

§ 112.21

decision from the Regional Administrator that the request for reconsideration was denied. A complete copy of the appeal must be sent to the Regional Administrator at the time the appeal is made. The appeal shall contain a clear and concise statement of the issues and points of fact in the case. It also may contain additional information from the owner or operator, or from any other person. The EPA Administrator may request additional information from the owner or operator, or from any other person. The EPA Administrator shall render a decision as rapidly as practicable and shall notify the owner or operator of the decision.

[59 FR 34098, July 1, 1994, as amended at 65 FR 40798, June 30, 2000; 66 FR 34560, June 29, 2001; 67 FR 47151, July 17, 2002]

§ 112.21 Facility response training and drills/exercises.

(a) The owner or operator of any facility required to prepare a facility response plan under § 112.20 shall develop and implement a facility response training program and a drill/exercise program that satisfy the requirements of this section. The owner or operator shall describe the programs in the response plan as provided in § 112.20(h)(8).

(b) The facility owner or operator shall develop a facility response training program to train those personnel involved in oil spill response activities. It is recommended that the training program be based on the USCG's Training Elements for Oil Spill Response, as applicable to facility operations. An alternative program can also be acceptable subject to approval by the Regional Administrator.

(1) The owner or operator shall be responsible for the proper instruction of facility personnel in the procedures to respond to discharges of oil and in applicable oil spill response laws, rules, and regulations.

(2) Training shall be functional in nature according to job tasks for both supervisory and non-supervisory operational personnel.

(3) Trainers shall develop specific lesson plans on subject areas relevant to facility personnel involved in oil spill response and cleanup.

(c) The facility owner or operator shall develop a program of facility re-

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sponse drills/exercises, including evaluation procedures. A program that follows the National Preparedness for Response Exercise Program (PREP) (see appendix E to this part, section 13, for availability) will be deemed satisfactory for purposes of this section. An alternative program can also be acceptable subject to approval by the Regional Administrator.

[59 FR 34101, July 1, 1994, as amended at 65 FR 40798, June 30, 2000]

§ 112.22 Temporary Suspension of Response Planning Level Requirements to Support Deepwater Horizon Spill Response.

(a) *Applicability.* This section applies to any person who owns or operates—

(1) Any facility described in § 112.20 of this part, who has contracted with any oil spill removal organization (OSRO), as defined in § 112.2 of this part, where the OSRO's response resources, as required under 112.20(h)(3) and Appendix E, Sections 4.0 and 5.0, are deployed in support of the response to the Deepwater Horizon Spill of National Significance; and

(2) Any facility described in § 112.20 of this part, who owns, operates, or has under direct control, response resources, as required under 112.20(h)(3) and Appendix E, Sections 4.0 and 5.0, deployed in support of the response to the Deepwater Horizon Spill of National Significance.

(b) *Suspension of certain response planning level requirements.* From June 30, 2010 through December 31, 2010, facility response plan requirements relating to the identification of response equipment and its location and the stipulated response times, including the response times contained in any written contractual agreement with any OSRO, for the availability of response resources, as required under § 112.20(h)(3) and Appendix E, Sections 4.0 and 5.0, for a medium discharge as described in § 112.20(h)(5)(iii) of this part, and for a worst case discharge over 2,100 gallons as described under § 112.20(h)(5)(1), are suspended. Changes to facility response plans due to relocation of response equipment in support of the response to the Deepwater Horizon Spill of National Significance, do not require a revision under § 112.20(d).

(c) *Other response time and response equipment identification and location requirements still effective.* Response times and response equipment identification and location requirements required under §112.20(h)(3) and Appendix E, Section 3.0 for a small discharge, as described in 112.20(h)(5)(ii), remain in effect.

(d) *Armed Forces installation planning factors.* Armed Forces may revise Armed Forces installation response times and response equipment identification and location requirements below that which is necessary to respond to a small discharge, as described in 112.20(h)(5)(ii), at those installations that have deployed assets in support of the response to the Deepwater Horizon Spill of National Significance in response to a request from the On-Scene Coordinator, as defined in 40 CFR 300.5, for such assets.

[75 FR 37719, June 30, 2010]

EFFECTIVE DATE NOTE: At 75 FR 37719, June 30, 2010, §112.22 was added, effective June 30, 2010 through December 31, 2010.

APPENDIX A TO PART 112—MEMORANDUM OF UNDERSTANDING BETWEEN THE SECRETARY OF TRANSPORTATION AND THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

SECTION II—DEFINITIONS

The Environmental Protection Agency and the Department of Transportation agree that for the purposes of Executive Order 11548, the term:

(1) *Non-transportation-related onshore and offshore facilities* means:

(A) Fixed onshore and offshore oil well drilling facilities including all equipment and appurtenances related thereto used in drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(B) Mobile onshore and offshore oil well drilling platforms, barges, trucks, or other mobile facilities including all equipment and appurtenances related thereto when such mobile facilities are fixed in position for the purpose of drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(C) Fixed onshore and offshore oil production structures, platforms, derricks, and rigs including all equipment and appurtenances

related thereto, as well as completed wells and the wellhead separators, oil separators, and storage facilities used in the production of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(D) Mobile onshore and offshore oil production facilities including all equipment and appurtenances related thereto as well as completed wells and wellhead equipment, piping from wellheads to oil separators, oil separators, and storage facilities used in the production of oil when such mobile facilities are fixed in position for the purpose of oil production operations, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(E) Oil refining facilities including all equipment and appurtenances related thereto as well as in-plant processing units, storage units, piping, drainage systems and waste treatment units used in the refining of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(F) Oil storage facilities including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage systems used in the storage of oil, but excluding inline or break-out storage tanks needed for the continuous operation of a pipeline system and any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(G) Industrial, commercial, agricultural or public facilities which use and store oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(H) Waste treatment facilities including in-plant pipelines, effluent discharge lines, and storage tanks, but excluding waste treatment facilities located on vessels and terminal storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels and associated systems used for off-loading vessels.

(I) Loading racks, transfer hoses, loading arms and other equipment which are appurtenant to a nontransportation-related facility or terminal facility and which are used to transfer oil in bulk to or from highway vehicles or railroad cars.

(J) Highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a nontransportation-related facility and which are not intended to transport oil in interstate or intrastate commerce.