



U.S. ENVIRONMENTAL PROTECTION AGENCY MID-ATLANTIC REGION OIL PROGRAM UPDATE

FEBRUARY 2009

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SPCC/FRP Inspection – What to Expect

As a facility manager, what comes to mind when you hear the word inspection? Despite the fact that the regulations have been in effect for years, EPA inspectors find that many facility owner/operators were not aware of why they were being inspected. Another thing they did not know was what to expect during and after the inspection.

The inspections have two purposes. First, inspections help to ensure that oil storage facilities comply with the regulation. Second, on site inspections give the Environmental Protection Agency (EPA) personnel the opportunity to educate owners and operators about the regulation and methods for ensuring compliance. There are three main reasons why a facility may be inspected. There are routine, “for cause” and for case development support and follow-up inspections. The routine inspections are generally conducted to determine compliance with a program’s requirements. These are generally conducted for a certain subpopulation of the regulated community, which is selected through some type of neutral facility targeting scheme. A “for cause” inspection is conducted at a facility if there is some reason to suspect a violation (through a tip, complaint, or self monitoring report), or because you have had two or more spills within one year. Overall, the inspector would know what he or she is looking for in these inspections. An inspector may revisit a facility to conduct a case development support and follow up inspection to collect additional evidence to support enforcement actions or determine whether a facility has returned to compliance.

When an Oil inspector visits your facility, there are a few tips that can make the inspection proceed smoothly. The inspector will announce him/herself and ask for the person responsible for the facility SPCC/FRP plan. The inspector should be directed to a person who can present the inspector with the written SPCC/FRP plan and answer questions about the plan. The inspection is an evaluation of the effectiveness of your written plan and the application of that plan at your facility. The plan will be reviewed to determine whether it meets at least the minimum requirements of the SPCC/FRP Regulation. The inspector will review records such as, training, tank inspection, dike drainage, etc. Records of these inspections should be maintained for three years.

After reviewing the plan, the inspector will conduct a site tour and ask specific questions regarding the implementation of the facility plan. Other information that will be helpful include a site map, list of tanks and their storage capacity, and location of the nearest navigable water, storm sewers, etc. The inspector will check the tanks for leaks, discoloration, corrosion, cracks, gaps between tank and foundation, and vegetation. They will also check pipes and valves for evidence of leakage at joint and seams, and bowing of pipes between supports. The secondary containment also is another area that will be checked. If you have any response equipment the inspector will want to check it as well. Photographs will be taken during the site tour.

After the inspection, and upon returning to the office, the Inspector will do a more thorough review of your SPCC/FRP Plan. If violations are found, you may be subject to an enforcement penalty action. On the other hand, if no violations are found, your case will be closed. EPA has the authority under the Clean Water Act to take administrative, or civil judicial actions.

The mission of the EPA is to protect human health and to safeguard the environment upon which life depends. We are counting on you to help us accomplish our mission.

TO REPORT SPILLS

National Response Center

Chemical or Oil

1-800-424-8802

Tier II or not Tier II, what is your answer?

In 1986 Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA) which is also known as the Superfund Amendments and Reauthorization Act (SARA) Title III. In addition to establishing release reporting requirements (EPCRA Section 304), EPCRA established emergency planning and community right to know requirements under Sections 302, 303, 311 and 312 so that first responders and the community had access to information regarding hazardous chemicals and substances that were present in their communities. To aide emergency planning efforts, facilities subject to EPCRA are required to provide annual chemical storage information to State and Local entities. This information is most often submitted in the form of a Tier II.

What is a Tier II?

A Tier II is an Emergency and Hazardous Chemical Inventory Form that is required to be annually submitted, by March 1st of each year, to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC) and the local fire department if extremely hazardous substances (EHSs) and/or hazardous chemicals are used, produced, manufactured or stored onsite above the threshold planning quantity (TPQ) or the minimum threshold limit (MTL). The Tier II provides the maximum daily storage quantity, location, and physical characteristics of the EHS and/or hazardous chemicals that are stored onsite during the previous calendar year.

Who is required to submit a Tier II?

Any facility that meets or exceeds a threshold planning quantity (TPQ) or 500 pounds whichever is lower and/or is required by Occupational Safety and Health Administration (OSHA) regulations to maintain material safety data sheets (MSDSs) for hazardous chemicals stored or used in the work place and stored above the minimum threshold limit (MLT), 10,000 pounds, may be required to submit a Tier II.

Are petroleum products exempt from the reporting requirements of Sections 311 and 312?

Petroleum products are not specifically exempted from Sections 311 or 312 reporting. However, some products could fall under the exemption listed in Section 311(e).

To learn more about SERCs, LEPCs, Tier IIs and EPCRA, you can access information at the following website:

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

Final Rule

Delay of Effective Date and Request for Comment

On January 29, 2009, in accordance with the January 20, 2009, White House memorandum entitled “Regulatory Review” and the Office of Management and Budget memorandum entitled, “Implementation of Memorandum Concerning Regulatory Review,” EPA is delaying by 60 days the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations promulgated in the Federal Register on December 5, 2008. The amendments will now become effective on April 4, 2009.

Additionally, EPA is requesting public comment on the delay of the effective date and on the requirements of the Rule and specifically, requirements for produced water containers at oil production facilities and the criteria for identification of qualified oil production facilities eligible to self-certify their SPCC Plans. Comments must be received on or before March 5, 2009. Finally, the Agency is also reviewing the dates by which owners or operators of facilities must prepare or amend their SPCC Plans, and implement those Plans.

Neither this delay, nor the December 5, 2008, final rule remove any regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to maintain an SPCC Plan in accordance with the SPCC regulations.

Final Rule

Amend Compliance Dates for SPCC Rule

In accordance with the January 20, 2009, White House memorandum entitled “Regulatory Review,” EPA has withdrawn the SPCC Compliance Dates Final Rule from the EPA Web site and from publication within the Federal Register, pending further Agency review. This withdrawal does not remove any regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to maintain an SPCC Plan in accordance with the SPCC regulations

Navigable Waters

The Environmental Protection Agency (EPA) issued a final rule changing the definition of “navigable waters” in the Spill Prevention, Countermeasure and Control (SPCC) regulation. In accordance with a recent court order, the definition is restored to that promulgated by the agency in 1973. This change is effective immediately. **73 Fed. Reg. 71941**

SPCC Plan Requirements

40 CFR 112 is the standard against which SPCC plans are judged and should be used as the primary guide in developing SPCC plans.

An inspector's checklist is designed to assist EPA inspectors in conducting a thorough review of the SPCC plan. The checklist is organized according to the SPCC rule. Each item in the checklist identifies the relevant section and paragraph in 40 CFR part 112 where that requirement is stated.

Sections 112.1 through 112.6 specify the applicability of the rule and requirements for the preparation, implementation, and amendment of SPCC Plans.

Section 112.7 through 112.12 specify requirements for spill prevention, control, and countermeasures.

40 CFR 112.7 requirements state that if the plan does not follow the sequence specified in 40 CFR 112.7, the Plan must be equivalent and acceptable to the Regional Administrator and address all the requirements in 40 CFR 112.7. The Plan must also be supplemented with a section cross-referencing the location of requirements listed in section 112.7 with the equivalent requirements in the Plan.

Attention All Facility Response Plan Regulated Facilities

Do you know your EPA-issued facility identification number? Did you know that the regulations (40 CFR Part 112.20 (d)(3)) require that this information be provided to EPA along with any revisions or updates to your Plan? In EPA Region III, we assign a facility specific Regional Identification Number (i.e. PA-FRP-XXX) that begins with the designated state. When the Region receives a new FRP we perform a cursory review of the plan to determine if the facility should be classed as: Sub-Harm or Significant and Substantial Harm. After this determination is made, the Region sends out a Notification of Plan Receipt Letter.

Many years ago when the Rule was **Proposed** (February 17, 1993) the deadline for submission of the Plans was **February 18, 1993**. As you may remember, in 1990, Congress passed the Oil Pollution Act (OPA) in part to expand the scope of public and private planning and response activities associated with discharges of oil. The OPA amended Section 311 of the Clean Water Act (CWA) which required that owners/operators of "substantial harm facilities" must submit their response plans by **February 18, 1993** or stop handling, storing, or transporting oil. As a result of this OPA mandated deadline, hundreds of boxes and packages arrived at the EPA Regional Office in Philadelphia on February 18th and the weeks that followed.

Some of you will also remember that the FRP Final Rule was not published in the Federal Register until July 1, 1994. This Rule became effective August 30, 1994.

In the scramble to get Notifications to the facilities and EPA Headquarters wanting to track FRP submissions nationally, two Facility ID Numbers were assigned to those facilities that submitted their plans in 1993. The number (i.e. FRP03AXXXX) assigned by Headquarters is no longer valid. The Regional ID Number is the only FRP identifying number that we track. As we have seen through the years, many facilities have gone through several owners/operators and **it is important that the EPA-issued (i.e. PA-FRP-XXX) facility identification number is submitted with all correspondence.**

If there is a facility change that materially may affect the response to a worst case discharge {see 112.20(d)(1)}, the owner/operator must submit revised portions of the response plan within 60 days of such change. In EPA Region III, we request that all FRP submissions be sent to the attention of the FRP Coordinator (3HS61) and not the Regional Administrator. If you need to confirm your FRP Regional ID Number, please call Linda Ziegler, Region 3 Facility Response Plan Coordinator, at (215) 814-3277.

Checklist for Key Elements of a Model Facility Response Plan

- ✓ Emergency Response Action Plan (an easily accessible stand alone section of the overall plan).
- ✓ Facility name, type, location, owner, and operator information.
- ✓ Diagrams of facility and surround layout, topography, and evacuation information.
- ✓ Emergency notification, equipment, personnel, and evacuation information.
- ✓ Identification of small, medium, and worst case discharge scenarios and subsequent response actions.
- ✓ Description of discharge detection procedures and equipment.
- ✓ Detailed implementation plan for containment and disposal.

Is Spill Prevention Cost Effective

Prevention measures are always a more cost effective way to approach environmental protection, and environmental compliance can pay for itself in most situations.

EPA's Oil Pollution Prevention Regulations promulgated under the federal Clean Water Act (CWA) require SPCC Plans for facilities that store oil capable of reaching a water body. "Oil" is defined by the EPA and the CWA to include petroleum and petroleum products, fuel oil, sludge, waste oil, vegetable oil, and animal oils. Penalties for not complying with these laws can be as high as **\$37,500** per day per violation.

If proper safeguards are not in place and your facility discharges oil, the costs for oil spill cleanups can be staggering. Estimating the costs associated with an oil spill cleanup is difficult and complex. The **direct costs** associated with cleaning up spills are strongly influenced by the circumstances surrounding the spill. Some of the factors include, type of oil; amount spilled and rate of spill; physical, biological and economic characteristics of the location; weather and water conditions; time of the year; and effectiveness of the cleanup. Cleanup costs for even small to medium spills can cost hundreds of thousands of dollars.

In addition to the direct costs associated with the actual cleanup, the owner or operator of a facility from which oil is discharged is also liable for the **indirect costs** associated with any damages resulting from the spill. Additional **indirect costs** include liability for removal and monitoring costs incurred by the Federal and State Government.

Finally, Section 311(b) of the CWA states that the owner and/or operator from which oil is discharged shall be subject to a **Civil Penalty** in an amount up to **\$37,500** per day of violation or an amount up to **\$1,100** per barrel of oil discharged.

Oil spills endanger public health, contaminate drinking water, devastate natural resources, and can disrupt the economy. Finally, there may be individuals or environmental groups filing civil suits against your facility for damage to them or their property. Spills are expensive and should be prevented by initiating a rigorous prevention program.

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 Regulations Part 300.910. The NCP Product 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 NCP Product Schedule (Schedule).

What type of oil spill control products are listed on the NCP Product Schedule? The Schedule 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 (MOSCA) – including chemical based sorbents and solidifiers and products other than above categories.

Where can I find the procedures for listing a product on the NCP Product Schedule?

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 Area:
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

FACILITY CHANGES

When changes occur at a facility that materially affects 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 organizations (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.

In Addition:

6. Facilities are required to provide to EPA any changes to personnel and telephone lists included in the FRP.
7. 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, Oil Program FRP Coordinator @ 215-814-3277 or Frank Howard, Senior Environmental Employment Program (SEE) enrollee @ 215-814-3162.

What information can I find on previous spills?

The National Response Center has an on-line query system with oil and chemical spill data reported to the Center. Data received via the National Railroad Hotline (1-800-424-0201) are also available as are reports taken during drills or spill exercises. This system provides full query capability on all non-Privacy Act data collected by the NRC since 1990. Additionally, yearly data from 1982 to 2007 can be downloaded for viewing offline.

20 Year Anniversary of the Exxon Valdez

Next month will mark the 20th anniversary of the Exxon Valdez oil spill. On the evening of March 23, 1998 the Exxon Valdez departed the Alyeska marine terminal in Valdez, Alaska, enroute to Los Angeles with 53,094,510 gallons of crude oil.

The Exxon Valdez ran aground on Bligh Reef, Prince William Sound four minutes after midnight on Good Friday morning, March 24th, 1989. The severity of the grounding is attributed to the sound's rocky bottom, coupled with the vessel's momentum. The enormous damage caused a rapid loss of cargo. Within five hours, 10.1 million gallons of oil had been spilled into Prince William Sound. It is considered one of the most devastating man made environmental disasters ever to occur at sea.

The region was a habitat for salmon, sea otters, seals, and seabirds. Both the long and short term effects of the oil spill have been studied comprehensively. Thousands of animals died immediately. Due to a thorough cleanup, little visual evidence of the event remained in areas frequented by humans just 1 year later. However, the effects of the spill continue to be felt today. Overall reductions in population have been seen in various ocean animals, including stunted growth in pink salmon populations. Sea otters and ducks also showed higher death rates in following years, partially because they ingested prey from contaminated soil and from ingestion of oil residues on hair due to grooming. Almost 20 years after the spill, scientists found that the effects are lasting far longer than expected. Scientists estimate some shoreline habitats may take up to 30 years to recover.

From Bligh Reef, the spill stretched 470 miles southwest to the village of Chignik on the Alaska Peninsula. Approximately 1,300 miles of shoreline were oiled. 200 miles were heavily or moderately oiled (obvious impact); 1,100 miles were lightly or very lightly oiled (light sheen or occasional tar balls). The spill region contains more than 9,000 miles of shoreline. Exxon Shipping Company was renamed Sea River Shipping Company. The Exxon Valdez was repaired and renamed the Sea River Mediterranean and is used to haul oil across the Atlantic Ocean. The ship is prohibited by law from returning to Prince William Sound.

The timing of the spill, the remote and spectacular location, the thousands of miles of rugged and wild shoreline, and the abundance of wildlife in the region combined to make it an environmental disaster well beyond the scope of other spills.

42 Gallons = Barrel Why?

Did you ever wonder why 42 gallons equal a barrel and not 50 gallons? Initially barrels were designed to hold 50 gallons. However, the barrels were made of loose fitting wooden planks and even looser lids that leaked a lot. Furthermore, the wooden barrels were transported from the oil fields by horse and wagon on bumpy unpaved trails which made them leak even more. The end result was that a barrel that started out at 50 gallons ended up at the customer's doorstep with a lot less. Customers were not pleased about paying for oil they did not receive. An adjustment was instituted that averaged the loss to 8 gallons; hence, 42 gallons equal a barrel.

For More Information

Read the final SPCC rule amendment:

http://www.epa.gov/emergencies/content/spcc/spcc_nov08amend.htm

Comment on the final SPCC rule amendment and review docket documents:

<http://www.regulations.gov>. Follow the online instructions to comment on Docket ID No. EPA-HQ-OPA-2007-0584

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

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

Call the Superfund, TRI, EPCRA, RMP, and Oil Information Center:

(800) 424-9346 or (703) 412-9810

TDD (800) 553-7672 or (703) 412-3323

<http://www.epa.gov/superfund/resources/infocenter>



2009 Freshwater Spills Symposium

Hosted by the U.S. Environmental Protection Agency
April 28-30, 2009
St. Louis, Missouri

Web site: <http://www.epa.gov/emergencies/content/fss/index.htm>

Region III Oil Program

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