



U.S. ENVIRONMENTAL PROTECTION AGENCY

MID-ATLANTIC REGION

OIL PROGRAM UPDATE

MAY 2006

Serving: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

Expedited Penalty Agreements

Region III has instituted a new enforcement program to be used for Spill Prevention Control and Countermeasure violations. The Expedited Penalty/Settlement Agreement (ESA) provides effective incentives for rapid correction of some non-compliance problems at facilities regulated by the SPCC program. For certain types of violations, facilities can avoid formal enforcement proceedings by correcting problems quickly and being subject to smaller fines.

The Region has been using this program for oil spills for several years. After the ESA is issued, the respondent has 30 days from receipt to sign and return the agreement. Payment of the violation is required within 15 days of receipt of the executed agreement. If respondent fails to sign and return the settlement as presented within 30 days the settlement is withdrawn without prejudice and EPA may then file a more formal enforcement action for the violations set forth in the ESA.

Integrity Testing for Aboveground Containers

Integrity testing of equipment is a necessary component of any good oil discharge prevention plan. It is any means to measure the strength (structural soundness) of a container shell, bottom, and/or floor to contain oil, and may include leak testing to determine whether the container will discharge oil. It ensures the properly tested container is suitable for continued service under current and anticipated operating conditions (e.g., product, temperature, pressure). Testing may also help facilities determine whether corrosion has reached a point where repairs or replacement of the container is needed, and thus avoid unplanned interruptions in facility operations.

The SPCC rule defines integrity testing as the **combination** of visual inspection of the outside of a container with another testing technique (such as non-destructive shell testing), in

accordance with a regular schedule and whenever material repairs are made. Remember the rule is a performance-based regulation. Since each facility may present unique characteristics and since methodologies may evolve as new technologies are developed, the rule does not prescribe a specific frequency or methodology to perform the required integrity testing. Instead, it relies on the use of good engineering practices by the professional engineer (PE) who certifies the SPCC Plan. When designing an integrity testing program for a facility, the PE **must** consider:

- applicable industry standards and recommended practices,
- where no standard/recommended practice exists, the manufacturer's specifications and instructions for proper use and maintenance, or
- where neither #1 or 2 exists, call upon his/her professional experience to develop a site specific inspection and testing program ("hybrid" program).

Recommendations for presenting your integrity testing program to an inspector during site visits:

- Be able to show both visual inspection records and integrity testing reports for review. These requirements are distinct from one another. You should have two separate sets of records.
- If you have never maintained an integrity testing program in the past, start it **immediately**. Integrity testing **is** required by the rule. The inspector will, at the minimum, want to see detailed plans and schedules prepared demonstrating your intention to begin the testing process.
- You **must** document in your SPCC Plan the method and frequency of integrity testing chosen.

The frequency of testing should reflect the particular conditions of the container, such as the age, service history, original construction specifications, prior inspection results, and the existing condition of the container.

TO REPORT SPILLS

National Response Center

1-800-424-8802

Chemical or Oil

This Is a Drill

Do those words get you excited? They should and that is good! This is an opportunity for continuous improvement of the response plans and response system. In our November 2005 *Oil Program Update* we included an article about the Unannounced Oil Pollution Response Exercises. The Oil and Prevention Branch in Region III is committed to stepping up our Government Initiated Unannounced Exercise Program.

We have developed an informative pamphlet that discusses the Facility Response Plan / Government Initiated Unannounced Exercise Program and we plan to make it available on our EPA Region III website sometime in the near future. We follow the National Preparedness for Response Exercise Program (PREP) which is a multi-agency program to exercise and evaluate government Area Contingency Plans and industry spill response plans.

The exercise scenario will involve a response to a small discharge of between 50 to 2,100 gallons (50 bbls) of oil spilled outside secondary containment and discharged into or on navigable waters and adjoining shorelines. Exercises are limited to approximately four hours in duration. We want a facility to play out the drill as if it were responding to an actual discharge. There should be deployment of response and recovery equipment identified in the facility response plan. If you rely on an Oil Spill Removal Organization (OSRO), that OSRO must respond during the drill and deploy their response and recovery equipment. You must also conduct proper notifications to respond to the exercise scenario. A facility can simulate the calling of 911, but must make calls to the other emergency numbers listed in their facility response plan - remember to start with "THIS IS A DRILL." After the drill, U.S. EPA will also examine all exercise and training records at the facility.

During Fiscal Year 2006 (thru September 2006) the Oil and Prevention Branch will be selecting up to 5 more facilities somewhere within EPA Region III. We have already conducted 3 drills in the Elizabeth River, Virginia area this year. This is a friendly reminder that YOUR facility may be next.

EPA Releases SPCC Guidance for Regional Inspectors

On December 2, 2005, EPA released the SPCC Guidance for Regional Inspectors. The guidance document is intended to assist regional inspectors in reviewing a facility's implementation of the Spill Prevention, Control, and Countermeasure (SPCC) rule at 40 CFR part 112. With its publication, EPA seeks to establish a

consistent understanding among regional EPA inspectors on how particular provisions of the rule may be applied. The SPCC Guidance for Regional Inspectors is available online.

EPA took comments on this guidance in conjunction with the comments on the SPCC streamlining rule through February 10, 2006. This is a "living document" which will be continually updated and revised. Therefore EPA will continue to take comments on the guidance after the initial 60 days. EPA will not respond to all comments; however, all comments will be reviewed and will be used to inform ongoing revisions to the guidance document.

The guidance document is available on EPA's Website:

<http://www.epa.gov/oilspill/spcc>

Spill Prevention, Control and Countermeasure (SPCC) Plan Update

EPA published a final rule amending the SPCC Rule in the Federal Register on February 17, 2006. This action extends the compliance dates for all facilities until October 31, 2007.

A facility that was in operation on or before August 16, 2002 must maintain the facility's existing plan, amend and implement that Plan, on or before October 31, 2007. §112.3(a)

A facility that came into operation after August 16, 2002 must also prepare and implement an SPCC Plan on or before October 31, 2007. §112.3(a)

A facility that begins operation after October 31, 2007 must prepare and implement an SPCC Plan prior to beginning operations. §112.3(b)

Finally, a mobile facility must prepare or amend and implement an SPCC Plan on or before October 31, 2007 §112.3(c)

The compliance date extension affects only requirements of the July 2002 final SPCC rule that impose new or more stringent compliance obligations than did the 1973 SPCC rule. Any regulatory relief provided in the July 2002 rule is not affected by these compliance date extensions. Other important dates and information regarding the SPCC Rule are located at:

<http://www.epa.gov/oilspill/spcc>

On December 12, 2005, the EPA published a **proposed amendment** that would amend the SPCC plan requirements

to reduce the regulatory burden for certain facilities by: Providing an option that would allow owners/operators of facilities that store less than 10,000 gallons of oil and meeting other qualifying criteria to self certify their SPCC Plans, in lieu of review and certification by a PE; providing an alternative to the secondary containment requirement, without requiring a determination of impracticability, for facilities that have certain types of oil-filled equipment; defining and providing an exemption for motive power containers; and exempting airport mobile refuelers from the specifically sized secondary containment requirements for bulk storage containers. In addition the Agency also proposes to remove and reserve certain SPCC requirements for animal fats and vegetable oils and proposes a separate extension of the compliance dates for farms. In proposing these changes, EPA is significantly reducing the burden imposed on the regulated community in complying with the SPCC requirements, while maintaining protection of human health and the environment.

Make your Plans to Attend

U.S. EPA REGION III Emergency Preparedness and Prevention and Hazmat Spills Conference

December 3 - 6, 2006
Valley Forge Convention Center
Pennsylvania
<http://www.2006conference.org>
Conference Hotline:
1-800-364-7974

West Virginia
12th Annual LEPC / SERC Conference
Marriott Hotel, Charleston, WV
Sept. 25, 26, and 27, 2006

WV SERC & WV DHSEM

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Oil Program Update will be published on a quarterly basis by EPA Region III.

Our goal is to provide information to industries and businesses in our region.

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