

SUMMARY OF FINAL SPCC AMENDMENTS NOVEMBER 13, 2009

On November 13, 2009 EPA issued a Federal Register notice finalizing and making technical corrections to the December 2008 Spill Prevention Control and Countermeasures (SPCC) amendments. In addition, EPA removed three provisions from the SPCC rule it had adopted in December 2008. In all other respects, the amendments have not been changed.

These final rules become effective on January 14, 2010.

Technical corrections to the 2008 amendments were made to the following sections. Of these, only the first bullet should be of interest to forest products industry facilities:

- In § 112.6 and the Appendix G (SPCC Plan template), corrections were made of typographical and formatting errors to the Tier 1 template for the subset of qualified facilities meeting these provisions (“Tier I qualified facilities”). The owner or operator of a Tier I qualified facility has the option to complete a self-certified SPCC Plan template (found in Appendix G to 40 CFR part 112) in lieu of a full SPCC Plan. These corrections provide only clarifications and corrections – there are no changes in requirements;
- The exemption for underground oil storage tanks that supply emergency diesel generators at nuclear power generation facilities was revised to state that the exemption applies “*provided that such a tank is subject to any Nuclear Regulatory Commission provision regarding design and quality criteria, including but not limited to* * **”;
- Amendment of the compliance date provision for new oil production facilities in § 112.3(b)(1), so that it applies to new oil production facilities that begin operations after November 10, 2010.

Certain sections were also removed from the rule. These items largely should not affect forest products industry facilities:

- EPA removed the paragraph in § 112.3 specific to farms because on June 19, 2009 EPA established the same compliance dates for farms as for all other facilities;
- The exemption for certain produced water containers that do not contain oil in amounts that may be harmful as certified by a PE;
- The alternative criteria for an oil production facility to be eligible to self certify an SPCC Plan as a qualified facility; and
- The specific exclusion of oil production facilities and farms from the loading/unloading rack requirements at § 112.7(h).

The following sections of the December 2008 amendments remain unchanged. These have been grouped so as to list the items that are primarily of interest to forest product industry facilities first:

- The definition of “facility” was amended to clarify that contiguous or non-contiguous buildings, properties, parcels, leases, structures, installations, pipes, or pipelines may be considered separate facilities, and to reaffirm that the “facility” definition governs the applicability of 40 CFR part 112;
- The facility diagram requirement at § 112.7(a)(3) were clarified to state how containers, fixed and mobile, are identified on the facility diagram. EPA also clarified that where facility diagrams become complicated due to the presence of multiple fixed oil storage

containers or complex piping/transfer areas at a facility, the owner or operator can include that information separately in the SPCC Plan in an accompanying table or key. For any mobile or portable containers located in a certain area of the facility, an owner or operator can mark the area on the diagram, as well as indicate the potential range in number of containers and the anticipated contents and capacities of the mobile or portable containers;

- The term “loading/unloading rack,” was defined and clarification that this definition governs the applicability of the provisions for facility tank car and tank truck loading/unloading racks at § 112.7(h);
- The general secondary containment requirements at § 112.7(c) were amended to clarify the scope of secondary containment so that an owner or operator need only take into consideration the typical failure mode, and most likely quantity of oil that would be discharged, consistent with current Agency guidance. This amendment also provides additional examples of prevention systems for onshore facilities found at § 112.7(c)(1);
- The exemption from the sized secondary containment requirement for mobile refuelers provided in the December 2006 SPCC rule amendments (71 FR 77266, December 26, 2006) was extended to non-transportation-related tank trucks at a facility subject to the SPCC rule;
- The facility security requirements at § 112.7(g) were amended to allow an owner or operator of a facility to tailor his security measures to the facility’s specific characteristics and location;
- The integrity testing requirements at §§ 112.8(c)(6) and 112.12(c)(6) were clarified to allow an owner or operator to consult and rely on industry standards to determine the appropriate qualifications for personnel performing tests and inspections, as well as the type and frequency of integrity testing required for a particular container size and configuration;
- An exemption from the rule was provided for hot-mix asphalt (HMA). Industry efforts to similarly delist paraffin wax were not successful;
- An exemption for pesticide application equipment and related mix containers was provided, regardless of ownership or where used, that may currently be subject to the SPCC rule when crop oil or adjuvant oil is added to pesticide formulations.

The following sections in the December 2008 amendments that were finalized without correction may not be of interest to forest products industry facilities:

- An exemption for residential heating oil containers, which applies to aboveground containers, as well as completely buried heating oil containers, at single-family residences, including those located at farms;
- The definition of mobile refueler was clarified to include a farm nurse tank, which is a mobile/portable container used at farms to store and transport fuel for transfers to or from farm equipment (such as tractors and combines) to other bulk storage containers (such as containers used to provide fuel to wellhead/relift pumps) at the farm;
- The integrity testing requirements at § 112.12(c)(6) for an owner or operator of a facility that handles certain types of animal fats and vegetable oils (AFVOs) was amended so as to provide the Professional Engineer (PE) or an owner or operator self-certifying an SPCC Plan with the flexibility to determine the scope of integrity testing that is appropriate for containers that store AFVOs, based on compliance with certain FDA regulations and other criteria relating to container construction and configuration;
- The definition of “production facility” was amended to be consistent with the amended definition of “facility”;

- A clarification was provided that drilling and workover activities are not subject to the provisions at § 112.9;
- An alternative compliance option was provided for flow-through process vessels at oil production facilities;
- The term “produced water container” was defined, and an alternative compliance option provided for these containers at oil production facilities requiring general secondary containment, a PE certified process or procedure designed to remove free-phase oil that accumulates on the surface of the produced water container, and additional oil spill prevention measures in lieu of the sized secondary containment requirements that would apply to these containers;
- An exemption was provided for certain intra-facility gathering lines subject to requirements of the U.S. Department of Transportation’s (DOT’s) pipeline regulations in 49 CFR parts 192 or 195;
- Specific requirements for a flowline/intra-facility gathering line maintenance program were specified and an alternative compliance option of contingency planning for flowlines and intra-facility gathering lines in lieu of the general secondary containment requirements was described; and
- The definition of “permanently closed” as it applies to oil production facilities and containers present at an oil production facility was clarified.