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SPCC RULE AMENDMENTS AND DATES ARE FINALIZED; SOME RULES EFFECTIVE 1/14/2010

For seven years, EPA revised federal Spill Prevention Control and Countermeasure (SPCC) regulations through a series of controversial rulemakings. These are now final and compliance dates have gone through final revisions. SPCC rules apply when there is above ground storage of more than 1,320 gallons of oil and/or certain liquids above ground storage at a site, or 42,000 gallons stored below ground at a site.

The following provisions finalized in the December 2008 final rule are effective on January 14, 2010:

- (1) Exemptions for hot mixed asphalt (HMA) and HMA containers, pesticide application equipment and related mix containers, and heating oil containers at single-family residences, including those located at farms;
- (2) Amended definition of "facility" to clarify the existing flexibility associated with describing a facility's boundaries;
- (3) Amended facility diagram requirements to provide additional flexibility;
- (4) New definition of "loading/unloading rack" to clarify the oil transfer equipment subject to the provisions for facility tank car and tank truck loading/unloading racks, as well as amended provisions for this equipment;
- (5) Amended general secondary containment requirements to provide more clarity;
- (6) Exemption of non-transportation-related tank trucks from the sized secondary containment requirements;
- (7) Amended security requirements;
- (8) Amended integrity testing requirements to allow greater flexibility in the use of industry standards;
- (9) Amended integrity testing requirements for containers that store animal fats and vegetable oils (AFVOs) and meet certain criteria;
- (10) Amended definition of "production facility";
- (11) Clarification that drilling and workover activities are not subject to the provisions at §112.9;
- (12) Exemption for certain intra-facility gathering lines at oil production facilities from the SPCC requirements;
- (13) More prescriptive requirements for a flowline/intra-facility gathering line maintenance program for all production facilities and an alternative compliance option for flowlines and intra-facility gathering lines for contingency planning in lieu of all secondary containment;
- (14) Alternative compliance option for flow-through process vessels at oil production facilities to comply with the general secondary containment requirements and additional oil spill prevention measures in lieu of the sized secondary containment requirements;
- (15) Definition of "produced water container" and alternative compliance measures for these containers which require general secondary containment, a process or procedure certified by a professional engineer (PE) designed to remove free-phase oil on the surface of the produced water in these containers and compliance with additional oil spill prevention measures in lieu of sized secondary containment requirements;
- (16) Clarification of the definition of "permanently closed" as it applies to an oil production facility; and
- (17) Technical corrections provided in the December 5, 2008 rulemaking.

The following provisions finalized in the December 2008 final rule are effective on January 14, 2010, with technical corrections:

- (1) Exemption for underground oil storage tanks that supply emergency diesel generators at nuclear power generation facilities.
- (2) Designation of a subset of "Tier I" qualified facilities with a set of streamlined SPCC rule requirements for which the owner or operator has the option to complete a self-certified SPCC Plan template in lieu of a full SPCC Plan.
- (3) Compliance date for new oil production facilities changes to November 10, 2010, to align with the current compliance date.

The following provisions finalized in the December 2008 final rule were removed:

- (1) Exclusions for oil production facilities and farms from loading/unloading rack requirements
- (2) Alternative qualified facility eligibility criteria for an oil production facility.
- (3) Exemption for certain produced water containers.

EPA also finalized the following sector specific rules:

- **Agriculture**. The rule exempts pesticide application equipment and related mix containers that may currently be subject to the SPCC rule when crop oil or adjuvant oil are added to formulations. EPA also clarifies that a nurse tank is considered a mobile refueler, and, like other types of mobile refuelers, is exempt from the sized secondary containment requirements. Additionally, farms are likely to benefit from several of the other amendments finalized in this rule.
- **Oil Production Facilities**. The revised rule finalizes several amendments to tailor the requirements for oil production facilities. The rule:
 - Modifies the definition of production facility;
 - Extends the timeframe by which a new oil production facility must prepare and implement an SPCC Plan;
 - Provides an alternative option for flow-through process vessels to comply with the general secondary containment requirement and additional oil spill prevention measures in lieu of sized secondary containment requirements;
 - Exempts certain intra-facility gathering lines subject to the U.S. Department of Transportation's (DOT's) pipeline regulations;
 - Provides an optional exemption from all secondary containment requirements for flowlines and intra-facility gathering lines, and establishes more specific requirements for a flowline/intra-facility gathering line maintenance program and contingency planning;
 - Defines "produced water container" and provides an alternative compliance measure for these containers which require general secondary containment, a process or procedure certified by a PE designed to remove free-phase oil on the surface of the produced water in these containers and compliance with additional oil spill prevention measures in lieu of sized secondary containment requirements; and
 - Clarifies the definition of "permanently closed."
- **Animal Fats and Vegetable Oils**. EPA has amended the integrity testing requirements for containers storing certain types of animal fat or vegetable oil, to provide the flexibility to determine the scope of integrity testing that is appropriate, based on compliance with certain U.S. Food and Drug Administration regulations and other criteria.
- **Qualified Facilities**. EPA streamlined and tailored the SPCC requirements for a subset of qualified facilities. The owner or operator of a qualified facility has the option to self-certify his SPCC Plan and comply with other streamlined requirements. This final

rule designates a subset of qualified facilities ("Tier I* qualified facilities") as those that meet the current qualified facilities eligibility criteria and that have no oil storage containers with an individual aboveground storage capacity greater than 5,000 U.S. gallons. A Tier I qualified facility has the option to complete a self-certified SPCC Plan template instead of a full SPCC Plan. By completing the SPCC Plan template, an owner or operator of a Tier I qualified facility will certify that the facility complies with a set of streamlined SPCC rule requirements. All other qualified facilities are designated "Tier II qualified facilities."

*Tier 1 refers to small facilities that have no above ground oil storage container with a capacity greater than 5,000 gallons. These facilities can use an EPA template and self-certifying their plan, per the November 13, 2009 *Federal Register*. The template starts on Page 58811.

The SPCC rule applies to owners or operators of non-transportation-related facilities that:

- Drill, produce, store, process, refine, transfer, distribute, use, or consume oil or oil products; and
- Could reasonably be expected to discharge oil to U.S. navigable waters or adjoining shorelines.

Facilities are subject to the rule if they meet at least one of the following capacity thresholds:

- Aboveground oil storage capacity greater than 1,320 U.S. gallons, or completely buried oil storage capacity greater than 42,000 U.S. gallons.

The following are exempt from the rule:

- Containers with a storage capacity less than 55 U.S. gallons of oil;
- Permanently closed containers;
- Motive power containers;
- Wastewater treatment facilities;
- Hot-mix asphalt and hot-mix asphalt containers (silos; but not asphalt cement);
- Residential heating oil containers at single family residences;
- Pesticide application equipment and related mix containers;
- Completely buried storage tanks subject to all the technical requirements of the underground storage tank regulations;
- Intra-facility gathering lines subject to U.S. Department of Transportation's pipeline regulations; and
- Underground oil storage tanks at nuclear power generation facilities.

For More Information

Visit the EPA Office of Emergency Management Web site:

<http://www.epa.gov/emergencies>

Review the Oil Pollution Prevention regulation (40 CFR part 112):

<http://www.gpoaccess.gov/cfr/>

or call Gary R. Brown, P.E., or Larry Bily at RT - you can reach us at 800-725-0593. We have prepared more than 100 SPCC Plans and can help you determine what you need to do to comply with the rule revisions. We have training packages available as well.

RT recommends that all regulated facilities have their SPCC Plan compliant with the unchanged provisions by 1/14/2010. Any items not completed must be shown in a Compliance Schedule in the SPCC Plan.