Apartado 907 Caguas, PR 00726
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Commonwealth of Puerto Rico
Autonomous Municipality of Caguas

Spill Prevention, Control and Countermeasures Plan for Municipal Government Center Angel Rivera Rodríguez

Prepared by:
Environmental Affairs Office
Director: Guillermo Rivera Cruz, PPL
Caguas, Puerto Rico
October 2020

Disclaimer: The English version is the official version that must be following by employees or other personnel involved in this SPCC Plan. The Spanish version was prepared for guidance.

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Engineer Certification
(40CFR 112.3(b)(d))

I, José J. Rivera certify, under penalty of law in accordance with the 40 CFR Part 112 and new rule amendments, that I have personally examined and am familiar with the Good Engineers Practices and Spill Prevention Control and Countermeasures Plan (SPCC) submitted in this document here and is appropriate for the Government Center Facilities at Municipality of Caguas. I believe that the submitted information is true, accurate and complete.

Thereby 15th day of octubre, 2020

José J. Rivera
Name (Print)

Registered Professional Engineer

License Number and Seal

Non-Substantial Harm Facility Certification at Government Center at Municipality of Caguas

The Municipality of Caguas represented by José J. Rivera certify, under penalty of law in accordance with the 40 CFR Part 112 Appendix C incise 3 and new rule amendments, that I have personally examined and am familiar with the Best Engineers Management Practices and Spill Prevention Control and Countermeasures Plan (SPCC) submitted in this document here and is appropriate for the Government Center Facilities at Municipality of Caguas and is a non-substantial harm facility. I believe that the submitted information is true, accurate and complete.

Thereby 15th Day of October 2020

JOSÉ GONZÁLEZ
Name (Print)

Registered Professional Engineer

2/3/ENG. 21317
License Number and Seal

JOSE J. GONZALEZ RIVERA
INGENIERO LICENCIADO
PUERTO RICO

RENOVACIÓN APROBADA: 25 de enero, 2016

RENEWAL APPROVED ON: January 25, 2016

Estado Libre Asociado de Puerto Rico
Commonwealth of Puerto Rico

DEPARTAMENTO DE ESTADO
Department of State

Secretaría Auxiliar de Juntas Examinadoras
Office of the Assistant Secretary of State for Examining Boards

La Junta Examinadora de Ingenieros y Agrimensores
The Examining Board of Engineers and Land Surveyors

por la presente certifica que
hereby certifies that

José Joaquin Rivera Gonzalez

habiendo cumplido todos los requisitos de Ley, se ha inscrito en el Registro de esta Junta como
having met all the requirements of law, has been registered as:

Ingeniero Licenciado
Licensed Engineer

En testimonio de lo cual, se expide esta licencia para el ejercicio de dicha profesión, bajo el sello de la Junta Examinadora.
In testimony whereof, this license is issued to practice this profession, under the seal of the Board of Examiners.

En San Juan, Puerto Rico, efectivo 18 de marzo de 2016
In San Juan, Puerto Rico, effective March 18, 2016.

Número de Licencia: 21317
License Number

Vencimiento: 17 de marzo de 2021
Expires: March 17, 2021

JUNTA EXAMINADORA DE INGENIEROS Y AGRIMENSORES
ESTADO LIBRE ASOCIADO DE PUERTO RICO
DEPARTAMENTO DE ESTADO

Presidente

Secretario Auxiliar Lcdo. Francisco Rodriguez Bernier
Under Secretary


Sede CIAPR
Empowering the Reconstruction of Puerto Rico
www.ciapr.org
"Solos somos vulnerables; juntos fuertes e invencibles"

Management Approval
Government Center at Municipality of Caguas

The Spill Prevention Control and Countermeasures Plan (SPCC) is fully approve by Autonomous Municipality of Caguas in Government Center and will be implemented as described herein.

Miguel L. Neris-Rodríguez, PhD
Name (Print)

MNerisRodríguez, PhD
Signature

Emergency Management Director
Title

SPCC PLAN REVIEW

The Autonomous Municipality of Caguas will complete a review and evaluation for this SPCC Plan at least once every five years according to the new rule amendments (40 CFR Part 112)

The review will be listed below:

Signature	Date
Angel G. López Guzmán, MSEM	23 de octubre de 2020

I. INTRODUCTION

The purpose or objective of this plan is to describe the procedures, which are follows by Autonomous Municipality of Caguas- Government Center to prevent, control and/or mitigates releases oil or relate petroleum substances at the facilities of the Government Center to the environment of Caguas and adjacent areas. The Oil Pollution Prevention regulations establish requirements for facilities to prevent oil spills from certain aboveground store tanks (ASTs) and/or underground storage tanks reaching the navigable waters of United States and territories. This 40 CFR part 112.1 established and included facilities owned and operated by federal or local government are subject to this regulation.

The facility owns two (2) emergency generators. One of them is an emergency generator system with a diesel above storage tank (AST's) of 6,000 gallons. The emergency generator was donated by HIMA Caguas, to the Government Center but the above storage tank (AST's) is new. The other one is a self-contain emergency generator Perkins with integrated diesel tank of 250 gallons approximately. According to the Environmental Quality Board of Puerto Rico (EQB of P.R) Quality Air Area, the generator needs a certification to approve the quality and functionality of this equipment (See Appendix VIII). Furthermore, in compliance with the Water Quality Area (EQB of P.R.) and the 40 CFR Part 112, this facility must have a Plan for Spill Control. This system is self contained. The location of each generator is show on the Location Map, Appendix III. The systems are automated and are not manned on a regular basis. Diesel fuel is delivered as needed by truck, operated by an independent contractor.

II. GENERAL FACILITY INFORMATION

The Government Center of the Autonomous Municipality of Caguas is located at Padial Final Street connected with José Mercado Avenue. It is bordered to the north by Padial Street and José Mercado Intersection, to the east by Padial Street, José Mercado Ave. by west, and south by Parking Lot – Government Center and Fine Arts Center. The building has three floors including basement. Government Center was constructed in 1994 with the purpose to make possible that the municipal government operates as good as possible in larger offices. The personnel that work in the facility were approximately two thousand (2,000) employees.

Owner: Municipal Government of Caguas

Name: Municipal Government Center Angel Rivera Rodríguez

Physical Address: Padial Final Street, Corner José Mercado

Postal Address: Autonomous Municipality of Caguas

P.O. Box 907 Caguas, Puerto Rico 00726

In- charge persons: Mr. Carlos M. Díaz Vega (Director - Building Conservation Department) and Javier Carrillo Ramos (Empresas Carrillo Inc.– Company Number.349350-1011).

III. MAINTENANCE OF THE PLAN

The SPCC is a requirement for the Environmental Protection Agency (EPA). Also, the Environmental Quality Board of Puerto Rico (EQB) Water Quality Area requires a SPCC as part of the construction and installation of Above Storage Tanks with capacity of 1,320 gallons or more. If either of the following occurs, described below, the spill will be reported to EPA and EQB:

1. Discharges more than 1,000 gallons of oil into or upon navigable waters of the United States or adjoining shorelines in a single event or
2. The Municipality of Caguas (Government Center) discharges oil in harmful quantities in two spill events within any twelve months period. A harmful quantity is defined by 40 CFR 110 as a quantity that:
    a. Violates applicable water quality standards or
    b. Causes a fill or sheer upon or discoloration of the surface of the water or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

Spill information will be reported to USEPA and EQBPR within sixty days if either of the above thresholds is reached.

The report will contain the following information:

1. Name of the facility
2. Name(s) of the owner or operator of the facility
3. Location of the facility
4. Cause of the spill(s)
5. Corrective actions and/or countermeasures taken including adequate description of equipment repairs and/or replacements

6. Date and year of initial facility operation
7. Maximum storage or handling
8. Description of the facility including maps, flows diagrams and topographical maps
9. Failure analysis of the system and sub-system in which the failure occurred
10. A completed copy of the SPCC plan with any amendments and additional measure taken (preventive) or contemplated to minimize the possibility of recurrence.
11. Information that the regional administrator may reasonably require pertinent to the plan or spill event

The SPCC plan will be amended within six months whenever there is a change in facility design, construction, operation or maintenance that materially affects the facility's spill potential. **The plan will be reviewed once every five years and amended to include more effective prevention and control technology.** If such technology will significantly reduce the like hood of a spill event and has been proven in the field. All changes will be certified by a registered professional engineer. The new rule established for qualified facilities in December 2006, provide an option to prepare a "self-certified SPCC Plan". Currently, the Municipality of Caguas chooses to prepare an SPCC Plan in accordance with the current SPCC rule requirements.

IV. POTENTIAL SPILL AREAS AND VOLUMES

The Municipality of Caguas have identified one (1) above storage tank of 6,000 gallons of diesel on the outside facilities of the Government Center. It has a dimension of 90" of diameter for 20'- 0" of length. The secondary containment will be at range of 9'-6" (see Appendix I). The application is for an emergency generator fueling that will be operate for electrical back- up supplies for offices, equipment and public general services. This tank is placed inside secondary containment dikes capable of holding the capacity of the larger tank plus 10%, to prevent any spillage from the primary vessel. The secondary containment is built-in concrete sufficiently impervious to contain any spill and is provided with manually operated drain valve. Tank with secondary containment will be fabricated all in carbon steel.

According to the Flow and Drainage Diagram (See Appendix VI), we demonstrate that potential spill areas (likes waters or navigable waters or sensitive areas) are out of risk to be contaminated. As stated on the cover of this document, the engineering certification of this SPCC plan is contingent upon successfully implementing the measures outlined in the Section VI of this plan.

V. SPILL EVENTS

There have occurred three (3) minor spill events in adjacent areas of the Government Center:

On December 13, 14 and 16, 2017 there have occurred three minor spill events (less than 50 gallons approximately/each one) caused by a leak in the pressure valve of the diesel container tank. The spills were managed by personnel of the Municipal Emergency Management Office. They used spill dry equipment to contain the spill. It is important to mention that the spills were contained in the generator facility and doesn't gained access to soil, water ways or water bodies. Because the spills don't exceed the maximum volume limit required to notify pertinent agencies (EPA, JCA among others), no notification has been made to concerned agencies. **For more details, please refer to the Appendix III (p. 45).**

VI. SPILL PREVENTION, CONTROL SYSTEM AND PROCEDURES

Spill controls and countermeasures are safety measures to ensure prompt response to spills and mitigation of the consequences. In the event of a spill, the general procedure includes: notifications, spill containment and isolation, clean-up and disposal if are small spill and for large releases, a licensed disposal contractor. In addition, appropriate regulatory agencies will be notified, if required. The Government Center facility considered in this plan is the following:

a) storage and containment structures for diesel or oil

b) loading and unloading areas for maintenance.

c) good housekeeping and maintenance of the AST's.

Facilities or areas considered at this plan have the greatest potential for spills to occur or could provide pathways for spilled materials or contaminants to enter the environment or storm sewer. Asides from the major components of an AST, additional items and equipment are necessary and required. In order to fully protect the area, the recommendation is the use of security equipment like fences and gates that can be locked.

The purpose of the fence is to keep unauthorized people vandals and animals out b) lighting AST's facilities must have sufficient lighting to prevent vandalism and help detects spills at night c) signs for no smoking will be posted around the facility so they can see from every side of tank. Also, danger, warning or authorized personnel only must be posted to warn unauthorized individuals from entering the facility.

Figure 1: 6,000 Gallons diesel aboveground store tank (side view)

Figure 2: 6,000 Gallons diesel aboveground store tank (front view)

Figure 3: Self-contain emergency generator Perkins with integrated diesel tank of 250 gallons approximately.

Figure 4: Caguas Municipal Government facility subject to SPCC Plan

A. Tank Truck Unloading/Loading Procedure (this procedure must be followed by subcontractor services) 40 CFR 112.7 and 49 CFR 117.834

Oil or diesel products are delivered to the point of the storage by tank truck. These tanks are used for refueling the municipal fleet gas station and emergency generators (Figure 5-6). The following procedures can be used when if needed:

When the truck arrives to the diesel AST's area, an absorbent material(s) must be placed approximately five (5) feet from the truck unloading port, in the direction of potential spillage flow.

1. Activate the pump start unloading. Do not leave unattended the unloading station until unloading is completed.
2. When the truck driver informs to the authorized person that the delivery has been completed, he should immediately verify it by checking the storage tank gauges and tank truck compartments as applicable.
3. Close all valves and deactivate the unloading pump. Ensure that the pump empties as much as possible all products remaining in the suction hose.
4. Disconnect the hose and drain any residual oil or diesel into a bucket.
5. If occurs an event of spillage, proceed to close off the corresponding tank truck valves and place absorbent material over the spill area to control its propagation.
6. Add more absorbent materials, if necessary, in order to dike, or contain any liquid.
7. Add more absorbent materials, if necessary, in order to dike, or contain any liquid.
8. Follow the spill response and reporting activities described in Section VI-I of this SPCC Plan.

9. Any spill material contained in the fuel unloading area vault will be transferred into 55-gallon drums or into tank trucks as necessary, by using a sump pump.

The sub-contracted personnel will need to possess and keep a spill response kit in the truck. Also, the Caguas Government authorized personnel and/or gas station personnel put on place an absorbent material near to the containment area. The duty of the diesel fuel vendor is to maintain all necessary spill response plans and the truck is equipped with containment equipment. In addition, a weather-tight drum containing absorbent material kept in a convenient location close to the tank.

The owner or the operator of the facility, shall request in writing, in an effort to inform the fuel supplier and so, that the supplier shall confirm that all the tank trucks that enter the facility are certified by EQBPR or any regulatory agencies, that the vehicles is in good operation standards and there is no reasonable potential for emissions from the tank, pumps, pipes, fittings and apparatus.

It is stated, so it is understood, that the highest potential of spill event by the vehicle is when it is in transit to the facility and when failures in the equipment occurs.

Figure 5: Correct way of loading and unloading diesel or gasoline.

B. Control and Countermeasure Procedure for Minor Spillages

Spill response actions by facilities management generally consist of notifying appropriate personnel including the Government Center Administrator and Building Conservation Department. Securing the area while the responsible line continues to control and contain the spill. Sorbent pillows, blankets, and other materials are stored in the locations indicated in the Site Map (Appendix III). A summary of spill control material storage locations and equipment inventories is provided in Table I. Small contained spills (less than five gallons) resulting for transfer operations or drums containers at the facility are cleaned up by trained staff involved or gas station personnel, using absorbent materials. **Do not wash out or clean the area with water or other non-authorize surfactants because it could represent damage to the environment and pollute the storm water runoff.**

C. Control and Countermeasure Procedures for Free Flow Spillages (if applicable)

If in the future, the Municipality of Caguas is in possession of other equipment that do not require self-contained above storage tank, but create a potential for releases occurrence of spills to areas not contained, the responsible liner managers or administrator should follow the response process identified here. Also, if imperative the personnel who work at these areas must have a basic knowledge for spill response. The spill kit must be accessible and available all the time.

In the event of a spill, the following procedures should be followed:

a. The personnel whom discovering the spill should notify Municipal Emergency Management Office a) to send appropriate personnel to the spill area b) contact any other necessary on-site responders.

   The following information should be reported

   - Location of spill
   - Approximate quantity and identity of product
   - Other hazards or emergency conditions

b. The responsible line manager or upon request, Building Conservation Director and/or Engineer in charge and his qualified teamwork would assess the size and nature of the spill and the hazards and attempt to halt any further spillage by use of available control measures without subjecting responders to safety hazards. The Environmental Affairs Office may be consulted as necessary during the spill event occurs.

c. The spread of the spill would be controlled by constructing make-shift dikes of dirt and/or sorbent pads or booms.

d. If material contained in the make shift dike is of sufficient quantity, the responsible emergency personnel and equipment will be needed to pump out and transferred into drums. Alternatively, sorbent material could be utilized. Oil and oil containing wastes would then be transferred and disposal according to federal and state regulations.

e. The event should be report and analyzed. In addition, the spill should also be record in Appendix II Part II.

D. Transportation of Containers

If the Government Center acquire any fifty-five (55) gallons drums or containers for storage and disposal any oil or oil products, needs to be transported by authorize Environmental Quality Board of Puerto Rico transporter. The sub-contractor vendor needs to accomplish with all state and local regulatory agencies. The transporter pick-up the containers. The transportation and disposal of the containers accomplishes with state and federal regulations laws.

E. Drainage of Secondary Containment Structure

When an event of rain or storm water occurs at the area of AST's diesel tank, the authorize personnel performs a visual inspection of the water inside the secondary containment area. Is important to evaluate the following parameters before drainage the containment structure:

1. Properties of the self-contained water (viscosity, turbidity)
2. Physical Appearances of the Containment
3. Remove trash or any materials in the water

If the authorize personnel suspect that the water contain diesel residuals, DO NOT OPEN any drainage pumps or valves before carry-out a licensed laboratory sampling and testing. After the proper sampling and testing, if they are negative proceed to drainage the water to near storm water or sanitary sewer. If the results were positive, the proper inspections and testing (likes integrity test) will be performing to assure the quality of the AST's.

F. Equipment and Materials Available for Spills controls

Facilities that store oil or hazardous wastes or substances are required to have spill control materials and equipment availability within immediate reach in the event of a spill. The in-charge personnel are responsible for maintaining and inspect the spill kit. Spill kits should be inspected at a minimum a monthly basis for totality of components. At the Government Center Angel Rivera Rodriguez in the Municipality of Caguas, the equipment and materials available for large spills controls are provide by Emergency and Disaster Management Office. Also, near to the location of the emergency generator and 6,000 gallons diesel aboveground storage tank (AST's) will provide a spill kit. Table 1 provides a recommended list of spill control materials and equipment that should comprise a typical spill kit.

G. Spill Prevention and Response Coordination

The Director of Building Conservation Department designate an Emergency Coordinator (EC) is responsible for assisting line management by providing oversight of oil spill prevention and response activities. The Emergency Coordinator will assess possible hazards to human health and or environment that may result from spill or release on the facility. The EC must

consider both direct and indirect effects of a spill or release. Duties include surveying the facilities and overseeing the spill prevention program.

The responsibilities include:

a. immediate identification and assessment of the spill event
b. maintain storage tank operating file
c. include spill reports, inspections, base order, tank diagram and spill reporting procedures
d. achieve and store water inspection procedures, and fuel department contacts.

Trainings programs are coordinate with the Environmental Affairs Office at Government Center of Caguas. In addition, the Environmental Affairs Office will be inform if any changes occurs to update and amend the SPCC Plan as detail in Section G. Also, this SPCC includes an Emergency Response Plan in the Appendix IX.

H. Spill Prevention Briefings and Trainings

40 CFR 112.7 requires that facility personnel be properly instructed in the operation and maintenance of equipment to prevent spills. Additionally, spill prevention briefings for operating personnel should be frequent enough to assure adequate understanding of the pertinent aspect of the SPCC Plan. The objective of the spill prevention and control training program is to reduce the like hood and impact of oil spills. The training program consists of a formal employees training session related with oil handling responsibilities and SPCC Program.

General spill prevention and response awareness training is providing to all related employees in the Environmental Affairs Office. Line managers and their designees and subcontracting

representatives conduct briefings to make certain that facility personnel and any subcontractors who handle petroleum products understand the SPCC Plan.

The personnel are properly instructed in the operation and preventive maintenance of the equipment to prevent spills and any injury to natural resources or people. At minimum, the training is providing once every three or five years and when new transferred personnel begin work at places where petroleum products are stored or handled.

Oil spill prevention training of new or newly transferred personnel occurs within one (1) month of beginning the assignment.

The followings topics should be addressed during facility training and briefing:

- **Facility SPCC Plan**
- **Recent Spills at the facility, causes, corrective actions taken and lessons learned from facility releases and throughout personnel community.**
- **New spill prevention measures, equipment utilization and safety procedures**
- **Upcoming equipment changes that might affect spill control planning or implementation**
- **Emergency Procedures**
- **Inspection Procedures**
- **Safety and Health factors**

The followings topics should be addressed in the annual briefings:

- **Review of discharge prevention procedures**
- **Description of known discharges or failures such spill events**
- **Information on any new precautionary measures**

- **Any other related lessons learned information**

Task-specific practices and procedures are conveyed through on the job training. Records of oil spill prevention and response training should be maintained by Environmental Affairs Office and Building Conservation Department.

I. Spill Response and Reporting Procedures

The responsible line manager should record the event on an Oil Spill Report as included in the Appendix II (Part A). A notable event should be completed following any discharge of oil greater than five gallons or any oil discharge to a storm water channel, swale, or sewer (storm or sanitary). The appropriate division line manager with the assistance from Environmental Affairs Office will conduct this formal review and analysis of the incident.

The process will include at a minimum:

- Interviews with the person or persons involved in the incident, any witnesses, the person in charge of the process/equipment involved to understand the event, its cause and how the response was handled.
- Discussion with others involved with similar processes/equipment to identify possible changes to prevent a similar incident and to relay lessons learned from the event
- Preparation of a written brief to the Mayor Office detailing the cause and response and any recommended changes to prevent similar occurrences.
- After consultation with the responsible line manager and the responsible division of Building Conservation Office, a safety briefing should be in custody for all involved topics and a memorandum to concerned staff could be issued.

Copies of the Spill Report Event, should be provided by the responsible line manager to the Building Conservation Director and Environmental Affairs Office

J. Inspections

40 CFR 112.7(e) (8) requires that inspections be a regular part of SPCC program. Inspection frequency varies depending on the use of the equipment. In general, formal monthly inspections are performed at Government Center for petroleum operations and equipment likes emergency generators in the facility. Items to be inspected include the following:

- Tanks and containers
- Oil-level monitoring or control systems
- Transfer system operations and components
- Spill control equipment and kits (annually or after a spill event)
- Drainage control systems

A visual inspection is the simplest way to detect corroded or broken equipment. An inspection checklist is provided in the Appendix II Part B. During these inspections, facility personnel may discover deficiencies in equipment or in procedures. If the facility have an aboveground tanks and piping, the inspections needs to include: a) condition of the containment b) signs of damages or leakages c) alarms or signs conditions d) drainages valves conditions. These deficiencies should be reported on the checklist and relayed of the appropriate line manager. The Director of the Building Conservation Department and in-charge Engineer receives copies of all written reports and inspections for inclusion in the SPCC Plan master file.

K. Recordkeeping and Reviews

SPCC regulations require records of inspections, trainings, incidents and maintenance. These records must be organized and readily accessible at the facility. The in-charge engineer retains the Master SPCC Plan, written inspection procedures and records of identified inspections for five years. Appropriate line management should retain copies in their work areas. The following records are maintained:

- **Training Documentation**: Records that show the briefings and training sessions for those facility personnel working at or with oil facilities
- **Inspection Documentation:** Written procedures for required inspections; records of those inspections performed by facility personnel; records of corrective action taken to remedy identified deficiencies
- **Maintenance Documentation:** Maintenance schedules, including integrity test schedules for drums, mechanical equipment, valves and piping, transfer structures, containment structures and oil/water separators and records of construction, maintenance repair and integrity testing.
- **Spill Incident Documents:** Spill event reports, notable event reports and cost associated with response including subcontractor and material cost

The Government Center of Autonomous Municipality of Caguas shall amend the SPCC Plan in accordance with accordance with 40 CFR 112.7 whenever there is a change in facility design, construction, operation or maintenance which materially affect the Government Center potential for the discharge of oil into local waterways or into navigable waters of the United States.

Such amendments shall be fully implemented by line management as overseen by the SPCC

Plan as soon possible but no later than six (6) months after such change occurs.

Under the direction of in-charge Engineer, a review and evaluation of the SPCC Plan shall be completed as least once every five (5) years starting from the date last certified by a Professional Engineer.

As a result of this review, the Environmental Affairs Office shall amend the SPCC Plan within six (6) months of the review to include more effective prevention and control technology if: 1) such technology will significantly reduce the like hood of a spill event and 2) if such technology has been field-proven at the time of the review. Any time an amendment is made to the SPCC Plan, certification by a Professional Engineer shall be obtained.

L. Emergency Phone Numbers

In case of any spill or emergency related to the emergency generator with 10,000 gallons above storage diesel tank, following this line of communication:

1. Notification Numbers

No injuries (Internal)

- Department of Building Conservation (diesel tanks of emergency generators)
  Director: Sr. Carlos M. Díaz Vega
  Contact person: Javier Carrillo Ramos / Empresas Carrillo
  Telephone: (787) - 653-5400 x 3256, 3270
  Mobile: 787-531-7972

- Environmental Affairs Office
  Director: Plan. Guillermo Rivera Cruz
  Tel. (787) 653-8833 x. 1717, 1719, 1721
  Mobile: (787) 392-7025

- Building Administrator:
  Mrs. Elsie Gutiérrez
  Telephone :(787)-653-8833 x.2810, 1940

Injuries (External)

- Emergency and Disaster Management Office
  Autonomous Municipality of Caguas
  Tel. (787) 743-1510

- Puerto Rico Department of Natural and Environmental Resources
  Division: Environmental Emergencies
  Work Hours:
  Tel. (787) 767-8181 x.3224, 3231, 3232
  (787) 766-2823
  Out of business:
  Tel. (787)724-0124

2. **Clean-up contractors or responsible entities – Private contractors otherwise this office:**

   - **Emergency and Disaster Management Office**

     Division: Environmental Emergencies

     Tel. (787) 743-1510

3. **State and Federal Agencies to report the spill emergency**

   - Puerto Rico Police Department
     Municipality of Caguas
     Tel. (787) 745-1350/ (787) 745-2020

- Puerto Rico Fire Department
  Tel. (787) 743-1282/ (787)743-2121

- Environmental Quality Board
  Environmental Emergencies Division
  Work hours:
  Tel. (787)767-8181

- National Response Center (NRC)
  Tel. 1-(800)-424-8802

The above personnel with the assistance of in house or otherwise contract personnel will initiate immediately the necessary spill containment, contract recovery and cleanup provisions describe in Section VI of this SPCC Plan. Environmental consultants and/or contractors will be also immediately contacted, as necessary to assess spillage magnitude and to define and implement control/recovery strategies.

M. Supplies and Equipment

All supplies and equipment will be provided by Emergency and Disaster Management. This office will be responsible to contract private cleaning services if they do not manage some emergencies cases.

APPENDICES

APPENDIX I

SPECIFICATION OF THE AST'S

ALONSO & CARUS IRON WORKS, INC.

ROAD 858, K.M. 0.06, BO. PALMAS, BO. BOX 564, CATAÑO, PUERTO RICO 00963
PHONE (787) 788-1066 • FAX (787) 788-0360
Email: acirons@coqui.net

No.: 392-06

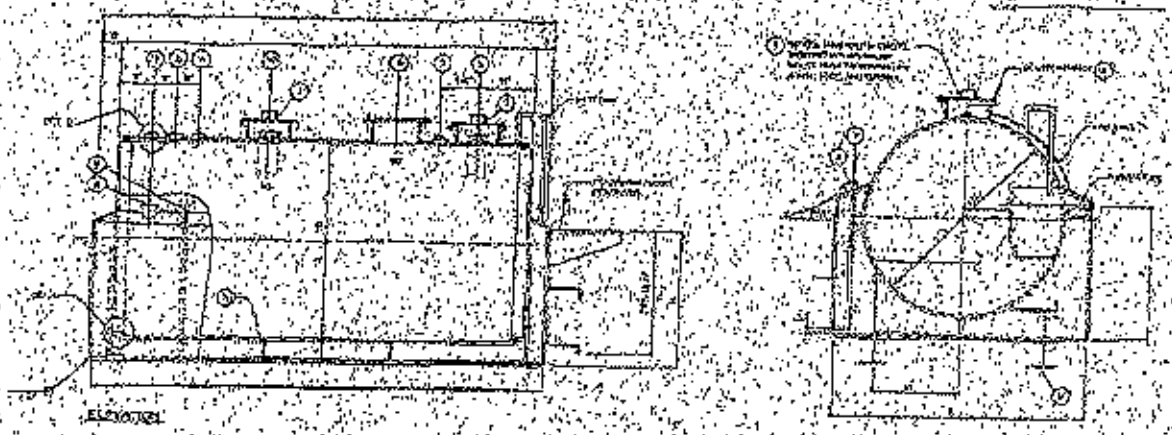
Municipio Autónomo de Caguas
P.O. Box 907
Caguas, P.R. 00726-907

Date: September 19, 2006

Attn: Mrs. Millie Cotto Feliciano
T-787-744-8833 / F-258-5432

Ref: 6,000 Gallons Diked Tank

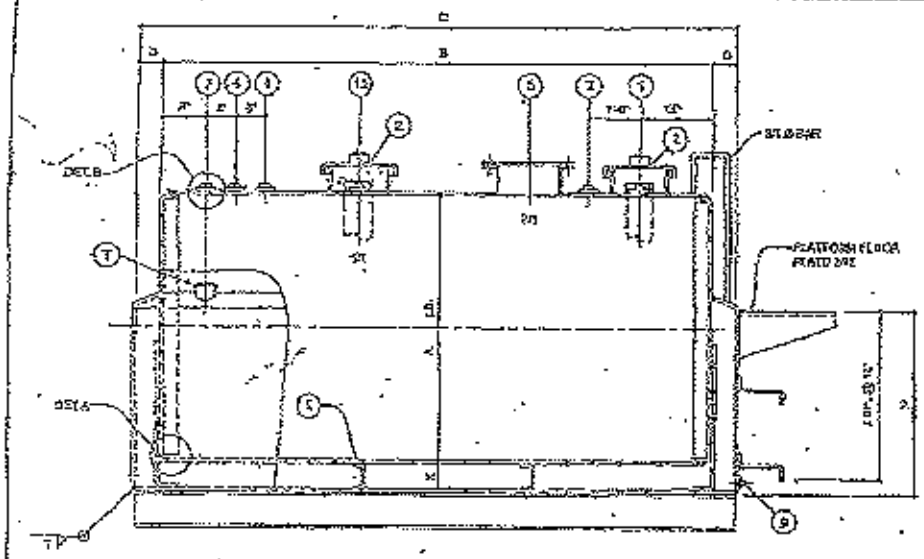
Gentlemen: We quote subject to conditions on the reverse side of this page.

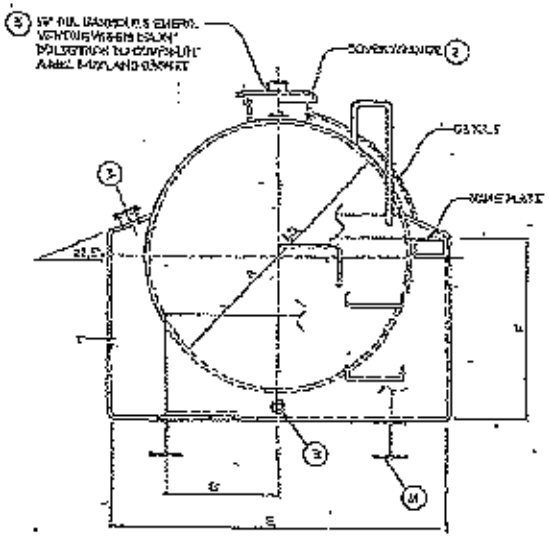


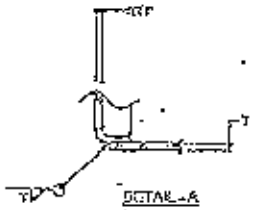
Warranty: Alonso & Carus Iron Works, Inc. warrants that all its tank products will be free from defects in workmanship and materials, under normal and proper use, maintenance and operation, for a period of one (1) year from the original date of shipment.

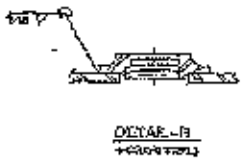
Prices good for: 30 days
Delivery Point: FOB Jobsite, Caguas
Delivery Time: 6 @ 8 weeks
Terms: 50% with P.O. / Balance upon receipt

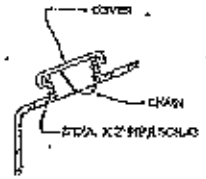
Ada Ramos
Sales Dept.











GAL.	2000	2500	3000	4000	5000	6000
A	39	39	39	39	39	39
B	93-0	105-3	117-6	141-9	166-1	190-4
D	96-0	120-0	144-0	192-0	240-0	288-0
D	20-0/2	19-1/2	20	20-1/2	20	19-1/2
E	8'-6	9'-5	9'-6	11'-2	12'-5	13'-8
F	10'-1	7'-11	6'-11	5'-10	5'-11	5'-11
G	3'-3	3'-3	3'-3	4'-9	5'-3	5'-3
H	4'-8	4'-8	4'-8	5'-11	6'-2	6'-6
J	4	4	4	4	4	4
K	3	3	3	3	3	3
L	2'-0	2'-0	2'-0	2'-0	2'-0	2'-0
M	2'-4/8	2'-4/8	2'-4/8	2'-4/8	2'-7/8	2'-4/8
N	3/4	3/4	3/4	1/4	3/4	1 1/2
P	2	2	2	2	2	2

NO.	QTY.	MARK	TYPE	SIZE	LG.	DESCRIPTION
1	1	FSW	SMS	4"SCH	1	MANWAY - ELLIPTICAL
2	01	WELD		4"SCH	2	MANWAY COVER
3	1	ANVIL			1	LEVEL GAGE
4		ANVIL			1	MANWAY LIFT
5	16	ANVIL			1	BOARDS, VENT RAINCAP
6	2	FSW	SMS	4"SCH	1	INSPECTION
7	1	FSW	SMS	4"SCH	1	INTAKE
8	1	WELD			1	MISCELLANEOUS (WITH BOLT)
9	1	FSW	SMS	4"SCH	1	OUTLET
10	1	COVER			1	CHAIN
11	1	FSW	SMS	4"SCH		CATWALK

NOZZLE SCHEDULE

MATERIALS AS PER

DESIGN

WEIGHT & CAPACITY

NO.	DATE	DESCRIPTION	MARK	NO.	DATE	DESCRIPTION	MARK

ALONSO & CARUS

STANDARD

ABOVE GROUND CLOSED TOP WATER TANKS

DRAWN	
TRACED	
DESIGNED	
CHECKED	
APPROVED	

JOB NO.

DRG. NO.

SHEET 1/4

EMISSION CONTROL INFORMATION

Perkins Manufactured by Caterpillar Inc.

Engine Family:APKXL18.1TAG	Model Year:2013	FEL (g/kWh) NOx+NMHC. N/A PM: N/A
Engine Displacement:18.1 Liters	Advertised kw:800	

THIS INFORMATION APPLICABLE TO U.S.A. ONLY

THIS ENGINE MEETS U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1039.625.

THIS ENGINE COMPLIES WITH CALIFORNIA EMISSION REQUIEREMENTS UNDER 13 CCR 2423 (d).

SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN FOR THE EQUIPMENT FLEXIBILITY PROVISIONS OF 40 CFR 1039.625 / CITED MAY BE A VIOLATION OF FEDERAL / STATE LAW SUBJECT TO A CIVIL PENALTY

Part No: 434-0446

RK Power Generator

CAGUAS, PR
MADE IN PUERTO RICO

MODEL	ASRA 800	AMPS	1202.8
SERIAL NO.	ASRA-PKRK-14-144-800		
ENGINE	PERKINS TIER III		DIESEL #2
GENERATOR	RK354F1		BRUSH LESS
KW	800	KVA	1000
FREQUENCY	60	R.P.M.	1800
AC VOLTAGE	277/480	DC VOLTAGE	24
P.F. 0.8	PH 3.00	TEMP 40 C	INS. "H"
STATOR CNN	High Wye	STARTOR WDG	12 LEADS
A.V.R.	AS440	RATING	CONTINUOS

www.rkpowergenerator.com

APPENDIX II

INSPECTIONS AND SPILL REPORT FORMS

Part A

SPCC Oil – Spill Report Form

Date/time discovered: _____Notification Date: _____

Name of Responder: _____Work Phone: _____

First Reported by: _____

Phone where first reporter can be reached: _____

Reported injuries: ___ yes ___ no

If yes, was ambulance dispatched? ____ yes ____no

Fire Hazards _____

If so, was fire department dispatched? _____ yes ____no

Type of oil or fuel discharged: _____

Quantity Spilled: _____ gallons

Exact Location of the Spill:

_____

_____

_____

Source:

_____

_____

_____

Is it flowing? _____ Is it contained? _____

Weather Conditions:

_____

Ground Conditions:

_____

Miscellaneous Information (not cause if known)

_____

_____

_____

Was ≥5 gallons spilled: ____ yes ___no

Did any reach a ditch or storm drain? ___yes ___no

Did any reach a sanitary sewer? ___yes __no

If yes to any of the above, notify to Environmental Affairs Office staff to coordinate of an Event Analysis. Ensure Facility Engineer notified at _____

Signature: _____Date: _____

Note:

A written report must be filed (certified mail, return receipt required) within 15 days of the release to the following agencies and to any agency listed above that may have jurisdiction on the release.

a. Environmental Protection Agency – Division New York
b. Environmental Quality Board
c. Department of Transportation (DOT)

Part B

SPCC Inspection Checklist – Single Tank Container

_____ Month _____ Annual

1. Description of Oil container (tanks, drums, above-ground storage tanks, etc)

2. Comments: _____

3. Diesel capacity: _____

Answer YES or NO

	YES	NO
4. Is the container leaking?		
5. Are any pipes, valves, or pumps leaking?		
6. Are any hydraulic hose leaking?		
7. Are there any oils stains or petroleum on?		
Exterior tank walls 8. Are there any indications of corrosion at fitting?		
Joints or seals 9. Are there any oil or petroleum products on the ground around the tank or machinery or in the secondary containment area?		
10. Are there any raised spots or dents on the tank surface?		
11. Are there cracks in the equipment supports?		
12. Are any of the oil - related labels or signs? (illegible or missing)		
13. Is oil containing equipment or container susceptible to physical damage? (i.e. motor vehicles, falling objects, etc.)		
14. If rainwater is present in the secondary containment area, does enough volume remain for spill control?		

General comments (including comments, observations, procedures and deficiencies)

If a "YES" answer was recorded for any items 4 through 14 or a "NO" answer was recorded for item 14, correction action is required. Describe action taken and the date below:

Signature

Date (D/M/Y)

***Send completed copy to:** Environmental Affairs Office, 2^do^ Floor Caguas Municipal City Hall William Miranda Marin*

Part C

Tank/Surface Inspection Log

Container ID	Date	Storage Capacity and Type of Oil	Type of containment/drainage control	Overfill protection and testing and inspections

Tank Inspection Checklist

(Guidance)

Containers and Piping

1. Check tanks or container for leaks, specifically looking for:

a. drip marks
b. discoloration of the tank
c. puddles containing spilled or leaked material
d. corrosion
e. cracks
f. localized dead vegetation
g. gaps between container and foundation

2. Check foundation for:

a. cracks
b. discoloration
c. puddles containing spilled or leaked material
d. settling
e. gaps between tank and foundation
f. damage caused by vegetation roots

3. Check piping for:

a. droplets of stored material
b. discoloration
c. corrosion
d. bowing of pipe between supports
e. evidence of stored material seepage from valves or seals from valves or seals
f. localized dead vegetation

Secondary Containment Inspection Checklist

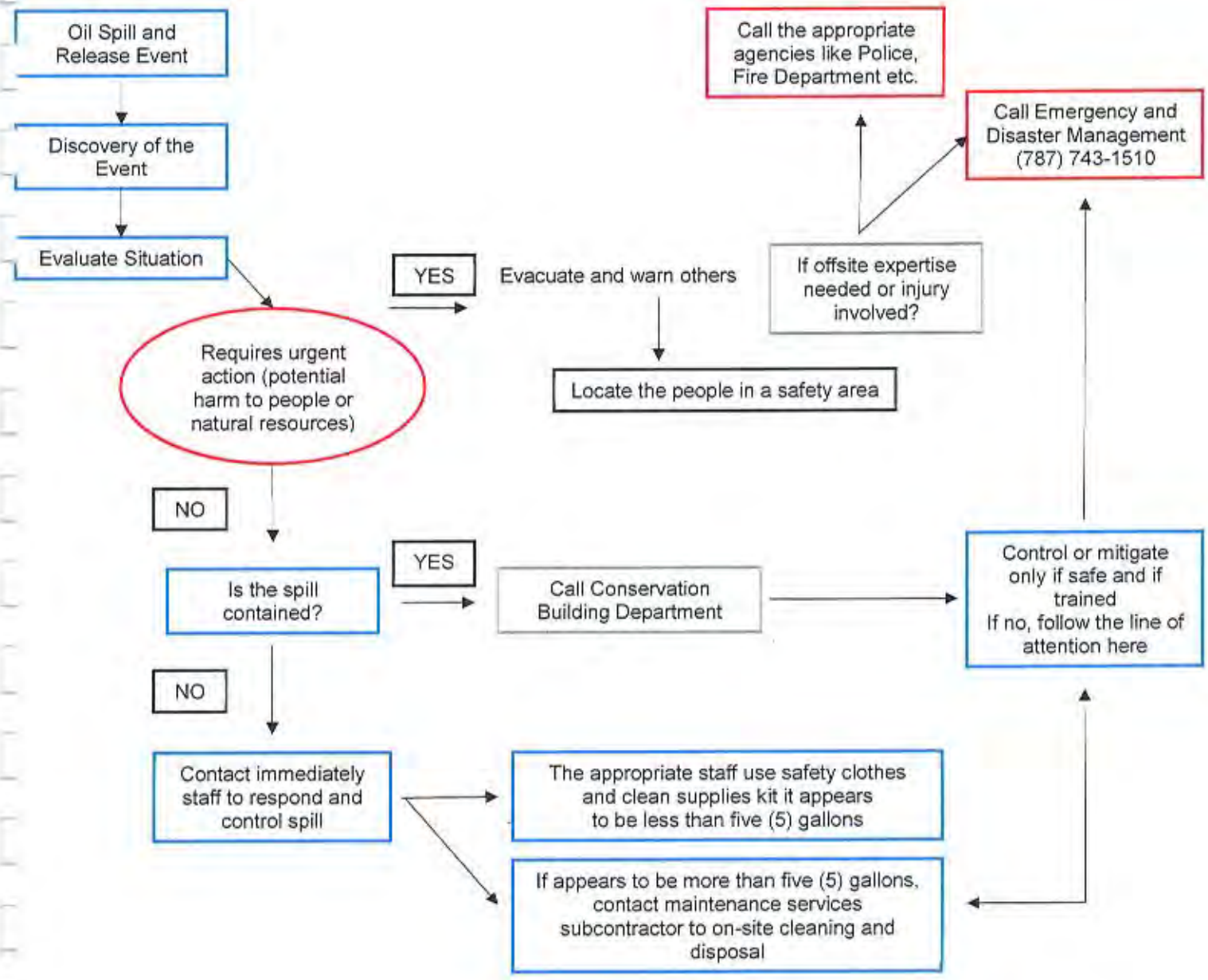
1. Dike or berm system

a. level of precipitation in dike/available capacity
b. operational status of drainage valves
c. dike or berm permeability
d. debris
e. erosion
f. permeability of the earthen floor of diked area
g. location/status of pipes, inlets, drainage beneath tanks

2. Secondary containment

a. cracks
b. discoloration
c. presence of spilled or leaked material (standing liquid)
d. corrosion
e. valve conditions

Oil Event response Flowchart at Caguas Municipal Government Center



APPENDIX III
SPILL EVENTS

Javier Luis Carrillo Ramos
DBA
EMPRESAS CARRILLO

Urb. San Agustín
Calle Alejandro 1761
San Juan, PR 00929
787-531-7972
Carrillo798@gmail.com

24 de febrero de 2020

Carlos Díaz
Director Oficina de Conservación de Edificios
Municipio Autónomo de Caguas
Caguas PR

REF.: INFORME DERRAME DE DIESEL DE GENERADOR
CENTRO DE GOBIERNO, MUNICIPIO AUTONOMO DE CAGUAS

Estimado señor Díaz:

El 16 de diciembre de 2017 se atendió una llamada a las 2:00 PM. del Sr. Carlos Díaz, Director de la Oficina de Conservación de Edificios del Municipio de Caguas relacionada con un derrame de diesel en el área del Centro de Gobierno. A las 2:45 nos personamos en el lugar para verificar el mismo.

Al llegar al lugar se identificó un liqueo que había sido causado por una válvula de presión del tanque de diesel que alimenta al generador de energía, por lo que inmediatamente procedimos a efectuar con los siguientes pasos:

- Reemplazar la válvula para detener el liqueo de diesel.
- Realizar la limpieza del área. Para limpiar el derrame utilizamos productos de control de derrames y material secante para secar el área afectada

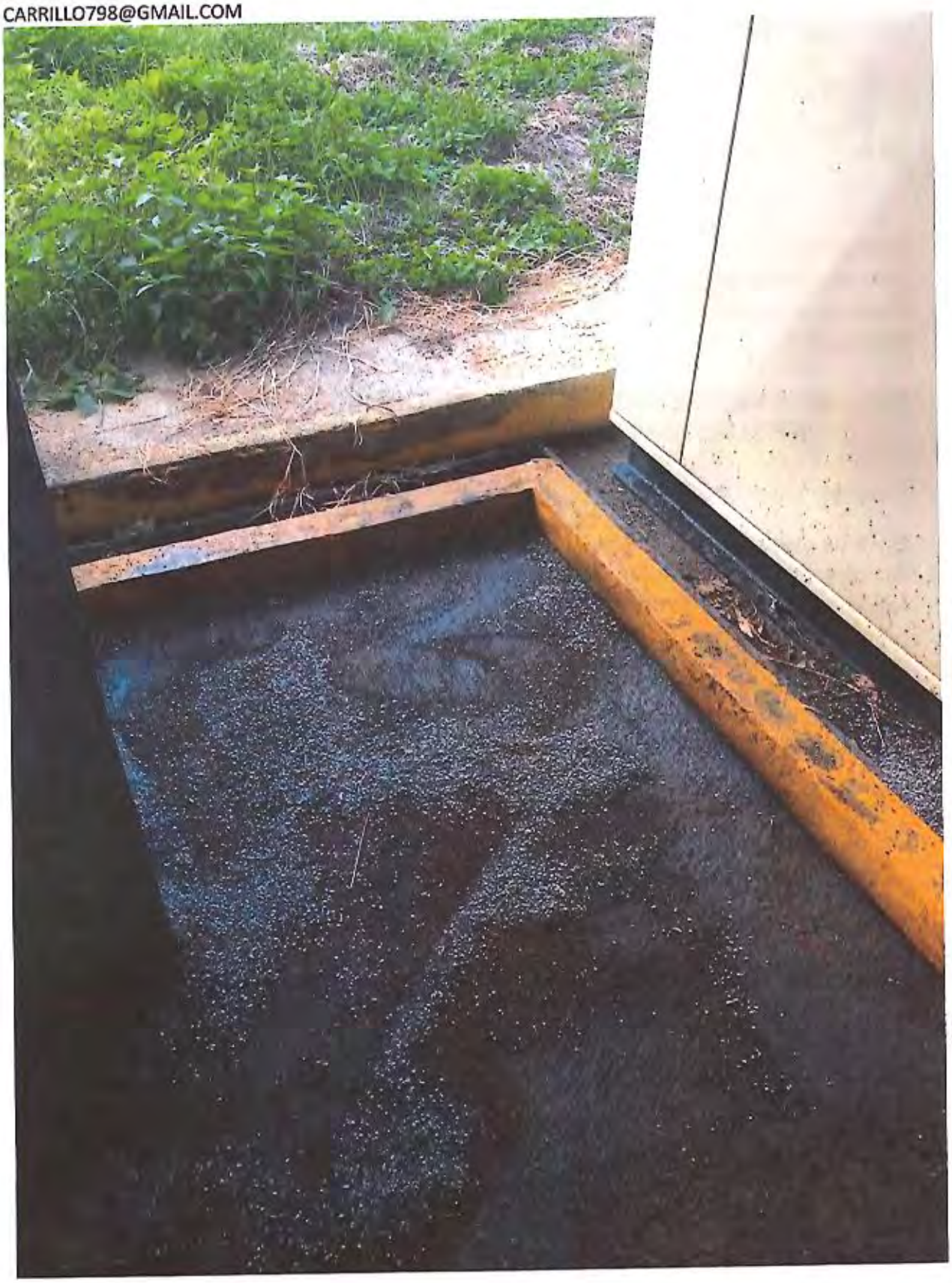
Adjunto fotos del área y el material secante que utilizamos.

Para más información o aclarar cualquier duda, favor comunicarse con este servidor.

Cordialmente,

Javier L. Carrillo Ramos
Presidente

JAVIER LUIS CARRILLO
DBA EMPRESAS CARILLO
787.531.7972
CARRILLO798@GMAIL.COM



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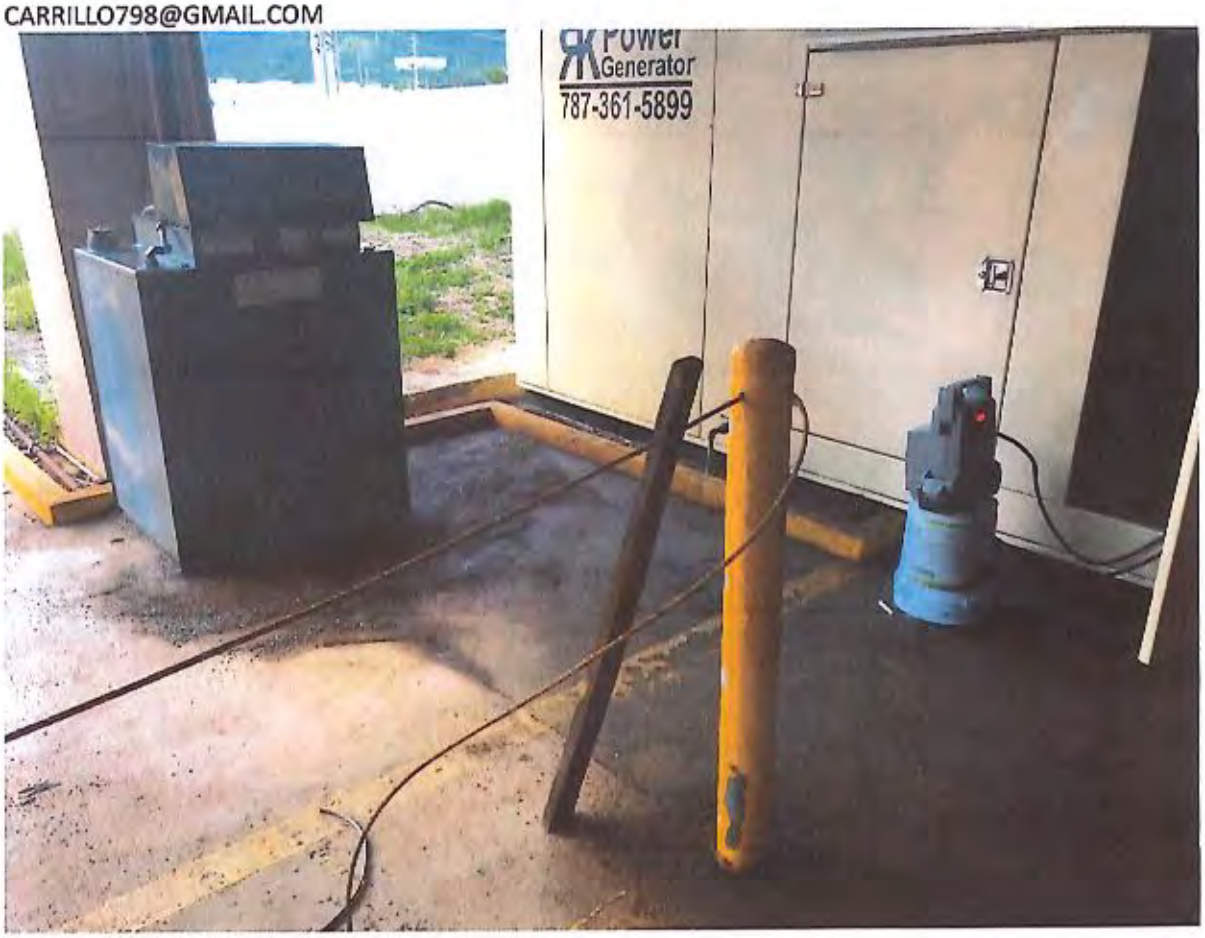

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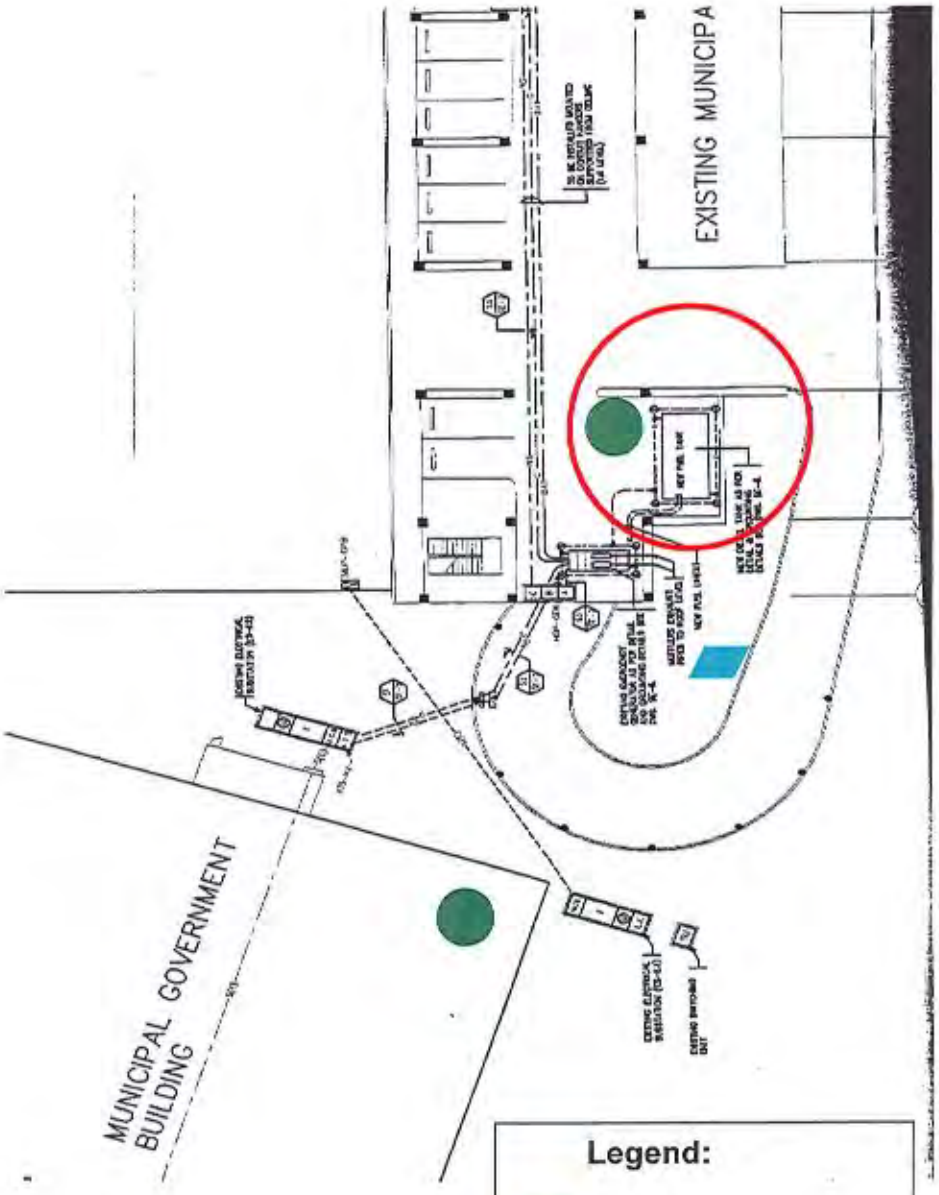
APPENDIX IV
SITE PLAN, INCLUDING SOURCES OF OIL/PETROLEUM DERIVATES

Apartado 907 Caguas, PR 00726
Tel. 787.653-8833
caguas.gov.pr

SITE MAP INCLUDING SOURCES OF OIL /PETROLEUM DERIVATES AND SPILL KIT LOCATIONS



APPENDIX V
AERIAL PHOTO – CAGUAS MUNICIPAL GOVERNMENT CENTER

AERIAL PHOTO:

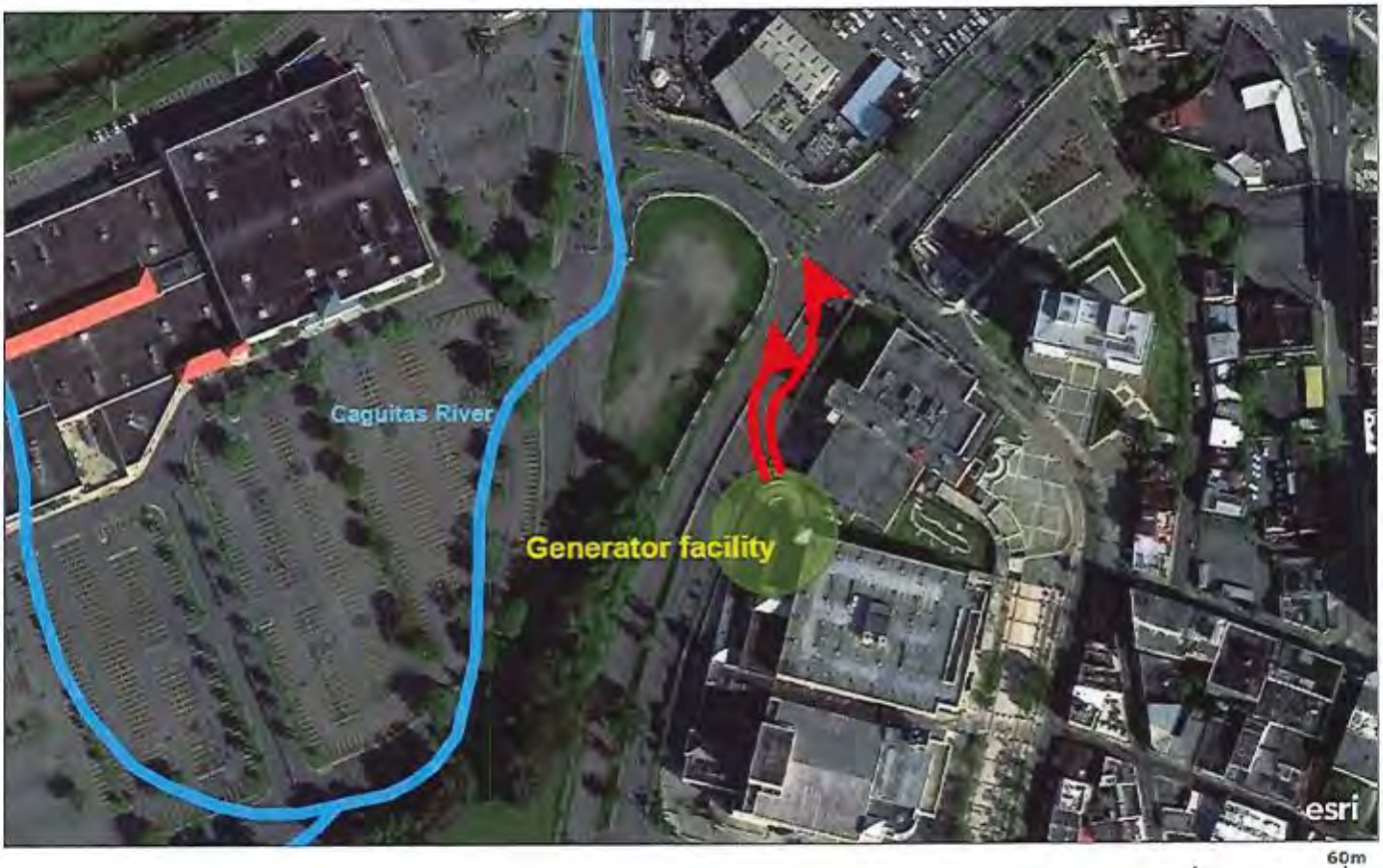
Caguas Municipal Government Center – Angel Rivera Rodríguez

Preparado por: Oficina de Asuntos Ambientales

APPENDIX VI
DRAINAGE FLOW CROQUIS AT GOVERNEMENT CENTER

DRAINAGE FLOW CROQUIS

Caguas Municipal Government Center Ángel Rivera Rodríguez



UPR-RP | UPR-RP | Copyright:© 2013 National Geographic Society, i-cubed | NOAA/NOS/OCS nowCOAST, NOAA/NWS and NOAA/OAR/NSSL | Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

1:1,000

Legend:

- Caguitas River
- Generator facility
- Drainage flow

Prepared by: Angel López Guzmán, MSEM
Environmental Affairs Office

APPENDIX VII
APPLICABLE STANDARDS 40 CFR PART 112 AND NEW RULE AMENDMENT

paragraph (a)(1)(iii) of this section shall be the following:

* * * * *

■ **Par. 10.** Section 1.964–1T is amended by revising the first sentence of paragraph (c)(2) and the last sentence of paragraph (c)(5)(i) to read as follows:

§ 1.964–1T Determination of the earnings and profits of a foreign corporation (temporary).

* * * * *

(c) * * *

(2) * * * For the first taxable year of a foreign corporation beginning after April 25, 2006, in which such foreign corporation first qualifies as a controlled foreign corporation (as defined in section 957 or 953) or a noncontrolled section 902 corporation (as defined in section 904(d)(2)(E)), any method of accounting or taxable year allowable under this section may be adopted, and any election allowable under this section may be made, by such foreign corporation or on its behalf notwithstanding that, in previous years, its books or financial statements were prepared on a different basis, and notwithstanding that such election is required by the Internal Revenue Code or regulations to be made in a prior taxable year. * * *

* * * * *

(5) * * * (i) * * * In the event that the United States shareholders of the controlled foreign corporation do not, in the aggregate, own (within the meaning of section 958(a)) more than 50 percent of the total combined voting power of all classes of the stock of such foreign corporation entitled to vote, the controlling United States shareholders of the controlled foreign corporation shall be all those United States shareholders who own (within the meaning of section 958(a)) stock of such corporation.

* * * * *

Cynthia Grigsby,

Senior Federal Register Liaison Officer, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–22024 Filed 12–22–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

Regulation of Fuels and Fuel Additives

CFR Correction

In Title 40 of the Code of Federal Regulations, parts 72 to 80, revised as of July 1, 2006, on page 695, § 80.75 is corrected by reinstating paragraphs (a)(2)(ix) and (a)(2)(x) to read as follows:

§ 80.75 Reporting requirements.

* * * * *

(a) * * *

(2) * * *

(ix) In the case of butane blended with reformulated gasoline or RBOB under § 80.82:

(A) Identification of the butane batch as complying with the provisions of § 80.82;

(B) Identification of the butane batch as commercial or non-commercial grade butane;

(C) The batch number of the butane;

(D) The date of production of the gasoline produced using the butane batch;

(E) The volume of the butane batch;

(F) The properties of the butane batch specified by the butane supplier, or the properties specified in § 80.82(c) or (d), as appropriate;

(G) The volume of the gasoline batch subsequent to the butane blending; and

(x) In the case of any imported GTAB, identification of the gasoline as GTAB.

* * * * *

[FR Doc. 06–55532 Filed 12–22–06; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 112

[EPA–HQ–OPA–2005–0001; FRL–8258–3]

RIN 2050–AG23

Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure Plan Requirements—Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is amending the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements by: first, providing the option for owners and operators of facilities that store 10,000 gallons of oil or less and meet other qualifying criteria to self-certify their SPCC Plans in lieu of review and certification by a Professional Engineer; second, providing an alternative to the general secondary containment requirement without requiring a determination of impracticability for facilities that have particular types of oil-filled equipment; third, defining and exempting particular vehicle fuel tanks and other on-board bulk oil storage containers used for motive power; and fourth, exempting mobile refuelers from the sized secondary containment requirements for bulk storage containers. The Agency also is removing and reserving the SPCC requirements for animal fats and vegetable oils that are specific to onshore oil production facilities, onshore oil drilling and workover facilities, and offshore oil drilling, production, or workover facilities. Finally, the Agency is extending the SPCC compliance dates for farms. These changes significantly reduce the burden imposed on the regulated community for complying with the SPCC requirements, while maintaining protection of human health and the environment. In a separate document in this **Federal Register**, the Agency is proposing to extend the compliance dates for all facilities.

DATES: This final rule is effective February 26, 2007.

ADDRESSES: The public docket for this final rule, Docket ID No. EPA–HQ–OPA–2005–0001, contains the information related to this rulemaking, including the response to comment document. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Public Reading Room is 202–566–1744, and the telephone number to make an appointment to view the docket is 202–566–0276. The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for

current information on docket status, locations and telephone numbers.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rule, contact Vanessa E. Rodriguez at 202–564–7913 (*rodriguez.vanessa@epa.gov*), or Mark W. Howard at 202–564–1964 (*howard.markw@epa.gov*), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, Mail Code 5104A.

SUPPLEMENTARY INFORMATION: The contents of this preamble are:

I. General Information

The Environmental Protection Agency (EPA or the Agency) is amending the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements of the Oil Pollution Prevention regulation at 40 CFR part 112 to streamline the regulatory requirements for owners and operators of a subset of facilities by: (1) Providing an option to allow the owners or operators of facilities with an oil storage capacity of 10,000 gallons or less and who meet other qualifying criteria to self-certify their SPCC Plans in lieu of review and certification by a Professional Engineer; (2) allowing owners and operators of facilities that have particular types of oil-filled operational equipment to use an oil spill contingency plan along with an inspection or monitoring program as an alternative to secondary containment for qualified equipment without requiring a determination of impracticability; (3) providing an exemption for newly defined "motive power containers"; and (4) exempting mobile refuelers from the specifically sized secondary containment requirements for bulk storage containers. In addition, the Agency is removing and reserving certain SPCC requirements for animal fats and vegetable oils; and is extending the compliance dates for farms. The purpose of this rulemaking is to provide streamlined, alternative approaches for compliance with oil spill prevention requirements for these entities, and to improve net welfare by reducing the costs of regulation and improving compliance, resulting in greater environmental protection.

II. Entities Potentially Affected by This Rule

Industry sector	NAICS code
Oil Production	211111
Farms	111, 112
Electric Utility Plants	2211
Petroleum Refining and Related Industries	324
Chemical Manufacturing	325
Food Manufacturing	311, 312
Manufacturing facilities using and storing animal fats and vegetable oils (AFVO)	311, 325
Metal Manufacturing	331, 332
Other Manufacturing	31–33
Real Estate Rental and Leasing	531–533
Retail Trade	441–446, 448, 451–454
Contract Construction	23
Wholesale Trade	42
Other Commercial	492, 541, 551, 561–562
Transportation	481–488
Arts Entertainment & Recreation	711–713
Other Services (Except Public Administration)	811–813
Petroleum Bulk Stations and Terminals	4247

Industry sector	NAICS code
Education	61
Hospitals & Other Health Care	621, 622
Accommodation and Food Services	721, 722
Fuel Oil Dealers	45431
Gasoline stations	4471
Information Finance and Insurance	51, 52
Mining	212
Warehousing and Storage	493
Religious Organizations	813110
Military Installations	928110
Pipelines	4861, 48691
Government	92

The list of potentially affected entities in the above table may not be exhaustive. The Agency's aim is to provide a guide for readers regarding those entities that potentially could be affected by this action. However, this action may affect other entities not listed in this table. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT.**

III. Statutory Authority and Delegation of Authority

Section 311(j)(1)(C) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1321(j)(1)(C), requires the President to issue regulations establishing procedures, methods, equipment, and other requirements to prevent discharges of oil from vessels and facilities and to contain such discharges. The President delegated the authority to regulate non-transportation-related onshore facilities to EPA in Executive Order 11548 (35 FR 11677, July 22, 1970), which has been replaced by Executive Order 12777 (56 FR 54757, October 22, 1991). A Memorandum of Understanding (MOU) between the U.S. Department of Transportation (DOT) and EPA (36 FR 24080, November 24, 1971) established the definitions of transportation-related and non-transportation-related facilities. A MOU among EPA, the U.S. Department of the Interior (DOI), and DOT, effective February 3, 1994, has re-delegated the responsibility to regulate certain offshore facilities from DOI to EPA.

IV. Background

On July 17, 2002, EPA published a final rule amending the SPCC rule, formally known as the Oil Pollution Prevention regulation (40 CFR part 112), promulgated under the authority of section 311(j) of the CWA. (The SPCC rule was originally promulgated on December 11, 1973 (38 FR 34164).) This rule included revised requirements for SPCC Plans and for Facility Response Plans (FRPs). It also included new subparts outlining the requirements for various classes of oil; revised the applicability of the regulation; amended the requirements for completing SPCC Plans; and made other modifications (67 FR 47042). The revised rule became effective on August 16, 2002. After publication of this rule, several members of the regulated community filed legal challenges to certain aspects of the rule. Most of the issues raised in the litigation have been settled, following which EPA published clarifications in the **Federal Register** to several aspects of the revised rule (69 FR 29728, May 25, 2004).[1] In addition, concerns were raised about the implementability of certain aspects of the 2002 rule.

EPA has extended the dates for compliance with the 2002 rule by extending the dates for amending and implementing revised SPCC Plans in 40 CFR 112.3(a), (b), and (c), most recently by notice dated February 17, 2006 (71 FR 8462). Please see the **Federal Register** notice for further discussion on the compliance extensions. EPA took the most recent action in order to allow time to finalize the revisions in today's final rule and to provide the regulated community time to review and understand the material presented in the *SPCC Guidance for Regional Inspectors*, which was made available in December of 2005. The Agency also was concerned that the effects of the September 2005 hurricanes on many industry sectors might adversely impact their ability to meet the compliance dates if no extension was provided.

October 31, 2007 is the current deadline for amending and implementing revised SPCC Plans for facilities (including mobile facilities) that were in operation on or before August 16, 2002. Facilities that came into operation after August 16, 2002 also must prepare and implement an SPCC Plan on or before October 31, 2007. As discussed in Section V.F of this preamble, today's final rule provides an additional extension of the compliance date for farms. Today's rule, which is effective February 26, 2007, does not modify the compliance dates for owners and operators of facilities other than farms. Elsewhere in today's **Federal Register**, EPA is proposing to extend the compliance dates for owners and operators of facilities until July 1, 2009 based on further SPCC regulatory revisions that EPA is considering, and that it expects to propose in 2007.

On September 20, 2004, EPA published two Notices of Data Availability (NODAs). The first NODA solicited comments on submissions to EPA that suggested more focused requirements for owners and operators of facilities subject to the SPCC rule that handle oil below a certain threshold amount, referred to as "certain facilities" (69 FR 56182). Streamlined approaches for owners and operators of facilities with oil capacities below a certain threshold were discussed in the NODA-related documents. The second NODA solicited comments on whether alternate regulatory requirements would be appropriate for owners and operators of facilities with oil-filled and process equipment (69 FR 56184). EPA has reviewed the public comments and data submitted in response to the NODAs in developing today's final rule.

Additionally, on December 2, 2005, EPA issued the SPCC Guidance for Regional Inspectors. This guidance document is intended to assist regional inspectors in reviewing implementation of the SPCC rule at a regulated facility. The guidance document is designed to facilitate an understanding of the rule's applicability, to help clarify the role of

[1] *American Petroleum Institute* v. *Leavitt*, No. 1:03CV02247 PLF and consolidated cases (D.D.C. filed Nov. 14, 2002). The remaining issue to be decided concerns the definition of "navigable waters" in § 112.2.

the inspector in the review and evaluation of a facility owner or operator's compliance with the performance-based SPCC requirements, and to provide a consistent national policy on several SPCC-related issues. The guidance is available to owners and operators of facilities that may be subject to the requirements of the SPCC rule and to the general public on the Agency's Web site at *http://www.epa.gov/oilspill*. This guidance document is a living document and will be revised, as necessary, to reflect any relevant future regulatory amendments, including today's action.

Based on the comments received on the NODAs, as well as other information received, EPA proposed to amend the SPCC rule to address a number of issues raised, including those pertaining to qualified facilities, qualified oil-filled operational equipment, motive power containers, airport mobile refuelers, animal fats and vegetable oils, and the compliance date for farms. (See 70 FR 73524, December 12, 2005.) EPA discusses each of these issues in Section V of this preamble. The preamble generally discusses the comments received on the proposal, EPA's response, and any modifications made to the proposal. For a more detailed discussion of the comments received and EPA's response, see "Summary and Response to Comments," which is included in the docket for today's final rule.

The scope of today's final rule was intended to address only certain targeted areas of the SPCC requirements, and a number of issues and concerns raised by the regulated community. As highlighted in the EPA Regulatory Agenda and the 2005 OMB report on "Regulatory Reform of the U.S. Manufacturing Sector," EPA is considering further amendments to address other areas where regulatory reform may be appropriate. For these additional areas, the Agency expects to issue a proposed rule in 2007. Areas where regulatory reform may be appropriate include, and are not limited to, oil and natural gas exploration and production, farms, and Tier I facilities. EPA, in conjunction with DOE, has been conducting an energy impact analysis of the SPCC requirements, and, to the extent that the analysis is available, will consider it to inform the Agency's 2007 rulemaking.

Because it is highly unlikely that the Agency will be able to promulgate such regulatory amendments before the current October 31, 2007 compliance date for SPCC becomes effective, EPA believes it is appropriate to provide an extension of the compliance date. Such an extension has been proposed elsewhere in today's **Federal Register**.

The Agency is not in a position, at this time, to indicate all the areas for possible regulatory reform that may be addressed as part of the 2007 SPCC proposal. Nevertheless, the Agency recognizes that owners and operators of facilities need time to determine which changes may be made to the rules that may impact the requirements they are subject to in order to determine when they need to comply with the new requirements.

This approach would allow those potentially affected in the regulated community an opportunity to make changes to their facilities and to their SPCC Plans necessary to comply with the revised requirements, rather than with the existing requirements. Regarding modifications of the SPCC regulations, EPA is proposing in a separate notice in today's **Federal Register** to extend the deadlines for compliance to July 1, 2009.

V. Today's Action

A. Qualified Facilities

1. Overview of the Qualified Facilities Proposal

On December 12, 2005 (70 FR 73524), EPA proposed to amend the SPCC rule to provide an option to allow the owner or operator of a facility that meets the qualifying criteria (hereafter referred to as a "qualified facility") to self-certify the facility's SPCC Plan in lieu of review and certification by a licensed Professional Engineer (PE). EPA proposed to amend § 112.3 to describe the SPCC eligibility criteria that a regulated facility must meet in order to be considered a qualified facility.

As proposed, the eligibility criteria for a qualified facility would be a facility subject to the SPCC rule that (1) has an aggregate oil storage capacity of 10,000 gallons or less; and (2) had no discharges as described in § 112.1(b) during the ten years prior to self-certification. Self-certified Plans could not include "environmentally equivalent" alternatives to required Plan elements as provided in § 112.7(a)(2) or contingency planning in lieu of secondary containment as provided in § 112.7(d) on the basis of "impracticability." However, the proposal included specified "environmentally equivalent" measures with respect to security and integrity testing that would be available to facility owners and operators that choose to self-certify. Self-certification would be optional for owners and operators of facilities meeting the eligibility criteria, so that those owners and operators of qualified facilities that found the existing rules more cost-effective in achieving compliance with the SPCC requirements, would continue to have the option of complying with the streamlined approach or could choose to comply with the existing SPCC requirements (including the PE certification) to take advantage of the flexibility offered by PE-certified impracticability determinations and environmentally equivalent measures.

In general, the Agency agrees with the commenters who supported the qualified facilities proposal for self-certification and believe that this revision will relieve regulatory burden on small oil storage facilities. As one commenter noted, self-certification should result in greater compliance rates across the board. Therefore, today's rule finalizes the proposed provision with a few modifications.

As described in the preamble to the proposed rule, EPA also considered, but did not propose, a multi-tiered structure option based on an analysis prepared for the U.S. Small Business Administration's (SBA) Office of Advocacy that included a tiered system for facilities that have total oil storage capacities between 1,321 and 5,000 gallons, between 5,001 and 10,000 gallons, and greater than 10,000 gallons. Under this option, Tier I facilities (1,321 to 5,000 gallons oil storage capacity) would not need a written SPCC Plan (and therefore no PE certification), but would adhere to all other SPCC requirements. Tier II facilities (5,001 to 10,000 gallons oil storage capacity) would be required to have a written SPCC Plan, but no PE certification requirement. Tier III facilities (greater than 10,000 gallons oil storage capacity) would be required to have a written SPCC Plan, certified by a PE. A significant number of commenters on the proposed rule supported a multi-tiered approach.

The Agency continues to believe that a facility owner or operator cannot effectively implement an oil spill prevention program, or any other program (business or otherwise), without documentation of that program's action items. As a matter of practice, it would be extremely difficult for a facility owner or operator to be able to follow the regulatory requirements and to comply with all the recordkeeping components without the documentation that is the Plan itself. The Plan also serves as an important communication and training tool for both management and oil-handling personnel at the facility. The sole action of having to document compliance with all of the requirements can assist in

uncovering flaws in the program's implementation, and may serve as a tool to correct them. Additionally, the documentation of compliance with the rule's requirements in a written Plan serves as a facility-specific oil spill response and prevention planning exercise which is designed to improve oil spill prevention. Nevertheless, the Agency understands the concerns, particularly of owners and operators of facilities with a smaller oil storage capacity and likely more limited resources, of the potential effort needed to develop a complicated Plan. Thus, the Agency has been exploring the possibility of developing a further simplified Plan for facilities that handle between 1,320 and 5,000 gallons of oil. However, because the Agency is considering removing or changing some of the regulatory requirements and developing a standardized form/checklist for ease of implementation, the Agency chose not to finalize this option without taking further comment. Therefore, although EPA is not adopting a multi-tiered approach in today's final rule, the Agency intends to propose a simplified approach for facilities that handle between 1,320 and 5,000 gallons of oil within the near future. In that proposal, the Agency expects to discuss the implementation of the SPCC rule for those facilities.

The preamble to the proposed rule also described an approach whereby the Agency would require owners and operators of qualified facilities to make a one-time notification to EPA if they have been in operation or subject to the SPCC requirements for a period less than ten years from the time of Plan certification, and therefore could not show a ten-year clean spill history as a qualifier. The comments generally opposed a notification requirement, arguing that it would impose additional burden with no clear benefit for the regulated community. EPA is not adopting this one-time notification requirement, because the Agency does not believe it would offer any further environmental protection. The additional burden of a notification requirement was not considered necessary and would be contrary to the intent of today's rule.

2. Summary of This Final Rule for Qualified Facilities

Today's rule finalizes the proposed option with modifications to the reportable discharge history criterion and to the self-certification limitations for qualified facilities. The final rule also places the alternative self-certification provisions in § 112.6, rather than in § 112.3(g) as proposed. A facility owner or operator may qualify to prepare a Plan that meets the alternative requirements in § 112.6 of today's final rule, in lieu of a Plan prepared in accordance with the general requirements contained in § 112.7 and the applicable requirements in subparts B and C of the rule. Finally, today's action allows a qualified facility owner or operator to use environmentally equivalent measures or an impracticability determination provided they are certified by a PE.

To qualify for this option, a facility must meet the following eligibility criteria: the facility had no single discharge as described in § 112.1(b) exceeding 1,000 U.S. gallons or no two discharges as described in § 112.1(b) each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan certification date, or since becoming subject to 40 CFR part 112 if the facility has been in operation for less than three years, and the facility has 10,000 gallons or less in aggregate aboveground oil storage capacity. Discharges as described in § 112.1(b) that are the result of natural disasters, acts of war, or terrorism will not disqualify a facility owner or operator from using the self-certification option.

An owner or operator of a qualified facility may prepare, self-certify and implement an SPCC Plan that complies with all of the applicable requirements of the rule in accordance with § 112.6 of today's final rule. No PE certification is required for qualified facilities' Plans. A qualified facility owner or operator also may choose to prepare a Plan in accordance with the general Plan requirements in § 112.7 and applicable requirements in subparts B and C, including having the Plan certified by a Professional Engineer as required under § 112.3(d). The qualified facility approach in today's final rule is optional; owners or operators of facilities that qualify may choose not to exercise this option.

In proposing this option for facilities handling smaller amounts of oil, the Agency sought to focus on those smaller operations that may be concerned about the impact of utilizing a PE on their limited budget. Some of the current noncompliance with the SPCC regulation may be attributed to those concerns. The Agency believes that providing a simpler, less costly option for owners and operators of these smaller, less complex facilities will improve the overall compliance for the SPCC regulation, ultimately resulting in greater environmental protection.

3. Eligibility Criteria

a. Total Facility Oil Storage Capacity Threshold

EPA proposed to limit the maximum aggregate oil storage capacity at a qualified facility to 10,000 gallons or less. EPA considered many different factors before selecting this maximum storage capacity. As explained in the preamble to the proposal (70 FR 73529), EPA has established 10,000 gallons as a threshold in several other rules relating to oil discharges. The National Oil and Hazardous Substances Pollution Contingency Plan size classes define an oil discharge to inland waters exceeding 10,000 gallons as a major discharge. An oil discharge of 10,000 gallons or more to waters of the U.S. and adjoining shorelines that could reasonably be expected to cause substantial harm to the environment also is one of the factors used in identifying facilities whose owners and operators must prepare and submit a Facility Response Plan (see 40 CFR 112.20(f)(1)(D). A number of State regulations also differentiate regulatory requirements based on a facility's total storage capacity, with some States specifying a 10,000-gallon threshold (e.g., Maryland, Minnesota, Oregon, New York, Wisconsin). Finally, 10,000 gallons is a common storage container size.

More commenters supported than opposed the proposed threshold eligibility criterion of total oil storage capacity of 10,000 gallons or less, while others offered alternative thresholds. Many commenters supported the idea of establishing tiers for qualified facilities. (As noted earlier, the Agency intends to propose a more streamlined approach for owners and operators of facilities with a total oil storage capacity of 5,000 gallons or less.) Many supporters believed that the proposed 10,000-gallon threshold would reduce the financial burden on owners and operators of small facilities. Among commenters that opposed the threshold, at least one stated that the proposed 10,000-gallon threshold did not provide enough regulatory relief to owners and operators of small facilities, but others noted that smaller storage sizes do not necessarily correlate with lower spill risk.

Facilities handling smaller amounts of oil are typically simpler in layout and operation. Most facilities with an oil storage capacity of 10,000 gallons or less are in industrial sectors that are end-consumers of oil (i.e. farms, real estate, rental and leasing, retail trade, construction [see the Regulatory Impact Analysis for this action, found in the docket for today's final rule]). These

facilities are commonly not in an oil production or distribution business and tend to use oil on-site for heating purposes, or to fuel emergency power generators or heavy machinery. The configuration of the oil-related equipment tends to be relatively standard and simple. Oil is commonly stored in a few bulk storage containers which are often bought off-the-shelf from a tank manufacturer or installer (e.g., standard UL–142 tanks) and connected with few short lengths of piping in a standard configuration that changes relatively little from one facility to another.

Additionally, these facilities typically do not have significant transfers of oil because they do not further distribute the oil. A survey conducted by EPA of oil storage facilities (1995 SPCC Survey of Oil Storage Facilities) found that the larger the storage capacity at a facility, the greater the likelihood of larger spills, more spills, and more cleanup costs annually. Our regression analyses of the 1995 survey data (see "Analysis of the Relationship between Facility Characteristics and Oil Spill Risk," found in today's docket) confirmed similar linkages for facilities with a greater number of tanks and larger annual throughput. These analyses were performed because storage capacity, number of tanks, and throughput were identified as important individual factors in explaining the total annual spill volume, number of spills, and cleanup costs. Thus, these factors were used together in a multivariate regression model to ensure that these three variables continue to be statistically significant variables when assessing whether there is potential bias (i.e., an overstatement of the importance of the variable in explaining the variation in the dependent variable). After performing these analyses, storage capacity and number of tanks were found to be statistically significant in relation to all three measures of spill risk (i.e., total number, volume, and cleanup costs of oil spills). The Agency believes simple oil storage configuration, in conjunction with the smaller quantities of oil handled at qualified facilities, makes self-certification an appropriate alternative. Therefore, the Agency has decided to maintain the maximum aggregate oil storage capacity for qualified facilities at 10,000 gallons as proposed.

The development of streamlined requirements for owners and operators of those facilities with a smaller size or storage volume is not new; industry standards, engineering codes and practices, State regulations, local fire codes and local ordinances often recognize the differences between sizes and complexity of their target facilities and/or equipment and as a result incorporate simplified requirements. The Agency believes that today's action provides an alternative compliance option for owners and operators of facilities handling smaller amounts of oil that will ultimately result in increased environmental protection by making it easier and less burdensome to comply.

EPA recognizes that an oil discharge of less than 10,000 gallons can be harmful (see 40 CFR part 110, where the Agency defines what constitutes a discharge of oil in quantities that may be harmful). Nevertheless, EPA believes that it is reasonable to allow owners and operators of facilities with a capacity of no more than 10,000 gallons the option to prepare and implement SPCC Plans without the involvement of a PE (except in those cases where environmental equivalence or an impracticability determination is requested by an owner or operator and that the owner or operator chooses to have a PE certify part or all of the facility SPCC Plan). Therefore, the Agency is adopting in today's rule a threshold capacity of 10,000 gallons as a criterion for those facilities that are qualified for self-certification.

Some commenters argued that the 10,000-gallon threshold would still preclude owners and operators of smaller facilities from taking advantage of the self-certification alternative. For example, a facility with two 5,000-gallon storage containers and a few totes just exceeds the 10,000-gallon threshold. Commenters argued that these kinds of facilities have low volumes of oil and simple operations, and that perhaps a slightly higher threshold would be more appropriate. The Agency recognizes that regardless of the threshold quantity selected, there are likely to be facilities just above that threshold that will be excluded. To the extent that facility owners or operators want to take advantage of the streamlined approach, they always have the option of reducing the storage capacity of oil at their facility by either removing containers from the facility inventory, or permanently closing containers in accordance with § 112.2.

Other commenters suggested higher threshold quantities, generally based upon the quantities of oil used or stored in their particular industry sector. EPA does not agree that this provides a rational basis for raising the threshold limit for qualified facilities. Higher thresholds would potentially allow owners and operators of facilities (in some cases unmanned) with more complex operations or more complex oil system configurations, designs and layouts, and with the potential for an increased number of transfers, the option of foregoing the services of a PE. Thus, self-certification for owners and operators of more complex facilities would not be commensurate with their potential spill risks.

By limiting the self-certification option to owners and operators of facilities with a maximum aggregate oil storage capacity of 10,000 gallons, the Agency believes that an owner or operator of a qualified facility should be able to self-certify compliance the facility's SPCC Plan, and that offering this simpler and streamlined alternative will result in greater environmental protection by improving compliance with the SPCC rule. Owners and operators of facilities handling smaller amounts of oil would still be required to comply with the SPCC requirements and to prevent and prepare to respond to oil discharges to navigable waters and adjoining shorelines, but they would be able to do so in a less costly manner. We believe this alternative certification provision will prove to be an incentive for compliance.

b. Reportable Discharge History

Clean Water Act section 311(b)(3) prohibits "the discharge of oil * * * into or upon the navigable waters of the United States, the adjoining shorelines, or into or upon the waters of the contiguous zone" or in connection with specified activities in waters "in such quantities as may be harmful * * *." Section 311(b)(4) requires regulations to define the quantities of oil, "the discharge of which may be harmful to the public health or welfare or the environment of the United States, * * *," 33 U.S.C. 1321(b)(3), (4). In part 110, EPA defines a "discharge of oil in such quantities that may be harmful" as a discharge of oil that violates applicable water quality standards; a discharge of oil that causes a film or sheen upon the surface of the water or on adjoining shorelines; or a discharge of oil that causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines (40 CFR 110.3). The Agency refers to such discharges as reportable discharges or as "a discharge as described in § 112.1(b)" of the rule. Any person in charge of a facility must report any such discharge of oil to waters of the United States, adjoining shorelines, the contiguous zone or in connection with specified activities in waters from the facility to the National Response Center (NRC) at 1–800–424–8802 immediately. While EPA recognizes that past discharge

history does not necessarily translate into a predictor of future performance, the Agency believes that discharge history is a reasonable indicator of a facility owner or operator's ability to develop an SPCC Plan for his smaller oil storage capacity facility without the involvement of a PE.

EPA proposed that a qualified facility subject to the SPCC requirements must have no reportable oil discharges as described in § 112.1(b) during the ten years prior to self-certification or since becoming subject to the SPCC requirements, whichever time period is less. The Agency proposed using a facility's reportable discharge history as a reasonable indicator of the effective implementation of an SPCC Plan based on an established record of good oil spill prevention. The reportable discharge history criterion was intended to limit the option of self-certification to owners and operators of those facilities that had demonstrated an effective implementation of spill prevention measures in the past.

The commenters who supported the proposed reportable discharge requirement agree that it is important for a facility to have a clean spill history. However, a significant number of commenters argued against the proposed reportable discharge history criterion as an appropriate criterion, and that the small storage capacity alone should be sufficient to allow self-certification. One reason is that some reportable discharges are not the facility owner or operator's fault, but caused by outside sources. For example, a number of commenters pointed to the recent hurricanes in the Gulf Coast states that led to oil discharges that were not within the control of the facility owner or operator. A further reason is that facilities that have a clean discharge history might not always remain spill-free. As for the proposed ten-year period, one commenter stated that facility owners and operators are only required to keep records for SPCC Plans for three years; most owners and operators keep them for five years. Another commenter stated that a discharge history of ten years would almost be impossible to prove. Another commenter believed that the qualification for a qualified facility should not be based on the ten-year discharge history, but should be based on the discharge history under the current operator. A few commenters believed that risk of discharge should determine self-certification. Additionally, many commenters recommended alternative discharge history timeframes in place of the ten-year timeframe EPA proposed. Half of the commenters believed that three years should be the time frame for the reportable discharge history since the SPCC record-keeping requirement for facility owners and operators is three years. Two commenters mentioned that if a discharge occurs and the Regional Administrator (RA) responds, and after review of the SPCC Plan the RA does not require an amendment in the Plan, then the discharge should not count against the facility owner or operator when determining its compliance with a spill-history criterion.

After consideration of the comments received, EPA is finalizing the reportable discharge criterion for qualified facilities but for three years, rather than ten years. The Agency agrees with commenters that a ten-year spill history is unreasonable, particularly since the facility owner or operator is only required to keep records for three years. In addition, EPA is modifying the types of discharges that must be considered for this criterion. The final rule provides that for the three years prior to the SPCC Plan certification date, or since becoming subject to 40 CFR part 112 if the facility has been in operation for less than three years, the owner or operator of a facility must certify that the facility has (1) had no single discharge as described in § 112.1(b) exceeding 1,000 U.S. gallons or (2) had no two discharges as described in § 112.1(b) each exceeding 42 U.S. gallons within any twelve month period. When determining spill history, the gallon amount specified in the criterion (either 1,000 or 42) refers to the amount of oil that actually reaches waters of the United States, adjoining shorelines, the contiguous zone or in connection with specified activities in waters and not the total amount of oil spilled. For example, a facility only experiencing one discharge over the past ten years in which 1,500 gallons of oil discharged onto the ground but only 20 gallons reached waters of the United States (causing a sheen and reportable to the NRC) would meet the reportable discharge history criterion. However, a facility having 1,500 gallon discharge to waters of the United States would not meet the reportable discharge history criterion.

In the preamble to the proposed rule, EPA requested comment on how extreme events such as natural disasters, acts of war or terrorism, sabotage or other calamities might potentially affect the discharge history criterion for qualified facilities. Many commenters stated that it would not be appropriate to include these events in the discharge history criterion. The Agency agrees that those reportable discharges caused by external factors beyond the control of the facility owner or operator such as natural disasters, acts of war, or terrorism should not disqualify owners and operators of otherwise qualified facilities from taking advantage of the self-certification option. Therefore, we have excluded those events from consideration in the reportable discharge criterion in today's final rule. The Agency did not include sabotage/vandalism in the final list of reportable discharge history extreme events because these are not necessarily beyond the control or planning ability of the facility owner or operator. Only those discharges as described in § 112.1(b) that are the result of natural disasters, acts of war, or terrorism will not disqualify any owner or operator of an otherwise qualified facility from using the self-certification option.

The discharge criterion finalized in today's rule is similar to the provision in § 112.4(a) for discharges that must be reported to the EPA Regional Administrator (RA). A discharge that must be reported to the RA pursuant to § 112.4(a) may result from improper Plan implementation, rather than from a deficiency in the Plan itself, which would likely not cause the RA to require the facility owner or operator to amend its Plan. Therefore, the EPA does not agree with the commenters that suggested excluding those discharges as described in § 112.1(b) from the eligibility criterion that have been investigated by the RA with no subsequent requirement for a Plan amendment.

The determination of eligibility based on reportable discharge history is made at the time the SPCC Plan is certified—*i.e.*, when the SPCC Plan is amended to comply with the SPCC rule revisions in today's final rule and those promulgated in July 2002. Once the compliance date extension ends, Plans must be amended, certified and implemented. Any discharges to navigable waters and adjoining shorelines that occur from a qualified facility after the SPCC Plan has been certified do not impact the eligibility of an owner or operator of the qualified facility to take advantage of the self-certification option. The facility does not lose eligibility status as a result of a discharge as described in § 112.1(b), unless the RA requires an amendment to the SPCC Plan in accordance with § 112.4(d) and specifically requires PE-certification. If an owner or operator cannot certify that the facility meets the eligibility criterion at the initial date of Plan certification, but can later demonstrate a clean spill history of three years, as well as compliance with any remedial actions required by the RA

following a spill, then a technical amendment to the Plan can be self-certified and the Plan can be revised to allow for qualified status.

4. Requirements for Qualified Facilities

In today's rule, the Agency is creating a new section, § 112.6, with requirements specific for qualified facilities whose owners and operators choose to self-certify their Plans. Owners and operators of qualified facilities with an aggregate aboveground oil storage capacity of 10,000 gallons of oil or less may choose to comply with the requirements in § 112.6 by completing and implementing a self-certified SPCC Plan. A qualified facility's Plan, whether certified by a PE or self-certified, must comply with all of the applicable requirements of § 112.7 and subparts B and C of the rule. We note, however, that a facility's SPCC Plan does not need to conform to any particular format. There is flexibility with respect to how a facility owner or operator chooses to maintain the documentation comprising the facility's Plan, just as there is flexibility with respect to how the owner or operator chooses to carry out the elements of the Plan.

a. Self-Certification of Plan and Plan Amendment

The commenters who supported self-certification for owners and operators of qualified facilities believed that it would relieve burden on the owners and operators. The commenters who opposed self-certification did so for four main reasons. First, some commenters believe that the preparation of the SPCC Plan requires scientific, engineering, and professional judgment skills that are unique to engineers. Second, some commenters believe owners and operators of small facilities often cannot afford the cost of responding to a spill, and it is important that the SPCC Plan is prepared carefully and thoroughly by a PE. Third, some commenters believe that not having a PE involved would adversely affect public health, safety, and welfare. Fourth, some commenters believe that the proposal would allow non-engineers to perform a function that is only allowed by engineers under the National Council of Examiners for Engineering and Surveying, a Model Law adopted by the majority of States.

The self-certification option is designed for owners and operators of those facilities that store smaller amounts of oil. Those smaller amounts of oil generally translate to facilities with simpler, pre-engineered installations, such as restaurants, office buildings, family farms, automotive repair shops, and rural electrical substations. EPA believes that a differentiated option for users of smaller amounts of oil has merit as other official bodies, such as standards setting organizations have provided differentiations in their standards for smaller users of oil. For example, the National Fire Protection Association (NFPA) provides differentiated requirements based on type of facility and size of tanks. Specifically, NFPA 30 (*Flammable and Combustible Liquids Code*, 2000 Edition) applies to tanks that exceed 3,000 liters (793 gallons) and does not apply to facilities storing flammable and combustible liquids as covered by NFPA 395, *Standard for the Storage of Flammable and Combustible Liquids at Farms and Isolated Sites*. The Agency believes that the relative simplicity of operations at facilities using smaller amounts of oil has served as a basis for other official bodies to develop requirements that are simpler in scope.

To this end, the Agency is amending the certification language so that it clearly states that the owner or operator of the facility is the certifying official for those who choose the option to self-certify the Plan for qualified facilities. The Agency also intends to develop materials to assist these owners or operators in developing SPCC Plans. It should also be remembered that while owners and operators of these facilities may choose not to have their SPCC Plans certified by a PE, they will still be required to comply with all of the SPCC requirements and to develop and implement a spill prevention program in accordance with good engineering practices, and they may do so by following regulatory guidance, industry recommended practices and standard design and operation protocols. Finally, to the extent that a State has adopted a law, such as one based on the National Council of Examiners for Engineering and Surveying, that requires that a PE to perform certain functions, including certifying Plans, nothing in today's rule affects whether a facility owner or operator would be required to utilize a PE to meet the state or local requirements since today's rule does not pre-empt any State or local requirements.

The Agency believes providing the added flexibility of self-certification for the smaller oil handlers/simpler operations will yield an increase in overall compliance for this segment of the regulated community, which will result in improved compliance with the rule and as a result, improve overall spill prevention and environmental protection. However, owners or operators of some qualified facilities with complicated operations may nonetheless find that having a PE-certified Plan offers a more cost-effective method of achieving compliance than the proposed option. Therefore, a qualified facility owner or operator could choose to follow the existing SPCC requirements (including the PE certification).

The Agency also proposed and is finalizing today that an owner or operator of a qualified facility may self-certify technical amendments to the Plan, including modification of site diagrams, and that owners and operators of facilities with PE-certified Plans that qualify for self-certification can choose to self-certify future technical amendments rather than hire a PE to certify the technical amendment. Owners and operators of facilities that are not eligible to self-certify are required to have a PE certify such modifications. In all cases, any technical amendment in an SPCC Plan must be certified in writing. As described in the preamble to the proposed rule, the Agency notes that under the existing SPCC regulations, the RA, after reviewing the facility's Plan, has the authority in § 112.4 to require an owner or operator of a facility that has had a discharge as described in § 112.1(b) or that poses an imminent danger of a discharge as described in § 112.1(b), to amend its SPCC Plan, including requiring PE certification in accordance with § 112.3(d).

b. Elements of Self-Certification and Plan Amendments for Owners and Operators of Qualified Facilities

The finalized requirements for owners and operators of qualified facilities are similar to those in the proposed qualified facilities option in the proposed rule. An owner or operator of a qualified facility may choose to comply with the requirements in § 112.6 by completing and implementing a self-certified SPCC Plan in lieu of having a PE certified Plan. The SPCC Plan must comply with all of the applicable requirements of § 112.7 and subparts B and C of the rule.

Owners and operators that choose to self-certify their Plans must certify that they are familiar with the requirements of the SPCC rule; they have visited and examined the facility; the Plan has been prepared in accordance with accepted and sound industry practices and standards; procedures for required inspections and testing have been established; the Plan is being fully implemented; the facility meets the qualification criteria set forth under § 112.3(g); the Plan does not include any

environmental equivalence measures as described in § 112.7(a)(2) or determinations of impracticability under § 112.7(d) unless each alternative method and/or determination has been reviewed and certified by a PE in accordance with § 112.6(d); and the Plan and the individual(s) responsible for implementing the Plan have the full approval of management and the facility owner or operator has committed the necessary resources to fully implement the Plan.

The qualified facility self-certification approach is optional. Under today's final rule, an owner or operator of a qualified facility may choose to prepare and implement a PE-certified SPCC Plan to comply with the requirements under 40 CFR part 112.

c. Environmental Equivalence and Impracticability Determinations

Under § 112.7, all facility owners and operators have the flexibility to deviate from specific rule provisions if the Plan states the reason for nonconformance and if equivalent environmental protection is provided by some other means of spill prevention, control, or countermeasure. These "environmentally equivalent" measures must be described in the SPCC Plan, including how the equivalent environmental protection will be achieved based on good engineering practice. Allowance for "environmentally equivalent" deviations is provided in § 112.7(a)(2), and the deviations are available only for the specific requirements listed in § 112.7(a)(2), such as fencing and other security measures, evaluation of the potential for catastrophic tank failure due to brittle fracture, integrity testing, and overfill prevention. Environmental equivalence is not available for secondary containment or the administrative or recordkeeping requirements of the SPCC rule. As part of the SPCC Plan, any environmentally equivalent measures are required to be certified by a PE and the owner or operator, and the PE is required to consider industry standards in the development of the Plan. Thus, when a PE certifies a Plan that includes any environmentally equivalent protection measure, the PE is certifying that these alternative measures are consistent with relevant industry standards.

The SPCC rule also provides flexibility for owners or operators who determine that the general secondary containment requirements in § 112.7(c) or any of the applicable additional requirements for secondary containment in subparts B and C are impracticable. Where impracticability is demonstrated, § 112.7(d) allows facility owners and operators the flexibility to instead develop a contingency plan and comply with additional requirements. The SPCC Plan must explain why secondary containment measures are not practicable. Section 112.7(d) requires that, when containment for bulk storage containers is deemed impracticable, the owner or operator must conduct both periodic integrity testing of the containers and periodic integrity and leak testing of the valves and piping. The owner or operator also must provide an oil spill contingency plan that follows the provisions of 40 CFR part 109 (Criteria for State, Local and Regional Oil Removal Contingency Plans), and a written commitment of manpower, equipment, and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful as described in 40 CFR part 110. A PE must certify any determinations that secondary containment is impracticable, as well as the additional measures implemented in lieu of secondary containment.

Because of the expertise that a PE has in evaluating whether particular measures provide equivalent environmental protection and in knowing how to effectively implement such measures, EPA believes that the flexibility in these performance-based provisions is best suited to SPCC Plans that are reviewed and certified by a PE. The same expertise is necessary in determining whether the required secondary containment is impracticable.

EPA proposed that when a Plan is self-certified, the owner or operator would not be able to use environmentally equivalent measures or to make impracticability determinations with respect to secondary containment. Instead, EPA proposed specific alternative measures for compliance with security and integrity testing requirements at qualified facilities that self-certify. The commenters who supported this approach indicated that it added a safety factor into the self-certification. Most commenters opposed this approach because impracticability determinations and environmental equivalence were originally created to relieve burden, and owners and operators of small facilities still need the flexibility these mechanisms provide. Some commenters believed that the agricultural industry would be negatively affected because the environmental equivalence and impracticability provisions are an important element to reduce the burden on owners and operators of these facilities due to topography and operations. As for the proposed specific alternative to environmentally equivalent measures for security, one commenter supported this proposal.

With respect to integrity testing, the Agency proposed to allow self-certifying owners and operators of qualified facilities to perform integrity testing by relying on industry standards for the integrity testing requirements as an alternative to the existing bulk storage containing integrity testing requirements. All but one commenter supported the proposal. One commenter supported it, but also wanted visual inspection of individual shop-fabricated tanks up to 10,000 gallons. Another commenter agreed, but believed that the expense of the Steel Tank Institute's (STI) Tank Inspection Standard, SP001 (July 2005), was high and the STI standard and accompanying checklists are not applicable to small facilities. A hybrid approach also was suggested whereby owners and operators of qualified facilities would be allowed to use the self-certification option, and, in the event that an environmental equivalency or impracticability determination is needed, the owner or operator must consult a PE for just that aspect of their program, rather than requiring a full PE review and approval of the entire Plan.

The Agency continues to believe that the flexibility afforded by the environmental equivalence or impracticability determinations should be available only to owners and operators of facilities having those elements reviewed and certified by a PE. At the same time, the Agency recognizes that by restricting these options for owners and operators of qualified facilities, the alternative of self-certification may not be as attractive for some owners or operators because they will lose the added flexibility of further tailoring the SPCC requirements to their facility's characteristics. The Agency agrees with commenters that under the proposed rule, there would likely be certain circumstances where, because of cost considerations, a facility owner or operator would not choose to self-certify because it would be more cost effective for a PE to prepare an SPCC Plan that utilizes environmentally equivalent measures or impracticability determinations.

In today's final rule, the Agency therefore is adopting a hybrid approach. This approach finalizes the alternatives for addressing security measures and integrity testing and also allows owners or operators of self-certified facilities to include environmentally equivalent measures with respect to requirements other than facility security and integrity testing, as well as to make

impracticability determinations, provided they have a PE certify these environmentally equivalent measures or impracticability determinations. Because qualified facilities typically have less complex operations and petroleum system configurations and storage capacities than other facilities subject to SPCC requirements, EPA believes that the alternative requirements for facility security and bulk storage container integrity testing finalized today are appropriate for self-certification. However, today's rule does not preclude a qualified facility from choosing to have a PE certify the integrity testing and/or security measures in the facility's Plan as environmentally equivalent measures. For example, where there are no industry standards to guide integrity testing at a qualified facility, the alternative integrity testing option in § 112.6(c)(4)(ii) is not available. However, the facility owner/operator is allowed to have a PE certify an integrity testing protocol in the Plan that is environmentally equivalent to the applicable requirements in subpart B or C. The Agency believes that this "hybrid" approach will further expand the flexibility offered by the self-certification compliance option to owners and operators of qualified facilities without compromising proper environmental protection.

Similarly, EPA is adopting a hybrid approach to certification of technical amendments to a qualified facility's SPCC Plan in § 112.5. PE-certified sections of a qualified facility's "hybrid" SPCC Plan require PE certification of any technical amendments to that portion of the Plan. Technical amendments to the non-PE certified sections of a qualified facility's "hybrid" Plan can be certified by the owner or operator.

B. Qualified Oil-Filled Operational Equipment

The definition of bulk storage container in § 112.2 specifically excludes oil-filled electrical, operating, and manufacturing equipment ("oil-filled equipment"). Therefore, oil-filled equipment is not subject to the bulk storage container requirements in §§ 112.8(c), 112.9(c), and 112.12(c). However, oil-filled equipment must meet the general requirements of § 112.7, including the general secondary containment requirements of § 112.7(c). The general secondary containment requirements are intended to address the most likely oil discharge from oil-filled equipment. Although oil-filled equipment differs from bulk storage containers in several ways, the oil storage capacity of oil-filled equipment still counts towards the aggregate oil storage capacity of the facility.

EPA proposed to amend the SPCC rule to provide a definition of oil-filled operational equipment and an optional alternative to the general secondary containment requirements for oil-filled operational equipment at a facility that meets the qualifying criterion (hereafter referred to as "qualified oil-filled operational equipment"). These amendments are being finalized in today's rule. The rule allows owners and operators of facilities with eligible oil-filled operational equipment as defined in § 112.2 the option to prepare an oil spill contingency plan and a written commitment of manpower, equipment, and materials to expeditiously control and remove any oil discharged that may be harmful without having to make an individual impracticability determination as required in § 112.7(d). If an owner or operator takes this option, he or she is also required to establish and document an inspection or monitoring program for this qualified oil-filled operational equipment to detect equipment failure and/or a discharge in lieu of providing secondary containment.

New provisions in § 112.7(k) define the criterion that facilities must meet in order to be considered eligible for the "qualified oil-filled operational equipment" option. Eligibility of a facility with oil-filled operational equipment is determined by considering the reportable discharge history from only oil-filled operational equipment at the facility; the Agency is adopting the same reportable discharge history criterion that it adopted for qualified facilities, as discussed in Section V.A.3.b above. That is, the qualified oil-filled operational equipment criterion specifically requires that the facility did not discharge more than 1,000 U.S. gallons in a single discharge as described in § 112.1(b) or discharge more than 42 U.S. gallons in each of two discharges as described in § 112.1(b) within twelve months, from any oil-filled operational equipment in the three years prior to the SPCC Plan certification date, or since becoming subject to 40 CFR part 112 if the facility has been in operation for less than three years.

As proposed, the final rule provides an alternative means of SPCC compliance for this equipment; therefore, an owner or operator could choose to comply with the existing SPCC requirements to provide general secondary containment for each piece of qualified oil-filled operational equipment in accordance with § 112.7(c), if desired. For example, oil-filled operational equipment at electrical substations is often surrounded by a gravel bed, which serves as a passive fire quench system and support for the facility grounding network that can restrict the movement of oil in the event of a release. Gravel beds, if designed to prevent a discharge as described in § 112.1(b) (i.e., drainage systems that do not serve as a conduit to surface waters) may meet the general secondary containment requirements of § 112.7(c). EPA further notes that oil-filled operational equipment located within buildings with limited drainage and which prevent a discharge as described in § 112.1(b), may already meet the requirements for general secondary containment of § 112.7(c).

In some situations, permanent containment structures, such as dikes, may not be feasible (*i.e.*, for certain electrical equipment). Section 112.7(c) allows for the use of certain types of active containment measures (countermeasures or spill response capability), which prevent a discharge to navigable waters or adjoining shorelines. Active containment measures are those that require deployment or other specific action by the owner or operator. These measures may be deployed either before an activity involving the handling of oil starts, or in reaction to a discharge so long as the active measure is designed to prevent an oil spill from reaching navigable waters or adjoining shorelines. Thus, a method of detecting a discharge is of great importance to effectively implement the use of active containment measures. If an owner or operator provides secondary containment for oil-filled operational equipment by the use of active measures, a contingency plan for this equipment is not necessary. Ultimately, the decision whether to use the optional approach to secondary containment for qualified oil-filled equipment must be made by the owner or operator.

1. Oil-Filled Operational Equipment Definition

EPA proposed to define "oil-filled operational equipment" as "equipment which includes an oil storage container (or multiple containers) in which the oil is present solely to support the function of the apparatus or the device. Oil-Filled operational equipment is not considered a bulk storage container, and does not include oil-filled manufacturing equipment (flow-through process)." Many of the commenters supported this definition and therefore, we are finalizing this definition in today's rule and including examples in the

definition to provide additional clarity. Examples of oil-filled operational equipment include, but are not limited to, hydraulic systems, lubricating systems (*i.e.*, those for pumps, compressors and other rotating equipment, including pumpjack lubrication systems), gear boxes, machining coolant systems, heat transfer systems, transformers, circuit breakers, electrical switches, and other systems containing oil solely to enable the operation of the device. When piping is intrinsic to the oil-filled operational equipment in a closed loop system, *i.e.*, inherent to the equipment and used solely to facilitate operation of the device, (*e.g.*, for lubrication) then EPA will consider the piping to be a component of the oil-filled operational equipment. However, piping not intrinsic to the operational equipment (*i.e.*, flowlines, transfer piping or piping associated with a process) will not be considered to be part of the oil-filled operational equipment.

The Agency received comments that included alternatives to the definition proposed. Specifically, commenters suggested that the word "storage" be removed from the definition of "oil-filled operational equipment." The Agency disagrees with the suggestion to remove the word "storage" from the definition because oil-filled operational equipment includes oil inherent to the device which is stored prior to and during use for the operation of the equipment and when the oil-filled operational equipment is in standby.

Some commenters asked that EPA identify generators ("gensets") as oil-filled operational equipment. EPA's position is that gensets are a combination of oil-filled operational equipment and a bulk oil storage container, and the oil that is consumed to generate electricity is not inherent to the device. (The bulk storage container on a genset often requires the transfer of oil.) Therefore, although gensets incorporate oil-filled operational equipment, such as the lubrication oil system, gensets, as a whole unit, do not meet the definition of oil-filled operational equipment in today's final rule. In situations where it is impracticable to provide appropriate secondary containment for gensets (for either the bulk storage containers or oil-filled operational equipment of the genset), a PE can make a determination of impracticability in accordance with § 112.7(d) and develop a contingency plan following the provisions of 40 CFR part 109 and provide a written commitment of manpower, equipment and materials to expeditiously control and remove any quantity of oil discharged that may be harmful. See Chapter 4 of the *SPCC Guidance for Regional Inspectors* for further explanation regarding when sized secondary containment is required for mobile or portable containers that are in a stationary, unattended mode.

Several commenters argued that by combining oil-filled electrical with other operational equipment, EPA diluted the strong case for differentiation of oil-filled operational equipment. Commenters also suggested that EPA redefine electrical equipment to include not only circuit breakers, transformers, and electrical switches, but also hydraulic systems, lubricating systems, gear boxes, machining coolant systems, heat transfer systems, etc. In July 2002, when EPA clarified that oil-filled electrical, operating, and manufacturing equipment are not bulk storage containers, the Agency agreed to continue to evaluate whether the general secondary containment requirements found in § 112.7(c) should be modified for small electrical and other types of equipment which use oil for operating purposes. Today's definition of oil-filled operational equipment describes the function of both electrical equipment, as well as other types of operating equipment (hydraulic systems, lubricating systems, etc.)

Oil-filled electrical and operating equipment share common characteristics. They both typically have minimal oil throughput because such equipment does not require frequent transfers of oil. Further, the oil contained in oil-filled operational equipment, such as cooling or lubricating oil, is intrinsic to the operation of the device and facilitates the function of the equipment. Utilities have strong economic incentives to prevent power outages, to discover and respond to an outage, and to correct the conditions that produced the outage as quickly as possible. Other industry sectors also have strong incentives to prevent discharges to avoid disruption in business and costs of a cleanup. The Agency believes it is appropriate to allow the same alternative means of compliance with the general secondary containment requirements of § 112.7(c) for oil-filled operational equipment at all facilities. In addition, oil-filled operational equipment often is subject to routine maintenance and inspections to ensure proper operation. Therefore, the Agency believes it is appropriate to allow the same alternative means of compliance with general secondary containment requirements to apply to both oil-filled electrical and operational equipment. We have included both types of equipment into the definition of oil-filled operational equipment.

2. Oil-Filled Manufacturing Equipment

The Agency is not finalizing a definition of oil-filled manufacturing equipment because we did not propose and seek comment on a definition. Additionally, the Agency does not agree with commenters that the alternative option to general secondary containment should also apply to oil-filled manufacturing equipment. Oil-filled manufacturing equipment is inherently more complicated than oil-filled operational equipment because it typically involves a flow-through process and is commonly interconnected through piping. For example, oil-filled manufacturing equipment may receive a continuous supply of oil, in contrast to the static capacity of other, non-flow-through oil-filled equipment. Examples of oil-filled manufacturing equipment include, but are not limited to, process vessels, conveyances such as piping associated with a process, and equipment used in the alteration, processing or refining of crude oil and other non-petroleum oils, including animal fats and vegetable oils.

The final rule does not change any requirements for oil-filled manufacturing equipment. Oil-filled manufacturing equipment remains subject to the general SPCC requirements under § 112.7, including a demonstration of impracticability under § 112.7(d) if the SPCC Plan does not provide for general secondary containment as required by § 112.7(c). The oil storage containers associated with the storage of raw products or finished oil products are bulk oil storage containers and are not considered oil-filled manufacturing equipment or oil-filled operational equipment. Oil-filled manufacturing equipment is distinct from bulk storage containers in its purpose and is described in the SPCC Guidance for Regional Inspectors. Oil-filled manufacturing equipment stores oil only as an ancillary element of performing a mechanical or chemical operation to create or modify an intermediate or finished product. Some more specific examples of oil-filled manufacturing equipment may include reaction vessels, fermentors, high pressure vessels, mixing tanks, dryers, heat exchangers and distillation columns. Under the SPCC rule, flow-through process vessels are generally considered oil-filled manufacturing equipment since they are not intended to store oil. EPA expects the owner or operator and the certifying PE to delineate bulk storage containers from the oil-filled manufacturing equipment

in the facility's SPCC Plan (i.e., on the facility's diagram and in discussion of compliance with inspection requirements of the rule). Additionally, although oil-filled manufacturing equipment is not a bulk storage container and is therefore not subject to the frequent visual inspection requirement for bulk storage containers under § 112.8(c)(6), EPA believes that it is good engineering practice to have some form of visual inspection or monitoring for oil-filled manufacturing equipment in order to prevent discharges as described in § 112.1(b). Furthermore, it is a challenge to comply with several of the SPCC provisions (for example, requirements for security under § 112.7(g)) and to address countermeasures for discharge discovery under § 112.7(a)(3)(iv)) without some form of inspection or monitoring program.

3. Eligibility Criteria

a. Reportable Discharge History

Part 110 defines a discharge of oil in such quantities that may be harmful to the public health, welfare, or the environment of the United States as a discharge of oil that violates applicable water quality standards; a discharge of oil that causes a film or sheen upon the surface of the water or on adjoining shorelines; or a discharge of oil that causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines (40 CFR 110.3). The Agency refers to such discharges as reportable discharges or as "a discharge as described in § 112.1(b)" of the rule. Any person in charge of a facility must report any such discharge of oil from the facility to the National Response Center (NRC) at 1–800–424–8802 immediately. While EPA recognizes that past release history does not necessarily translate into a predictor of future performance, the Agency believes that discharge history is a reasonable indicator of a facility owner or operator's ability to develop an SPCC Plan for the facility without the involvement of a PE.

Under the proposal, the alternative compliance approach for general secondary containment for oil-filled operational equipment would not be allowed to be implemented at the facility unless the owner or operator had no reportable discharge from any oil-filled operational equipment in the ten years prior to the SPCC Plan certification date, or since becoming subject to 40 CFR part 112 if the facility had been in operation for less than ten years. This criterion was based on a proposal submitted by the Utility Solid Waste Activities Group (USWAG), as described in the documents supplementing the September 20, 2004 Notice of Data Availability (NODA) at 69 FR 56184.

Many commenters agreed with the proposed eligibility requirement. However, several comments requested that the qualifier be dropped and the type of equipment be the only qualifier. These commenters argued that reportable discharge history was not a suitable criterion for a number of reasons, including: (1) It is arbitrary and capricious—eligibility should be rationally related to equipment or equivalent facility performance; (2) it is not effective to identify bad actors who do not report discharges; (3) it is unreasonable for crude oil and natural gas production facilities, so no requirements should apply; and (4) it does not take into consideration the volume of oil or location of equipment in assessing risk. Other commenters suggested considering the criterion for submitting reports to EPA under § 112.4 to be the eligibility criterion for oil-filled operational equipment. Another commenter requested EPA clarify that the discharge is from regulated equipment, *i.e.*, equipment that is greater than 55 gallons.

Although EPA recognizes that past discharge history does not necessarily predict future performance, the Agency believes that discharge history can be used as a surrogate measure for a facility owner or operator's ability to appropriately manage its oil. Hence, as with "qualified facilities," EPA is using this discharge history criterion to identify a facility owner or operator's ability to effectively implement its SPCC Plan and prevent discharges in quantities that may be harmful. In establishing a good oil spill prevention history for its oil-filled operational equipment, a facility then qualifies for the oil spill contingency plan option in lieu of secondary containment. Because the Agency believes it is appropriate to extend this approach to all oil-filled operational equipment, regardless of the oil storage capacity of the equipment, the spill history criterion is critical to establish an appropriate balance between environmental protection and streamlined requirements by identifying those facilities whose owners or operators have demonstrated good spill prevention practices in the past.

EPA does not agree that this is unreasonable for crude oil and natural gas production facilities because the reportable discharge criterion is applicable only to the oil-filled operational equipment at the facility and is not affected by other discharges that may have occurred from the facility from other types of oil storage containers. One commenter pointed out that discharges from compressors, pumpjacks, and similar equipment are extremely rare and unlikely to reach navigable waters and adjoining shorelines.

Many commenters suggested an alternate reportable discharge history period of five years. One commenter suggested three years and another suggested either two or five years. A few commenters suggested the time period should be five years with a § 112.4 spill notification trigger.

In response to comments received on the proposed rule, EPA has reduced the discharge history period from ten years to three years, which is consistent with the recordkeeping requirements in § 112.7(e). In addition, rather than including all discharges reportable to the National Response Center, the Agency is specifying amounts of more than 1,000 U.S. gallons in a single discharge as described in § 112.1(b) or more than 42 U.S. gallons in two discharges as described in § 112.1(b) within a twelve month period during the three-year timeframe, or since becoming subject to 40 CFR part 112 if the facility has been in operation for less than three years, only from oil-filled operational equipment at the facility. This criterion does not include oil discharges as described in § 112.1(b) that are the result of natural disasters, acts of war, or terrorism. The approach is similar to the discharges that are reportable to the Regional Administrator under § 112.4(a), with the exception that the criterion finalized today applies only to discharges from oil-filled operational equipment and not all oil containers at a facility as in the case of § 112.4(a). When determining spill history, the gallon amount specified in the criterion (either 1,000 or 42) refers to the amount of oil that actually reaches waters of the United States, adjoining shorelines, the contiguous zone or in connection with specified activities in waters and not the total amount of oil spilled. For example, a facility only experiencing one discharge over the past ten years in which 1,500 gallons of oil discharged onto the ground but only 20 gallons reached waters of the United States (causing a sheen and reportable to the NRC) would meet the Reportable Discharge History criterion. However, a facility having 1,500-gallon discharge to waters of the United States would not meet the Reportable Discharge History criterion.

The determination of eligibility based on reportable discharge history is made at the time the SPCC Plan is certified.

That is, when the SPCC Plan is amended to comply with the SPCC rule revisions in today's final rule and those promulgated in July 2002. Once the current compliance date extension ends, Plans must be amended, certified and implemented. Any discharges to navigable waters and adjoining shorelines that occur from oil-filled operational equipment at the facility after the SPCC Plan has been certified do not impact the eligibility of qualified oil-filled operational equipment at the facility. The facility does not lose eligibility status as a result of a discharge as described in § 112.1(b), unless the RA requires an amendment to the SPCC Plan in accordance with § 112.4(d) and specifically requires secondary containment for oil-filled operational equipment. If an owner or operator cannot certify that the oil-filled operational equipment meets the eligibility criterion at the initial date of Plan certification, but can later demonstrate a clean spill history of three years, then a technical amendment to the Plan can be certified and the Plan can be revised to allow for qualified status for oil-filled operational equipment.

In the preamble to the proposed rule, EPA requested comment on how extreme events such as natural disasters and acts of war, terrorism , sabotage, or other calamities might potentially affect the discharge history criterion for qualified facilities. Many commenters agreed (and no commenters disagreed) that EPA should account for extreme events such as natural disasters, acts of war or terrorism, etc. in granting eligibility status. The Agency agrees that reportable discharges caused by external factors beyond the control of the facility owner or operator such as natural disasters, acts of war, or terrorism should not disqualify a facility from eligibility for the qualified oil-filled equipment provision. Therefore we have excluded those events from consideration in the reportable discharge eligibility criterion in today's final rule. The Agency has excluded sabotage/vandalism from the final list of extreme events not to be considered in the reportable discharge history because these are not necessarily beyond the control or planning ability of the facility owner or operator.

b. Consideration of Alternative Qualification Criteria

One commenter suggested that the inspection and monitoring program be the only qualifier for a facility owner or operator to take advantage of this option. Other suggestions would allow eligibility to be based on the type of equipment and a commitment or duty to properly maintain that equipment such as the duty in 40 CFR 122.41(e) to maintain wastewater treatment equipment. In this case, facility owners or operators would lose eligibility based on their performance or SPCC inspection results (*i.e.* failure to maintain oil-filled electrical equipment). The Agency is not finalizing these alternatives as part of the eligibility criteria because we believe it is in the owner or operator's best interest to properly maintain equipment at the facility and a commitment to the Agency to maintain equipment is not necessary.

The Agency believes that inspections and monitoring are part of an effective spill prevention program and it is more appropriate to include these prevention practices as a component of the alternative option for compliance with general secondary containment requirements for oil-filled operational equipment. To include these spill prevention practices as a basis for qualification raises questions on the length of time and scope of the inspection and monitoring program necessary to be in place at the facility in order to demonstrate qualification.

Additionally, the SPCC regulations already provide EPA the authority to require SPCC Plan amendments under § 112.4 so it is not necessary to include an automatic loss of eligibility based on facility performance or SPCC inspection results. Section 112.4(a) requires an owner or operator of a facility that has discharged more than 1,000 U.S. gallons of oil in a single discharge as described in § 112.1(b) or that has discharged more than 42 U.S. gallons of oil in each of two discharges as described in § 112.1(b) within any twelve month period, to submit information to the EPA RA within 60 days of the date of the discharge. As per § 112.4(d), the RA may require the facility owner or operator to amend the SPCC Plan in order to prevent and contain discharges, including a requirement that a facility owner or operator provide secondary containment for qualified oil-filled operational equipment. The time frame for this review and amendment process is described in § 112.4. The facility owner or operator may choose to appeal the RA's decision to require a Plan amendment under § 112.4. In addition, a discharge of oil "in such quantities as may be harmful" as defined in 40 CFR 110.3 that does not trigger the reporting requirements of § 112.4(a) must still be reported to the National Response Center. Criminal action can be taken against an owner or operator of a facility if discharges are willfully not reported. EPA also receives copies of the NRC reports and has the authority under § 112.1(f) to require a facility owner or operator to prepare and implement an SPCC Plan or any applicable part of a Plan.

Owners and operators of facilities with qualified oil-filled operational equipment that choose the alternative to secondary containment and that subsequently have a discharge would not automatically lose eligibility for today's optional approach. Owners or operators of facilities that discharge oil in quantities that may be harmful from oil-filled operational equipment should re-evaluate the effectiveness of the SPCC Plan (specifically the contingency plan, written commitment of resources, and inspections/monitoring alternative discussed in today's final rule) and determine the need for secondary containment measures in lieu of contingency planning. Additionally, the Regional Administrator may determine that a facility owner or operator is no longer eligible to have a contingency plan in lieu of secondary containment without making an impracticability determination, and such owners or operators may be required to amend their Plans to provide secondary containment for their oil-filled operational equipment.

4. Requirements for Qualified Oil-Filled Operational Equipment In Lieu of Secondary Containment

a. Contingency Plans and a Written Commitment of Manpower, Equipment, and Materials

As described in the preamble to the proposed rule, EPA believes that secondary containment often may be impracticable for oil-filled operational equipment because of inherent design and safety considerations, as well as site configuration. The oil associated with oil-filled operational equipment remains inside the equipment and transfers do not occur regularly; for oil-filled electrical equipment (*i.e.*, transformers) transfers typically occur infrequently, if at all. The complexity of the equipment and the nature of the use of this equipment does not lend itself to traditional bulk storage containment methods and thus flexibility is appropriate in this area and may improve compliance with oil pollution prevention measures. EPA proposed amendments to § 112.7 to give owners and operators of facilities with qualified oil-filled operational equipment the option of implementing an inspection and monitoring program, developing an oil spill contingency plan and providing a written commitment of resources

required to expeditiously control and remove any quantity of oil discharged that may be harmful, in lieu of secondary containment for this equipment, without having to make an impracticability determination for each piece of oil-filled operational equipment. The inspection and/or monitoring program, contingency plan and written commitment of resources would be included in the facility SPCC Plan. Commenters generally supported this proposal and the provision is being finalized in § 112.7(k) as proposed.

A number of commenters were unclear regarding the intent of an oil spill contingency plan. For example, a common industry interpretation of an "oil spill contingency plan" covers anticipated responses to oil spills both on land, as well as spills that reach navigable waters. Some commenters suggested that the contingency plan be in lieu of an SPCC Plan entirely. Others suggested that it is an administrative burden to identify downstream water users and the majority of commenters suggested that it is inappropriate to consider large discharges to water since the goal should be to prevent oil from getting to navigable waters in the first place. Several commenters suggested that implementation of a contingency plan in accordance with the requirements of 40 CFR part 109 was inappropriate because the purpose of the contingency plan should be to prevent a discharge to navigable waters and adjoining shorelines.

Commenters suggested that the oil spill contingency plan should instead contain four major elements: hazard identification, vulnerability analysis, risk assessment and response actions. Many of the commenters that suggested simplifying the contingency planning option to allow for hazard identification, vulnerability analysis, risk assessment, and response actions may already be in compliance with the general secondary containment requirements of the SPCC rule by utilizing active secondary containment measures.

We do not believe that a contingency plan, by itself, is sufficient to substitute for an SPCC Plan. The purpose of the SPCC Plan is to prevent discharges of oil from reaching navigable waters and adjoining shorelines and includes a combination of procedures, measures and equipment to achieve that goal, *e.g.*, procedures for inspections and personnel training, equipment to prevent and control discharges of oil and security measures. Conversely, a contingency plan is a detailed oil spill response and removal plan that addresses controlling, containing, and recovering an oil discharge in quantities that may be harmful to navigable waters or adjoining shorelines. Contingency plans have a dual purpose. The first purpose is to outline the response capability or countermeasures to limit the quantity of a discharge from reaching navigable waters or adjoining shorelines (if possible). The second is to address the facility owner or operator's effective preparation for a response to a discharge of oil that has already reached navigable waters or adjoining shorelines. A contingency plan should include the ability to expeditiously control and remove any quantity of oil discharged that may be harmful.

The elements of the contingency plan are outlined in § 109.5, and include: definition of the authorities, responsibilities, and duties of all persons, organizations, or agencies that are to be involved or could be involved in planning or directing oil removal operations; establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge; provisions to ensure that full resource capability is known and can be committed during an oil discharge situation; provisions for well-defined and specific actions to be taken after discovery and notification of an oil discharge; and specific and well-defined procedures to facilitate recovery of damages and enforcement measures as provided for by state and local statutes and ordinances.

An owner or operator of a facility with oil-filled operational equipment that has submitted a Facility Response Plan (FRP) to EPA in accordance with § 112.20 would not need to also develop a contingency plan in accordance with 40 CFR part 109 for the oil-filled operational equipment because an FRP is more comprehensive than a contingency plan. Additionally, the contingency planning requirement can be met either by a whole new plan or by ensuring that the elements called for in 40 CFR part 109 and the accompanying written commitment of manpower, equipment and materials are integrated into the SPCC Plan or another plan already in place at the facility (provided that a section cross-referencing the location of requirements listed in 40 CFR part 109 and the equivalent requirements in the other response plan is included).

For a contingency plan to satisfy the requirements listed in § 112.7(k) of today's final rule, a facility owner or operator must be able to implement the contingency plan. Activation of the contingency plan depends on the capability of the owner or operator of the facility to quickly detect a discharge. Therefore, as part of an evaluation of the adequacy of a contingency plan to satisfy the requirements of § 112.7(k), EPA will consider the time it takes facility personnel to detect and mitigate a discharge as described in § 112.1(b).

Inspections or monitoring are particularly important to detect an oil discharge when there is no secondary containment in place. Therefore, EPA proposed and is finalizing the provision to require owners and operators of facilities with qualified oil-filled operational equipment that choose to develop and implement contingency plans to also develop and implement an inspection or monitoring program, as further discussed in this section of the preamble. Because the qualified oil-filled operational equipment approach is optional, an owner or operator of a facility with such equipment may choose to provide general secondary containment in accordance with § 112.7(c) for this oil-filled operational equipment, if desired. Ultimately, this is the decision of the owner or operator of the facility.

The comments received suggest there is a misunderstanding concerning the general secondary containment requirements of § 112.7(c). General secondary containment under § 112.7(c) should be designed to address the most likely discharge from the primary containment system, *i.e.*, appropriate containment and/or diversionary structures or equipment must be designed to prevent a discharge as described in § 112.1(b). Secondary containment may be either passive measures or active measures (countermeasures or land-based spill response capability) since both are designed to prevent a discharge from reaching navigable waters or adjoining shorelines.

Passive measures are permanent installations (such as dikes or berms) and do not require deployment or action by the owner or operator. However, permanent (passive) containment structures, such as dikes, may not always be feasible for certain oil-filled operational equipment (*i.e.*, electrical transformers, capacitors, switches). The owner or operator of an SPCC-regulated facility may instead use the flexibility of active containment measures to comply with the general secondary containment requirements for oil-filled operational equipment.

Active containment measures are those that require deployment or other specific action by the owner or operator of a facility. These active measures may be deployed either before an activity involving the handling of oil starts, or in reaction to a discharge, so long as the

active measure is designed and can reasonably be implemented to prevent an oil spill from reaching navigable waters or adjoining shorelines. The efficacy of active secondary containment measures to prevent discharges depends on their technical effectiveness (*i.e.*, mode of operation, absorption rate), placement and quantity, and timely deployment prior to, or following a discharge. A method of detecting a discharge is therefore of great importance to effectively implement the use of active containment measures. These active measures must be implemented effectively and in a timely manner to prevent oil from reaching navigable waters and adjoining shorelines, as required by § 112.7(a)(3)(iii) and (c).

Many commenters indicated that the 40 CFR part 109 plan is designed for local governments and therefore inappropriate for facilities. Some commenters suggested using environmental equivalence to tailor a 40 CFR part 109 plan or allow flexibility for facility owners and operators to comply only with applicable requirements. Other commenters suggested the use of generic and multi-facility plans. Some commenters suggested expanding the training requirements to apply to more than just the oil-handling personnel at the facility. Commenters also indicated that it is onerous to list each piece of equipment in a Plan, and that it is burdensome to keep the Plan up-to-date to account for mobile equipment.

Environmental equivalence is available to allow for alternative means of fulfilling the same function as the specific provision listed in § 112.7(a)(2). Because the contingency plan elements in part 109 do not contain specific requirements as to how those elements are fulfilled, there is no need to provide for environmentally equivalent means of fulfilling those requirements. Thus, the Agency believes that there is already sufficient flexibility in the criteria for an oil spill contingency plan in 40 CFR part 109. Moreover, since the purpose of the plan is to prepare for response to a discharge of oil that has reached navigable waters or adjoining shorelines, each of the elements of a contingency plan listed in 40 CFR part 109 are appropriate. Although the elements of a contingency plan listed in 40 CFR part 109 were originally developed to outline procedures for local and regional oil removal contingency plans, these elements can be adapted for SPCC regulated facilities. A sample contingency plan adapted to the needs of an SPCC-regulated facility following the provisions of 40 CFR part 109 is included in Appendix F of the *SPCC Guidance for Regional Inspectors* which is available on the EPA Web site at *http://www.epa.gov/oilspill*. The guidance document also provides more information on active and passive secondary containment measures.

Other commenters suggested the use of generic and multi-facility SPCC Plans. In July 2002, the Agency stated that a multi-facility SPCC Plan may be appropriate for operating equipment (oil-filled operational equipment) (see 67 FR 47042, 47080.) This type of SPCC Plan is intended for electrical utility transmission systems, electrical cable systems, and similar facilities whose owners and operators might aggregate equipment located in diverse areas into one Plan. Multi-facility Plans would include all elements required for individual SPCC Plans. Site-specific information would be required for all equipment included in each Plan. However, the site-specific information might be maintained in a separate location, such as a central office, or an electronic database, as long as such information was immediately accessible to responders and inspectors. If you keep the information in an electronic database, you must also keep a paper or other backup that is immediately accessible for emergency response purposes, or for EPA inspectors, in case the computer is not functioning. It is not clear what the commenters meant by a generic Plan, however, the Agency believes that any Plan developed must be in accordance with the requirements of 40 CFR part 112.

Commenters recommended that training at a facility be expanded beyond the personnel involved in oil handling, with one commenter suggesting that training include any individuals who could reasonably be expected to implement any component of the contingency plan; they also suggested rule language for such an approach. The Agency agrees that any employee who is required to implement any component of an oil spill contingency plan may be considered "oil-handling personnel" and require training in accordance with § 112.7(f). This would consist of training in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules and regulations; general facility operations; and the contents of the facility SPCC Plan (including the contingency plan). Contractors involved in oil handling activities at the facility should also have appropriate oil spill response training.

Additionally, commenters indicated that it is onerous to list each piece of equipment in an SPCC Plan, and that it is burdensome to keep the Plan up-to-date to account for mobile equipment. The Agency agrees that it may be burdensome to frequently update an SPCC Plan for mobile equipment. However, we believe there is sufficient flexibility in the SPCC rule to address this concern. For example, EPA has stated that if you store mobile containers in a certain area, you must mark that area on the diagram. You may mark the contents of each container either on the diagram of the facility, or on a separate sheet or log if those contents change on a frequent basis. More information on the flexibility of the SPCC rule for mobile/portable containers is available in the *SPCC Guidance for Regional Inspectors* available on the EPA Web site at *http://www.epa.gov/oilspill*.

b. Inspections or Monitoring Program

The majority of commenters supported the proposal to include an inspection and monitoring program. A facility owner or operator must be able to quickly detect a discharge from oil-filled operational equipment in order for a contingency plan to be effective. Therefore, the Agency is including a requirement for an inspection and monitoring program in today's rule. Facility owners or operators who wish to take advantage of this alternative are required to develop an appropriate set of procedures for inspections or a monitoring program for qualified oil-filled operational equipment. For facility owners and operators that rely on contingency planning in lieu of secondary containment for qualified oil-filled operational equipment, the discovery of a discharge by inspection or monitoring is of paramount importance for effective and timely implementation of the contingency plan. An inspection or a monitoring program ensures that facility personnel are alerted quickly of equipment failures and/or discharges. A written description of the inspection or monitoring program is required to be included in the SPCC Plan. Under the requirement in § 112.7(e), the owner or operator is required to keep a record of inspections and tests, signed by the appropriate supervisor or inspector, for a period of three years.

Although oil-filled operational equipment is not a bulk storage container and is therefore not subject to the frequent visual inspection requirement for bulk storage containers under § 112.8(c)(6), EPA believes that it is good engineering practice to have

some form of visual inspection or monitoring for oil-filled operational equipment in order to prevent discharges as described in § 112.1(b). Therefore, in lieu of secondary containment, the proposal included the requirement for a facility owner or operator to establish and document an inspection or monitoring program, in addition to the preparation of a contingency plan and a written commitment of manpower, equipment, and materials to expeditiously control and remove discharged oil. One commenter suggested requiring only inspection and monitoring for oil-filled operational equipment up to 5,000-gallon capacity and no other written Plan. The Agency continues to believe that a written SPCC Plan is essential to document the prevention procedures and countermeasures employed at the facility and is necessary for effective implementation of an SPCC program, or any other program (business or otherwise). As a matter of practice, it would be extremely difficult for a facility owner or operator to be able to follow the regulatory requirements and to comply with all the recordkeeping components without the documentation that is the Plan itself. The Plan also serves as an important communication tool for both management and operators at the facility. The sole action of having to document all of the requirements can assist in uncovering flaws in the program implementation, and may serve as a tool to correct them. The Plan is also used to communicate these procedures and measures to employees. Additionally, the documentation of compliance with the rule's requirements in a written Plan serves as a facility specific oil spill response and prevention planning exercise which is designed to improve oil spill prevention.

c. Alternative Options Considered

Many commenters believed, and supported the Agency's proposal to not include, a capacity threshold qualifier. There was also significant support for the USWAG multi-tiered option for electrical equipment, with some commenters suggesting that the Agency differentiate between electrical and other oil-filled operational equipment and then adopt the USWAG proposal providing an exemption for most small equipment. Other commenters specifically commended EPA for not including a volume threshold for applicability of relief based on lack of data to suggest that large oil-filled equipment have greater potential for discharge over small oil-filled equipment. However, these commenters indicated that small equipment should be exempt because of lack of spill data. Multiple commenters requested exemption or deferral requirements in the same manner as proposed for farms. Others requested suspension of the requirements.

The Agency agrees with commenters that no threshold qualifier is necessary to allow for an alternative means of compliance with secondary containment requirements for oil-filled operational equipment. The alternative measure is appropriate based on the type of equipment, i.e., the oil is intrinsic to the operational equipment and present solely to support the apparatus and there is minimal oil throughput because such equipment does not require frequent transfers of oil. The Agency did not finalize the multi-tiered approach for electrical equipment to allow for an exemption for smaller pieces of oil-filled operational equipment because we believe there is still a reasonable potential for discharges from oil-filled operational equipment with an oil storage capacity of 1,320 gallons or less, thus coverage by some type of SPCC Plan is warranted. An exemption of these smaller pieces of oil-filled operational equipment could in some cases allow for large amounts of aggregate capacity that would not be counted for SPCC or FRP purposes, and would therefore be unregulated, posing a threat to the environment. However, in the July 17, 2002 **Federal Register** notice, EPA stated "We believe that it is not necessary to apply SPCC or FRP rules requiring measures like secondary containment, inspections, or integrity testing, to containers smaller than 55 gallons storing oil because a discharge from these containers generally poses a smaller risk to the environment." (67 FR 47066). Oil-filled operational equipment with a capacity of less than 55 gallons is not subject to the rule.

Oil-filled electrical and operating equipment share common characteristics. They both typically have minimal oil throughput because such equipment does not require frequent transfers of oil. Further, the oil contained in oil-filled operational equipment, such as cooling or lubricating oil, is intrinsic to the operation of the device and facilitates the function of the equipment. Should oil-filled electrical equipment fail, utilities responsible for such equipment have strong economic incentives to prevent power outages, to discover and respond to an outage, and to correct the conditions that produced the outage as quickly as possible to prevent an oil discharge. Similarly, when other critical oil-filled operating equipment fails, the industry sectors responsible for such equipment also have strong incentives to respond and address failures to avoid disruption in business and costs of a cleanup. In addition, oil-filled operational equipment often is subject to routine maintenance and inspections to ensure proper operation. Therefore, the Agency is not promulgating different requirements, but believes it is appropriate to offer the same alternative means of compliance with the general secondary containment requirements of § 112.7(c) to both oil-filled electrical and operational equipment. Both types of equipment are addressed in the definition of oil-filled operational equipment.

The Agency has decided not to provide an indefinite extension or suspension for owners and operators of facilities with oil-filled operational equipment. The regulated community, particularly owners and operators of electrical facilities, identified secondary containment for oil-filled operational equipment as one of its major cost concerns. Today's rule addresses that concern and offers an alternative means of compliance for oil-filled operational equipment, while maintaining protection of human health and the environment.

5. Qualified Oil-Filled Operational Equipment and Qualified Facilities Overlap

Some facilities will meet the criteria for qualified facilities and have qualified oil-filled operational equipment on-site. Owners and operators of such facilities are able to benefit from both of the alternative compliance approaches finalized in today's rule. The owner or operator can choose to develop an oil spill contingency plan, a written commitment of manpower, equipment and materials and an inspection or monitoring program as an alternative to secondary containment for qualified oil-filled operational equipment. Since no impracticability determination is necessary for qualified oil-filled operational equipment, the owner or operator can self-certify his/her SPCC Plan and is not required to have a PE develop and certify the contingency plan for the qualified oil-filled operational equipment. The responsibility of preparing a contingency plan and identifying the necessary equipment, materials and manpower to implement the contingency plan would fall on the owner or operator of the qualified facility.

C. Motive Power

In the proposed rule, EPA addressed specific types of motor vehicles (including aircraft, buses, sport utility vehicles, small construction vehicles, cherry pickers, self-propelled cranes, self-propelled aviation ground service equipment vehicles, self-propelled forestry, agricultural, construction, and excavation vehicles and locomotives) that contain oil in capacities greater than or equal to 55 gallons solely for the purpose of providing fuel for propulsion, or solely to facilitate the operation of the vehicle, such as lubrication of moving parts or operation of onboard hydraulic equipment. Such oil storage containers are technically subject to the SPCC rule, including the requirement for secondary containment and other SPCC requirements. This means that heavy equipment dealers, commercial truck dealers, or certain parking lots may be subject to the SPCC requirements (including bulk storage secondary containment, inspection, and overfill protection) solely because of the presence of motive power containers. EPA never intended to regulate these motive power containers or facilities where these vehicles might be located and who are not otherwise subject to the SPCC requirements because of the impracticability of application of the SPCC requirements to such vehicles. These individually provide their own means of propulsion from location to location within or between facilities. The management, record keeping, and compliance with the spill prevention requirements associated with motive power containers would be difficult due to their movement throughout and between facilities. For example, a truck with a large fuel tank and associated large capacity hydraulic units that moves throughout a facility and between facilities would require tracking and containment under the SPCC requirements. This is impracticable because such vehicles are not stationary or located in a specific operational area, as is the case with mobile non-vehicular mobile/portable containers that are placed in specific oil handling or operational areas. Motor vehicles with a storage tank capacity of 55 gallons or greater, such as a number of semi-rigs delivering materials to an otherwise regulated SPCC facility that enter and leave a facility on a routine basis would provide a significant challenge for compliance with the SPCC requirements. Finally, these containers are either "end use" fuel tanks or oil-filled operational equipment in which transfers from the container are rare unlike other mobile portable containers. To correct this unintended application of the SPCC rule, EPA proposed to exempt motive power containers from the SPCC requirements. Commenters generally favored this proposal and agreed that subjecting motive power containers to SPCC requirements would be impracticable. In today's action, EPA is clarifying its position on motive power containers associated with self-propelled motor vehicles by finalizing the proposed definition and exemption.

The Agency believes that the general protection and the spill response and planning activities in place at an otherwise regulated SPCC facility will address any discharges associated with these motive power containers.

For those facilities whose capacity is comprised solely of motive power containers, today's action may result in the facility no longer being subject to the SPCC requirements. However, for owners and operators of these facilities, EPA maintains the authority, under 311(j)(1)(C) of the CWA, to impose requirements to prevent oil discharges from motive power containers. EPA believes that owners and operators of these facilities will continue to act prudently to prevent discharges from motive power containers from reaching navigable waters and owners and operators of non-transportation-related facilities that fail to do so can be required by the EPA Regional Administrator (RA) to develop an SPCC Plan. The RA has the option under § 112.1(f) to require owners and operators of facilities, including those with motive power containers, to prepare and implement an SPCC Plan or any applicable part, if a determination is made that it is necessary to prevent a discharge of oil into waters of the United States. EPA will continue to encourage owners and operators of facilities that are no longer regulated under the SPCC rule, as a result of today's action, to provide prevention, planning and response measures to prevent oil discharges from motive power containers.

1. Definition of Motive Power

One commenter generally supported the definition as proposed. Several other commenters opposed the proposed definition and additional comments were submitted with alternate definitions of motive power containers. Those who opposed the definition indicated that it will not effectuate its purpose, simply because the gas tank, for example, is not used solely to power the movement of a motor vehicle. Other reasons for opposition note that the definition may not be broad enough, and it should be modified to clarify the scope of "motor vehicle." The definition may not cover all motive power configurations, and it may not cover ground service equipment, including ground service equipment in the airport industry sector.

Recommendations included expanding the definition to include other mobile equipment like forestry and mining equipment. Other commenters indicated that the scope of the definition should be modified to clarify that a motor vehicle includes not just automobiles and trucks, but all types of motor vehicles including cranes, cherry pickers, or production drill rigs at mining sites and equipment that may be stationary for a temporary duration. Commenters also suggested that the definition be revised to cover various motive power configurations.

EPA agrees with the commenters that the scope of the definition should be clarified to include motor vehicle bulk storage containers that serve a non-operational purpose in addition to the propulsion of the motor vehicle (for example, a bulk storage container that supplies fuel to an engine which provides the propulsion for that motor vehicle, as well as its auxiliary units and functions (i.e., heaters, air conditioning units, and electrical power generation, etc.). As noted by commenters, the term "solely" in the definition of motive power containers limits the inclusion of motor power fuel tanks that serve one of the non-operational functions listed above in addition to providing fuel for propulsion of the motor vehicle. In response to this comment, EPA has removed the word "solely" and replaced it with the word "primarily." The definition of motive power containers only applies to motor vehicles where the primary purpose of the bulk storage container is to supply fuel to power the movement of the vehicle and, secondly, power other equipment on board the vehicle, so long as no further distribution (transfers) of oil occurs from the container as in the case with some mobile refuelers.

EPA agrees with the commenters that additional clarification is needed to describe the type of motor vehicles covered under the definition of motive power containers. Only motor vehicles which provide their own means of propulsion fall within the scope of this definition for the purposes of 40 CFR part 112. For example, aircraft, cherry pickers, self-propelled cranes, self-propelled aviation ground service equipment vehicles, self-propelled heavy (forestry, agricultural, mining, excavation and construction) vehicles and locomotives, all of which

individually provide their own means of propulsion from location to location within a facility or between facilities, are considered motor vehicles for the purposes of this definition and 40 CFR part 112. However, towed aviation ground service equipment, non-self-propelled construction/cargo cranes, non-self-propelled (forestry, agricultural, mining, excavation or construction) equipment, diesel powered generators, fire pumps, and compressors are examples of oil-filled equipment and bulk storage containers not considered motor vehicles for the purposes of this definition because they do not provide their own means of propulsion. The exemption was based on the impracticability of application of SPCC requirements to motor vehicles and their unique self-propelled capability of movement within and between facilities, typically without restriction.

2. Exemption

This final rule amendment exempts motive power containers, as defined above, from SPCC rule applicability by adding a new paragraph (7) under the general applicability section, § 112.1(d). Furthermore, the capacity of these storage containers are not counted toward facility oil storage capacity under § 112.1(d)(2). The RA has the option under § 112.1(f), however, to require owners and operators of facilities, including those with motive power containers, to prepare and implement an SPCC Plan or any applicable part, if a determination is made that it is necessary in order to prevent a discharge of oil into waters of the United States, or adjoining shorelines.

EPA notes that although this amendment provides an exemption from the SPCC requirements for the fuel tanks and ancillary onboard oil-filled operational equipment of motor vehicles, the oil transfer activities occurring within an SPCC-covered facility continue to be regulated. An example of such an activity would be the transfer of oil from an on-site tank via a dispenser to a motive power container. This transfer activity is subject to the general secondary containment requirements of § 112.7(c).

An onboard bulk storage container that supplies oil for the movement of a vehicle or operation of onboard equipment, and at the same time, is used for the distribution or storage of this oil, is not eligible for this exemption. For example, a mobile refueler that has an onboard bulk storage container used to distribute fuel to other vehicles on a site may also draw its engine fuel (for propulsion) from that bulk container. However, such bulk storage containers (on a mobile refueler, as defined in today's rule under 112.2) are exempt from the sized secondary containment requirements in §§ 112.8(c)(2) and (11) and 112.12(c)(2) and (11), as applicable (see Section D below).

EPA is also not extending the exemption for motive power containers to oil drilling and workover equipment, including rigs. The Agency believes that because of the unique nature of oil drilling and workover rig operations and the large amounts and high flow rates of oil associated with these activities, it would not be appropriate or environmentally sound to exempt them from the SPCC requirements, and thus they remain subject to 40 CFR part 112. Although drilling and workover rigs are not exempt, other types of motive power containers located at drilling or workover facilities (i.e., trucks, automobiles, bulldozers, seismic exploration vehicles, or other earth-moving equipment) are exempted. The Agency believes that the general protection and the spill response and planning activities provided at an otherwise regulated SPCC facility will help the facility owner or operator to address any spills associated with these motive power containers. However, the specific provisions (such as blowout prevention), which are present in the rule for drilling or workover rigs, need to be preserved to maintain an adequate level of environmental protection for these unique activities. Therefore, an exemption for drilling and workover equipment, including rigs, is inappropriate.

Some commenters, representing the aviation, forestry, mining, recycling, and construction industries, requested that stationary cranes, gensets, and other non-self-propelled operational and towed ground service equipment be included in the exemption. The Agency believes that where these kinds of non-self-propelled, stationary or towed equipment operate in pre-determined oil handling areas, an SPCC Plan can reasonably address oil spill prevention measures under § 112.8(c)(2) and (11). For example, the Agency understands that towed ground service equipment at an airport is typically located at terminal gates for use when aircraft are parked at the gates. This equipment typically is staged and operated in an area that includes other oil storage containers such as airport mobile refuelers (see Section D below). As such, the identified oil spill prevention approach that addresses potential spills from an airport mobile refueler at the gate should also address potential spills from nearby ground service equipment used by airline personnel at the same gate. Thus, the exemption does not include non-self-propelled stationary or towed equipment, such as towed ground service equipment or any type of gensets, but only motor vehicles that can provide propulsion to another location. See Chapter 4 of the *SPCC Guidance for Regional Inspectors* for further explanation regarding when sized secondary containment is required for mobile or portable containers that are in a stationary, unattended mode.

D. Mobile Refuelers

EPA proposed to amend the SPCC rule to define an airport mobile refueler as a vehicle with an onboard bulk storage container designed or used solely to store and transport fuel for transfer into or from aircraft and ground service equipment (such as belt loaders, tractors, luggage transport vehicles, deicing equipment, and lifts) at airports. Airport mobile refuelers have onboard bulk storage containers that are used solely to transport and transfer fuel and are subject to the SPCC rule because they are containers used to store oil prior to further distribution and use. As such, they are subject to all applicable SPCC rule provisions, including the sized secondary containment provisions of §§ 112.8(c)(2) (applicable to all bulk storage containers) and 112.8(c)(11) (applicable more specifically to mobile/portable bulk storage containers). These provisions require a secondary means of containment, such as a dike or catchment basin, sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation.

As described in the preamble to EPA's proposed rule, members of the aviation sector have expressed concern that requiring sized secondary containment for airport mobile refuelers is not practicable for safety and security reasons. They argued that requiring refuelers to park in specifically sized secondary containment areas located within an Airport Operations Area (AOA) could create a safety and security hazard because it entails grouping the vehicles or placing impediments in the AOA. In response to these concerns, EPA proposed to exempt airport mobile refuelers from the specifically sized secondary containment requirements for bulk storage containers in § 112.8(c)(2) and (11), while preserving environmental protection (especially for fuel transfers associated with airport mobile refuelers), afforded by the spill

prevention provisions outlined in § 112.7(c).

Members of the aviation sector were generally supportive of the proposal. Commenters generally supported the proposed exemption of airport mobile refuelers from certain provisions of the SPCC regulations and noted that general secondary containment is already practiced at airports. Commenters stated that requiring secondary containment around airport mobile refuelers, while they are stationary or idle creates serious safety and security risks. One commenter did have reservations about certain provisions of the rule still governing airport mobile refuelers, specifically the provisions of § 112.8(c) and the general secondary containment requirements of § 112.7(c). A Professional Engineering firm opposed the exemption of airport mobile refuelers from certain provisions of the SPCC regulation. The commenter asserted that the argument regarding the accident potential for not excluding airport fuel transporters is highly questionable, since airport fuel spills are well documented.

The Agency agrees with the commenter that fuel spills at airports are well documented, and that potential spills from airport mobile refuelers need to be addressed in the facility's SPCC Plan. Nevertheless, the Agency agrees with those commenters that argued that the sized secondary containment requirement did present safety and security concerns and therefore, we are finalizing the proposal to exclude mobile refuelers as defined in today's rule in § 112.2 from the specifically sized secondary containment requirements for bulk storage containers in §§ 112.8(c)(2) and (11) and 112.12(c)(2) and (11). General secondary containment still applies for mobile refuelers at non-transportation-related facilities, unless permanently closed as defined in § 112.2.

Although the Agency did not propose to extend this exclusion to other mobile refuelers that may operate within the confines of a non-transportation facility, we requested comment as to whether the proposed exclusion should be more broadly applied to other types of mobile refuelers. Commenters responded that the proposed exclusion for airport mobile refuelers from the sized secondary containment requirements should be extended to mobile refuelers at industrial sites, construction sites, chemical complexes (i.e., refineries), mining sites, seaport terminals, and tank truck home bases. Several commenters indicated that the same rationale discussed in the proposed rule preamble supporting this exclusion applies to owners and operators of industrial facilities as well. Specifically, one commenter stated that: (1) Requiring sized secondary containment for industrial mobile refuelers is not practicable and distracts from safety and security monitoring by providing a blind spot and hiding location behind the containment unit; (2) requiring refuelers to park in specially designated secondary containment areas located within an industrial or chemical facility operating area will create safety and security hazards by grouping the vehicles or placing impediments in the operations area; and (3) requiring mobile refuelers to return to containment areas located within the industrial facilities tank farm between refueling operations will increase the risk of accidents (and therefore accidental oil discharge), as the vehicles would travel with increased frequency through the busy industrial operating areas. Another commenter also indicated that the clarification should extend to rail cars, since rail cars are less mobile than airport mobile refuelers and additional rail car movements in congested rail yards exposes those vehicles to many of the hazards identified for airport mobile refuelers.

The Agency agrees with commenters that the exclusion provided for airport mobile refuelers should be extended to mobile refuelers at other types of facilities. The Agency agrees that providing sized secondary containment for vehicles that move frequently within a non-transportation-related facility to perform refueling operations can raise safety and security concerns, so the exclusion from complying with the sized secondary containment requirements provided for airport mobile refuelers is being extended to mobile refuelers that are vehicles with an onboard bulk storage container used to store and transport oil for transfer into or from other vehicles, ground service equipment or another oil storage container.

Furthermore, the Agency continues to believe that other mobile/portable bulk storage tanks that are being towed by vehicles or otherwise moved to or from a designated area typically cannot be provided with sized secondary containment as per §§ 112.8(c)(2) and (11) and 112.12(c)(2) and (11), as applicable, during that movement or relocation. However, when these mobile/portable bulk storage containers (except mobile refuelers) are placed in a designated area of a site (e.g., a construction site) whereby a dike or catchment basin sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation can be installed, sized secondary containment requirements would apply. In the same vein, the Agency believes that rail cars cannot be provided with sized secondary containment when entering, moving within, or exiting the confines of a facility. Conversely, when they are situated in defined locations at an otherwise regulated facility, sized secondary containment, such as a catchment basin, could be provided. See Chapter 4 of the *SPCC Guidance for Regional Inspectors* for further explanation regarding when sized secondary containment is required for mobile or portable containers that are in a stationary, unattended mode.

1. Definition of Mobile Refueler

EPA is amending the SPCC rule to exempt mobile refuelers from the requirements of §§ 112.8(c)(2) and (11) and 112.12(c)(2) and (11). In today's final rule, EPA defines a mobile refueler as "a bulk storage container, onboard a vehicle or towed, that is designed or used solely to store and transport fuel for transfer into or from an aircraft, motor vehicle, locomotive, vessel, ground service equipment, or other oil storage container." The definition is intended to describe vehicles of various sizes equipped with a bulk storage container such as a cargo tank or tank truck that is used to fuel or defuel aircraft, motor vehicles, locomotives, tanks, vessels or other oil storage containers. The definition is also intended to describe tank full trailers and tank semi-trailers including those at airports that are used to fuel or defuel aircraft. The definition does not include other mobile or portable oil storage containers that are not involved in fueling activities. When these other mobile or portable containers are in a stationary, unattended mode and not under the direct oversight or control of facility personnel, the requirements of §§ 112.8(c)(2) and (11) and 112.12(c)(2) and (11) apply. (See Chapter 4 of the *SPCC Guidance for Regional Inspectors.*) In addition, the Agency intends the secondary containment exemption to apply to vehicles used for refueling, and not vehicles used primarily for the bulk storage of oil in a stationary location, in place of stationary oil storage containers.

A commenter from the aviation sector supported EPA's proposed definition and encouraged the inclusion of fuel transfers into or from ground service equipment. Two commenters from the chemical manufacturing sector stated that the definition that was proposed is too broad and unlawfully extends EPA's

jurisdiction. The MOU between DOT and EPA establishes non-transportation facilities to include "highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a non-transportation-related facility and which are not intended to transport oil in interstate or intrastate commerce." EPA understands that mobile refuelers that operate solely within the confines of an airport, or other type of facility that is subject to SPCC regulations would be covered by the definition of mobile refuelers at § 112.2. Thus, a mobile refueler that operates solely on airport property, or some other type of facility would be subject to § 112.7(c) during all periods of operation. Conversely, for a mobile refueler that operates on highways (i.e., intended to transport oil in interstate or intrastate commerce) in addition to an airport, or other type of facility, then only the period of actual transfer operations at a non-transportation facility would be subject to the general secondary containment requirements of § 112.7(c), unless the transfer occurs at a loading/unloading rack, whereby the rack and vehicle are subject to the requirements at § 112.7(h).

Similarly, another commenter suggested applying the existing requirements for portable fueling facility requirements of § 112.3(c) to mobile refuelers when in a fixed, non-transportation mode. Specific requirements for mobile facilities should be developed as a separate subpart through rulemaking. The Agency disagrees that a separate rulemaking be initiated for mobile refuelers. We believe that the modification being promulgated today provides the owner or operator with considerable flexibility to identify the appropriate spill prevention measures under § 112.7(c) applicable to the mobile refueler operation operating solely at a non-transportation facility. Furthermore, we disagree that § 112.3(c) needs to be modified to apply to this type of mobile refueler that enters a non-transportation facility as this provision already addresses a portable fueling facility operating in a fixed, non-transportation-related mode. For either type of mobile refueler, § 112.7(c) applies.

2. Amended Requirements

This amendment revises §§ 112.8(c)(2) and (11) and 112.12(c)(2) and (11) to specifically exempt mobile refuelers, as defined above, from these provisions. As noted above, the Agency is expanding the proposed exemption from the sized secondary containment requirements to apply to any person that operates a mobile refueler. Since mobile refuelers are mobile or portable bulk storage containers, the other provisions of §§ 112.8(c) and 112.12(c) still apply. Secondary containment systems sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation are no longer required. A commenter representing small business expressed concerns about the security, safety and logistical concerns for the proposed amendment for airport mobile refuelers. The commenter recommended that EPA further revise the SPCC requirements so that general secondary containment applies only when airport mobile refuelers are transferring fuel. The Agency disagrees that the amendment should be limited to transfer operations only, as another commenter asserts that mobile refuelers can experience leaks and spills (e.g., vehicular accidents, line leaks, or other equipment/container failure). Thus, we believe that the general secondary containment provisions at § 112.7(c) should apply to all mobile refueler operations.

Per § 112.7(c), appropriate containment and/or diversionary structures or equipment must be designed to prevent a discharge as described in § 112.1(b). The Agency believes general secondary containment should be designed to address the most likely discharge from the primary containment system (i.e., the storage container). Section 112.7(c) allows for the use of certain types of active containment measures (countermeasures or spill response capability) which prevent a discharge to navigable waters or adjoining shorelines. One aviation commenter indicated that the availability of "active measures" is necessary to make the general secondary containment provision workable in an airport setting. To clarify, EPA believes that active containment measures are those that require deployment or other specific action by the owner or operator. These measures may be deployed either before an activity involving the handling of oil starts, or in reaction to a discharge, so long as the active measure is designed and can reasonably be implemented to prevent an oil spill from reaching navigable waters or adjoining shorelines. Passive measures are permanent installations and do not require deployment or action by the owner or operator. The efficacy of active containment measures to prevent a discharge depends on their technical effectiveness (i.e., mode of operation, absorption rate), placement and quantity, and timely deployment prior to, or following a discharge. For discharges that occur only during manned activities, such as those occurring during transfers, an active measure (i.e., sock, mat, other portable barrier, or land-based response capability) may be appropriate, provided that the measure is capable of containing the oil discharge volume and rate, and is timely and properly constructed/deployed. The Agency also believes that these active measures may be appropriately applied to other situations (i.e., when the refueler is not engaged in transfer operations or moving around the facility).

In summary, EPA believes that the general provisions for secondary containment address the most likely spill scenarios associated with this equipment (i.e., during oil transfers into or from the mobile refuelers). Section 112.7(c) does not prescribe a size for a secondary containment structure, but does require appropriate containment and/or diversionary structures or equipment to prevent a discharge as described in § 112.1(b) including the use of active measures. This final rule would maintain environmental protection, while still allowing the necessary flexibility for compliance with the general secondary containment requirements of the rule for mobile refuelers at airports or other types of facilities.

E. Animal Fats and Vegetable Oils

The Agency proposed to amend Subpart C of part 112 by removing § 112.13 (requirements for onshore oil production facilities), § 112.14 (requirements for onshore oil drilling and workover facilities), and § 112.15 (requirements for offshore oil drilling, production, or workover facilities) and by reserving these sections of Subpart C of the regulation because they are not appropriate for animal fats and vegetable oils. Commenters generally supported this proposal and therefore, the Agency has amended the final rule to remove these provisions. In addition, the Agency also requested comment on whether different requirements were appropriate for animal fats and vegetable oils from the requirements for petroleum and other oils. Some commenters provided suggestions for differentiating animal fats and vegetable oils from other classes of oils in the SPCC rule. The Agency is continuing to examine these issues to determine the appropriateness of amendments to the regulatory scheme to differentiate the SPCC requirements for animal fats and vegetable oils from the requirements for petroleum and other oils and plans to

address this issue in a future rulemaking.

As a point of clarification, EPA also removed the phrase "for onshore facilities (excluding production facilities)" from the title of § 112.12 Spill Prevention, Control, and Countermeasure Plan requirements. Section 112.2 of the rule defines production facility to mean "all structures (including, but not limited to, wells, platforms, or storage facilities), piping (including, but not limited to flowlines or 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, or associated storage or measurement, and located in a single geographical oil or gas field operated by a single operator." The exclusion of production facilities from § 112.12 was originally intended to differentiate requirements based on facility type and § 112.13 applied to onshore production facilities. Since this final rule removes the inapplicable requirements for animal fats and vegetable oils, it is no longer necessary to differentiate onshore oil production facilities from other facilities in § 112.12.

As an editorial change, EPA revised the provisions in § 112.7(a)(2) and 112.7(d) to eliminate reference to the inapplicable provisions in §§ 112.13 and 112.14, because these sections have been removed.

F. Extension of Compliance Dates for Farm

While determining if the agriculture sector warrants specific consideration under the SPCC rule, EPA proposed to extend the compliance dates for preparing or amending and implementing SPCC Plans for farms that have a total storage capacity of 10,000 gallons of oil or less either indefinitely or until the Agency publishes a final rule in the **Federal Register** establishing a new compliance date. This final rule provides an extension for all farms as defined in this notice until the Agency promulgates a rule specifically addressing how farms should be regulated under the SPCC rules.

1. Eligibility Criteria

Most commenters, primarily from the agricultural sector, generally supported EPA's proposed extension of compliance for farms with a storage capacity of 10,000 gallons of oil or less. Several commenters who supported the extension suggested modifications to the extension as proposed, such as expanding the extension to all farms. Supporters argued the proposal reduces unnecessary regulatory burden on the agricultural community, while the Agency determines if this sector warrants specific consideration under the SPCC rule. Others argued that the sector is already regulated by state and local agencies for pollution-related activities on farms. Support for the argument that the physical layout of a farm makes this sector unique within the universe of SPCC-regulated facilities was also offered. Comments also were offered in opposition to the extension and potential exemptions from SPCC requirements for farms. Commenters argued that farms may endanger the environment, farmers, and their neighbors and expressed concern that farms are often close to surface waters. Commenters opposing the extension also argued that farms should have been in compliance with the original SPCC rule and that current technology makes compliance relatively inexpensive and easy.

In finalizing the compliance extension for farms, EPA is adopting the definition of "farm," as proposed, for purposes of part 112 and the extension in the final rule. EPA defines "farm," in part, by adopting the definition used by the National Agricultural Statistics Service (NASS) in its Census of Agriculture. NASS defines a farm as any place from which $1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year. Operations receiving $1,000 or more in Federal government payments are counted as farms, even if they have no sales and otherwise lack the potential to have $1,000 or more in sales.

EPA also considered the definition it uses to exempt farm tanks under the Underground Storage Tank (UST) regulations at 40 CFR part 280. As defined in 40 CFR 280.12, a farm tank is a tank located on a tract of land devoted to the production of crops or raising of animals, including fish. The preamble to the UST rule explains that the term "farm" includes fish hatcheries, rangeland, and nurseries with growing operations, but does not include laboratories where animals are raised, land used to grow timber, and pesticide aviation operations. This term also does not include retail stores or garden centers where the product of nursery farms is marketed, but not produced, nor does the Agency interpret the term "farm" to include golf courses or other places dedicated primarily to recreational, aesthetic, or other non-agricultural activities. (See 53 FR 37082, 37117, September 23, 1988.) EPA utilized elements of the UST definition of farm, in combination with the Census definition, in developing the proposal and final rule. By combining elements of both of these approaches, the Agency believes the definition more specifically targets the intended universe for the extension.

Several commenters provided general remarks on definitions of facility, farm, farming facility, farming operation, and/or agribusiness for purposes of the SPCC rule; some proposed alternate definitions of farm. One suggested alternative was to use the definition of eligible agricultural businesses used in the "Agricultural Business Security Tax Credit Act of 2005" (S. 052). Most broadly, the term "eligible agricultural business" means any person in the trade or business of: selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals. The Agency disagrees with expanding the definition as suggested because we believe it would apply to businesses that are distinctly different from farms, e.g., oil marketing and distribution to farmers, that do not present the same unique issues that farms raise. In fact, these agribusinesses are more like industrial or manufacturing operations and thus, it would be inappropriate to include these businesses within the compliance extension. Several commenters suggested that the farm definition specify that operations comprised of non-contiguous or non-adjacent agricultural lands would not be considered a single "farm facility" for purposes of fuel tank storage capacity regardless of whether such parcels of land are under common ownership or control. They also suggested that the Agency allow for aggregate tank storage capacity to be determined separately for each field or parcel of such agricultural lands. The definition of facility as provided in § 112.2 currently provides the flexibility for the owner or operator of a farm to determine the scope of his or her facility as recommended by the commenters. However, the Agency will further explore these questions in a future rulemaking addressing farms.

The Agency is also expanding the extension to owners and operators of all facilities that meet the definition of farm finalized in today's rule, which was supported by many of the commenters. This action allows the Agency to study the universe and determine whether the current requirements are appropriate for farms. The Agency is expanding this extension because, upon further

assessment, we believe it is premature for the Agency to determine that the current SPCC requirements are appropriate for farms with oil storage capacities greater than 10,000 gallons before we undertake our study of the universe of farms.

2. Compliance Date Extension for Farms

With today's action, EPA extends the compliance dates for the owner or operator of a farm, as defined in § 112.2, to prepare or amend and implement the farm's SPCC Plan until the effective date of a rule addressing whether to provide differentiated requirements for farms. The Agency will announce the new compliance date in the **Federal Register**. The Agency will be conducting additional information collection and analysis to determine if differentiated SPCC requirements may be appropriate for farms. The Agency will be working with USDA to collect data that would more accurately characterize oil handling at these facilities, thereby allowing the Agency to focus on priorities where substantial environmental improvements can be obtained.

Some commenters argued that EPA should provide a suspension of requirements rather than an extension of the compliance date. We believe that providing a compliance extension in the same manner as previous compliance extensions that have been granted is appropriate. We are not aware that the farming community has had concerns with the previous compliance extensions that have been granted. In addition, we would have concerns about the impact that such an action may have as some number of farms handle significant quantities of oil and it would not be appropriate to issue a blanket suspension of all spill prevention requirements for owners and operators of these facilities. By extending the compliance date, the Agency is allowing for burden relief, while it makes a determination of whether the agriculture sector warrants specific consideration under the SPCC rule. Regardless of whether the Agency ultimately determines that differentiated requirements for farms are warranted, we will publish a notice in the **Federal Register** proposing new compliance dates for farms.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review

Under section 3(f)(1) of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is an "economically significant regulatory action" because it is likely to have an annual effect on the economy of $100 million or more. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in the "Regulatory Impact Analysis for the Final Revisions to the Oil Pollution Prevention Regulations" (October 2006). A copy of the analysis is available in the docket for this action and the analysis is briefly summarized here.

The regulatory impact analysis developed in support of today's action compares the compliance costs for owners and operators of facilities affected by the 2006 amendments to the costs owners and operators would face under the SPCC rule as amended in 2002 with respect to the four major components of the final rule: (1) Qualified facilities with 10,000 gallons or less of storage capacity; (2) facilities with certain types of oil-filled operational equipment; (3) facilities with motive power containers; and (4) facilities with mobile refuelers.

For each of these components, the benefits consist of reductions in costs accruing from reductions in compliance costs. The main steps used to estimate the compliance cost impacts of the SPCC final Rule are as follows:

- Develop the baseline universe of SPCC-regulated facilities;
- Estimate the number of facilities affected by the final rule amendments;
- Estimate changes in compliance cost elements resulting from the final rule;
- Estimate total compliance cost savings to owners and operators of potentially affected facilities; and
- Annualize compliance cost savings over a ten-year period, 2008 through 2017, and discount the estimates using 3 and 7 percent discount rates.

Based on these procedures, EPA estimated the average annual number of potentially affected facilities and the annual compliance cost savings associated with each of the four major components of the final rule, as can be seen in Exhibit 1. EPA assumes cost minimization behavior applies to all owners and operators of facilities that qualify for reduced regulatory requirements, whereby all those affected will seek burden relief. These estimates are not necessarily additive, given that they do not account for interactions among the various components of the final rule. Exhibit 1 presents one compliance cost savings scenario for each rule component, whereby all qualified facilities, 50 percent of qualified oil-filled operational equipment, 10 percent of motive power containers, and 50 percent of mobile refuelers are affected.

EXHIBIT 1.—COMPLIANCE COST SAVINGS ASSOCIATED WITH THIS FINAL ACTION

Major components of the final rule	Projected average annual number of affected facilities		Estimated annual compliance cost savings ($2005 in millions)	
	Existing	New	Discounted 3%	Discounted 7%
Qualified Facilities	337,000	7,260	$37.9	$37.7
Qualified Oil-filled Equipment	[1] 0	5,040	53.1	52.8
Motive Power Containers	28,500	516	1.07	1.07
Mobile Refuelers	[1] 0	2,940	34.4	34.2

[1] The number of existing facilities with qualified oil-filled operational equipment and mobile refuelers is zero because EPA assumed that existing SPCC-regulated facilities would already have secondary containment or a determination of the impracticability of secondary containment in accordance with § 112.7(d).

EPA also prepared an Alternative Baseline that describes the estimated changes in cost savings resulting from the 2006 SPCC final rule assuming partial (50 percent) compliance. For this alternative analysis, EPA assumed 50 percent compliance with both the 2002 and 2006 rules. The Agency anticipates the compliance rate under the 2006 final

rule to be at the same level as it would have been under the 2002 rule, or higher.

B. Paperwork Reduction Act

The information collection requirements for the final rule were submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 0328.13.

EPA does not collect the information required by the SPCC rule on a routine basis. SPCC Plans ordinarily need not be submitted to EPA, but must generally be maintained at the facility. Preparation, implementation, and maintenance of an SPCC Plan by the facility owner or operator helps prevent oil discharges, and mitigates the environmental damage caused by such discharges. Therefore, the primary user of the data is the facility personnel. While EPA may, from time to time, request information under these regulations, such requests are not routine.

Although facility personnel are the primary data user, EPA also uses the data in certain situations. EPA reviews SPCC Plans: (1) When it requests a facility owner or operator to submit required information in the event of certain discharges of oil or to evaluate an extension request; and, (2) as part of EPA's inspection program. State and local governments also use the data, which are not necessarily available elsewhere and can greatly assist local emergency preparedness efforts. Preparation of the information for affected facilities is required under section 311(j)(1) of the Act as implemented by 40 CFR part 112.

EPA estimates that in the absence of this rulemaking, approximately 580,000 facilities would be subject to the SPCC rule in 2006 and have SPCC Plans. In addition, EPA estimates that approximately 17,500 new facilities would become subject to SPCC requirements annually. In the absence of this final rulemaking, EPA projects that the average annual public reporting and recordkeeping burden for this information collection would be 2,695,329 hours.

Under today's rulemaking, owners and operators of qualified facilities no longer need a licensed Professional Engineer to certify their Plans. Facilities that store oil solely in motive power containers are no longer regulated, while owners and operators of facilities with oil storage in addition to motive power containers may incur lower compliance costs. Today's rule also allows greater use of contingency plans and written commitment of manpower, equipment, and resources without requiring an impracticability determination when combined with an inspection or monitoring program as an alternative to secondary containment for qualified oil-filled operational equipment. It also allows mobile refuelers at airports and facilities within other industries, to fall under a facility's general secondary containment requirements, rather than require specifically sized secondary containment.

Under today's rule, an estimated 434,000 regulated facilities would annually be subject to the SPCC information collection requirements of this rule during the information collection period. This figure excludes farms, to reflect the final compliance extension. Under this rule, the estimated annual average burden over the next three-year ICR period would be approximately 2,191,069 hours, resulting in a 19 percent average reduction. The estimated average annual public reporting for owners and operators of individual facilities already regulated under the SPCC rule would range between 3.3 and 7.1 hours, while the burden for owners and operators of newly regulated facilities would range between 40.1 and 70.1 hours as a result of this final action. The net annualized capital and start-up costs for the SPCC information collection portion of the rule would average $1.4 million and net annualized operation and maintenance (O&M) costs are estimated to be $34.3 million for owners and operators of all of these facilities combined.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) a small business as defined in the SBA's regulations at 13 CFR 121.201—the SBA defines small businesses by category of business using North American Industry Classification System (NAICS) codes, and in the case of farms and production facilities, which constitute a large percentage of the facilities affected by this final rule, generally defines small businesses as having less than $500,000 in revenues or 500 employees, respectively; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action would not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the final rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule reduces regulatory burden on owners and operators of qualified facilities and facilities with qualified oil-filled operational equipment. Owners and operators of qualified facilities no longer need a licensed

Professional Engineer to certify their Plans. Facilities that store oil solely in motive power containers are no longer regulated, while owners and operators of facilities with oil storage in addition to motive power containers may incur lower compliance costs. Today's rule also allows greater use of contingency plans and a written commitment of manpower, equipment, and materials without requiring an impracticability determination as an alternative to secondary containment for qualified oil-filled operational equipment when combined with an established and documented inspection or monitoring program. It also allows mobile refuelers no matter the industry to fall under a facility's general secondary containment requirements rather than require specifically sized secondary containment. The Agency has therefore concluded that today's rule relieves regulatory burden for small entities.

Overall, EPA estimates that today's rule will reduce annual compliance costs by roughly $38 million for owners and operators of qualified facilities, $53 million for owners and operators of facilities with qualified oil-filled equipment, $1 million for owners and operators of facilities with motive power containers, and $34 million for owners and operators of facilities with mobile refuelers. Total costs were annualized over a 10-year period using both 3 and 7 percent discount rates assuming all qualified facilities, 50 percent of qualified oil-filled operational equipment, 10 percent of motive power containers, and 50 percent of mobile refuelers are affected under this scenario. EPA derived these savings by estimating the number of facilities affected by each provision in the final rule; identifying the specific behavioral changes (e.g., choosing to self-certify an SPCC Plan rather than using a licensed PE) that may occur; estimating the unit costs of compliance measures under the baseline and regulatory scenarios; and applying the change in unit costs to the projected number of affected facilities.

We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA has determined that this final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's final rule would reduce compliance costs on owners and operators of affected facilities by as much as $126 million annually, although EPA acknowledges this estimate is derived from analyses of each of the four major components of the final rule and are not necessarily additive, given that they do not account for interactions among the various components. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As explained above, the effect of final rule would be to reduce burden and costs for owners and operators of qualified regulated facilities, including certain small governments that are subject to the rule.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Under CWA section 311(o), States may impose additional requirements, including more stringent requirements, relating to the prevention of oil discharges to navigable waters. EPA encourages States to supplement the Federal SPCC program and recognizes that some States have more stringent requirements. 56 FR 54612 (October 22, 1991). This final rule would not preempt State law or regulations. Thus, Executive Order 13132 does not apply to this final rule.

F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. Today's rule would not significantly or uniquely affect communities of Indian trial governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045—Protection of Children From Environmental Health & Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the

environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211—Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The overall effect of the rule is to decrease the regulatory burden on facility owners or operators subject to its provisions.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards such as materials specifications, test methods, sampling procedures, and business practices that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is a "major rule" as defined by 5 U.S.C. 804(2) because it will likely result in an annual effect on the economy of $100 million or more. This rule will be effective February 26, 2007.

List of Subjects in 40 CFR Part 112

Environmental protection, Airports, Animal fats and vegetable oils, Farms, Fire prevention, Flammable materials, Materials handling and storage, Oil pollution, Oil spill response, Penalties, Petroleum, Reporting and recordkeeping requirements, Tanks, Water pollution control, Water resources.

Dated: December 12, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 112 as follows:

PART 112—OIL POLLUTION PREVENTION

■ 1. The authority citation for part 112 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 33 U.S.C. 2720; and E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351.

Subpart A—[Amended]

■ 2. Amend § 112.1 by revising paragraph (d)(2)(ii) and adding paragraph (d)(7) to read as follows:

§ 112.1 General applicability.

* * * * *

(d) * * *

(2) * * *

(ii) The aggregate aboveground storage capacity of the facility is 1,320 gallons or less of oil. For the purposes of this exemption, only containers with a capacity of 55 gallons or greater are counted. The aggregate aboveground storage capacity of a facility excludes the capacity of a container that is "permanently closed," and the capacity of a "motive power container" as defined in § 112.2.

* * * * *

(7) Any "motive power container," as defined in § 112.2. The transfer of fuel or other oil into a motive power container at an otherwise regulated facility is not eligible for this exemption.

* * * * *

■ 3. Amend § 112.2 by adding definitions for "Farm," "Mobile refueler," "Motive power container," and "Oil-filled operational equipment" in alphabetical order to read as follows:

§ 112.2 Definitions.

* * * * *

Farm means a facility on a tract of land devoted to the production of crops or raising of animals, including fish, which produced and sold, or normally would have produced and sold, $1,000 or more of agricultural products during a year.

* * * * *

Mobile refueler means a bulk storage container onboard a vehicle or towed, that is designed or used solely to store and transport fuel for transfer into or from an aircraft, motor vehicle, locomotive, vessel, ground service equipment, or other oil storage container.

Motive power container means any onboard bulk storage container used primarily to power the movement of a motor vehicle, or ancillary onboard oil-filled operational equipment. An onboard bulk storage container which is used to store or transfer oil for further distribution is not a motive power container. The definition of motive power container does not include oil drilling or workover equipment, including rigs.

* * * * *

Oil-filled operational equipment means equipment that includes an oil storage container (or multiple containers) in which the oil is present solely to support the function of the apparatus or the device. Oil-filled operational equipment is not considered a bulk storage container, and does not include oil-filled manufacturing equipment (flow-through process). Examples of oil-filled operational equipment include, but are not limited to, hydraulic systems, lubricating systems (*e.g.*, those for pumps, compressors and other rotating equipment, including pumpjack lubrication systems), gear boxes, machining coolant systems, heat transfer systems, transformers, circuit breakers, electrical switches, and other systems containing oil solely to enable the operation of the device.

■ 4. Amend § 112.3 as follows:

■ a. By redesignating paragraph (a) as paragraph (a)(1).

■ b. By adding paragraph (a)(2).

■ c. By redesignating paragraph (b) as paragraph (b)(1).

■ d. By adding paragraph (b)(2).
■ e. By revising paragraph (d) introductory text.
■ f. By adding paragraph (g).

§ 112.3 Requirement to prepare and implement a Spill Prevention, Control, and Countermeasure Plan.

* * * * *

(a)(1) * * *

(2) If your onshore facility is a farm as defined in § 112.2, the compliance date described in paragraph (a)(1) of this section is delayed until the effective date of a rule establishing SPCC requirements specifically for farms or otherwise establishes dates by which farms must comply with the provisions of this part.

(b)(1) * * *

(2) If your onshore facility meets the definition of farm in § 112.2, the compliance date described in paragraph (b)(1) of this section is delayed until the effective date of a rule establishing SPCC requirements specifically for farms or otherwise establishes dates by which farms must comply with the provisions of this part.

* * * * *

(d) Except as provided in § 112.6, a licensed Professional Engineer must review and certify a Plan for it to be effective to satisfy the requirements of this part.

* * * * *

(g) *Qualified Facilities.* The owner or operator of a qualified facility as defined in this subparagraph may self-certify his or her facility's Plan, as provided in § 112.6. A qualified facility is one that:

(1) Has an aggregate aboveground storage capacity of 10,000 gallons or less; and

(2) Has had no single discharge as described in § 112.1(b) exceeding 1,000 U.S. gallons or no two discharges as described in § 112.1(b) each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan self-certification date, or since becoming subject to this part if the facility has been in operation for less than three years (other than discharges as described in § 112.1(b) that are the result of natural disasters, acts of war, or terrorism).

■ 5. Amend § 112.5 by revising paragraph (c) to read as follows:

§ 112.5 Amendment of Spill Prevention, Control, and Countermeasure Plan by owners or operators.

* * * * *

(c) Except as provided in § 112.6, have a Professional Engineer certify any technical amendments to your Plan in accordance with § 112.3(d).

■ 6. Add § 112.6 to read as follows:

§ 112.6 Qualified Facility Plan Requirements.

(a) *Preparation and Self-certification of Plan.* If you are the owner or operator of a facility that meets the qualified facility qualification criteria in § 112.3(g), you may choose to self-certify your Plan. You must certify in the Plan that:

(1) You are familiar with the requirements of this part;

(2) You have visited and examined the facility;

(3) The Plan has been prepared in accordance with accepted and sound industry practices and standards, and with the requirements of this part;

(4) Procedures for required inspections and testing have been established;

(5) The Plan is being fully implemented;

(6) The facility meets the qualification criteria set forth under § 112.3(g);

(7) The Plan does not deviate from any requirement of this part as allowed by §§ 112.7(a)(2) and 112.7(d), except as provided in paragraph (c) of this section; and

(8) The Plan and individual(s) responsible for implementing the Plan have the full approval of management and the facility owner or operator has committed the necessary resources to fully implement the Plan.

(b) *Self-certification of Technical Amendments.* If you self-certify your Plan pursuant to paragraph (a) of this section, you must certify any technical amendments to your Plan in accordance with paragraph (a) of this section when there is a change in the facility design, construction, operation, or maintenance that affects its potential for a discharge as described in § 112.1(b) except:

(1) If a Professional Engineer certified a portion of your Plan in accordance with paragraph (d) of this section, and the technical amendment affects this portion of the Plan, you must have the amended provisions of your Plan certified by a Professional Engineer in accordance with § 112.6(d)(2).

(2) If the change is such that the facility no longer meets the qualifying criteria in § 112.3(g) because it exceeds 10,000 gallons in aggregate aboveground storage capacity, you must prepare a Plan in accordance with the general Plan requirements in § 112.7 and the applicable requirements in subparts B and C, including having the Plan certified by a Professional Engineer as required under § 112.3(d).

(c) *Applicable Requirements.* Except as provided in this subparagraph, your self-certified SPCC Plan must comply with § 112.7 and the applicable requirements in subparts B and C of this part:

(1) *Environmental Equivalence.* Your Plan 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 Professional Engineer, as provided in paragraph (d) of this section.

(2) *Impracticability.* Your Plan 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 alternative provision has been reviewed and certified in writing by a Professional Engineer, as provided in paragraph (d) of this section.

(3) *Security (excluding oil production facilities).* You must either:

(i) Comply with the requirements under § 112.7(g); or

(ii) Describe in your Plan how you secure and control access to the oil handling, processing and storage areas; secure master flow and drain valves; prevent unauthorized access to starter controls on oil pumps; secure out-of-service and loading/unloading connections of oil pipelines; address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges.

(4) *Bulk Storage Container Inspections.* You must either:

(i) Comply with the requirements under § 112.8(c)(6) or § 112.12(c)(6), as applicable; or

(ii) Test/inspect each aboveground container for integrity on a regular schedule and whenever material repairs are made. You must determine, in accordance with industry standards, the appropriate qualifications for personnel performing tests and inspections, the frequency and type of testing and inspections which take into account container size, configuration, and design (such as containers that are: shop built, skid-mounted, elevated, equipped with a liner, double walled, or partially buried). Examples of these integrity tests include, but are not limited to: visual inspection, hydrostatic testing, radiographic testing, ultrasonic testing, acoustic emissions testing, or other systems of non-destructive testing. You must keep comparison records and you must also inspect the container's supports and foundations. In addition, you must frequently inspect the outside of the container for signs of deterioration, discharges, or accumulation of oil inside diked areas. Records of inspections and tests kept under usual and customary business

practices satisfy the recordkeeping requirements of this paragraph.

(d) *Professional Engineer Certification of Portions of a Qualified Facility's Self-certified Plan.* As described in paragraph (c) of this section, the facility owner or operator may not self-certify alternative measures allowed under § 112.7(a)(2) or (d), that are included in the facility's Plan. Such measures must be reviewed and certified, in writing, by a licensed Professional Engineer as follows:

(1) For each alternative measure allowed under § 112.7(a)(2), the Plan must be accompanied by a written statement by a Professional Engineer that states the reason for nonconformance and describes the alternative method and how it provides equivalent environmental protection in accordance with § 112.7(a)(2). For each determination of impracticability of secondary containment pursuant to § 112.7(d), the Plan must clearly explain why secondary containment measures are not practicable at this facility and provide the alternative measures required in § 112.7(d) in lieu of secondary containment.

(2) By certifying each measure allowed under § 112.7(a)(2) and (d), the Professional Engineer attests:

(i) That he is familiar with the requirements of this part;

(ii) That he or his agent has visited and examined the facility; and

(iii) That the alternative method of environmental equivalence in accordance with § 112.7(a)(2) or the determination of impracticability and alternative measures in accordance with § 112.7(d) is consistent with good engineering practice, including consideration of applicable industry standards, and with the requirements of this part.

(3) The review and certification by the Professional Engineer under this paragraph is limited to the alternative method which achieves equivalent environmental protection pursuant to § 112.7(a)(2) or to the impracticability determination and measures in lieu of secondary containment pursuant to § 112.7(d).

■ 7. Amend § 112.7 as follows:
■ a. By revising paragraph (a)(2).
■ b. By revising paragraph (c) introductory text.
■ c. By revising paragraph (d) introductory text.
■ d. By adding paragraph (k).

§ 112.7 General requirements for Spill Prevention, Control, and Countermeasure Plans.

* * * * *

(a) * * *

(2) Comply with all applicable requirements listed in this part. Except as provided in § 112.6, your Plan may deviate from the requirements in paragraphs (g), (h)(2) and (3), and (i) of this section and the requirements in subparts B and C of this part, except the secondary containment requirements in paragraphs (c) and (h)(1) of this section, and §§ 112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), and 112.12(c)(11), where applicable to a specific facility, if you provide equivalent environmental protection by some other means of spill prevention, control, or countermeasure. Where your Plan does not conform to the applicable requirements in paragraphs (g), (h)(2) and (3), and (i) of this section, or the requirements of subparts B and C of this part, except the secondary containment requirements in paragraph (c) and (h)(1) of this section, and §§ 112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), and 112.12(c)(11), you must state the reasons for nonconformance in your Plan and describe in detail alternate methods and how you will achieve equivalent environmental protection. If the Regional Administrator determines that the measures described in your Plan do not provide equivalent environmental protection, he may require that you amend your Plan, following the procedures in § 112.4(d) and (e).

* * * * *

(c) Provide appropriate containment and/or diversionary structures or equipment to prevent a discharge as described in § 112.1(b), except as provided in paragraph (k) of this section for qualified oil-filled operational equipment. The entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank or pipe, will not escape the containment system before cleanup occurs. At a minimum, you must use one of the following prevention systems or its equivalent:

* * * * *

(d) Provided your Plan is certified by a licensed Professional Engineer under § 112.3(d), or, in the case of a qualified facility that meets the criteria in § 112.3(g), the relevant sections of your Plan are certified by a licensed Professional Engineer under § 112.6(d), if you determine that the installation of any of the structures or pieces of equipment listed in paragraphs (c) and (h)(1) of this section, and §§ 112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), and 112.12(c)(11) to prevent a discharge as described in § 112.1(b) from any onshore or offshore facility is not practicable, you must clearly explain in your Plan why such measures are not practicable; for bulk storage containers, conduct both periodic integrity testing of the containers and periodic integrity and leak testing of the valves and piping; and, unless you have submitted a response plan under § 112.20, provide in your Plan the following:

* * * * *

(k) *Qualified Oil-filled Operational Equipment.* The owner or operator of a facility with oil-filled operational equipment that meets the qualification criteria in paragraph (k)(1) of this subsection may choose to implement for this qualified oil-filled operational equipment the alternate requirements as described in paragraph (k)(2) of this subsection in lieu of general secondary containment required in paragraph (c) of this section.

(1) *Qualification Criteria—Reportable Discharge History:* The owner or operator of a facility that has had no single discharge as described in § 112.1(b) from any oil-filled operational equipment exceeding 1,000 U.S. gallons or no two discharges as described in § 112.1(b) from any oil-filled operational equipment each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan certification date, or since becoming subject to this part if the facility has been in operation for less than three years (other than oil discharges as described in § 112.1(b) that are the result of natural disasters, acts of war or terrorism); and

(2) *Alternative Requirements to General Secondary Containment.* If secondary containment is not provided for qualified oil-filled operational equipment pursuant to paragraph (c) of this section, the owner or operator of a facility with qualified oil-filled operational equipment must:

(i) Establish and document the facility procedures for inspections or a monitoring program to detect equipment failure and/or a discharge; and

(ii) Unless you have submitted a response plan under § 112.20, provide in your Plan the following:

(A) An oil spill contingency plan following the provisions of part 109 of this chapter.

(B) A written commitment of manpower, equipment, and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful.

Subpart B—[Amended]

■ 8. Amend § 112.8 by revising paragraphs (c)(2) and (c)(11) to read as follows:

§ 112.8 Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities).

* * * * *

(c) * * *

(2) Construct all bulk storage tank installations (except mobile refuelers) so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must ensure that diked areas are sufficiently impervious to contain discharged oil. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

* * * * *

(11) Position or locate mobile or portable oil storage containers to prevent a discharge as described in § 112.1(b). Except for mobile refuelers, you must furnish a secondary means of containment, such as a dike or catchment basin, sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation.

* * * * *

Subpart C—[Amended]

■ 9. Amend § 112.12 by revising the section heading and by revising paragraphs (c)(2) and (c)(11) to read as follows:

§ 112.12 Spill Prevention, Control, and Countermeasure Plan requirements.

* * * * *

(c) * * *

(2) Construct all bulk storage tank installations (except mobile refuelers) so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must ensure that diked areas are sufficiently impervious to contain discharged oil. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

* * * * *

(11) Position or locate mobile or portable oil storage containers to prevent a discharge as described in § 112.1(b). Except for mobile refuelers, you must furnish a secondary means of containment, such as a dike or catchment basin, sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation.

§ 112.13 [Removed and Reserved]

■ 10. Remove and reserve § 112.13.

§ 112.14 [Removed and Reserved]

■ 11. Remove and reserve § 112.14.

§ 112.15 [Removed and Reserved]

■ 12. Remove and reserve § 112.15.

[FR Doc. E6–21509 Filed 12–22–06; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 209

[FRA–2006–24512]

RIN 2130–AB70

Revisions to Civil and Criminal Penalties; Penalty Guidelines

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In this final rule, the Federal Railroad Administration is revising its regulations to reflect revisions to the penalty provisions in the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005 (Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), enacted on August 10, 2005. We are also revising baseline assessments for several categories of violations, including those related to training and security plans, in our Civil Penalty Assessment Guidelines. We publish our Guidelines in order to provide the regulated community and the general public with information on the hazardous materials civil penalty assessment process for violations related to the transportation of hazardous materials by rail.

DATES: *Effective Date:* This final rule is effective December 26, 2006.

FOR FURTHER INFORMATION CONTACT: Roberta Stewart, Trial Attorney, Office of Chief Counsel, RCC–12, Mail Stop 10, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202–493–6027).

SUPPLEMENTARY INFORMATION:

I. Civil and Criminal Penalties

On August 10, 2005, the President signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, 119 Stat. 1144. Title VII of SAFETEA–LU—the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005—revises the maximum and minimum civil penalties, and the maximum criminal penalty, for violations of Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) or a regulation, order, special permit, or approval issued under Federal hazmat law (including 49 CFR subtitle B, chapter I, subchapters A and C). The Federal Railroad Administration (FRA) is revising references in our regulations to the maximum and minimum civil penalties, and the maximum criminal penalties, to reflect the following statutory changes:

- —The maximum civil penalty was increased from $32,500 to $50,000 for a knowing violation, and to $100,000 if the violation results in death, serious illness or severe injury to any person, or substantial destruction of property.
- —The minimum civil penalty has reverted from $275 to $250, except that a minimum civil penalty of $450 applies to a violation related to training.
- —Criminal penalties now apply to both reckless and willful violations of Federal hazardous material transportation law or a regulation, order, special permit, or approval issued thereunder. The criminal penalties also apply to a knowing violation of the prohibition in 49 U.S.C. 5104(b) against tampering with a marking, label, placard, or description on a shipping document.
- —The maximum criminal penalty of five years' imprisonment and a fine in accordance with Title 18 of the United States Code ($250,000 for an individual, $500,000 for a corporation) was retained, except that the maximum amount of imprisonment has been increased to 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to a person.

II. Revisions to Civil Penalty Guidelines

FRA's hazardous material transportation enforcement civil penalty

APPENDIX VIII
CERTIFICATION MAINTAINANCE COMPANY SUBCONTRATED

ESTADO LIBRE ASOCIADO DE PUERTO RICO
MUNICIPIO AUTÓNOMO DE CAGUAS
SECRETARÍA DE INFRAESTRUCTURA,
ORNATO Y CONSERVACIÓN

2020 - 001547

DEPARTAMENTO DE CONSERVACIÓN DE EDIFICIOS
Y ESTRUCTURAS MUNICIPALES

CONTRATO SERVICIOS MANTENIMIENTO

COMPARECEN

DE LA PRIMERA PARTE: EL MUNICIPIO AUTONOMO DE CAGUAS, representado en este acto por Ada Belén Caballero Miranda, Secretaria de la Secretaría de Infraestructura Ornato y Conservación, mayor de edad, casada y vecina de San Juan, Puerto Rico, en adelante denominado **EL MUNICIPIO.** ----------

DE LA SEGUNDA PARTE: CARRILLO RAMOS, JAVIER LUIS/EMPRESAS CARRILLO, mayor de edad, casado y vecino de San Juan, en lo adelante designado **EL CONTRATADO.**

LAS PARTES COMPARECIENTES ASEGURAN TENER la capacidad legal necesaria para este otorgamiento y en consideración de los mutuos términos, condiciones y pactos aquí establecidos, **LIBREMENTE:** ----------

EXPONEN

PRIMERO El día 6 de septiembre de 2019, **EL MUNICIPIO** adjudicó a **EL CONTRATADO,** la Subasta Informal Número CE2020-008: **MANTENIMIENTO DE GENERADORES DE ENERGÍA. EL CONTRATADO** cuenta con los recursos y la experiencia necesaria para llevar a cabo el mantenimiento solicitado. ----------

SEGUNDO: En virtud de los artículos 2.001 y 3.009 de la Ley de Municipios Autónomo, Ley Núm. 81 del 30 de agosto de 1991, según enmendada (21 L.P.R.A. sec. 4051, 4109) y en conformidad con la adjudicación efectuada en la mencionada subasta formal, **EL MUNICIPIO** contrata a **EL CONTRATADO,** sujeto a las siguientes: ----------

CLÁUSULAS Y CONDICIONES

PRIMERO: EL CONTRATADO brindará el **MANTENIMIENTO DE GENERADORES DE ENERGÍA** para el Departamento de Conservación de Edificios, según surge de la "Carta de Adjudicación". ----------

SEGUNDO: EL CONTRATADO brindará los servicios o trabajos contratados según indicado en los documentos de la subasta por Invitación, minuta, presubasta, especificaciones (generales y especiales), que incluyen: ----------

A. Servicio de mantenimiento de generadores de energía se realizará mensualmente. - Este servicio debe incluir: ----------

1. Verificar los niveles de aceite; completar o cambiar, según especificaciones del fabricante.
2. Verificar el nivel de refrigerante en el radiador: completar si es necesario. Si el sistema no tiene radiador, comprobar que el motor enfríe. Limpiar radiador, cambiar mangas, bombas de agua y termostato según especificaciones del fabricante.
3. Examinar y reparar si existen fugas de aire, combustible, agua y aceite.
4. Verificar presiones de aceite, aire y combustible.
5. Verificar y reemplazar "*mufflers*" que estén corroídos.
6. Encender la planta y durante su funcionamiento observar vibraciones anormales, ruidos extraños y temperaturas excesivas. De haber algún desperfecto corregirlo.
7. Cambiar los filtros de aceite según especificaciones del fabricante.
8. Cambiar filtros de combustible que amerite, de acuerdo al tiempo de servicio.
9. Cambiar cuando sea necesario, según recomendaciones de manufacturero los purificadores de aire (motor y compresor).
10. Examinar, de ser necesario cambiar o reparar, el funcionamiento de los controles e instrumentos de medición en el panel.
11. Revisar el estado y la tensión de las poleas del motor y compresor; ajustar o cambiar según sea el caso.
12. Engrasar y lubricar todos los puntos necesarios del generador.
13. Verificar, de ser necesario reparar o reemplazar, el acoplamiento elástico entre el generador y motor.
14. Verificar corriente y voltaje en baterías e instrumentos eléctricos y cargado.
15. Verificar que los interruptores y contactos estén en buen estado.
16. Limpiar y probar inyectores. Hacer ajuste a los mismos.
17. Hacer revisión de todas las tuberías (plásticas, goma, metal, "*fiberglass*", etc.) a sus conexiones.

18. Inspección del *"Transfer Switch"*. Esto con lleva ajuste, calibrar tiempo de respuesta y verificar encendido semanal.

19. Poner aceite nuevo (de acuerdo con sus especificaciones) por lo menos 2 veces al año.

20. **EL CONTRATADO** tiene que tener un mecánico diesel certificado para el mantenimiento de estos equipos y al momento de la subasta tiene que entregar esta certificación vigente.

21. **EL CONTRATADO** tiene que tener un perito electricista certificado para el mantenimiento de estos equipos y al momento de la subasta tiene que entregar esta certificación vigente..

22. **EL CONTRATADO** tiene que tener personal uniformado e identificado con el logo de la compañía.

23. **EL CONTRATADO** deberá entregar un listado de deficiencias antes del cumplimiento de los primeros diez días de contrato.

24. Tendrán un tope en piezas mensual por unidad hasta $750.00. El exceso de esta cantidad será por parte de **EL MUNICIPIO.** Labor es parte del mantenimiento.

25. **EL CONTRATADO** deberá someter la descripción clara de la pieza a comprar que exceda los $750.00. Esta información deberá ser presentada antes de 24 horas.

26. **EL CONTRATADO** tiene que mantener en sitio una bitácora de visitas y horas de uso de cada generador.

27. De alguna pieza exceder el tope establecido, se le podrá hacer una orden para el reemplazo de las misma para agilizar el proceso.

28. **EL CONTRATADO** será responsable de cubrir los costos de mano de obra de reparaciones por vandalismo.

29. **EL CONTRATADO** proveerá todos los equipos y herramientas necesarias para realizar el mantenimiento.

30. Los trabajos de mantenimiento no comenzarán hasta que **EL CONTRATADO** se haya reunido con los Directores de Conservación de Edificios y el Coordinador de los Servicios Contratados.

31. La coordinación e itinerario de proyecto, será discutido con antelación a la ejecución. No se comenzarán los trabajos sin realizar dicha coordinación.

32. Previo al aviso de tormenta, huracán o evento atmosférico a petición de **EL MUNICIPIO** se revisarán todos los generadores de energía.

33. En caso de una emergencia tendrá una hora de respuesta para revisar y corregir la falla, en caso de ser avería mayor del motor o generador deberá tenerlo en servicio e siete días.

B. Generadores incluidos en la propuesta están localizados en las siguientes dependencias municipales:

1. **Comandancia Municipal: Costo $150.00**
   Onan
   Cummins Power Generation
   Modelo GA-4961536
   125 KW, 156 KVA, 120/208 V, 433.9 A

2. **CDT: Costo $100.00**
   Lima Brushles Synchronous Alternador
   GM. Detroit Diesel
   125 KW, 156 KVA, 120/208 V, 434 A

3. **Secretaría de Infraestructura, Ornato y Conservación: Costo $150.00**
   Stamford
   Cummins QSB7-G5
   Modelo: GS-200
   200 KW, 250 KVA

4. **Coliseo Héctor Solá Bezares: Costo $100.00**
   Kohler Power System
   John Deere Engine
   40 KW, 50 KVA, 120/208 V, 139 A

5. **OMME Y EMERGENCIAS MÉDICAS: Costo $75.00**
   Onan Quite Site II
   Modelo DGB-3377439
   120/208 Volts 35 KW

6. **Planta de Tratamiento: Costo$75.00**
   SS Lima – John Deere
   Modelo 7962050
   30 KW

7. **Centro De Gobierno: Costos $400.00**
   RK Power,
   Modelo ASRA 800
   800 KW, 1800 ARPM

8. **Nueva Casa Alcaldía: Costo $400.00**
   Caterpillar
   750 KW, 120/208 V,

9. **Empresas Emergentes en Valle Tolima: Costo $150.00**
   Paramac
   110 KW, 120/208 V

10. **Departamento de Conservación de Edificios: Costo $150.00**
    Caterpillar
    125 KW, 120/208 V,

11. **Generador Movible seg 163n necesidad (*Stand By*): Costo $150.00**
    RK Power
    60 KW. 120/208V

12. **Biblioteca Electrónica: Bairoa: Costo $150.00**
    RK Power
    60 KW, 120/208 V

13. **Complejo Recreo Deportivo del Este: Costo $75.00**
    RK Power
    Modelo: KAT 20
    20KW, 277/480 VAC

14. **Edificio Lincoln Center: Costo $400.00**

C. **Tanques de diésel incluidos:**

1. **Estacionamiento Centro de Gobierno: Costo $140.00**
   Tanque de diésel de 6,000 galones

2. **Estacionamiento de la Casa Alcaldía WMM: Costo $115.00**
   Tanque de diésel de 2,000 galones

QUINTA: VIGENCIA, Este contrato tendrá una vigencia que comenzará desde el 1 de noviembre de 2019 hasta el 30 de junio de 2020. ----------

SEXTA: FORMA DE PAGO, **EL MUNICIPIO** se compromete a pagar a **EL CONTRATADO** por los servicios ofrecidos una cuantía máxima mensual de $2,780.00, para una cuantía máxima total de **$22,240.00** durante la vigencia del contrato. ----------

SÉPTIMA: PARTIDA PRESUPUESTARIA, El pago de estos servicios se efectuará con cargo a la partida presupuestaria **409-14147-38-9464000-2019B41/Mantenimiento de Edificios.** ----------

OCTAVA: FACTURACION Y PAGO: **EL CONTRATADO** se compromete, a tenor con el Código Anticorrupción para un Nuevo Puerto Rico, del 4 de enero de 2018, a incluir en todas las facturas la siguiente certificación: ----------

> ***"Bajo pena de nulidad absoluta certifico que ningún servidor del Municipio es parte o tiene interés en las ganancias o beneficios producto del contrato objeto de esta factura y de ser parte o tener interés en las ganancias o beneficios producto del contrato, ha mediado una dispensa previa. La única consideración para suministrar los servicios objeto del contrato ha sido el pago acordado con el representante autorizado de***

"EL MUNICIPIO". El importe de factura es justo y correcto. Los servicios profesionales han sido prestados y no han sido pagados".

EL MUNICIPIO no pagará ninguna factura que no contenga la certificación según dispone la cláusula anterior. ----------

A. La facturación y el proceso de pago se hará conforme a lo establecido en este contrato y a las normas de pago y desembolso de **EL MUNICIPIO** y del Estado Libre Asociado de Puerto Rico, lo que implica que cualquier duda sobre pago se canalizará a través de la unidad administrativa a la cual presta los servicios y no de **EL CONTRATADO** directamente al personal del Departamento de Finanzas y/o de Compras y Subastas.

NOVENA: CERTIFICACIONES, EL CONTRATADO certifica que al momento de suscribir este contrato ha rendido sus planillas de contribución sobre ingresos y patente municipal durante los cinco (5) años previos y el año corriente a este contrato y que no tiene deudas por tales conceptos, por contribución sobre la propiedad mueble/inmueble, o por cualquier otro tipo de contribución, arbitrio o licencia con el Estado Libre Asociado de Puerto Rico o con algún Municipio, o se encuentra acogido a un plan de pago en cuyos términos y condiciones está cumpliendo. Se reconoce que ésta es una condición esencial del presente contrato, y de no ser correcta en todo o en parte esta certificación, esto será causa suficiente para que **EL MUNICIPIO** pueda dejar sin efecto el contrato y **EL CONTRATADO** tenga que reintegrar a **EL MUNICIPIO** toda suma de dinero recibida bajo este contrato.----

EL CONTRATADO ha sometido y se hace formar parte del presente contrato los siguientes documentos: ----------

a. Certificación de Radicación de Planillas de Contribución sobre Ingresos (Modelo SC 6088) para los cinco (5) años contributivos previos y el año corriente, del Departamento de Hacienda.

b. Certificación de Planillas del Impuesto sobre Ventas y Uso –IVU (Modelo SC 2942)

c. Certificación de Deuda (Modelo SC 6096) del Departamento de Hacienda.

d. Certificación de Deuda del Impuesto sobre Ventas y Uso –IVU (Modelo 2927 ó 6096)

e. Copia del Certificado de Registro de Comerciantes (Modelo SC 2918)

f. Certificación de Radicación de Planillas de Contribución sobre la Propiedad para los últimos cinco (5) periodos contributivos. (CRIM)

g. Certificación Deuda por Todos los Conceptos (Propiedad Mueble e Inmueble)

h. Certificación de Registro como Patrono y de Deuda por concepto de Seguro Social Choferil de Deuda por concepto del pago del seguro por desempleo, del Departamento del Trabajo y Recursos Humanos.

i. Certificación de Registro como Patrono y de Deuda por Concepto de Seguro por Desempleo y por Incapacidad.

j. Certificación del Departamento de la Familia, Administración para el Sustento de Menores por concepto de Pensión Alimentaria (o existencia de un plan de pago). (ASUME); o Certificación de Cumplimiento de Retención a Empleados del Departamento de la Familia, Administración para el Sustento de Menores (ASUME).

k. Recibo de Pago o Copia de Patente Municipal. (Caguas)

l. Permiso de Uso (o Evidencia de Solicitud del Permiso)

m. Póliza del Fondo del Seguro del Estado.

n. Certificado de Seguro de Responsabilidad Pública incluyendo el "*Hold Harmless Agreement*".

o. Declaración Jurada de la Ley Número 2 del 4 de enero de 2018, *Código Anticorrupción para un Nuevo Puerto Rico*.

DÉCIMA: Los pagos a efectuar a **EL CONTRATADO** objeto del presente contrato estarán sujetos a retención, según dispone la Sección 1062.03 del Código de Rentas Internas para un nuevo Puerto Rico, según enmendada, excepto en el caso de que **EL CONTRATADO** presente a **EL MUNICIPIO**, un certificado de relevo parcial, en cuyo caso se le retendrá lo dispuesto por ley. ----------

DÉCIMA PRIMERA: Toda póliza deberá estar debidamente endosada para incluir como parte coasegurado a EL **MUNICIPIO**. ----------

DÉCIMA SEGUNDA: EL CONTRATADO o solicitante se compromete, por este medio, a regirse por las disposiciones establecidas en el *Código de Ética para Contratistas, Proveedores de Servicios y Solicitantes de Incentivos Económicos del Gobierno de Puerto Rico*, Título III de la Ley Número 2 del 4 de enero de 2018. ----------

DÉCIMA TERCERA: EL CONTRATADO certifica que está cumpliendo con las disposiciones de la *Ley Orgánica de la Administración para el Sustento de Menores*, Ley 5-1986, según enmendada, y de la *Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada*, Ley 168-2000, según enmendada, en específico con las órdenes de retención, y/o que no está obligado a satisfacer una pensión alimentaria, y de tenerla, está al día o tiene un plan de pago para la misma. ----------

DÉCIMA CUARTA: EL CONTRATADO se compromete a notificar inmediatamente a **EL MUNICIPIO** en caso de incurrir en deudas por dicho concepto. ----------

DÉCIMA QUINTA: EL CONTRATADO certifica que no recibe pago o compensación alguna por servicios regulares prestados bajo nombramiento a otra entidad pública excepto los autorizados por ley. Además, se compromete a no representar ni a prestar servicios a parte alguna adversa a los intereses de **EL MUNICIPIO**, mientras dure este contrato. ----------

DÉCIMA SEXTA: EL CONTRATADO certifica que conoce las normas éticas de su profesión y asume la responsabilidad de sus acciones. ----------

DÉCIMA SÉPTIMA: EL CONTRATADO certifica que no ha sido convicto de ninguno de los delitos dispuestos en la Sección 6.8 inciso 3 de la Ley 8 del 4 de febrero de 2017, en la jurisdicción estatal o federal. Además, reconoce el deber continuo de informar a **EL MUNICIPIO** sobre este particular y se compromete a notificar inmediatamente a **EL MUNICIPIO** en caso de resultar convicto por alguno de los dichos delitos. ----------

DÉCIMA OCTAVA: EL CONTRATADO certifica que no tiene pleitos ni litigios pendientes contra **EL MUNICIPIO**. ----------

DÉCIMA NOVENA: CONFLICTO DE INTERES: ----------

A. **EL CONTRATADO** certifica que ningún(a) servidor(a) público(a) de "**EL MUNICIPIO**" tiene interés pecuniario en este contrato, compra o transacción, comercial y tampoco ha tenido en los últimos (4) cuatro años directa o indirectamente interés pecuniario en este negocio. ----------

B. **EL CONTRATADO** certifica que ningún(a) servidor(a) público(a) le solicitó o aceptó, directa o indirectamente, para él(ella), para algún miembro de su unidad familiar o para cualquier persona, regalos, gratificaciones, favores, servicios, donativos, préstamos o cualquier otra cosa de valor monetario. ----------

C. **EL CONTRATADO** certifica que ningún(a) servidor(a) público(a) le solicitó o aceptó bien alguno de valor económico, vinculado a esta transacción, de persona alguna de su entidad como pago por realizar los deberes y responsabilidades de su empleo. ----------

D. **EL CONTRATADO** certifica que ningún(a) servidor(a) público(a) le solicitó, directa o indirectamente, para él(ella), para algún miembro de su unidad familiar, ni para cualquier otra persona, negocio o entidad, bien alguno de valor económico, incluyendo regalos, préstamos, promesas, favores o servicios a cambio de que la actuación de dicho servidor(a) público(a) esté influenciada a favor de **EL CONTRATADO** o su entidad. ----------

E. **EL CONTRATADO** no mantiene ni entrará en relaciones contractuales o llevará a cabo actos que configuren un conflicto de interés con **EL MUNICIPIO** o con la política pública de este. ----------

VIGÉSIMA: **EL CONTRATADO** o solicitante se compromete, por este medio, a regirse por las disposiciones establecidas en el *Código de Ética para Contratistas, Proveedores de Servicios y Solicitantes de Incentivos Económicos del Gobierno de Puerto Rico*, Título III de la Ley Número 2 del 4 de enero de 2018. ----------

VIGÉSIMA PRIMERA: SUBCONTRATADOS, EL CONTRATADO será responsable ante **EL MUNICIPIO** de cualquier labor realizada por un subcontratado en este contrato y será responsabilidad de **EL CONTRATADO** de pagar el trabajo al subcontratado. ----------

VIGÉSIMA SEGUNDA: EL CONTRATADO establece que de tener contrato con otros municipios o dependencias del gobierno, estos no serán incompatibles con el contrato formalizado con **EL MUNICIPIO.** ----------

VIGÉSIMA TERCERA: EL CONTRATADO será responsable de pagar directamente a la agencia concernida su seguro social federal sobre los ingresos derivados de este contrato, debido a que **EL MUNICIPIO**, no efectuaré retenciones por este concepto. ----------

VIGÉSIMA CUARTA: EL CONTRATADO es la persona, grupo, entidad o corporación que firma este contrato con **EL MUNICIPIO**, y que tiene la responsabilidad de realizar el proyecto según los términos y condiciones del mismo. ----------

VIGÉSIMA QUINTA: CLÁUSULAS DE CANCELACIÓN: ----------

EL MUNICIPIO a su entera discreción y por cualquier motivo, podrá dar por terminado el Contrato mediante notificación escrita al **CONTRATADO** con treinta (30) días de antelación a la fecha de terminación. ----------

No obstante, lo anterior, el requisito de notificación previa no será de aplicación y se podrá cancelar el Contrato con efecto inmediato cuando: ----------

1) **El CONTRATADO** o cualquiera de sus accionistas, socios u oficiales principales resulte convicto o se declare culpable por cualquier delito contra el erario, la fe y la función pública; contra el ejercicio gubernamental; o que involucre fondos o propiedad pública, en el ámbito federal o estatal; o ----------

2) **EL CONTRATADO** incurra en incumplimiento, negligencia o abandono de deberes o conducta impropia relacionada con el presente contrato o, si a juicio único del **MUNCIPIO** la calidad o el progreso de los servicios prestados por **EL CONTRATADO** son insatisfactorios; o ----------

3) cuando **EL MUNICIPIO** entienda que existe una situación fiscal extraordinaria que amerite un recorte inmediato de gastos. ----------

El MUNICIPIO le pagará al **CONTRATADO** los trabajos realizados hasta el momento de la cancelación del Contrato. Si el **MUNICIPIO** opta por la cancelación del presente Contrato, **EL CONTRATADO** se abstendrá de realizar cualquier gestión ulterior, a no ser que su inacción implique conducta profesional inadecuada, en cuyo caso notificará al **MUNICIPIO** de tal gestión.----------

VIGÉSIMA SEXTA: EL CONTRATADO cumplirá con todas las leyes, normas y reglamentos federales, estatales y municipales aplicables a este contrato o a la ejecución y cumplimiento del mismo. Específicamente, **EL CONTRATADO** viene obligado a cumplir con todas las disposiciones reglamentarias de la Administración de Salud y Seguridad en el Trabajo (OSHA) y la *Ley de Seguridad y Salud Ocupacionales* aplicables a esta industria o proyecto. **EL CONTRATADO** No permitirá persona alguna en el área sin el equipo de seguridad requerido. ----------

En aquellos casos que **EL CONTRATADO** pudiera anticipar una dilación en la finalización de sus servicios, deberá informar por escrito a **EL MUNICIPIO** de las causas justificadas que motivan dicha dilación y cuánto es el tiempo que entiende tomará completar sus servicios. **EL MUNICIPIO** aprobará o no el tiempo de duración de dicha interrupción o extensión. ——

No obstante, lo anterior, **EL CONTRATADO** entiende y reconoce que para que **EL MUNICIPIO** considere una orden de cambio, ésta deberá estar debidamente justificada y **EL CONTRATADO** será responsable de proveer la información pertinente y necesaria para documentar el expediente. ——————————————————

VIGÉSIMA SÉPTIMA: <u>**RELEVO DE RESPONSABILIDAD**</u>**: EL CONTRATADO** indemnizará, defenderá y mantendrá libre de responsabilidad a **EL MUNICIPIO,** sus empleados, representantes y oficiales electos, por cualquier pérdida, reclamación, responsabilidad, multa, penalidad, embargo, demanda o acción de cualquier tipo o naturaleza incluyendo cualquier costo o gasto incidental (incluyendo costos de defensa, transacción y honorarios razonables de abogado), atribuible a: ——————————————

I. actos negligentes u omisiones de **EL CONTRATADO** durante la ejecución de los trabajos requeridos.

II. cualquier daño a un tercero o a la propiedad de un tercero que ocurra durante el término del contrato, en la medida que éste haya sido ocasionado por algún acto negligente u omisión de **EL CONTRATADO;**

III. al incumplimiento o violación por **EL CONTRATADO** de cualquiera de sus obligaciones bajo este contrato; o

IV. cualquier acto culposo o negligente de **EL CONTRATADO,** sus empleados, agentes, subcontratistas o personas actuando bajo supervisión, control o autoridad de **EL CONTRATADO**, incluyendo, pero sin que se entienda como una limitación, la operación de camiones o vehículos de motor u otros equipos propiedad de, arrendados o bajo el control de **EL CONTRATADO.** ——————————————————

EL CONTRATADO releva a **EL MUNICIPIO** de cualquier responsabilidad de carácter civil, penal o administrativo y lo releva también en cuanto a cualquier reclamación que pudieran hacer agentes, representantes, empleados u oficiales de las propias partes por cualquier daño que pudieran ocasionar o sufrir con motivo del incumplimiento por **EL CONTRATADO** de cualquiera de las cláusulas del presente contrato. ——————————————

VIGÉSIMA OCTAVA: <u>**CLÁUSULAS Y CONDICIONES ADICIONALES**</u>**:** ——————————

a. **EL CONTRATADO** certifica que entiende que toda información recopilada producto de su trabajo, durante el término del acuerdo, así como información de facturación, es propiedad de EL **MUNICIPIO** y de índole confidencial, por tal razón se prohíbe la reproducción total o parcial, divulgación y/o distribución por cualquier medio ya sea oral, escrita o de manera electrónica a cualquier persona, firma u organización y/o terceras personas, sin autorización previa de **EL MUNICIPIO.** Toda información producto de su trabajo es confidencial. La violación de esta cláusula de Confidencialidad dará lugar a la terminación inmediata del contrato sin que con esto se entienda renunciado el derecho de **EL MUNICIPIO** de ejercer acción legal correspondiente. ——————————

b. **EL CONTRATADO** se obliga a no ejercer ningún tipo de discrimen contra persona o entidad por motivo de raza, color, sexo, religión, condición económica o afiliación política, edad, condición u origen social, origen nacional, impedimento, condición médica, estado civil, condición de veterano o cualquier otra forma de discrimen que surja por disposición de ley reglamento o de la Constitución de Estados Unidos o Puerto Rico.

c. **"AMBAS PARTES"** certifican que mantienen una política escrita en torno al hostigamiento sexual en el empleo y mantienen informado a sus empleados sobre ella. Dicha política contiene una notificación a los efectos de que el hostigamiento sexual en el empleo no será tolerado, así como el procedimiento para encausar querellas. ———

d. **EL CONTRATADO** cumplirá con todas las leyes, normas y reglamentos federales, estatales y municipales aplicables a este contrato o a la ejecución y cumplimiento del mismo. ———

e. **EL CONTRATADO** no podrá subcontratar, ceder, o de cualquier forma traspasar los derechos y obligaciones especificados en este contrato, sin debida autorización expresa y escrita de un funcionario autorizado por **EL MUNICIPIO**. En caso de que se incumpla con esta disposición contractual, **EL MUNICIPIO** podrá resolver el contrato no siendo necesaria la mencionada notificación. ———

f. **EL CONTRATADO** certifica que no es pariente del Alcalde de **EL MUNICIPIO** de Caguas, del Presidente o el Secretario de la Legislatura Municipal, ni de ningún funcionario nombrado por el Alcalde que haya requerido de la Legislatura Municipal; al igual que de ningún director o jefe de división, oficina, programa o proyecto de **EL MUNICIPIO** o de cualquier sociedad o consorcio, Corporación Municipal creada en virtud del Artículo 17.001 de la Ley 81 de 30 de agosto de 1991, según enmendada, conocida como la Ley de los Municipios Autónomos del Estado Libre Asociado de Puerto Rico o cualquier entidad jurídica que le someta al Alcalde o al Presidente de la Legislatura Municipal recomendaciones sobre nombramientos. Además, certifica que, de ser pariente del Alcalde de **EL MUNICIPIO**, del Presidente o Secretario de la Legislatura Municipal o de algún director o funcionario de división, lo notificó a la Unidad Administrativa o Departamento que contrata los servicios profesionales para que solicite a la Oficina de Administración de Recursos Humanos y Personal la otorgación de una certificación dispensa correspondiente previo a la formalización del contrato o acuerdo. En el caso que se incumpla con esta disposición contractual, **EL MUNICIPIO** podrá resolver el contrato no siendo necesaria la mencionada notificación previa. ———

g. **Corporación Extranjera:** En el caso que **EL CONTRATADO** sea una Corporación Extranjera, ésta entiende y reconoce que la interpretación del contrato se regirá por las disposiciones de las leyes de Puerto Rico y ésta se somete a la jurisdicción de los foros judiciales locales. Además, deberá proveer una certificación del Departamento de Estado donde se certifique que la Corporación está autorizada a hacer negocios en Puerto Rico y el Certificado de Buena Pro "Good Standing". ———

h. **Sociedad o Sociedad Especial:** Cuando **EL CONTRATADO** sea una Sociedad se requerirá que cada uno de los socios presente las Certificaciones a que hace referencia la cláusula Conforme a la Legislación y las normas que rigen la contratación municipal.

i. Los comparecientes toman conocimiento de que no se prestará servicio alguno, ni comenzará la efectividad del contrato hasta tanto no se haya firmado por ambas partes y registrado en la Oficina del Contralor. De la misma forma no se continuará dando servicios ni continuará la efectividad del contrato a partir de su fecha de vencimiento. No se pagará emolumento alguno en violación a esta cláusula ya que cualquier funcionario que solicite y acepte servicios de **EL CONTRATADO** en violación a esta disposición lo está haciendo sin autoridad legal alguna. ----------

j. Si cualquier palabra, frase, oración, inciso, sub sección, sección, clausula, tópico o parte del contrato fuera impugnada por cualquier razón ante un Tribunal y declarada inconstitucional o nula, tal sentencia no afectará, menoscabará o invalidará las restantes disposiciones y partes del contrato, sino que su efecto se limitará a la palabra, frase, oración, inciso, sub sección, sección, clausula, tópico o parte así declarada y la nulidad o invalidez de cualquier palabra, frase, oración, inciso, sub sección, sección, clausula, tópico o parte en algún caso específico no afectará o perjudicará en sentido alguno su aplicación o validez en cualquier otro caso, excepto cuando específica y expresamente se invalide para todos los casos. ----------

Este contrato constituye el único acuerdo entre las partes sobre los servicios descritos anteriormente y deja sin efecto cualquier otro acuerdo anterior, negociaciones, entendidos y otros asuntos sean escritos o verbales, sobre lo acordado en este contrato. ----------

VIGÉSIMA NOVENA: **EL CONTRATADO** será responsable del pago de cualquier multa administrativa impuesta por incumplimiento con las condiciones y requisitos de los permisos otorgados o la reglamentación ambiental aplicable. En la eventualidad que **EL MUNICIPIO** será obligado a satisfacer el pago de una multa administrativa **EL CONTRATADO** vendrá obligado a rembolsar dicha suma, así como los gastos y honorarios de abogados incurridos por **EL MUNICIPIO.** ----------

TRIGÉSIMA: De **EL MUNICIPIO** autorizar la sub contratación, **EL CONTRATADO** será el responsable ante **EL MUNICIPIO** de cualquier labor realizada por un subcontratista en este contrato y de pagar el trabajo al subcontratista. ----------

TRIGÉSIMA PRIMERA: Ninguna prestación o contraprestación objeto de este contrato podrá exigirse hasta tanto el mismo se haya presentado para registro en la Oficina del Contralor a tenor con lo dispuesto en la Ley Núm. 18 del 30 de octubre de 1975, según enmendada. ----------

TRIGÉSIMA SEGUNDA: **SEPARABILIDAD.** Las partes acuerdan que las cláusulas y condiciones de este contrato son independientes y separadas entre sí y que la nulidad de una o más cláusulas no afecta la validez de las demás, las cuales se reputarán vigentes. ---

TRIGÉSIMA TERCERA: **ENCABEZADOS DE LAS CLAUSULAS.** Los títulos o encabezados de las cláusulas o párrafos en este contrato, son exclusivamente para conveniencia de las partes y no deberán ser utilizados para explicar, modificar, simplificar o ayudar en la interpretación de lo expuesto en este contrato. ----------

ACEPTACIÓN

LAS PARTES ACEPTAN este contrato en la forma redactada por ser conforme a lo convenido y así lo hacen constar, iniciando en cada una de sus páginas y firmando el presente documento. ———————————————————

En Caguas, Puerto Rico, hoy 1 de noviembre de 2019. ———————————————————

EL MUNICIPIO

ADA BELÉN CABALLERO MIRANDA
NSSP: 660-43-3568
SECRETARIA
SECRETARÍA DE INFRAESTRUCTURA, ORNATO Y CONSERVACIÓN

RECOMENDADO POR:

CARLOS M. DÍAZ VEGA
DIRECTOR
DEPARTAMENTO DE CONSERVACIÓN DE EDIFICIOS Y ESTRUCTURAS MUNICIPALES

nuevo contrato revisión año fiscal 2019-2020

EL CONTRATADO

CARRILLO RAMOS, JAVIER LUIS/ EMPRESAS CARRILLO
NSSP: 582-29-2036

URB. SAN IGNACIO 1761
SAN ALEJANDRO
SAN JUAN, PUERTO RICO 00927
DIRECCIÓN

787-531-7972
TELÉFONO

javier798@gmail.com; carrillo798@gmail.com

Estado Libre Asociado de Puerto Rico
Commonwealth of Puerto Rico
OFICINA DEL CONTRALOR
Office of the Comptroller
San Juan, Puerto Rico

40132020-0015471d584

CERTIFICACION
CERTIFICATION
SOBRE OTORGAMIENTO DE CONTRATO, ESCRITURA O DOCUMENTO RELACIONADO
REGARDING THE EXECUTION OF CONTRACTS, DEEDS AND OTHER RELATED DOCUMENT

[1] Número de Entidad: 4013
Entity Code

[2] Número del Contrato: 2020-001547
Contract Number

[3] Renovación Automática: No es Renovación Automática
Automatic Renewal

[4] Fecha de Otorgamiento: 1 de noviembre de 2019
Date of execution

[5] Fecha de Renovación: No es Renovación Automática
Date of Renewal

[6] Cuantía: 22,249.00
Amount

[7] Partidas Presupuestarias: 405-16147-SR-9664000-2019B41;
Budgetary Accounts

[8]Código por Categoría y Tipo de Servicio: 12 - SERVICIOS MISCELÁNEOS NO PERSONALES ; 12.0046 – SERV DE MANTENIMIENTO Y REPARACIÓN DE GENERADORES ELÉCTRICOS
Category code and Type of Service

[9] ¿Es un contrato de privatización? (Ley 136-2003): NO
Is a privatization contract? (Act 136-2003)

[10] Código de Exento: 0-No Exento
Exempt Code

[11] Dispensa (Autorización de algún organismo del Gobierno):
Waiver (Authorization from another government entity)

[12] Vigencia desde: 1 de noviembre de 2019 hasta: 30 de junio de 2020
Effective date from:, to:

[13] Vigencia de la Renovación desde: No es Renovación automática hasta: No es Renovación Automática
Renewal effective date from:, to:

[14] Número de Seguro Social o Identificación Patronal: 582-28-2036;
Social Security or Identification Number

[15] Contratista(s): CABRILLO RAMOS JAYCEE LUIS/DBA EMPRESAS CABRILLO;
Contractor

[16] Representante de la Entidad: ADA SELEN CABALLERO MIRANDA
Entity Representative

La presente certificación es en cumplimiento con Carta Circular promulgada por el Contralor de Puerto Rico. Esta no debe ser remitida a la Oficina del Contralor y debe archivarse en el expediente del Contrato.
(This certification is in compliance with the instructions issued by the Comptroller of Puerto Rico. This document should not be remitted to the Office of the Comptroller, and must be filed with the contract).

El suscribiente certifica haber otorgado hoy el contrato descrito en este documento y está de acuerdo con la información provista.
The undersigned, certifies that the contract described in this document was executed on this date and agrees with the above information.

[17] En (ciudad): CAGUAS ,Puerto Rico , hoy 1 de noviembre de 2019
In (city) ,Puerto Rico , today

[18] Firma del Funcionario Principal de la Entidad:
Signature of the Chief Officer of the Entity:

Firma (Signature)

ADA SELEN CABALLERO MIRANDA
Letra de molde (print)

Esta Certificación no constituye evidencia de que este contrato fue remitido a la Oficina del Contralor de Puerto Rico. Para asegurarse de que el contrato fue remitido a nuestra oficina deberá imprimir la Certificación de Envío de Contratos, Escrituras y Documentos Relacionados el cual contiene la Fecha y número de envío. Para conseguir este documento, deberá seleccionar en el menú consultas y a su vez la búsqueda por envío.

*Presione para ver instrucciones (*Press to see instructions of this form)

ESTADO LIBRE ASOCIADO DE PUERTO RICo
Municipio Autónomo de Caguas
Apartado 907
Caguas , PR 00726-907

ORDEN DE COMPRA O SERVICIO

CAGUAS
CENTRO Y CORAZÓN DE PUERTO RICO

Nombre del suplidor: CARRILLO RAMOS JAVIER LUIS

Dirección física: 1761 C/SAN ALEJANDRO URB SAN IGNACI SAN JUAN

Dirección postal: SAN JUAN , PR 00927

Teléfono: 787-531-7279
Email:
Fax: 787-765-1469

#Orden: 4500192384
Fecha: 31/10/2019

Dependencia o programa a ser entregada:
CONSERVACIÓN DE EDIFICIOS
Dirección física:
CARR #1 KM 31.0 INTERIOR, CAGUAS
Teléfono:
787-653-5400
Fecha de entrega:
10/30/2019

Partidas de gastos					Importe
Fondo	Ce.Gestor	Ar.Func	Pos.Pres.	Elem.PEP	
409	14147	38	9464000	2018B41	22,240.00
				Importe total	22,240.00

Verificado por:

Aprobado por:

Certificación de disponibilidad de fondos:

Cantidad	Descripción artículos	I		
1	MANTENIMIENTO GENERADORES DE ENERGIA Fecha vigencia: desde 1-nov-2019 hasta 30-jun-2020 descripcion: por concepto de registro de contrato para el mantenimiento de generadores de energia. subasta informal numero cs2020-008 la orden de compra es solo para separación de fondos. es responsabilidad de la dependencia cumplir con las leyes y reglamentos **Total**	UN	22,240.00	22,240.00 22,240.00

Modelo SC 2916
Rev. 1 oct 15

Estado Libre Asociado de Puerto Rico
DEPARTAMENTO DE HACIENDA

CERTIFICADO DE COMPRAS EXENTAS Y DE SERVICIOS SUJETOS AL IVU-ESPECIAL DE 4%

(Propiedad Mueble Tangible, Servicios Exentos y Servicios Sujetos al IVU-Especial de 4%)

Fecha de la transaccion: Día 31 Mes Octubre Año 2019

Para uso del vendedor

Número de factura, recibo o transacción

PO 4500122364

El proposito de este Certificado de Compras y de Servicios Sujetos al IVU-Especial de 4% (Certificado) es relevar al comerciante vendedor de su obligación de cobrar y remitir el impuesto sobre ventas y uso (IVU-Básico) o el IVU de 4% sobre la prestación de servicios rendidos a otros comerciantes y servicios profesionales designados (IVU-Especial de 4%) en la venta con respecto a la cual este Certificado se emite. Además, en el caso de servicios provistos de negocio a negocio sujetos al IVU-Especial de 4%, este Certificado tiene el propósito de establecer la obligación del comerciante vendedor de cobrar y remitir el IVU-Especial de 4%, en lugar del IVU-Básico.

PARTE I **INFORMACION DEL COMERCIANTE VENDEDOR**

Nombre del Vendedor: CARRILLO RAMOS JAVIER LUIS

Direccion
SAN JUAN

Municipio, Estado: CAGUAS Codigo Postal: 29348

PARTE II **INFORMACION DEL COMPRADOR**

1.a Certifico que llevo a cabo negocios en Puerto Rico y que mi numero de Registro de Comerciantes es: [redacted]

b El codigo del sistema de clasificacion de la industria norteamericana (NAICS) que aparece en mi Certificado de Registro de Comerciantes es [redacted] y la descripcion de la actividad es la siguiente: N.A.

2. Si es una agencia del Gobierno del Estado Libre Asociado de Puerto Rico o del Gobierno Federal provea su numero de identificacion patronal: 6 6 0 4 3 3 5 6 8

3. Si es un diplomático, provea el número de tarjeta de exención emitida por el Departamento de Estado de los Estados Unidos: [redacted] y la fecha de expiración de la misma: Día Mes Año

4. Si es un individuo afectado por un desastre (Sección 6080.12 del Código de Rentas Internas de Puerto Rico de 2011, según enmendado (Código)), provea su número de licencia de conducir o pasaporte: [redacted]

5. Indique la razón para la exención o exclusión y provea la información solicitada, segun aplique:
- a. [ ] Revendedor (exención sobre IVU Municipal solamente)
- b. [ ] Revendedor Elegible
- c. [ ] Planta Manufacturera
- d. [ ] Servicios Provistos de Negocio a Negocio (sujetos al IVU-Especial de 4%)
- e. [ ] Servicios de Reparación Capitalizables (sujetos al IVU- Especial de 4%)
- f. [X] Gobierno del Estado Libre Asociado de Puerto Rico (Agencia: Municipio Autonomo de Caguas)
- g. [ ] Gobierno Federal (Agencia .....)
- h. [ ] Agricultor (Numero de Agricultor Bona Fide .....)
- i. [ ] Permiso para Pagar el Impuesto sobre Ventas y Uso Directamente al Secretario (Número de Certificado de Exención Total: .....)
- j. [ ] Cooperativa de Vivienda Regida por la Ley 239-2004
- k. [ ] Diplomático (País o Misión .....)
- l. [ ] Leyes Especiales (Ley Núm. .....)
- m. [ ] Exportación
- n. [ ] Individuo Afectado por un Desastre (Sección 6080.12 del Código)
- o. [ ] Asociación de Residentes, Consejo de Titulares de Condominios Residenciales y Asociación de Propietarios Residenciales
- p. [ ] Proyectos Residenciales de Vivienda de Interés Social que reciben subsidios de renta federal o estatal
- q. [ ] Miembro de un mismo grupo controlado o grupo de entidades relacionadas dedicado a industria o negocio de Puerto Rico
- r. [ ] Entidad dedicada al negocio de reparación, mantenimiento y acondicionamiento de naves áreas con decreto de exención bajo la Ley 73-2008
- s. [ ] Persona localizada en una zona de libre comercio extranjero y dedicada exclusivamente al almacenamiento o procesamiento de combustible
- t. [ ] Servicios profesionales designados provistos a una organización sindical u obrera
- u. [ ] Entidad exenta de toda clase de impuestos y contribuciones por Ley Orgánica (Ley Núm. _____, Sección _____)
- v. [ ] Servicios subcontratados provistos en virtud de un proyecto de edificación
- w. [ ] Servicios subcontratados de telecomunicaciones provistos a empresas de telecomunicaciones

6. Estoy dedicado al negocio de .....y principalmente vendo .....
7. Estoy comprando:
- a. [ ] Propiedad mueble tangible para la reventa (exención sobre IVU Municipal solamente)
- b. [ ] Materia prima
- c. [ ] Maquinaria y equipo utilizado en la manufactura
- d. [ ] Servicios provistos a un negocio (sujetos al IVU-Especial de 4%)
- e. [ ] Servicios de reparación capitalizables de propiedad mueble tangible y propiedad inmueble (sujetos al IVU-Especial de 4%)
- f. [ ] Propiedad mueble tangible de conformidad con exención especial bajo las clasificaciones 5.f a 5.n arriba indicadas
- g. [ ] Servicios adquiridos de conformidad con exención especial bajo las clasificaciones 5.f. a 5.w. arriba indicadas, si aplica.

8. Describa la propiedad mueble tangible, los servicios, la materia prima, o la maquinaria y equipo que esta comprando
MANTENIMIENTO GENERADORES DE ENERGIA (TOTAL 22240.00)

PARTE III	CERTIFICACION DEL COMPRADOR

Declaro bajo penalidad de perjurio que este certificado ha sido examinado por mí, y que según mi mejor información y creencia toda la información provista en el mismo es cierta, correcta y completa. Además, certifico que:

- Soy titular de derecho a exención por la razón indicada en la línea 5 de la Parte II, o estoy debidamente autorizado para representar al comprador en la firma del presente Certificado de Compras Exentas y de Servicios Sujetos al IVU-Especial de 4%.
- Utilizaré este certificado solamente para comprar partidas tributables o servicios para los cuales tengo derecho a exención o exclusión o para documentar que estoy sujeto al IVU-Especial de 4%.
- Si adquiero partidas tributables, pero luego las uso o consumo para fines no exentos en Puerto Rico, informaré y pagaré el impuesto sobre uso directamente al Departamento de Hacienda.
- Que el Certificado de Exención, Certificado de Revendedor, Certificado de Revendedor Elegible o cualquier otro Relevo del Cobro que evidencie la exención está vigente a la fecha de la transacción de la compra.

Nombre del comprador: CONSERVACIÓN DE EDIFICIOS	Firma del comprador	
Dirección: PO BOX 907 Municipio: Caguas Estado: Puerto Rico Código Postal: 00726-0907		Teléfono: 181 6538833

APPENDIX IX
CERTIFICATION LETTER OF TESTING

NO. 07

Javier Luis Carrillo

GENARATORS MAINTENANCE & SERVICE

TEL.787.531.7972 CEL. 939.717.7972 FAX. 787.739.2774

Email: javiercarrillojlc@yahoo.com

Oct / 21 / 2019

MAINTENANCE REPORT

OWNER	LOCATION OF EQUIPMENT				
MUNICIPIO DE CAGUAS	CENTRO DE GOBIERNO				
ENGINE MODEL	ENGINE SERIAL NO.	DATE IN SERVICE	CPL	A/M	MILES / HOURS
		21 Oct 2019			1522.0
EQUIPMENT MANUFACTURER	MANUFACTURER MODEL	MANUFACTURER SERIAL NO.			SPEC NO.
CUMMINS					
LEFT SHOP (AM) (PM)	ARRIVED AT JOB (AM) 1030 (PM)	COMPLAINT AND INSTRUCTIONS			
		Servicio de Rutina			
ARRIVED AT JOB (AM) (PM)	LEFT SHOP (AM) (PM)				

ORIGINAL

DATA PLATE INFORMATION ALTERNATOR

MODEL NO.	
SERIAL NO.	
VOLT	
AMPS	
POWER FACTOR	
ION	
SPEC	

TRANSFER SWITCH

MANUFACTURER	
MODEL NO.	
SERIAL NO.	
AMPS	
VOLTS	
SPEC	

PRE- START CHECKS

- ✓ ALL COOLANT HOSES
- ✓ VOLTAGE/ FREQUENCY READINGS
- ✓ ENGINE COOLANT HEATER
- ✓ ELECTRICAL CONNECTIONS
- 3/4 MAIN FUEL TANK
- 1/2 DAY TANK
- N/A AUXILIARY FUEL TANK
- ✓ TUBBING CONNECTIONS
- ✓ ENGINE CONTROLS
- ✓ AUTOMATIC STARTING PANEL
- ✓ VOLUMETER
- ✓ OIL LEVEL
- ✓ RADIATOR WATER LEVEL
- ✓ BATTERY WATER LEVEL
- ✓ OIL&FUEL FILTERS
- ✓ AIR FILTERS
- ✓ BATTERY CHARGER
- ✓ TENSION BELTS
- ✓ ENGINE FLUIDS LEVELS
- ✓ FUEL LINE FILTERS
- ✓ BATTERY TRICKLE CHARGER /BATTERY CABLES BATTERY
- 24V BATTERY VOLTAGE

ENGINE RUNNING

- ✓ VOLTAGE / FREQUENCY READINGS
- ✓ SECURITY SYSTEMS
- ✓ TEST WITHOUT LOAD
- ✓ TEST WITH LOAD
- ✓ ENGINE GOVERNOR/ACTUATOR
- 27V D.C ENGINE ALTERNADOR
- ✓ WARNING LIGHTS/ SHUTDOWNS
- ✓ ALL ELECTRICAL CONNECTIONS
- ✓ ALL ELECTRICAL CONTROLS
- ✓ TRANSFER SWITCH OPERATION
- ✓ FUEL REGULATION DIAGRAM
- 75# OIL PRESSURE
- 170 WATER TEMPERATURE
- ✓ FLUID LEAKS
- ✓ ALARM ANNUNCIATOR

Comments or Additional Work Requested: Todo OK Se Limpio Generador y Sus Areas

BATTERY INSTALLED BY: _____ DATE: ___/___/___

BATTERY INSTALLED BY: _____ DATE: ___/___/___

Symbols: Checked: (✓) Changed: (X) Repaired: (R)

Customers' Representative _____

Service Representative: [signature]

APPENDIX X
EMERGENCY RESPONSE PLAN IN CASE OF OIL SPILLS EVENTS

Apartado 907 Caguas, PR 00726
Tel. 787.653-8833
caguas.gov.pr

Commonwealth of Puerto Rico
Autonomous Municipality of Caguas
Caguas, Puerto Rico

Contingency Plan for Oil Spills
Caguas Municipal Government Center
Angel Rivera Rodríguez

Environmental Affairs Office
September 2020

Disclaimer: The English version is the official version that must be following by employees or other personnel involved in this Contingency Plan. The Spanish version was prepared for guidance.

TABLE OF CONTENTS

I. INTRODUCTION

Emergencies are defined as situations or the threat or impending situation abnormally affecting property and health. This plan prescribes procedures under the manner in which municipal employees and other persons will respond.

Spill oils immediately begins to move and this section of the SPCC Plan outlines the procedures and responsibilities for a) handling hazardous and/or other contaminating substances, b) respond emergencies such a spills, fires, explosions or any unpredictable situation inside the perimeter of two (2) aboveground tank of 10,000 diesel and gasoline respectively. Also, we include at this plan the emergency generator and aboveground tank with a capacity of approximately (280) two hundred gallons.

There are five basic stages of response to an emergency or disaster: 1) recognition 2) notification/warning 3) immediate employee safety 4) community/public safety 5) property protection and environmental protection. The following is a list of items covered:

- Implementation of the SPCC Plan
- Emergency Equipment
- Action Procedures
- Follow-up Actions

II. SCOPE OF THE CONTINGENCY PLAN (CP)

These instructions pertain to all possible oil spills or discharge during receipt, storage, transportation, dispensing or usage which may adversely affect the environment, people and property. Also, includes information about line of responses, worst-cases scenarios, and phone number directory and response actions for better accomplishment of this Plan. This Contingency Plan (CP) was preparing in accomplished with the countermeasures established by 40 CFR Part 109.5. This facility does not need complies with a Facility Response Plan Rule (FRP) because the facility do not pose any "substantial harm" according to the Facility Response Plan (FRP) rule if it:

1. Has a total oil storage capacity greater than or equal to 42,000 gallons and it transfers oil over water to/from vessels; or
2. Has a total oil storage capacity greater than or equal to one million gallons and meets one of the following conditions:
   - Does not have sufficient secondary containment for each aboveground storage area.
   - Is located at a distance such that a discharge from the facility could cause "injury" to fish, wildlife, and sensitive environments.
   - Is located at a distance such that a discharge from the facility would shut down a public drinking water intake
3. Has had, within the past five years, a reportable discharge greater than or equal to 10,000 gallons.

As part of the Rule Amendment of the Spill Prevention, Control and Countermeasure (SPCC), this facility is considered like a "qualify facility".

III. GENERAL FACILITY INFORMATION

The Caguas Municipal Government Center is located at Padial Final Street connected with José Mercado Avenue. It is bordered to the north by Padial Street and José Mercado Intersection, to the east by Padial Street, José Mercado Ave. by west, and south by Parking Lot – Government Center and Fine Arts Center. The building has three floors including basement. Government Center was constructed in 1994 with the purpose to make possible that the municipal government operates as good as possible in larger offices. The personnel that work in the facility were approximately two thousand (2,000) employees.

Owner: Municipal Government of Caguas
Name: Municipal Government Center Angel Rivera Rodriguez
Physical Address: Padial Final Street, Corner José Mercado
Postal Address: Autonomous Municipality of Caguas
P.O. Box 907 Caguas, Puerto Rico 00726
In- charge persons: Mr. Carlos M. Díaz Vega (Director - Building Conservation Department) and Javier Carrillo Ramos (Empresas Carrillo Inc.– Company Number.349350-1011).

IV. INCIDENT RESPONSE AND ACTIONS

The Caguas Municipal Government Center establishes and recognizes different types or levels of emergencies for the appropriate response to any situation. This plan will be design specifically for oil or petroleum derivates spills at the Caguas Municipal Government Center facilities. The Municipality of Caguas have identified one (1) above storage tank of 6,000 gallons of diesel on the outside facilities of the Government Center. It has a dimension of 90'' of diameter for 20'- 0'' of length. The secondary containment will be at range of 9'-6'' (see SPCC Appendix I). The main responsibility for emergency response actions includes tasks development, emergency response coordination and follow-action procedures at the facility. Also, as consideration of the SPCC Plan, an emergency coordinator must be chosen by Municipal Secretary. These responsibilities will be assigning to Department of Building Conservation.

Although when an emergency occurs at the Municipal Government Center Facilities, the ***on-site responder*** will be Department of Transportation. Because the Municipal Government Center is so far from Emergency and Disaster Management Office, the responsibility of the on-site responder is a) take ***preliminary*** control of the situation b) assess the situation until Municipal Emergency Management Agency **delegate** or **representative** arrives to the scene c) respond to the spill (if appropriate to handle for internal personnel) d) inform situation to state or local agencies.

At this plan, the duties of Environmental Affairs Office will be a) assist likes facilitator in the Municipality b) preliminary responder in case of emergencies related to spills from **AST's d) assess the possible environmental impacts c) offering consulting in the process of implementation emergency action plan.

The discharge of oil regulation provides framework for determining whether an oil discharge to inland or "navigable waters" should be reported to the National Response Center. Also, the Oil Pollution Prevention regulation ("SPCC rule") identifies certain types of discharges from regulated facilities that also need to be reported to EPA. In accomplish with these regulations, we outline the possible scenarios to respond an emergency related to oil or petroleum spill.

Level I. Minor Emergency

This level of emergency includes a confine incident that is quickly resolved with internal resources or limited help and does not affect the overall functioning capacity of the Municipal Government Center facilities. The on-site responder assesses and responds incidents likes: localized fires (likes trash cans, microwave, coffeemakers, and restrooms), small spill incident (likes load/unload procedures, leakage of pipelines) or power outstage (verifying functionality of the emergency generator at the Municipal Government Center) near to the AST's.

Level II - III. Major Emergency

Depending on various circumstances, a serious emergency that completely disrupts ***one or more*** operation and affect functions or life safety that requires outside emergency services as well as major efforts or major policy considerations. This level of emergency includes: fires, explosion, counterterrorism, natural disasters, major spills (more than five gallons) or tank physical damage.

Specifically, at this plan, we outline any possible discharge of oil or petroleum derivates to navigable waters, adjoining shorelines or contiguous zones near to the Municipal Government Center facilities.

In Level III, the incident includes a wide part of the community and personnel of the Municipal Government Center facilities. Damages to the properties and evacuation as needed in this level.

*preliminary assume responsibilities of the emergency
** abbreviation of above storage tank

A. Internal Notification

When an emergency occurs, the line of communication is an effective tool to prevent additional damages or losses. The Secretary of Infrastructure, Beautification and Conservation has notification procedures to respond a crisis or oil spill emergency (See

Figure 1). This contingency plan is applicable at the gas station for municipal vehicular fleet. In the event than employee or personnel discover or accidentally **causes** any situation related with oil spill or above storage diesel or gasoline tank, he or she must follow the procedure describe below:

1. Don't be panic.
2. Define the problem (leaking valve, rupture hose or other situation)
3. Quickly analyze and assess the situation: where will the spill go? What problems might result?
4. Identify the emergency spill kit location.
5. Call security guards or 911 (if public safety is threatened)
6. Call Building Administrator/Department of Transportation
7. Call Environmental Affairs Office
8. Call Building Conservation Department
9. Until in-charge department arrive to the site, ***on-site responder*** a) identify material spilled b) location of spillage c) estimate of quantity spilled and the rate at which it is being spilled d) direction in which the spill is heading e) Any injuries involved.
10. Identify possibilities of explosion in the area.
11. Stop the source if you can do it safely (shut-off pump, close valves)
12. Eliminate sources of ignition (shut-off motors and engines, no smoking)
13. Attempt to contain the spilled material if you can do it safely
    i. drip pan or bucket under leak valve
    ii. use sorbents materials on small spill (kitty litter, pads, sand)
    iii. block or dike any nearby drains or pathways to surface waters
14. Record the transportation and disposal actions with the absorbent material

If the unexpected situation occurs out of working hours, the ***in-charge agency*** will be ***Municipal Emergency Management Office***. The following instructions will be:

1. The Emergency Management Office is the ***first-responder*** to manage the situation.
2. Investigate the source of discharge
3. Contact the Building Conservation Director (Mr. Carlos Díaz) and/or Emergency Coordinator.
4. The designate emergency coordinator will take over management of the spill situation with Emergency Management Office.
5. Assess the magnitude and potential seriousness of the spill.
6. Determine capability of the subsidiary to respond to the emergency
7. Determine what affect the discharge or spill will have on the local air quality, storm sewer system and the ecosystem generally.
8. Request any necessary assistance from the Emergency Team, Fire Brigade or other agencies.
9. Notify other agencies **if required**.

See Appendix V for Municipal and State Phone Directory

Notification of Employees in Emergency Area

Employees in the emergency area shall be instructed as to what to do by their immediate supervisor or in-charge personnel. An evacuation map will be available in each office or hallway.

B. Notification to Government and Other Agencies

If, in the control and cleanup of spill, release or fire is within the capabilities of Municipal Government Center operating personnel and local response teams, the Puerto Rico Environmental Quality Board or the National Response Center will not be notified unless the following occurs:

1. If the hazardous substances reportable quantity is spilled in a single event
2. If a lesser quantity has been spilled but has entered a storm sewer, it is advisable to contact local and state authorities for assistance.
3. If it not possible to intercept the spill at the outfall or prevent it from moving

As a precaution, the Emergency Coordinator (EC) shall notify the local police and fire departments and brief them on the situation. The agencies shall be placed on standby so that, if the incident deteriorates, they can mobilize quickly to provide aid. (See Table 1)

Any person in charge of a vessel or an onshore or offshore facility If the estimation of the Emergency Coordinator team (advised by Environmental Affairs Office), an incident involving hazardous materials or hazardous waste has the potential to get out of the control, and threatens human health and the environment outside the facility, he/she should immediately call the following emergency numbers:

1. National Response Center 1-800-424-8802
2. Environmental Quality Board – Environmental Emergencies 787-767-8181 extension 3232, 3248, 3231

C. **Inventory of the Emergency equipment**

The following equipment is recommended to handle any disaster described in this Contingency Plan.

- Two-way radios
- Paper towels
- Googles
- Absorbent pillows, mats, booms, socks, clay
- Small Trailer
- Barricades
- Spill Equipment
- Backhoes
- Blowers (gas and electric)
- 15-minute SCBA
- Dump Trucks
- Bucket Trucks

- Straw Bales
- Small Portable Surface Pumps
- Portable Generator
- Light Tree
- Sewer Plugs
- Truck with Tailgate Lift
- Sewer Flushing Machine
- 55-gallon drum
- Level B/C chemical suits
- Tyvek suits
- Cartridge respirators

The following equipment (emergency spill kit) is available:

- Absorbent pillows, socks and mats
- Paper Towels
- Plastic Bags
- Gloves
- Plastic Sheeting
- Warning signs
- Duct tape
- Flashlight and batteries
- Spill kit
- Portable gas detector
- Air-purifying respirators and cartridges
- Googles
- Tyvek suits and boots
- Shovel
- Sandbags
- Lite-dry absorbents

V. POTENTIAL DISCHARGE SCENARIOS

The Environmental Protection Agency (EPA), in the Oil Discharge Reporting Fact Sheet establish that a "harmful quantity" of discharged oil is "any quantity of discharged oil that violates state water quality standards, causes a film or sheen on the water's surface or leaves sludge or emulsion beneath the surface or leaves sludge or emulsion beneath the surface. For this reason, the discharge of oil regulation is commonly known as the "sheen" rule.

POTENTIAL SCENARIOS	TYPE OF SCENARIOS	RECEPTOR	RESPONSE ACTION	CONTAINMENT EQUIPMENT
SMALL (Level I)	Leaks or minor spills (less than 10 gallons), including unload/loading procedures, leaks, minor ruptures)	*contiguous areas like: parking lot, self-containment areas and pipelines	*trained personnel must perform the cleaning of the area (these personnel may be municipal employees)	Spill kit (sand, sorbents, drums, booms) and clothes, boots and gloves
MEDIUM (Level II)	Spills more than 10 gallons but less than 100 gallons Large spills are considered between 100 gallons through 1,000 gallons	*contiguous areas and *storm or sanitary sewer	*In first response, avoid any entrance to water using booms and sorbents *clean the containment area with a vacuum *if necessary, submit a report to state and federal agencies	Spill kit Vacuum Security Clothes Drums
WORST (Level III)	Spill more than 1,000 gallons that involve the following events: Explosion Fire Rupture of the tank Fails Earthquakes	*direct discharge to river or waterway *damage to people, property and environment	*estimation of the damages and quantity of the spill *notify immediately to proper agencies	Spill containment equipment provide by Environmental Management Office or Private contractor

V.1 MEDIUM AND WORST- CASE SCENARIO OIL SPILL EMERGENCY

In this Contingency Plan, reinforces its environmental commitment performing an environmental assessment of the worst-case scenario in oil spills and makes efforts to control and response effectively for this situation.

A strategic decision that must be made in hazardous and non-hazardous substance emergencies. Tactical decisions that must be made as soon as possible during the emergency are: a) isolate of the site b) rescue of people inside the isolation area c) protection of exposures (people, property and environment) d) fire extinguishment e) confinement of the substance and f) recovery.

The worst-case scenario is a potential view of an incident and pathways to appropriate response. These scenarios were classified as described below:

A. Spillage in a fully docked or curbed area (applicable in Ast's and emergency generator area)

1. For small spills or leaks isolate at least fifty (50) feet in all directions. For large spills, initially isolate at least one hundred (100) feet in all direction. Evaluate where to locate the people, depending on the wind direction.

2. The Emergency Coordinator and/or in-charge personnel will immediately identify spill material, exact source, amount and real extent of the release. The initial method will be visual identification of the material and location of the release. The tanks and the piping from the tanks are labeled to identify the material they hold.

3. **Specifically, in the area of the AST's from the gas station, the storm sewer needs to be protecting with priority isolation area.**

4. The site where the spill occurred will be evaluated to identify specific site hazards and to determine the appropriate safety and health control procedures required to protect employees and people.

5. In the event of a spill in any contained area, the spilled substance shall be removed from the dike by means of a portable vacuum pump and disposed by a private contractor. The spill from the docked areas will be removed as quickly as possible. ***Adsorption pillows will be used to remove any residues left within the dike and the materials and contaminated pillows will be disposed as per the Puerto Rico Hazardous and Non-Hazardous Solid Waste Regulations.*** The in-charge personnel shall contact Caguas Regional Wastewater Treatment Plant if a reportable quantity of oil or a hazardous substance enters to the sanitary system and cannot be controlled and removed at the pretreatment plant.

B. Spillage in undiked or uncurbed areas

1. The individual discovering the spill must follow the internal alert notification procedures. Assess the size of the spill and attempt to any further spillage if proper precautions are taken and no safety hazard is involved.

2. Contact on-site responder and/or in-charge personnel if you don't know the type of a spill or respond for the appropriate safety procedures.

3. The Emergency Coordinator (EC) makes contact with qualified employees and equipment from the facilities or private contractor to start the control and clean up action until the emergency response team appear.

4. A control zone should be established to control contamination from spreading to the exclusion zone. The site where the spill occur will be evaluated to identify specific site hazards and to determine the appropriate safety and health control procedures required to protect employees and people.

5. The spread of the spill will be controlled by constructing makeshift dikes of booms and/or using absorbent pads. When any spill occurs only those persons involved in overseeing or performing emergency operations will be allowed within the designated area (exclusion zone). If possible, the area will be surrounding with rope or otherwise blocked off.

6. **If there is risk of fire, the in-charge personnel shall notify the local fire and police departments. Fight small fires with dry chemicals, CO_2 or foam and large fires with water jet spray, fog or foam. Keep heat-exposed containers cooled with water spray and remove them from the fire if possible.** ***IF A RISING SOUND COMES FROM A VENTING DEVICE OR THE TANK BEGIN TO DISCOLOR WITHDRAW FROM THE AREA INMEDIATELY.***

7. Absorbent materials will be spread in the area to absorb patches of the spilled material on the ground.

8. If oil or hazardous substance contained in the makeshift dikes is sufficient quantity, the in-charge personnel will arrange for the vacuum truck or similar recovery device to clean up the spilled material. Certified contractor or personnel will be summoned to remove any standing liquids and haul the spilled material to a facility approved to handle that particular material.

9. Other sources of manpower and equipment will be deployed at the discretion of in-charge emergency coordinator.

If the spill results in the formation and release of a toxic vapor cloud (by reaction with surrounding materials, by outbreaks or fire, or due to high vapor pressure under ambient condition), further evacuation will be enforced. An area of at least 500 feet wide and 1,000 feet long will be evacuated downwind of where volatile materials are spilled. (See Appendix III)

The distance to the closest urban area is about approximately one hundred and ten (110) meters; in a worst-case scenario. The evacuation includes personnel of the Municipal Government Center described in Appendix III.

Any industrial or commercial sites within a mile of the facility will be notified. If a large quantity of spilled material ignites, because winds in the area tend to vary, the in-charge personnel or in-site environmental technique, make an accurate assessment of meteorological conditions is accomplished for better management of the situation.

During an emergency, must take all reasonable measures necessary to ensure that fires, explosions and releases do not occur, recur or spread to other hazardous wastes areas at the facility. These measures must be including, where applicable: stopping processes and operations, collection and containing releases wastes and removing or isolating containers.

If the facility stops operations in response to a fire, explosion or release, the Emergency Coordinator with emergency team shall monitor situation for leaks, pressure buildup, gas generation or ruptures in valves, pipes or other equipment. After an emergency, the in-charge Emergency Coordinator must provide reports and related information about duties for treating, storing or disposing of recovered waste, contaminated soil or surface water or any other material that results from a release, fire or explosion at the facility. ***All recovered waste materials will be disposed as per the Puerto Rico Hazardous and Non-Hazardous Solid Waste Regulations.***

C. ***Fires, explosions or unplanned releases of hazardous/no hazardous wastes***

Fire alarms boxes and fire extinguishers are installed through the building and gas station. All personnel are expected to become familiar with the location of these items in the vicinity of their offices. In case of localized fire near to the sources of oil or petroleum derivates (trash cans, restrooms areas, electric equipment like coffeemakers, microwave) does not affect the above storage tank diesel and gasoline tanks at the outside of the gas station and emergency generators areas. The following procedure to respond was described below:

1. Use fire extinguishers to attempt to extinguish the fire.
2. Immediately notify the emergency to security guards at the entrances of the building (if necessary).
3. Notify Building Administrator
4. Notify Building Conservation Department and contact Eng.
5. Coordinate clean-up and disposal procedures with the appropriate personnel.

In case of more widespread fire (Fire Department needed) **closest** to the gas station and/or emergency generators, the following procedures should be followed:

1. Sound alarm system. Activate alarms suitable for the emergency (i.e. fire, evacuation or spill alarms).

2. The individual discovering the emergency will immediately notify to security guards or in-charge administrator.

3. Call 911 and Emergency and Disaster Management Office and Fire Department for action procedures.

4. Call Building Conservation Department (contact Mr. Carlos Díaz) if the fire occurs near to the emergency generators.

5. The in-charge personnel ***assess*** the potential adverse environmental and health effects of the emergency and shall take the appropriate actions as outlined in the Table 1.

6. During an emergency, the in-charge office or department must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur or spread to other hazardous wastes areas at the facility. These measures must include where applicable: stopping processes and operations, collection and containing releases wastes and removing or isolating containers.

7. Immediately after an emergency, the in-charge personnel office or department must provide data and detailed procedure for treating, storing, or disposing of recovered waste, contaminated soil or surface eater or any other material that results from a release, fire or explosion at the facility.

D. ***Leaks/tank ruptures (suddenly tank break up)*** – **the AST's diesel tank holds 2,000 gallons**.

The manufacturer offers a warranty that includes rupture or fissures inside and outside the tank. When one of the emergencies occurs, almost certainly the integrity and functionality of the AST's was altered. The classifications of the spills are: a) small spill (1-10) gallons approximately b) medium spill (10-100) gallons c) large spill (100-1,000) gallons d) worst spill (1,000 – 6,000 gallons).

DURING

1. Make a visual inspection of the AST's and emergency generator.

2. ***Avoid*** any sources of sparks, flames or any combustion ignites.

3. Isolate the area ***(if evacuation as needed, contact immediately fire and police department).***

4. Contact in-charge personnel or department for follow-up actions.

5. Close any valves or pipelines and switch off the equipment. ***Avoid any entrance of diesel to storm sewers or navigable waters.***

6. Qualified personnel curbed and manage the spill (follow instructions detailed in Section 5 (A-B) or SPCC Plan.

7. If the spill was more than ten (10) gallons make contact ***immediately with municipal and state agencies for cleanup activities.***

8. Clean up the area with the appropriate equipment (see Section IV- C).

9. All recovered waste materials will be disposed as per Puerto Rico Hazardous and Non-Hazardous Solid Waste regulations.

10. Temporally discontinue the uses of the emergency generator or gas station facilities

AFTER

1. Contact the manufacturer or contractor to report the situation and coordinate AST's replacement as soon possible.

2. Follow the replacement and closure of the AST's as per Rule for Above and Under Storage Tanks by Quality of Water Department / Environmental Quality Board of Puerto Rico.
3.
4. Prepare a report including the actions taken and submit to: a) Environmental Quality Board of Puerto Rico b) Environmental Affairs Office

E. Natural disasters

1. Flood

Floods are the most common and widespread of all natural disasters except for fire. Each year hundreds of lives and millions of dollars worth of property are lost in floods. Extended rainfall over several days can cause a river or stream to overflow and flood the surrounding area. River floods tend to give warning, as the water level gradually rises. Flash floods however occur with little or no warning and can reach full peak in only a few minutes. At the government center and nearest areas is classify a zone X and 0.2 PCT Annual Chance Flood Hazard. The zone is out of flood danger under FEMA Flood Map (See Appendix IV). But in some cases, when occurs, the emergency coordinator follows this line of attention:

BEFORE

a. Make a visual inspection of the AST's and emergency generator.

b. Check and verify the integrity of the walls of AST's

c. Inventory spill equipment and confined space equipment.

d. **Monitor weather broadcasts.**

e. Inform and report any anomalies to the proper in-charge personnel

f. Secure the area for any intruders

g. Clean the self-contained areas (no leaves, dirt or other objects)

h. Move critical supplies and equipment to higher ground

DURING AND AFTER

a. **If the power goes out do not uses open flames, such as candles, or kerosene lamps as a source of light.**

b. Avoid any objects or danger resources near to the AST's

c. Take photographs of damages and notify the Building Conservation Department the concerning losses

2. **Hurricanes/Storms**
Hurricanes are severe tropical storms with a well defined circulation and maximum sustained winds of 74 miles per hour or greater. In Puerto Rico is one of the major natural disasters that season begin through July to November. The Autonomous Municipality of Caguas including Center of Municipal Operations needs to be prepared for any situation produced by hurricanes/storms like lost or gently sloping tank, breaks or rupture of the pipelines tank or other unpredictable situation.

3. **Earthquake**
An earthquake is a sudden release of energy in the earth's crust caused by movement between tectonic plates along a fault line. It is characterized by violent shaking of the ground produced by deep seismic waves, which spread out from the initial point of rupture (WHO, 2018). This seismic wave could cause severe damage to human infrastructure and significant changes to the earth crust. In the facility in concern, an earthquake could break or rupture diesel pipelines or storage tanks.

4. **Counterterrorism/Sabotage**
Terrorism is the use of violence or force against people, property, or the environment to achieve political or social change. Although a terrorist attack can take several forms, bombings are the most frequently used method. Other possibilities include chemical, biological, or radiological weapons. At this time, the Municipal Government Center Facilities are covered under the Terrorism Act adopted on June 12th, 2002 by the United States Congress. For this reason, the in-charge responder for terrorism or sabotage is

Emergency and Disaster Management Office. For strategic decisions in case of emergencies, use evacuation croquis in Appendix II, as a guide.

Before

a. Make a visual inspection of the AST's and emergency generator
b. Secure that the pipelines, switches boards, or any equipment that supply or transfers diesel. Please verify the gaskets
c. If necessary, put extras gaskets to avoid any spills when the wind initiate
d. Check and verify the integrity of the walls of AST's. If necessary, protect the tank with non-flammable materials.
e. Inventory spill equipment and confined space equipment.
f. **Monitor weather broadcasts.**
g. Inform and report any anomalies to the proper in-charge personnel
h. Secure the area for any intruders
i. Clean the self-contained areas (no leaves, dirt or other objects)
j. Move critical supplies and equipment to higher ground
k. Avoid any objects or danger resources near to the AST's
l. Close any valves and supplies that supports AST's

After

m. **If the power goes out do not uses open flames, such as candles, or kerosene lamps as a source of light.**
n. Survey damage. Look for broken or leaking gas lines, live wires, flooded electrical circuits, submerged electrical appliances, leaking gas or flammable liquids, pipe breakage, and structural damage.
o. Take photographs of damages and notify the Building Conservation Department the concerning losses

VI. Follow-Up Actions

a. Once the emergency is under control, initiate a clean-up and reclamation program with personnel from the affected area. The supervisor from the affected area will determine the best course of action to contain and clean-up spill. Containment and clean-up must be based on:

b. ***All recovered wastes generated by the incident will be treated, stored and disposed of in accordance with 40 CFR 261.33 and any other applicable regulations. Any waste which may be incompatible with the release.***

c. Assign responsibilities and accomplish preventive and corrective actions to avoid another emergency. Perform and submit a report to Environmental Affairs Office for recordkeeping.

VII. Action Procedures/Recordkeeping

Actions to control, contain, remove and clean-up emergency situations shall begin immediately when an emergency is observed. Different courses of action are required, depending on the location or type of emergency. If a hazardous substance is spilled, the persons involved in control must have a minimum of 40 hours instruction offsite and minimum of three days actual field experience under direct supervision of a trained, experienced supervisor.

During the emergency is important to designate personnel that: 1) document all action (telephone/radio traffic) 2) take photographs or video of situation 3) document reasoned actions, decisions and responses. Detailed recordkeeping is an integral part of any incident response.

After the emergency, a report form must be filled prior to forty-eight (48) hours after the incident. (Appendix II of SPCC). Also, coordinate a meeting with emergency team leaders and in-charge personnel or other involved personnel for: a) complete and accurate incident information b) evaluate /critique the response c) revise response plans based upon lessons learned d) provide data for governmental compliance/reporting needs and be beneficial use in case of litigation.

VIII. Risk Communication

The media have an important role to play in response to emergencies. Is relevant to maintain and develop a risk communication program for crisis. The risk communication is an interactive process of exchange of information and opinions among individuals or institutions. The information detailed in this Emergency Response Plan (ERP) is not a part of a municipal Risk Management Program but is a guide to respond in any emergencies describe above.

The Autonomous Municipality of Caguas has press officials that respond in any emergencies or crisis. But, as part of this emergency response plan, the emergency coordinator ***designates*** a spokesperson to inform the emergency to the media.

Risk Communication in a Crisis Situation

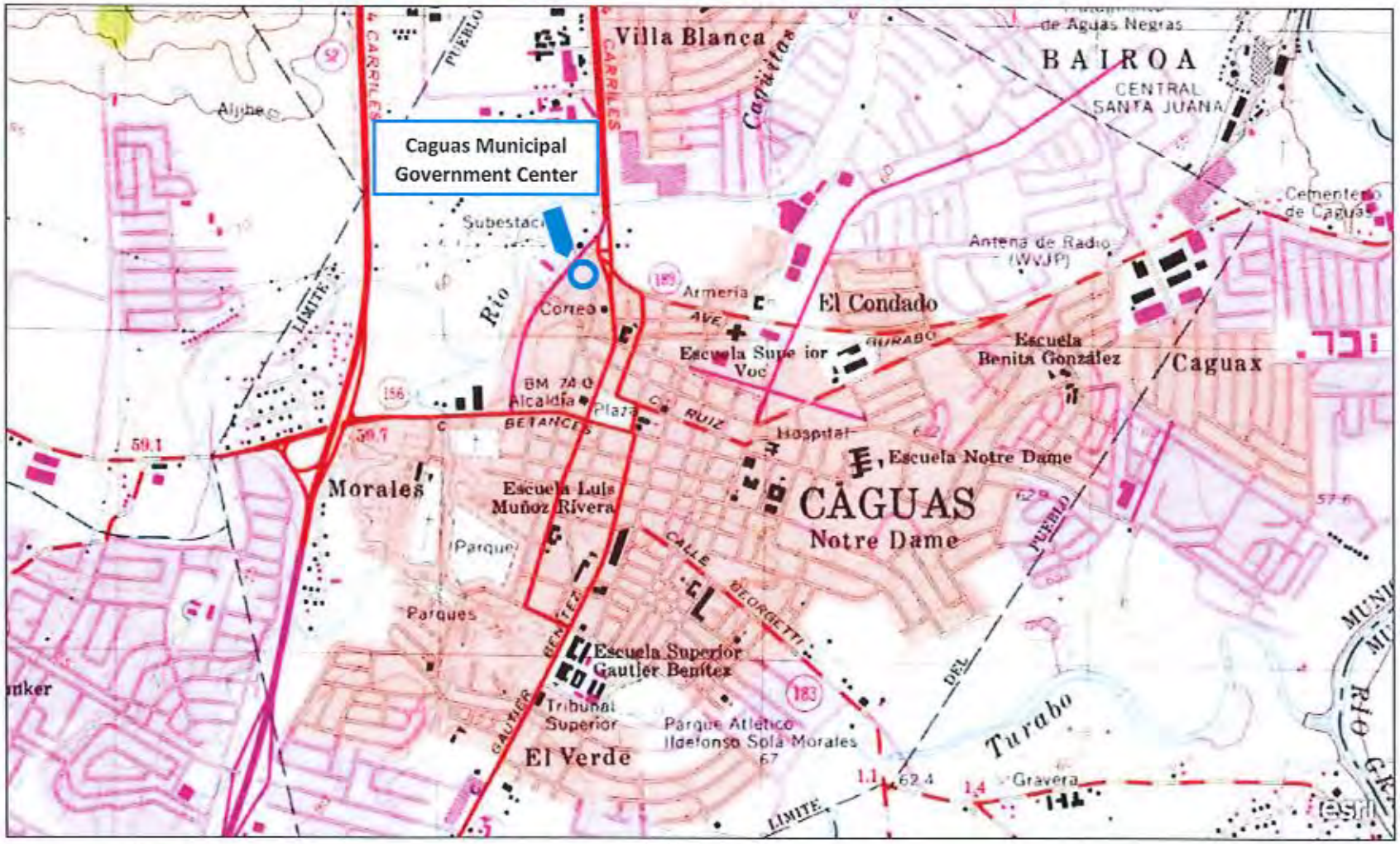
BEFORE	DURING	AFTER
Developing goals and key messages	Avoid speculations or guesses; stick to the facts. Be frankness and honesty	Inform and submit a press release to clear any misunderstand information.
Staying on message (for example: "the 10,000 gallons have a leakage but don't represent public damage")	Keep messages simples, straightforward and brief	Explain the actions taken and follow-up actions
	Explain technical and scientific information as simple possible	
	Let people know how they need to protect themselves	
	Maintain well-informed the media and people	

APPENDICES

APPENDIX I
Topographical Map of the Municipal Government Center Facilities

TOPOGRAPHIC MAP

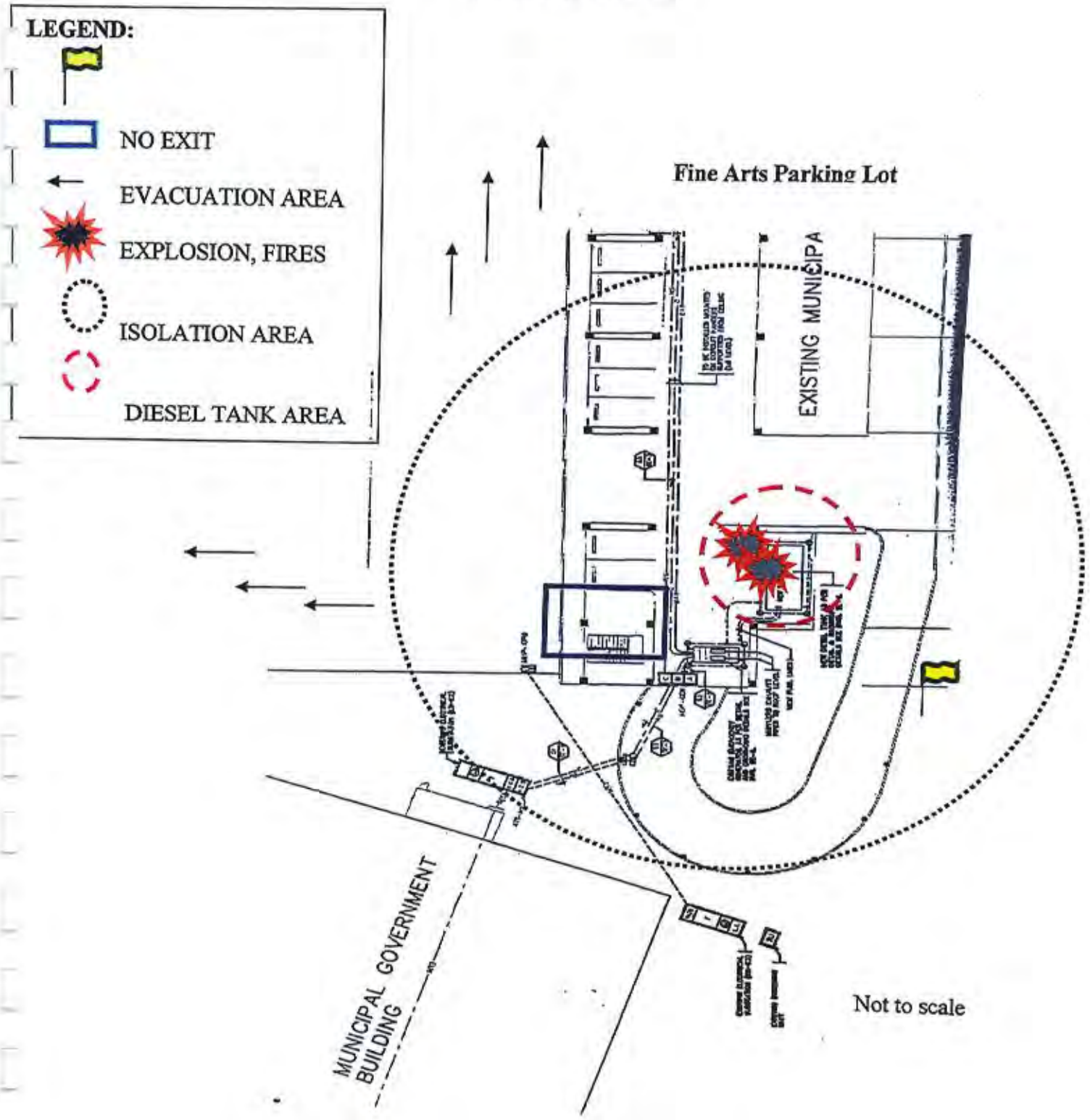
Caguas Municipal Govenrment Center Ángel Rivera Rodríguez



Caguas Municipal Government Center

APPENDIX II
Evacuation Croquis
Diesel Explosion

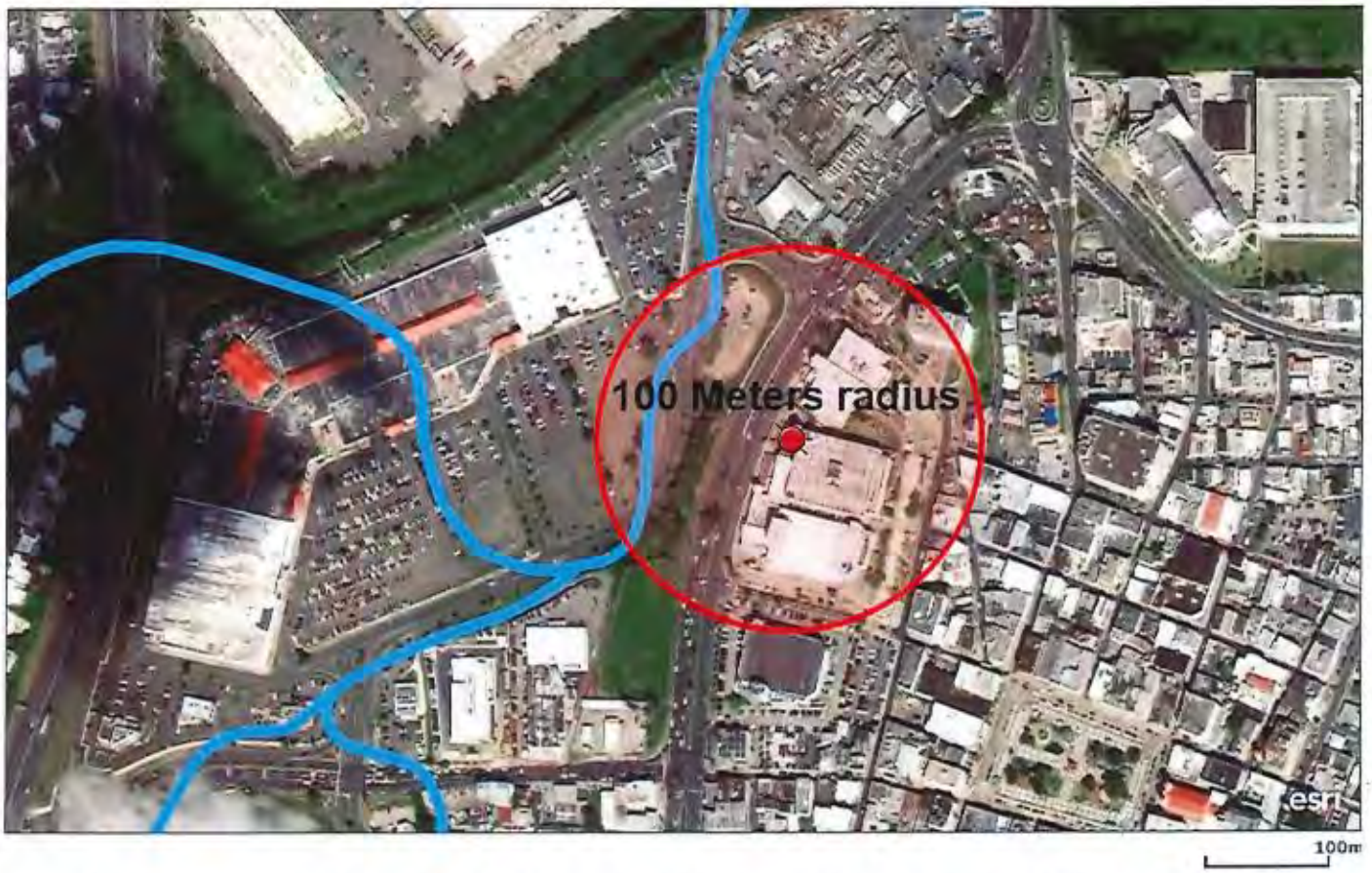
Evacuation Croquis
Worst-Case Scenario



APPENDIX III
Spill Scenarios

MEDIUM CASE SCENARIO, EMERGENCY RESPONSE PLAN

Caguas Municipal Government Center Ángel Rivera Rodríguez



DigitalGlobe, GeoEye | DigitalGlobe, GeoEye | Copyright:© 2013 National Geographic Society, i-cubed | NOAA/NOS/OCS nowCOAST, NOAA/NWS and NOAA/OAR/NSSL | Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User

Legend:

- Caguitas River
- 100 meters radius

Prepared by: Angel G. López Guzmán, MSEM
Environmental Affairs Office

WORST CASE SCENARIO, EMERGENCY RESPONSE PLAN

Caguas Municipal Government Center Ángel Rivera Rodríguez

DigitalGlobe, GeoEye, CNES/Airbus DS | DigitalGlobe, GeoEye, CNES/Airbus DS | Copyright:© 2013 National Geographic Society, i-cubed | NOAA/NOS/OCS nowCOAST, NOAA/NWS and NOAA/OAR/NSSL | Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS,

Legend:

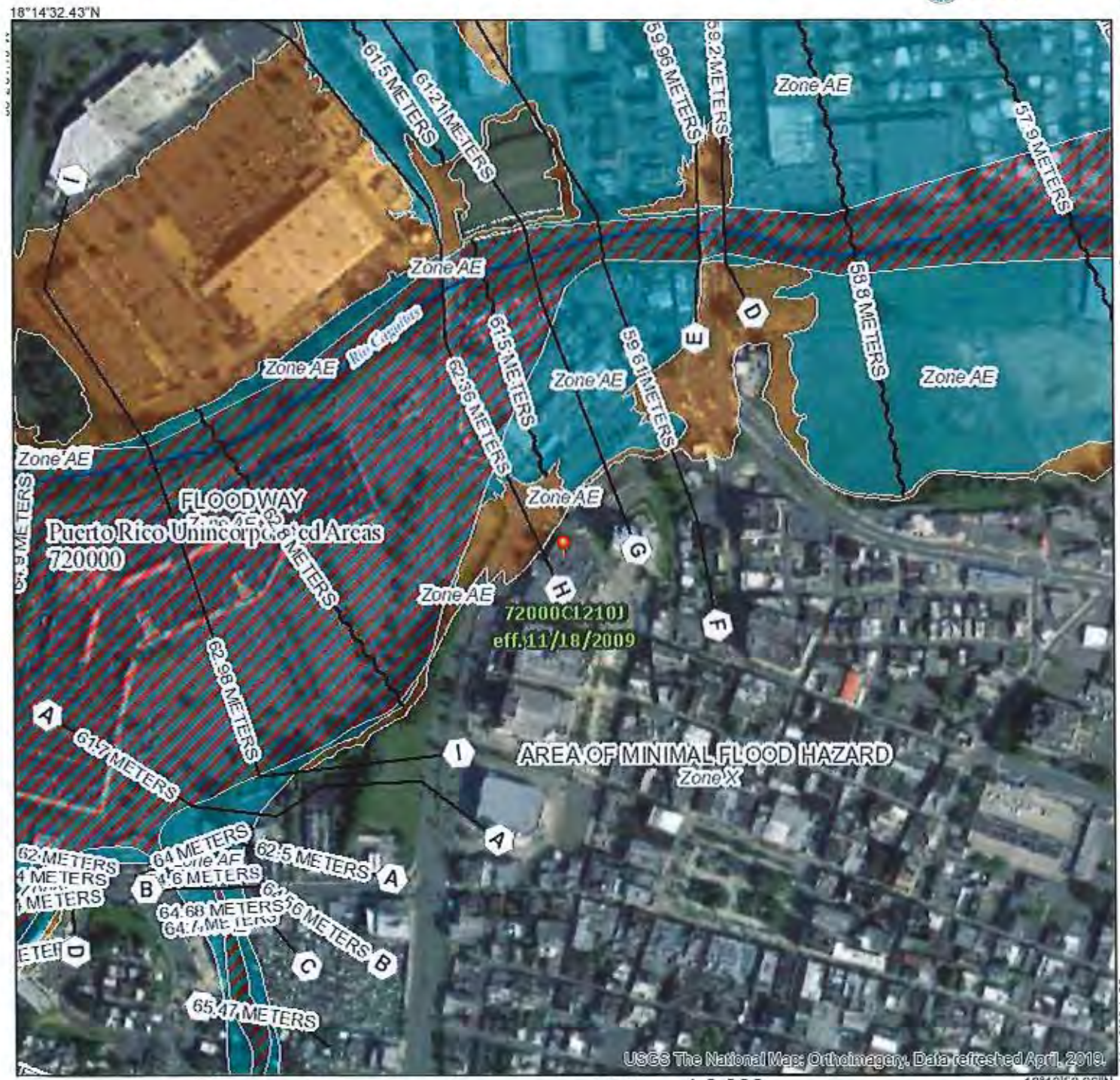
- Caguitas River
- 800 meters radius

Prepared by: Angel G. López Guzmán, MSEM
Environmental Affairs Office

APPENDIX IV
Flood Map

National Flood Hazard Layer FIRMette

FEMA



Feet

0 250 500 1,000 1,500 2,000

1:6,000

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS
- Without Base Flood Elevation (BFE) Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD
- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainag areas of less than one square mile Zone
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone D

OTHER AREAS
- NO SCREEN Area of Minimal Flood Hazard Zone X
- Effective LOMRs
- Area of Undetermined Flood Hazard Zone

GENERAL STRUCTURES
- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES
- 20.2 / 17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS
- Digital Data Available
- No Digital Data Available
- Unmapped

N

The pin displayed on the map is an approximate point selected by the user and does not represe an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 3/11/2020 at 9:00:51 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

APPENDIX V
Phone Numbers Directory

Emergency Phone Numbers
State, Municipal and Federal Agencies

AGENCY	TELEPHONE
National Response Center	1-800-424-8002
Environmental Protection Agency	(787) 725-7825
Puerto Rico Department of Natural and Environmental Resources	(787) 767-8181
USGS, Rescue Coordination Center	(787) 722-2943
Caguas Fire Department	911/ (787) 743-2121
Emergency and Disaster Management Office (Caguas)	(787) 743- 1510
Civil Defense (Caguas)	(787) 743-1510
Office of the Mayor	(787)746-6100
Municipal Hospital (Caguas)	(787) 744-3141
Police Department (Central)	(787) 343-2020
Police Department (Caguas)	(787)743-2020
Javier Carillo Ramos Empresas Carillo	(787)531-7972
Mr. Carlos Díaz Director Building Conservation Department	(787) 653-5400 x 3256 Mobile: (787) 392-7069
Mrs. Guillermo Rivera Cruz Director Environmental Affairs Office	(787) 653-8833 x. 1717,1719,1721 Cel: (787) 392-7025

TABLES

Table 1. Command Line Flowchart in case of diesel spill at the Caguas Municipal Government Center

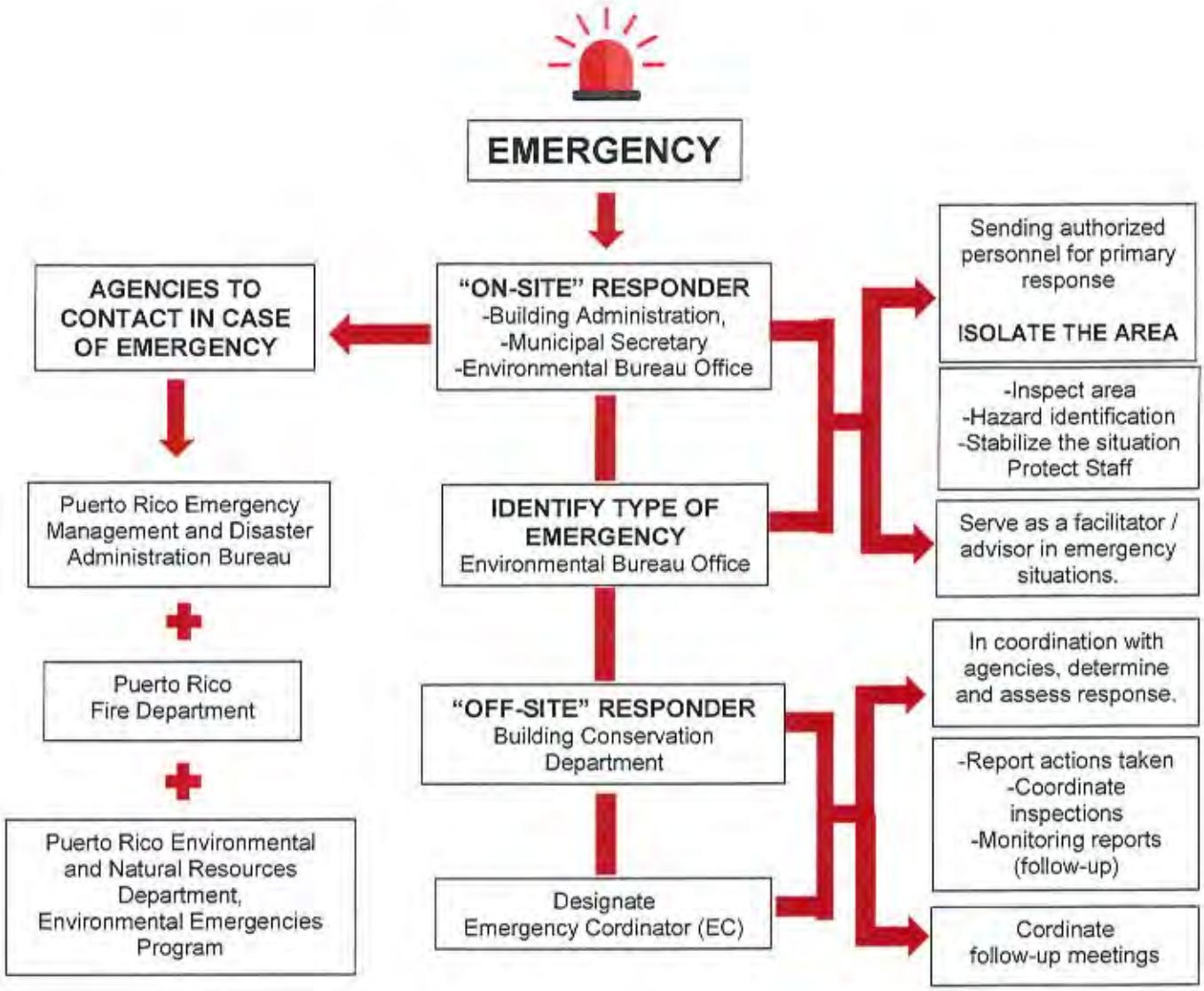


Table 2. Facility Response Equipment List
(Any additional equipment must be log in this list)

SPILL CONTROL MATERIALS	LOCATION	DATE PURCHASE	QTY	DATE OF INSPECTION	USED BY	TYPE , MODEL AND YEAR
Absorbent pillows						
Booms						
Spill Kit						
Gloves and Boots						
Tyvek suits						
Portable generators						
Sump pump						
Buckets						
Portable gas detector						
Skimmers						
Plastic bags						
Sand Clay	Generator facility	Unknown	5 bags	August 19, 2020	N/A	EP Minerals LLC, Item #:7133
55-gallons container						
Sorbents						

SPILL CONTROL MATERIALS	LOCATION	DATE PURCHASE	QTY	DATE OF INSPECTION	USED BY	TYPE , MODEL AND YEAR

MATERIAL SAFETY DATA SHEETS

CDC Centers for Disease Control and Prevention

The National Institute for Occupational Safety and Health (NIOSH)

Promoting productive workplaces through safety and health research NIOSH

RTECS #	CAS #
HZ1755000	See: NMAM or OSHA Methods

Updated	Molecular Weight	Molecular Formula
March 2018	N/R	N/R

Synonyms

Mutation Data and Reference

System Test	Route/Organism/Tissue	Dose	Reference
DNA adduct	inhalation/mouse	6200 µg/m³/16H/12W- intermittent	EMMUEG 16,64,1990
mutation in microorganisms	/Salmonella typhimurium	1 mg/plate (+/-enzymatic activation step)	MUREAV 415,13,1998
other mutation test systems	inhalation/mouse	3 gm/L/12H/4W- intermittent	EMMUEG 48,682,2007
other mutation test systems	inhalation/mouse	1 gm/L/12H/12W- intermittent	EMMUEG 48,682,2007

Tumorigenic Data and References

Route/Organism	Dose	Effect	Reference
inhalation/rat	toxic concentration: 7 mg/m³/7H/2Y-intermittent	Tumorigenic: Carcinogenic by RTECS criteria Lung, Thorax, or Respiration: Tumors	FAATDF 9,208,1987

Route/Organism	Dose	Effect	Reference
inhalation/rat	toxic concentration: 4 mg/m³/18H/2Y-intermittent	Tumorigenic: Neoplastic by RTECS criteria Lung, Thorax, or Respiration: Tumors	DTESD7 13,459,1986
inhalation/rat	toxic concentration: 2500 µg/m³/18H/2Y-intermittent	Tumorigenic: Neoplastic by RTECS criteria Lung, Thorax, or Respiration: Tumors	INHTE5 7,533,1995
inhalation/rat	lowest published toxic concentration: 274 mg/m³/2Y- intermittent	Tumorigenic: Carcinogenic by RTECS criteria Lung, Thorax, or Respiration: Tumors	INHTE5 12,97,2000
inhalation/rat	lowest published toxic concentration: 4900 µg/m³/8H/2Y- continuous	Tumorigenic: Carcinogenic by RTECS criteria Blood: Lymphoma including Hodgkin's disease	DTESD7 13,349,1986
intratracheal/rat	lowest published toxic dose: 36400 mg/kg/2.5Y- intermittent	Tumorigenic: Carcinogenic by RTECS criteria Lung, Thorax, or Respiration: Tumors	ARDSBL 141(Suppl),A3-A937,1990

Acute Toxicity Data and References

Route/Organism	Dose	Effect	Reference
inhalation/mouse	lowest published toxic concentration: 350 µg/m³/4H	Vascular: Regional or general arteriolar constriction Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Other enzymes	TOXID9 -,258,2008
inhalation/mouse	lowest published toxic concentration: 350 µg/m³/4H	Vascular: Contraction (isolated tissue)	TXAPA9 230,346,2008
inhalation/rat	lowest published toxic concentration: 300 µg/m³/5H	Cardiac: Other changes Vascular: Regional or general arteriolar constriction Biochemical: Metabolism (intermediary): Other	TOXID9 -,150,2008
inhalation/rat	lowest published toxic concentration: 300 µg/m³/5H	Autonomic Nervous System: Sympathomimetic Cardiac: Changes in coronary arteries Vascular: BP elevation not characterized in autonomic section	TOXID9 -,258,2008

Other Multiple Dose Data and References

Route/Organism	Dose	Effect	Reference
inhalation/guinea pig	lowest published toxic concentration: 6300 µg/m³/20H/8W- intermittent	Cardiac: Pulse rate decreased with fall in BP Lung, Thorax, or Respiration: Other changes Lung, Thorax, or Respiration: Changes in lung weight	ENVRAL 22,285,1980
inhalation/guinea pig	lowest published toxic concentration: 300 µg/m³/5W- intermittent	Olfaction: Other olfaction effects	AJCMED 162,352,2000
inhalation/mouse	lowest published toxic concentration: 30 µg/m³/24W- intermittent	Blood: Changes in spleen Immunological Including Allergic: Decrease in cellular immune response	TXAPA9 196,337,2004
inhalation/mouse	lowest published toxic concentration: 3 mg/m³/12H/34W- intermittent	Lung, Thorax, or Respiration: Other changes	TOSCF2 44,70,1998
inhalation/mouse	lowest published toxic concentration: 3500 µg/m³/7H/78W- intermittent	Lung, Thorax, or Respiration: Other changes Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Dehydrogenases Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Other oxidoreductases	FAATDF 11,546,1988
inhalation/mouse	lowest published toxic concentration: 6 mg/m³/12H/3W- intermittent	Endocrine: Changes in spleen weight Immunological Including Allergic: Decrease in cellular immune response Immunological Including Allergic: Increase in humoral response	TXCYAC 116,227,1997
inhalation/mouse	lowest published toxic dose: 2 mg/m³/4W- intermittent	Cardiac: Other changes Vascular: Structural changes in vessels	TOXID9 -,148,2008
inhalation/mouse	lowest published toxic dose: 400 µg/m³/3D- intermittent	Blood: Changes in spleen	TOXID9 -,35,2008
inhalation/mouse	lowest published toxic concentration: 200 µg/m³/6H/7W- intermittent	Cardiac: Other changes Vascular: Other changes Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Other oxidoreductases	TXAPA9 255,184,2011

Route/Organism	Dose	Effect	Reference
inhalation/mouse	lowest published toxic concentration: 0.69 µg/m³/5H/8W- intermittent	Endocrine: Adrenal cortex hypoplasia	TOLED5 209,277,2012
inhalation/rat	lowest published toxic concentration: 2 mg/m³/16W- intermittent	Lung, Thorax, or Respiration: Other changes Blood: Other changes	TOXID9 -,220,2008
inhalation/rat	lowest published toxic concentration: 3500 µg/m³/7H/2Y- intermittent	Lung, Thorax, or Respiration: Other changes Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Phosphatases Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Dehydrogenases	FAATDF 11,546,1988
inhalation/rat	lowest published toxic dose: 2 mg/m³/16W- intermittent	Vascular: Other changes Blood: Hemorrhage Biochemical: Metabolism (intermediary): Effect on inflammation or mediation of inflammation	TOXID9 -,151,2008
inhalation/rat	lowest published toxic concentration: 300 µg/m³/0.5Y- intermittent	Lung, Thorax, or Respiration: Other changes Biochemical: Enzyme inhibition, induction, or change in blood or tissue levels: Multiple enzyme effects Biochemical: Metabolism (intermediary): Other	TOXID9 78,284,2004
inhalation/rat	lowest published toxic concentration: 669.3 µg/m³/4H/3W- intermittent	Lung, Thorax, or Respiration: Changes in pulmonary vascular resistance Lung, Thorax, or Respiration: Other changes Biochemical: Metabolism (intermediary): Effect on inflammation or mediation of inflammation	TOXID9 78,284,2004

Reviews

Organization	Standard	Reference
International Agency for Research on Cancer (IARC)	Cancer Review:Animal Sufficient Evidence	IMEMDT 46,41,1989
International Agency for Research on Cancer (IARC)	Cancer Review:Human Limited Evidence	IMEMDT 46,41,1989
International Agency for Research on Cancer (IARC)	Cancer Review:Group 2A	IMEMDT 46,41,1989
TOXICOLOGY REVIEW		ENTOX* -,17,2005
TOXICOLOGY REVIEW		TXAPA9 244,66,2010
TOXICOLOGY REVIEW		TIVIEQ 32,92,2016

Standards and Regulations

Organization	Standard	Reference
Occupational Exposure Limit-SWITZERLAND	MAK-week 0.1 mg/m^3, carc 2, resp, JAN2011	

Status in Federal Agencies

Organization	Reference
NIOSH Analytical Method, 1996: Element carbon (diesel exhaust), 5040	
NTP 14th Report on Carcinogens,2016:Reasonably anticipated to be human carcinogen	
On EPA IRIS database	

Page last reviewed: November 16, 2018