

The US EPA issued regulations in 1972 as 40 CFR 112 commonly referred to as oil spill prevention, control and countermeasure (SPCC) rules which generally applies to any facility that maintains on site over 1320 gallons of oil or oil based product. Many farm operators have not complied with this rule for various reasons. In July 2002, a major revision to SPCC rules explicitly specified that farm operations are, in fact, regulated. The subsequent public outcry and Congressional support forced the EPA to reconsider the position.

In October 2007, the EPA announced that given the increased amount of fuel capacity installed on modern agricultural operations, that regulation of storage and use of oils (including mineral oils such as petroleum based fuels as well as animal & vegetable derived fuels such as biodiesel) is justified. They suspended the pending deadline for compliance with the July 2002 rule revisions and deferred enforcement action against farms pending finalizing farm specific provisions of the rule. However those provisions were finalized on December 5, 2008.

In June 2009, the EPA synchronized the SPCC compliance deadline for farms with the deadline for other SPCC regulated facilities at November 10, 2010. However an EPA notice in November 2009 suggested one final deadline extension would be made.

These proposed farm-specific rules still apply to any farm with more than 1320 gallons of oil (counting containers of only 55-gallons and larger including piping). Farm operators will be able to avoid engaging a professional engineer to assess their site and certify their SPCC plan if they qualify as a small facility (i.e. at or below 10,000 gallon capacity and no reportable spill within the prior 5 years) but they must comply with all the requirements of the US EPA standard SPCC Plan. The EPA believes this provision will provide relief to 95% of farms.

EPA has exempted the following specific oil storage activities from SPCC rules:

- pesticide application equipment and related mix containers used at farms; and
- heating oil containers at single-family residences (such as farm residences).

EPA also approved additional farm-specific exemptions or provisions:

- exclude farms from the “loading/unloading rack” requirements; and
- streamline requirements and 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 up to an aggregate container capacity of 10,000 gallons).

All SPCC-regulated facilities, including farms, were granted some relief in the December 2008 rule changes:

- clarity on the general secondary containment requirements;
- flexibility in the security requirements;
- flexibility in the use of industry standards to comply with the integrity testing requirements;
- additional flexibility in meeting the facility diagram requirements;
- clarification on the definition of “facility,” specifically describing a facility’s boundaries;

The EPA also confirmed that farm nurse tanks are considered mobile refuelers under the SPCC rule amendments finalized in December 2006 and therefore exempt from the specifically sized secondary containment requirements for bulk storage containers. However general containment requirements must still be met and documented in the facility' SPCC Plan.

Provisions of the rule include but are not limited to:

- Prepare a oil spill prevention, control and countermeasure (SPCC) plan
- Conduct and record routine visual inspections
- Provide secondary containment (i.e. dikes, curbs, berms) at the facility based on the type of container and oil handling operations
- Preparation of a facility map showing surface flow patterns, oil transfer points (including loading & unloading area), contents and capacity of containers including tanks & drums
- Security requirements – locking valves, piping protection and lighting
- Secondary containment capacity must include precipitation events – 2 to 4 inches for North Dakota dependant on location
- Periodic tank and piping inspections are required and to be documented
- Industry standards (API, ASME, STI, etc.) must be considered
- Removal of clean precipitation from containment areas must be recorded
- Containment outlet valves must now be operated in the normally closed position
- Cathodic protection and wrapping for new underground piping
- Facilities attended 4 (rather than 8) hours must keep a copy of the plan at the site
- Increased reporting and requirements if 2 – 42+ gallons spills in 12 month period
- Conformance to stricter State or local requirements must be discussed
- Facilities with above-ground piping must provide collision protection or warning posted

Training on the operation and plan provisions, known as “oil discharge briefings” must now be given on at least an annual basis to all “oil handling” employees. Minimum content of the training program is also specified including discharge response, inspection and operating procedures.

After the initial cost to revise (or prepare) a SPCC Plan for your facility and implementation of that plan, by far the largest reoccurring cost will be compliance with the “industry standard” container/tank inspections. It is important to note that installing a synthetic-liner of HDPE or PVC or other suitable material can exempt the operator from having to conduct these expensive and disruptive inspections. Note that a clay liner, even a “Clay-Max” liner, does not meet the necessary requirements to qualify for this exemption. If moving or building a new fuel storage facility, the cost to install a synthetic liner at the new site is easily offset by the savings to avoid these reoccurring inspections.

A synthetic liner does not exempt the operator from conducting routine (typically monthly) inspections of all oil storage containers and documentation of the inspections.

Our firm currently has 10 engineers and consultants currently on staff to assist you with the development of an SPCC Plan which will outline which specific steps need to be taken at your facility to comply with these rules. We are not out to sell you tanks, fences, inspection or construction services nor practice outside the limits of our engineering license.

Additional information may also be found on our website at **www.keitu.com**. Please contact us via email at info@keitu.com or call at 701.667.1800 if we can be of further assistance.