

Suggested Procedure for Development of a Spill Prevention Control and Countermeasure Plan

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FOREWORD

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Suggested revisions are invited and should be submitted to the Director of Regulatory and Scientific Affairs, API, 1220 L Street, NW, Washington, DC 20005.

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INTRODUCTION

The Federal Water Pollution Control Act Amendments of 1972 required the Administrator of the Environmental Protection Agency (EPA), with other federal, state, and interstate agencies, to enter into programs designed to prevent, reduce, or eliminate pollution of the navigable waters of the United States. On December 11, 1973, the EPA published the first Spill Prevention, Control and Countermeasure (SPCC) Plan regulation in *Title 40, Code of Federal Regulations, Part 112 (40 CFR Part 112)*. The purpose of this rulemaking was to establish procedures, methods, and equipment to prevent and contain discharges of oil from non-transportation-related onshore and offshore facilities; thus preventing pollution of navigable waters of the United States. The rule became effective January 10, 1974, and has been revised several times over the past thirty-six years.

In 2002, EPA finalized changes proposed from 1991 to 1997. API and other litigants subsequently filed suit over certain provisions. In March 2004, most of the issues raised in the litigation SPCC-related suits were settled. This revision includes results of the litigation in which API was involved (Exhibit A – Settlement Agreements). On June 19, 2009, EPA published in the *Federal Register* an SPCC compliance date extension for all existing facilities until **November 10, 2010**. Facilities must amend or prepare, and implement SPCC Plans by the compliance date in accordance with revisions to the SPCC rule promulgated since 2002. The latest SPCC amendments and definition of “navigable waters” were promulgated on December 2006 (71 FR 77266, December 26, 2006), December 2008 (73 FR 74236, December 5, 2008), November 2009 (74 FR 58784, November 13, 2009) and November 2008 (73 FR 71941, November 26, 2008), respectively. For more information, on EPA SPCC guidance, visit EPA Website (www.epa.gov/oilspill).

This is the fifth revision of the American Petroleum Institute’s (API’s) Bulletin D-16. Its sole purpose is to assist the petroleum industry in understanding the SPCC regulation and to offer guidance for developing SPCC Plans wherever they are needed. Included is a template for developing SPCC Plans (i.e., onshore excluding production; onshore oil production, oil drilling or workover; or offshore oil drilling, production or workover) in accordance with the regulation and guidance, along with instruction and clarification for completing each section of the template.

The development of this Bulletin was commissioned by API and performed by O’Brien’s Response Management Inc. (planning@obriensrm.com).

Suggested Procedure for Development of a Spill Prevention Control and Countermeasure (SPCC) Plan

GUIDANCE

**API BULLETIN D-16
FIFTH EDITION, APRIL 2011**

American Petroleum Institute

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Purpose of SPCC Rule

The regulation is divided into three subparts, which detail the requirements for a *Spill Prevention, Control, and Countermeasure (SPCC) Plan*. Subpart A (§ 112.1 to §112.7) contains an applicability section, definitions, and general requirements for all facilities that are SPCC-regulated. Subpart B (§112.8 to §112.11) sets out the SPCC requirements for petroleum oil and non-petroleum oils other than animal fats and vegetable oils. Subpart C (§112.12) sets out the SPCC Plan requirements for animal fats, oils, and greases, fish and marine mammal oils; and oils of vegetable origin, including oils from seeds, nuts, fruits, and kernels. The SPCC Plan is the foundation of EPA's oil spill prevention program.

Timeline for Compliance

On August 3, 2010, EPA published a proposed rule (75 FR 45572) to amend SPCC compliance dates as follows. Note that this citation is to a proposed rule and not a final agency action. Users of this guidance are urged to verify this information and whether the agency has issued a final action.

- If your fixed, mobile, or portable drilling, production, or workover facility that is offshore or is offshore with onshore components, was in operation on or before August 16, 2002, you must amend your Plan as necessary, maintain your plan, and amend as necessary to comply with the July 17, 2002, revised rule and subsequent amendments and certify the plan on or before November 10, 2010.
 - If your offshore facility, or offshore facility with onshore components, became operational after August 16, 2002, a Plan must be prepared and implemented on or before November 10, 2010.
 - If your offshore facility, or offshore facility with onshore components, became operational after November 10, 2010, a Plan must be prepared and implemented before beginning operations.
- If your onshore facility requiring you to have and submit a Facility Response Plan (FRP) was in operation on or before August 16, 2002, you must amend your Plan as necessary, maintain your plan, and amend as necessary to comply with the July 17, 2002, revised rule and subsequent amendments and certify the plan on or before November 10, 2010.
 - If your onshore facility requiring an FRP became operational after August 16, 2002, a Plan must be prepared and implemented on or before November 10, 2010.
 - If your onshore facility requiring an FRP became operational after November 10, 2010, a Plan must be prepared and implemented before beginning operations.
- If your facility, or mobile or portable facility, *excluding drilling, production, and workover facilities, including mobile and portable facilities, that are offshore or are offshore with onshore components, and excluding onshore facilities required to have and submit Facility Response Plans*, was in operation on or before August 16, 2002, you must amend your Plan as necessary, maintain your plan, and amend as necessary to comply with the July 17, 2002, revised rule and subsequent amendments and certify the plan on or before November 10, 2011.
 - If your facility, or mobile or portable facility, *excluding drilling, production, and workover facilities, including mobile and portable facilities, that are offshore or are offshore with onshore components, and excluding onshore facilities required to have and submit Facility Response Plans*, became operational after August 16, 2002, a Plan must be prepared and implemented on or before November 10, 2011.
 - If your facility, or mobile or portable facility, *excluding drilling, production, and workover facilities, including mobile and portable facilities, that are offshore or are offshore with onshore components, and excluding onshore facilities required to*

Spill Prevention, Control, and Countermeasure Plan – Guidance, Instruction, Clarification

have and submit Facility Response Plans, became operational after November 10, 2011, a Plan must be prepared and implemented before beginning operations.

- Acquired facilities are covered existing facilities and must be in compliance with the same requirements based on their operational status as described above.
- Mobile drilling or workover facilities without SPCC Plans are out of compliance and should take all necessary steps to get into compliance as soon as possible. If it is necessary to amend an existing Plan to comply with the revised rule, then it must be amended on or before November 10, 2010.

Extensions for Implementing the SPCC Plan

If an owner/operator cannot comply with the time requirement due to non-availability of qualified personnel or delay in construction or equipment delivery beyond his control, he/she may request an extension of time by a letter request to the EPA Regional Administrator (§112.3(f)(2)). The letter must include:

- A full explanation of the cause for any such delay and the specific aspects of the SPCC Plan affected by the delay;
- A full discussion of actions being taken or contemplated to minimize or mitigate such delay; and,
- A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation and operation of any necessary equipment, or other preventive measures.

The Regional Administrator may request a copy of the SPCC Plan or any additional information at any time.

The D-16 Bulletin provides the owner/operator of a regulated facility with the basic information to prepare, and guidance to assist users with the implementation of, an SPCC Plan (Acronyms used in the Bulletin are listed in Exhibit B). The first step is to determine applicability (see GENERAL APPLICABILITY, Figure 1). If applicable, instructions on utilizing the Bulletin's templates are outlined under GUIDELINES FOR PLAN PREPARATION AND IMPLEMENTATION.) These guidelines supplement details or clarify information required to prepare an SPCC Plan. The suggested sections attached in the template will assist the user in developing a Plan. All facilities will use Section 1 and the appropriate Section 2 based on facility type (see PREPARATION AND IMPLEMENTATION, Figure 2). The template may be utilized and/or copied as necessary in the preparation of either single or multiple facility SPCC Plans. The use of the template will simplify preparation and provide uniformity in completed Plans. The appendices are provided to assist the user with supporting documentation (i.e. site diagram, notifications, inspection logs, etc.) Individual state requirements are not part of the guidance and template. Users of the Bulletin should consult the state agency(ies) associated with oil spill prevention for state requirements (See Exhibit A.)

Applicability

The applicability of this rule to a facility can be determined by following the flow chart provided in Figure 1. The flow chart summarizes the three-step decision process. Additional guidance and clarification is provided below:

STEP 1: Determine if your facility (defined in §112.2) is a non-transportation related onshore or offshore facility.

An SPCC Plan must be prepared by the owner or operator of onshore and offshore non-transportation related facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, and/or consuming oil and oil products who meet the additional requirements under Steps 2 and 3.

- **“Facility”** means any mobile or fixed, onshore or offshore building, property, parcel, lease, structure, installation, equipment, pipe, or pipeline (other than a vessel or a public vessel) used in oil well drilling operations, oil production, oil refining, oil gathering, oil processing, oil transfer, oil distribution, and oil waste treatment, or in which oil is used, as described in Appendix A to this part. The boundaries of a facility depend on several site-specific factors, including, but not limited to, the ownership or operation of buildings, structures, and equipment on the same site and the types of activity at the site. Contiguous or non-contiguous buildings, properties, parcels, leases, structures, installations, pipes, or pipelines under the ownership or operation of the same person may be considered separate facilities. Only this definition governs whether a facility is subject to this part” (40 *CFR* 112.2 Definitions). In the preamble of the 2002 rule, the table showing a summary of the major revisions states that “The revised rule clarifies that a facility may be as small as a piece of equipment, for example, a tank, or as large as a military base.” The additional clarification of the definition of facility may impact how SPCC applies. “However, an owner or operator may not make facility determinations indiscriminately and in such a manner as to simply avoid applicability of the rule (for example, the division of one facility into separate facilities with one oil storage container located at each facility where all storage containers are located side-by-side or close to each other, and are used for the same purpose). For further information on the definition of facility” (73 FR 74245, December 5, 2008).

“In the July 2002 SPCC amendments, the Agency promulgated definitions of “facility” and “production facility.” These definitions, which appear in 40 *CFR* 112.2, apply “for the purposes of” part 112. The Agency has been asked which of these definitions governs the term “facility” as it is used in 40 *CFR* 112.20(f)(1) when applied to oil production facilities. 40 *CFR* 112.20(f)(1) sets criteria for determining whether a “facility could, because of its location, reasonably be expected to cause substantial harm to the environment” (emphasis added). It is the Agency’s view that, because, among other things, that section consistently uses the term “facility,” not “production facility,” it is the definition of “facility” in 40 *CFR* 112.2 that governs the meaning of “facility” as it is used in 40 *CFR* 112.20(f)(1), regardless of the specific type of facility at issue (69 FR 29730, May 25, 2004).”

- **Non-Transportation-Related Facility** – Non-transportation related facilities include, but are not limited to, bulk oil storage, oil refining and processing, oil production lease facilities, mobile or portable drilling or workover rigs operating in a fixed mode, portable fueling facilities, and gas processing plants. They exclude facilities which are regulated by the Department of Transportation (DOT) and the Minerals Management Service (MMS) as defined in the Memorandum of Understanding (MOU, see Exhibit A) with these agencies.

Applicability (Cont'd)

Non-Transportation-Related Onshore and Offshore Facilities – Onshore facilities mean any facility of any kind located in, on, or under any land within the United States, other than submerged lands. Offshore facilities mean those facilities that are located in, on, or under any navigable waters of the United States, which includes but is not limited to rivers, lakes, bays, estuaries, territorial waters, or marshes where some or all of the facility is over or in water. Non-transportation-related facilities are those engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which due to their location could reasonably be expected to discharge oil in harmful quantities as defined in 40 *CFR* § 110, into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone. The revised rule extends the geographic boundaries to include the waters of the contiguous zone; or in connection with activities under the Outer Continental Shelf Lands Act; or the Deepwater Port Act of 1974; or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States. The 1977 Clean Water Act (CWA) amendments extended the geographic scope of EPA's authority under CWA Section 311. "A presidential proclamation of December 17, 1988 (No. 5928, 54 FR 777, January 9, 1989) extended the territorial seas of the United States to 12 nautical miles... However, the proclamation provided that nothing therein "extends or otherwise alters existing federal or state law or any jurisdiction... (67 FR 47073, July 17, 2002)." The EPA has jurisdiction of non-transportation-related offshore facilities located landward of the coast line and the Minerals Management Service regulates facilities on the Outer Continental Shelf. The coast line is defined as "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters (67 FR 47064, July 17, 2002)."

An SPCC Plan may include a single facility (e.g., a single tank or tank battery) or may include multiple facilities. A facility also may be subdivided and an SPCC Plan prepared for each division. "Onshore oil production facilities may include all wells, flowlines, separation equipment, storage facilities, gathering lines, and auxiliary non-transportation-related equipment and facilities in a single geographical oil or gas field operated by a single operator" (Appendix D (§1.3) to Part 112). Aggregating tank capacities are not required, or appropriate in all cases and each plan preparer should evaluate both methods. However, an owner or operator may not make a determination to subdivide operations into multiple smaller facilities simply to avoid the applicability of the SPCC rule.

STEP 2: Determine if your facility meets minimum storage volume.

If your facility meets the basic description provided in Step 1, you will then determine if your facility meets the minimum storage volume. The facility is potentially regulated if it has aboveground storage capacity greater than 1,320 gallons, which includes vaulted tanks, or an completely buried (underground storage) capacity of greater than 42,000 gallons. (Note: Some states are more stringent and may be retaining the 660-gallon minimum (See specific state regulatory references in Exhibit A). However, the following exceptions apply when determining your total storage:

- Only containers of oil (inclusive of all bulk storage containers, oil filled electrical equipment, operating equipment and manufacturing equipment, see definition of oil in §112.2) with a capacity of 55 gallons or greater are to be considered when calculating total capacity relative to the 1,320-gallon aboveground storage threshold or the 42,000-gallon completely buried storage threshold.

Applicability (Cont'd)

- A permanently closed container, see definition of oil in §112.2) is excluded from the rule, and therefore, is excluded from the calculation of the facility storage capacity.
- Any completely buried tanks (defined in §112.2) subject to all technical requirements of 40 *CFR* Part 280 or 281 (Federal or State Underground Storage Tank regulations) is excluded from the rule, and therefore, is excluded from the calculation of the completely buried (underground) storage capacity. An exemption also applies to underground tanks deferred under 40 *CFR* Part 280 that supply emergency diesel generators at a nuclear power generation facility licensed at the Nuclear Regulatory Commission (NRC) and subject to NRC design and quality criteria.
- Hot-mix asphalt (blend of asphalt cement and aggregate material referred to as HMA) or hot-mix asphalt container(s).
- Any single-family residence heating oil container (either aboveground or completely buried).
- Any pesticide application equipment or related mix containers.
- Intra-facility gathering lines subject to 49 *CFR* Part 192 or 195.
- Any “motive power container” which is used to power the movement of a motor vehicle or ancillary onboard oil-filled operational equipment.
- Any facility or part thereof used exclusively for wastewater treatment (defined in §112.2) is excluded from the rule, and therefore, is excluded from the calculation of the minimum storage capacity. Wastewater conveyance and treatment used to meet any SPCC requirements (i.e., containment, facility drainage) would not be counted toward the facility volume threshold. Produced water operations do not qualify for the wastewater exemptions nor any wastewater treatment system which collects and stores oil in a separate compartment.
- A dry gas production facility is a facility which produces natural gas from a well (or wells) and does not also produce condensate or crude oil that can be drawn off the tanks, containers or other production equipment at the facility.
 - A dry gas production facility (as described above) would not be excluded from the wastewater treatment exemption based on the view that it constitutes an “oil production, oil recovery, or oil recycling facility”. All other oil containers (e.g. compressor day tank) apply to SPCC applicability. See Exhibit A.2 (69 FR 29729, May 25, 2004).
 - In verifying that a particular gas facility is not an “oil product, oil recovery, or oil recycling facility,” pertinent facility test data and reports (e.g., flow tests, daily gauge reports, royalty reports or other production reports required by state or federal regulatory bodies) would be appropriate supporting documentation.

STEP 3: Determine if your facility could reasonably be expected to discharge oil to navigable waters or adjoining shorelines (defined in §112.2).

Applicability (Cont'd)

The July 17, 2002 revisions to the definition of “navigable waters” were vacated by order of the United States District Court for the District of Columbia (D.D.C.) in *American Petroleum Institute v. Johnson*, 571 F.Supp.2d 165 (D.D.C. 2008). The court decision restored the regulatory definition of “navigable waters” promulgated by EPA in 1973.

Navigable waters (40 *CFR* Part 112.2 Definitions) of the United States means “navigable waters” as defined in section 502(7) of the FWPCA, and includes:

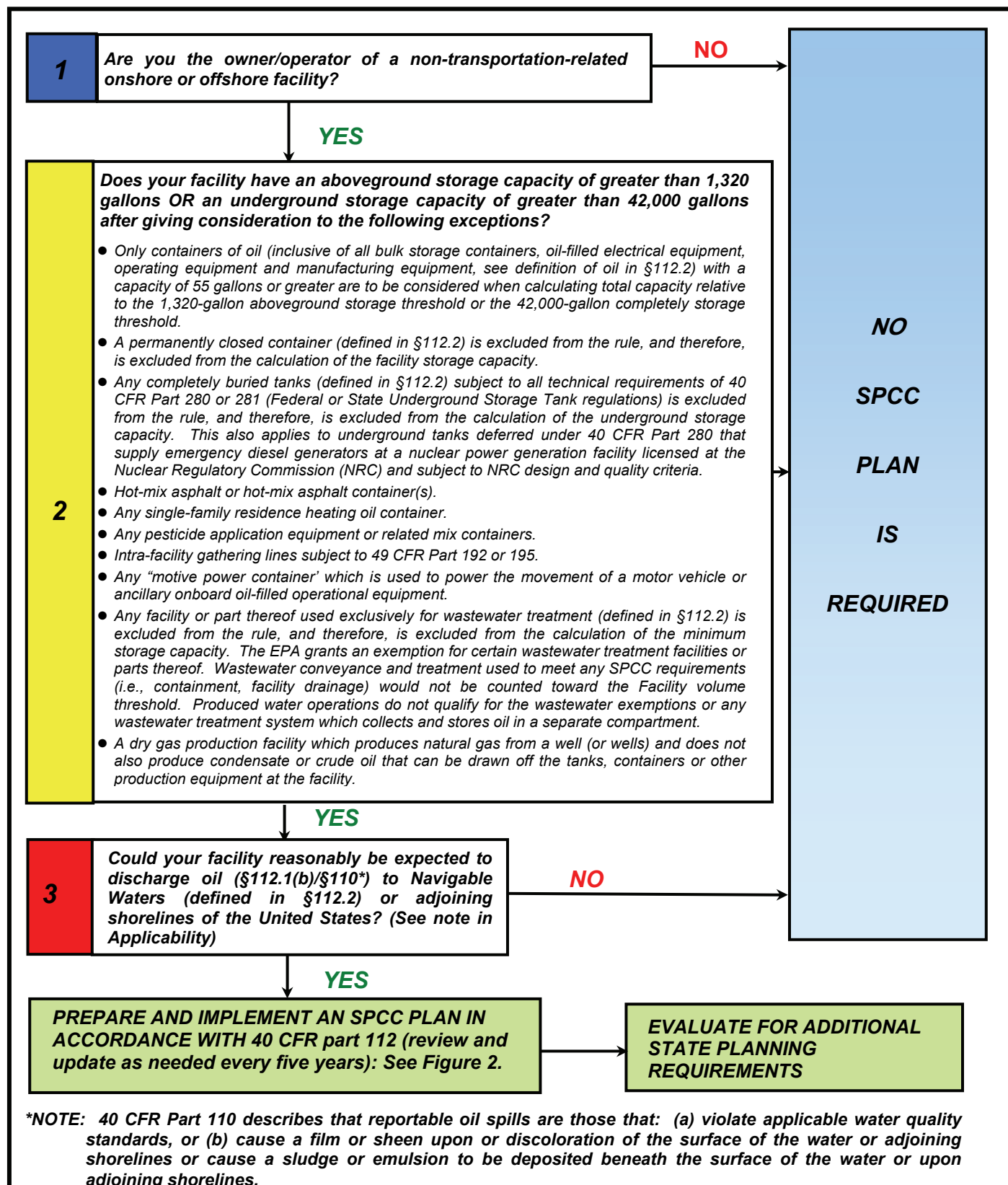
- (1) All navigable waters of the United States, as defined in judicial decisions prior to passage of the 1972 Amendments to the FWPCA (Pub. L. 92–500), and tributaries of such waters;
- (2) Interstate waters [removed reference to interstate wetlands];
- (3) Intrastate lakes, rivers, and streams [removed reference to intermittent streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, and natural ponds] which are utilized by interstate travelers for recreational or other purposes; and
- (4) Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce.

If your facility meets the basic description provided in Step 1 and the minimum storage requirements detailed in Step 2, you will then determine if your facility could be reasonably expected to discharge to navigable waters or adjoining shorelines. In order to determine which facilities will require SPCC Plans, the owner or operator must make a determination of those facilities from which an oil spill could “reasonably be expected” to discharge to navigable waters or adjoining shorelines. The presence of manmade structures may not be considered in determining the likelihood of the release to “navigable waters” (§112.1(d)(1)(i)). Obviously, if a facility is far removed from navigable waters, the chance for a discharge at that location getting into the navigable waters may be very remote. Among the factors the owner or operator should consider in making such determinations are:

- Prior spill history;
- Location (proximity to navigable waters);
- Potential size of discharge;
- Type of soil and terrain; and
- Frequency and amount of rainfall

The phrase “reasonably be expected” means that the expectation is logical, rational, sensible, justifiable, credible, plausible, etc.

FIGURE 1 GENERAL APPLICABILITY



GUIDANCE FOR SELECTING TEMPLATE SPCC PLAN SECTIONS

The layout of the template SPCC Plan is provided as follows:

Section 1 – General Information

- This section is required for all facilities except Tier I and is intended to capture information that is both administrative and technical in nature. Tier I Qualified Facilities use EPA Template (Appendix F to the rule).

Section 2 – Facility Information

- This section is subdivided into four (4) different sections that will be selected by the user based on the type of facility (see Figure 2). Sections that are not applicable should not be included in the Plan. These sections are described below:
 - Section 2A -- Onshore Facilities (Excluding Production)
 - Section 2B -- Onshore Oil Production Facilities (See note below)
 - Section 2C -- Onshore Oil Drilling and Workover Facilities
 - Section 2D -- Offshore Oil Drilling, Production, or Workover Facilities

A completed Plan utilizing the attached suggested sections will consist of three parts:

- (1) Part I, General Information
- (2) Part II, Facility Information (one section from the selection of 2A, 2B, 2C, or 2D)
- (3) Appendices - This document has four (4) Appendices A-D: Notification, Logs, Facility Diagram and Oil Spill Contingency Plan). However, these appendices may be removed if not applicable to the facility, and/or more appendices may be inserted, based on the level of detail desired by the operator.

Note: **“Production Facility** means all structures (including but not limited to wells, platforms, or storage facilities), piping (including but not limited to flowlines or intra-facility gathering lines), or equipment (including but not limited to workover equipment, separation equipment, or auxiliary non-transportation-related equipment) used in the production, extraction, recovery, lifting, stabilization, separation, or treating of oil (including condensate), or associated storage or measurement, and is located in an oil or gas field, at a facility. This definition governs whether structures, piping, or equipment are subject to a specific section of this part” (40 *CFR* 112.2 – Definitions).

In the Response to Comments for the December 5, 2008 final rule, “[t]he Agency believes that the changes to the definitions of ‘facility’ and ‘production facility’ will not discourage the use of multi-facility Plans because the Agency does not require the aggregation of individual facility capacities covered under a multi-facility Plan. To provide further clarity, EPA has removed the limiting term ‘single geographic’ from the production facility definition. This change together with the other modifications finalized in this action, make it clear that an owner or operator is not compelled, by the definition of production facility, to aggregate separate facilities located in a “single geographic” oil production field into a single facility. If an owner or operator has several distinct operations in one oil field, he is not required to consolidate these operations into a single facility. On the other hand, the owner or operator does have the flexibility to consolidate these operations if he so chooses” (73 *FR* 74271, December 5, 2008).

Section 2 -- Facility Information (Cont'd)

EPA also notes in the Response to Comments that “Nothing in the definition would preclude an owner or operator from combining elements of a production facility into one SPCC Plan with an identification of the wells to which that Plan applies.” (67 FR 47078, July, 17, 2002)

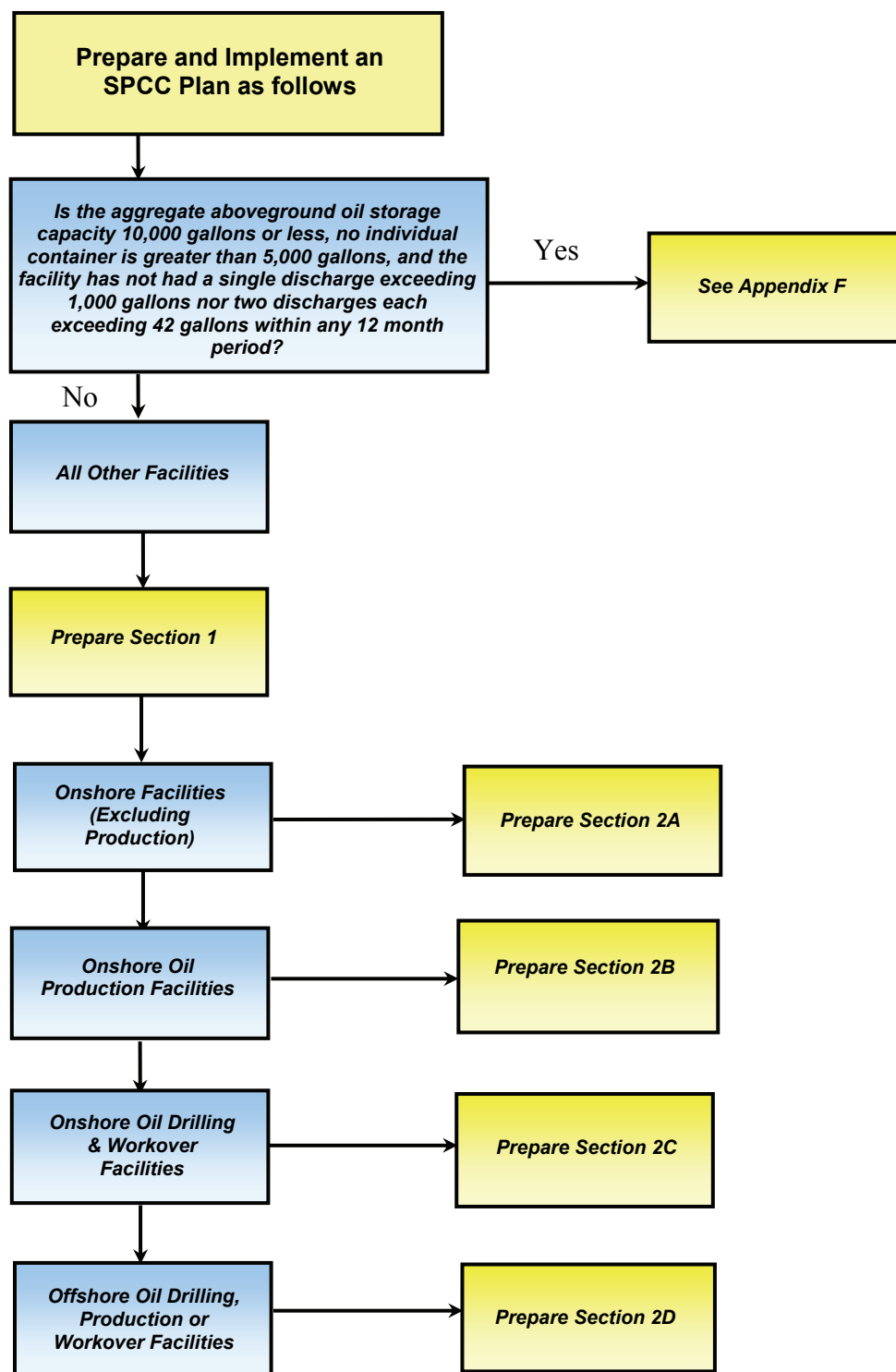
For OPA 90 Facility Response Planning (FRP) purposes, the FRP definition of facility guides the requirements, not the SPCC definition of production facility. Therefore, production facilities do not have to be aggregated (refer to Exhibit A, SPCC Settlement Agreements (Attachment D)).

In the July 2002 SPCC amendments, the Agency promulgated definitions of “facility” and “production facility.” These definitions, which appears in 40 *CFR* §112.2, apply “for the purposes of Part 112.” The Agency has been asked which of these definitions governs the term “facility” as it is used in 40 *CFR* §112.20(f)(1) when applied to oil production facilities.

40 *CFR* §112.20(f)(1) sets criteria for determining whether a “facility could, because of its location, reasonably be expected to cause substantial harm to the environment...” (emphasis added). It is the Agency’s view that, because, among other things, that section consistently uses the term “facility” not “production facility”, it is the definition of “facility” in 40 *CFR* §112.2 that governs the meaning of the “facility” as it is used in 40 *CFR* §112.20(f)(1), regardless of the specific type of facility at issue.

Tier II Qualified Facilities are restricted on elements allowed by plans not certified by a Professional Engineer (PE). First, they may not include alternate methods which provide environmental equivalence pursuant to §112.7(a)(2), unless each alternate method has been reviewed and certified in writing by a PE, as provided in paragraph (b)(4) of this section. Second, they may not include any determinations that secondary containment is impracticable and provisions in lieu of secondary containment pursuant to §112.7(d), unless each such determination and alternate measure has been reviewed and certified in writing by a PE, as provided in paragraph (b)(4) of this section. Third, they may not include any alternative procedures for skimming produced water containers in lieu of sized secondary containment pursuant to §112.9(c)(6), unless they have been reviewed and certified in writing by a PE, as provided in paragraph (b)(4) of §112.9.

**FIGURE 2
SELECTING TEMPLATE SPCC PLAN SECTIONS**



Note: Prepare appendices as appropriate. Your Plan may include one (1) or multiple of these Sections.

GUIDANCE, INSTRUCTION, CLARIFICATION USING THE TEMPLATE SPCC PLAN

- **Coversheet**

Enter facility name and physical location. If the operator and owner are the same, the company name and address need be entered only once.

- **Table of Contents**

As illustrated in Figure 2, each Plan will have Section 1 - General Operation. Under Section 2, only applicable parts should be used. Onshore (i.e., Bulk Storage and Distribution Terminal, Lube Blending and Packaging Plant, Refinery, Chemical Plant, Retail Station) facilities will use Section 2A. Onshore Oil Production facilities will use Section 2B. Onshore Oil Drilling and Workover facilities will use Section 2C. Offshore Oil Drilling, Production or Workover facilities will use Section 2D. Appendices should be used, as appropriate, based on facility requirements.

- **Log of Plan Review and Amendments**

This log is to be utilized for documentation of any review of, or amendment to, the SPCC Plan. It will be utilized to document the five-year management review, any interim reviews or non-technical amendments by the manager or other plan reviewer and any Professional Engineer review of technical amendments. Further instruction on the utilization of this form is provided on the log. For definition of Manager, see Guide Section 1.1, Management Approval.

Facility Changes Requiring Plan Revision

- The Plan must be revised when there are changes in the facility's design, construction, operation, or maintenance that materially affect the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines. Such changes are technical amendments and must be prepared within six (6) months, and implemented as soon as possible, but not later than six (6) months following preparation of the amendment. It is the responsibility of the facility to determine, and confirm with the regulatory authority as necessary, what constitutes a technical amendment. Changes requiring revision may include, but are not limited to:
 - Commission or decommission of containers.
 - Replacement, reconstruction, or movement of containers (see guidance on movement of containers in Section 2A.1, Containers).
 - Reconstruction, replacement, or installation of piping systems.
 - Construction or demolition that might alter secondary containment structures and/or drainage systems.

- Changes of product (e.g., from light to heavy products; corrosive to non-corrosive; non-corrosive to corrosive, etc.). This would not include similar product changes.
- Changes in service (e.g., changes in service conditions of temperature, pressure, etc.)
- Addition/deletion of standard operating or maintenance procedures related to discharge prevention measures.
- Non-technical amendments (e.g. phone numbers and/or contacts) are administrative changes prepared with six months of the facility change and implemented within six months following preparation of any amendment.

Five-Year Review

- At least once each five (5) years the facility shall complete a review and evaluation of the SPCC Plan and make amendments within six (6) months of the review. This review does not require a PE to do the review and does not require PE certification unless there is a technical amendment. This review will include, at a minimum, a review of the following:
 - Applicability of new prevention and control technology which may significantly reduce the likelihood of a spill event from the facility if such technology has been field-proven at the time of the review.
 - Accuracy of the SPCC Plan as compared to the current facility operation and SPCC regulation.

- **Regulatory Cross-Reference**

The SPCC planning template provided in the Bulletin does not follow the exact layout of the regulation; accordingly a regulatory cross-reference is required. The cross-references provided here represent one for each type of facility – and only one cross-reference is required for each facility. You should select the appropriate page for your facility, discard or delete the non-applicable pages, and verify that the right column of the cross-reference accurately reflects the location of the data in the plan you have developed. (Note: See Figure 2 for clarification on type of facility -- Onshore, Onshore Production, Onshore Drilling or Workover, or Offshore).

TEMPLATE SECTION 1 – GENERAL INFORMATION

1.1 Management Approval

This page is to be utilized as documentation for Management Approval that the Plan will be implemented as described and for designation of the “Designated Person Accountable for Oil Spill Prevention at the Facility”. Multiple signature blocks are provided for subsequent change of Management or change in the Designated Person.

Spill Prevention, Control, and Countermeasure Plan – Guidance, Instruction, Clarification

The owner/operator should make his own determination as to the level of management required to provide this approval signature. However, as a form of general guidance, an excerpt from the National Pollutant Discharge Elimination System (NPDES) program signatories to permit applications and reports (40 *CFR* § 122.22) is provided for reference:

“The ‘Manager’ is the manager who is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.”

1.2 Certifications

The SPCC Plan requires a number of certifications, which relate to the rule and associated industry standards. The owner/operator or professional engineer attests to these requirements as outlined in Sections 1.2A-2E as appropriate for the facility.

1.2A Professional Engineer Certification

The Professional Engineer (PE) certifying the SPCC Plan is attesting to the best of his knowledge and belief that:

- He is familiar with the requirements of 40 *CFR* part 112;
- He or his agent has visited and examined the facility;
- He has verified that 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;
- He has verified that the procedures for the required inspection and testing have been established; and,
- He has verified that the Plan is adequate for the facility.

Guidance on the certification as it relates to several areas is provided below:

Industry Standards – The SPCC Plan must be prepared in accordance with good engineering practice, including consideration of applicable industry standards. There are a significant number of potentially applicable industry standards that could be reviewed for certification of the plan. It is not practicable for the PE to be familiar with every standard. A non-inclusive list of standards that may be relevant to this rule is provided in Exhibit C. The decision in every case as to the applicability of any industry standard will be one for the PE. In the 2008 preamble, EPA states, “that use of a particular standard is voluntary; however, when a standard (or any part of a standard) is incorporated into a facility’s SPCC Plan, then adherence to that standard (or part of a standard) is mandatory for implementation of the SPCC Plan (73 FR 74265, December 5, 2008). Additional guidance from the EPA’s preamble to the 2002 SPCC rule states “If there is neither a specific and objective industry standard nor a specific and objective manufacturer’s instruction that applies, then it is the duty of the P.E...to establish such specific and objective standards for the facility...” (67 FR 47057, July 17, 2002).

Agent – The PE may designate an Agent to conduct the review of the facility. Although the PE should make his own determination as to the viability of his Agent, guidance can be found within