



REGULATORY ALERT

EPA proposes additional changes to SPCC Rules

October 2007

The latest proposed rule revisions are aimed at streamlining alternative compliance methods, and lessening or eliminating requirements for certain types of facilities and activities.

On July 17, 2002, EPA made sweeping revisions to the Spill Prevention, Control and Countermeasure (SPCC) rules found at 40 CFR 112. EPA made additional rule revisions in December 2006, and on October 1, 2007, yet more revisions were proposed. The current deadline for implementing the 2002 rule revisions is July 1, 2009. The newly-proposed rule revisions *do not* affect this deadline.



Summary of Oct. 2007 Proposed Rule Revisions

In the latest proposal, EPA proposes the following changes:

- Exempt hot-mix asphalt (asphalt cement mixed with aggregate). EPA will continue to regulate asphalt cement, asphalt emulsions, and cutbacks.
- Exempt pesticide application equipment and related mix containers used at farms, and extend the secondary containment exemption given to airport mobile refuelers to include fuel nurse tanks at farms.
- Exempt heating oil containers at single-family residences.
- Amend the facility diagram requirement to provide additional flexibility for all facilities. Specifically, keys or tables can be used where facility diagrams become complicated, and general depictions of mobile container storage areas and the anticipated number of containers and contents will be sufficient.
- Amend the definition of "facility" to clarify the flexibility associated with describing a facility's boundaries. Specifically, contiguous or noncontiguous buildings, properties or pipelines may be considered separate facilities.
- Define "loading/unloading rack" to clarify the equipment subject to the provisions for facility tank car and tank truck loading/unloading racks. Also, oil production facilities and farms would be specifically excluded from the loading/unloading rack requirements.
- Provide streamlined requirements for a subset of qualified facilities. The "Tier I" subset will include those qualified facilities having no oil storage containers with a capacity greater than 5,000 gallons. These Tier I facilities will have the option to complete a self-certified SPCC Plan template in lieu of a full SPCC Plan.
- Amend the general secondary containment requirement to make clear that the scope of secondary containment takes into consideration the typical failure mode, and most likely quantity of oil that would be discharged.
- Amend the security requirements for all facilities, to allow an owner or operator to tailor his security measures to the facility's specific characteristics or location.
- Amend the integrity testing requirements to allow a greater amount of flexibility in the use of industry standards at all facilities. Specifically, allowing the operator to rely on industry standards to determine the appropriate qualifications for tank inspectors/testing personnel and the type/frequency of integrity

testing required for a particular container. This extends the streamlined bulk storage container inspection requirement that EPA provided to qualified facilities in the December 2006 rule revisions.

- Amend the integrity testing requirements for containers that store animal fat or vegetable oil, which comply with FDA requirements and meet certain other criteria (e.g., shop-built stainless steel, elevated, and uninsulated).
- Streamline a number of requirements for oil production facilities. These include modifying the definition of production facility, extending the timeframe to prepare an SPCC Plan for new production facilities, exempting flow-through process vessels from sized secondary containment requirements, exempting flowlines and intra-facility gathering lines from all secondary containment requirements, and clarifying the definition of “permanently closed.”
- Exempt completely buried oil storage tanks at nuclear power generation facilities.

Equally important to the proposed changes is clarification that EPA is providing in the preamble to the proposed rule revisions on additional issues raised by the regulated community. These include the consideration of man-made structures in determining how to comply with SPCC rule requirements and the applicability of the rule to wind turbines. There is a 60-day public comment period on the proposed rule changes, which ends December 14, 2007. To view the full text of these proposed regulatory amendments, visit EPA's Oil Program web site at <http://www.epa.gov/oilspill/index.htm>.

In light of these recent SPCC rule changes, and the recent listing of chemicals of interest under the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards, it is recommended that facilities review their chemical storage operations to assess potential applicability of these Federal standards.

For assistance in preparing and/or updating an SPCC plan for your facility, call or e-mail Liberty Environmental, Inc. at (610) 375-9301, or info@libertyenviro.com.

