

Spill Prevention Control & Countermeasure (SPCC) Rule Amendments

Finalized in December 2008

On December 5, 2008, EPA amended the SPCC rule to provide clarity, tailor requirements to particular industry sectors, and streamline certain requirements while maintaining protection of human health and the environment (73 FR 74236). As part of the Oil Pollution Prevention regulation (40 CFR part 112), the SPCC rule outlines requirements for prevention of, preparedness for, and response to oil discharges. Regulated facilities must develop and implement SPCC Plans that establish procedures and equipment requirements to help prevent oil discharges from reaching navigable waters or adjoining shorelines.

What changes did EPA finalize in the December 2008 amendments that will affect some VT Facilities?

Exemptions

The revised rule exempts:

- Hot-mix asphalt and hot-mix asphalt containers;
- Residential heating oil containers (i.e., those used solely at single-family residences);
- Pesticide application equipment and related mix containers;
- Underground oil storage tanks that supply emergency diesel generators at nuclear power generation facilities licensed by the Nuclear Regulatory Commission;
- Intra-facility gathering lines subject to U.S. Department of Transportation's pipeline regulations; and

- Produced water containers that do not contain oil in harmful quantities.

Streamlining and Additional Flexibility for All Facilities

The revised rule:

- Provides a Plan template for certain qualified facilities to complete and self-certify;
- Extends "qualified facility" status to certain smaller oil production facilities;
- Amends the definition of "facility" to clarify the flexibility associated with describing a facility's boundaries;
- Amends the facility diagram requirement to clarify how containers (fixed and mobile) and complex piping/transfer areas are identified on the facility diagram;
- Defines "loading/unloading rack" to clarify the equipment subject to the provisions for facility tank car and tank truck loading/unloading racks;
- Amends the general secondary containment requirement;
- Exempts non-transportation-related tank trucks from sized secondary containment requirements;
- Amends the facility security requirements to allow the facility owner/operator to tailor security measures to the facility's specific characteristics and location; and
- Amends integrity testing requirements for bulk storage containers to allow greater flexibility in the use of industry standards at all facilities.

What sector-specific changes did EPA finalize?

Agriculture

The rule exempts pesticide application equipment and related mix containers that may currently be subject to the SPCC rule when crop oil or adjuvant oil are added to formulations. The rule exempts farms from loading rack requirements. EPA also clarifies that a nurse tank is considered a mobile refueler, and, like other types of mobile refuelers, is exempt from the sized secondary containment requirements. Additionally, farms are likely to benefit from several of the other amendments finalized in this rule.

Oil Production Facilities

The revised rule finalizes several amendments to tailor the requirements for oil production facilities.

The rule:

- Modifies the definition of production facility;
- Extends the timeframe by which a new oil production facility must prepare and implement an SPCC Plan;
- Establishes alternative criteria for certain marginal, oil production facilities to be eligible to self-certify an SPCC Plan as a qualified facility;
- Exempts certain produced water containers and any associated piping and appurtenances downstream from the container that do not contain oil in harmful quantities, as certified by a Professional Engineer;
- Exempts production facilities from loading rack requirements;
- Provides an alternative option for flow-through process vessels to comply with the general

secondary containment requirement and additional oil spill prevention measures in lieu of sized secondary containment requirements;

- Exempts certain intra-facility gathering lines subject to the U.S. Department of Transportation's (DOT's) pipeline regulations;
- Provides an optional exemption from all secondary containment requirements for flowlines and intra-facility gathering lines, and establishes more specific requirements for a flowline/intra-facility gathering line maintenance program and contingency planning;
- Provides compliance alternatives to sized secondary containment for produced water storage containers that are not otherwise exempt; and
- Clarifies the definition of "permanently closed."

Animal Fats and Vegetable Oils

EPA has amended the integrity testing requirements for containers storing certain types of animal fat or vegetable oil, to provide the flexibility to determine the scope of integrity testing that is appropriate, based on compliance with certain FDA regulations and other criteria.

Qualified Facilities

EPA streamlined and tailored the SPCC requirements for a subset of qualified facilities. The owner or operator of a qualified facility has the option to self-certify his SPCC Plan and comply with other streamlined requirements. This final rule designates a subset of qualified facilities ("Tier I qualified facilities") as those that meet the current

qualified facilities eligibility criteria and that have no oil storage containers with an individual aboveground storage capacity greater than 5,000 U.S. gallons. A Tier I qualified facility has the option to complete a self-certified SPCC Plan template instead of a full SPCC Plan. By completing the SPCC Plan template, an owner or operator of a Tier I qualified facility will certify that the facility complies with a set of streamlined SPCC rule requirements. All other qualified facilities will be designated "Tier II qualified facilities."



Who is subject to the SPCC rule?

The SPCC rule applies to owners or operators of non-transportation-related facilities that:

- Drill, produce, store, process, refine, transfer, distribute, use, or consume oil or oil products; and
- Could reasonably be expected to discharge oil to U.S. navigable waters or adjoining shorelines.

Facilities are subject to the rule if they meet at least one of the following capacity thresholds:

- Aboveground oil storage capacity greater than 1,320 U.S. gallons, or completely buried oil

storage capacity greater than 42,000 U.S. gallons.

The following are exempt from the rule:

- Containers with a storage capacity less than 55 U.S. gallons of oil;
- Permanently closed containers;
- Motive power containers;
- Wastewater treatment facilities;
- Hot-mix asphalt and hot-mix asphalt containers;
- Residential heating oil containers;
- Pesticide application equipment and related mix containers;
- Produced water containers and any associated piping and appurtenances downstream of the container that meet certain criteria;
- Completely buried storage tanks subject to all the technical requirements of the underground storage tank regulations;
- Intra-facility gathering lines subject to U.S. Department of Transportation's pipeline regulations; and
- Underground oil storage tanks at nuclear power generation facilities.

EPA is also providing clarification in the preamble to this final rule on additional issues raised by the regulated community and, in a separate action in the Federal Register of November 26, 2008, ([73 FR 72016](#)), the Agency is proposing a new compliance date for farms.

This final rule is effective February 3, 2009

To read the finalized amendments – visit:

www.epa.gov/emergencies/content/s_pcc/spcc_nov08amend.htm

Look for the EPA SPCC Amendment PowerPoint on the SBCAP- SPCC FAQ website:

www.anr.state.vt.us/dec/ead/sbcap/s_pcc.htm

The Environmental Assistance Office says Good-bye to an Environmental Leader

Saying good-bye to a great environmental steward like Stanley Tools in Pittsfield, VT is difficult, but that's the reality due to our current economic down slide. Stanley Tools will be closing up within months. It's hard to lose a business that cares so much about their environmental footprint. In 2006, Stanley Tools of Pittsfield, VT was awarded the prestigious EPA National Environmental Performance Track Award – only the second facility in Vermont to attain this certification.

Performance Track recognizes and drives environmental excellence by encouraging facilities with strong environmental records to go above and beyond their legal requirements. Members set public, measurable goals to improve the quality of our state's air, water, and land.

We at EAO would like to thank Jerry Kresconko, Gary Bannister and the Stanley Tools staff for all their efforts.

We will miss you.

To learn more about EPA's **Performance Track**, visit:

www.epa.gov/performance-track/index.htm

Vermont Business Materials Exchange Gets a Face Lift

Vermont's Business Materials Exchange, **VBMX**, just got a face lift. Using a grant from the Agency of Natural Resources, the Northeast Recycling Council, VBMX's newest managers, have added several features that make the service easier to use.

VBMX is a free matchmaking service that connects businesses with reusable items they no longer need with others that can use those items. Businesses can find homes for, or get hold of, such items as five-gallon buckets, fabric scraps, leftover insulation, and older (yet still functioning) computers and other electronics. The service helps Vermont businesses lower their trash fees as well as their purchasing costs.

At VBMX's new website, "subscribers" scroll through the Exchange's 24 categories such as office equipment, packaging, and construction/salvage or search by county to find items available in their area. Subscribers can sign up to automatically receive new listings from designated categories, such as listings for containers or textiles and leather, or restaurant equipment.

Ultimately, it helps all of us to keep still-useful items out of Vermont's landfills, by conserving resources, reducing greenhouse gases and saving energy. Remember, energy is generated at every step of a product's lifecycle – from extracting the raw materials to manufacturing, retailing and ultimately disposal. The longer most products

remain in circulation, the smaller our carbon footprint on the Earth will be.

In our current economy, such programs help Vermont businesses, nonprofits, schools and towns count their pennies.

They save money on the cost of buying new items and/or not having to pay the hauling and disposal fees to throw the items away – materials that could still be useful to someone else.

You never know what you'll get on VBMX:

- Daniel Davis of Cutting Edge Industries in West Burke listed the company's cardboard baler. Ben & Jerry's saw the listing and bought the baler for its recycling program. They included some Ben & Jerry's ice cream along with the sale.
- Kim Bent, artistic director for Lost Nation Theatre in Montpelier found tables, listed by Norwich University, for its lobby; a working copy machine from Vermont Community Land Trust and a bolt of cloth from a company in Elmore.
- Mike Doran, maintenance manager of the Lake Champlain Waldorf School in Shelburne, found about 20 gallons of cleaning supplies and six phones that matched the school's phone system. He estimates the cleaning supplies saved the school \$300 in purchase costs and that new phones would have cost the school from \$100 to \$200 each. At the same time, the donor avoided paying the disposal fees for the cleaning supplies.

- Donna Zeller of Rutland posted her business's empty candle jars and lids as a free listing. They were picked up by a woman who used them to make crafts for her school's holiday craft fair.

Post your business items available for reuse or list items your business is seeking for FREE at: www.vbmx.org
Remember, one man's trash is another man's treasure.

Office of the National Ombudsman Is Available to Assist Small Businesses with Federal Regulatory Enforcement Actions

WASHINGTON – When America's small businesses face unfair or excessive federal regulatory enforcement actions, the Office of the National Ombudsman at the U.S. Small Business Administration is available to ensure fairness in the enforcement process.

Created by Congress through the Small Business Regulatory Enforcement Fairness Act, the Office of the National Ombudsman's primary function is to work with small businesses and federal agencies to ensure that regulatory or compliance actions are handled and enforced fairly by all federal agencies. The National Ombudsman is empowered to receive, substantiate, and report to Congress complaints and comments from small business owners regarding regulatory enforcement actions taken against small businesses by federal agencies.

"The National Ombudsman helps small businesses navigate the seas of federal regulatory enforcement. With a

strengthening regulatory paradigm, it is essential that regulatory enforcement be effective, and not excessive,” National Ombudsman and Assistant Administrator for Regulatory Enforcement Fairness Nicholas N. Owens said. “The National Ombudsman’s focus will continue to enhance transparency for small businesses served, and strengthen the relationship between the small business community and the government.”

It is the primary mission of the Office of the National Ombudsman to assist small businesses when they experience excessive or unfair federal regulatory enforcement actions, such as repetitive audits or investigations, excessive fines, penalties, threats, retaliation or other unfair enforcement action by a federal agency.

Also, the National Ombudsman’s office works with 10 regional fairness boards whose membership is comprised of 50 small business owners from across the country. The ONO works closely with more than 35 federal regulatory agencies to resolve complaints about excessive enforcement of federal regulations brought to the attention of the National Ombudsman during hearings and roundtables held in cities nationwide.

Additional information about the Office of the National Ombudsman is available at www.sba.gov/ombudsman

Upcoming Workshop Announcements

Please visit:

www.eaovt.org/sbcap/workshops.htm



Santa was perplexed at receiving a carbon-neutral status

Understanding Environmental Regulations

It is not easy to understand environmental regulations. There are State Statutes, Department of Environmental Conservation (DEC) Policies, Federal Regulations, and DEC regulations (delegated by the Federal Government).

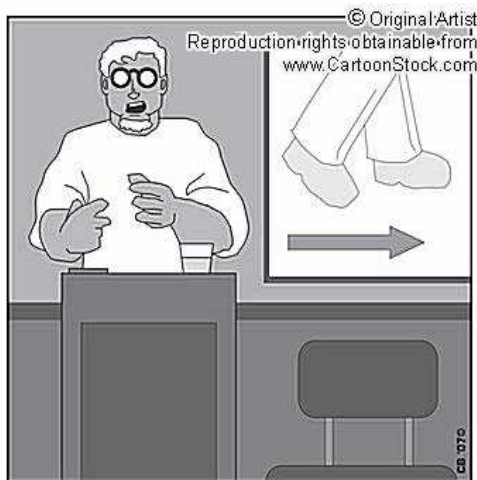
The regulations and rules are most often written in legal ease and challenging to interpret. That’s where the DEC Environmental Assistance Office can help. The Small Business and Municipal Compliance Assistance Programs are able to assist you when trying to comply with environmental regulations and keep you up-to-date on new regulations that may effect your business or industry operations.

Our Outreach Programs help implement solutions that make sense for businesses and municipalities to keep them in compliance.

Our Programs have worked to reduce the regulatory burden for businesses and municipalities through better environmental management.

Whether it is sector specific or a general overview of regulations, permit assistance, workshops, onsite visits, publications, research services, hotline or email - the Environmental Assistance Office can offer you assistance complying with state and federal environmental regulations.

Our programs are voluntary, confidential, and come to you at no cost. Whether you require assistance with Air, Water or Waste... we can help.



"It's a revolutionary technique for reducing vehicle emissions. We call it walking."

As always, feel free to contact any of us at the
Environmental Assistance Office
for support with your environmental inquiry.

Judy Mirro
Business Assistance
judy.mirro@state.vt.us

John Daly
Municipal Assistance
john.daly@state.vt.us

Paul VanHollebeke
Pollution Prevention (P2)
paul.vanhollebeke@state.vt.us

Julia Butzler
VT Business Environmental Partnership Program
julia.butzler@state.vt.us

Karen Knaebel
Mercury Education
karen.knaebel@state.vt.us

Permit Assistance
www.anr.state.vt.us/dec/ead/pa/index.htm

Doug Kievit-Kylar
Governor's Awards
doug.kievit-kylar@state.vt.us

800-974-9559

www.eaovt.org