

## Recent SPCC Rule Plan Changes May Help Streamline Compliance

by Donald P. Gallo, Esq., P.E. and Jeffrey A. Morris, P.E.

The Environmental Protection Agency ("EPA") recently issued a Final Rule amending the Spill Prevention, Control, and Countermeasure ("SPCC") Plan requirements and issued a number of proposed rule changes that are expected to take effect later this year. EPA's stated goal with regard to both the finalized amendments and the proposed amendments was to streamline compliance for affected facilities. Any PMA member facilities subject to the SPCC rules need to be aware of both the new rules and proposed rules to determine how the changes impact their SPCC plans.

The compliance deadline for the new rules for existing facilities is July 1, 2009, but it is not too early to start thinking about how these changes may affect your SPCC plan. Following is a summary of the major changes associated with both the new rules and the proposed rule amendments:

### December 2006 SPCC Rule Amendments

In December 2006, EPA amended the SPCC rules at 40 CFR Part 112 by streamlining the regulatory requirements for certain facilities. The majority of the rule changes were geared toward specific operations such as airport refueling and facilities whose principal source of oil storage is oil-filled equipment.

However, one provision with wide applicability that has the potential to simplify compliance for PMA members subject to the SPCC rules is a new option for self-certification of SPCC plans. Under this change, facilities that have aboveground oil storage capacity of 10,000 gallons or less and that meet other qualifying criteria can self-certify their SPCC plans in lieu of the requirement for review and certification by a Professional Engineer.

This option has the potential to lower SPCC plan preparation costs for facilities that pose a relatively smaller risk of major oil discharges by eliminating the requirement that a Professional Engineer prepare the plan. To qualify for this option, facilities must be able to prove that they have not had discharges to "waters of the United States" that exceeded 1,000 gallons in a single spill or two spills exceeding 42 gallons each within the prior 12 months. Although facilities qualifying for this provision would no longer be required to have a Professional Engineer certify their plans, they are still required to comply with all SPCC plan requirements.

### October 2007 Proposed Rule Amendments

In October 2007, EPA proposed additional amendments to the SPCC rule with the goal of increasing clarity and making it easier for facilities to comply with the rules. The October 2007 proposed amendments contain the following provisions of importance to marketers:

Clarification of the general secondary containment requirements. Whereas the current rule states that facilities must account for a catastrophic tank failure when designing secondary containment, this proposed amendment would allow facilities to consider only the typical failure mode, and the most likely amount of oil that could be discharged under this failure mode, when determining the method, design, and capacity for secondary containment. In most cases, this volume will be less than that associated with a catastrophic failure. In addition, this proposal would specifically allow active secondary containment measures (i.e., those that require specific action to be taken by the operator, such as shut-off valves and spill kits) in addition to passive measures (i.e., those that do not require operator action to work, such as curbing or diking).

- Flexibility in security requirements. This proposal would allow facilities to take site-specific characteristics into account when determining the proper level of security necessary. Importantly, this proposal would allow facilities with outdoor oil storage to avoid the expense of security fencing and other prescriptive requirements of the current rule if they can demonstrate adequate security through other means. To qualify for this flexibility, facilities would have to describe in their SPCC plans how their chosen security methods: (1) secure and control access to oil handling, processing and storage areas; (2) secure master flow and drain valves; and (3) prevent unauthorized access to starter controls on oil pumps. Furthermore, this proposal would allow facilities greater flexibility in deciding the appropriate level of security lighting to help prevent acts of vandalism and aid in the discovery of oil discharges.
- Flexibility in the use of industry standards to comply with integrity testing requirements. Under this proposal, a facility could adopt inspection protocols prescribed in industry standards, without the need for a Professional Engineer to determine whether the adopted protocols meet environmental equivalence with SPCC requirements.
- Additional flexibility in meeting the facility diagram requirements. This proposal would allow facilities with complicated oil storage container configurations to simplify their facility diagrams by allowing the use of tables and keys to list the contents and capacities of the different tanks other than on the diagram itself. This proposal would also allow facilities to mark the general location of portable storage containers on a diagram and provide an estimate of the potential number of such containers, contents, and capacities; this provision will greatly simplify diagram requirements for drum storage locations and other temporary storage locations.

**SPCC Rule** *Continued on page 10*

## REACH

*continued from previous page*

- Do you know the chemical composition of your products?
- Do they include substances that are likely to be “substances very high concern” (e.g., carcinogenic, mutagenic and bio-accumulative)?
- Are you exporting your products to the European Union either directly or indirectly?
- Have you communicated with customers and suppliers to determine the impact of REACH on them and any special information requirements that they plan to impose because of REACH?
- Are you acquainted with information sources on the REACH program?
- If your company is not established Europe, do you know European firms that can provide REACH “Only Representative” services?

### ECHA Guidance Document Index

[http://reach.jrc.it/guidance\\_en.htm](http://reach.jrc.it/guidance_en.htm)

### ECHA REACH Navigator

<http://reach.jrc.it/>

### European Chemical Agency FAQs on REACH

[http://www.buyusa.gov/europeanunion/faqs\\_on\\_reach.pdf](http://www.buyusa.gov/europeanunion/faqs_on_reach.pdf)

EC (European Commission) REACH site [http://ec.europa.eu/environment/chemicals/reach/reach\\_intro.htm](http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm)

### List of REACH Service Providers (provided by U.S. Dept. of Commerce)

[http://www.buyusa.gov/europeanunion/reach\\_bsp.html](http://www.buyusa.gov/europeanunion/reach_bsp.html)

### U.S. Commerce Department FAQs on REACH

[http://www.buyusa.gov/austria/en/reachfaqs.html#\\_section8](http://www.buyusa.gov/austria/en/reachfaqs.html#_section8)

### *For more information:*

#### European Chemical Agency (ECHA) REACH Website

[http://echa.europa.eu/reach\\_en.asp](http://echa.europa.eu/reach_en.asp)

#### ECHA Guidance for monomers and polymers

[http://reach.jrc.it/docs/guidance\\_document/polymers\\_en.htm?time=1219688482](http://reach.jrc.it/docs/guidance_document/polymers_en.htm?time=1219688482)

---

## Recent SPCC Rule Plan Changes May Help Streamline Compliance

*continued from page 8*

- Allow the use of an SPCC Plan template for a subset of qualified facilities known as “Tier 1” qualified facilities (i.e., with no individual oil storage container with a capacity greater than 5,000 U.S. gallons and an aggregate aboveground storage capacity less than 10,000 gallons). This proposal would significantly simplify SPCC plan requirements for qualifying facilities by replacing a plan prepared by a Professional Engineer with a template form (available from the EPA) completed with facility information.

The October 2007 proposed rule amendments have not yet been promulgated, so facilities are not yet required to comply with the proposed changes. However, it is likely that most, if not all, of the proposed rule amendments will be promulgated in some form by EPA later this year. Unless EPA provides another extension, facilities will have until the July 1, 2009 deadline to comply with any rules that are promulgated this year.

All facilities with SPCC plans should determine how the 2006 rules and the 2007 proposed rules affect their plans. In addition to the above summary, a good source of information regarding compliance with the SPCC rules can be found in the EPA document entitled “SPCC Guidance for Regional Inspectors,” available at the EPA website at [http://www.epa.gov/OEM/content/spcc/spcc\\_guidance.htm#Content](http://www.epa.gov/OEM/content/spcc/spcc_guidance.htm#Content). This document contains compliance information for the 2006 rule changes and will be updated to include information on any rules EPA promulgates later this year.

The PMA will be monitoring the status of any new SPCC rule changes closely and will report on the details of the new rules in a future issue of PMA Polytopics. In the meantime, please call Jennifer Rzepka of the PMA at (414) 431-3094 if you have any questions regarding SPCC rule compliance for your facility.