

§ 137.70

performed because of physical limitations, remote and inaccessible location, or other inability to obtain access to the facility and the real property on which the facility is located after good faith efforts have been taken to obtain access. The mere refusal of a voluntary seller to provide access to the facility and the real property on which the facility is located is not justification for not conducting an on-site inspection. The inquiry of the environmental professional must include—

(1) Visually inspecting the facility and the real property on which the facility is located using another method, such as aerial imagery for large properties, or visually inspecting the facility and the real property on which the facility is located from the nearest accessible vantage point, such as the property line or public road for small properties;

(2) Documenting the efforts undertaken to obtain access and an explanation of why such efforts were unsuccessful; and

(3) Documenting other sources of information regarding the presence or likely presence of oil at the facility and the real property on which the facility is located that were consulted according to §137.30(a). The documentation should include comments, if any, by the environmental professional on the significance of the failure to conduct a visual on-site inspection of the facility and the real property on which the facility is located with regard to the ability to identify conditions indicative of the presence or likely presence of oil at the facility and the real property.

§ 137.70 Specialized knowledge or experience on the part of persons specified in § 137.1(a).

(a) For the purpose of identifying conditions indicative of the presence or likely presence of oil at the facility and the real property on which the facility is located, persons specified in §137.1(a) must take into account their own specialized knowledge of the facility and the real property on which the facility is located, the area surrounding the facility and the real property on which the facility is located, and the conditions of adjoining prop-

33 CFR Ch. I (7-1-08 Edition)

erties and their experience relevant to the inquiry.

(b) The results of all appropriate inquiries under §137.33 must take into account the relevant and applicable specialized knowledge and experience of the persons specified in §137.1(a) responsible for undertaking the inquiry.

§ 137.75 The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

(a) Persons specified in §137.1(a) must consider whether the purchase price of the facility and the real property on which the facility is located reasonably reflects the fair market value of the facility and real property if oil was not present or likely present.

(b) If the persons conclude that the purchase price does not reasonably reflect the fair market value of that facility and real property if oil was not at the facility and the real property, they must consider whether or not the differential in purchase price and fair market value is due to the presence or likely presence of oil.

§ 137.80 Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

(a) Throughout the inquiries, persons specified in §137.1(a) and environmental professionals conducting the inquiry must take into account commonly known or reasonably ascertainable information within the local community about the facility and the real property on which the facility is located and consider that information when seeking to identify conditions indicative of the presence or likely presence of oil at the facility and the real property.

(b) Commonly known information may include information obtained by the person specified in §137.1(a) or by the environmental professional about the presence or likely presence of oil at the facility and the real property on which the facility is located that is incidental to the information obtained during the inquiry of the environmental professional.