

40 C.F.R. § 118.5

Regional Administrator determination of substantial harm and significant and substantial harm.

- (a) *Regional Administrator authority to require facility response plans and amendments.* After considering the factors in paragraph (b) of this section, the Regional Administrator may at any time require the owner or operator of any non-transportation-related onshore facility to prepare and submit a facility response plan under this section. If such a determination is made, the Regional Administrator shall notify the owner or operator in writing and shall provide a basis for the determination and the owner or operator shall submit the facility response plan to the Regional Administrator as per the preparation, submission, and implementation guidelines in § 118.4. The Regional Administrator may require amendments to any facility response plan that does not meet the requirements § 118.11.
- (b) *Regional Administrator substantial harm determination.* To determine whether a non-transportation-related onshore facility could, because of its location, reasonably be expected to cause substantial harm to the environment by a discharge, or substantial threat of a discharge, of CWA hazardous substances into or on the navigable waters or a conveyance to navigable waters, the Regional Administrator may consider the following:

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