



FACILITY RESPONSE PLANNING



OVERVIEW AND APPLICABILITY

The Environmental Protection Agency's (EPA's) Oil Pollution Prevention Regulation, 40 Code of Federal Regulations (CFR) Part 112 applies to nontransportation-related facilities that could reasonably be expected to discharge oil into or upon the navigable waters of the United States or adjoining shorelines, and that have (1) an aboveground oil storage capacity of more than 660 gallons in a single container; or (2) a total aboveground oil storage capacity of more than 1,320 gallons; or (3) a total underground buried storage capacity of more than 42,000 gallons. All such facilities are required to comply with the SPCC requirements (40 CFR 112.1 through 112.7), which include preparing a Spill Prevention Control and Countermeasure (SPCC) Plan and conducting an initial screening to determine whether they need to develop a facility response plan (FRP), which meets the requirements of 40 CFR 112.20, 112.21 and related Appendices A through F. Those facilities that could cause "substantial harm" to the environment must prepare and submit an FRP.



FRP Applicability

As outlined in 40 CFR 112.20(f)(1), a facility has the potential to cause substantial harm if:

- ◆ *The facility transfers oil over water to or from vessels and has a total oil storage capacity, including both aboveground storage tanks (ASTs) and underground storage tanks (USTs), greater than or equal to 42,000 gallons; or*
- ◆ *The facility's total oil storage capacity, including both ASTs and USTs, is greater than or equal to one million gallons, and one of the following is true:*
 - ⇒ *The facility lacks secondary containment able to contain the capacity of the largest AST within each storage area plus freeboard to allow for precipitation;*
 - ⇒ *The facility is located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments;*
 - ⇒ *The facility is located at a distance such that a discharge from the facility would shut down a public drinking water intake; or*
 - ⇒ *The facility has had a reportable spill greater than or equal to 10,000 gallons within the last five years.*

In 1990, Congress passed the Oil Pollution Act (OPA) that amended Section 311 of the Clean Water Act (CWA) to require "substantial harm" facilities to develop and implement FRPs. EPA's FRP requirements, which were published as a final rule in the Federal Register on July 1, 1994, are codified at 40 CFR 112.20 and 112.21 and include Appendices A through F. This part of the rule requires that owners and operators of facilities that could cause "substantial harm" to the environment by discharging oil into navigable water bodies

or adjoining shorelines prepare plans for responding, *to the maximum extent practicable, to a worst case discharge and to a substantial threat of such a discharge of oil.*

What is an Oil?

Oils are defined under several statutes including the Clean Water Act (CWA) and the Oil Pollution Act of 1990 (OPA). As a result, overlapping regulatory interpretations exist. For this reason, the U.S. EPA and the U.S. Coast Guard are currently developing a nationally consistent program policy and methodology for facilities to determine whether a given substance is considered an oil under the existing CWA.

Under the CWA, the definition of oil includes oil of any kind and any form, such as petroleum and nonpetroleum oils. Generally, oils fall into the following categories: crude oil and refined petroleum products, edible animal and vegetable oil, other oils of animal or vegetable origin, and other nonpetroleum oils.

Many substances are easily recognizable as oils (e.g., gasoline, diesel, jet fuel, kerosene, and crude oil). Under the CWA definition, many other substances are considered oils, which may not be easily recognizable by industry, including mineral oil, the oils of vegetable and animal origin and other nonpetroleum oils. Therefore, facilities should work closely with the EPA and USCG (if applicable) to make determinations for the substances they store, transfer, and refine.

EPA-regulated facilities are required to submit their FRPs and certifications of response resources to implement the Plan to EPA for review. The Agency reviews and approves plans from facilities identified as having the potential to cause "significant and substantial harm" to the environment from oil discharges. Other SPCC-regulated facilities that are not required to prepare FRPs based on their quantities and locations of oil storage are required to document their determination that they do not meet the "substantial harm" criteria using Attachment C-II in Appendix C of 40 CFR Part 112.

Facilities should maintain the Certification of the Applicability of the Substantial Harm Criteria with their SPCC Plan.

The sections of the Oil Pollution Prevention Regulation relevant to facility response planning are summarized on the following page.



Facility Response Planning Requirements of the Oil Pollution Prevention Regulation (40 CFR Part 112)		
Section 112.20	Facility Response Plans	This section of the regulation contains the requirements for information to be included in a facility response plan.
Section 112.21	Facility Response Training Drills/Exercises	This section of the regulation contains requirements for the development and implementation of a facility training program and drill/exercise program.
Appendix A	Memorandum of Understanding (MOU) between the Secretary of Transportation and the Administrator of the EPA	This MOU contains jurisdictional definitions (i.e., transportation-related vs. non-transportation-related onshore and offshore facilities) relevant to oil facilities.
Appendix B	Memorandum of Understanding among the Secretaries of the Interior and Transportation and the Administrator of the EPA	This MOU establishes the jurisdictional responsibilities for offshore facilities for spill prevention and control, contingency planning, and equipment inspection activities under OPA. Jurisdictional responsibilities are divided between the Department of the Interior (DOI), the Department of Transportation (DOT), and the EPA.
Appendix C	Substantial Harm Criteria	This appendix includes the decision tree and certification form (Attachments C-I and C-II) with the criteria to identify whether a facility "could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines." This appendix also contains the <i>Calculation of Planning Distance</i> (Attachment C-III) that a facility must use to quantify the distance that a discharge from a facility could cause injury to fish and wildlife and sensitive environments or disrupt operations at a public drinking water intake.
Appendix D	Determination of a Worst Case Discharge Planning Volume	This appendix contains instructions that must be used to calculate the volume of a worst case scenario discharge.
Appendix E	Determination and Evaluation of Required Response Resources for FRPs	This appendix contains tables and a worksheet that must be used to calculate the amount of resources and equipment necessary to respond to both a small and a worst case scenario discharge.
Appendix F	Facility Specific Response Plan	This appendix contains a model FRP. <i>A checklist for the model plan can be found at the end of this guide.</i>

PURPOSE OF AN FRP

The primary user of the FRP will be the facility. Facility-specific response plans will help owners and operators develop a response organization and identify the resources needed to respond to an oil spill adequately and in a timely manner. Successful plans will be scenario-based and developed by the preparation of risk analyses of the areas in question; identification of several scenarios that require different levels of response; development of strategies to respond to each scenario; and identification and provision of resources necessary to respond to each scenario.

Who Benefits from an FRP?

- ⊕ **Facility owners and operators:** If implemented effectively, FRPs will allow for an expeditious response to an oil spill thereby reducing a spill's impact and severity. The Plan can also assist facilities in improving spill prevention measures through the early identification of risks at the facility.
- ⊕ **EPA and other government agencies:** FRPs assist agencies in identifying the distribution and capacity of the response contractor industry for planning purposes and private resources for spill response.
- ⊕ **Regional, state and local response authorities:** Once information contained in the response plans is made available, local and regional response authorities will better understand the potential hazards and response capabilities in their area, thus reducing risk to the community.

INITIAL SCREENING AND CERTIFICATION: DETERMINATION OF RESPONSE PLAN APPLICABILITY

SPCC-regulated facilities that could cause "substantial harm" to the environment must prepare and submit response plans to the appropriate EPA Regional Office. Addresses for these offices are provided at the end of this guide.

Owners or operators of all facilities subject to the Oil Pollution Prevention Regulation must familiarize themselves with the rule to determine whether their facility meets the "substantial harm" criteria. Under Sec. 112.20(e), facilities that do not meet the "substantial harm" criteria (i.e., answer 'no' to all five questions) must document this determination by completing the "Certification of the Applicability of the Substantial Harm Criteria Checklist," provided as Attachment C-II in Appendix C of 40 CFR 112 and on page 15 of this guide. This certification should be maintained with the facility's SPCC Plan.

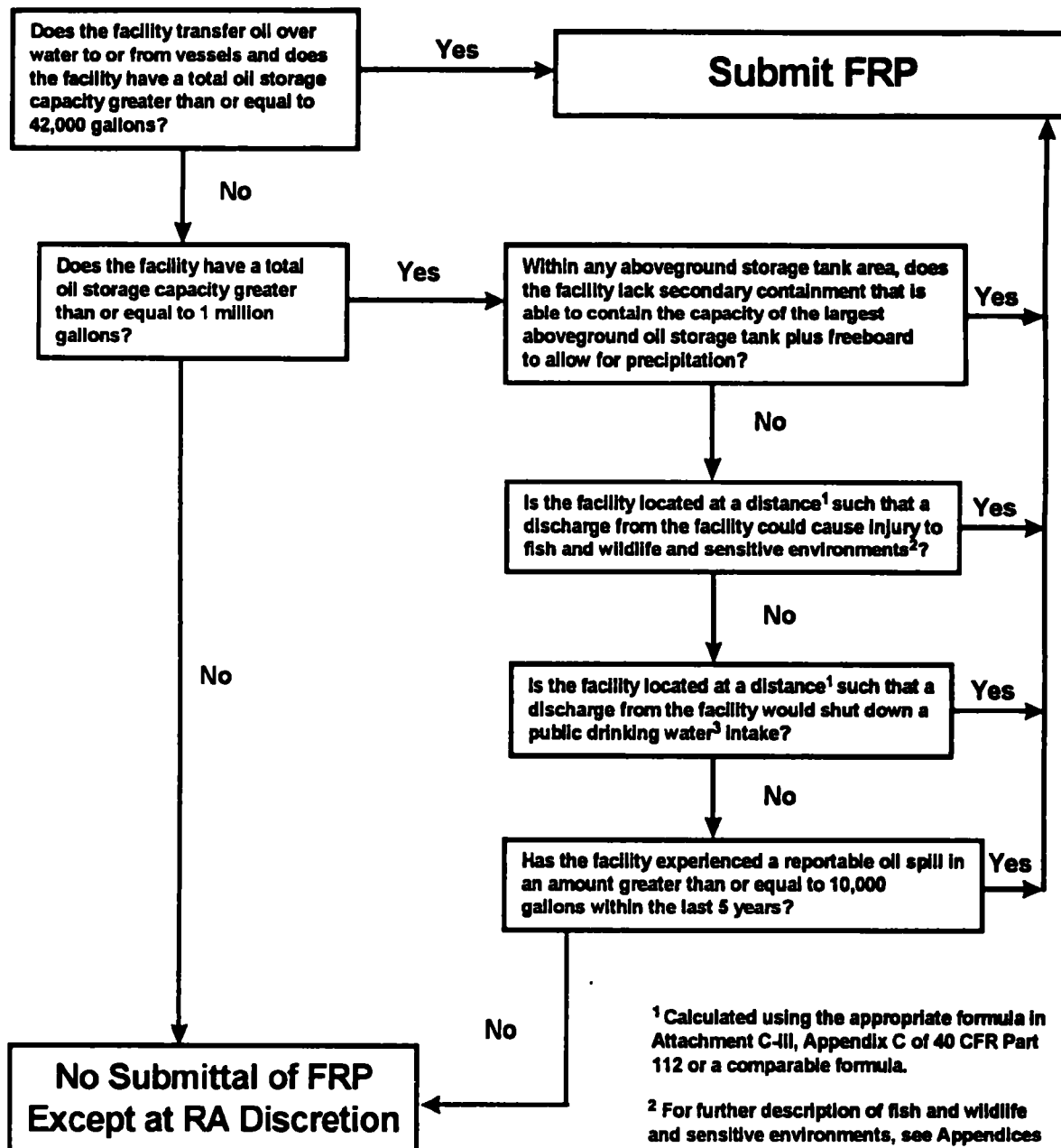
Facilities subject to the FRP requirements under Section 112.20 are referred to either as **substantial harm facilities** or **significant and substantial harm facilities**. FRPs from substantial harm facilities are reviewed by EPA while FRPs from significant and substantial harm facilities are reviewed and must be **approved** by EPA (see Figure 2).

Substantial Harm Facilities

Facilities that are considered to pose a threat of substantial harm are required to prepare and submit FRPs. EPA recognizes two ways in which a facility may be identified as posing a risk of substantial harm: through a self-determination process, or at the discretion of the EPA Regional Administrator (RA).

Figure 1

Flowchart of Criteria for Substantial Harm

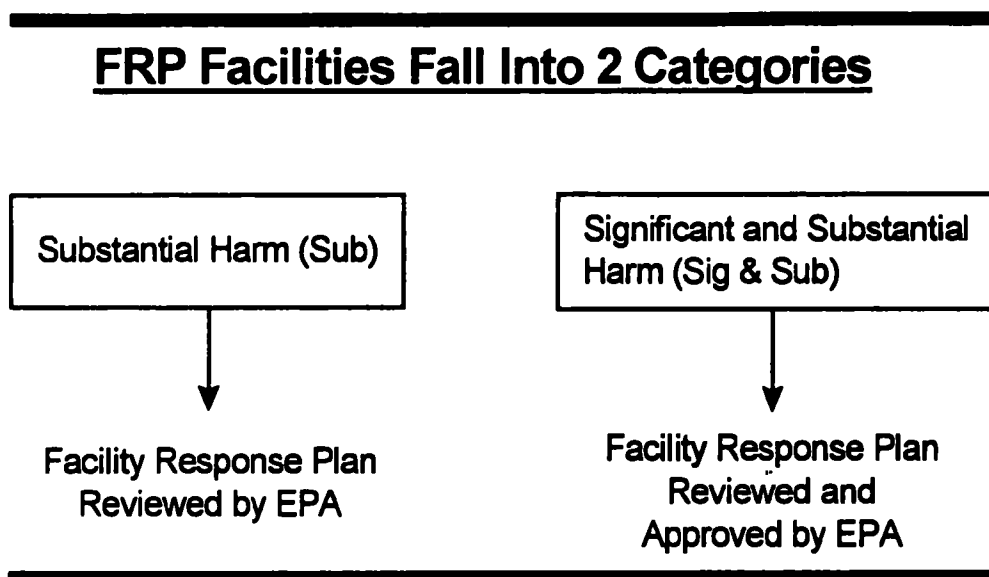


¹ Calculated using the appropriate formula in Attachment C-III, Appendix C of 40 CFR Part 112 or a comparable formula.

² For further description of fish and wildlife and sensitive environments, see Appendices I, II and III to DOC/NOAA's "Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments" (59 FR 14713, March 29, 1994) and the applicable Area Contingency Plan.

³ Public drinking water intakes are analogous to public water system as described at 40 CFR 143.2(c).

Figure 2



Multiagency Jurisdiction

Facilities (complexes) may be regulated by more than one agency. The EPA is responsible for the nontransportation-related facilities located landward of the coastline¹. The Department of Interior (DOI) Minerals Management Service (MMS) is responsible for offshore nontransportation-related facilities located seaward of the coastline, including certain pipelines. The Department of Transportation (DOT) United States Coast Guard (USCG) or other designated agency is responsible for deepwater ports and fixed offshore facilities. The EPA is responsible for facilities in inland lakes and rivers, including certain piping and coastal areas landward of the low water mark. The USCG handles transportation-related offshore facilities located landward of the coastline, while the DOT, Office of Pipeline Safety (OPS) handles all onshore pipelines.

Over Water Transfers

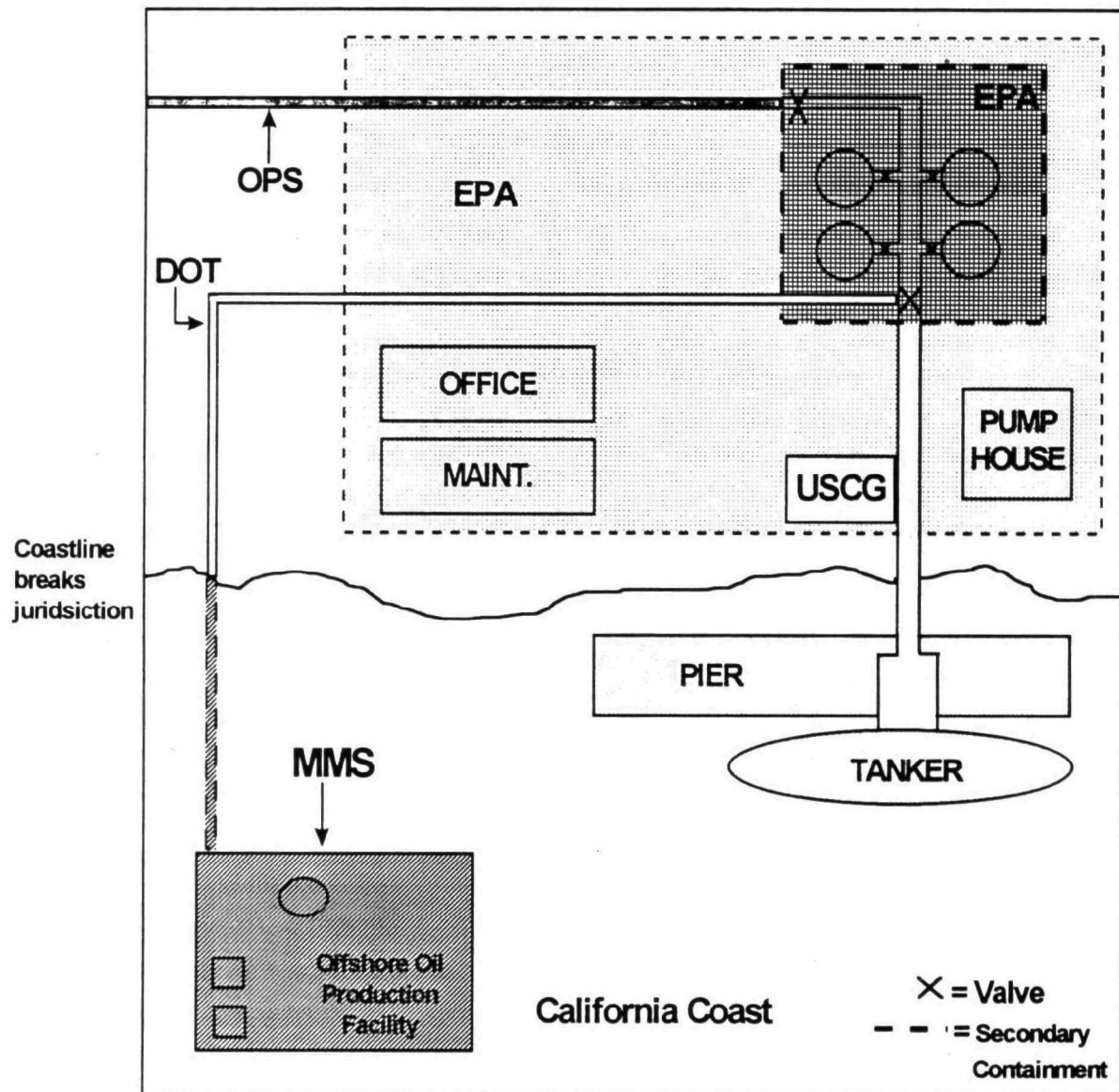
The first criterion for substantial harm determination is for facilities that transfer oil over water to and/or from vessels and have a total storage capacity greater than or equal to 42,000 gallons. As defined in 40 CFR 112.2, "vessel" applies to any type of watercraft, other than a public vessel, capable of being used as a means of transportation on water. The capacities of all storage containers (e.g., drums, tanks, electrical equipment), regardless of size, should be added in order to determine the facility's total storage capacity.

¹ The term coastline is defined to mean "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters," e.g., low tide. Along the Gulf Coast, this line has been determined by the courts and runs along the coastal barrier islands. The jurisdiction over facilities along the coastline of the state of Alaska is determined on a case-by-case basis by MMS.

Many sites at which oil is transferred in bulk to or from vessels are likely to include both a transportation-related transfer area regulated by the DOT and USCG and a nontransportation-related oil storage area regulated by the EPA. This combination is considered a "complex" and is subject to multiagency jurisdiction (see Figure 3).

Figure 3

Example of a Complex Facility



OPA Jurisdiction of Federal Agencies. Jurisdictional boundaries are delineated by the location of valves along the pipelines leading to and from the oil storage facility. Note that these valves must reside within the containment of the storage tank area.

In Figure 3, EPA is responsible for the facility except for the piping/pipelines in the jurisdiction of the USCG, OPS, and MMS. OPS has jurisdiction over the inland pipeline. Seaward of the low water mark, MMS is responsible for the offshore nontransportation-related facility and the offshore pipeline from the platform to the coastline, while the USCG is responsible for the marine transfer component including the pipeline from the storage tank area to a vessel or barge.

Secondary Containment

A facility may be determined to be a substantial harm facility if it does not have adequate secondary containment and has a total aboveground storage capacity greater than or equal to one million gallons. A facility must have secondary containment for each AST. The area must be able to contain the capacity of the largest AST within that area plus sufficient freeboard to allow for precipitation. The volume of freeboard should be based on regional rainfall patterns. Some facilities in states such as Washington, Alaska, and Hawaii, among others, and the Commonwealth of Puerto Rico will require secondary containment for much larger volumes of water. Secondary containment may include, but is not limited to, the following preventive systems or their equivalent:

- Dikes, berms, or retaining walls sufficiently impervious to contain spilled oil;
- Curbing;
- Culverting, gutters, or other drainage systems,
- Weirs, booms, and other barriers;

- Spill diversion ponds; and
- Retention ponds.

Fish and Wildlife and Sensitive Environments



Substantial harm may be determined if a facility is located at a distance such that a discharge could cause injury to fish and wildlife and sensitive environments and the total storage capacity is greater than or equal to one million gallons. As defined by 40 CFR 112.2, "injury" means a measurable adverse change, either long- or short-term, in the chemical or physical quality or the viability of a natural resource. The change can result either directly or indirectly from exposure to a discharge of oil or from exposure to a product or reactions resulting from a discharge of oil.

The owner or operator should use the EPA's Planning Distance Calculations to estimate the distance that the discharged material may travel from the facility. These formulas for still water, rivers, tidal areas, and over land can be found in Appendix C, Attachment C-III of the regulation. Once this has been determined, the fish and wildlife and sensitive environments existing within that distance should be identified.

Section 112.2 defines fish and wildlife and sensitive environments as areas that may be identified by either their legal designation or by evaluations of area committees or members of the federal on scene coordinator's (OSC) spill response structure. The identification of fish and wildlife and sensitive environments should reflect local scientific knowledge, responder experience

and community priorities. The areas identified may include areas sensitive to the effects from a spill event, and areas which, if

***Calculation of the Planning Distance
(Attachment C-III, Appendix C, 40 CFR
112)***

The planning distance calculation must be performed based on the types of transfers and the navigable water conditions applicable to a facility. To quantify that distance, EPA has developed formulas for the following types of oil transport:

Moving Navigable Waters. EPA has determined that the primary concern for calculation of a planning distance is the transport of oil in navigable waters during adverse weather conditions. Therefore, two formulas have been developed to determine distances for planning purposes from the point of discharge at the facility to the potential site of impact on moving and still waters, respectively. The formula for oil transport on moving navigable water is based on the velocity of the water body and the time interval for arrival of response resources.

Still water: The still water formula accounts for the spread of discharged oil over the surface of the water.

Tidally Influenced Areas: The method to determine oil transport on tidally influenced areas is based on the type of oil spilled and the distance downcurrent during ebb tide and upcurrent during flood tide to the point of maximum tidal influence.

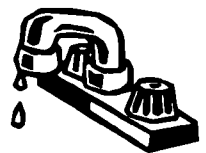
Over Land: As discharged oil travels over land, it may enter a storm drain or open concrete channel intended for drainage. The formula assumes that once oil reaches such an inlet, it will flow to a navigable water.

impacted, may endanger human health. Examples of these environments are wetlands, national and state parks, critical habitats for endangered species, wilderness and natural resource areas, marine sanctuaries and estuarine reserves, conservation areas, preserves, wildlife areas, wildlife refuges, wild and scenic rivers, recreation areas, national forests, federal and state lands that are research natural areas, heritage program areas, land trust areas, and historical and archeological parks.

Additional information concerning fish and wildlife and environmentally sensitive areas can be obtained from Appendices I, II, and III to Department of Commerce/National Oceanic and Atmospheric Administration's (DOC/NOAA's) *Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments* (59 FR 14713, March 29, 1994). This guidance was developed to aid facilities in the identification of these areas prior to their designation in the Area Contingency Plan (ACP). Some ACPs may identify these resources.

Public Drinking Water Intakes

A facility may also be determined to be of substantial harm if it is located at a distance such that a discharge would shut down a public drinking water intake and it has a total storage capacity equal to or greater than one million gallons. To determine whether a facility would shut down a public drinking water intake, the owner or operator must calculate the distance that oil could travel from the facility before being contained using the Planning Distance Calculations. All public drinking water intakes must be identified within this distance.



Public drinking water intakes are defined by the systems that feed them. As set forth in the Safe Drinking Water Act, a public water system (i.e., a system that provides piped water for human consumption) must have at least 15 service connections or regularly serve at least 25 individuals. Public drinking water systems include collection, treatment, storage, and distribution facilities. In order to identify the location of downstream public drinking water intakes, the facility should consult the appropriate ACP and contact the municipal or county water authority for each area that could be affected by an oil spill from the facility.

Reportable Spills Greater than 10,000 Gallons

The final criterion for substantial harm determination is for facilities that have had a reportable spill in an amount greater than or equal to 10,000 gallons within the last five years and have a total storage capacity equal to or greater than one million gallons. A reportable spill is a discharge that reaches navigable waters or adjoining shorelines in a quantity that may be harmful. Specifically, 40 CFR 110.3 defines a harmful discharge as one that:

- Violates applicable water standards;
- Causes a film or sheen upon or discoloration of the surface of the water or adjoining shoreline; or
- Causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

If a facility has been significantly upgraded within five years of a spill greater than or equal to 10,000 gallons, the owner/operator can petition the Regional Administrator (RA) to remove the facility from the category of

substantial harm. Examples of such upgrading include replacing tanks, adding secondary containment, and making other improvements that greatly reduce the risk to the environment in the event of a spill.

Regional Administrator Determination

In addition to the self-determination criteria, Section 112.20(b) states that the RA may also determine a facility's potential to cause substantial harm. If a facility must prepare and submit a response plan, the RA will further assess the risk posed by the facility in order to determine whether it could cause significant and substantial harm to the environment.

The RA may use factors similar to the self-determination criteria or may use other factors to evaluate the facility's potential to cause substantial harm. As set forth in Section 112.20(b), the factors that the RA may consider include, but are not limited to, the following:

- Type of transfer operation;
- Oil storage capacity;
- Lack of secondary containment;
- Proximity to fish and wildlife and sensitive areas and other areas determined by the RA to possess ecological value;
- Proximity to drinking water intakes;
- Spill history; and
- Other site-specific characteristics and environmental factors that the RA determines to be relevant.

EPA has developed guidance for their regional offices to identify substantial harm and significant and substantial facilities based on the above factors.

In addition, if any person, including a member of the public or representative from a federal, state, or local agency, believes a facility may cause substantial harm to the environment from a discharge of oil, he or she may petition the RA to determine whether the facility meets the above-described substantial harm criteria. The RA can make a determination of substantial harm without being petitioned. If EPA determines that a facility poses a threat of substantial harm, the RA will notify the facility in writing that they are required to prepare and submit an FRP.

Significant and Substantial Harm Facilities

Once facilities submit an FRP to EPA, it will be reviewed and evaluated for the facility's potential to cause significant and substantial harm to vulnerable areas. Those facilities that meet the criteria for significant and substantial harm will have their FRPs reviewed and their facilities inspected for viability and compliance with the regulations prior to EPA approval.

EPA reviews and approves response plans for those facilities whose discharges may cause "significant and substantial harm" to the environment in order to ensure that facilities believed to pose the highest risk have adequate resources and procedures in place to respond to a spill. Since the statutory deadlines for the submittal of FRPs have passed, EPA performs initial reviews of response plans submitted by "significant and substantial harm" facilities constructed after August 30, 1994, existing facilities that become subject to the response plan

requirements as the result of a change in operations (after the effective date of the regulation); and facilities newly designated by the RA as "significant and substantial harm." EPA is required to periodically review the response plans of "significant and substantial harm" facilities that already have submitted a response plan to the Agency, provided that the period between plan reviews does not exceed five years. The Agency will require amendments to any response plan that does not meet the requirements. EPA also will use the facility-specific information provided in the response plans to continue to update ACPs as required by the OPA.

FACILITY RESPONSE PLAN DEVELOPMENT

Facility personnel must use background information such as the location, quantities, and types of material stored and a geographic description of the site (maps, schematic diagrams, latitude and longitude) to develop an FRP. Roles and responsibilities of other members of the response team (both company responders and outside parties) must be clearly established.

To develop an FRP, the facility should perform a hazard analysis, which involves identifying potential hazards based on facility background information, determines the vulnerability of the surrounding area given the hazard, and assesses the risk of a release. The results of the hazard analysis are used to develop spill scenarios. For one scenario, the facility calculates the volume of a worst case discharge and develops an effective response to such a discharge. All aspects of an effective response must be included in the response plan, including containment, countermeasure, and mitigation procedures for different types of

incidents, and the provision for proper cleanup and disposal of contaminated material.

Facility Response Plans must:

- ☆ Be consistent with the National Contingency Plan and Area Contingency Plans.
- ☆ Identify a qualified individual having full authority to implement removal actions, and require immediate communication between that person and the appropriate federal authorities and responders.
- ☆ Identify and ensure availability of resources to remove a worst case discharge.
- ☆ Describe training, testing, unannounced drills, and response actions of facility personnel.
- ☆ Be updated periodically.
- ☆ Be submitted for approval with each significant change.

Appendix F of the Oil Pollution Prevention Regulation (40 CFR Part 112) includes a model FRP. A checklist for the model plan is located at the end of this guide.

Training and Response Drills

Oil spill response training is an important element in EPA's oil spill prevention and preparedness efforts. Studies indicate that a significant number of oil spills at facilities are caused by operator error, such as failing to close valves or overfilling tanks during transfer operations. Because operator error is often the cause of an oil spill, training and briefings are critical for prevention of a spill as well as response to a spill. Furthermore, proper training of facility personnel can reduce the severity of impacts when a spill

does occur. Training encourages up-to-date planning for the control of, and response to, an oil spill and also helps to sharpen operating and response skills, introduces the latest ideas and techniques, and promotes interaction with the emergency response organization and familiarity with the facility's SPCC and FRP plans.

Key elements of the model Facility Response Plan include:

- ✓ Emergency Response Action Plan (an easily accessible stand alone section of the overall plan).
- ✓ Facility name, type, location, owner, and operator information.
- ✓ Emergency notification, equipment, personnel, and evacuation information.
- ✓ Identification and evaluation of potential spill hazards and previous spills.
- ✓ Identification of small, medium, and worst case discharge scenarios and response actions.
- ✓ Description of discharge detection procedures and equipment.
- ✓ Detailed implementation plan for containment and disposal.
- ✓ Facility and response self-inspection; training, exercises, and drills; and meeting logs.
- ✓ Diagrams of facility and surrounding layout, topography, and evacuation paths.
- ✓ Security (fences, lighting alarms, guards, emergency cutoff valves and locks, etc.)

Under 40 CFR 112.20(h)(8), facility response plans must contain information about self-inspection, drills/exercises, and response training, including descriptions of training and drill/exercise programs and documentation of tank inspections, equipment inspections, response training meetings, response training sessions, and drills/exercises. Consequently, facility response plans may be revised based on

evaluations of the facility drills and exercises.

Facility Response Training Programs

Section 112.21 of the Oil Pollution Prevention Regulation requires the development and implementation of facility response training programs. It is recommended that the training program be based on the *USCG Training Elements for Oil Spill Response*, as applicable to facility operations. An alternative program can also be acceptable, subject to approval of the Regional Administrator. The training must be functional in nature according to job tasks for both supervisory and nonsupervisory operational personnel. Trainers must develop specific lesson plans on subject areas relevant to facility personnel involved in oil spill response and cleanup.

Facility Response Drills/Exercises

The requirements for oil spill response training and response drills and exercises are codified at 40 CFR 112.21, for facilities that are required to prepare an FRP.

Under 40 CFR 112.21, facilities are also required to develop and implement a program of response drills and exercises, including evaluation procedures to test the effectiveness of their response plan. A program that follows the *National Preparedness for Response Exercise Program (PREP)* will meet these requirements. An alternative program can also be acceptable if approved by the Regional Administrator

The USCG, EPA, OPS, MMS, states and industry developed PREP. The program consists of notification, tabletop and deployment exercises that are both announced and unannounced, as well as

participation in larger area drills that exercise the appropriate ACP. Exercises that involve other members of the response community outside of the facility include industry- and government-led area exercises and government-initiated unannounced exercises. These exercises are designed to evaluate the entire response mechanism in a given area to ensure adequate preparedness. The goal of PREP is to conduct approximately 20 area exercises per year. PREP also includes a schedule for the exercise of facility FRPs over a three-year cycle.

The PREP guidelines: USCG-X0191 and the Training Reference for Oil Spill Response: USCG-X0188 are available by mail or fax.

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When requesting copies, please indicate the document name and publication numbers.

Response Plan Maintenance

Under Sec. 112.20(g), facilities must periodically review their response plans to ensure consistency with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and ACPs. Consequently, owners or operators who have prepared response plans must review relevant portions of the NCP and the applicable ACPs annually and update their facility response plan as appropriate. In addition, under Sec. 112.20(d)(1), the owner or operator must resubmit revised portions of their response plan within 60 days of each facility change, which may materially affect

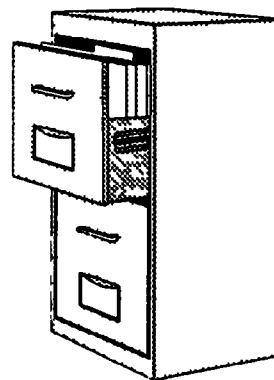
the response to a worst case discharge or the implementation of the response plan. These changes may include:

- a change in the facility's configuration;
- a change in the type of oil handled, stored or transferred;
- a material change in capabilities of the oil spill removal organization(s) that provide services to the facility; or
- a material change in the facility's spill prevention and response equipment or emergency response procedures.

Recordkeeping

Facilities that determine that the response planning requirements under 40 CFR 112.20 do not apply to them must certify and maintain a record of this determination using Attachment C-II, Appendix C, 40 CFR 112.

Facilities that are subject to the response planning requirements at 40 CFR 112.20 are required to maintain the response plan at the facility. Facilities with response plans also are required to maintain updates to the plan to reflect material changes to the facility and to log activities such as discharge prevention meetings, response training drills and exercises. Facilities must keep the records of these activities for a period of five years.



NOTICE

The statements in this document are intended solely as guidance. This document is not intended and cannot be relied upon to create rights, substantive or procedural, enforceable by any party in litigation with the United States.



**CERTIFICATION OF THE APPLICABILITY
OF THE SUBSTANTIAL HARM CRITERIA CHECKLIST**

FACILITY NAME: _____

FACILITY ADDRESS: _____

1. Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000 gallons?
Yes _____ No _____
2. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground oil storage tank area?
Yes _____ No _____
3. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance (calculated using the appropriate formula in Attachment C-III Appendix C, 40 CFR 112 or a comparable formula¹) such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments? For further description of fish and wildlife and sensitive environments, see Appendices I, II, and III to DOC/NOAA's "Guidance for Facility and Vessel Response Plans" (section 10, Appendix E, 40 CFR Part 112 for availability) and the applicable Area Contingency Plan
Yes _____ No _____
4. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance (calculated using the appropriate formula (Attachment C-III, Appendix C, 40 CFR 112 or a comparable formula¹) such that a discharge from the facility would shut down a public drinking water intake²?
Yes _____ No _____
5. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and has the facility experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years?
Yes _____ No _____

CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Name (please type or print)

Signature

Title

Date

(from 40 CFR 112 Appendix C, Attachment C-II)

¹If a comparable formula is used, documentation of the reliability and analytical soundness of the comparable formula must be attached to this form.

²For the purposes of 40 CFR Part 112, public drinking water intakes are analogous to public water systems As described at 40 CFR 143.2(c).

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
A. Response Plan Cover Sheet		
• General Facility Information (Sec. 2.1)		
• Applicability of Substantial Harm Criteria Form (Sec. 2.2)		
• Certification (Sec. 2.3)		
B. Emergency Response Action Plan (Section 1.1)		
• Arranged For Quick Reference		
• Qualified Individual Information (Sec. 1.2) partial		
• Emergency Notification Phone List (Sec. 1.3.1) partial		
• Spill Response Notification Form (Sec. 1.3.1) partial		
• Response Equipment List and Location (Sec. 1.3.2) complete		
• Response Equip. Testing and Deploy. (Sec. 1.3.3) complete		
• Facility Response Team (Sec. 1.3.4) partial		
• Evacuation Plan (Sec. 1.3.5) condensed		
• Immediate Actions (Sec. 1.7.1) complete		
• Facility Diagram (Sec. 1.9) complete		
C. Facility Information (Section 1.2)		
• Facility name (Sec. 1.2.1)		
• Street address (Sec. 1.2.1)		
• City, state, zip (Sec. 1.2.1)		
• County (Sec. 1.2.1)		
• Phone number (Sec. 1.2.1)		
• Lat/long information (Sec. 1.2.2)		
• Wellhead protection area (Sec. 1.2.3)		
• Owner/operator information (if different than facility) (Sec. 1.2.4)		
• Qualified Individual (QI) information (Sec. 1.2.5)		
• Oil storage start-up date (Sec. 1.2.6)		
• Facility operations description (Sec. 1.2.7)		
• SIC code (Sec. 1.2.7)		
• Dates and types of substantial expansion (Sec. 1.2.8)		
D. Emergency Response Information (Section 1.3)		
Notification (Section 1.3.1)		
• Emergency Notification Phone List		
• Prioritized		
• NRC phone number		
• QI day and evening phone numbers		
• Company response team day & evening phone numbers		
• OSC day and evening phone numbers		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
• Area committee day and evening phone numbers		
• Local response team phone numbers		
• Fire marshal day and evening phone numbers		
• SERC day and evening phone numbers		
• State police phone number		
• LEPC phone number		
• Local water supply system day and evening phone numbers		
• Weather report phone number		
• Local TV/radio phone number(s) for evacuation notification		
• Hospital phone number		
● Spill Response Notification Form		
• Company information		
• Incident description		
• Material		
• Response actions		
• Impact		
• Additional information		
• Caller notifications		
Response Equipment List (Section 1.3.2)		
● List and description of equipment at facility		
● Location		
● Operational status		
● Last equipment test or inspection date		
● Effective daily recovery rate (if applicable)		
Response Equipment Testing/Deployment (Section 1.3.3)		
• Response equipment testing & drill log		
• Inspection/test date		
• Deployment drill date		
• OSRO certification (if applicable)		
Personnel (Section 1.3.4)		
● Facility Response Team Information		
• Work and home phone numbers		
• Time needed for personnel to respond		
• Responsibility in the case of an emergency		
• Level of training		
● Emergency Response Contractor Information		
• Work and home phone numbers		
• Time needed for personnel to respond		
• Responsibility in the case of an emergency		
• Level of training		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
• Evidence of contractual agreement		
Evacuation Plans (Section 1.3.5)		
• Facility Evacuation Diagram		
• Facility Evacuation Plan		
• Location of stored materials		
• Hazard imposed by spilled material		
• Spill flow direction		
• Prevailing wind direction and speed		
• Water currents, tides or wave conditions		
• Arrival route of emergency response personnel and equipment		
• Evacuation routes		
• Alternative routes of evacuation		
• Transportation of injured personnel to nearest emergency medical facility		
• Location of alarm/notification systems		
• The need for a centralized check-in area for evacuation validation (roll call)		
• Selection of a mitigation command center		
• Location of shelter at the facility as an option to evacuation		
• Community Evacuation Plan and Diagram (only if discharge poses high risk to community)		
Qualified Individual's Duties (Section 1.3.6)		
• Description of responsibilities		
• Activate internal alarms and hazard communication systems to notify all facility personnel		
• Notify all response personnel as needed		
• Identify the character, exact source, amount and extent of the release, as well as the other items needed for notification		
• Notify and provide necessary information to the appropriate federal, state and local authorities with designated response roles, including the NRC, SERC and LEPC.		
• Assess the interaction of the spilled substance with water and/or other substances stored at the facility and notify response personnel at the scene of that assessment.		
• Assess the possible hazards to human health and the environment due to the release. This assessment must consider both the direct and indirect effects of the release.		
• Assess and implement prompt removal actions to contain and remove the substance released.		
• Coordinate rescue and response actions as previously arranged with all response personnel.		
• Use authority to immediately access company funding to initiate cleanup activities.		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
<ul style="list-style-type: none"> Direct cleanup activities until properly relieved of this responsibility. 		
E. Hazard Evaluation (Section 1.4)		
Hazard Identification (Section 1.4.1)		
<ul style="list-style-type: none"> Tank and Surface Impoundment Forms 		
<ul style="list-style-type: none"> Each tank listed with a distinct identifier 		
<ul style="list-style-type: none"> Substance stored in tank 		
<ul style="list-style-type: none"> Average quantity stored in tank (in gallons) 		
<ul style="list-style-type: none"> Tank type 		
<ul style="list-style-type: none"> Year the tank was originally installed (refabricated) 		
<ul style="list-style-type: none"> Tank surface area (square feet) 		
<ul style="list-style-type: none"> Maximum capacity of each tank (in gallons) 		
<ul style="list-style-type: none"> Failure/cause which resulted in content lost 		
<ul style="list-style-type: none"> Labeled schematic drawing 		
<ul style="list-style-type: none"> Description of transfers & volume of material 		
<ul style="list-style-type: none"> Volume of material involved in transfer operations 		
<ul style="list-style-type: none"> Description of day-to-day operations 		
<ul style="list-style-type: none"> Volume of material involved in day-to-day operations 		
<ul style="list-style-type: none"> Secondary containment volume 		
<ul style="list-style-type: none"> Normal daily throughput 		
<ul style="list-style-type: none"> Effect on potential release volume that a change in throughput may cause 		
Vulnerability Analysis (Section 1.4.2)		
<ul style="list-style-type: none"> Potential effects of a spill 		
<ul style="list-style-type: none"> Appropriate distances from the facility to environmentally sensitive areas 		
<ul style="list-style-type: none"> Description of downstream distance that could be affected 		
<ul style="list-style-type: none"> Water intakes 		
<ul style="list-style-type: none"> Schools 		
<ul style="list-style-type: none"> Medical facilities 		
<ul style="list-style-type: none"> Residential areas 		
<ul style="list-style-type: none"> Businesses 		
<ul style="list-style-type: none"> Wetlands or other environmentally sensitive areas 		
<ul style="list-style-type: none"> Fish and wildlife 		
<ul style="list-style-type: none"> Lakes and streams 		
<ul style="list-style-type: none"> Endangered flora and fauna 		
<ul style="list-style-type: none"> Recreational areas 		
<ul style="list-style-type: none"> Transportation routes 		
<ul style="list-style-type: none"> Utilities 		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
<ul style="list-style-type: none"> Other areas of economic importance including terrestrially sensitive environments, aquatic environments and unique habitats 		
Analysis of the Potential for an Oil Spill (Section 1.4.3)		
<ul style="list-style-type: none"> Description of the probability of a spill occurring 		
<ul style="list-style-type: none"> Tank age 		
<ul style="list-style-type: none"> Spill history 		
<ul style="list-style-type: none"> Horizontal range of a potential spill 		
<ul style="list-style-type: none"> Vulnerability to natural disaster 		
Reportable Oil Spill History (Section 1.4.4)		
<ul style="list-style-type: none"> Date of discharge 		
<ul style="list-style-type: none"> List of discharge causes 		
<ul style="list-style-type: none"> Material(s) discharged 		
<ul style="list-style-type: none"> Amount discharged in gallons 		
<ul style="list-style-type: none"> Amount of discharge that reached navigable waters 		
<ul style="list-style-type: none"> Effectiveness and capacity of secondary containment 		
<ul style="list-style-type: none"> Clean-up actions taken 		
<ul style="list-style-type: none"> Steps taken to reduce possibility of recurrence 		
<ul style="list-style-type: none"> Total storage capacity of the tank(s) or impoundment(s) from which the material discharged 		
<ul style="list-style-type: none"> Enforcement actions 		
<ul style="list-style-type: none"> Effectiveness of monitoring equipment 		
<ul style="list-style-type: none"> Description of how each spill was detected 		
F. Discharge Scenarios (Section 1.5)		
Small and Medium Discharges (Section 1.5.1)		
<ul style="list-style-type: none"> Volumes for small and medium discharges provided 		
<ul style="list-style-type: none"> Scenarios take into account all applicable facility operations 		
<ul style="list-style-type: none"> Loading and unloading of surface transportation 		
<ul style="list-style-type: none"> Facility maintenance 		
<ul style="list-style-type: none"> Facility piping 		
<ul style="list-style-type: none"> Pumping stations and sumps 		
<ul style="list-style-type: none"> Storage tanks 		
<ul style="list-style-type: none"> Vehicle refueling 		
<ul style="list-style-type: none"> Age and condition of facility and components 		
<ul style="list-style-type: none"> Scenarios consider factors that affect the response efforts 		
<ul style="list-style-type: none"> Size of the spill 		
<ul style="list-style-type: none"> Proximity to downgradient wells, waterways and drinking water intakes 		
<ul style="list-style-type: none"> Proximity to environmentally sensitive areas 		
<ul style="list-style-type: none"> Likelihood that the discharge will travel offsite 		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
• Location of the material spilled		
• Material discharged		
• Weather or aquatic conditions		
• Available remediation equipment		
• Probability of a chain reaction of failures		
• Direction of spill pathway		
Worst Case Discharges (Section 1.5.2)		
• Completed worksheet - correct worst case discharge calculation		
• Scenarios take into account facility operations		
• Loading and unloading of surface transportation		
• Facility maintenance		
• Facility piping		
• Pumping stations and sumps		
• Storage tanks		
• Vehicle refueling		
• Age and condition of facility and components		
• Scenarios consider factors that affect the response efforts		
• Size of the spill		
• Proximity to downgradient wells, waterways and drinking water intakes		
• Likelihood that the discharge will travel offsite		
• Location of the material spilled		
• Material discharges		
• Weather or aquatic conditions		
• Available remediation equipment		
• Probability of a chain reaction of failures		
• Direction of spill pathway		
G. Discharge Detection Systems (Section 1.6)		
Discharge Detection by Personnel (Section 1.6.1)		
• Description of procedures and personnel		
• Thorough discussion of facility inspections		
• Description of initial response actions		
Automated Discharge Detection (Section 1.6.2)		
• Description of automated spill detection equipment		
• Discussion of plans to verify an automated alarm		
• Discussion of actions to be taken once verified		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
H. Plan Implementation (Section 1.7)		
Response Resources for Small, Medium, and Worst Case Spills (Section 1.7.1)		
• Description of response actions to be carried out under the plan		
• Identification of response resources for small spills		
• Identification of response resources for medium spills		
• Identification of response resources for worst case discharges		
• Worksheet plan volume of response resources for worst case discharge		
• Emergency plans for spill response		
• Additional training		
• Additional contracted help		
• Access to additional equipment/experts		
• Ability to implement plan including training and practice drills		
• Discussion of adequate storage capacity for recovered oily material		
• Identification of response personnel involved in cleanup		
• Description of procedures to update plan after a spill and the time frame		
Disposal Plans (Section 1.7.2)		
• Description of how the facility will dispose of materials		
• Description of where the facility will dispose of materials		
• Discussion of the appropriate permits		
• Discussion of materials to be disposed of		
• Recovered product		
• Contaminated soil		
• Contaminated equipment and materials		
• Personnel protective equipment		
• Decontamination solutions		
• Adsorbents		
• Spent chemicals		
• Disposal plans are prepared in accordance with appropriate regulations		
Containment and Drainage Planning (Section 1.7.3)		
• Describes how to contain and control a spill through drainage, including:		
• Available volume of containment;		
• Route of drainage from oil storage areas;		
• Construction materials used in drainage sloughs;		
• Type and number of valves and separators;		
• Sump pump capacities;		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
• Containment capacity of weirs and booms and their locations and other cleanup materials.		
I. Self-Inspection, Drills/Exercises, & Response Training (Section 1.8)		
Facility Self-Inspection (Section 1.8.1)		
• SPCC inspections and records are cross-referenced		
• Records are maintained for five years		
Tank Inspection (Section 1.8.1.1)		
• Tanks checklist for leak detection		
A. Drip marks		
B. Discoloration of tanks		
C. Puddles containing stored materials		
D. Corrosion		
E. Cracks		
F. Localized dead vegetation		
• Foundations checklist		
A. Cracks		
B. Discoloration		
C. Puddles containing stored material		
D. Settling		
E. Gaps between tank and foundation		
F. Damage caused by vegetation roots		
• Piping checklist		
A. Droplets of stored material		
B. Discoloration		
C. Corrosion		
D. Bowing of pipe between supports		
E. Evidence of stored material seepage on valves or seals		
F. Localized dead vegetation		
• Tank Inspection Log		
• Date of inspection is noted		
Response Equipment Inspection (Section 1.8.1.2)		
• Description of each type of equipment checklist		
1. Inventory (item and quantity)		
2. Storage locations		
3. Accessibility (time to access and respond)		
4. Operational status/condition		
5. Actual use/testing (last test date and frequency of testing)		
6. Shelf life (present age, expected replacement date)		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
• Response equipment inspection log		
• Date of inspection is noted		
Secondary Containment Inspection (Section 1.8.1.3)		
• Dike or berm checklist		
A. Level or precipitation in dike/available capacity		
B. Operation status of drainage valves		
C. Dike or berm permeability		
D. Debris		
E. Erosion		
F. Permeability of the earthen floor of diked area		
G. Location/status of pipes, inlets and drainage beneath tanks		
• Secondary containment checklist		
A. Cracks		
B. Discoloration		
C. Presence of stored material		
D. Corrosion		
E. Valve conditions		
• Retention and drainage pond checklist		
A. Erosion		
B. Available capacity		
C. Presence of stored material		
D. Debris		
E. Stressed vegetation		
• Secondary containment inspection log		
• Date of inspection is noted		
Facility Drills/Exercises (Section 1.8.2)		
• Description of facility drills/exercises		
• Description of internal and external drills		
• QI Notification Drill Logs (Section 1.8.2.1)		
• Spill Management Team Tabletop Exercise Logs (Section 1.8.2.2)		
Response Training (Section 1.8.3)		
• Personnel Response Training Logs (Sec. 1.8.3.1)		
• Discharge Prevention Meeting Logs (Sec. 1.8.3.2)		
J. Diagrams (Section 1.9)		
• Site Plan Diagram		
A. Entire facility to scale		
B. Above and below ground bulk storage tanks		
C. Contents and capacities of bulk storage tanks		

CHECKLIST FOR FACILITY RESPONSE PLANS		
Section of Plan	Y/N	Comments
D. Contents and capacities of drum storage areas		
E. Contents and capacities of surface impoundments		
F. Process buildings		
G. Transfer areas		
H. Secondary containment systems		
I. Structures where hazardous materials are stored or handled, including materials stored and capacity of storage		
J. Location of communication and emergency response equipment		
K. Location of electrical equipment which contains oil		
L. Complexes only, interfaces btwn. the portion of the facility regulated by EPA and the other portions regulated by other Agencies.		
● Site Drainage Plan Diagram		
A. Major sanitary and storm sewers, manholes and drains		
B. Weirs and shut-off valves		
C. Surface water receiving streams		
D. Fire-fighting water sources		
E. Other utilities		
F. Response personnel ingress and egress		
G. Equipment transportation routes		
H. Direction of spill flow from release points		
● Site Evacuation Plan Diagram		
A. Evacuation routes		
B. Location of evacuation regrouping areas		
K. Security (Section 1.10)		
● Description of facility security		
1. Emergency cut-off locations		
2. Enclosures		
3. Guards and their duties day and night		
4. Lighting		
5. Valve and pump locks		
6. Pipeline connection caps		
Acronyms List (Sec. 3.0)		
References (Sec. 4.0)		

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