



U.S. ENVIRONMENTAL PROTECTION AGENCY MID-ATLANTIC REGION

OIL PROGRAM UPDATE

NOVEMBER 2010

Serving: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

EPA EXTENDS SPCC RULE'S COMPLIANCE DATE FOR CERTAIN FACILITIES

On October 7, 2010, EPA maintained the November 10, 2010, compliance date for drilling, production or workover facilities that are offshore or that have an offshore component, and for onshore facilities required to have and submit Facility Response Plans (FRPs). However, EPA extended the compliance date for all other facilities to amend or develop an SPCC Plan for an additional year or until November 10, 2011.

EPA also delayed the SPCC compliance date by which a facility must address milk and milk product containers, associated piping and appurtenances constructed according to current applicable 3-A Sanitary Standards, and that are subject to the current applicable Grade "A" Pasteurized Milk Ordinance (PMO) or equivalent State regulatory requirement. The date is delayed one year from the effective date of a final rule specifically addressing these milk and milk product containers.

The amendments do not remove the regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to maintain and continue implementing an SPCC Plan in accordance with the SPCC regulations then in effect. Such facilities continue to be required to maintain Plans during the interim until the applicable compliance date for amending and implementing the amended Plans.

Links to the regulation as well as a fact sheet summarizing the specifics of the extension are located on EPA's Office of Emergency Management website at: http://www.epa.gov/osweroe1/content/spcc/compliance_dates.htm

In other SPCC regulatory news, EPA continues to review and consider all comments submitted by the February 17, 2009 deadline regarding its January 2009 milk proposal. In this action, EPA proposed to exempt milk containers and associated piping and appurtenances that are constructed according to current applicable 3-A Sanitary Standards, and are subject to the current applicable Grade "A" Pasteurized Milk Ordinance or an equivalent state dairy regulatory requirement. Refer to EPA's Office of Emergency Management website, as we anticipate a final rule on this matter in the near future.

Links to the regulation (74 FR 2461) as well as a fact sheet summarizing the specifics of the proposal are located on EPA's Office of Emergency Management website at: http://www.epa.gov/osweroe1/content/spcc/spcc_jan09milk.htm

TIER I QUALIFIED FACILITY SPCC PLAN TEMPLATE NOW AVAILABLE ON-LINE

By way of background, the concept of a "Qualified Facility" was first adopted in the 2006 SPCC rule amendments. For a qualified facility, the owner or operator has the option of self-certifying their SPCC Plan in lieu of review and certification by a Professional Engineer (PE). The 2008 SPCC rule amendments further defined this subset of facilities as "Tier I" and "Tier II" qualified facilities, where an owner or operator of a Tier I qualified facility has the option of preparing and self-certifying a template found in Appendix G Part 112.

This template is now available on-line in PDF, Word, or Word Perfect formats. You may complete it either electronically or by hand on a printed copy. This template is designed to cover every SPCC rule requirement necessary for a Tier I qualified facility. You may use as is, or modify it to meet your facility-specific needs. However, if you modify it, you must include a section cross-referencing the location of each applicable requirement of the SPCC rule and you must ensure that your Plan is an equivalent Plan that meets all applicable rule requirements of 40 CFR 112.6(a)(3).

Please find the template located on EPA's Office of Emergency Management's website at: <http://www.epa.gov/osweroe1/content/spcc/tier1temp.htm>

As a reminder, your facility must meet certain eligibility criteria to take advantage of this Tier I template option, which are found under §112.3(g)(1) of the SPCC rule, and are summarized below:

The facility must have **1)** a total aboveground oil storage capacity of 10,000 U.S. gallons or less; **2)** no aboveground oil storage containers with a capacity greater than 5,000 U.S. gallons; and **3)** in the 3 years prior to the date the SPCC Plan is certified, had no single discharge of oil to navigable waters or adjoining shorelines exceeding 1,000 U.S. gallons, or no two discharges of oil to navigable waters or adjoining shorelines each exceeding 42 U.S. gallons within any 12-month period.*

*this does not include discharges that are the result of natural disasters, acts of war, or terrorism. When determining the applicability of this SPCC reporting requirement, the gallon amount(s) specified (either 1,000 or 42) refers to the amount of oil that actually reaches navigable waters or adjoining shorelines not the total amount of oil spilled.

Compliance Dates

What are the Compliance Dates for SPCC Facilities?

| | |
|---|---|
| A facility, including a mobile or portable facility, starting operation... | Must... |
| On or before August 16, 2002 | Maintain its existing SPCC Plan Amend and implement the amended SPCC Plan no later than <u>November 10, 2011.</u> |
| After August 16, 2002 through November 10, 2011 | Prepare and implement an SPCC Plan no later than <u>November 10, 2011.</u> |
| After November 10, 2011 (excluding production facilities) | Prepare and implement an SPCC Plan before beginning operations. |
| After November 10, 2011 (production facilities) | Prepare and implement an SPCC Plan within six months after beginning operations. |

Which SPCC Facilities remain subject to the November 10, 2010 Compliance Date?

| | |
|--|---|
| A drilling, production or workover facility, including a mobile or portable facility, located offshore or with an offshore component; or an onshore facility that is required to have and submit FRPs starting operation... | Must... |
| On or before August 16, 2002 | Maintain its existing SPCC Plan Amend and implement the amended SPCC Plan no later than <u>November 10, 2010.</u> |
| After August 16, 2002 through November 10, 2010 | Prepare and implement an SPCC Plan no later than <u>November 10, 2010.</u> |
| After November 10, 2010 (excluding production facilities) | Prepare and implement an SPCC Plan before beginning operations. |
| After November 10, 2010 (production facilities) | Prepare and implement an SPCC Plan within six months after beginning operations. |

Containment Requirements at Loading/Unloading Racks vs. Loading/Unloading Areas

When EPA amended the SPCC Rule on December 5, 2008, and November 5, 2009, one of the clarifications included was a definition for “loading/unloading rack” in 40 CFR 112.2. This definition may have triggered some confusion about containment requirements in locations where loading or unloading of tank cars, tank trucks, and even exempt USTS, takes place at an SPCC-regulated facility.

First, let’s look at the definition of loading/unloading rack. A loading/unloading rack means a fixed structure (such as a platform or gangway) necessary for loading or unloading a tank car or tank truck which is located at a facility subject to the SPCC rule. A loading /unloading rack includes a loading or unloading arm and may include any combination of the following: piping, assemblages, valves, pumps, shut off devices, overfill sensors, or personnel safety devices.

Note that the key to the definition of a rack is the presence of a loading or unloading arm in association with a permanent structure and other equipment. A loading/unloading arm is typically a movable piping assembly that may include fixed piping or a combination of fixed and flexible piping. Typically, but not always, an arm has at least one swivel joint (that is, at least two articulated parts that are connected in such a way that relative movement is feasible to transfer product via top or bottom loading/unloading to a tank truck or tank car.) However, in the case where the arm is a combination of flexible piping (hoses) and rigid piping, it may not have a swivel joint, because the flexible piping provides the movement needed to conduct loading/unloading operations in lieu of the swivel joint.

Next, let’s look at the containment requirements associated with a loading/unloading rack. Any loading/unloading rack that meets this new definition is required to have sized secondary containment to hold at least the maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded at the rack, as required by 40 CFR 112.7(h).

In contrast, a loading/unloading area where a pipe stand connects to a tank car or tank truck via a flexible hose which is **not** equipped with a loading or unloading arm, is not considered a loading/unloading rack. Therefore, such a loading/unloading area is subject to the general secondary containment requirements of 40 CFR 112.7(c), rather than the sized containment requirements of 40 CFR 112.7(h). General containment can be provided using passive (e.g., curbing) or active measures (e.g., an established loading/unloading procedure).

One last clarification on this topic, included in the amendments, relates to underground storage tanks (USTs) that are exempt from the SPCC rule because they are in compliance with all the technical requirements of 40 CFR 280 or 281, even though they are located at an SPCC regulated facility. Similar to tank car and tank truck transfers, loading/unloading rack associated with

exempt USTs are subject to the sized secondary containment requirements at 40 CFR 112.7(h). Loading/unloading areas associated with exempt USTs are subject to the general secondary containment requirements at 40 CFR 112.7(c).

WHAT TO EXPECT DURING AN SPCC/FRP INSPECTION

In order to monitor compliance with the Rule, SPCC/FRP inspectors conduct announced and unannounced inspections throughout Region 3 (i.e., Pennsylvania, Delaware, Maryland, Virginia, West Virginia and Washington, DC). These inspections are conducted pursuant to the Oil Pollution Prevention Regulation of the Clean Water Act as amended by the Oil Pollution Act of 1990.

Once access* is granted by the Owner/Operator (or authorized personnel) to perform the inspection, the inspectors will require the following documentation:

- ✓ A copy of the SPCC plan
- ✓ Personnel training records
- ✓ Inspections records
- ✓ A copy of the FRP plan (if applicable)
- ✓ Drill records (FRP facilities only)
- ✓ Oil Spill Removal Organization (OSRO) information (FRP facilities only)

During the opening conference the facility representative will be interviewed and the facility records will be evaluated. As part of the inspection records, inspectors will ask for documentation on integrity testing, dike drainage events and spill incident reports, where applicable. When this is completed, the inspectors will proceed with a facility walk-through and will document observations regarding the facility’s spill prevention and response measures, storage tanks, diversionary structures, loading/unloading racks and security, among others things. In the final component of the inspection process, the inspector will hold a closing conference to conclude the inspection, discuss observations, gather documents requested and answer any questions the facility representative(s) may have.

Following the inspection, EPA will evaluate all information collected and observed at the inspection as well as any Plan reviews. Correspondence will be sent to the facility regarding any compliance deficiencies found at the facility.

** The United States Environmental Protection Agency, its employees, agents, contractors and authorized representatives, are authorized to conduct a Spill Prevention, Control and Countermeasure and/or a Facility Response Plan inspection at a facility in order to evaluate the Facility’s compliance with EPA’s Oil Pollution Prevention regulation found at 40 C.F.R. Part 112) and/or to evaluate the Facility’s compliance with Section 311(b)(3) of the Clean Water Act, 33 U.S.C. Section 1321(b)(3), which prohibits the spills of oil and hazardous substances into navigable waters and adjoining shorelines of navigable waters of the United States.*

Your consent will be requested for entry to the Facility property, including any and all buildings and structures located on the property where entry is needed to complete the Inspection, to make visual observations, examine equipment, take still photographs; take video (including sound); inspect and copy documents and conduct other activities necessary to complete the Inspection, to make visual observations, examine equipment, take still photographs; take video (including sound); inspect and copy documents and conduct other activities necessary to complete the Inspection.

FRP PLAN APPROVAL REQUIREMENTS

When changes occur at a facility that materially affect a facility's ability to respond to a worst-case discharge, the facility owner or operator is required to provide EPA with a copy of the FRP revisions that address these changes, within 60 days of each material change - 40 CFR § 112.20(d) (1). Facility changes that may materially affect the response to a worst-case discharge include items 1-5:

1. A change in the facility's configuration that materially alters the information included in the response plan.
2. A change in the type of oil handled, stored, or transferred that materially alters the required response resources.
3. A material change in capabilities of the oil spill removal organization(s) that provide equipment and personnel to respond to discharges of oil.
4. A material change in the facility's spill prevention and response equipment or emergency response procedures.
5. Any other changes that materially affect the implementation of the response plan.
6. Facilities are required to provide to EPA any changes to personnel and telephone lists included in the FRP.
7. Facilities are required to review the C-II form (Certification of the Applicability of the Substantial Harm Criteria) and update same as needed.

If you have any questions, you may contact Linda Ziegler-Rice, FRP Coordinator at (215) 814-3277.

Compliance Assistance Available

EPA Region III staff are available to provide on-site compliance assistance and/or presentations on the SPCC and FRP Regulations. For more information, contact Lori Miller at (215) 814-3225.

QUESTIONS/ANSWERS?

Q. What are the oil discharge reporting requirements in the SPCC Rule?

A. Any facility owner/operator who is subject to the SPCC Rule must comply with the reporting requirements found in Section 112.4.

In addition to reporting a discharge to the NRC at (800) 424-8802, a discharge must also be reported to the Environmental Protection Agency Regional Administrator (RA) when there is a discharge of:

- More than 1,000 gallons of oil in a single discharge to navigable waters or adjoining shorelines.
- More than 42 gallons of oil in each of two discharges to navigable waters or adjoining shorelines occurring within any twelve month period.

When determining the applicability of this SPCC reporting requirement, the gallon amount(s) specified (either 1,000 or 42) refers to the amount of oil that actually reaches navigable waters or adjoining shorelines, not the total amount of oil spilled.

Q. Are facilities required to use the option of qualified oil-filled operational equipment?

A. No. This is an alternative way to comply with the SPCC requirements. An owner or operator can choose to comply with the general requirements to provide secondary equipment for each piece of oil-filled operational equipment.

Q. How are animal fat and vegetable oil defined in the SPCC Rule?

A. Animal fat means a non-petroleum oil, fat, or grease of animal, fish, or marine mammal origin. Vegetable oil means a non-petroleum oil or fat of vegetable origin, including but not limited to oils and fats derived from plant seeds, nuts, fruits, and kernels.

Q. What FRP record-keeping requirements must I satisfy?

A. You must maintain the response plan at your facility, along with plan updates reflecting material changes. You must also keep a log of response training drills and exercises. Records of inspections of response equipment must be kept for five years.

If you determine that the response planning requirements under 40 CFR 112.20 are inapplicable to your facility, you must complete and maintain at the facility the certification form in 40 CFR Part 112 Appendix C Attachment C-II.

National Contingency Plan (NCP) Subpart J - Product Schedule

Subpart J is a section of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which stipulates the criteria for listing and managing the use of dispersants and other chemical and biological agents used to mitigate oil spills. Subpart J is found in 40 Code of Federal Regulations Part 300.910. The NCP Product Schedule (Schedule) was a result of a requirement from Section 311(d)(2) of the Clean Water Act and Section 4201(a)(G) of the Oil Pollution Act of 1990, which requires the President to prepare a “schedule of dispersants, other chemicals, and other oil spill mitigating devices and substances, if any, that may be authorized for use on oil discharges...” The Environmental Protection Agency (EPA) prepares and maintains the Schedule.

What type of oil spill control products are listed on the Schedule? It includes chemical and biological agents that collect, remove, disperse or bioremediate oil. NCP Product Schedule categories include:

Dispersants - used to break up oil on the water’s surface, causing it to disperse down into the water column where natural processes can degrade the oil droplets (used in Marine/Coastal waters).

Surface washing agents – only used on solid surfaces to lift and float oil to better absorb, vacuum, or collect the oil.

Bioremediation agents - microbes, nutrients, enzymes, or a combination intended to encourage the degradation of oil.

Miscellaneous oil spill control agents – including chemical based sorbents, solidifiers, and products other than above categories.

Data requirements for new products are found at 40 CFR § 300.915. Specific toxicity and effectiveness protocols are found in Appendix C to Part 300 of the NCP (40 CFR § 300.920). For copies of the regulation and the product schedule, visit the EPA Subpart J - NCP Product Schedule web page at: <http://www.epa.gov/emergencies/ncp>.

For More Information

Visit the EPA Emergency Management Web Site:
www.epa.gov/emergencies/ncp

Call the NCP Product Schedule Information Line:
(202) 260-2342

Write to the NCP Product Schedule Manager:
U.S. Environmental Protection Agency
Office of Emergency Management
Regulation and Policy Development Division
1200 Pennsylvania Avenue, NW – 5104A
Washington, DC 20460
Attn: NCP Product Schedule Manager

GOVERNMENT INITIATED UNANNOUNCED EXERCISES (GIUE)

Prior to the conduct of an exercise, EPA selects an area with a concentration of Facility Response Plan (FRP) facilities. Coordination with a State and/or Coast Guard Representative is initiated to give them the opportunity to participate in the drills. Letters are mailed to notify all potential candidates in the selected area to advise of the upcoming exercises within a specific time frame. EPA will select several facilities based on specific criteria, such as spill history, date of last facility inspection, etc. A possible scenario for the exercise is then created.

During the GIUE, which is limited to approximately 4 hours, EPA Inspectors present the facility representative with a scenario of a small discharge (50 - 2,100 gallons) of oil being spilled outside secondary containment and discharging into or on navigable waters and/or adjoining shorelines. We want facilities to play out the drill as if it were actually happening. There should be deployment of response and recovery equipment as identified in the facility response plan. **(Have you remembered to submit to EPA any updates/revised portions of the response plan within 60 days of each facility change that materially may affect the response to a worst- case discharge?).** If you rely on an Oil Spill Removal Organization (OSRO), that OSRO must respond during the drill and deploy their response and recovery equipment just like the real thing. **(Have you changed your OSRO since your last submitted FRP updates to EPA ?).** You must also conduct proper notifications to respond to the exercise scenario. A facility can simulate the calling of 911, but must make calls to the other emergency numbers listed in their facility response plan - remember to initiate the call with with the statement: “THIS IS A DRILL”. One or two of our EPA representatives will stay inside to observe your notification process and also check your records of drills and exercises that your facility has participated in for the last few years. **(Has your facility owner/operator developed and implemented a facility response training program and a drill/exercise program that satisfies the requirements of the regulations found at 40 CFR, Part 112.21?).** Other participants will function as observers and/or evaluators.

After the GIUE, we get together on-site meet with the exercise participants and have an informal de-briefing session among the group. EPA and other invited observers/evaluators will meet again again to review our observations and notes. A formal summary report along with the completed Verification Checklist (which was developed by EPA Headquarters) is prepared and mailed to the facility.

Once a facility has successfully completed an unannounced exercise, they may take credit for several OPA exercise requirements, including the quarterly qualified individual drill, the semiannual equipment deployment drill, and the annual unannounced drill. In addition, if the facility successfully completes a GIUE they will not be required to participate in another Federal GIUE for at least 36 months.



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



UPCOMING CONFERENCES/ MEETINGS REMINDERS

Region III Regional Response Team (RRT) Meeting

January 25-27, 2011

Fredericksburg, VA

Website: <http://www.rrt3.nrt.org/>

May 24-26, 2011

Rehoboth Beach, DE

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