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SPCC Guidance for Regional Inspectors

APPENDIX C: SUMMARY OF REVISED SPCC RULE PROVISIONS

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The Oil Pollution Prevention regulation includes requirements for facilities to prepare, amend, and implement Spill Prevention, Control, and Countermeasure (SPCC) Plans to prevent discharges of oil to navigable waters and adjoining shorelines. The regulation allows flexibility in meeting some of the requirements. This document is designed to assist regional inspectors in implementing the SPCC program and in understanding its applicability.

APPENDIX C: SUMMARY OF REVISED SPCC RULE PROVISIONS

Citation	Revised Rule Provision
New Threshold Requirement §112.1(d)(2)(i) and (ii)	An owner or operator of a facility that stores more than 1,320 gallons in aboveground containers or 42,000 gallons in completely buried tanks must prepare a Plan. *Note: Completely buried USTs subject to all to the technical requirements of 40 CFR parts 280 or 281 are exempt from the threshold calculation.*
	Change from 1974 rule: The single container capacity of 660 gallons for the previous threshold requirement has been eliminated.
Underground Storage Tanks (USTs) §112.1(d)(2)(i) and 112.1(d)(4)	Completely buried storage tanks subject to all of the technical requirements under 40 CFR parts 280 or 281 and permanently closed USTs are not required to comply with SPCC provisions. *Note: The facility diagram must include completely buried tanks that are exempt from §112.1(d)(4).*
	Change from 1974 rule: Previously, all USTs were subject to the SPCC provisions once the facility met any of the SPCC threshold requirements.
Minimum Container Size §112.1(d)(5)	A *de minimis* container capacity of 55 gallons or more has been established to determine aboveground storage capacity. All containers with a capacity of less than 55 gallons are exempt from the rule.
	Change from 1974 rule: Previously all containers, regardless of size, were considered to be subject to SPCC provisions.
Wastewater Treatment §112.1(d)(6)	A facility or part thereof, if used exclusively for wastewater treatment, is exempt from the rule. *Note: The production, recovery, or recycling of oil is not considered wastewater treatment.*
	Change from 1974 rule: No direct counterpart in the 1974 rule.
SPCC Plan Preparation §112.1(f)	The Regional Administrator (RA) has the authority to require a facility, regardless of exemptions, to prepare an SPCC Plan. This authority will be exercised on a case-by-case basis.
	Change from 1974 rule: No direct counterpart in the 1974 rule.
New Definitions §112.2	Definitions for the terms “alteration,” “breakout tank,” “bulk storage container,” “bunkered tank,” “completely buried tank,” “contiguous zone,” “facility,” “partially buried tank,” “permanently closed,” “production facility,” “repair,” “SPCC Plan,” “storage capacity,” and “wetlands” were added.
	Change from 1974 rule: The definition for “spill event” was removed but is now described as a discharge as described in 112.1(b) *Note: A “harmful discharge” is described in 40 CFR part 110.*

Citation	Revised Rule Provision
Oil-Filled Equipment §112.2	Oil-filled electrical, operating, and manufacturing equipment does not need to meet the requirements for bulk storage containers (§112.8) as this equipment is excluded from the definition of a "bulk storage container." However, this equipment does need to meet other provisions of the rule, including secondary containment as described in §112.7(c).
	Change from 1974 rule: Clarification on the application of the rule to this type of equipment.
Professional Engineer (PE) Certification §112.3(d)	In order for a facility to comply with the provisions of §112.3(d), a licensed Professional Engineer (PE) must attest to the following: i. The PE is familiar with 40 CFR part 112; ii. The PE or his agent has visited and examined the facility; iii. The Plan has been prepared in accordance with good engineering practice, including consideration of industry standards and the requirements of the rule; iv. Procedures for required inspections and testing have been established; and v. The Plan is adequate for the facility.
	Change from 1974 rule: The previous rule required a PE to attest that, through the examination of the facility and familiarity with the provisions of the rule, the Plan was prepared in accordance with good engineering practice.
Plan Location §112.3(e)(1)	The owner or operator must maintain a complete copy of the Plan at the facility if the facility is normally attended at least four hours per day.
	Change from 1974 rule: The rule previously required a Plan to be located at the facility if it was attended for at least eight hours per day.
Reportable Discharge Notification to EPA Regional Administrator (RA) for SPCC facilities §112.4	Whenever a facility has a discharge as described in §112.1(b) that is greater than 1,000 gallons of oil or two discharges each of more than 42 gallons of oil occurring within any 12-month period, the facility must submit certain information regarding the spill to the RA. The SPCC Plan does not need to be submitted unless requested by the RA.
	Change from 1974 rule: Previously, the SPCC Plan was submitted to the RA as part of the reporting requirement, and there was a different threshold for SPCC spill reporting. *Note: The basic oil discharge reporting requirements for 40 CFR 110 (spills reportable to the National Response Center) did not change.*
Five-Year Review Documentation §112.5(b) and 112.5(c)	The period in which an owner or operator is required to review and evaluate the SPCC Plan is now five years. The review and evaluation must be documented, and a statement must be signed stating whether or not the Plan will be amended. *Note: The review and evaluation do not require a Professional Engineer (PE) certification. However, any technical changes to the Plan do require a PE certification.*
	Change from 1974 rule: The review period was previously three years.
Alternative Formats §112.7	The Plan must be in writing, and if the Plan does not follow the sequence specified in the rule, an equivalent plan and a cross-reference must be provided. For example, the owner/operator may use an Integrated Contingency Plan (ICP) or an equivalent state plan that includes all applicable SPCC requirements with a cross-reference.
	Change from 1974 rule: No direct counterpart for alternative plan formats in the 1974 rule.

Citation	Revised Rule Provision
Spill History Previously §112.7(a)	Spill history does not need to be reported. *Note: Facility Response Plans (FRPs) are still required to include a spill history.*
	Change from 1974 rule: The previous rule required a spill history for reportable discharges, including corrective actions and preventive measures for spills occurring before the effective date of the 1974 rule. This requirement has been eliminated in the 2002 rule.
Environmental Equivalence §112.7(a)(2)	Where a facility does not conform with SPCC provisions, the owner or operator must state the reason for nonconformance and describe, in detail, alternate methods to achieve equivalent environmental protection. *Note: This waiver does not apply to any secondary containment requirements.*
	Change from 1974 rule: No direct counterpart in the 1974 rule.
Facility Diagram §112.7(a)(3)	The facility is required to prepare a facility diagram that includes the location and contents of containers, transfer stations, and connecting pipes. The facility diagram must also include exempt USTs.
	Change from 1974 rule: No direct counterpart in the 1974 rule.
Information for Use in a Discharge §112.7(a)(3)	The owner or operator must provide, in the Plan, information and procedures relating to basic spill prevention, reporting (contact list with phone numbers), and response. The specific information is listed in the rule text. *Note: This subparagraph applies to all facilities.*
	Change from 1974 rule: No direct counterpart in the 1974 rule.
Information for Use in a Discharge §112.7(a)(4) and 112.7(a)(5)	Unless the facility has submitted a response plan under §112.20, the owner or operator must provide, in the Plan, information and procedures to enable a person reporting a discharge to relate the necessary information. The plan must have an organization that will make it readily usable in an emergency. The necessary information is listed in the rule text.
	Change from 1974 rule: No direct counterpart in the 1974 rule.
Secondary Containment §112.7(c)	The entire containment system must be able to contain oil and prevent a discharge from a primary containment system from escaping the confines of the containment system before cleanup occurs.
	Change from 1974 rule: The new language clarifies the requirement in the previous rule that containment and/or diversionary structures must "prevent discharged oil from reaching a navigable water course."
Impracticability Claim/Integrity Testing §112.7(d)	When it is not practicable to install secondary containment, the owner/operator must clearly explain why, and for bulk storage containers, conduct both periodic integrity testing of the containers and periodic integrity and leak testing of the valves and piping. *Note: Facilities must still prepare an oil spill contingency plan following 40 CFR part 109 and a have written commitment of resources to respond to and clean up a discharge.*
	Change from 1974 rule: The previous rule did not require integrity testing or leak testing if an impracticability claim was made for secondary containment for bulk storage containers.

Citation	Revised Rule Provision
Business Records §§112.7(e) and 112.8(c)(6)	An owner or operator may use usual and customary business records to satisfy the recordkeeping requirements for inspections and tests. Written procedures and a record of inspections and tests must be maintained for three years.
	Change from 1974 rule: Previously, the rule required maintenance of a record of inspections and tests for three years but did not allow for the use of usual and customary business records.
Employee Training §112.7(f)	Training is required for oil-handling personnel, and the revised rule supplies additional topics for this training. Discharge prevention briefings must be conducted at least once a year.
	Change from 1974 rule: The revised rule requires training only for oil-handling personnel and not for all employees. It also clarifies that briefings must be conducted once a year, instead of intervals "frequent enough to assure adequate understanding of the SPCC Plan for that facility."
Brittle Fracture Evaluation §112.7(i)	The rule requires evaluations for field-constructed aboveground storage containers undergoing repair, alteration, reconstruction, or a change in service.
	Change from 1974 rule: No direct counterpart in the 1974 rule.
Secondary Containment Onshore facilities §112.8(c)(2) Onshore production facilities §112.9(c)(2)	Onshore facilities (including production facilities) must ensure that secondary containment has sufficient freeboard to allow for precipitation. Whatever method used must be documented in the Plan. **Change from 1974 rule:** Onshore facilities were required to provide sufficient freeboard to allow for precipitation, though the previous rule did not specify that an allowance for precipitation was required for production facilities.
Integrity Testing per Industry Standards §112.8(c)(6)	Facilities must test aboveground containers for integrity on a regular schedule, and whenever material repairs are made. Testing must combine visual inspection with another non-destructive shell thickness testing technique. A list of organizations that may be helpful in the identification and explanation of industry standards is included in the rule preamble.
	Change from 1974 rule: Previously, the rule stated that integrity testing should occur periodically and did not require the combination of a visual inspection with another non-destructive shell thickness testing technique.
Cathodic Protection §112.8(d)(1)	All buried piping that is installed or replaced on or after August 16, 2002, must have protective wrapping and coating as well as cathodic protection, for all soil conditions. *Note: A facility can also satisfy the corrosion protection provisions through 40 CFR part 280 or a state program approved under 40 CFR part 281.*
	Change from 1974 rule: The previous rule required cathodic protection for buried piping if soil conditions warranted such protection. It did not allow for satisfaction of the provision through 40 CFR part 280 or a state program approved under 40 CFR part 281.
Reorganization/ Plain Language Format	Included are new sections for different types of facilities and new subparts for different types of oils in compliance with Edible Oil Regulatory Reform Act (EORRA.) The rule has been written in a plain language format to make it clearer and easier to use. Requirements for the SPCC Plan are included in §§112.1 through 112.15.