either 29 CFR 1910.38(a) or 1910.119(q). If you have a hazmat team, you are subject to the 29 CFR 1910.119(q) requirements.

In addition, be careful not to confuse writing a set of emergency response procedures in a plan with developing an emergency response program. An emergency response plan is only one element of the integrated effort that makes up an emergency response program. Although the plan outlines the actions and equipment necessary to respond effectively, training, program evaluation, equipment maintenance, and coordination with local agencies must occur regularly if your plan is to be useful in an emergency. The goal of the program is to enable you to respond quickly and effectively to any emergency. The documents listed in Exhibit 8-1 may be helpful in developing specific elements of your emergency response program.

Exhibit 8-1

Federal Guidance on Emergency Planning and Response

[*Hazardous Materials Emergency Planning Guide \(NRT-1\)*](#), National Response Team (NRT), 2001. Although designed to assist communities in planning for hazmat incidents, this guide provides useful information on developing a response plan, including planning teams, plan review, and ongoing planning efforts.

[*Criteria for Review of Hazardous Materials Emergency Plans \(NRT-1A\)*](#), NRT, May 1988. This guide provides criteria for evaluating response plans.

[*Integrated Contingency Plan*](#), NRT, ([61 FR 28642, June 5, 1996](#)). This provides guidance on how to consolidate multiple plans developed to comply with various federal regulations into a single, functional emergency response plan.

[*Emergency Response Guidebook*](#), U.S. Department of Transportation, 2020. This guidebook was developed jointly by the U.S. Department of Transportation, Transport Canada, and the Secretariat of Communications and Transportation of Mexico for use by firefighters, police, and other emergency services personnel who may be the first to arrive at the scene of a transportation incident involving a hazardous material. It is primarily a guide to aid first responders in (1) quickly identifying the specific or generic classification of the material(s) involved in the incident, and (2) protecting themselves and the general public during this initial response phase of the incident. The guidebook is updated every three to four years to accommodate new products and technology. Hard copies are made available free of charge to public emergency responders through state emergency response coordinators.

[*CAMEO Chemical Datasheets*](#), U.S. EPA and National Oceanic and Atmospheric Administration. Developed for use with the Computer-Aided Management of Emergency Operations (CAMEO) software, these documents outline the properties, hazards, and basic safety and response practices for thousands of hazardous chemicals.

Finally, as a responding facility, remember that you are responsible for ensuring that any release from your processes be handled effectively. See Section 8.3 for additional information if you decide to rely on local responders to respond to accidental releases at your facility.

RELATIONSHIP TO HAZWOPER

If you choose to establish and maintain onsite emergency response capabilities, then you will be subject to the detailed provisions of the OSHA or EPA HAZWOPER Standard.

HAZWOPER covers preparing an emergency response plan, employee training, medical monitoring of employees, recordkeeping, and other issues. Call your state or federal district OSHA office for more information on complying with the HAZWOPER Standard. State and local governments in states without a delegated OSHA program are subject to HAZWOPER under EPA's 40 CFR part 311.

How Does the Emergency Response Program Apply?

The requirements for the emergency response program are intended to apply across all covered processes at a facility. Although certain elements of the program (e.g., how to use specific items of response equipment) may differ from one process to another, EPA does not intend or expect you to develop a separate emergency response program for each covered process. With this in mind, you should realize that your emergency response program will probably apply to your entire facility, although technically it need only apply to covered processes.

For example, a facility may have two storage tanks, one containing slightly more than a threshold quantity of a regulated substance and one with slightly less. The facility is likely to adopt the same response approach (e.g., procedures, equipment, and training) for releases whether or not the process is "covered." Similarly, a facility may have two adjacent flammable storage tanks, one containing a regulated substance above the threshold and the other containing another, unlisted flammable. The facility is likely to adopt the same approach for releases whether or not the process is "covered."

8.5 DEVELOPING AN EMERGENCY RESPONSE PROGRAM

The development of an emergency response program should be approached systematically. As described in Section 8.4, all facilities complying with these emergency response program provisions will already be subject to the OSHA HAZWOPER standard. As a result, you are likely to fall into one of two groups:

- ◆ You have already met several federal requirements for emergency planning and are interested in developing an integrated program to minimize duplication (Section 8.7).
- ◆ You have a pre-existing emergency response program (perhaps based on an internal policy decision) and need to determine what additional activities you will need to conduct (Section 8.8).

STEPS FOR GETTING STARTED

The following steps outline a systematic approach that can serve as the framework for the program development process in each of these cases. Following these initial steps will allow you to conduct the rest of the process more efficiently.

Form an emergency response program team. The team should consist of employees with varying degrees of emergency response responsibilities, as well as personnel with expertise from each functional area of your facility. You should consider including persons from the following departments or areas:

- ◆ Maintenance;
- ◆ Operations or line personnel;
- ◆ Upper and line management;
- ◆ Legal;
- ◆ Fire and hazmat response;
- ◆ Environmental, health, and safety affairs;
- ◆ Training;
- ◆ Security;
- ◆ Finance;
- ◆ EPCRA section 302 emergency coordinator (if one exists);
- ◆ Public relations; and
- ◆ Personnel.

The membership of the team will need to be more or less extensive depending on the scope of the emergency response program. A three-member team may be appropriate for a small facility with a couple of process operators cross-trained as fire responders, while a facility with its own hazmat team and environmental affairs department may need a dozen representatives.

Collect relevant facility documents. Members of the development team should collect and review all of the following:

- ◆ Existing emergency response plans and procedures;
- ◆ Submissions to the LEPC under EPCRA sections 302 and 303;
- ◆ Safety Data Sheets;
- ◆ Hazard evaluation and release modeling information;
- ◆ Hazard communication and emergency response training;

- ◆ Emergency drill and exercise programs;
- ◆ After-action reports and response critiques; and
- ◆ Mutual aid agreements.

Identify existing programs to coordinate efforts. The team should identify any related programs from the following sources:

- ◆ Corporate- and industry-sponsored safety, training, and planning efforts; and
- ◆ Federal, state, and local government safety, training, and planning efforts (see Exhibit 8-2).

Exhibit 8-2 Federal Emergency Planning Regulations

The following is a list of some of the federal emergency planning regulations:

- ◆ EPA's Oil Pollution Prevention Regulation (Spill Prevention, Control and Countermeasure and Facility Response Plan Requirements) - 40 CFR 112.7(d) and 112.20-.21.
- ◆ Bureau of Safety and Environmental Enforcement's Oil Spill Response Plan Regulation - 30 CFR part 254.
- ◆ Pipeline and Hazardous Materials Safety Administration's Oil Pipeline Response Plan Regulation - 49 CFR part 194.
- ◆ United States Coast Guard's Oil Facility Response Plan Regulation - 33 CFR part 154, Subpart F;
- ◆ EPA's Risk Management Program Regulation - 40 CFR part 68.
- ◆ OSHA's Emergency Action Plan Regulation - 29 CFR 1910.38(a).
- ◆ OSHA's Process Safety Standard - 29 CFR 1910.119.
- ◆ OSHA's HAZWOPER Regulation - 29 CFR 1910.120.
- ◆ OSHA's Fire Brigade Regulation - 29 CFR 1910.156.
- ◆ EPA's Resource Conservation and Recovery Act (RCRA) Contingency Planning Requirements - 40 CFR part 264, Subpart D, 40 CFR part 265, Subpart D, and 40 CFR 279.52.
- ◆ EPA's EPCRA Requirements - 40 CFR part 355. (These planning requirements apply to communities, rather than facilities, but will be relevant when facilities are coordinating with local planning and response entities).
- ◆ EPA's Storm Water Regulations - 40 CFR 122.26.
- ◆ Cybersecurity and Infrastructure Security Agency's (CISA) Response Risk Based Performance Standard of the Chemical Facility Anti-Terrorism Standards (CFATS) – 6 CFR 27.230(a)(9).

Facilities may also be subject to state and local planning requirements.

Determine the status of each required program element. Using the information collected, you should assess whether each required program element (see Section 8.4) is:

- ◆ In place and sufficient to meet the requirements of Part 68;
- ◆ In place, but not sufficient to meet the requirements of Part 68; or

- ◆ Not in place.

This examination will shape the nature of your efforts to complete the emergency response program required under the risk management program. - Section 8.8 explains the intent of each of EPA's requirements to help you determine whether you are already in compliance.

TAILORING YOUR PROGRAM TO YOUR HAZARDS

If your processes and chemicals pose a variety of hazards, it may be necessary to tailor some elements of your emergency response program to those specific hazards. Unless each part of your program element is appropriate to the release scenarios that may occur, your emergency response program cannot be fully effective. Your program should include core elements that are appropriate to most of the scenarios, supplemented with more specific response information for individual scenarios.

This distinction should be reflected in your emergency response plan, which should explain when to access the general and specific response information. To do this, you will need to consider the following four steps:

- ◆ Identify and characterize the hazards for each covered process. The process hazards analysis (see Chapter 7) or hazard review (see Chapter 6), and offsite consequence analysis (see Chapter 4) should provide this information.
- ◆ For each program element, compare the activities involved in responding to each type of accident scenario and decide if they are different enough to require separate approaches. For example, response equipment and training will likely be different for releases of toxic versus flammable gases.
- ◆ For those program elements that may be chemical- or process-specific, identify what and how systems and procedures need to be modified. For example, if existing mitigation systems are inadequate for responding to certain types of releases, you will need to consider what additional types of equipment are needed.
- ◆ Consider possible causes of emergencies in developing your emergency response program. You should consider both the hazards at your facility and in the surrounding environment. In making this determination, you should consider your susceptibility to:
 - Fires, spills, and vapor releases;
 - Floods, temperature extremes, tornadoes, earthquakes, and hurricanes;
 - Loss of utilities, including power failures; and
 - Train derailments, bomb threats, and other man-made disasters.

8.6 EMERGENCY RESPONSE EXERCISES (§ 68.96)

Part 68 requires qualifying facilities to perform emergency response exercises to increase chemical accident emergency response readiness for facility owners and operators and local responders. These exercises can increase emergency readiness by ensuring local public

responders and facility response personnel know what actions to take during various chemical accident scenarios. Such exercises are widely acknowledged as a useful practice among public and private emergency response professionals. RMP emergency response exercise activities can be divided into two categories:

- ◆ Notification exercises and
- ◆ Field and tabletop exercises.

The purpose of notification exercises is to ensure facility personnel understand how to initiate the facility's notification system and to test the emergency contact information to ensure it is accurate and up to date. The objectives of field and tabletop facility exercises are to test procedures and measures for emergency response after an accidental release of a regulated substance and reduce the impact of accidents by ensuring that emergency response personnel understand their roles in the event of an incident, that local responders are familiar with the hazards at a facility, and that the emergency response plan is up-to-date. Effective communication with local emergency planning or response officials is key to these exercise coordination efforts. Refer to Section 8.1 for tips on effective communication with local responders and your surrounding community.

NOTIFICATION EXERCISES

All non-responding and responding facilities with Program 2 or Program 3 processes are required to conduct an annual notification exercise of the facility's emergency response notification mechanisms required under § 68.90(b)(3) or § 68.95(a)(1)(i), as appropriate, and maintain a written record of each notification exercise conducted in the last five years. Notification exercises are an important supplement to the existing requirement for local emergency plan exercises under EPCRA section 303(c)(9), which requires local emergency plans to include methods and schedules for exercising the plan. Responding facilities can perform notification exercises as part of the tabletop and field exercises discussed below.

During a notification exercise, you would contact each person and agency on your emergency action contact list (e.g., LEPC, fire department, etc.) to ensure that, in the event of an accidental release, the contact information is accurate (e.g., to ensure that a contact is still working in the same position, and their phone number is correct). As part of the notification exercise, the individual making the notifications should clearly indicate that the call is part of an exercise to test the facility's notification system.

FACILITY EXERCISES

If you are a responding facility with Program 2 or Program 3 processes, you are required to conduct exercises of your site-specific emergency response plans and invite local emergency response officials to participate. Field and tabletop exercises are an important component of an emergency response program for responding facilities because they allow these facilities to implement their site-specific emergency response plans, test their actual response procedures and capabilities, identify potential shortfalls, and take corrective action. Both field and tabletop exercises will provide essential training for facility personnel and local responders in responding to accidental releases and should ultimately mitigate the effects of such releases at RMP facilities.

When planning emergency response field and tabletop exercises, you must coordinate with local public emergency response officials and work together to establish appropriate schedules and plans for the exercises. The rule provides you, in consultation with local response officials, with flexibility to choose appropriate exercise scenarios. Scenarios should be based on the regulated substances present at the facility. Involving local response officials in selecting exercise frequencies and in planning exercises should ensure that RMP facility exercises are consistent with the needs and resources of regulated facilities and local communities. By involving local public responders in the exercise scenario itself, responders may also be able to test or simulate important offsite emergency response actions that are usually managed by local public emergency response officials, such as community notification, public evacuations, and sheltering in place. EPA encourages sources and local response officials to design exercise scenarios where these functions are also tested.

Responding stationary sources that rely on response contractors to perform emergency response functions during accidental releases should also ensure that response contractors participate in field and tabletop exercises.

In field exercises, all the steps of a response are carried out (e.g., responders and equipment would be deployed). During a tabletop exercise, the participants discuss what actions would be taken without mobilizing responders and employees to respond to the scenario.

Consider establishing a planning team for each exercise, separate from the players of the exercise. Establishing a planning team will help to focus designing the exercise and establishing objectives.

FIELD EXERCISES

Frequency

- ◆ As part of coordination with local emergency response officials required by § 68.93, responding facilities are required to consult with local response officials on exercise plans and schedules. Responding facilities and local response officials will then establish an appropriate frequency for field exercises.

Scope

- ◆ Field exercises must involve tests of your emergency response plan, including deployment of emergency response personnel and equipment. Field exercises should include:
 - Tests of procedures to notify the public and the appropriate Federal, state, and local emergency response agencies about an accidental release;
 - Tests of procedures and measures for emergency response actions including evacuations and medical treatment;
 - Tests of communications systems;
 - Mobilization of facility emergency response personnel, including contractors, as appropriate;
 - Coordination with local emergency responders;
 - Emergency response equipment deployment; and

- Any other action identified in the emergency response program, as appropriate.

TABLETOP EXERCISES

Frequency

- ◆ As part of coordination with local emergency response officials required by § 68.93, you must consult with these officials to establish an appropriate frequency for tabletop exercises. At a minimum, you must conduct a tabletop exercise before December 21, 2026, and at least once every three years thereafter.

Scope

- ◆ Tabletop exercises must involve discussions of the source's emergency response plan. The tabletop exercises should include discussions of:
 - Procedures to notify the public and the appropriate Federal, state, and local emergency response agencies;
 - Procedures and measures for emergency response including evacuations and medical treatment;
 - Identification of facility emergency response personnel and/or contractors and their responsibilities;
 - Coordination with local emergency responders; procedures for emergency response equipment deployment; and
 - And any other action identified in the emergency response plan, as appropriate.

A useful resource for developing tabletop exercises has been published by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA): [CISA Tabletop Exercise Package](#) (CTEP). This package is designed and developed to provide a customizable virtual exercise for critical infrastructure and private sector companies to review their emergency plans for a multitude of different scenarios. The CTEP is intended to assist organizations in developing their own tabletop exercises to meet their specific needs, from planning to execution. While CTEP was developed primarily to assist critical infrastructure owners and operators with security-related exercises, it is an all-hazards training tool and includes materials and templates that can be customized for accidental release tabletop exercise scenarios. Also, owners and operators may find these same materials useful in planning the initial stages of field exercises.

EXERCISE EVALUATION

Documentation

- ◆ Documentation of both tabletop and field exercises is required but the contents of exercise evaluation reports are left to the reasonable judgement of facility owners or operators and local emergency response officials (if they choose to participate).

- ◆ You must prepare an evaluation report within 90 days of each field and tabletop exercise. Fundamental exercise elements the report should include are:
 - A description of the exercise scenario;
 - Names and organizations of each participant;
 - An evaluation of the exercise results including lessons learned;
 - Recommendations for improvement or revisions to the emergency response exercise program and emergency response program; and
 - A schedule to promptly address and resolve recommendations.

ALTERNATIVE MEANS OF MEETING EXERCISE REQUIREMENTS

Facilities can meet exercise requirements through exercises conducted to meet other Federal, state, or local requirements, or through responses to an accidental release. Responding facilities are also encouraged to consider planning and conducting joint exercises with neighboring facilities to meet the rule's requirements. RMP facilities participating in mutual aid agreements with other nearby facilities already coordinate response actions and resources with those facilities, and EPA believes conducting joint exercises among these facilities will more accurately simulate their behavior in the event of an actual release event, and further enhance the ability of these facilities and surrounding communities to effectively respond to accidental releases. The benefits of joint exercises can also include improved identification and sharing of response resources, enhanced training for facility personnel and local responders, and improvements in facility procedures and practices resulting from information sharing.

You can satisfy the requirement to conduct notification, field, and/or tabletop exercises through:

- ◆ Exercises conducted to meet other Federal, state, or local exercise requirements, provided the exercise meets the requirements of §§ 68.96(a) and 68.96(b), as appropriate (see below).
- ◆ Response to an accidental release, if the response includes the actions indicated in §§ 68.96(a) and/or 68.96(b), as appropriate. When a response to an accidental release is used to meet field and/or tabletop exercise requirements, you must prepare an after-action report comparable to the exercise evaluation report required in § 68.96(b)(3), within 90 days of the incident.

Some RMP facilities may be involved in exercises conducted under the [National Preparedness for Response Exercise Program Guidelines](#), which are intended for facilities required to comply with the federal oil pollution response exercise requirements of the Oil Pollution Act of 1990. For such an exercise to meet the requirements of the RMP rule, the owner or operator must ensure that the exercise includes the items required under § 68.96. Since not all of these items (e.g., simulated accidental release of an RMP-regulated substance) would be a typical feature of an oil spill response exercise, the owner or operator would likely need to modify the oil spill response exercise scenario to incorporate any required features of § 68.96 that were not already included in the scenario.

Additionally, you may be aware of the [Homeland Security Exercise and Evaluation Program \(HSEEP\)](#). HSEEP is set of guiding principles for exercise programs published by the Federal Emergency Management Agency (FEMA). HSEEP provides a common approach to exercise program management for exercise practitioners at all levels.¹ Under HSEEP, FEMA uses somewhat different terminology from EPA to describe different types of exercises. FEMA uses the terms “discussion-based” and operations-based” exercises, which are analogous to RMP tabletop and field exercises, respectively. If you are familiar with HSEEP terminology and conduct exercises according to HSEEP guidelines, any form of an HSEEP discussion-based exercise (i.e., seminar, workshop, tabletop exercise, or game) can potentially qualify as an RMP tabletop exercise, and any of the three types of HSEEP operations-based exercises (i.e., drill, functional exercise, or full-scale exercise) can potentially meet the RMP field exercise requirements.

8.7 INTEGRATION OF EXISTING PROGRAMS

A number of other federal statutes and regulations require emergency response planning (see Exhibit 8-2). On June 5, 1996, the National Response Team (NRT), a multi-agency group chaired by EPA, published the Integrated Contingency Plan (ICP) Guidance in the Federal Register (61 FR 28642). This guidance is intended to be used by facilities to prepare emergency response plans for responding to releases of oil and hazardous substances. The guidance provides a mechanism for consolidating multiple plans that you prepared to comply with various regulations into a single, functional emergency response plan or ICP.

The ICP guidance does not change existing regulatory requirements; rather, it provides a format for organizing and presenting material currently required by regulations. Individual regulations are often more detailed than the ICP guidance. To ensure full compliance, you will still need to read and comply with all of the federal regulations that apply. The guidance contains a series of matrices designed to assist you in consolidating various plans while documenting compliance with these federal requirements.

The NRT and the agencies responsible for reviewing and approving plans to which the ICP option applies have agreed that integrated response plans prepared according to the guidance will be acceptable and the federally preferred method of response planning. The NRT anticipates that future development of all federal regulations addressing emergency response planning will incorporate use of the ICP guidance.

As shown in Exhibit 8-3, the ICP format is organized into three main sections: an introductory section, a core plan, and a series of supporting annexes. The notice published in the Federal Register explains the intended structure of the ICP and provides detailed annotation. EPA’s EPCRA/RCRA/Superfund Hotline can supply you with a copy and answer general questions about the guidance; for further information and guidance on complying with specific regulations, you should contact the appropriate federal agencies.

¹ For more information, see <https://www.fema.gov/hseep>.

Exhibit 8-3 Integrated Contingency Plan Outline

Section I - Plan Introduction Elements

1. Purpose and Scope of Plan Coverage
2. Table of Contents
3. Current Revision Date
4. General Facility Identification Information
 - a. Facility name
 - b. Owner/Operator
 - c. Physical address of the facility (include county/parish/borough, latitude/longitude and directions)
 - d. Mailing address of the facility (correspondence contact)
 - e. Other identifying information (e.g., ID numbers, SIC Code, oil storage start-up date)
 - f. Key contact(s) for plan development and maintenance
 - g. Phone number for key contact(s)
 - h. Facility phone number
 - i. Facility fax number

Section II - Core Plan Elements

1. Discovery
2. Initial Response
 - a. Procedures for internal and external notifications (i.e., contact, organization name, and phone number of facility emergency response coordinator, facility response team personnel, Federal, state, and local officials)
 - b. Establishment of a response management system
 - c. Procedures for preliminary assessment of the situation, including an identification of incident type, hazards involved, magnitude of the problem, and resources threatened
 - d. Procedures for establishment of objectives and priorities for response to the specific incident, including:
 - (1) Immediate goals/tactical planning (e.g., protection of workers and public as priorities)
 - (2) Mitigating actions (e.g., discharge/release control, containment, and recovery, as appropriate)
 - (3) Identification of resources required for response
 - e. Procedures for implementation of tactical plan
 - f. Procedure for mobilization of resources
3. Sustained Actions
4. Termination and Follow-Up Actions

Section III - Annexes

Annex 1. Facility and Locality Information

- a. Facility maps
- b. Facility drawings
- c. Facility description/layout, including identification of facility hazards and vulnerable resources and populations on and off the facility which may be impacted by an incident

Annex 2. Notification

- a. Internal notifications
- b. Community notifications
- c. Federal and state agency notifications

Annex 3. Response Management System

- a. General
- b. Command
- c. Operations
- d. Planning
- e. Logistics
- f. Finance/procurement/administration

Exhibit 8-3 (continued)

- Annex 4. Incident Documentations
 - a. Post-accident investigation
 - b. Incident history
- Annex 5. Training and Exercises/Drills
- Annex 6. Response Critique and Plan Review and Modification Process
- Annex 7. Prevention
- Annex 8. Regulatory Compliance and Cross-Reference Matrices

AN APPROACH TO INTEGRATION

Like many other facilities, you may have opted to develop and maintain separate documents and procedures for each federal emergency planning requirement. However, meeting the CAA emergency response requirements provides you with the opportunity to integrate several existing programs. Integrating the various emergency response efforts you conduct (both those mandated by management and by government) will increase the usefulness of your emergency preparedness activities and decrease the burden associated with maintaining multiple programs. Integration will improve your chances to respond effectively to a release by streamlining your training and eliminating overlaps and conflicts in the roles and responsibilities of your employees under different programs. However, it is important to note that, although you are encouraged to integrate your emergency response efforts, it is not a requirement of the CAA.

If you have multiple emergency response programs, you should consider integrating them into a single program with procedures for responding to your most likely release scenarios. The ICP Guidance discussed above provides comparison matrices for several federal programs that will help you accomplish the following:

- ◆ Distinguish the individual regulatory provisions with which you must comply, and
- ◆ Identify where an integrated effort can meet the requirements of two or more regulations.

The requirements of various emergency response programs may be similar, but the subtle differences between requirements will likely determine the degree to which integration is a feasible and beneficial undertaking (see Exhibit 8-4). To help you identify the relevant rules and regulations, the ICP Guidance provides a sample format for an integrated plan that will allow you to address the emergency planning requirements of various regulatory programs to which you may be subject. See www.nrt.org for more information.

8.8 HAVE I MET PART 68 REQUIREMENTS?

EPA believes that the creation of multiple response plans to meet slightly different federal or state standards is counterproductive, diverting resources that could be used to develop better response capabilities. Therefore, as part of the overall effort to reduce the imposition of potentially duplicative or redundant federal requirements, EPA has limited its requirements

for the emergency response program to the general provisions mandated by Congress, as described in Section 8.4, plus additional coordination and exercise requirements.

As a result, EPA believes that facilities subject to other federal emergency planning requirements may have already met the requirements of these regulations. For example, plans developed to comply with other EPA contingency planning requirements and the OSHA HAZWOPER rule (29 CFR 1910.120) will likely meet the requirements for the emergency response plan (and many of the requirements for the emergency response program). The following discussion presents some general guidance on what actions you need to take for each of the required elements.

EMERGENCY RESPONSE PLAN

If you already have a written plan to comply with another planning regulation, you do not need to write another plan, but only add to it as necessary to cover the elements listed below.

Exhibit 8-4 Sample Integration Effort

Written site evacuation procedures are required by several emergency planning regulations. In keeping with the spirit of the ICP Guidance, rather than preparing multiple sets of evacuation procedures (and possibly introducing dangerous errors as components are revised and updated), you may want to compile a single set of procedures that includes the specific elements mandated by all of the regulations. For example, if you have one or more adjacent operating areas that evacuate to the same location(s), this approach will be very effective. On the other hand, if you have widely separated operating areas with different evacuation routes and assembly points, integration will be less useful.

Area	Signal	Escape Route	Assembly Point	Supervisor
Shipping Room	Horn	Blue	Front Gate	Shipping Supervisor
Control Room	Horn	Green	Parking Lot	Lead Operator
Tank Farm	Radio	Red	Side Gate	Inspector

Keep in mind: At a minimum, your plan must describe:

- ◆ Your procedures for informing the public and offsite emergency response agencies of a release. This must include the groups and individuals that will be contacted and why, the means by which they will be contacted, the time frame for notification, and the information that will be provided.
- ◆ The proper first aid and emergency medical treatment for employees, first responders, and members of the public who may become exposed to a release of a regulated substance. This must include standard safety precautions for victims (e.g., apply water to exposed skin immediately) as well as more detailed information for medical professionals. You must also indicate who is likely to be responsible for providing the appropriate

treatment: an employee, an employee with specialized training, or a medical professional.

- ◆ Your procedures for emergency response in the event of a release of a regulated substance. This must include descriptions of the actions to be taken by employees and other individuals on-site over the entire course of the release event:
 - Activation of alarm systems and interpretation of signals;
 - Safe evacuation, assembly, and return;
 - Selection of response strategies and incident command structure;
 - Use of response equipment and other release mitigation activities; and
 - Post-release equipment and personnel cleanup and decontamination.

PLANNING COORDINATION

If you have already coordinated with local response agencies on how to respond to potential releases of regulated substances and you have ensured an effective response, you have been successful in initiating annual coordination requirements.

One of the most important issues in an emergency response program is deciding which response actions will be assigned to employees and which will be handled by offsite personnel. As a result, talking to public response organizations will be critical when you develop your emergency response procedures. Although EPA is not requiring you to be able to respond to a release alone, you should not simply assume that local responders will be able to manage an emergency. You must work with them to determine what they can do, and then expand your own abilities or establish mutual aid agreements or contracts to handle those situations that will be left to you.

Keep in mind: Your coordination must involve planning for releases of regulated substances from all covered processes, occur annually, and must cover:

- ◆ What offsite response assistance you will require for potential release scenarios, including firefighting, security, and notification of the public;
- ◆ How you will request offsite response assistance; and
- ◆ Who will be in charge of the response operation and how will authority be delegated down the internal and offsite chain of command?

Annual coordination equivalent to that required for planning for extremely hazardous substances under EPCRA sections 302-303 will be considered sufficient to meet this requirement. A more detailed discussion of this element is provided in Section 8.2.

EMERGENCY EQUIPMENT

If you already have written procedures for using and maintaining your emergency response equipment, you do not need to write new procedures.

Keep in mind: Your procedures should apply to any emergency equipment relevant to a response involving a covered process, including all detection and monitoring equipment, alarms and communications systems, and personal protective equipment not used as part of normal operations (and thus not subject to the prevention program requirements related to operating procedures and maintenance). The procedures must describe:

- ◆ How and when to use the equipment properly;
- ◆ How and when the equipment should receive routine maintenance; and
- ◆ How and when the equipment should be inspected and tested for readiness.

Written procedures comparable to those necessary for process-related equipment under the OSHA Process Safety Management Standard and EPA's Program 2 and 3 Prevention Programs will be considered sufficient to meet this requirement.

EMPLOYEE TRAINING

If you already train your employees in how to respond to (or evacuate from) releases of regulated substances, then you do not need a new training program.

Keep in mind: Your training must address the actions to take in response to releases of regulated substances from all covered processes. The training should be based directly on the procedures that you have included in your emergency response plan and must be given to all employees and contractors on site. Individuals should receive training appropriate to their responsibilities:

- ◆ If they will only need to evacuate, then their training should cover when and how to evacuate their location.
- ◆ If they may need to activate an alarm system in response to a release event, then their training should cover when and how to use the alarm system.
- ◆ If they will serve on an emergency response team, then their training should cover where emergency equipment is deployed, how to use emergency equipment and how the incident command system works.

Emergency response training conducted in compliance with the OSHA HAZWOPER Standard and 29 CFR 1910.38 will be considered sufficient to meet this requirement.

RESPONSE PLAN EVALUATION

If you already have a formal practice for regular review and updates of your plan based on changes at the facility, you do not need to develop additional procedures.

Keep in mind: You must also identify the types of changes to the facility that would cause the plan to be updated (e.g., a new covered process) and include a method of communicating any changes to the plan to your employees (e.g., through training) in addition to local emergency response agencies. The plan must also be updated based on new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information. You may want to set up a regular schedule on which you

review your entire emergency response plan and identify any special conditions (e.g., a notification drill, field, or tabletop exercise) that could result in an interim review.

EMERGENCY RESPONSE EXERCISES

If you have conducted exercises to meet other Federal, state, or local exercise requirements you may not need to conduct additional exercises to satisfy the exercise requirements.

Keep in mind: To satisfy the RMP exercise requirements, the exercises must meet the requirements in § 68.96(a) and § 68.96(b), which are described above in Section 8.6.

If you have already responded to an accidental release and that response included the actions indicated in § 68.96(a) and/or § 68.96(b), you do not need to conduct additional exercises to satisfy the exercise requirements.

Keep in mind: You must prepare within 90 days of the incident an after-action report similar to the exercise evaluation report required in § 68.96(b)(3) to have satisfied the facility exercise requirements. The evaluation report should include a description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and emergency response program, and a schedule to promptly address and resolve recommendations.