

DO I NEED TO HAVE A SPILL PREVENTION, CONTROL, AND COUNTERMEASURE (SPCC) PLAN?

Answer these questions regarding you or your facility, (i.e. factory, school, hospital, farm, distributorship, station, building, transformer, mobile tanker, railcar, or any other structure, equipment or installation):

_____ Do I store, process, transfer, distribute, use, consume, drill, produce, gather, or refine oil or oil products. This means petroleum oils, including gasoline, asphalt, kerosene, motor oil, etc.; animal and fish oils; vegetable oils; synthetic oils and any other kind of oil.

_____ Is the total shell capacity of the oil containers greater than 1,320 gallons? You must total the total capacity of the containers, not just the amount of oil actually in them. You only have to count oil in containers, tanks, equipment, transformers, generators, etc. with a capacity of 55 gallons or greater.

_____ Could a discharge of oil from my facility be reasonably expected to impact waters? In making this determination, you may not consider any intervening man-made feature, such as berms, dikes, elevated railroad track, roadway, etc. You should consider adverse weather conditions.

_____ Is my facility non-transportation related? A facility, or part of a facility, may be both transportation and non-transportation related based upon its mode of operation at any given time (i.e. mobile tankers, railcars, and even certain oil storage tanks).

If you answer “yes” to all of these questions, then you must prepare and implement an SPCC Plan in accordance with 40 CFR Part 112.

What Happens If I Am Inspected By EPA?

Generally the EPA oil program conducts unannounced inspections. This means the facility is not individually notified that it will be inspected. However, EPA often advertises on the Region 8 website, with State agencies and with trade associations that inspections will take place in a given area. This announcement will usually include an invitation to attend a free workshop where SPCC requirements are explained. There will then be a period of four weeks or more when owners and operators can ensure their facilities are in compliance before the inspections take place. EPA may also conduct inspections in conjunction with response to an oil spill, based upon complaints, or based on a referral from a local or State agency. For those types of inspections, there will be no announcements.

The inspector will identify himself to any person working at the facility. He will ask if there is a particular person who he can talk to regarding the SPCC Plan and/or the oil operations. If there is a facility person present at the facility, he may accompany the inspector on his inspection. The inspector may point out problems he observes as he tours the facility conducting his inspection. The inspector will take photographs of the facility during the inspection. He may ask questions of the person accompanying him or of other employees he encounters. The facility employee can ask any questions he has regarding the inspection, procedures, observations of the inspector, etc. The inspector will provide an Inspection Notice which will have EPA contact names. Some inspectors will leave a copy of his inspection checklist; other inspectors will send a copy of his report and checklist to the facility after the inspection. The inspector may also leave his business card in order for facility representatives to contact him with questions or to notify him of any corrective actions taken subsequent to the inspection. If the facility has no one present, then the inspector will conduct his inspection and attempt to contact the owner or operator and send his inspection report and checklist after the inspection.

If the inspection is conducted by EPA contractors, the final reports will be received by EPA approximately 1 month after the inspection. EPA's Oil Program will review all inspection reports and files, including any correspondence, photos, SPCC Plans which the facility might submit after the inspection, to determine the appropriate action. If the violations are minor, or the violations were corrected immediately after the inspection, and there is no non-compliance history for the company, then EPA may offer a reduced penalty or just issue a Notice of Violation. If the violations are more egregious (i.e. no secondary containment for bulk containers, numerous violations, a discharge at the time of the inspection, a history of non-compliance, etc.), then EPA will issue an enforcement action with a higher penalty. All non-compliant facilities must bring their facilities into compliance in addition to payment of any penalty. All penalties are paid to the Oil Spill Liability Trust Fund. Those funds are used by EPA and the Coast Guard to respond to oil spills and clean them up when a responsible party cannot be located or the situation is urgent to prevent damage to the environment or to protect public health.

Certification of the SPCC Plan

- How do you determine if a firm is qualified to certify your plan?

At a minimum ask these questions:

Is there a licensed professional engineer on staff¹? Most SPCC Plans must be certified by a professional engineer. However, facilities which have 10,000 gallons or less of total oil capacity and have had no reportable discharge in the past 3 years may self-certify their SPCC Plan.

¹ A professional engineer is an engineer who has been acknowledged by a competent body, such as a state licensing board, to have a specified degree of competence and have demonstrated the qualifications necessary to practice as a professional engineer.

Is he/she familiar with the SPCC rules?

How many SPCC Plans has he/she prepared and/or certified?

What guarantees, if any, regarding quality or compliance of the plans he/she prepares or certifies?

Have the facilities for which he/she certified plans ever been inspected by EPA? Were there deficiencies in those plans? What were the deficiencies?

...and any other questions, you can think of.

- What is the role of the PE once they have signed and certified the plan?

The PE must certify that:

1. He/she is familiar with the SPCC rule; and
2. He/she or his/her agent has visited and examined the facility; and
3. The Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of 40 CFR Part 112; and
4. That procedures for required inspections and testing have been established; and
5. That the Plan is adequate for the facility.

The PE is not responsible for implementing the Plan and seeing that all inspections, tests, maintenance and training are conducted; that is the responsibility of you, the owner or operator.

Beyond preparation and/or certification of the Plan, the PE's role is largely a matter of negotiation between you and the PE. EPA defers to the State licensing board for any complaints or issues related to the PE.