

ENVIRONMENTAL UPDATE



September 3, 2002

Summary of SPCC Regulation Changes *New Rule In effect August 16, 2002*

The U.S. Environmental Protection Agency (EPA) has amended the Oil Pollution Prevention regulation (40 CFR, Part 112) promulgated under the authority of the Clean Water Act. The new rule includes requirements for Spill Prevention Control and Countermeasure (SPCC) Plans and Facility Response Plans (FRPs). The final rule includes subparts for the following:

- Outlines the requirements for various classes of oil,
- Revises the applicability of the regulation,
- Amends the requirements for completing SPCC Plans, and
- Makes other modifications.

This summary will focus on changes in the regulation applicable to SPCCs for petroleum oils. **The effective date for the new rule amendments is August 16, 2002.**



Applicability

This rule applies to owners and operators of facilities that drill, produce, gather, store, process, refine, transfer, distribute, use or consume oil and oil products and which might be reasonably expected to discharge oil in quantities that may be harmful into or upon navigable waters of the United States or adjoining shorelines.

Oil Storage Volume and Spill Applicability

The new rule modified the oil storage volume specifications for facilities needing a SPCC:

Old Rule

- UST capacity of >42,000 gallons,
- A single AST above 660 gallons, or
- Total aboveground storage of 1320 gallons.

New Rule

- UST capacity of >42,000 gallons (if USTs are not subject to 40 CFR 281 or equivalent state program),
- Total aboveground storage of 1320 gallons,
- Containers less than 55 gallons are exempted from the regulation.

The new rule clarifies in section 112.4(a) that a facility with a spill over 1000 gallons or two spills within 12 months over 42 gallons is required to report certain information pursuant to this section to the EPA Regional Administrator.

The fact that the new rule exempts containers less than 55-gallons indicates that cases of quarts of oil or other small containers, for instance, do not need to be included in the volume determination.

Completely buried tanks are not subject to the requirements of the new rule (except for being on the facility diagram) –as long as the USTs meet the requirements of 40 CFR Part 280 or equivalent State program. **A benefit of this portion of the regulation is that contingency planning for product transfer activities for exempted USTs is not required under the new rule.** In the past, trying to plan for spills from tankers during delivery has been one of the more cumbersome aspects of SPCC Plans.

SPCC Deadlines

Existing Facilities	
SPCC Development	February 16, 2003
Plan Implementation	August 16, 2003
New Facilities	
Built before August 18, 2003 – Prepare and Implement plan by August 18, 2003.	
Built after August 18, 2003 – Prepare and implement plan prior to beginning operation.	

For existing facilities, the new rule allows a 6-month period from the effective date of the rule for development of new SPCC plans that meet the new requirements. Additionally, the rule allows an additional 6 months to implement the new elements of the plan.

Plan Certification

The revised rule requires that SPCC plans be updated every 5 years (previously, plans had to be updated every 3 years). Clarification is given that a professional engineer (PE) or an agent of the PE may conduct the site visit. However, the PE must certify the plan. The rule specifies that the PE must certify that the plan is prepared in accordance with 40 CFR Part 112 requirements.

Miscellaneous Requirements

- Rather than requiring inspection and testing records be kept as a part of the SPCC plan, the new rule allows records to be kept on-site with usual and customary business records.
- The revised rule allows for differing plan formats, but stipulates that if a format other than the one specified is used then a cross-reference must be included. Formats such as an Integrated Contingency Plan are acceptable.
- Section 112.7(a)(2) of the revised rule explicitly allows deviations from most of the rules substantive requirements (except for secondary containment), provided that one explains the reason for nonconformance and provides equivalent environmental protection with an alternate measure.

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- **The revised rule adds a new requirement for periodic integrity testing of all containers, and leak testing of pipes and valves.** In addition, after any material repairs have been completed, additional integrity testing is necessary. This new requirement appears to be one of the more burdensome in that facilities that are not currently conducting integrity testing will be required to do so for above ground storage containers. Perhaps, an industry standard will emerge for such testing of small containers.



- **The revised rule mandates annual training for "oil-handling" employees.** Training should include operation of oil handling equipment, spill prevention and spill response procedures, applicable rules, and SPCC plan contents (Section 112.7(f)). Training documentation should be kept on file.
- Partially buried, bunkered and vaulted tanks are explicitly defined as ASTs in the new rule.

This summary has been prepared to assist interested parties in evaluating the applicability of the new rule amendments to their facilities. Please note this summary is not a comprehensive review of the regulation. Green Star recommends that interested parties consult with a knowledgeable company and/or review the complete rule at:

<http://www.epa.gov/oilspill/pdfs/40cfr112.pdf>

For additional information or questions, please contact one of our offices listed below.

