

SPCC and FRP: “New Rules”

Revised SPCC Rule Training

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Purpose of 40 CFR Part 112

- ◆ To prevent oil discharges from reaching the navigable waters of the U.S. or adjoining shorelines;
- ◆ To ensure effective response to the discharge of oil; and
- ◆ To ensure that proactive measures are used in response to an oil discharge.



Purpose of 40 CFR Part 112 (cont.)

◆ Response plan requirements:

- § Promulgation of the FRP regulation was required under the 1990 OPA amendments to CWA;
- § Authority comes from CWA sections 311(j)(5) and 501;
- § Codified at 40 CFR §§112.20-112.21; and
- § First effective on August 30, 1994.

Rulemaking Background

◆ EPA proposed changes to the rule on:

§ October 22, 1991;

§ February 17, 1993; and

§ December 2, 1997.

Results of Revised Rule Changes

- ◆ Incorporated plain language (should/shall).
- ◆ Addressed the Edible Oil Regulatory Reform Act requirements.
- ◆ Reduced the regulatory burden by approximately 40 percent.
- ◆ Reduced the number of facilities in the regulated universe by 51,500.
- ◆ Increased clarity.

Key Definitions

- ◆ Facility
- ◆ Tank Vs Oil-filled System
- ◆ Waters of the US

Key Definitions (cont.)

- ◆ **Oil** is defined in 40 CFR §112.2 as *oil of any kind or in any form* including, but not limited to:

- § Petroleum and fuel oil;

- § Sludge;

- § Oil refuse; or

- § Oil mixed with wastes other than dredged spoil.



- ◆ This definition includes vegetable and animal oil, mineral oil, transformer oil, and other oils.

Petroleum and Non-Petroleum Oils

- ◆ The Edible Oil Regulatory Reform Act (EORRA):
 - § Requires Federal agencies to consider differences in properties and environmental effects between edible oils and other oils and greases, including petroleum, and to take those differences into account in the application of the rule.

Petroleum and Non-Petroleum Oils (cont.)

- ◆ EPA has:

- § Considered the differences between petroleum and non-petroleum oils for the FRP regulation; and

- § Determined that animal fats and vegetable oils are regulated under 40 CFR part 112.

Comparing the Old and Revised Rules: Revisions Adopted

◆ The revised rule:

- \$ changes **should /shall** to **must**.
- \$ exempts completely buried storage tanks from SPCC if they are subject to **ALL the** parts of 280 or 281 (UST regs).
- \$ establishes a de minimis container size (55 gallons).
- \$ maintains the aggregate aboveground storage capacity threshold of >1320 gallons, but **removes** the single container >660 gallon provision.
- \$ establishes a spill volume of 42 gallons (for SPCC reporting requirement).
- \$ allows deviations when equivalent protection is provided.
- \$ provides for a flexible plan format, with a cross-reference showing that all regulatory requirements are met.
- \$ applies to storage and operational **use** of oil.

Comparing the Old and Revised Rules: Revisions Not Adopted

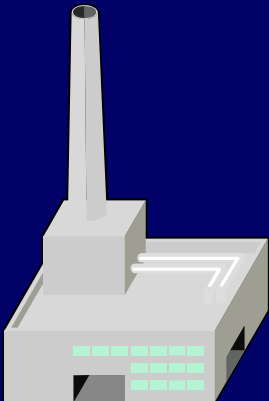
◆ The revised rule DOES NOT.....

- \$ require facility to notify EPA that it is subject to part 112.
- \$ include the 72-hour impermeability standard.
- \$ change the time period for inspections from periodic to monthly;
- \$ require the PE to be registered or licensed in the State in which the facility is located.
- \$ require the PE to visit a facility, but allows the PE to send his or her agent.
- \$ restrict certification by a PE employed by a facility or having a financial interest in the facility.

General Applicability: Jurisdiction

◆ Old §112.1(b) applied to owners or operators of facilities that:

§ Drill, produce, gather, store, process, refine, transfer, distribute, or consume oil and oil products.



General Applicability: Jurisdiction (cont.)

◆ Revised §112.1(b):

§ Applies to facility owners/operators that **use** “oil in quantities that may be harmful.”

General Applicability: Thresholds

- ◆ Old §112.1(d)(2) regulated facilities that:
 - \$ Have a single above ground container with more than 660 gallons capacity OR
 - \$ Aggregate above ground capacity greater than 1,320 gallons.

General Applicability: Thresholds (cont.)

◆ Revised §112.1(d)(2), regulates facilities that:

§ Have aggregate aboveground storage capacity greater than 1,320 gallons. No more 660 gal single container threshold.

General Applicability: Thresholds (cont)

- ◆ Old threshold requirement for completely buried storage tanks is total capacity greater than 42,000 gals.

General Applicability: Storage Capacity

- ◆ **Revised** requirements excludes completely buried tanks when:
 - § The completely buried tanks (see UST definition in next slide) are subject to **ALL** of the technical requirements of 40 CFR part 280 or a State program approved under 40 CFR part 281, OR
 - § When those completely buried tanks are “permanently closed,” as defined in §112.2.

General Applicability: Part 280 and Part 281

- ◆ EPA's UST regulation at 40 CFR part 280 states that an UST is:
 - § Any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. (40 CFR 280.12)
 - § Contrast this definition with an SPCC UST

General Applicability: Part 280 and Part 281 (cont.)

- ◆ Part 280 does not apply to:
 - \$ Farm or residential tanks of 1,100 gallons capacity or less, used for storing motor fuel for noncommercial purpose;
 - \$ Tanks used for storing heating oil for consumptive use on the premises where stored;
 - \$ Septic tanks; **or**
 - \$ Pipeline facilities (including gathering lines) subject to certain regulations.

General Applicability: Buried Storage Tanks

- ◆ When buried storage tanks subject to Part 280/281 are exempt from SPCC requirements (as previously discussed) the tank locations must still be marked on the SPCC plan's facility diagram as required by §112.7(a)(3).

General Applicability: Storage Capacity

- ◆ Aboveground storage capacity excludes:
 - § The capacity of containers that are “permanently closed,” as defined in §112.2.
- ◆ Aboveground storage capacity includes:
 - § Containers with 55 gallons capacity or greater; and
 - § The storage capacity of operating equipment and other containers.

General Applicability:

Container Capacity < 55 gallons

- ◆ Under revised §112.1(d)(5), containers with a storage capacity of less than 55 gallons of oil are exempt from all SPCC requirements.



General Applicability: RA Authority

- ◆ Under revised §112.1(f), the RA may require an SPCC Plan for any facility subject to EPA jurisdiction under section 311(j) of the Clean Water Act (CWA).
- ◆ The rule includes notice and appeal provisions.

Requirements to Prepare and Implement an SPCC Plan

◆ Under revised §112.3(a):

§ Facility operating on the effective date of the new rule has 6 months to prepare and 6 months to implement a Plan.

B Same time frame for amendments to bring an existing Plan into compliance. Can ask RA for extension of time under certain conditions. See slide 29.

§ Facility beginning operations within 12 months of the effective date of the rule change, owner/operator has 12 months after the effective date to prepare and implement a Plan.

§ If a facility begins operations > 12 months after the effective date of the rule, owner/operator must prepare and implement a Plan before beginning operations!

PE Certification

- ◆ Under **old** §112.3(d), a Registered PE, having “examined” the facility and being familiar with the provisions of Part 112, will attest that the Plan has been prepared in accordance with good engineering practice.
- ◆ Certification does not relieve the owner or operator of duty to prepare and fully implement the Plan in accordance with all applicable requirements.

PE Certification (cont.)

- ◆ Under **revised** §112.3(d), by certification, the PE attests that:
 - § S/he is familiar with the requirements of the SPCC rule;
 - § S/he, or her/his **agent** has visited and examined the facility;
 - § The Plan has been prepared in accordance with good engineering practice, including **consideration of applicable industry standards**, and with the requirements of the SPCC rule;
 - § Procedures for required inspections and testing have been established; and
 - § The Plan is adequate for the facility.

Plan Location

- ◆ Under **old** §112.3(e), owner/operator must maintain a complete copy of the Plan at said facility if the facility is attended at least 8 hours per day; or at the nearest field office if the facility is not so attended.
- ◆ The owner/operator must make the Plan available to the RA for on-site review during normal working hours.

Plan Location (cont.)

- ◆ Revised §112.3(e) changes the 8 hour per day manning requirement to 4 hours per day.

Extensions for Preparing and Implementing an SPCC Plan

- ◆ Old §112.3(a) specifies when an owner/operator must prepare and implement a Plan.
- ◆ Under old §112.3(f):
 - § The RA may authorize an extension of the time for preparing and implementing a Plan upon finding that the owner/operator cannot fully comply with all SPCC requirements as a result of:
 - B Nonavailability of qualified personnel; or
 - B Delays in construction or equipment delivery beyond the owner/operator's control and without her fault, or the fault of her agents or employees.

Extensions for Preparing and Implementing an SPCC Plan (cont.)

- ◆ Under revised §112.3(f), the RA also can extend the time for preparing, implementing, and amending an SPCC Plan.

RA - Required Amendment of an SPCC Plan

- ◆ Under **old** §112.4(a), owner/operator must submit specified information to the RA when facility has:
 - \$ Discharged >1,000 gallons of oil in a single discharge; or has
 - \$ Experienced 2 harmful quantity (sheen) reportable discharges within any 12-month period.

RA - Required Amendment of an SPCC Plan (cont.)

◆ Revised §112.4(a):

§ Raises the threshold for submitting spill reports from two harmful quantity (sheen) discharges to two discharges of >42 gallons each;

§ Reduces the amount of information going to the RA from 10 to 8 items.

◆ The 1000 gallon, single discharge trigger remains the same.

Submitting Information to the State after a Discharge

- ◆ Under **old** §112.4(c), owner/operator must submit information to EPA because of discharges and must also provide the same information to appropriate State agency.
- ◆ **Revised** §112.4(c) requires sending information to any State agency or **agencies** in charge of **oil** pollution control activities.

Plan Amendment

- ◆ Under **old** §112.4(d), the RA may require a Plan amendment after review of materials the owner or operator submits under §112.4(a) and (c).
- ◆ Under **revised** §112.4(d), the RA also may require a Plan amendment after on-site review of the Plan.

Plan Amendment (cont.)

- ◆ Under old §112.5(b), owner/operator must review Plan at least every 3 years.
- ◆ Under **revised** §112.5(b), owner/operator must review Plan at least every **5** years **and** produce documentation of the completion of the review and evaluation. An example of such documentation:
 - B “I have completed review and evaluation of the SPCC Plan for (name of facility) on (date), and will (will not) amend the Plan as a result.”

Plan Amendment (cont.)

- ◆ Under old §112.5(c), a PE must certify any amendments to an SPCC Plan.
- ◆ Under **revised** §112.5(c), PE must certify any **technical** amendments to an SPCC Plan.

§ Non-technical amendments include:

B Changes to phone numbers or names.



SPCC Plan General Requirements

◆ Under old §112.7:

- § The owner/operator must prepare the Plan in accordance with good engineering practice, and have the full approval of management at a level with authority to commit the necessary resources.
- § The Plan must follow the sequence specified in the rule, and include a discussion of the facility's conformance with the requirements of the rule.

SPCC Plan General Requirements (cont.)

- ◆ Under **revised** §112.7, the Plan may follow the sequence specified in the rule; and
 - § If an owner/operator uses another format, s/he must **cross-reference** its provisions to the requirement listed in the SPCC rule.
- ◆ **Must** include a discussion of the facility's conformance with the requirements of the rule.

SPCC Plan General Requirements: Deviations

- ◆ Under revised 112.7(a)(2), the Plan may deviate from the rule's substantive requirements (except for the secondary containment requirements), provided that the owner/operator explains the reason for nonconformance with the requirement, and provides equivalent environmental protection with an alternate measure.

SPCC Plan General Requirements: Facility Diagram



◆ Under **revised** 112.7(a)(3), a facility owner/operator must describe the physical layout of the facility and include a facility diagram in the Plan.

◆ The facility diagram must include:

§ All regulated containers and their contents including tanks subject to all the provisions of 40 CFR part 280/281.

SPCC Plan General Requirements: Secondary Containment

- ◆ Under **old** and **revised** §112.7(c), secondary containment is required for most facilities.
- ◆ Under **old** §112.7(d), when it is not practicable to install secondary containment at a facility, the owner/operator must:
 - § Explain why and provide a strong spill contingency plan (per 40 CFR 109) describing commitment of manpower, equipment, and materials to control and remove any harmful quantity of oil discharged.

SPCC Plan General Requirements: Secondary Containment (cont.)

- ◆ Under revised §112.7(d), the owner or operator also must:
 - \$ Conduct periodic integrity testing of the containers; and
 - \$ Conduct periodic integrity and leak testing of the valves and piping.

SPCC Plan General Requirements: Written Procedures

- ◆ Under old §112.7(e)(8):

- § The owner/operator must conduct required inspections in accordance with written procedures.

- § The owner/operator must maintain the written procedures and a signed record of inspections as part of the SPCC Plan for a period of three years.

SPCC Plan General Requirements: Written Procedures (cont.)

- ◆ Under revised §112.7(e)(8), the owner/operator must:
 - \$ Conduct required inspections and tests in accordance with written procedures; and
 - \$ Maintain these written procedures and signed record of inspections and tests as part of the SPCC Plan for three years.
- ◆ The owner or operations may use records kept per usual and customary business practices and need not create redundant records.

SPCC Plan General Requirements: Training

- ◆ Under old §112.7(e)(10), the facility owner/operator must:
 - § Instruct personnel in the operation and maintenance of equipment to prevent oil discharges and applicable pollution control laws, rules, and regulations;
 - § Designate a person at each facility who is accountable for spill prevention and who reports to line management; and
 - § Schedule and conduct discharge prevention briefings at intervals frequent enough to assure adequate understanding of the facility's SPCC Plan.

SPCC Plan General

Requirements: Training (cont.)

- ◆ Under §112.7(f) (**revised** §112.7[e][10]), the facility owner/operator is required to:
 - § **Train only** oil handling personnel in the operation and maintenance of equipment to prevent oil discharge; and
 - § Schedule and conduct discharge prevention briefings for oil handling personnel **at least once a year.**
- ◆ The requirement to designate a person at each facility stays the same.



SPCC Plan General Requirements: Field-Constructed Aboveground Containers

- ◆ Under new §112.7(i), owners/operators must evaluate field-constructed aboveground containers for brittle fracture when containers are:
 - § Undergoing repair, alteration, or change in service that might affect the risk of a discharge or failure due to brittle fracture or other catastrophe; and/or
 - § When there has been a discharge or failure due to brittle fracture or other catastrophe.

Onshore Facilities (Non-production): Stormwater Drainage

- ◆ Under **old** §112.7(e)(2)(iii), there are substantive requirements for draining stormwater from diked areas, and record keeping requirements for stormwater bypass events.
- ◆ Under §112.8(c)(3) (**revised** §112.7[e][2][iii]):
 - § Substantive requirements remain the same.
 - § Discharge records kept for NPDES permits are sufficient for recording stormwater bypass events.

Onshore Facilities (Non-production): Integrity Testing for Aboveground Containers

◆ Under old §112.7(e)(2)(vi):

§ Aboveground containers are subject to periodic integrity testing using such techniques as hydrostatic testing, visual inspection, or a system of nondestructive shell thickness testing.

§ The owner/operator must keep comparison records where appropriate.

§ Operating personnel must periodically inspect containers for signs of:

 B Deterioration, leaks, or accumulations of oil inside diked areas.

Onshore Facilities (Non-production): Integrity Testing for Aboveground Containers (cont.)

- ◆ Under §112.8(c)(6) (**revised** §112.7[e][2][vi]), the owner or operator must:
 - § Test aboveground containers for integrity on a regular schedule, and when material repairs are done;
 - § Take into account container size and design when deciding test frequency and type;
 - § Combine visual inspection with another testing technique; and
 - § Keep comparison records and include tank supports and foundations in these inspections.
- ◆ Maintain records of inspections and tests pursuant to usual and customary business practices.

Onshore Facilities (Non-production): Buried Piping Installations

- ◆ Under old §112.7(e)(3)(i), buried piping installations must be protectively wrapped and cathodically protected.
- ◆ Under §112.8(d)(1) (**revised** §112.7[e][3][i]):
 - § Buried piping installed after the rule change must be protectively wrapped and cathodically protected; and
 - § Must otherwise satisfy the corrosion protection provisions for piping in 40 CFR part 280/281.

Onshore Oil Production Facilities: Stormwater Drainage

- ◆ Under §112.9(b)(1) (**revised** §112.7[e][5][ii]), records must be kept for stormwater drainage events at onshore oil production facilities.

Onshore Oil Production Facilities: Secondary Containment

- ◆ Under **current** §112.7(e)(5)(iii)(B), secondary containment is required for onshore production facilities.
- ◆ Under §112.9(c)(2) (**revised** §112.7[e][5][iii][B]), secondary containment, including sufficient freeboard to contain precipitation, is required for onshore production facilities.

CONCLUSION:

**Is it all perfectly clear
now?**

**Q and A (Consulting advice:
\$50.00 per question.)**