

Spill Prevention Control and Countermeasure Plans (SPCC) for Qualified Locations and Professional Engineers

Qualified Facilities Definition:

To meet the Tier I applicability criteria, the facility must have: a total aboveground oil storage capacity of 10,000 U.S. gallons or less;

- no aboveground oil storage containers with a capacity greater than 5,000 U.S. gallons; and
- in the 3 years prior to the date the SPCC Plan is certified, had no single discharge of oil to navigable waters or adjoining shorelines exceeding 1,000 U.S. gallons, or no two discharges of oil to navigable waters or adjoining shorelines each exceeding 42 U.S. gallons within any 12-month period.

The provision where the Spill Prevention Plans to include environmental equivalency (or exceptions to the EPA requirements) these must be approved by a Professional Engineer. This remains in effect even for Tier I facilities. If you want or need an exception to the SPCC Plan requirement, the owner cannot sign these exceptions. One major exception could be not completing integrity testing.

The EPA allows facilities (TIER I) owners to prepare a SPCC Plan that meet the requirements of 40 CFR 112.7 and self certify their plans.

State Regulations

However, the states in particularly the Professional Boards that certify Professional Engineers have been making statement and in their state laws indicate that Spill Prevention Plans are engineering documents. For example, Missouri, Iowa and Nebraska have made declarations that SPCC Plans are engineering documents and some states have general definitions in the state an Engineering activities, extensive knowledge of engineering and practices and duties include engineering control of environment systems, control systems, evaluation and design of engineer barriers, engineer survey of sites and facilities an topography specific to project.

A thorough spill prevention plan includes many of the environmental aspects in this definition.

On state board told me that they would probably not prosecute anyone unless there is an accident that caused injury to people, environment, or caused property damage. I can't think of any oil spill outside of containment that would not cause problems to environment or someone's property.

This issue was brought to the EPA's attention and in the Federal Register November 2009, by organizations that are in states that have required PE to sign all SPCC Plans.

The EPA's statement in the federal register is: EPA's amendments to the SPCC rule will have no effect on whether a facility owner or operator must use a PE to meet the

State or local requirements, because the SPCC rule does not pre-empt any State or local requirements. In States where the engineer licensing boards have prohibited SPCC Plan self certification, the owner or operator must have a PE certify the Plan. Although this may limit the relief for Tier II qualified facilities, the owner/operator can develop and certify a Tier I qualified facility Plan to comply with the SPCC rule and have a PE certify the SPCC Plan to meet the state requirements.

The amount of money to have an environmental professional that will obtain a PE certification would be less than worrying about a state professional board fines which could be \$10,000 dollar if found to be without knowledge of the act. One state law stated that if they found there was knowledge of the act they could prosecute as a felony.

In addition, my experience has found that Spill Prevention Plans that do not comply with the EPA's requirement have caused facilities to receive significant fines. The EPA fines are for more than format differences including the lack of responses for the information required.

WHO CAN YOU CALL.

If you have questions about Spill Prevention Plans or whether a Professional Engineer should be involved in the process, please call me, Rick Smith, at 913-432-4022, Midwest Training and Consulting Services, 5845 Horton, Suite 6, Mission, Kansas.