

Estado Libre Asociado de Puerto Rico
Municipio Autónomo de Caguas

COPY



Plan para el Control y Prevención de Derrames
en la Nueva Casa Alcaldía
William Miranda Marín

Preparado por:
Oficina de Asuntos Ambientales
Director: Guillermo Rivera Cruz
2023

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**Certificación del Ingeniero
(40CFR 112.3 (b) (d))**

Yo, Jose J. Rivera certifico, bajo penalidad de ley, en acuerdo con el Código de Regulaciones Federales Título 40 Sección 112 y sus enmiendas, que he examinado y estoy familiarizado con las Buenas Prácticas de Ingeniería y con el Plan de Control y Prevención de Derrames, sometido y aquí presentado. Certifico que el mismo ha sido diseñado para las facilidades de la Nueva Casa Alcaldía. Certifico que la información aquí presentada es cierta, precisa y completa.

Efectivo hoy 4 de octubre del 2023.

Jose J. Rivera
Nombre (letra de molde)

[Firma]
Firma del Ingeniero Licenciado

20187
Número de Licencia y Sello


Certificación Facilidad- Daño Sustancial

El Municipio Autónomo de Caguas representado por José J. Rivera certifica bajo penalidad de ley, en acuerdo con el Título 40 Sección 112 (Apéndice C inciso 3) y su nueva regla incluida en las enmiendas, que he revisado y examinado el documento de acuerdo con las Mejores Prácticas de Ingeniería y con los requisitos del Plan de Control y Prevención de Derrames (SPCC) sometido. La Nueva Casa Alcaldía **no representa** una facilidad con potencial de daño al ambiente debido a que no posee ninguna sustancia o contaminante clasificado como peligroso. Toda la información aquí vertida es cierta, precisa y completa.

Hoy 4 de octubre del 2023.

José J. Rivera
Nombre (Letra de Molde)

[Firma]
Firma Ingeniero Profesional

Licencia y Sello

PUERTO RICO

**Aprobación de la Administración
Nueva Casa Alcaldía
Municipio Autónomo de Caguas**

El Plan para el Control y Prevención de Derrames es aprobado por el Municipio Autónomo de Caguas para las facilidades de la Nueva Casa Alcaldía y el mismo deberá ser implantado tal y como se describe en este documento.

JERRY DIAZ BENITEZ

Nombre (letra de molde)
Oficial Responsable


Firma

DIRECTOR OMME
Título

Revisión del Plan de Control y Prevención de Derrames

El Municipio Autónomo de Caguas debe completar una evaluación y revisión de este Plan por lo menos una vez cada cinco (5) años de acuerdo con el Título 40 Sección 112 (y enmiendas aprobadas). Las revisiones realizadas están registradas a continuación:

Firma	Fecha
	10/ octubre/ 2023

I. Introducción

El propósito u objetivo de este plan es describir los procedimientos que llevará a cabo el Municipio Autónomo de Caguas (en adelante, el Municipio), para prevenir, controlar y mitigar la ocurrencia de eventos de derrames (sustancias diésel, gasolina o derivado de aceites) en las facilidades de la Nueva Casa Alcaldía (específicamente para el área del generador de emergencia) y su posible extensión en áreas circundantes al Municipio. Las regulaciones establecidas en la Ley de Control de Contaminación por Aceites (Título 40 Sección 112) establece requisitos a aquellas facilidades que posean: 1) un tanque sobre terreno igual o mayor de 1,320 galones y/o 2) una capacidad de almacenamiento totalmente enterrado mayor de 42,000 galones y alguna expectativa de que un derrame de aceite pueda ocurrir en aguas navegables o costas litorales. Dicha regulación establece que las facilidades adquiridas y operadas por agencias de gobierno (estatales y federales) estarán sujetas a esta regulación.

La Nueva Casa Alcaldía se encuentra ubicada en la Calle Padial, esquina Avenida José Mercado en el barrio Pueblo de nuestro Municipio. Allí se encuentran dos (2) tanques sobre terreno, además del tanque interno del generador de emergencia, en total son 2,750 galones agregado. Los mismos tienen una capacidad de 2,000, 250 y 500 galones respectivamente. Todos almacenan combustible diésel. La compañía encargada para el mantenimiento es la Empresa Carrillo, Inc. El mantenimiento más reciente fue realizado el 21 de junio del 2023. El abastecimiento de diésel es llevado a cabo por American Petroleum Co. Inc., subcontratada por el Municipio. La carga y descarga de diésel es realizado por nuestro personal de transportación de la Secretaría de Infraestructura, Ornamento y Conservación (SIOC).

De acuerdo con el Departamento de Recursos Naturales y Ambientales (DRNA) a través de su Área de Calidad de Aire, y en cumplimiento con el 40 CFR Parte 112, los tanques deben poseer un Plan para el Control de Derrames. Además, bajo este plan se han incluido tanques sobre terreno de combustible, utilizados para el funcionamiento de los generadores de electricidad para emergencias en la misma facilidad. Para ello, se ha incluido un inventario de equipos en el Apéndice VIII. Dicho inventario contiene la localización y capacidad de los tanques sobre terreno.

Los tanques que abastecen al generador poseen un permiso de fuente de emisión vigente emitido por el DRNA - Área Calidad de Aire. Los sistemas relacionados con el generador de emergencia están conectados al sistema eléctrico y son operados por personal autorizado. En cuanto a los mismos, el Departamento de Conservación de Edificios es el responsable del mantenimiento de los mismos.

II. Información General

La Nueva Casa Alcaldía del Municipio Autónomo de Caguas se encuentra localizada en la Avenida José Mercado esquina Calle Padial en el barrio Pueblo. Esta colinda por el norte con la Central de Autoridad Energía Eléctrica (ahora LUMA), al este con la calle Nazario, al oeste con Las Catalinas Mall y al sur con el edificio del Centro de Gobierno Municipal. La Nueva Casa Alcaldía fue construida aproximadamente para el año 2005. El total de empleados que laboran en la Nueva Casa Alcaldía es de aproximadamente ciento veinte (120).

Dueño: Estado Libre Asociado de Puerto Rico, Municipio Autónomo de Caguas

Nombre: Nueva Casa Alcaldía William Miranda Marín

Dirección Física: Avenida José Mercado esquina calle Padial, Barrio Pueblo

Dirección Postal: Municipio Autónomo de Caguas

PO Box 907 Caguas, Puerto Rico 00726

Secretario: Sra. Ada Belén Caballero Miranda

Personal encargado: Sr. Carlos M. Díaz Vega (Director - Departamento de Conservación de Edificios) y Sra. Milagros Reyes Perez, Administradora Edificio

III. Mantenimiento del Plan

El Plan para el Control y Prevención de Derrames es requerido por la Agencia Federal de Protección Ambiental (EPA, por sus siglas en inglés). Además, el DRNA requiere la preparación de dicho plan, como parte de los requisitos de construcción e instalación de un tanque sobre terreno con una capacidad igual o mayor de 1,320 galones. Si alguno de los sucesos abajo descritos sucediese, el derrame deberá ser referido e informado a EPA y DRNA:

1. Una descarga más de 1,000 galones de aceite dentro o cerca de aguas navegables de los Estados Unidos y en sus territorios.
2. El Municipio descarga aceite en cantidades consideradas peligrosas en dos eventos ocurridos en un periodo menor de doce (12) meses. Una cantidad peligrosa es definida por el Título 40 Sección 110 como una cantidad que:
 - a. Viola los estándares de calidad de aguas establecidos.
 - b. Cause un daño verdadero o descoloración de la superficie u orillas de los cuerpos de agua; o en su lugar produzca una emulsión o depósito de lodos que pudieran sedimentarse en el cuerpo de agua afectado.

La información del derrame debe ser reportado dentro de los sesenta (60) días próximos, si alguno de estos episodios sucede.

1. Nombre de la facilidad.
2. Nombre del dueño y/o funcionario responsable.
3. Localización de la facilidad.
4. Causa del derrame.

5. Acción o medida correctivas llevadas a cabo y una descripción de los equipos utilizados.
6. Información detallada que sea pertinente al plan o algún evento adicional relacionado con el derrame.
7. Día y año de comienzo de la operación.
8. Capacidad máxima del tanque.
9. Descripción de la facilidad incluyendo mapas, diagrama de flujo y mapa topográfico.
10. Análisis de la falla del sistema y/o subsistema en el cual la falla ocurrió.
11. Una copia del plan con cualquier enmienda o cambio realizado ya sea medidas correctivas tomadas o que se contemplan para minimizar la posibilidad de recurrencia.

Además, el plan debe ser enmendado dentro de los seis (6) meses próximos, si ocurriese, un cambio en el diseño, construcción u operación de la facilidad, que afecte el potencial de derrame. Dicho plan debe ser revisado y enmendado una vez cada cinco (5) años, para el mejoramiento y control de tecnologías aplicables. Los cambios deben ser certificados por un ingeniero profesional certificado. La EPA, como parte de las enmiendas al 40 CRF Parte 112, será una opción para las facilidades que cualifiquen llevar a cabo una auto certificación de cumplimiento (**ver apéndice IX**). Sin embargo, el Municipio ha decidido cumplir con las disposiciones federales y actualizar este Plan, incorporando las nuevas reglamentaciones.

IV. Áreas propensas a derrames

El Municipio ha identificado (2) tanques sobre terreno de diésel para los generadores de emergencia. El tanque sobre terreno es de aproximadamente 2,000 galones. El otro de aproximadamente 250 galones su función es suplir combustible al sistema de rociadores ("*sprinkles*"). (Figuras 12).

De acuerdo con el diagrama de flujo y drenaje de la facilidad (**ver Apéndice V**), se demuestra que las áreas propensas a derrames (como ríos, quebradas o áreas sensitivas) están fuera del riesgo a ser contaminados.

V. Eventos de Derrames

Durante estos últimos cinco (5) años, solo ha ocurrido dos (2) eventos de derrame reportados en las áreas cercana o adyacentes de la Nueva Casa Alcaldía. El primer evento fue reportado en 9 de noviembre del 2017 y el segundo evento fue reportado el 3 de abril del 2018.

A. Incidente de derrame de diésel el 9 de noviembre del 2017

El primer evento de derrame fue reportado el 9 de noviembre del 2017, una gran cantidad de diésel que provenía del generador de emergencia de 500 galones localizado en la Nueva Casa Alcaldía, en el cual tuvo entrada al sistema de alcantarillado pluvial y termino en el cuerpo de agua del Rio Cagüitas (figura 1-5). El personal de la Oficina Municipal de Manejo de Emergencias y la compañía de RICLEAM Environmental Services lograron contener con éxito el derrame y limpiar todo el sistema pluvial para minimizar los rastros de diésel (figura 6-7).



Figura 1. Derrame de diésel que proviene del generador de emergencias de 500 galones.



Figura 2. Salida de escorrentía adyacente al generador de emergencia en el que pasó el diésel derramado por el estacionamiento de la Nueva Casa Alcaldía.



Figura 3. Drenaje pluvial ubicado en el estacionamiento donde paso el diésel derramado.



Figure 4. Sistema de drenaje pluvial con rastro de diésel.



Figura 5. El diésel termina en el Rio Cagüitas.



(a) Colocaron barreras absorbentes en el Río Cagüitas para evitar que el diésel continúe expandiéndose.



(b) Colocaron barreras y mantas absorbentes en el punto final del sistema de drenaje pluvial en el Río Cagüitas.



(c) Colocaron barreras absorbentes en la salida de la escorrentía adyacente al generador de emergencia.

Figure 6. El personal de la Oficina Municipal de Manejo de Emergencias y la compañía de RICLEAM Environmental Services lograron contener con éxito el derrame y limpiar todo el sistema pluvial para minimizar los rastros de diésel.



Figura 7. El personal de la Oficina Municipal de Manejo de Emergencias utilizó una sustancia biodegradable en el cual descompone naturalmente el aceite.

B. Incidente derrame de diésel el 3 de abril de 2018

El segundo incidente fue el 3 de abril de 2018, el tanque principal de diésel que abastece al generador de emergencia tenía una fuga de diésel. Este tanque tiene un dique en el cual evitó que el diésel derramado llegara al alcantarillado pluvial. El personal de mantenimiento de la Nueva Casa Alcaldía llegó rápidamente, cerró la válvula por completo y el diésel que llegó al suelo se controló utilizando el equipo de derrame en el área (figura 8-9).



Figura 8. El tanque principal tenía fuga de diésel y el dique evito que el diésel derramado llegara al sistema pluvial.



Figura 9. El personal de mantenimiento de la Nueva Casa Alcaldía cerró la válvula por completo y el diésel que llegó al suelo fue controlado mediante el uso del equipo de derrame en el área

VI. Procedimientos y Medidas para el Control y Prevención de Derrames

Las medidas de control y prevención de derrames son medidas seguras que sirven como herramientas de respuesta y mitigación, en caso de emergencias. En un evento de derrame, los procedimientos generales de respuesta incluyen: notificaciones, aislamiento y contención del derrame, limpieza y disposición de desperdicios por un personal autorizado por el DRNA. En adición, las agencias pertinentes deben ser notificadas. Las áreas que han sido tomadas en consideración son: a) áreas de almacén y estructuras auto contenidas de diésel y/o aceites, y b) áreas de carga y descarga de diésel. Las áreas antes mencionadas, han sido consideradas debido a su gran potencial de ocurrencia de derrames y/o proveen rutas directas de contaminación al ambiente o algún alcantarillado pluvial.

Aparte de los componentes que debe poseer un tanque sobre terreno, debe considerarse los siguientes puntos: a) **cercas y portón de seguridad**. El propósito de las verjas es mantener personal no autorizado fuera del área, b) **alumbrado** – las facilidades deben poseer suficiente alumbrado para prevenir cualquier acto vandálico y ayudar a detectar cualquier derrame que ocurra en horas de la noche y c) **rotulación** – letreros de **NO FUMAR, PELIGRO o PERSONAL AUTORIZADO SOLAMENTE** deben ser puestos alrededor del tanque (a cada lado del tanque) y/o en la entrada del área.



Figura 10. Tanques sobre terreno de diésel de 2,000 galones.



Figura 11. Tanque sobre terreno de 250 galones



Figure 12. Generador de emergencias con tanque autocontenido de 500 galones.

A. Procedimiento de Carga/Descarga de camiones cisterna (este procedimiento será llevado a cabo por los suplidores) 40 CFR 112.7

Todo producto o derivado de diésel es llevado al punto de almacenaje por el camión cisterna. Los procedimientos aquí mencionados serán utilizados, cuando sea necesario recargar los tanques sobre terreno de la estación de gasolina y/o de los generadores de emergencia (Figura 13):

1. Cuando el camión cisterna llegue al área de carga del tanque, material absorbente deberá ser colocado aproximadamente a cinco (5) pies del área de llenado, en dirección del flujo de dirección del derrame (potencial).
2. Active la bomba para comenzar la descarga. El usuario o personal no podrá abandonar el área de descarga hasta que finalice la misma.
3. Cuando el conductor informe al personal autorizado que la carga/descarga ha sido completado, el mismo verificará los medidores del tanque y sus compartimientos, si es necesario.
4. Cierre todas las válvulas y desactive la bomba. Asegúrese que no queden remanentes de diésel en la manguera de succión.
5. Desconecte la manguera y drene cualquier residuo de aceite y/o diésel en un cubo.
6. En un evento de derrame de carácter leve, proceda a cerrar las válvulas del camión cisterna y coloque material absorbente sobre el área de derrame para controlar su propagación.
7. Añada mayor material absorbente, si es necesario, para controlar y canalizar el derrame.
8. Seguir las instrucciones detalladas sobre respuesta y reporte de actividades de derrames en la Sección VI-I de este Plan.
9. Cualquier material contenido y recogido en el área debe ser transferido a contenedores de cincuenta y cinco (55) galones o en algún otro contenedor autorizado.

Es importante enfatizar que el personal subcontratado (suplidores) debe poseer y mantener los equipos de respuesta a derrames en el camión cisterna. Además, un contenedor con material absorbente debe estar colocado en un área estratégica cerca de los tanques sobre terreno.

El dueño de la facilidad deberá solicitar por escrito, una carta que certifique que los camiones-tanque que entren a la Nueva Casa Alcaldía y sus áreas limítrofes poseen un permiso emitido por el DRNA y/o alguna otra agencia estatal o federal. Dicha certificación

nos asegura que las operaciones llevadas a cabo en la facilidad. La facilidad cuenta con el equipo y medidas necesarias para evitar cualquier emisión o derrame proveniente del camión-cisterna bombas, equipos y otros aparatos. A su vez se estipula que, de ocurrir algún derrame provocado por los mismos, estos asumirían los procedimientos de limpieza y recogido de desperdicios generados por el incidente.



Figure 13. Buenas prácticas de manejo y llenado de gasolina o diésel.

B. Medida de Control y Manejo de Derrame de Menor Escala

Las acciones de respuesta por parte de la administración de la facilidad, generalmente consiste en notificar al personal apropiado como el Departamento de Conservación de Edificios, la Administración de la Nueva Casa Alcaldía, el Área de Transportación y/o la Oficina Municipal para el Manejo de Emergencias. Se deberá asegurar el área y mantener bajo control del derrame, mientras se contacta al personal autorizado. Los materiales absorbentes, mantas y otros equipos están localizados en áreas designadas en el Mapa Esquemático (ver Apéndice IV). **En caso de algún derrame de menor escala, el mismo será controlado por personal de la Oficina**

utilizando los equipos y “spill kit” provisto en la facilidad. Es necesario que los equipos de respuesta se encuentren accesibles (Véase la Tabla 2 del Plan de Contingencia para un inventario detallado sobre los equipos, materiales recomendados y disponibles en las facilidades).

Los derrames de menor escala (<5 galones) que resultasen de operaciones de transferencia en los contenedores deben ser mitigados por personal adiestrado del Municipio. No se deberá lavar con agua o algún detergente no autorizado en aquellas áreas donde haya ocurrido el derrame ya que esto representaría un daño mayor a los cuerpos de agua cercanos.

C. Procedimiento de Control y Prevención de Derrames provenientes de equipos no autocontenidos (si aplica).

En este plan incluimos aquellos equipos, en los que no sea requerido alguna estructura autocontenida, pero si representa un potencial de ocurrencia de derrames en áreas de no contenida. Además, si es imprescindible, el personal que trabaja en estas áreas tiene un conocimiento básico de la respuesta a derrames. El kit de derrame debe estar accesible y disponible todo el tiempo.

En un evento de derrame, los siguientes procedimientos deben ser llevados a cabo:

- a) El personal que descubra el derrame deberá notificar a la OMME para que el mismo:
 - (1) envíe personal adiestrado al área del derrame
 - (2) contactar otro personal concerniente a dicha emergencia.

La siguiente información debe ser reportada:

- Ubicación del derrame.
 - Cantidad aproximada del derrame.
 - Otras condiciones de peligro, que deban ser notificado.
- b) El personal al mando designado o a quién aplique (Ingeniero/ Director del Departamento de Conservación de Edificios) en conjunto con el personal cualificado, evaluará la naturaleza, peligros y amplitud del derrame. La Oficina de Asuntos Ambientales deberá ser consultada durante el evento de derrame.
- c) La propagación del derrame debe ser controlado mediante la construcción de barreras con material absorbente o "booms".
- d) Si el material absorbente o "booms" no fueran suficientes, el personal al mando contactará a personal y/o compañía con equipos de limpieza más eficientes (bomba de succión de aceites) y será transferido a contenedores. Todo desperdicio que contenga aceite y/o diésel debe ser manejado y dispuesto como desperdicio no-peligroso de acuerdo con las regulaciones estatales y federales. Se emitirá un manifiesto por parte del generador y transportista, para depositar dichos desperdicios en una facilidad autorizada. Dicho manifiesto deberá ser solicitado y archivado por un espacio de tiempo razonable (aproximadamente cinco años).
- e) Dicho evento deberá ser reportado y analizado de acuerdo con la forma detallada en el Apéndice II.

De acuerdo con el diagrama de flujo de los drenajes, presentado en el Apéndice V, las escorrentías se dirigen directamente hacia alcantarillas pluviales cercanas al área. Es importante detallar que, en estos casos, es imperativo atender la emergencia de forma inmediata para evitar cualquier contacto con los cuerpos de agua cercanos.

D. **Transportación de Contenedores**

Si la Nueva Casa Alcaldía adquiere algún contenedor de cincuenta y cinco (55) galones u otros equipos para el almacenaje y disposición de productos diésel o sus derivados, los mismos deben ser transportados por un **transportista autorizado** por el DRNA. Dicho transportista cumplirá con las leyes establecidas por las agencias pertinentes e informará por escrito al Municipio Autónomo de Caguas de la disposición final de los contenedores.

E. **Drenaje de las Estructuras Secundarias Contenidas (si aplica)**

Cuando un evento de lluvia torrencial o escorrentías ocurra o incida en el área contenida del tanque sobre terreno, personal autorizado debe realizar una inspección visual del agua contenida en el área. Es importante que dicho personal, evalúe los siguientes parámetros **ANTES** de proceder con el drenaje:

1. Propiedades físicas y químicas del agua contenida (viscosidad, turbidez, color, presencia de aceite, etc.).
2. Apariencia física de la estructura autocontenida.
3. Remueva cualquier basura, hojas u otros materiales del área.

Si el personal autorizado sospecha que el agua contenida en dicha área tiene residuos de diésel, **NO ABRA** la válvula de drenaje sin que **ANTES** se lleve a cabo un muestreo y prueba por un laboratorio licenciado. Después de dicho procedimiento, si los resultados fuesen negativos, proceda con el drenaje del agua a cualquier alcantarillado pluvial cercano (de aplicar). Si los resultados fuesen positivos, se recomendará la realización de inspecciones y pruebas de integridad para asegurar la calidad del tanque sobre terreno.

De no tener ninguna válvula de drenaje, se procederá a limpiar con mantas absorbentes y se dispondrá correctamente como desperdicio no- peligroso.

F. Equipos y Materiales Disponibles para el Control de Derrames

Facilidades que almacenen aceite o sustancias derivadas de aceite, deberán poseer materiales de control de derrames y equipos disponibles dentro de las áreas adyacentes donde se encuentra el tanque sobre terreno. El personal u oficina a cargo es responsable de mantener e inspeccionar cada "*spill kit*". Los equipos de control de derrames deberán ser inspeccionados por lo menos una (1) vez al mes. El equipo y materiales disponibles para controlar derrames a gran escala, será provisto por la OMME. En adición, cercano a la localización de los tanques sobre terreno, se encuentra un "*spill kit*". La sección IV-C del Plan de Contingencia provee una lista de materiales **recomendados** para el control y manejo de derrames.

G. Prevención de Derrames y Coordinación de Respuesta en caso de Emergencia

El funcionario responsable y/o coordinador designado, es responsable de asistir al equipo de respuesta, proveyéndole un resumen de las actividades realizadas para el

control y prevención de propagación del derrame. El coordinador de emergencia evaluará los posibles daños a la salud y/o al ambiente, que resulte de un evento de derrame en la facilidad. Sus responsabilidades incluyen:

- a) supervisar las facilidades y el programa de prevención de derrames,
- b) identificación y evaluación inmediata del evento de derrame y
- c) mantener un expediente sobre información del tanque, inspecciones realizadas del tanque y aguas contenidas en el área, diagramas del tanque y lista de contactos de suplidores.

La Oficina de Asuntos Ambientales deberá ser informada sobre cualquier cambio realizado en los procedimientos de respuesta, y/o en las medidas correctivas establecidas en este Plan. Además, dicha Oficina es la responsable de actualizar y enmendar el Plan (de ser necesario). También, este Plan incluye un Plan de Contingencia en Respuesta a Emergencias (ver Apéndice X).

H. Reuniones y Adiestramientos para la Prevención de Derrames

El Título 40 Sección 112.7, requiere que el personal de la facilidad sea adiestrado en la operación y mantenimiento de equipos para el control y prevención de derrames. En adición, se requieren reuniones de seguimiento, para asegurarnos que el personal entiende y lleva a cabo los procedimientos de la forma en que estipula este Plan. El objetivo del programa de adiestramiento para el control de derrames es reducir el impacto e incidencias de derrames en la facilidad.

El adiestramiento general sobre control de derrames y conciencia de respuesta es provisto a todos los empleados, que de una forma u otra, estén relacionados con el manejo o transporte de diésel/gasolina. Dicho adiestramiento general deberá ser ofrecido

por la Oficina de Asuntos Ambientales y el mismo puede ser coordinado con la OMME. En adición, el Departamento u Oficina a cargo de las facilidades, tiene la responsabilidad de proveer reuniones de seguimiento para el manejo adecuado de petróleo y sus derivados.

Este Plan incluye información valiosa sobre la importancia de un manejo adecuado y la implantación de un programa de mantenimiento preventivo. Dicho programa tiene como propósito minimizar los casos de derrames en las facilidades y reducir el potencial de daño al personal y ambiente. Como mínimo, se requiere que los adiestramientos se realicen una (1) vez cada tres (3) o (5) cinco años o cuando ocurran transferencias o integración de nuevos empleados al área de trabajo. En este último caso, el adiestramiento debe ser realizado en o antes de cumplir los treinta (30) días en su lugar de empleo. Los temas para incluirse en el (los) adiestramiento (s) deben ser:

- **Información contenida dentro del Plan de Control y Prevención de Derrames.**
- **Evaluación de Casos-eventos de derrames en la facilidad; causas, acciones correctivas y lecciones aprendidas.**
- **Nuevas técnicas de prevención, procedimiento de seguridad y equipo a utilizarse.**
- **Implementación e instalación de nuevos equipos en la facilidad y su impacto.**
- **Procedimientos y/o Protocolo a seguir en caso de emergencia.**
- **Procedimientos de Supervisión: Informes y Reportes.**

Los siguientes tópicos pueden ser incluidos como parte del adiestramiento anual:

- Revisión de procedimientos establecidos en el Plan.
- Descripción y Evaluación de Casos sobre derrames en facilidades similares.

- Información sobre medidas preventivas y correctivas.

Luego de realizado los adiestramientos y/o reuniones de seguimiento, es necesario mantener un archivo de las actividades realizadas. Dicho archivo deberá ser mantenido por la Oficina de Asuntos Ambientales, el Área de Transportación y el Departamento de Conservación de Edificios. La Oficina de Asuntos Ambientales, realiza reuniones informativas con el personal a cargo, para discutir el contenido y propósito del Plan. Como parte de dicho adiestramiento, se discute y firma un compromiso de cumplimiento e implantación de acciones correctivas (ver Apéndice XI).

I. **Procedimiento de Reporte y Respuesta en Casos de Emergencia**

El coordinador de emergencia designado es el responsable de llevar un registro de los eventos de derrames ocurridos en la facilidad (ver Apéndice II- Parte A). Un evento debe registrarse cuando ocurre una descarga de aceite y/o derivados mayores de cinco (5) galones o cualquier descarga que pueda incidir en un alcantarillado pluvial o sanitario. El coordinador de emergencia designado con la asistencia de la Oficina de Asuntos Ambientales llevará a cabo una revisión de las tareas realizadas y un análisis del incidente. El proceso de revisión debe incluir:

- Entrevistas con la(s) persona(s) involucrada(s) en el incidente, testigos, personas a cargo del proceso de respuesta y/o equipos utilizados.
- Discusión con el personal responsable de la coordinación e implementación del plan dentro de la situación de emergencia. Identificar los posibles cambios al procedimiento para prevenir la incidencia de un evento similar.

- Presentación de un documento escrito a la Oficina del Alcalde y/o Departamentos concernientes sobre las causas del incidente y las acciones tomadas para la solución del problema. Incluir comentarios y recomendaciones.
- Después de una reunión con el coordinador de emergencia y funcionario responsable de la Nueva Casa Alcaldía, es necesario emitir un memorando a todo el personal involucrado sobre las medidas tomadas y/o comentarios de interés.

El gerente de línea responsable debe proporcionar copias del informe del Evento de Derrame al Director de Conservación de Edificios y a la Oficina de Asuntos Ambientales.

J. Inspecciones

El Título 40 Sección 112.7 (e) (8) requiere que las inspecciones sean parte integral del programa de Prevención y Control de Derrames. La frecuencia de las inspecciones dependerá del uso del equipo y de las facilidades de la estación de gasolina. Por lo general, las inspecciones deben realizarse de forma mensual o semestral en las facilidades de la Nueva Casa Alcaldía. Los equipos para considerarse en las inspecciones incluyen, pero no se limitan a:

- Tanques sobre terreno y contenedores mayores de 55 galones.
- Monitoreo del nivel del aceite y sistemas de control.
- Operaciones de transferencia (llenado o vaciado) del tanque.
- Pruebas de integridad realizadas (copia de las mismas).
- Equipos de Control y Prevención de Derrames ("**spill kits**").
- Sistemas de Drenaje de la Facilidad y Áreas Limítrofes.

Una inspección visual es el método más simple para la detección temprana de cualquier falla o rotura en los equipos. Esto constituye la clave para un mantenimiento preventivo. Una lista de cotejo para llevar a cabo inspecciones se encuentra en el Apéndice II Parte B.

Cuando una facilidad posee un tanque sobre terreno, las inspecciones deben incluir la siguiente información:

- a) condición de la estructura autocontenida,
- b) señales de daño o filtraciones,
- c) condición de las alarmas (si aplica) y rotulaciones
- d) condición de las válvulas.

Todas las deficiencias deben ser reportadas en una lista de cotejo y enviar copia al Área de Transportación, el Departamento de Conservación de Edificios y la Oficina de Asuntos Ambientales para las acciones pertinentes.

K. Revisión y Archivos de Documentos

Como parte del Título 40 Sección 112, se requiere mantener un archivo de inspecciones, adiestramientos, incidentes y mantenimiento realizado a los equipos. Estos archivos deben ser accesibles y estar disponibles en la facilidad. Los mismos deberán encontrarse en el Área de La Nueva Casa Alcaldía, la Oficina de Asuntos Ambientales y el Departamento de Conservación de Edificios. El funcionario responsable conservará en un expediente llamado Plan de Control y Prevención de Derrames y Procedimientos e Inspecciones realizadas. Este archivo se mantendrá por espacio de cinco (5) años. Se conservarán copias en las áreas de trabajo pertinentes.

Los siguientes documentos deben ser archivados:

- **Evidencia de Adiestramientos**: Información de los recursos, lista de asistencia y personal contactado para los adiestramientos
- **Evidencia de Inspección**: Bitácora sobre inspecciones realizadas y personal involucrado. Evidencia de acciones correctivas para remediar deficiencias encontradas.
- **Evidencia de Mantenimiento**: Itinerario de Mantenimiento, incluyendo pruebas de integridad realizadas a equipos, tanques, válvulas, estructuras contenidas.
- **Evidencia de Incidentes Reportados**: reporte de eventos, evaluaciones posteriores al suceso y costos asociados al plan de respuesta de emergencia incluyendo equipos y material subcontratado.

El personal autorizado descrito en este Plan puede realizar enmiendas al mismo (40 CFR 112.7) si ocurre algún cambio en el diseño de la(s) facilidad(es), construcción, operación o mantenimiento que pudiera afectar el potencial de descarga en cuencas o aguas navegables de Estados Unidos y sus territorios. Estas enmiendas deben ser implantadas no más tarde de seis (6) meses de ocurrido el cambio.

Bajo la dirección del Ingeniero a cargo, se evaluará y revisará el Plan una vez cada cinco años, desde la última fecha que fue certificado. Como resultado de esta revisión, la Oficina de Asuntos Ambientales enmendará el Plan para el Control y Prevención de Derrames dentro de los próximos seis (6) meses posteriores a la revisión. Cada enmienda realizada, debe ser certificada

L. Lista de Numero de Emergencia

En caso de cualquier derrame relacionado con los tanques sobre terreno, respectivamente y con los generadores de emergencia se deberá seguir esta línea de comunicación:

i) Números de contacto

Daños menores (Contactos Internos)

- Nueva Casa Alcaldía - Oficina de Administración
Contacto: Sra. Milagros Reyes Perez
Tel. 787-653-8833 ext. 2684
Cel: 787-658-3251

- Departamento de Conservación de Edificios
Director: Sr. Carlos M. Díaz Vega
Tel: (787) - 653-8833 ext. 3256
Cel: (787) 392-7069

- Oficina de Asuntos Ambientales
Director: Plan. Guillermo Rivera Cruz
Tel. (787) 653-8833 x. 1717, 1719, 1721
Cel: (787) 392-7025

- Oficina Municipal Manejo de Emergencias
División: Emergencias Ambientales
Tel. (787) 743-1510

Daños Mayores (Contactos Externos)

- Departamento de Recursos Naturales y Ambientales
División: Emergencias Ambientales
Edificio de Agencias Ambientales

Carretera 8838, km. 6.3, Sector El Cinco, San Juan
Tel. (787) 999-2200 ext. 5900 (horas laborables)

ii) **Contratistas o Servicios de Limpieza** (de ser necesario será contratada la compañía que nos brinde el servicio.).

iii) **Agencias Estatales y Federales**

- Policía de Puerto Rico
Municipio Autónomo de Caguas
Tel. (787) 745-1350 / (787) 745-2020

- Departamento de Bomberos
Municipio Autónomo de Caguas
Tel. (787) 343-2323 / (787)743-2121

- Respuesta Nacional de Emergencias (NRC, por sus siglas en inglés)
Tel. 1-(800)-424-8802

El personal arriba descrito en colaboración con personal designado de la Nueva Casa Alcaldía iniciará inmediatamente las labores de control y mitigación del derrame descrito en la Sección VI de este Plan. De ser necesario, pudiera requerirse la asistencia de compañías de limpieza ambientales externos para la evaluación e implementación de estrategias.

M. Materiales y Equipos

Los materiales y equipos serán provistos por la OMME. Sin embargo, en las áreas identificadas en el Apéndice IV, se deberán ubicar “**spill kits**” para respuesta primaria. En caso de necesitar servicios de limpieza externo, la Nueva Casa Alcaldía tiene la

Página 40

responsabilidad de contratar compañías que realicen labores de limpieza y mitigación de daños.

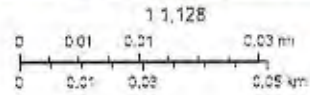
APÉNDICES

APÉNDICES I
FOTO AEREA DEL SITIO

Foto Aérea SPCC Nueva Alcaldía,
Bo. Pueblo, Municipio Autónomo de Caguas



July 14, 2023



Preparado por:
Oficina de Asuntos Ambientales

Source: Esri, DigitalGlobe, GeoEye, IGN, GeoEye, and the US Coast Guard, EPA, DNR, DPA.

APÉNDICES II
FORMAS PARA REPORTE DE INSPECCIONES Y DERRAMES

Parte A
Hoja de Reporte de Eventos de Derrames

Fecha y hora del evento: _____ Fecha de notificación: _____

Nombre del receptor: _____ Tel. Trabajo: _____

Primera respuesta por: _____

Número contactado por el personal _____

¿Se reportaron daños? Sí No

Si contestó sí, ¿se utilizaron servicios de ambulancia? Sí No

Peligros de fuego: _____

¿Se comunicaron con el Departamento de Bomberos? Sí No

Tipo de aceite derramado: _____

Cantidad derramada: _____ galones

Localización Exacta del Derrame:

Fuente del Daño: (por ejemplo: rotura de tubería, válvula se tapó, etc.)

¿Contenido? Sí No Métodos de contención utilizados:

¿Se contrató personal externo? Sí No

Si contestó sí a la pregunta anterior, mencione compañía y persona contacto:

Condiciones del tiempo:

Condiciones del suelo:

Información relevante que deba ser notificada

El derrame fue mayor que cinco (5) galones: Sí No

¿Entró en el sistema pluvial? Sí No

¿Entró en el sistema sanitario? Sí No

Si contesto sí a cualquiera de las preguntas arriba mencionada, notifique a la Oficina de Asuntos Ambientales para coordinar un Análisis del evento. Asegúrese que el Ingeniero designado sea notificado.

Firma: _____

Fecha: _____

Nota:

Se debe presentar un informe escrito (correo certificado, se requiere acuse de recibo) dentro de los 15 días posteriores a la liberación a las siguientes agencias y a cualquier agencia mencionada anteriormente que pueda tener jurisdicción sobre la liberación.

- a. Agencia de Protección Ambiental – División Nueva York
- b. Departamento de Recursos Naturales y Ambientales
- c. Departamento de Conservación de Edificios (Municipio Autónomo de Caguas)

Parte B
Lista de Cotejo para Inspecciones
 ____ Mensual ____ Anual

1. Descripción de los Equipos (tanques, drones, etc.)

 2. Comentarios: _____
 3. Capacidad del tanque: _____
- | | SI | NO |
|--|--------------------------|--------------------------|
| 4. ¿El contenedor tiene liqueos? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. ¿Hay liqueos en las tuberías y conexiones? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. ¿Hay liqueos en la manguera de transferencia? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. ¿Hay manchas en los exteriores de las paredes de contención, tanques, drones? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. ¿Hay indicaciones de corrosión en las juntas o sellos? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. ¿Hay indicaciones de derrames en las estructuras autocontenidas? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. ¿El tanque tiene rayaduras o abolladuras? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. ¿Existen roturas en los soportes? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. ¿Los rótulos están en buen estado?
¿Se encuentran legibles? | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. ¿Los equipos que contienen aceite y/o diésel están susceptibles a daño físico por parte de automóviles, objetos, etc.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. Si ocurriese un evento de lluvia, el sistema secundario ¿contendrá la misma lo suficiente para evitar derrame? | <input type="checkbox"/> | <input type="checkbox"/> |

Comentarios generales (incluya comentarios, recomendaciones, procedimientos)

Si contestó "sí" a alguna pregunta del 4 al 14 y/o contestó "no" en el inciso 14, una acción correctiva debe ser tomada. Describa la acción tomada.

Firma

Fecha

*Envíe copia a la Oficina de Asuntos Ambientales

Lista de verificación de inspección de tanques (Guía)

Contenedores y Tuberías

1. **Revise los tanques o contenedores para ver si hay fugas, buscando específicamente:**
 - (a) Marcas de goteo
 - (b) Decoloración en el tanque
 - (c) Charcos que contiene material derramado
 - (d) Corrosión
 - f) Grietas
 - g) Localización de vegetación muerta
 - h) Espacios entre el contenedor y la base

2. **Revisa la base para:**
 - (a) Grietas
 - (b) Descoloramiento
 - (c) Charcos que contienen material derramado o filtrado
 - (d) Asentamiento
 - (e) Espacios entre el tanque y la base
 - (f) Daños causados por las raíces de la vegetación

3. **Revise las tuberías para:**
 - a. Gotitas de material almacenado
 - b. Descoloramiento
 - c. Corrosión
 - d. Arqueamiento de tubería entre soportes
 - e. Evidencia de filtración de material almacenado de válvulas o sellos de válvulas o sellos
 - f. Localización de vegetación muerta

Lista de verificación de inspección de contención secundaria

1. Sistema de diques o bermas

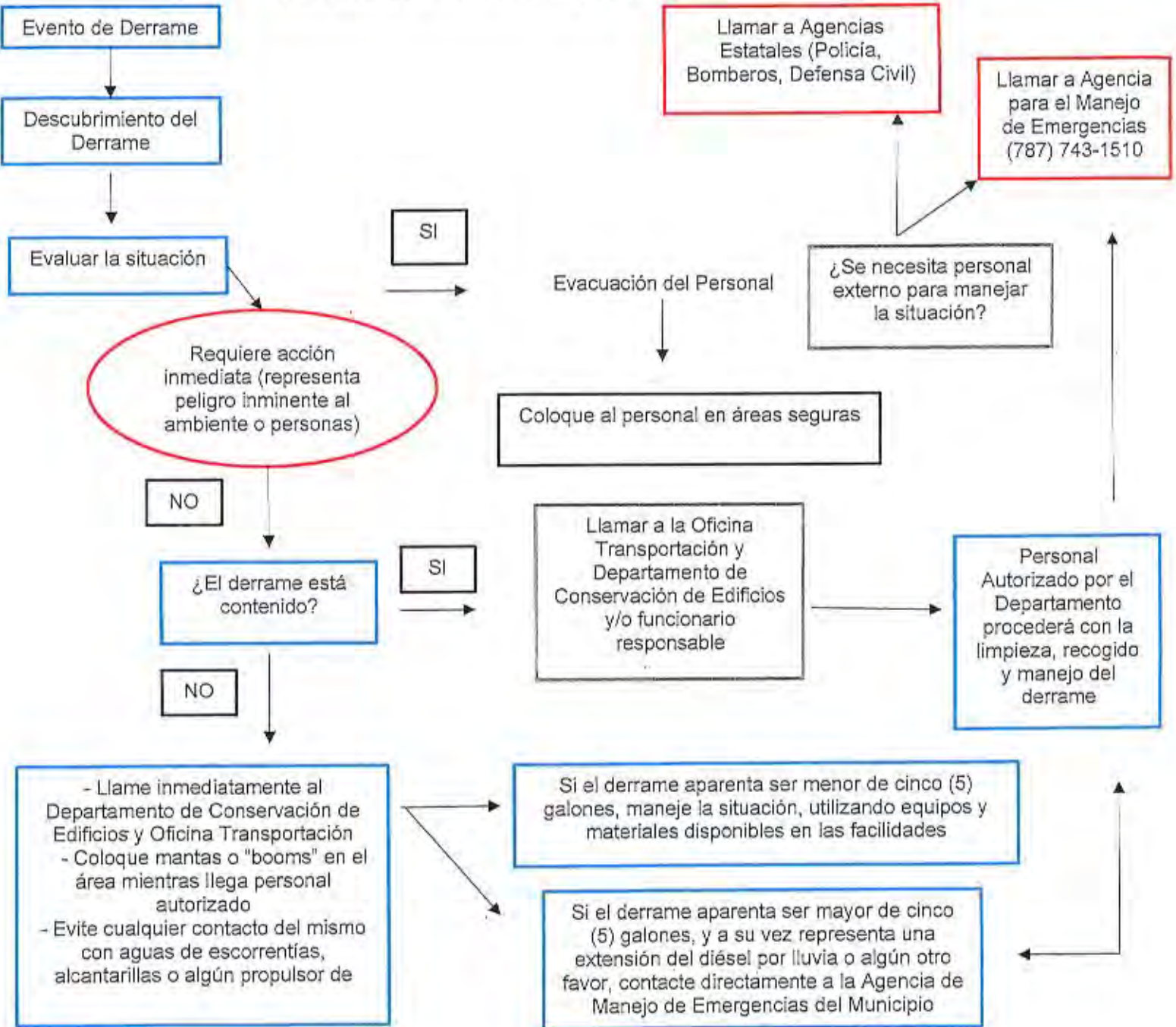
- a. Nivel de precipitación en dique/capacidad disponible
- b. Estado operativo de las válvulas de drenaje
- c. Estado operativo de las válvulas de drenaje
- d. Escombros
- e. Erosión
- f. Permeabilidad del piso de tierra del área del dique
- g. Ubicación/estado de tuberías, entradas, drenaje debajo de los tanques

2. Contención secundaria

- a. Grietas
- b. Descoloramiento
- c. Presencia de material derramado o filtrado (líquido estancado)
- d. Corrosión
- e. Condiciones de la válvula

APÉNDICE III
FLUJOGRAMA DE RESPUESTA EN CASO DE DERRAMES

Flujograma de Respuesta a Emergencia Caso de Derrame Diésel y Gasolina Secretaría de Infraestructura, Ornato y Conservación (SIOC)

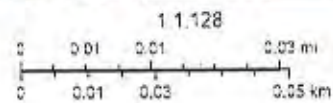


APÉNDICE IV
MAPA ESQUEMÁTICO DE LA FACILIDAD
(INCLUYE FUENTES DE ACEITE Y/O DERIVADOS)

Foto Aérea SPCC Nueva Alcaldía, Bo. Pueblo,
Municipio Autónomo de Caguas



July 14, 2023

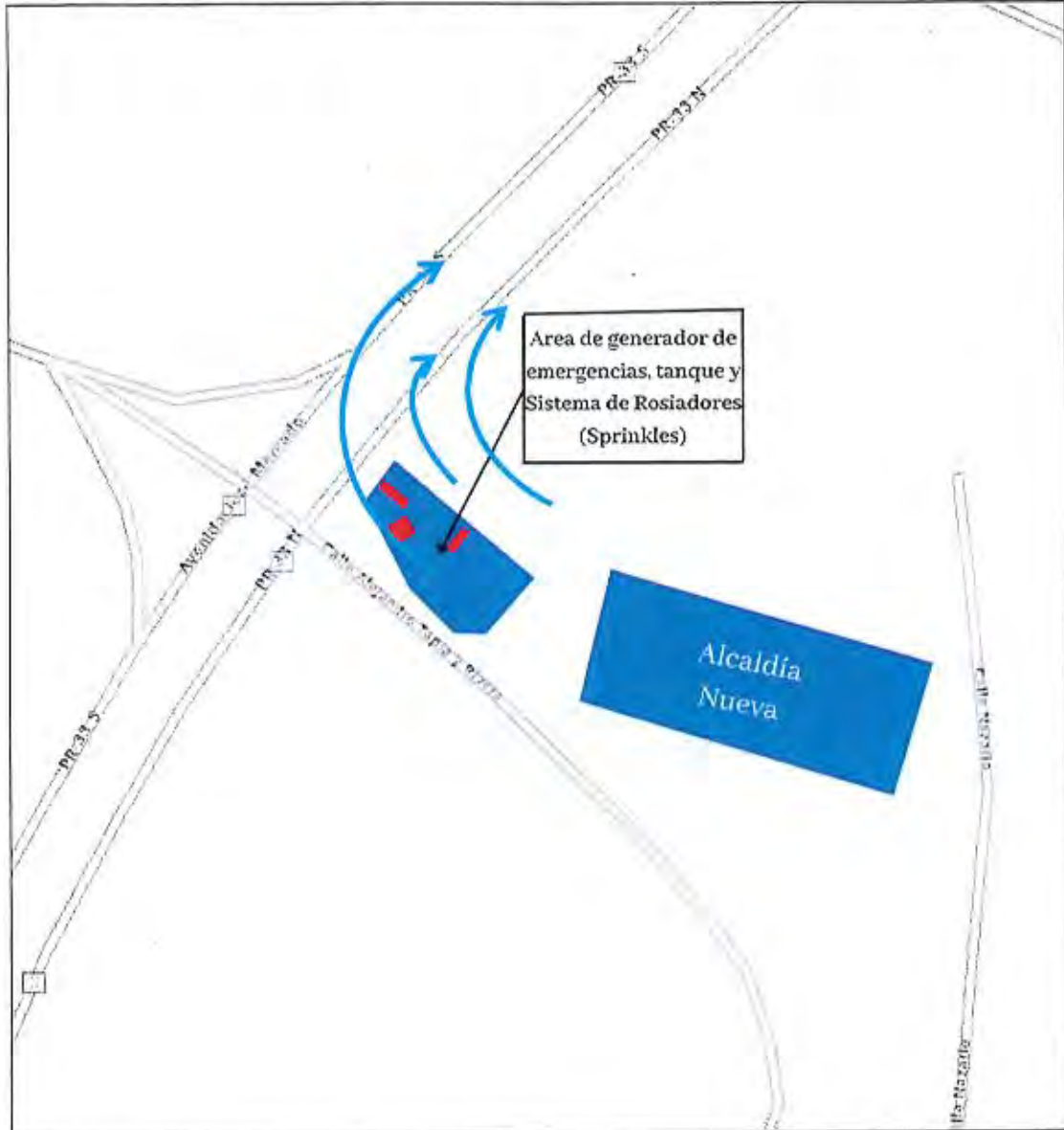


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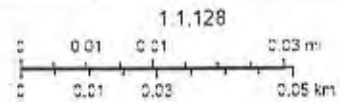
Source: ESRI, DeLorme, Earthstar Geographics, and the GIS User Community, EPA, DEIR, DPA

**APÉNDICE V
FLUJO DEL DRENAJE EN EL ÁREA**

Flujo del drenaje en el área SPCC Nueva Alcaldía, Bo. Pueblo, Municipio Autónomo de Caguas



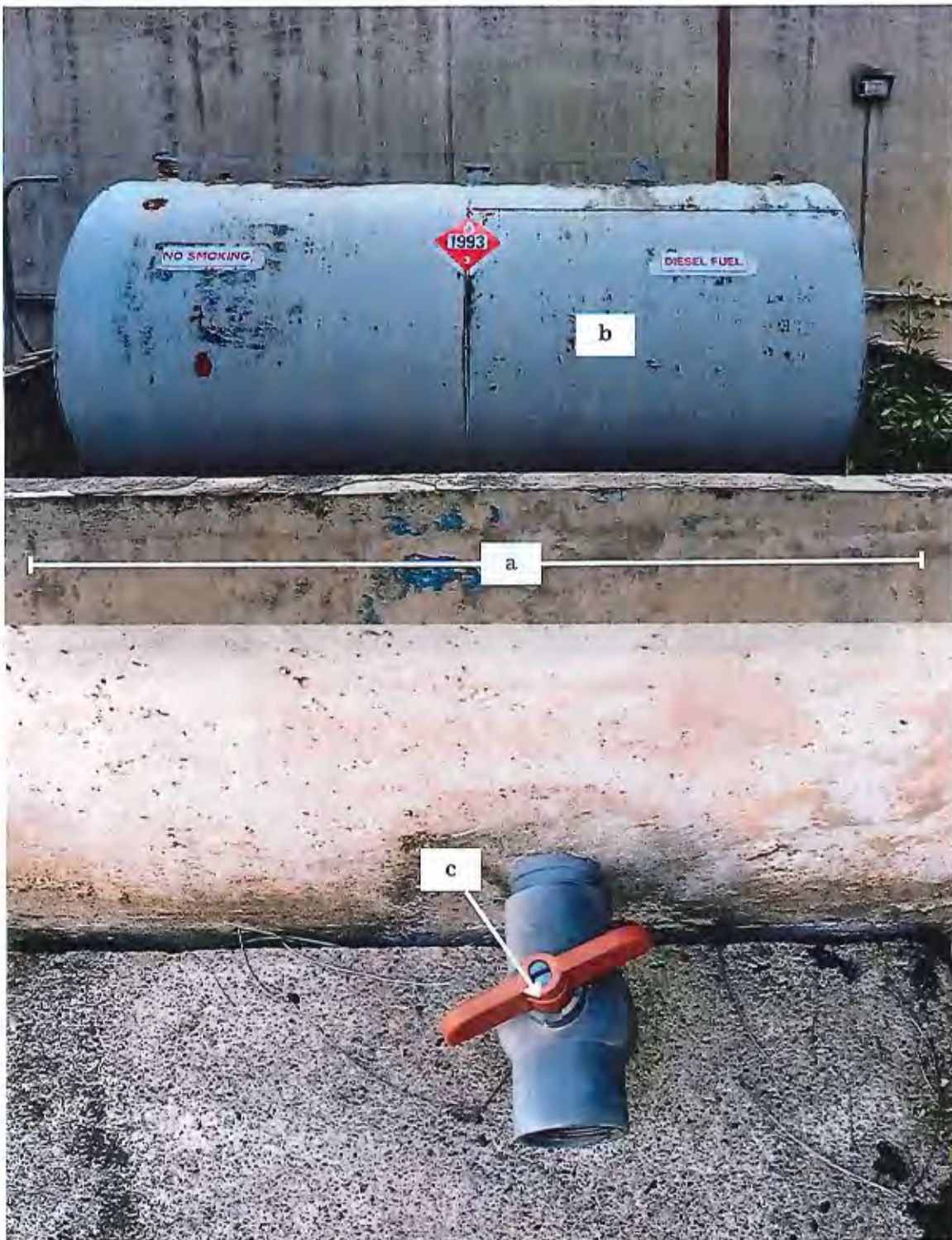
July 14, 2023



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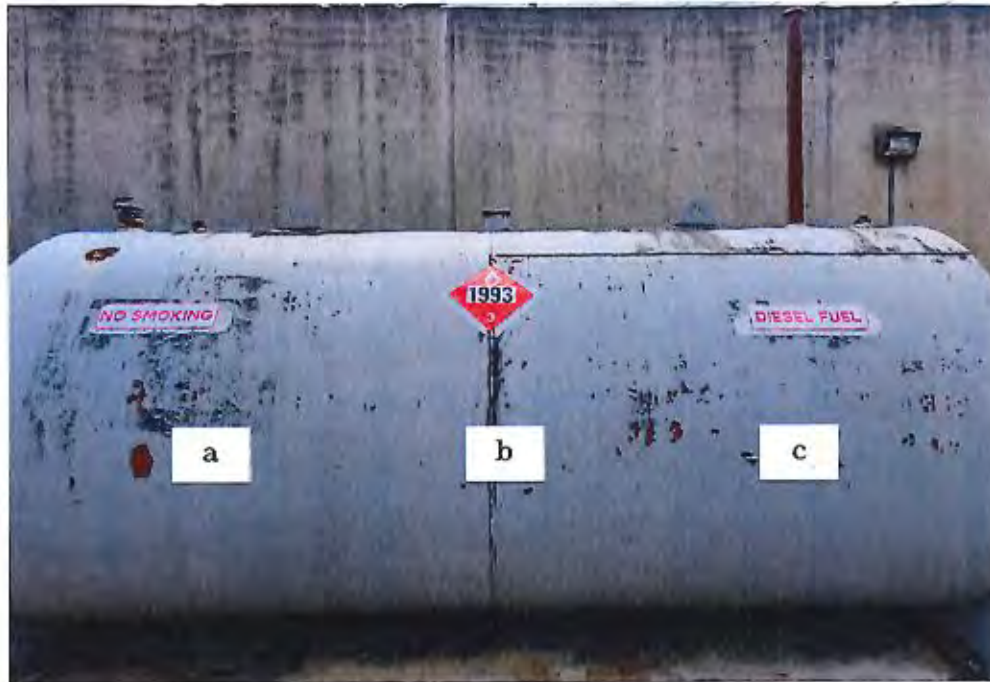
APÉNDICE VI
FOTOS DE LA FACILIDAD



a) Dique que evita derrames de diésel.
b) Tanque sobre terreno de diésel de 2,000 galones.

c) Válvula cerrada ubicado en el dique del tanque de superficie de los 2,000 galones.

Rótulos de los tanques de diésel



a

NO SMOKING

b



c

DIESEL FUEL



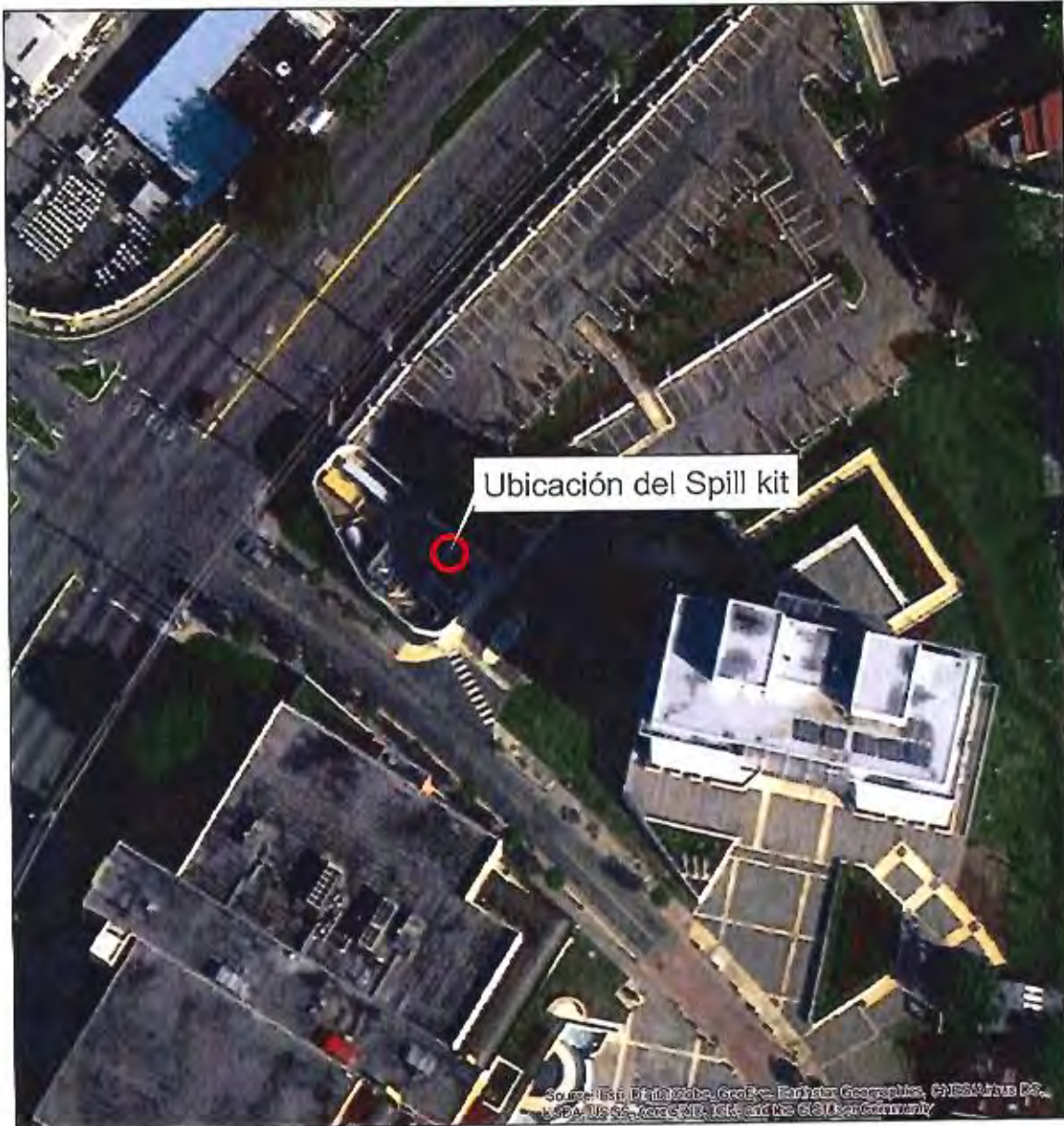
a) Dique que evita derrames de diésel.
b) Tanque sobre terreno de diésel de 250 galones.
c) Válvula ubicada en el dique del tanque aéreo de 250 galones.



a y b) Generador de emergencia con tanque autocontenido de 500 galones.

APÉNDICE VII
MAPA UBICACIÓN DE LOS MATERIALES PARA CONTENCIÓN
DE DERRAMES MENORES (SPILL KIT)

**Ubicación del Spill kit
SPCC Alcaldía Nueva
Barrio Pueblo, Municipio Autónomo de Caguas**

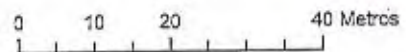


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Oficina de Asuntos Ambientales
Municipio Autónomo de Caguas
Fecha: 3/14/2018



1:730



Leyenda

APENDICE VIII
CONTRATOS DE MANTENIMIENTO DE TANQUES Y GENERADORES

A. Contrato de Servicios de Mantenimiento 2024-000277



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

2024-000277

DEPARTAMENTO DE CONSERVACIÓN DE EDIFICIOS
Y ESTRUCTURAS MUNICIPALES

REGISTRADO
MUNICIPIO AUTÓNOMO DE CAGUAS
JUL 3 8 2023
SECRETARÍA MUNICIPAL

CONTRATO SERVICIOS MANTENIMIENTO

COMPARECEN

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

DE LA SEGUNDA PARTE: JAVIER LUIS CARRILLO RAMOS / DBA EMPRESAS CARRILLO, Comerciante, 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:

[Handwritten signatures and initials]

EXPONEN

PRIMERO El 8 de diciembre de 2022, "EL MUNICIPIO" adjudicó a "EL CONTRATADO", la Subasta Informal CE-2023-003: "MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA WMM".

SEGUNDO: "EL MUNICIPIO" en virtud del artículo 1.018 (f) y el Capítulo V - sobre Adquisición de Equipos, Suministros y Servicios del Código Municipal de Puerto Rico, Ley Núm.107 del 14 de agosto de 2020, según enmendado y en conformidad con la adjudicación efectuada en la mencionada subasta formal, "EL MUNICIPIO" contrata a "EL CONTRATADO" sujeto a las siguientes:

SEBASTA INFORMAL CEGUAS MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA WMM.

CLÁUSULAS Y CONDICIONES

PRIMERA: "EL CONTRATADO" brindará el Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM para el Departamento de Conservación de Edificios y Estructuras Municipales, según propuesta sometida (ANEJO A) por "EL CONTRATADO". "EL CONTRATADO" se compromete a brindar los servicios o trabajos contratados según indicado y acordado en la solicitud de propuesta, documentos, minuta de pre-subasta y especificaciones (generales y especiales), si aplica de la subasta".

SEGUNDA: "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. MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA WMM.

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El servicio de mantenimiento de los 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 enfría. 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 con el tiempo de servicio.



SUBASTA PÚBLICA DE LICITACIÓN: MANTENIMIENTO DE GENERADORRES DE ENERGÍA Y TANQUES DE BOMBEO EN EL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA, VPMB.

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 conlleva 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" debe tener un mecánico Diesel certificado para el mantenimiento de estos equipos y al momento de prestar el servicio 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 prestación del servicio tiene que entregar esta certificación vigente.
22. "EL CONTRATADO" deberá someter todo tipo de licencias y certificaciones necesarias de sus empleados, estos deben de poseer licencias en la especialidad requerida, para realizar los trabajos necesarios al momento de someter las propuestas y serán considerados al momento de la adjudicación.
23. "EL CONTRATADO" no tendrá contratos adicionales con "EL MUNICIPIO" que utilice el mismo personal para el servicio.
24. También solicitamos que en las hojas de servicio y en las facturaciones debe de estar el nombre del técnico leible, en letra de molde y su firma. Esto nos brinda la oportunidad de conocer quien realizó el servicio.
25. "EL CONTRATADO" debe tener personal uniformado e identificado con el logo de la compañía.

SUBASTA INFORMAL DE SERVICIOS DE MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL (EFICAZAMIENTO)
CENTRO DE GOBIERNO CASA ALCALDÍA WHP.

26. "EL CONTRATADO" deberá entregar un listado de deficiencias antes del cumplimiento de los primeros diez días de contrato.
27. La tarifa mensual de mantenimiento incluye el reemplazo de pieza eléctrica o mecánica para mantener los sistemas en óptimas condiciones hasta un máximo de \$750.00 por mes de servicio. A partir de ese precio, "EL MUNICIPIO" pagará la diferencia en el costo de las piezas sin instalación por mes de servicio. Se evidenciará con factura del sitio de compra del componente e informe firmado por un representante autorizado de "EL MUNICIPIO" de la labor realizada, de ser requerido por "EL MUNICIPIO". Cuando el total de la pieza exceda los \$750.00 el suplidor presentará una justificación de la necesidad de las reparaciones para que "EL MUNICIPIO" la evalúe. De estar de acuerdo el Municipio, pagará la diferencia del exceso de los \$750.00.
28. "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.
29. "EL CONTRATADO" tiene que mantener en sitio una bitácora de visitas y horas de uso de cada generador.
30. "EL CONTRATADO" será responsable de cubrir los costos de mano de obra de reparaciones por vandalismo.
31. "EL CONTRATADO" proveerá todos los equipos y herramientas necesarias para realizar el mantenimiento.
32. 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.
33. La coordinación e itinerario de proyecto, será discutido con antelación a la ejecución. No se comenzarán los trabajos sin realizar dicha coordinación.
34. A petición de "EL MUNICIPIO" y previo al aviso de tormenta, huracán o evento atmosférico se revisarán todos los generadores de energía.
35. 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 en siete días.
36. "EL CONTRATADO" tiene que entregar una hoja de servicio con nombre en letra de molde por el técnico y por un representante de "EL MUNICIPIO", y firmada por ambos, por cada una de las visitas de mantenimiento y en la cual tiene que incluir los trabajos realizados.

CLASIFICACION GENERAL: MANTENIMIENTO DE GENERADORES DE ENERGIA Y TANQUES DE DIESEL ESTACIONAMENTO CENTRO DE GOBIERNO, CASA ALCALDIA WINDI.

B. GENERADORES LOCALIZADOS EN LAS SIGUIENTES DEPENDENCIAS MUNICIPALES:

GENERADORES	COSTO MENSUAL
1. Comandancia Municipal	\$200.00
Onan	
Cummins Power Generation	
Modelo GA-4961536	
125 KW, 156 KVA, 120/208 V, 433.9 A	
2. Secretaria de Infraestructura, Ornato y Conservación	\$200.00
Sumford	
Cummins QSB7-G5	
Modelo: GS-200	
200 KW, 250 KVA	
3. Generador Movible Según Necesidad (Stand By) - Taller SIOC	\$200.00
Kohler Power System	
John Deere Engine	
40 KW, 50 KVA, 120/208 V, 139 A	
4. OMME y Emergencia Médicas	\$200.00
Onan Quite Site II	
Modelo DGB-S377439	
120/208 Volts 35 KW	
5. Planta de Tratamiento - SIOC	\$200.00
SS Lima - John Deere	
Modelo 7962050	
30 KW	
6. Centro De Gobierno	\$800.00
RK Power,	
Modelo ASRA 800	
800 KW, 1800 ARPM	
7. Nueva Casa Alcaldía	\$800.00
Caterpillar	
750 KW, 120/208 V,	

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PLIEGOS DE PRECATORIO PARA LA ADQUISICIÓN DE GENERADOR PRES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO
CENTRO DE GOBIERNO, CASA ALCALDÍA WMM

8. Empresas Emergentes en Valle Tolima	\$200.00
Paramac	
110 KW, 120/208 V	
9. Departamento de Conservación de Edificios	\$200.00
Caterpillar	
125 KW, 120/208 V,	
10. Centro de Gobierno - Area Tecnología	\$200.00
100 KW	
11. Biblioteca Electrónica, Bairro	\$200.00
RK Power	
60 KW, 120/208V	
12. Complejo Recreo Deportivo del Este	\$200.00
RK Power	
Modelo: KAT 20	
20 KW, 277/480 VAC	
13. Edificio Lincoln	\$800.00
750KW	
14. Estadio Yldefonso Solá Morales	\$250.00
Marca - KOHLER	
Modelo - 250REOZJE	
KW 250	
Voltaje 120/208	
15. Casa del Trovador	\$175.00
Marca - RK Power	
Modelo - PDF12	
KW 12	
Voltaje 120/240	
TANQUES DE DIESEL	
1. Estacionamiento Centro de Gobierno	\$150.00
Tanque de Diesel de 6,000 galones	
2. Estacionamiento de la Casa Alcaldía WMM	\$150.00
Tanque de Diesel de 2,000 galones	
3. Estacionamiento Edificio Lincoln Center	\$150.00
Tanque de Diesel de 4,000 galones	
TOTAL	\$5,275.00

SUBJETA INFORMAL ORDENES MANTENIMIENTO DE GENERADORA DE ENERGIA Y TROQUELES DIESEL, ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALEA V1007.

TERCERA: VIGENCIA: Este contrato tendrá una vigencia seis (6) meses que comenzará desde el 1 de julio de 2023 hasta el 31 de diciembre de 2023. -----

CUARTA: FORMA DE PAGO, EL MUNICIPIO se compromete a pagar a "EL CONTRATADO" por los servicios prestados, una cuantía de \$5,275.00 mensuales, para una cuantía máxima total de \$31,650.00 durante la vigencia del contrato. Esta cantidad será desembolsada a favor de "EL CONTRATADO" previa presentación de facturas de los trabajos realizados por "EL CONTRATADO", evidencia que los trabajos fueron realizados por profesionales debidamente licenciados cuyas credenciales están vigentes y de la correspondiente aprobación de las mismas por "EL MUNICIPIO". -----

QUINTA: PARTIDA PRESUPUESTARIA. El pago de estos servicios se efectuarán con cargo a la siguiente partida presupuestaria: -----

001-14147-38-9464000-0000000

Mantenimiento de Edificios

(Ingresos Propios)

MJ
MJ

SEXTA: FACTURACION Y PAGO: "EL CONTRATADO" debe someter factura detallada que incluyan las hojas de servicio, el nombre del técnico que brindó el servicio leible en letra de molde y por un representante de "EL MUNICIPIO", firmada por ambos, por cada una de las visitas de mantenimiento y en la cual tiene que incluir los trabajos realizados y del servicio prestado requerir un profesional licenciado (Ej. Perito Electricista, Mecánico Diesel) deberá acompañar copia vigente de la licencia expedida para el ejercicio de la profesión. Deberán a su vez incluir el costo unitario por cada generador. Además, "EL CONTRATADO" se compromete, a tenor con el Código Anticorrupción para un Nuevo Puerto Rico, de la Ley Núm. 2 del 4 de enero de 2018, a incluir en todas las facturas la siguiente certificación: -----

"Bajo pena de nulidad absoluta certifico que ningún servidor de "EL 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 no sido pagados". -----

MEMORIA INFORMAL COORDINERÍA DEPARTAMENTO DE GENERACIÓN DE ENERGÍA Y TANQUES DE DIESEL SITIO CAGUAS MUNICIPIO
CENTRO DE GOBIERNO, CASA ALCALDÍA, V.M.C.T.

A. "EL MUNICIPIO" no pagará ninguna factura que no contenga la certificación según dispone la cláusula anterior y que se acompañen las evidencias de que los profesionales a cargo de la prestación del servicio cuentan con sus licencias al día. _____

B. 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. _____

C. "EL CONTRATADO" presentará evidencia de sus técnicos y de ayudantes, que se encargará de realizar el mantenimiento, además, presentar que sus licencias y que su colegiación está al día y/o vigente durante la prestación de cada servicio. _____

D. "EL CONTRATADO" deberá someter todo tipo de licencias y certificaciones necesarias de sus empleados, estos deben de poseer licencias vigentes en la especialidad requerida, para realizar los trabajos. _____

E. "EL CONTRATADO" presentará mensualmente facturas o informes detallados específicos y desglosados de los servicios prestados donde se incluya entre otras cosas: _____

- (1) fecha de servicio,
- (2) Departamento o dependencia municipal donde se prestó el servicio,
- (3) descripción de la labor realizada,
- (4) nombre legible, firma y número de licencia del técnico y evidencia de que la licencia de cada técnico que presta el servicio está al día al momento de la prestación del servicio.
- (5) marca, modelo y serie del equipo al que se dio mantenimiento,
- (6) cantidad de generadores a los que se les dio mantenimiento, (7) nombre legible y firma del funcionario municipal autorizado en la dependencia donde se prestó el servicio. "EL CONTRATADO" está obligado a indicar en sus facturas la cantidad de horas que quedan disponibles para trabajar, tomando en consideración la cantidad máxima de horas a trabajarse en el presente contrato. _____

SUBJETA INFORMAL CENEMASU MANTENIMIENTO DE COMEDORES DE OFICIA Y TANQUES DE BARRA ESTACIONAMIENTO CENTRO DE GOBIERNO CASA ESCALERA WINDY.

F. "EL MUNICIPIO" no efectuará pagos por servicios prestados por técnicos cuyas licencias estén vencidas al momento de la prestación del servicio o que no posean licencias requeridas para llevar a cabo los servicios de este contrato. _____

SÉPTIMA: 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. _____

Se hacen formar parte del contrato los siguientes documentos, los cuales son requeridos por ley para la contratación con el gobierno: _____

- 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 6096)
- E. Copia del Certificado de Registro de Comerciantes (Modelo SC 2918)
- F. Certificación Deuda por Todos los Conceptos (Propiedad Mueble e Inmueble) (CRIM)
- G. 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.

PLANTA INFORMAL DE CUIDADO, MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DESECHO ESTACIONAMIENTO
CENTRO DE CUIDADO CASA AL CALDIA 19001.

- H. Certificación de Registro como Patrono y de Deuda por Concepto de Seguro por Desempleo y por Incapacidad.
- I. 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).
- J. Recibo de Pago o Copia de Patente Municipal o Carta Autorizando Descuento. (Caguas)
- K. Póliza del Fondo del Seguro del Estado.
- L. Certificado de Seguro de Responsabilidad Pública incluyendo el "Hold Harmless Agreement". *Hold Harmless Agreement, 60 days cancellation notice, waiver of subrogation, primary insurance endorsement y Employer's liability.*
- M. Fianza de Ejecución y Pago. *Performance and Payment Bond.*
- N. Declaración Jurada de la Ley Número 2 del 4 de enero de 2018, *Código Anticorrupción para un Nuevo Puerto Rico.*

Ⓞ Propuesta

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OCTAVA: 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. _____

NOVENA: Toda póliza deberá estar debidamente endosada para incluir como parte coasegurada a "EL MUNICIPIO". _____

DÉCIMA: "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. _____



SUBALTA FEDERAL, CATEGORÍA MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL, ESTACIONAMIENTO
CENTRO DE GOBIERNO, CASA ALCALDÍA WPM.

DÉCIMA PRIMERA: "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 SEGUNDA: "EL CONTRATADO" se compromete a notificar inmediatamente a "EL MUNICIPIO" en caso de incurrir en deudas por dicho concepto. _____

DÉCIMA TERCERA: "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 CUARTA: "EL CONTRATADO" certifica que conoce las normas éticas de su profesión y asume la responsabilidad de sus acciones. _____

DÉCIMA QUINTA: "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 SEXTA: "EL CONTRATADO" certifica que no tiene pleitos ni litigios pendientes contra "EL MUNICIPIO". _____

DÉCIMA SÉPTIMA: CONFLICTO DE INTERÉS: _____

A. "EL CONTRATADO" certifica que ningún(a) servidor(a) público(a) de "EL MUNICIPIO" tiene interés pecuniario en este contrato, compra o transacción,

ENCUESTA INFORMAL SOBRE EL MANTENIMIENTO DE CENTROS PRESENCIALES Y TANQUES DE SERVICIO ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA VOTIV.

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. _____

F. "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", según lo dispone la Carta Circular núm. 95-05 del 31 de julio de 1995 emitida por la Oficina de Ética Gubernamental. _____

G. "EL CONTRATADO" entiende y reconoce que, como parte esencial de los servicios contratados, este certifica con la firma del contrato que no ha tenido ni tiene litigios en proceso contra alguna agencia del Gobierno del Estado Libre Asociado de Puerto Rico o contra "EL MUNICIPIO". _____

Subasta Informal C030-18-1: Mantenimiento de Generadores de Energía y Tanques de Diesel en el Edificio del Centro de Gobierno, Casa Alcaldía #1111.

DÉCIMA OCTAVA: "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 NOVENA: SUBCONTRATADOS, "EL CONTRATADO" será responsable ante "EL MUNICIPIO" de cualquier labor realizada por un subcontratado en este contrato y será responsable de "EL CONTRATADO" de pagar el trabajo al subcontratado. —

VIGÉSIMA: "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 PRIMERA: "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 efectuará retenciones por este concepto. —

VIGÉSIMA SEGUNDA: "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 TERCERA: CLÁUSULAS DE CANCELACIÓN: —

"EL MUNICIPIO" a su entera discreción y por cualquier motivo, podrá dar por terminado el Contrato mediante notificación escrita a "EL 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 —

SUBCARTA INFORMAL CREACIÓN Y MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TAPONES DE DIESEL ESTACIONAMIENTO
CENTRO DE GOBIERNO CASA ALCALDÍA YOHMI

- 2) "EL CONTRATADO" incurra en incumplimiento, negligencia o abandono de deberes o conducta impropia relacionada con el presente contrato o, si a juicio único de "EL MUNICIPIO" 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. _____
- 4) Si "EL CONTRATADO" refuses aceptar cualquier condición o cambio a fin de este contrato. _____
- 5) En caso de un evento de fuerza mayor cualquiera de las partes podrá dar por terminado el contrato, suspendiendo así las obligaciones contraídas. A la terminación del contrato por fuerza mayor, cada parte será responsable de los costos y gastos en que haya incurrido o que se deriven de tal acción. Se entenderá por Fuerza Mayor cualquier evento más allá del control de las partes, de naturaleza impredecible e inevitable que impida que el Municipio o el Contratista cumpla alguna o todas las obligaciones dispuestas en el contrato. Se consideran casos de fuerza mayor aquellos que habitualmente se reconocen como tales por la jurisprudencia de los tribunales de Puerto Rico.
- 6) Ninguna parte se considerará responsable con respecto a la otra en caso de incumplimiento de las obligaciones derivado de un caso de fuerza mayor. —

"EL MUNICIPIO" le pagará a "EL 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 a "EL MUNICIPIO" de tal gestión. _____

VIGÉSIMA CUARTA: "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



PLANTA (FORMAL DE USUARIO) MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE RESERVA DEL ESTACIONAMIENTO
CENTRO DE GOBIERNO, CASA ALCALDÍA "3000"

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 QUINTA: RELEVO DE RESPONSABILIDAD: "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: _____

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- 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 _____

SUBASTA INFORMAL DE SERVICIOS DE MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE RESPALDO DE ESTACIONAMIENTO
CENTRO DE GOBIERNO, CABA ALCALEDA WYOT.

- 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 SEXTA: CLÁUSULAS Y CONDICIONES ADICIONALES: —

- 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.

Subasta Informal Cesión del Mantenimiento de Generadores de Energía y Tanques de Resaca Estacionamiento
Centro de Gobierno, Casa Alcaldía WDM.

- 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 encansar querelias. _____
- 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 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. _____

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PLAZA EMPORIAL DE SERVICIOS MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO
CENTRO DE GOBIERNO CASA ALCALDÍA WAIMO.

g. 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.

h. Si cualquier palabra, frase, oración, inciso, sub sección, sección, cláusula, 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, cláusula, tópico o parte así declarada y la nulidad o invalidez de cualquier palabra, frase, oración, inciso, sub sección, sección, cláusula, 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.

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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 SÉPTIMA: "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".

VIGÉSIMA OCTAVA: De "EL MUNICIPIO" autorizar la subcontratación, "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.

PLANTA MUNICIPAL, SERVICIO DE MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE ENRIEL ESTACIONAMIENTO
CENTRO DE GOBIERNO, CASA ALCALDIA YOM.

VIGÉSIMA NOVENA: 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: 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 PRIMERA: ENCABEZADOS DE LAS CLÁUSULAS, 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. -----

TRIGÉSIMA SEGUNDA: PERIODO DE VEDA ELECTORAL - "EL CONTRATADO" certifica que ha sido informado sobre el periodo de veda electoral que comienza el primero (1ro) de enero de 2024 y transcurre hasta que se haya completado el escrutinio general de esta y se hayan certificado sus resultados oficiales y finales. Por disposición de la Ley para la Fiscalización del Financiamiento de Campañas Políticas en Puerto Rico, Ley Núm. 222 de 2011, según enmendada, la veda electoral le aplica a "EL MUNICIPIO". Durante dicho periodo, y mientras esté vigente este contrato, "EL CONTRATADO" no publicará sin el consentimiento de la Oficina de Comunicaciones de "EL MUNICIPIO", anuncios, promociones o cualquier otro tipo de publicación que contengan el nombre y/o fotografías del Primer Ejecutivo Municipal, así como el logo, nombre, programas, logros, realizaciones, proyecciones, planes y/o proyectos de "EL MUNICIPIO". Esta cláusula se hace formar parte de este contrato para garantizar el cumplimiento con la Ley y el *Reglamento para la fiscalización de gastos de difusión pública*. Cualquier violación a esta cláusula podría conllevar el pago de multas y/o la radicación de cargos criminales, según establecidas en la Ley y el Reglamento; y dará lugar a que "EL MUNICIPIO" pueda reclamar, de cualquier forma, a "EL CONTRATADO" por cualquier gasto(s) en que éste incurra por dicha violación, y dé por terminado este contrato. -----

SUBASTA PÚBLICA DE SERVICIOS: MANTENIMIENTO DE GENERADORAS DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA AL DABA RIA WINDC.

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 Julio de 2023.

"EL MUNICIPIO"

Ada Belén Caballero Miranda
ADA BELÉN CABALLERO MIRANDA
NSSP: 660-43-3568
SECRETARÍA
SECRETARÍA DE INFRAESTRUCTURA,
ORNATO Y CONSERVACIÓN

MA

RECOMENDADO POR:

Maria L. Díaz Rivera
MARIA L. DÍAZ RIVERA
DIRECTORA INTERINA
DEPARTAMENTO DE CONSERVACIÓN
DE EDIFICIOS Y ESTRUCTURAS
MUNICIPALES

web: www.municipalidaddeaguas.com

"EL CONTRATADO"

Javier Luis Carrillo Ramos
JAVIER LUIS CARRILLO RAMOS
NSSP: 582-29-2036
DBA EMPRESAS CARRILLO

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

787-531-7972
TELÉFONO

javier798@gmail.com
carrillo798@gmail.com
CORREO ELECTRÓNICO



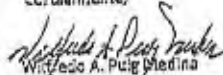
8 de diciembre de 2022

Javier L. Carrillo DBA Empresas Carrillo
Urb. San Ignacio 1761 San Alejandro
San Juan, PR 00927

AVISO DE ADJUDICACIÓN
MANTENIMIENTO GENERADORES DE ENERGÍA Y TANQUES DE DIESEL
ESTACIONAMIENTO CENTRO DE GOBIERNO Y CASA ALCALDIA W/MSA

Luego de evaluada la única propuesta y en conformidad con la Ley de Municipios Autónomos de Puerto Rico, se determina adjudicar al único postor Empresas Carrillo, por la cantidad de \$4,650.00 mensual. La misma será por un término de 12 meses, comenzando el 1 de enero de 2023 al 31 de diciembre de 2023.

Cordialmente,


Wilfredo A. Puig Medina
Director
Compras y Subastas



SECRETARÍA DE ADMINISTRACIÓN

IMPRESO EN PUERTO RICO
DISEÑO Y MAQUETADO: JUAN CARLOS
CARRILLO

8 de junio de 2023

Javier Luis Carrillo Ramos
DBA EMPRESAS CARRILLO
Urb. San Ignacio 1751
San Alejandro
San Juan, P.R. 00927

Estimado señor Carrillo:

Subasta Informal CE-2023-003: "Mantenimiento Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno y Casa Alcaldía WMM".

El Municipio Autónomo de Caguas tiene la intención de otorgarle mediante Subasta Informal, el contrato según asunto para el período que cubre desde julio de 2023 hasta el 31 de diciembre de 2023 para el Departamento de Conservación de Edificios, para una cuantía de \$31,650.00, una vez aprobado el presupuesto y de acuerdo a la disponibilidad de los fondos.

Para poder formalizar el contrato es necesario presentar los documentos que se describen en la lista adjunta, no más tarde de cinco (5) días a la fecha de esta comunicación. Además, deberá entregar original y una copia de los documentos solicitados en el Área de Finanzas, División de Contratos de la Secretaría de Infraestructura.


Toda póliza deberá estar endosada para incluir como parte coasegurada al Municipio Autónomo de Caguas.

No comenzará el mantenimiento hasta que el contrato este firmado y registrado en la Oficina del Contralor.

Agradecemos su interés en trabajar para nuestro Municipio. De surgir algún inconveniente, favor de comunicarse con la División de Finanzas del Área de Administración de la Secretaría de Infraestructura, Orzato y Conservación al (787) 653-5400, Ext. 3279 con la Sra. Miriam S Ramos Hernández.

Cordialmente,

María L. Díaz Rivera
Directora Interina
Departamento de Conservación de Edificios
Y Estructuras Municipales

 SECRETARÍA DE INFRAESTRUCTURA,
ORNATO Y CONSERVACIÓN

B. Contrato de Servicios de Mantenimiento 2023-001827



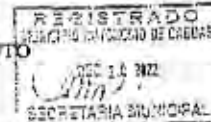
ESTADO LIBRE ASOCIADO DE PUERTO RICO
MUNICIPIO AUTÓNOMO DE CAGUAS
SECRETARÍA DE INFRAESTRUCTURA,
ORNATO Y CONSERVACIÓN

2023-001827

DEPARTAMENTO DE CONSERVACIÓN DE EDIFICIOS
Y ESTRUCTURAS MUNICIPALES

CONTRATO SERVICIOS MANTENIMIENTO

COMPARECEN



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

DE LA SEGUNDA PARTE: JAVIER LUIS CARRILLO RAMOS / DBA EMPRESAS CARRILLO, Empresario, 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 8 de diciembre de 2022, **EL MUNICIPIO** adjudicó a **EL CONTRATADO**, la Subasta Informal CE-2023-003: "MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA WMM".

SEGUNDO: EL MUNICIPIO en virtud del artículo 1.018 (i) y el Capítulo V – sobre Adquisición de Equipos, Suministros y Servicios del Código Municipal de Puerto Rico, Ley Núm.107 del 14 de agosto de 2020, según enmendado 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

PRIMERA: EL CONTRATADO brindará el Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM para el Departamento de Conservación de Edificios y Estructuras Municipales, según propuesta sometida (ANEJO A) por **EL CONTRATADO**. **EL CONTRATADO** se compromete a brindar los servicios o trabajos contratados según indicado y acordado en la solicitud de propuesta, documentos, minuta de presubasta y especificaciones (generales y especiales), si aplica de la subasta".

SEGUNDA: 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:

Subasta Informativa CE-2023-033: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

A. MANTENIMIENTO DE GENERADORES DE ENERGÍA Y TANQUES DE DIESEL ESTACIONAMIENTO CENTRO DE GOBIERNO, CASA ALCALDÍA WMM.

El servicio de mantenimiento de los 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 con el 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 conlleva 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** debe tener un mecánico diesel certificado para el mantenimiento de estos equipos y al momento de prestar el servicio 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 prestación del servicio tiene que entregar esta certificación vigente.
22. **EL CONTRATADO** deberá someter todo tipo de licencias y certificaciones necesarias de sus empleados, estos deben de poseer licencias en la especialidad requerida, para realizar los trabajos necesarios al momento de someter las propuestas y serán considerados al momento de la adjudicación.
23. **EL CONTRATADO** no tendrá contratos adicionales con MAC que utilice el mismo personal para el servicio.



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Subasta Informativa CE-2023-001: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMD".

24. También solicitamos que en las hojas de servicio y en las facturaciones debe de estar el nombre del técnico leible, en letra de molde y su firma. Esto nos brinda la oportunidad de conocer quien realizó el servicio.
25. **EL CONTRATADO** debe tener personal uniformado e identificado con el logo de la compañía.
26. **EL CONTRATADO** deberá entregar un listado de deficiencias antes del cumplimiento de los primeros diez días de contrato.
27. La tarifa mensual de mantenimiento incluye el reemplazo de pieza eléctrica o mecánica para mantener los sistemas en óptimas condiciones hasta un máximo de \$750.00 por mes de servicio. A partir de ese precio, el municipio pagará la diferencia en el costo de las piezas sin instalación por mes de servicio. Se evidenciará con factura del sitio de compra del componente e informe firmado por un representante autorizado del MAC de la labor realizada, de ser requerido por el Municipio Autónomo de Caguas. Cuando el total de la pieza exceda los \$750.00 el suplidor presentará una justificación de la necesidad de las reparaciones para que el Municipio la evalúe. De estar de acuerdo el Municipio, pagará la diferencia del exceso de los \$750.00.
28. **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.
29. **EL CONTRATADO** tiene que mantener en sitio una bitácora de visitas y horas de uso de cada generador.
30. **EL CONTRATADO** será responsable de cubrir los costos de mano de obra de reparaciones por vandalismo.
31. **EL CONTRATADO** proveerá todos los equipos y herramientas necesarias para realizar el mantenimiento.
32. 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.
33. La coordinación e itinerario de proyecto, será discutido con antelación a la ejecución. No se comenzarán los trabajos sin realizar dicha coordinación.
34. A petición del Municipio Autónomo de Caguas y previo al aviso de tormenta, huracán o evento atmosférico se revisarán todos los generadores de energía.
35. 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 en siete días.
36. **EL CONTRATADO** tiene que entregar una hoja de servicio con nombre en letra de molde por el técnico y por un representante del Municipio, y firmada por ambos, por cada una de las visitas de mantenimiento y en la cual tiene que incluir los trabajos realizados.

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LOCALIZACIONES DE GENERADORES Y TANQUES DE DIESEL	COSTO MENSUAL
GENERADORES	
1. Comandancia Municipal	\$200.00
Onan	
Cummins Power Generation	
Modelo GA-4961536	
125 KW, 156 KVA, 120/208 V, 433.9 A	
2. Secretaría de Infraestructura, Ornato y Conservación	\$200.00
Stamford	

Subasta Informativa CE-2023-063: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

Cummins QSB7-G5	
Modelo: GS-200	
200 KW, 250 KVA	
3. Generador Móvil Según Necesidad (Stand By) - Taller SIOC	\$200.00
Kohler Power System	
John Deere Engine	
40 KW, 50 KVA, 120/208 V, 139 A	
4. OMME y Emergencia Médicas	\$200.00
Oran Quite Site II	
Modelo DGB-3377439	
120/208 Volts 35 KW	
5. Planta de Tratamiento - SIOC	\$200.00
SS Lima - John Deere	
Modelo 7962050	
30 KW	
6. Centro De Gobierno	\$800.00
RK Power,	
Modelo ASRA 800	
800 KW, 1800 ARPM	
7. Nueva Casa Alcaldía	\$800.00
Caterpillar	
750 KW, 120/208 V.	
8. Empresas Emergentes en Valle Toíma	\$200.00
Paramac	
110 KW, 120/208 V	
9. Departamento de Conservación de Edificios	\$200.00
Caterpillar	
125 KW, 120/208 V.	
10. Centro de Gobierno - Área Tecnología	\$200.00
100 KW	
11. Biblioteca Electrónica, Bairoa	\$200.00
RK Power	
60 KW, 120/208V	
12. Complejo Recreo Deportivo del Este	\$200.00
RK Power	
Modelo: KAT 20	
20 KW, 277/480 VAC	
13. Edificio Lincoln	\$800.00
750KW	
TANQUES DE DIESEL	
1. Estacionamiento Centro de Gobierno	\$150.00
Tanque de Diesel de 6,000 galones	
2. Estacionamiento de la Casa Alcaldía WMM	\$150.00
Tanque de Diesel de 2,000 galones	
3. Estacionamiento Edificio Lincoln Center	\$150.00
Tanque de Diesel de 4,000 galones	

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Subasta Informal CE-2023-063: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía W3D1".

TOTAL	\$4,850.00
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TERCERA: VIGENCIA: Este contrato tendrá una vigencia seis (6) meses que comenzará desde el 1 de enero de 2023 hasta el 30 de junio de 2023.

CUARTA: FORMA DE PAGO, EL MUNICIPIO se compromete a pagar a **EL CONTRATADO** por los servicios prestados, una cuantía de \$4,850.00 mensuales, para una cuantía máxima total de \$29,100.00 durante la vigencia del contrato. Esta cantidad será desembolsada a favor de **EL CONTRATADO** previa presentación de facturas de los trabajos realizados por **EL CONTRATADO**, evidencia que los trabajos fueron realizados por profesionales debidamente licenciados cuyas credenciales están vigentes y de la correspondiente aprobación de las mismas por **EL MUNICIPIO**.

QUINTA: PARTIDA PRESUPUESTARIA, El pago de estos servicios se efectuarán con cargo a la siguiente partida presupuestaria: 002-14147-38-9464000-0000000 Mantenimiento de Edificios (Ingresos Propios).

SEXTA: FACTURACION Y PAGO: **EL CONTRATADO** debe someter factura detallada que incluyan las hojas de servicio, el nombre del técnico que brindó el servicio legible en letra de molde y por un representante del Municipio, firmada por ambos, por cada una de las visitas de mantenimiento y en la cual tiene que incluir los trabajos realizados y del servicio prestado requerir un profesional licenciado (Ej. Perito Electricista, Mecánico Diesel) deberá acompañar copia vigente de la licencia expedida para el ejercicio de la profesión. Deberán a su vez incluir el costo unitario por cada generador. Además, **EL CONTRATADO** se compromete a tener con el *Código Anticorrupción para su 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".

- A. **EL MUNICIPIO** no pagará ninguna factura que no contenga la certificación según dispone la cláusula anterior y que se acompañen las evidencias de que los profesionales a cargo de la prestación del servicio cuenten con sus licencias al día.
- B. 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.
- C. **EL CONTRATADO** presentará evidencia de sus técnicos y de ayudantes, que se encargará de realizar el mantenimiento, además, presentar que sus

Subtítulo Informativo CE-2023-043: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

licencias y que su colegiación está al día y/o vigente durante la prestación de cada servicio.

D. EL CONTRATADO deberá someter todo tipo de licencias y certificaciones necesarias de sus empleados, estos deben de poseer licencias vigentes en la especialidad requerida, para realizar los trabajos.

E. EL CONTRATADO presentará mensualmente facturas o informes detallados específicos y desglosados de los servicios prestados donde se incluya entre otras cosas:

- (1) fecha de servicio,
- (2) Departamento o dependencia municipal donde se prestó el servicio,
- (3) descripción de la labor realizada,
- (4) nombre legible, firma y número de licencia del técnico y evidencia de que la licencia de cada técnico que presta el servicio esta al día al momento de la prestación del servicio.
- (5) marca, modelo y serie del equipo al que se dio mantenimiento,
- (6) cantidad de generadores a los que se les dio mantenimiento, (7) nombre legible y firma del funcionario municipal autorizado en la dependencia donde se prestó el servicio. EL CONTRATADO está obligado a indicar en sus facturas la cantidad de horas que quedan disponibles para trabajar, tomando en consideración la cantidad máxima de horas a trabajarse en el presente contrato.

F. EL MUNICIPIO no efectuará pagos por servicios prestados por técnicos cuyas licencias estén vencidas al momento de la prestación del servicio o que no posean licencias requeridas para llevar a cabo los servicios de este contrato.

SÉPTIMA: 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.

Se hacen formar parte del contrato los siguientes documentos, los cuales son requeridos por ley para la contratación con el gobierno:

- 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 -JVU (Modelo SC 2942)
- C. Certificación de Deuda (Modelo SC 6096) del Departamento de Hacienda.
- D. Certificación de Deuda del Impuesto sobre Ventas y Uso -JVU (Modelo 6096)
- E. Copia del Certificado de Registro de Comerciantes (Modelo SC 2918)



Subasta Informal CE-2025-003: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMDI".

- 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. Póliza del Fondo del Seguro del Estado.
- M. Certificado de Seguro de Responsabilidad Pública incluyendo el "Held Harmless Agreement".
- N. Fianza de Ejecución y Pago, *Performance and Payment Bond*.
- O. Declaración Jurada de la Ley Número 2 del 4 de enero de 2018, *Código Anticorrupción para un Nuevo Puerto Rico*.
- P. Propuesta

OCTAVA: 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.

NOVENA: Toda póliza deberá estar debidamente endosada para incluir como parte consegurado a **EL MUNICIPIO**.

DÉCIMA: **EL CONTRATADO** o solicitante se compromete, por este medio, a registrarse 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 PRIMERA: **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 SEGUNDA: **EL CONTRATADO** se compromete a notificar inmediatamente a **EL MUNICIPIO** en caso de incurrir en deudas por dicho concepto.

DÉCIMA TERCERA: **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

Subasta (aforosa) CE-2023-005: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WPMF".

representar ni a prestar servicios a parte alguna adversa a los intereses de **EL MUNICIPIO**, mientras dure este contrato.

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

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

DÉCIMA SÉPTIMA: CONFLICTO DE INTERÉS:

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.

DÉCIMA OCTAVA: **EL CONTRATADO** o solicitante se compromete, por este medio, a regirse por las disposiciones establecidas en el *Código de Ética para Contratistas, Provedores 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 NOVENA: **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.

Subasta Informativa CE-2023-003: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

VIGÉSIMA: 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 PRIMERA: 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 efectuará retenciones por este concepto.

VIGÉSIMA SEGUNDA: 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 TERCERA: 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 **MUNICIPIO** 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.
- 4) Si **EL CONTRATADO** rehúsa aceptar cualquier condición o cambio a fin de este contrato.
- 5) En caso de un evento de fuerza mayor cualquiera de las partes podrá dar por terminado el contrato, suspendiendo así las obligaciones contraídas. A la terminación del contrato por fuerza mayor, cada parte será responsable de los costos y gastos en que haya incurrido o que se deriven de tal acción. Se entenderá por Fuerza Mayor cualquier evento más allá del control de las partes, de naturaleza impredecible e inevitable que impida que el Municipio o el Contratista cumpla alguna o todas las obligaciones dispuestas en el contrato. Se consideran casos de fuerza mayor aquellos que habitualmente se reconocerían como tales por la jurisprudencia de los tribunales de Puerto Rico.
- 6) Ninguna parte se considerará responsable con respecto a la otra en caso de incumplimiento de las obligaciones derivado de un caso de fuerza mayor.

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

Subasta Informativa CE-2023-003: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

ulterior, a no ser que su inacción implique conducta profesional inadecuada, en cuyo caso notificará a EL MUNICIPIO de tal gestión.

VIGÉSIMA CUARTA: 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 un orden de cambio, éste deberá estar debidamente justificada y EL CONTRATADO será responsable de proveer la información pertinente y necesaria para documentar el expediente.

VIGÉSIMA QUINTA: RELEVO DE RESPONSABILIDAD: 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. el 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 SEXTA: CLÁUSULAS Y CONDICIONES ADICIONALES:



Subasta Informal CE-2022-002: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

- 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 querrelas.
- 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 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. Los comparecientes toman conocimiento de que no se prestará servicio alguno.

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Subasta Informal CE-2023-003: "Manejiomínimo de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía W2NF".

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.

h. Si cualquier palabra, frase, oración, inciso, sub sección, sección, cláusula, 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, cláusula, tópico o parte así declarada y la nulidad o invalidez de cualquier palabra, frase, oración, inciso, sub sección, sección, cláusula, 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 SÉPTIMA: 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** sea 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**.

VIGÉSIMA OCTAVA: De **EL MUNICIPIO** autorizar la subcontratación, **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.

VIGÉSIMA NOVENA: 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: 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 PRIMERA: 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.



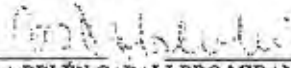
Sesión Informativa CE-2023-003: "Mantenimiento de Generadores de Energía y Tanques de Diesel Estacionamiento Centro de Gobierno, Casa Alcaldía WMM".

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 10 de diciembre de 2022. _____

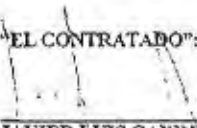
"EL MUNICIPIO":



ADA BELÉN CABALLERO MIRANDA

Secretaría
Secretaría de Infraestructura
Ornato y Conservación

"EL CONTRATADO":



JAVIER LUIS CARRILLO RAMOS

RILLO

RECOMENDADO POR:



MARÍA IVETTE DÍAZ RÍVERA
Directora Interina
Departamento de Conservación de Edificios y
Estructuras Municipales



Servicio revisado diciembre 2022

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ANEJO A

LOCALIZACIONES DE GENERADORES Y TANQUES DE DIESEL	COSTO MENSUAL
GENERADORES	
1. Casapueblo Municipal Ortiz Cummins Power Generation Modelo GA-4861235 126 KW, 126 KVA, 120208 V, 4333 A	150.000,00
2. Secretaría de Infraestructura, Obras y Construcción Santford Cummins Q587-05 Modelo QS-210 210 KW, 210 KVA	200.000,00
3. Generador Móvil según Necesidad (Stand By) - Taller SIOC Kohler Power System John Deere Engine 40 KW, 40 KVA, 120208 V, 138 A	150.000,00
4. OMBE y Emergencia (Módulo) Ortiz: Quba S&E I Modelo DCS-3177439 120008 Voltios 35 KW	175.000,00
5. Planta de Tratamiento - SIOC SS Lima - John Deere Modelo 7550050 31 KW	150.000,00
6. Centro de Gobierno RK Power Modelo ASRA 810 800 KW, 980 A/SPM	800.000,00
7. Nueva Casa Alcaldía Caguas 750 KW, 120208 V	750.000,00
8. Empresas Emergentes en Valle Toiles Parrillas 110 KW, 120216 V	110.000,00
9. Departamento de Conservación de Edificios Caguas 125 KW, 120208 V	125.000,00
10. Centro de Gobierno - Área Tecnología 150 KW	150.000,00
11. Biblioteca Electrónica, Bairoa RK Power 50 KW, 120220 V	50.000,00
12. Colegio Recreo Deportivo del Este RK Power Modelo KAT 20 20 KW, 277480 VAC	20.000,00
13. Edificio Lincoln 150 KW	150.000,00
TANQUES DE DIESEL	
1. Estacionamiento Centro de Gobierno Tanque de Diesel de 6,010 galones	150.000,00
2. Estacionamiento de la Casa Alcaldía WVM Tanque de Diesel de 1,000 galones	125.000,00
3. Estacionamiento Edificio Lincoln Cander Tanque de Diesel de 4,010 galones	150.000,00
TOTAL	5.000.000,00

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C. Contrato de Suplidor 2024-00012



ESTADO LIBRE ASOCIADO DE PUERTO RICO
MUNICIPIO AUTÓNOMO DE CAGUAS
CAGUAS, PUERTO RICO

2024-000012

CAGUAS
MUNICIPIO AUTÓNOMO



CONTRATO DE SUPLIDOR



COMPARECEN

— DE LA PRIMERA PARTE: EL MUNICIPIO AUTÓNOMO DE CAGUAS, representado en este acto por su Secretario de Administración, Víctor Manuel Coriano Reyes, mayor de edad, soltero y vecino de Gurabo, Puerto Rico; en adelante denominada "EL MUNICIPIO".

— DE LA SEGUNDA PARTE: AMERICAN PETROLEUM COMPANY, INC., una corporación con fines de lucro debidamente organizada conforme a las leyes del Estado Libre Asociado de Puerto Rico, con Número de Registro SS090 representada en este acto por su Representante de Ventas, Lizette Díaz Lleras, mayor de edad, casada y vecino(a) de Toa Baja, Puerto Rico; en adelante denominado "SUPLIDOR".

Las partes manifiestan tener la capacidad legal necesaria para otorgar el presente contrato y en tal virtud.

EXPONEN

— EL MUNICIPIO otorga el presente contrato en virtud del Capítulo V del Código Municipal de Puerto Rico, Ley 107 del 14 de agosto de 2020, según enmendado y del Libro de Administración, Compras y Subasta Capítulo 1.

— EL SUPLIDOR con número de Entidad Única System for Award Management (SAM) KV8ZH2KYL9Q6 y cuya empresa no se encuentra en la lista de excluidos para licitar en el Sistema sam.gov según se consta en los anejos que se acompañan, cuenta con la preparación académica y la experiencia necesaria para llevar a cabo los servicios otorgados en este contrato.

— El día 20 de abril de 2023, la Junta de Subastas del Municipio Autónomo de Caguas adjudicó total o parcialmente (según aplique) al "SUPLIDOR" la Subasta Número 2023-042 para la "Adquisición de Combustible".

— Ambas partes manifiestan haber acordado la otorgación de un contrato en base a la adjudicación efectuada en la mencionada subasta, el cual llevan a cabo mediante las siguientes: _____

-----**CLAUSULAS Y CONDICIONES**-----

— PRIMERA: Los renglones de adjudicación de la mencionada subasta a favor del "SUPLIDOR" se detallan en la "Carta de Adjudicación" (*Anejo A*), la cual forma parte integral de este contrato. _____

— SEGUNDA: El "SUPLIDOR", se obliga a entregar al Municipio Autónomo de Caguas los servicios o suministros indicados en la Carta de Adjudicación, en el tiempo y lugar, con la calidad y las especificaciones, y por los precios establecidos en la propia Carta de Adjudicación, en este contrato, en la oferta por motivo de la cual le fue adjudicada la subasta, o en cualquier otro documento suscrito aparte, el cual se anejará a este contrato y también se hace formar parte integral del mismo. -

— TERCERA: El "SUPLIDOR" se obliga a despachar las órdenes de compra de los servicios o suministros inmediatamente sean recibidas para evitar que en algún momento el Municipio carezca de los servicios o productos. De no poder hacerlo así, el "EL MUNICIPIO" podrá comprar los productos ordenados en mercado abierto según mejor convenga a sus intereses. La diferencia en precio, si alguna y cualquier otro gasto en que tenga que incurrir para adquirir los productos, será pagado por el "SUPLIDOR" o reclamada a la compañía aseguradora, a opción del MUNICIPIO. Todos los gastos de acarreo y conducción de los suministros o servicios entregados al Municipio Autónomo de Caguas serán por cuenta del "SUPLIDOR". _____

— CUARTA: El "SUPLIDOR" se obliga a mantener en vigor una fianza de cumplimiento (Performance Bond), a favor de "EL MUNICIPIO" por una cantidad equivalente a \$60.000.00, para garantizar el cumplimiento de las obligaciones contraídas, y/o que "EL MUNICIPIO" sea indemnizado en caso de incumplimiento por parte del "SUPLIDOR". En caso de incumplimiento del "SUPLIDOR", "EL MUNICIPIO" procederá a confiscar la fianza de cumplimiento prestada o a reclamar de la compañía afianzadora hasta el importe equivalente al exceso de pago que "EL MUNICIPIO" tenga que desembolsar en la compra a otra fuente de los suministros objeto de este contrato. _____

— **QUINTA:** Los precios cotizados, y aceptados por la Junta de Subasta, serán firmes durante la vigencia del contrato y no estarán sujetos a cambios por el aumento de precios en el mercado, disponiéndose que: -----

— 5.1 Los aumentos o rebajas en precio en los servicios o suministros controlados por las agencias del gobierno federal o estatal para la estabilización de precios se reducirán o aumentaran automáticamente, en cualquier periodo de vigencia del contrato, conforme a las directrices emitidas por dichas agencias, y sólo se requerirá evidencia del(os) cambio(s) en precio(s), según publicado(s) por la agencia de que se trate. -----

— **SEXTA:** Los servicios o suministros objeto de este contrato serán suministrados o entregados por el "SUPLIDOR" en el tiempo que se indique en la orden de compra, la cual deberá estar a tono con las condiciones de la subasta mencionada anteriormente. -----

— **RETRASOS EN ENTREGAS:**

a. Se entiende que ha habido retraso en la entrega cuando el suplidor no cumpla con la fecha de entrega convenida. -----

b. En caso de haber retrasos en las entregas de la mercancía contratada, (entiéndase materiales de todas clases, no equipo) los suplidores responsables del incumplimiento vendrán obligados a compensar al Municipio con una suma de dinero equivalente al 1% del valor de la mercancía ordenada y no entregada por cada día de retraso, pero en ningún caso dicha suma excederá del 5% del valor de la mercancía ordenada y no entregada. -----

c. En caso de que la mercancía ordenada y no entregada consiste en equipo y/o instalación de este (exceptuando maquinaria pesada y vehículos de motor), los suplidores responsables del incumplimiento vendrán obligados a compensar al Municipio con una suma de dinero equivalente a veinticinco dólares (\$25.00) por cada día de retraso, pero en ningún caso dicha suma excederá del veinte por ciento (20%) del precio de la mercancía ordenada y no entregada. -----

d. Cuando la mercancía ordenada y no entregada consista de maquinaria pesada o vehículos de motor, los suplidores responsables del incumplimiento vendrán obligados a compensar al Municipio con una suma de dinero equivalente a cincuenta dólares \$50.00 por cada día de retraso, pero en ningún caso dicha suma excederá del cincuenta por ciento (50%) del valor de la mercancía ordenada y no entregada.-----

e. La suma de dinero a pagar deberá hacerse en moneda legal de los E.U. de Norte América, cheque certificado o giro postal a favor del Director de Finanzas. El Municipio podrá deducir esa suma de dinero de cualquier deuda que tuviera con los suplidores. Igualmente, la fianza que garantiza la ejecución de la compra responderá por la mencionada suma de dinero.-----

f. La suma de dinero a pagar para compensar al Municipio por retraso en la entrega de mercancía, en ninguna forma representa o constituye una penalidad y si daños y perjuicios convenidos entre las partes.-----

—SÉPTIMA: “EL MUNICIPIO” podrá seguir adquiriendo del “SUPLIDOR” los servicios o suministros descritos en este contrato, bajo los mismos términos y condiciones de la subasta, hasta noventa (90) días después de vencida la subasta, siempre y cuando no se haya podido adjudicar la subasta correspondiente de los bienes o servicios de que se trate o cuando el Municipio se beneficie con dicha compra y se realice la correspondiente enmienda al contrato.-----

— OCTAVA: El “SUPLIDOR” no podrá subcontratar todo, ni parte del presente contrato, a menos que sea autorizado previamente y por escrito por “EL MUNICIPIO”, y la(s) persona(s) a subcontratar certifiquen previamente a “EL MUNICIPIO” que han cumplido con su responsabilidad contributiva. El “SUPLIDOR” será responsable de asegurarse de que la(s) persona(s) o entidad(es) que subcontrate haya(n) cumplido con dicha responsabilidad contributiva.-----

— NOVENA: El “SUPLIDOR” se obliga a cumplir con las condiciones generales y especiales de la Subasta General Número 2023-042 las cuales forman parte integral de este contrato y serán exigibles entre las partes de conformidad. —

--- DÉCIMA: "EL MUNICIPIO" se obliga a pagar al "SUPLIDOR" la cantidad correspondiente a los suministros o servicios prestados hasta la cantidad registrada por órdenes de compra debidamente aprobadas. La cantidad estimada o cuantía máxima de este contrato es de DOS MILLONES CUATROCIENTOS MIL DOLARES (\$2.400.000.00).

--- DECIMAPRIMERA: Los pagos a efectuarse por la adquisición de bienes, servicios o suministros, a tenor con este contrato, se pagarán de la partida 9225000 correspondiente a "Combustible y Lubricantes".

En consideración a que este contrato pudiera ser subvencionado en todo o en parte con fondos de la Administración Federal para el Tránsito (FTA, por sus siglas en inglés), se hace formar parte integral del presente contrato todas y cada una de las cláusulas según consta en el (ANEJO B) intitulado: Appendix B. FTA Federal Required Clauses for Third Party Contracts por lo que todas las leyes y regulaciones federales que afecten el uso y manejo de estos fondos le son aplicables.

Todas y cada una de las disposiciones legales y cláusulas que la ley exige que se incluyan en el presente contrato se considerarán insertadas en el mismo y el contrato se leerá y aplicará como si estuvieran incluidas en él, y si por error o por cualquier otro motivo alguna de dichas disposiciones no se insertara, o no se insertara correctamente, entonces, a petición de cualquiera de las partes, el contrato se modificará físicamente de inmediato para realizar dicha inserción o corrección. -

--- DECIMASEGUNDA: FACTURACION Y PAGO: -----

---A. "SUPLIDOR" presentará facturas o informes detallados específicos y desglosados de los servicios prestados donde se incluya entre otras cosas, (1) Número de contrato y orden de compra, (2) Cantidad y octanaje del combustible despachado, (3) unidad administrativa atendida, (4) funcionarios o empleados involucrados, (5) detalle de los servicios prestados y/o materiales/equipos entregados (según aplique), (6) importe facturado. Las facturas que "SUPLIDOR O EL CONTRATISTA" someta para pago más tarde de los primeros ocho (8) días del mes siguiente al cual se rindieron los servicios, serán pagadas el mes próximo.

--B. "SUPLIDOR" 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 público de "EL MUNICIPIO" es parte o tiene algún 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 esta factura es justo y correcto. Los servicios han sido prestados, y no han sido pagados". -----

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

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--D. Los pagos a efectuarse a "EL SUPLIDOR" objeto del presente contrato estarán sujetos a la retención, según se dispone en la Sección 1062.03 del Código de rentas Internas para un nuevo Puerto Rico, según enmendada, excepto en el caso de que "EL SUPLIDOR" presente al "EL MUNICIPIO" un certificado de relevo parcial, en cuyo caso se le retendrá lo dispuesto por ley. -----

--E. "EL SUPLIDOR" 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 efectuará retenciones por este concepto. -----

--F. 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 del departamento al cual presta los servicios y no de "EL SUPLIDOR" directamente al personal del Departamento de Finanzas. -----

DÉCIMAPRIMERA: CONFLICTO DE INTERÉS -----

- A. "EL SUPLIDOR" certifica que ninguna (a) servidor(a) público(a) del "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 SUPLIDOR" certifica que ningún(a) servidor(a) público(a) le solicitó o aceptó, directa o indirectamente, para el (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 SUPLIDOR" certifica que ningún(a) servidor(a) público(a) le solicitó o aceptó bien alguno de valor económico, vinculados a esta transacción, de persona alguna de su entidad como pago por realizar los deberes y responsabilidades de su empleo. -----

- D. "EL SUPLIDOR" certifica que ningún(a) servidor(a) público(a) le solicitó, directa o indirectamente, para el(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 SUPLIDOR O CONTRATISTA" o su entidad. -----

- E. "EL SUPLIDOR" no tiene 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. -----

DÉCIMASEGUNDA: "EL SUPLIDOR" no podrá subcontratar los servicios pactados en este contrato sin el consentimiento previo por escrito de **EL MUNICIPIO.** -----

DECIMATERCERA: "EL SUPLIDOR" certifica y garantiza que al momento de suscribir este contrato ha rendido su planilla de contribución sobre ingresos durante los últimos durante los cinco (5) años previos y el año corriente a este contrato y NO tiene deudas por tales conceptos, por contribución sobre la propiedad mueble o inmueble y/o se encuentra acogido a un plan de pago en cuyos términos y

condiciones está cumpliendo. En caso de deuda, **EL SUPLIDOR** será responsable de presentar evidencia del cumplimiento con el plan de pago con cada factura. Expresamente reconoce que las Certificaciones hechas por "**EL SUPLIDOR**" son condiciones esenciales del presente contrato y de no ser correctas en todo o en parte, esto será causa suficiente para que "**EL MUNICIPIO**" pueda dejar sin efecto el mismo y "**EL SUPLIDOR**" tenga que reintegrar a "**EL MUNICIPIO**" toda suma de dinero recibida bajo este contrato. -----

Se hacen formar parte de este contrato los siguientes documentos, los cuales son requeridos por ley para la contratación con el gobierno: -----

1. Certificado de Elegibilidad (ASG) o Proveedor del Municipio Autónomo de Caguas
2. Certificado de Seguro de Responsabilidad Pública incluyendo el "*Hold and Harmless Agreement*", *50 days cancellation notice, waiver of subrogation, primary insurance endorsement y Employer's liability.*
3. Fianzas de Ejecución, *Performance Bonds* (por \$800,000.00).
4. Resolución Corporativa
5. Certificación de SAM

— **DECIMOSEXTA:** Este contrato tendrá vigencia de tres (3) años, comenzando el **1 de julio de 2023 hasta el 30 de junio de 2026**, sujeto a la disponibilidad de fondos para cada año fiscal. Si durante cualquier año fiscal del término de este Contrato, no se asignan los fondos para cubrir las obligaciones aquí contraídas por "**EL MUNICIPIO**", este contrato se cancelará al final del año fiscal que esté corriendo en ese momento. -----

— **DECIMOSEPTIMA:** La relación contractual establecida por el presente contrato es una de contratista independiente, por lo que "**SUPLIDOR**" no adquiere derecho alguno a acumular o liquidar licencias por concepto de vacaciones o enfermedad ni ningún otro derecho reservado a los funcionarios y empleados públicos de "**EL MUNICIPIO**". -----

—**DECIMOCTAVA:** El "**SUPLIDOR**" 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.-----

— **DECIMONOVENA:** El “SUPLIDOR” 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 al Municipio sobre este particular y se compromete a notificar inmediatamente a “EL MUNICIPIO” en caso de resultar convicto por alguno de dichos delitos. -----

— **VIGÉSIMA:** El “SUPLIDOR” se compromete a cumplir con las disposiciones del Código de Ética para contratistas, proveedores de bienes, servicios y solicitantes de incentivos económicos, Título III de la Ley Número 2 del 4 de enero de 2018.-----

— **VIGÉSIMOPRIMERA:** El “SUPLIDOR” certifica mediante este documento, el cumplimiento con la Ley Número 1 del 3 de enero de 2012, según enmendada, conocida como *Ley de Ética Gubernamental de Puerto Rico de 2011*, por lo que ningún funcionario o empleado del Municipio Autónomo de Caguas o algún miembro de su unidad familiar tiene directa o indirectamente interés en las ganancias o beneficios a derivarse de este contrato.-----

VIGÉSIMASEGUNDA: El “SUPLIDOR” certifica que no recibe pago o compensación alguna por servicios regulares prestados bajo nombramiento a otro departamento, organismo, dependencia, corporación o municipio de Puerto Rico, excepto aquellos casos expresamente 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. -----

---**VIGÉSIMATERCERA: CLÁUSULAS DE CANCELACIÓN**-----

EL MUNICIPIO a su entera discreción y por cualquier motivo, incluyendo incumplimiento, podrá dar por terminado el Contrato mediante notificación escrita al “SUPLIDOR” con QUINCE (15) 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 “SUPLIDOR” 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 "SUPLIDOR" incurra en negligencia o abandono de deberes o conducta impropia relacionada con el presente contrato o, si a juicio único del MUNICIPIO la calidad o el progreso de los servicios prestados por El "SUPLIDOR" son insatisfactorios; o
- 3) cuando "EL MUNICIPIO" entienda que existe una situación fiscal extraordinaria que amerite un recorte inmediato de gastos. -----
- 4) El "SUPLIDOR" y "EL MUNICIPIO" tendrán los derechos y acciones dispuestas en el Anejo B, Appendix B. FTA Federal Required Clauses for Third Party Contracts, inciso 9. Violations and breaches of Contract e inciso 10. Termination.

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

--- VIGÉSIMACUARTA: 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 Número 18 del 30 de octubre de 1975, según enmendada. -----

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 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 "SUPLIDOR" en violación a esta disposición lo está haciendo sin autoridad legal alguna. -----

--- VIGÉSIMOQUINTA: El "SUPLIDOR" establece que de tener contrato con otros municipios o dependencias del gobierno, estos no serán incompatibles con el contrato formalizado con "EL MUNICIPIO". -----

--- VIGÉSIMOSEXTA: Todos los materiales, documentos, informes, minutas de reuniones, datos e información que resulten de la prestación de servicios y gestiones de El "SUPLIDOR" con relación a este contrato serán de la exclusiva propiedad de EL MUNICIPIO. El "SUPLIDOR" reconoce la naturaleza de la confidencialidad de la información producto de este contrato, por lo que no podrá ofrecer información alguna sobre las gestiones relacionadas con este artículo. -----

— VIGESIMOSEPTIMA: En aquellos casos que El “SUPLIDOR” 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. -----

— VIGESIMOCTAVA: No obstante lo anterior, El “SUPLIDOR” entiende y reconoce que para que el Municipio considere una orden de cambio, ésta deberá estar debidamente justificada y El “SUPLIDOR” será responsable de proveer la información pertinente y necesaria para documentar el expediente.-----

—VIGESIMONOVENA: El “SUPLIDOR” 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 “SUPLIDOR” 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. -----

—TRIGÉSIMO: CLÁUSULAS Y CONDICIONES ADICIONALES-----
Toda factura sometida para pago deberá indicar el número de contrato y el número de orden de compra. -----

- a) El “SUPLIDOR” 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. -----
- b) 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. -----
- c) El “SUPLIDOR” cumplirá con todas las leyes, normas y reglamentos federales, estatales y municipales aplicables a este contrato o a la ejecución y cumplimiento del mismo. -----

- d) El "SUPLIDOR" 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. -----
- e) El "SUPLIDOR" 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 o cualquier entidad jurídica que le somete 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. -----
- f) El "SUPLIDOR" releva a EL MUNICIPIO de cualquier responsabilidad de carácter civil, penal o administrativo y/o releva también en cuanto a cualquier reclamación que terceras personas pudieran hacer, incluyendo agentes, representantes, empleados u oficiales de las propias partes por cualquier daño que pudieran ocasionar o sufrir con motivo del incumplimiento por El "SUPLIDOR" de cualquiera de las cláusulas del presente contrato. -----
- g) **Corporación Extranjera:** En el caso que El "SUPLIDOR" 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". -----

—TRIGESIMO PRIMERO : **SEPARABILIDAD:** Las partes acuerdan que las cláusulas y condiciones de este contrato son independientes y separadas entre sí y que si cualquier palabra, frase, oración, inciso, sub sección, sección, cláusula, 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, cláusula, tópico o parte así declarada y la nulidad o invalidez de cualquier palabra, frase, oración, inciso, sub sección, sección, cláusula, 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. -----

----- ACEPTACIÓN -----

--- Las partes otorgantes han leído el presente contrato, y lo aceptan en la forma redactada, y así lo hacen constar, iniciando todas y cada una de sus páginas, y firmando el presente documento. -----

--- En Caguas, Puerto Rico, hoy 5 de Junio de 2023. -----

MUNICIPIO AUTÓNOMO DE
DE CAGUAS

AMERICANPETROLEUM
COMPANY, INC.


VICTOR MANUEL CORIANO REYES
SEGURO SOCIAL: 660-43-3568
SECRETARIO DE ADMINISTRACION


LIZETTE DIAZ LLERAS
SEGURO SOCIAL: 660-41-1489
REPRESENTANTE DE VENTAS

APARTADO 907
CAGUAS, PR 00726-0907

P.O. BOX 2529
TOA BAJA, PR 00951
787-794-1985/787-608-8803
LIZETTE@AMERICANPETROLEUMPR.COM

RECOMENDADO POR:


WILFREDO A. PUIG MEDINA
DIRECTOR
DEPARTAMENTO DE COMPRAS Y SUBASTAS

Appendix B. FTA Federal Required Clauses for Third Party Contracts

1. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES:

The Municipality of Caguas as recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS:

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(I) on the Contractor,

to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. **ACCESS TO RECORDS:**

a. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required. The Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the municipal corporation, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. FEDERAL CHANGES:

The Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Municipality of Caguas and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

5. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the Municipality of Caguas to be in violation of FTA terms and conditions.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6. CIVIL RIGHTS REQUIREMENT AND EQUAL OPPORTUNITY: The Municipality of Caguas is an Equal Opportunity Employer. As such, the Municipality of Caguas and the Contractor agree to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Municipality of Caguas agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support

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procurements using exclusionary or discriminatory specifications. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et

seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § A-27 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability.

In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

7. **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**: The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b). Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R.

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§ 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

8. **DEBARMENT AND SUSPENSION**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be: a) Debarred from participation in any federally assisted Award; b) Suspended from participation in any federally assisted Award; c) Proposed for debarment from participation in any federally assisted Award; d) Declared ineligible to participate in any federally assisted Award; e) Voluntarily excluded from participation in any federally assisted Award; or f) Disqualified from participation in any federally assisted Award.

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By signing and submitting its bid or proposal, the bidder or proposer certified as follows: *The certification in this clause is a material representation of fact relied upon by the Municipality of Caguas. If it is later determined by the Municipality of Caguas that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Municipality of Caguas, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. A contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180.*

American Petroleum Co Inc.

Name of Contractor

[Signature]

(Signature of Representative)

(Date of Signature)

Luz Dora Ureas

(Name & Title of Representative)

9. VIOLATIONS AND BREACHES OF CONTRACT

a. Rights and Remedies of the Municipality of Caguas - The Municipality of Caguas shall have the following rights in the event that the Municipality of Caguas deems the Contractor guilty of a breach of any term under the Contract:

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages as set forth in this Contract

B. Rights and Remedies of Contractor- Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Municipality of Caguas, the Contractor expressly agrees that no default, act or omission of the Municipality of Caguas shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Municipality of Caguas directs Contractor to do so) or to suspend or abandon performance.

c. Remedies -Substantial failure of the Contractor to fulfill it's obligations in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the Municipality of Caguas will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the Municipality of Caguas takes action contemplated herein, the Municipality of Caguas will provide the Contractor with sixty (60) days in general situations and with fifteen (15) days written notice in cases of lack of fuel that the Municipality considers that such a breach has occurred and will provide the Contractor a reasonable period of time of sixty (60) days in general situations and fifteen (15) days in cases of lack of fuel, to take necessary corrective action.

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Disputes -Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Municipality of Caguas This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the shall be binding upon the Contractor and the Contractor shall abide be the decision.

Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Municipality of Caguas's direction or decisions made thereof.

Performance during Dispute -Unless otherwise directed by the Municipality of Caguas, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages -Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies -Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Municipality of Caguas and the Contractor arising out of or relating to this agreement or its breach not settled within the dispute process will be decided in a court of competent jurisdiction within the Commonwealth of Puerto Rico in which the Municipality of Caguas is located.

Rights and Remedies -The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise

imposed or available by law. No action or failure to act by the Municipality of Caguas or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

10. TERMINATION:

Termination for convenience -The Municipality of Caguas may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Municipality of Caguas's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Municipality of Caguas to be paid the Contractor. If the Contractor has any property in its possession belonging to the Municipality of Caguas, the Contractor will account for the same, and dispose of it in the manner the Municipality of Caguas directs.

Termination for Default - If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Municipality of Caguas may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted in accordance with the contract. If it is later determined by the Municipality of Caguas that the Contractor had an excusable reason for not performing, such as fire or flood, events which are not the fault of or are beyond the control of the Contractor, the Municipality of Caguas, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination

as a Termination for Convenience.

Opportunity to Cure -The Municipality of Caguas, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 15 days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to Municipality of Caguas's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within 15 days after receipt by Contractor of written notice from the Municipality of Caguas setting forth the nature of said breach or default, the Municipality of Caguas shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the Municipality of Caguas from also pursuing all available remedies against Contractor and its sureties for said breach or default.

[Handwritten mark]

Waiver of Remedies for any Breach - In the event that the Municipality of Caguas elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by the Municipality of Caguas shall not limit the Municipality of Caguas's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

[Handwritten mark]

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

11. LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any


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- cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Signature of Contractor's Authorized Official



Name and Title of Contractor's Authorized Official

Date

12. CLEAR AIR AND CLEAN WATER

The Contractor agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

The Contractor agrees:

- 1) It will not use any violating facilities;
- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- 3) It will report violations of use of prohibited facilities to FTA; and
- 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 - 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

13. CARGO PREFERENCE

Use of United States-Flag Vessels The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and

FTA Clauses for the Municipality of Caguas – April 2023

c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

14. SAFE OPERATIONS OF MOTOR VEHICLES

Seat Belt Use -The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or the Municipality of Caguas.

Distracted Driving -The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

15. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701- 3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. In the event of any violation of the clause set forth herein, the Contractor and

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any subcontractor responsible therefor shall be liable for the unpaid wages.

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

AP
KCP

16. PROMPT PAYMENT:

1. The Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than thirty (30) consecutive days after the Contractor has received payment from the Municipality. This requirement comes from the Disadvantaged Business Enterprise rule found at 49 CFR § 26.29
2. The Municipality of Caguas will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with the Municipality of Caguas of the documents that attest that it has complied with the prompt payment requirements.

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3. Failure to comply with these prompt payment requirements is a breach of the Contract, which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment.
4. The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.
5. The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS:

The Recipient shall implement the project in accordance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that comply with the requirements of 49 U.S.C. § 5333(b), in accordance with U.S. DOL guidelines entitled, "Section 5333(b), Federal Transit Law;" 29 C.F.R. Part 215, and any amendments to those authorities. These terms and conditions are identified in U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement for this project. The Recipient shall implement the Project in accordance with the conditions stated in that U.S. DOL certification. That certification and any documents cited in that certification are incorporated by reference and made part of the Grant Agreement for this project.

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations

of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

18. ENERGY CONSERVATION REQUIREMENTS:

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

19. ADA ACCESS:

The contractor agrees that services shall be provided complying with the provisions of the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, as amended, 49 CFR Parts 27, 37, 38 and 39, and FTA Circular C 4710.1

Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PRIVACY ACT:

The Municipality of Caguas is committed to comply with the Privacy Act of 1974. The contractor agrees to comply with the Privacy Act of 1974 which protects the personal information collected in the System of Records (SOR). The Municipality of Caguas implements the Privacy Act in accordance with the Department of Transportation regulations. The contractor will follow the requirements of this Act.

**CERTIFICATION REQUIREMENT FOR COMPLIANCE WITH THE
CIVIL RIGHTS CLAUSE OF DISABILITIES**

The Contractor hereby agrees to acknowledge its understanding and agreement that it must comply with all applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service of Non-discrimination on the basis of Disability. Except as FTA determines otherwise in writing, the Recipient agrees to comply with the following Federal prohibitions against discrimination on the basis of disability:

(1) Federal laws, including:

- a. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,
- b. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, Titles I, II, and III of the ADA apply to FTA Recipients
- c. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities,
- d. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and
- e. Other applicable laws and amendments pertaining to access for seniors or individuals with disabilities,

(2) Federal regulations, including:

- a. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR 37,

FTA Clauses for the Municipality of Caguas - April 2023

- b. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR 27,
- c. U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 CFR 39,
- d. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR 1192 and 49 CFR 38,
- e. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR 35,
- f. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR 36,
- g. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR 1630,
- h. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 CFR 64(f),
- i. U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 CFR 1194, and
- j. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR 609, and

(3) Other applicable Federal civil rights and nondiscrimination guidance.

American Petroleum Co, Inc

Name of Contractor

[Signature]

(Signature of Representative)

(Date of Signature)

Livella DeLlencor

(Name & Title of Representative)

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CERTIFICATION REQUIREMENT FOR COMPLIANCE WITH THE CIVIL RIGHTS CLAUSE OF TITLE VI

The Contractor hereby agrees to acknowledge its understanding and agreement that it must comply with all applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service of Nondiscrimination – Title VI of the Civil Rights Act.

The Contractor agrees to, and assures that each Third Party Participant will:

- (1) Prohibit discrimination based on race, color or national origin
- (2) Comply with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR 21, and Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 13.a of the Master Agreement, and
- (3) Except as FTA determines otherwise in writing, follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and the U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 CFR 50.3, and other applicable Federal guidance that may be issued.

American Poliduro Co Inc

Name of Contractor

[Signature]

(Signature of Representative)

(Date of Signature)

Livette Diaz Heras

(Name & Title of Representative)

FTA Clauses for the Municipality of Caguas - April 2023

CERTIFICATION REQUIREMENT FOR ACCESS TO THIRD PARTY CONTRACT RECORDS

The Contractor will require its Third Party Contractor at each tier to provide:

- (1) The US Secretary of Transportation and the Comptroller General of the United States, the Commonwealth of Puerto Rico, the Municipality of Caguas, or their duly authorized representatives, access to all third-party contract records (at any tier) as required under 49 U.S.C. § 5325(g), and
- (2) Sufficient access to all third-party contract records (at any tier) as needed for compliance with applicable Federal laws and regulations or to assure proper Project management as determined by FTA.

American Petroleum Co. Inc.
Name of Contractor

[Signature]
(Signature of Representative)

(Date of Signature)

Lizette Diaz Torres
(Name & Title of Representative)

American Petroleum Company, Inc.
PO Box 2529
Toa Baja, PR 00951-2663

Puerto Rico Energy
PO Box 11961
San Juan, PR 00922

Peerless Oil & Chemicals, Inc.
671 Road 337
Peñuelas, PR 00624-7513

Aviso de Adjudicación

Subasta Número 2023-042 "Adquisición de Combustible"

En sesión del 20 de abril de 2023, la Junta de Subasta del Municipio Autónomo de Caguas consideró las ofertas recibidas para la subasta de referencia. A dicha subasta comparecieron y sometieron propuestas los siguientes licitadores:

Compañía	Precio Gasolina	Precio Gasolina Diesel
American Petroleum Co.	\$2.98900 L	\$3.06900 L
Peerless Oil & Chemicals.	\$3.07500 L	\$3.35750 L
Puerto Rico Energy	\$3.04950 L	\$3.19540 L

La Junta de Subasta, aceptando la recomendación realizada por la Oficina de Transportación adscrita a la Secretaría de Infraestructura, Ornato y Conservación, en conformidad con la Ley Núm. 107 de 2020 (Código Municipal de Puerto Rico), y habiendo cada uno cumplido con las especificaciones, términos y condiciones de la subasta en sus propuestas, se adjudicó al postor más bajo American Petroleum Company, Inc. en su oferta de combustible por la cantidad de \$2.98900 por litro y \$3.06900 por litro de Gasolina "Diesel".

La adjudicación de esta subasta al licitador agraciado está sujeta a la presentación de los siguientes documentos vigentes en o antes del 12 de mayo 2023, al Departamento de Compras y Subastas:

1. Certificación de Administración de Servicios Generales (ASG) o Certificado de Elegibilidad del Municipio Autónomo de Caguas.
2. Fianza de Ejecución (Payment & Performance Bond de \$800,000.00)
3. Póliza de Responsabilidad Pública endosada al Municipio Autónomo de Caguas.
4. Resolución Corporativa

De no contar con las certificaciones antes mencionadas, deberá presentar los siguientes documentos:

1. Fianza de Ejecución (Payment & Performance Bond de \$800,000.00)
2. Resolución Corporativa.
3. Declaración Jurada Ley 2.



SECRETARÍA DE ADMINISTRACIÓN

VALDINE RAPOCRES ROSCINI
SANCHEZ ARIAS
SECRETARÍA DE ADMINISTRACIÓN



APÉNDICE IX
NORMAS APLICABLES 40 CFR PARTE 112

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 standard 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 28, 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. 2726; and E.O. 12777 (October 18, 1981), 3 CFR, 1981 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 § 112.6(c)(6) or § 112.12(c)(8), 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 112.22(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 a) 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 4910-62-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 25, 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



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

■ Par. 10. Section 1.956-1T is amended by revising the first sentence of paragraph (c)(2) and the last sentence of paragraph (c)(5)(i) to read as follows:

§ 1.954-1T 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 956(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 956(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. 06-22024 Filed 12-22-06; 9:46 am]
 BILLING CODE 4302-01-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. 06-58532 Filed 12-22-06; 9:45 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 202-554-7913 (vanessa.rodriguez@epa.gov), or Mark W. Howard at 202-564-1864 (mark.howard@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
- II. Entities Potentially Affected by This Rule
- III. Statutory Authority and Delegation of Authority
- IV. Background
- V. Today's Action
 - A. Qualified Facilities
 - 1. Overview of the Qualified Facilities Proposal
 - 2. Summary of This Final Rule for Qualified Facilities
 - a. Eligibility Criteria
 - a. Total Facility Oil Storage Capacity Threshold
 - b. Reportable Discharge History
 - 4. Requirements for Qualified Facilities
 - a. Self-Certification of Plan and Plan Amendment
 - b. Elements of Self-Certification and Plan Amendments for Owners and Operators of Qualified Facilities
 - c. Environmental Equivalence and Impracticability Determinations
 - B. Qualified Oil-Filled Operational Equipment

- 1. Oil-Filled Operational Equipment: Definition
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 - a. Requirements for Qualified Oil-Filled Operational Equipment in Lieu of Secondary Containment
 - a. Contingency Plans and Written Commitment of Manpower, Equipment and Materials
 - b. Inspections or Monitoring Program
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 - 5. Qualified Oil-Filled Operational Equipment and Qualified Facilities Overlap
 - C. Motive Power
 - 1. Definition of Motive Power
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 - D. Mobile Refuelers
 - 1. Definition of Mobile Refueler
 - 2. Amended Requirements
 - E. Animal Fats and Vegetable Oils
 - F. Extension of Compliance Dates for Farms
 - 1. Eligibility Criteria
 - 2. Compliance Date Extension for Farms
- VI. Statutory and Executive Order Reviews
- A. Executive Order 12866—Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132—Federalism
 - F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045—Protection of Children From Environmental Health & Safety Risks
 - H. Executive Order 13211—Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Congressional Review Act

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	21111
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	482, 541, 551, 561-562
Transportation	481-488
Arts Entertainment & Recreation	711-715
Other Services (Except Public Administration)	811-813
Petroleum Bulk Stations and Terminals	4247

Industry sector	NAICS code
Education	81
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	4851, 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 15, 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 56162). 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 35184). 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. Lewis*, No. 1:02-cv-02247-PLF and consolidated cases (D.D.C. filed Nov. 14, 2002). The remaining issue to be decided concerns the definition of "navigable waters" in § 112.3.

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 these 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 to 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(h)(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 spill 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 these 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.

e. 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. These 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 overflow 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(e)(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 is 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 gensets ("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(c) 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, fermenters, 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 1-800-424-6802 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 these 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 110.5 that does not trigger the reporting requirements of § 112.4(e) 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 <https://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 has 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 (1) and 112.12(c)(2) and (1). 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 these 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 (1) and 112.12(c)(2) and (1), 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 (1) and 112.12(c)(2) and (1). 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 (1) and 112.12(c)(2) and (1) 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(b).

Similarly, another commenter suggested applying the existing 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 §§ 112.3(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 §§ 112.3(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 Farms

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 adapting 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. 652). 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 5(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, 2006 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 (\$2006 in millions)	
	Existing	New	Discounted 3%	Discounted 7%
Qualified Facilities	337,000	7,260	\$37.9	\$37.7
Qualified Oil-filled Equipment	10	5,040	53.1	52.8
Motive Power Containers	23,500	516	1.07	1.07
Mobile Refuelers	10	2,940	34.4	34.2

¹The 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

APÉNDICE X
PLAN DE RESPUESTA A EMERGENCIAS EN CASO DE DERRAMES DE PETRÓLEO Y/O
SUS DERIVADOS EN LA NUEVA CASA ALCALDÍA

**Estado Libre Asociado de Puerto Rico
Municipio Autónomo de Caguas
Caguas, Puerto Rico**

**Plan de Respuesta a Emergencias en Caso de Derrames de Petróleo y/o sus Derivados
en la
Nueva Casa Alcaldía
William Miranda Marín**



Oficina de Asuntos Ambientales
2023

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I. Introducción

Los derrames de aceite y/o petróleo tienen la capacidad de extenderse en poco tiempo. En este Plan, estaremos presentando de forma precisa los procedimientos y responsabilidades en cuanto: (a) manejo de sustancias contaminantes que pueden representar un peligro y (b) respuesta inmediata a eventos como derrames, fuegos o cualquier otra situación imprevista dentro del perímetro donde se encuentra un tanque sobre terreno de 2,000 galones de diésel. Además, incluimos aquellos tanques de diésel de los generadores de emergencia dentro de la Nueva Casa Alcaldía del Municipio Autónomo de Caguas.

Existen cinco (5) etapas básicas de respuesta a un desastre o emergencia: (1) **reconocimiento**, (2) **notificación del peligro**, (3) **asegurar la seguridad del personal**, (4) **protección del ambiente y propiedad**, y (5) **plan de seguimiento**.

Los siguientes tópicos serán incluidos:

- Implementación del Plan para el Control y Prevención de Derrames.
- Equipos y Materiales para Respuesta a Emergencia.
- Medidas de Control y Mitigación de Daños.
- Evaluación y seguimiento de las acciones tomadas.

Es responsabilidad del funcionario responsable o coordinador de emergencia designado conocer los procedimientos aquí establecidos y asegurarse de que el personal con inherencia: (1) posea los conocimientos generales del manejo de diésel en caso de una emergencia y (2) conocer e identificar sustancias peligrosas en el área de trabajo.

II. Objetivos del Plan

El objetivo primordial de este Plan es establecer procedimientos eficaces en el manejo de emergencias relacionadas con derrames y/o descargas ocurridas durante el recibo, almacenaje, transportación o uso de petróleo y sus derivados en las facilidades de la Nueva Casa Alcaldía. Este plan incluye información pertinente sobre los procedimientos de respuesta en caso de una emergencia, cadena de mando, evaluación del peor de los casos y el directorio telefónico. Hemos preparado este plan en cumplimiento del 40 CFR parte 109.5. Nuestra facilidad no necesita cumplir con un "**Facility Response Plan**" debido a que la facilidad no posee ninguna sustancia "peligrosa" de acuerdo con la regla que establece las siguientes condiciones:

1. Tener un almacenaje igual o mayor de 42,000 galones y que se realicen transferencias sobre aguas superficiales.
2. Tener un almacenaje igual o mayor de 1,000,000 galones y que cumpla con las siguientes condiciones:
 - No tenga un sistema de contención secundaria.
 - La descarga de dicho material afecte directamente la vida acuática, ambiente y personas.
 - La distancia a la que se encuentre una posible descarga afecte plantas de tratamiento cercanas.
3. Tener reportes de grandes descargas igual o mayor de 10,000 galones dentro el periodo de cinco (5) años.

Como parte de la Enmienda de la Regla de Prevención, Control y Contramedidas de Derrames (SPCC, por sus siglas en ingles), esta instalación se considera una "**instalación calificada**".

III. Información General de la Facilidad

La Nueva Casa Alcaldía, se encuentra localizada en la calle Padial, esquina Avenida José Mercado en el barrio Pueblo. Esta colinda por el norte con la Central de la Autoridad de Energía Eléctrica (ahora LUMA), al Este con la calle Nazario, al Oeste con Las Catalinas Mall y al Sur con el edificio del Centro de Gobierno Municipal. La Nueva Casa Alcaldía fue construida aproximadamente para el año 2005. El total de empleados que laboran allí es de aproximadamente ciento veinte (120) personas cuenta con un área de estacionamiento, el edificio principal de la Alcaldía y el área del Generador de Emergencia y en donde se encuentra dos tanques sobre terreno y el sistema de rociadores "sprinkles".

IV. Responsabilidades: Respuesta a Incidentes y Acciones

El Municipio ha establecido y reconocido diferentes tipos o niveles de emergencias que pudieran ocurrir dentro de las facilidades del Nueva Casa Alcaldía. El propósito principal de este plan es determinar la acción apropiada en cualquier situación inesperada específicamente en eventos de derrames de aceites o derivados de petróleo en las facilidades. Las áreas incluidas dentro de este plan son: dos (2) tanques sobre terreno, además del tanque interno del generador de emergencia, en total son 2,750 galones agregado. Los mismos tienen una capacidad de 2,000, 250 y 500 galones respectivamente. Todos almacenan combustible diésel. La compañía encargada para brindar servicios de mantenimiento a los tanques sobre terreno y al generador de emergencias ubicados en la Nueva Casa Alcaldía es la Empresa Carrillo, Inc.

La responsabilidad de las acciones a tomar incluirá el desarrollo de estrategias de respuesta efectivas, coordinación de procedimientos en respuesta a emergencia y medidas de seguimiento dentro de la facilidad. Como parte del cumplimiento del Plan SPCC, el coordinador de respuesta a emergencia dentro de la Nueva Casa Alcaldía es el Departamento de Conservación de Edificios y la Oficina de Administración de la Casa Alcaldía. Durante la ocurrencia de una emergencia dentro de la Nueva Casa Alcaldía, la Oficina de Administración de

la Casa Alcaldía será considerado como "**on-site responder**". La responsabilidad del "**on-site responder**" como primera línea de respuesta, serán: (a) identificar el peligro, (b) tomar control preliminar de la situación (establece perímetro) hasta que la Oficina de Manejo de Emergencias Municipal (en adelante, OMME) llegue a la escena, (c) si puede controlar el derrame o la emergencia, utilizar las medidas que estén a su alcance e (d) informar a las agencias pertinentes dependiendo el tipo o nivel de emergencia.

De acuerdo con este plan, las responsabilidades de la Oficina de Asuntos Ambientales serán: (a) fungir como asesor y/o facilitador de las dependencias municipales en caso de emergencia e implantación del plan, (b) ser un respondedor preliminar en casos de emergencias relacionadas a derrames dentro de la Nueva Casa Alcaldía y (c) evaluar los impactos ambientales generados por la emergencia. Las regulaciones federales relacionadas a derrames de aceites y/o derivados de petróleo establecen que, en caso de afectarse cuerpos de agua cercanos a la Nueva Alcaldía, se deberá reportar al Centro Nacional de Respuesta (NRC, por sus siglas en inglés). Además, el 40 CFR Parte 112 estipula que ciertas emergencias relacionadas con derrames de petróleo provenientes de facilidades reguladas necesitan reportarse ante la Agencia Federal de Protección Ambiental (en adelante, EPA). En cumplimiento con dicha regulación, hemos delineado los posibles escenarios para responder en caso de emergencia relacionada a derrames de aceites o derivados de petróleo en las facilidades de la Nueva Casa Alcaldía.

Nivel I. Emergencia Menor

En este nivel de emergencia se incluyen incidentes confinados que pueden ser resueltos de forma rápida con la intervención de recursos internos. Dicha emergencia no afecta el funcionamiento laboral de la Nueva Casa Alcaldía. Los incidentes dentro de este nivel podrían ser: incendios menores (fuera del área de los tanques), derrames de menor escala, como fallas en las líneas o en procedimientos de llenado (menor de 5 galones) y fallas mecánicas del generador.

Nivel II - III. Emergencia Intermedia a Mayor

Dependiendo de las circunstancias, una emergencia se considera seria o de mayor importancia cuando una o más operaciones de trabajo son afectadas incluyendo las funciones o seguridad del personal. Esta emergencia requiere la implementación de protocolos de respuesta a emergencia y la utilización de recursos externos. En este nivel de emergencia se incluye: incendios a gran escala, explosiones, eventos de terrorismo, desastres naturales, derrames a mayor escala (mayor de 5 hasta 100 galones) o daños físicos a los tanques.

Es importante destacar que, en este Plan, se especifican aquellas acciones a tomar en caso de emergencias relacionadas a derrames y su posibilidad de contaminar cuerpos de agua jurisdiccionales adyacentes a la Nueva Casa Alcaldía.

En el Nivel III, el incidente debe incluir una gran parte de la comunidad y personal de la Nueva Casa Alcaldía. Durante este nivel, se contemplan daños inminentes a la propiedad y al ambiente, para lo cual se activa un plan de desalojo.

A. Notificaciones Internas

Cuando una emergencia ocurre, la implantación de un sistema de comunicación efectivo es una herramienta efectiva para prevenir daños o pérdidas adicionales. Las facilidades del Nueva Casa Alcaldía tienen un procedimiento establecido para notificación y respuesta a un evento de derrames. En un evento donde un empleado o funcionario municipal descubra o accidentalmente cause: un incendio, liberación de desperdicios peligrosos, o algún otro evento como observar individuos sospechosos cerca del tanque u observar alguna descarga de diésel o gasolina, deberá llamar inmediatamente al personal autorizado.

A continuación, una guía del protocolo a seguir:

1. No sé atemorice. Piense lo que va a informar.

2. De su nombre y puesto. Describe el problema (roturas de líneas, explosión en tanque, fuego, etc.) Si hay personal herido o en inminente peligro. Indique lugar específico, tipo de material y cantidad estimada.
3. Analice la situación y observe hacia donde se dirige el derrame; por ejemplo, si hay alguna fuente de ignición que pueda generar una emergencia mayor. Trate de eliminar toda fuente de ignición.
4. Llame a la Oficina de Administración del Edificio y al Departamento de Conservación de Edificios e informe lo que está sucediendo.
5. Si usted no es la persona designada dentro del área, no trate de contener el derrame, si no tiene algún adiestramiento ni el equipo necesario. Ya hizo su parte. De otra manera, si usted labora dentro del área designada y conoce los procedimientos operacionales y puede identificar alguna válvula de control o sabe cómo controlar la situación, **hágalo a una distancia segura**. Si sabe dónde está localizado el "spill kit", utilícelo y trate de contenerlo de forma preliminar. Evite la entrada del material a sistemas pluviales.
6. Llame a los guardias de seguridad dentro de los predios de la Nueva Casa Alcaldía para que establezcan un perímetro (en caso de ser necesario).
7. Una vez llegue el personal autorizado, informe sobre las acciones tomadas y documéntelas.
8. Los materiales generados como parte de la limpieza deberán ser dispuestos de acuerdo con las regulaciones establecidas por ley. El Departamento responsable mantendrá documentación sobre acciones tomadas.

Si la situación de emergencia ocurriese fuera de horas laborales, la agencia a cargo de esta es la **Agencia para el Manejo de Emergencias (Estatad o Municipal)** y el Área de Emergencias Ambientales del DRNA. Se notificará directamente al Alcalde sobre la situación. El

mismo activara el plan de contingencia y se contactara a los funcionarios designados en la línea de mando. Todas las acciones tomadas, deberán ser documentadas.

Si la emergencia ocurriese dentro de las horas laborables de la Nueva Casa Alcaldía (8am-5pm), el coordinador de emergencia designado por el Alcalde deberá:

1. Investigar la descarga y contactar al Director del Departamento de Conservación de Edificios (Sr. Carlos Díaz) y al personal de OMME.
2. Coordinar la activación del equipo de trabajo para proceder a mantener contenido el derrame. Contactar personal autorizado (si la emergencia es de nivel I).
3. Evaluar la magnitud de la emergencia y determinar las acciones a seguir.
4. Determinar si es necesario la utilización de recursos externos.
5. Determinar los efectos adversos (si alguno) al personal, ambiente y/o propiedad.
6. Informe al personal sobre la situación y aisle el área hasta que la situación sea resuelta. Solicite asistencia adicional de otras agencias municipales o estatales, si es necesario (ver Apéndice IV).

B. Notificación a Empleados en Zona de Peligro

Los empleados municipales serán orientados por su supervisor inmediato o director sobre los posibles eventos de emergencia en su lugar de trabajo. Un mapa de desalojo se encuentra ubicado en cada oficina o departamento, en caso de emergencia.

C. Notificación a las Agencias Pertinentes

Si al momento de ocurrir la emergencia, la misma puede ser manejada y se encuentra dentro de la capacidad de manejo y operación del Municipio, no es requerido reportar al DRNA o al Centro de Respuesta Nacional (NRC, por sus siglas en inglés). Sin embargo, de ocurrir los siguientes eventos, la emergencia debe ser notificada de inmediato:

1. Derrame o liberación de sustancias peligrosas en cantidades considerada reportables.
2. Si una cantidad menos de diez (10) galones se ha derramado, pero ha afectado directamente a cuerpos de agua, alcantarillados pluviales o fuentes de abasto de agua potable.
3. No es posible contener o interceptar el derrame.

Si durante el estimado de posibles daños o implicaciones al ambiente de dicha emergencia involucrara materiales altamente peligrosos o con potencial de extenderse a otras facilidades, el coordinador de emergencia designado deberá contactar al Centro de Respuesta Nacional (1-800-424-8802) y/o a la División de Emergencias Ambientales del DRNA (787-999-2200 ext. 5900). También se notificará al Departamento de Policía y Bomberos para que se encuentren al tanto de la situación y puedan movilizarse tan pronto sea necesario

D. Inventario de Materiales y Equipos de Emergencia

El siguiente equipo es recomendado para manejar cualquier desastre descrito en este Plan:

- "Two-way" radios
- Papel toalla
- Gafas protectoras
- Mantas y materiales absorbentes ("pampers", "boomers")
- Arcilla, arena
- Dron de 55 galones
- Camión pequeño (de ser necesario)
- Generadores portátiles (de ser necesario)
- Barricadas (opcional)
- Equipo de control de derrames
- Excavadoras (opcional)
- "blowers" (gas and eléctrico)
- Aparatos de respiración autónomos (SCBA por sus siglas en inglés)
- Camiones de remolque (si es necesario)
- Bombas de extracción portátiles (de ser necesario)

- Luces de emergencia
- Trajes desechables tipo Tyvek
- Guantes de látex o neopreno
- Cartuchos de respiradores
- Respiradores purificadores de aire

El equipo de respuesta a emergencias incluye:

- Materiales absorbentes
- Papel toallas
- Bolsas plásticas
- Guantes
- Cubiertas de plásticos
- Rotulación de peligro-no pase
- Cinta adhesiva
- Linterna y baterías
- "Spill kit"
- Detector de gas portátil
- Respiradores purificadores de aire
- Gafas protectoras
- Trajes desechables
- Palas
- Bolsas de arenas
- Material absorbente
- Botas de goma
- Extintor

Estos equipos deberán estar disponibles en todo momento. Los mismos deberán ser revisados periódicamente para verificar su funcionalidad.

V. Escenarios de Descarga Potenciales

La EPA, en su hoja de cómo reportar eventos de derrames, establece que una cantidad es reportable solamente cuando se violan las cantidades reportables (RQ) establecidos dentro de la Sección 103 de Ley de Conservación y Recuperación de Recursos (CERCLA, por sus siglas en inglés). En el caso del diésel y gasolina, están excluidos de dichas listas como "**petroleum exclusion**", pero en caso de derrames se deben reportar, si ese evento causa un daño directo a la calidad del agua, provocando películas de aceites en las superficies.

ESCENARIOS POTENCIALES	TIPO DE ESCENARIOS	RECEPTOR	ACCIÓN-RESPUESTA	EQUIPO PARA UTILIZARSE
PEQUEÑO (Nivel I)	Escapes o derrames menores de 10 galones (procesos de transferencia de diésel, limpieza mantenimiento de áreas).	*Áreas aledañas a la facilidad como: estacionamiento cercano, estructuras secundarias, perímetro del camión tanque	*personal autorizado llevará a cabo la limpieza (debe estar entrenado para dichas funciones). Mayormente la respuesta es efectuada por empleados municipales	Equipo de derrames (arena, absorbentes, drones de 55 galones) trajes desechables, botas y guantes
MEDIANO (Nivel II)	Derrames mayores de 10 galones, pero menos de 100 galones. Derrames a mayor escala: mayor de 100 hasta 1,000 galones.	*Áreas aledañas a alcantarillado pluvial y sanitario.	*Como primera respuesta, evite cualquier entrada al agua usando material absorbente y bloqueo. *Si es necesario, limpie la estructura contenida con aspirador.	Equipo de respuesta externo (Oficina de Manejo de Emergencias) Aspiradora Ropa de seguridad Drones Spill kit.
GRAVE (Nivel III)	Derrames mayores de 1,000 galones debido a: <ul style="list-style-type: none"> • Explosión • Incendio/Fuego • Rotura del Tanque • Fallas • Desastres Naturales 	*Descarga directa a un cuerpo de agua *Daño inminente a la propiedad, personas y ambientes	*Estimación de daños y cantidad derramada *Notificar inmediatamente a las agencias pertinentes	Equipo necesario provisto por la Agencia para el Manejo de Emergencias o Servicios subcontratados

VI. Evaluación del Peor de los Casos

En este Plan de Contingencia en respuesta a emergencias, el Municipio reúne esfuerzos en su compromiso ambiental para la mejor ejecución del plan, mediante la evaluación del peor de los casos. La evaluación del peor de los casos nos permite tener una visualización clara de los posibles riesgos y efectos al ambiente de un evento de contaminación por petróleo y/o derivados y por consiguiente responder de forma apropiada a la situación o incidente en las facilidades de la Nueva Alcaldía.

Las decisiones para tomarse deben ser tomadas de forma rápida y asertiva. Estas decisiones deben incluir, pero no se limitan: (a) aislar el área, (b) ubicación del personal en áreas seguras, (c) control de la situación (por ejemplo: extinción del fuego), (d) confinamiento del área y (e) recuperación y limpieza. A continuación, la descripción de los posibles escenarios que pudieran ocurrir dentro de las facilidades de la Nueva Casa Alcaldía:

A. Derrames en estructuras contenidas (aplicable en área de tanques sobre terreno y los generadores de emergencias)

1. Para casos de derrames a menor escala, determine un perímetro de por lo menos cincuenta (50) pies en todas las direcciones. Para derrames a mayor escala, determine un perímetro mayor de cien (100) pies en todas las direcciones. Evalúe donde están localizadas las personas y la dirección del viento.
2. El coordinador de emergencia designado identificará la fuente, cantidad, tipo de material, entre otros. El método inicial será realizar una identificación visual del incidente. Evalúe las tuberías, conexiones, estructuras contenidas y equipos.
3. Específicamente en las áreas donde se encuentran los tanques sobre terreno de gasolina y diésel, **la alcantarilla pluvial debe ser protegida con mayor prioridad dentro del perímetro.**

4. El lugar donde ocurrió el derrame debe ser evaluado y para identificar las zonas de peligro y determinar las medidas de seguridad a considerarse.
5. En un evento de derrame dentro de un área contenida, debe ser removido del dique o de la estructura contenida por un aspirador portátil. El derrame debe ser controlado lo más rápido posible para evitar su extensión. Mantas y/o materiales absorbentes deben ser utilizados para remover toda sustancia presente en la zona. Los mismos deben ser dispuestos según con lo establecido en la Ley. De tener la sospecha que hubiese alguna entrada de aceites y/o derivados al alcantarillado pluvial o al sistema sanitario, el coordinador de emergencia deberá contactar a la Planta de Tratamiento correspondiente para tomar medidas correctivas.

B. Derrames en áreas no contenidas (i.e. almacenaje en bidones o envases igual o menor de 55 galones)

1. El individuo o personal que descubra el incidente debe notificar inmediatamente al guardia de seguridad y éste procederá a realizar las notificaciones pertinentes. Una vez se contacte al personal autorizado, se debe notificar la cantidad aproximada del derrame e intente contener el mismo (de forma preventiva) hasta que llegue el personal autorizado (esto si conoce el material involucrado).
2. Una vez se presente el coordinador de emergencia, el mismo activará al equipo de limpieza adiestrado (personal interno) o si es necesario contactará personal externo para limpieza y mitigación del área.
3. Se delimitará una zona control para evitar la extensión del derrame y evitar algún efecto dañino al personal y/o propiedad. Esta zona será ubicada a cierta distancia (mayor de 35 metros) del área de exclusión o zona del derrame (zona caliente). La zona de exclusión debe estar limitada al personal de limpieza y equipo de trabajo del Municipio y otras agencias.

4. Si el equipo de trabajo designado entiende que existe la posibilidad de riesgo de un incendio o fuego, el coordinador de emergencia designado contactará al Departamento de Bomberos para que tomen acción al respecto.
5. En cuanto a pequeños incendios/fuegos dentro o fuera de las facilidades cercanas a los tanques sobre terreno de la estación de gasolina y generadores de emergencia, los mismos deben ser controlados por químicos secos, CO2 o "*foam*". Si fuesen incendios a grandes escalas, deben ser utilizados "*water-jet spray*" o "*foam*". Cualquier contenedor de diésel, debe estar a temperatura ambiente o asperjar agua sobre los mismos. Si es posible, debe removerlos de la fuente de calor.
6. Durante la emergencia. **SI ESCUCHA UN SONIDO AGUDO, PROVENIENTE DE LA VÁLVULA O VENTOSA EN LAS CONEXIONES, O EL TANQUE COMIENZA A DESCOLORARSE, ABANDONE EL ÁREA INMEDIATAMENTE. COLÓQUESE EN ZONAS ALTAS Y ESPERE INDICACIONES DEL PERSONAL DE EMERGENCIA.**
7. Queda a discreción del coordinador de emergencia, determinar si es necesario emplear mano de obra y equipos adicionales para el manejo de la emergencia.

Si del incidente de derrame, resultara la formación y liberación de una nube de vapor tóxico (debido a reacciones con materiales externos, condiciones atmosféricas y aumento en vapor de aire) se recomienda la evacuación inmediata. Un área delimitada de quinientos pies (500) de ancho y mil (1,000) pies de largo. Además, deben colocarse en zonas altas (determinadas por la dirección del viento). Ver Apéndice III.

La distancia a las áreas urbanas es de aproximadamente seiscientos (600) metros; en el peor de los casos. El desalojo de personal de la Nueva Casa Alcaldía y áreas limítrofes descritas en el Apéndice III. Cualquier facilidad industrial que se encuentre dentro del perímetro será notificada. Si una cantidad del material tiene la posibilidad de producir un incendio o explosión

debido a los cambios del viento en el área, el personal técnico a cargo de la emergencia deberá evaluar la situación y tomar decisiones asertivas para el manejo adecuado del incidente.

Durante una emergencia, es necesario tomar medidas razonables y necesarias para asegurarnos que el incidente se mantenga contenido en una sola área de la facilidad. Estas medidas incluyen (pero no se limita): remoción de contenedores a otras áreas, detener operaciones de trabajo (aledañas al lugar del incidente), recogido de desperdicios y/o mantener área limpia y tener el área del generador siempre despejada (no vehículos cercanos al mismo).

Si la facilidad de la Nueva Casa Alcaldía detiene sus operaciones en respuesta a incendios, explosiones o liberación de material peligroso (si alguno), el Coordinador de Emergencia junto con su equipo de trabajo monitoreará algún liqueo, presión, generación de gases o rupturas en válvulas, conexiones y otros equipos. Después de la emergencia, el coordinador de emergencia se cerciorará que todos los desperdicios generados se manejen de forma adecuada según lo establece el Reglamento de Desperdicios Sólidos Peligrosos y No Peligrosos.

C. Fuegos, Explosiones o Liberación de Desperdicios y/o Materiales Peligrosos y No Peligroso

Como parte del propósito de este Plan, el mismo se enfoca en aquellos eventos de peligro donde ocurran derrames de aceites y derivados de petróleo. Sin embargo, la posibilidad de ocurrencia de fuegos y/o explosiones en eventos de derrames es alta. Por esta razón, los extintores y alarmas de fuego están instalados a lo largo de los edificios de la Nueva Casa Alcaldía. Los empleados y personal que labora en las facilidades deben estar familiarizados con este Plan y la localización de estos equipos. En caso de fuegos localizados (área de baños, equipos eléctricos u oficinas) cerca de las fuentes de combustible, pero no prevé daños a los tanques sobre terreno, se pueden seguir las siguientes instrucciones:

1. Inmediatamente notifique la emergencia al supervisor o administrador del edificio.

2. Utilizar los extintores para mitigar el fuego.
3. Si ocurriesen daños mayores a la estructura del edificio, notifique al Departamento de Conservación de Edificios. Si la situación fue controlada sin ninguna necesidad de contactar personal adicional, haga un reporte y notifíquelo al Departamento de Conservación de Edificios.

En caso de que el fuego se extienda o se encuentre muy cercano hacia la estación de gasolina o generadores de emergencia y sea necesario el Cuerpo de Bomberos se debe cumplir con el siguiente procedimiento:

1. El individuo que descubra la situación de emergencia notificará inmediatamente al Departamento de Conservación de Edificios (787-653-8833 extensión 3270) y guardias de seguridad (787-653-8833 extensión 2652).
2. Se debe activar el sistema de alarmas y una vez se notifique a dicho departamento, el coordinador de emergencias, y equipo de trabajo, asistirá al lugar del incidente. De no conseguir personal del Departamento de Conservación de Edificios, comunicarse con la Oficina de Asuntos Ambientales (787-653-8833 x.1717, 1722).
3. El coordinador de emergencia evaluará la situación y los potenciales peligros que puedan ocurrir. Tomar acciones correspondientes.
4. Llamar a la Agencia para el Manejo de Emergencias (787-743-1510) y al Departamento de Bomberos.
5. Se deben activar las alarmas de incendio situadas en los pasillos de la Nueva Casa Alcaldía. Proceder con el desalojo del personal cercano al área de peligro.
6. Aislar el área hasta que llegue el personal del Manejo de Emergencias y el Equipo de Trabajo (municipal) para que tome control de la situación (si es necesario).

7. El coordinador de emergencia junto con el equipo de trabajo **evaluará** el potencial y posible impacto al ambiente y efectos a la salud del incidente. Tomará las medidas y acciones correspondientes según detallados en la Tabla 1.
8. Durante la emergencia, se intentará mantener la situación contenida en una zona específica.
9. Inmediatamente, luego de resuelta la emergencia, el coordinador de emergencia y su equipo de trabajo proveerá información sobre las decisiones tomadas y someterá un informe detallado del plan seguido en el incidente.

D. Fallas o Filtración en el Tanque. Ruptura del Tanque

El tanque sobre terreno que se encuentra en la Nueva Casa Alcaldía tiene una capacidad de 2,000 galones de diésel. Es necesario destacar, que el manufacturero ofrece una garantía en contra de daños, roturas y fisuras por dentro y fuera del tanque dentro de un tiempo determinado. Esto excluye casos de daños causados por el hombre. Cuando una ó más emergencia ocurre en las áreas circundantes, la integridad y funcionalidad del tanque puede ser alterada. Las clasificaciones de los derrames son: (a) derrames pequeños o menor escala (1-10 galones), (b) mediana escala (10-100 galones), (c) grande escala (100-1,000 galones) y (d) peor de los casos (1,000-6,000 galones).

Durante la Emergencia

- a. Haga una inspección visual del tanque y del generador de emergencia.
- b. **Evite** cualquier fuente de flamas, chispas o cualquier fuente de combustión cercanas.
- c. Aísle el área (si es necesario proceda con el desalojo del personal, contacte al personal del Departamento de Bomberos y Policía).
- d. Contacte al personal del Departamento de Conservación de Edificios o la Oficina de Administración.

- e. Cierre cualquier válvula o líneas de conexión y apague el equipo. Evite cualquier entrada de diésel al alcantarillado pluvial o cuerpos de agua.
- f. Personal entrenado confinará y manejará el derrame (ver Sección 5 Parte A-B de este Plan o del Plan de Control y Prevención de Derrames).
- g. Si el derrame es mayor de diez galones y se encuentra fuera de las estructuras contenidas, contacte inmediatamente a las agencias estatales y/o municipales para limpieza y manejo de los desperdicios.
- h. La limpieza del área debe realizarse con el equipo apropiado según se establece en la Sección IV-C.
- i. Desconecte temporeraente el uso del generador de emergencia (si aplica).

Después

- j. Contacte al manufacturero o contratista para reportar la situación y coordinar el reemplazo del tanque lo antes posible. Verifique si existe algún seguro que asuma los costos de reemplazo e instalación del tanque.
- k. Proceda con el reemplazo del tanque e informe al Departamento de Recursos Naturales y Ambientales - Área de Calidad de Agua.
- l. Prepare un informe que incluya las acciones y procedimientos tomados. Presente dicho informe a las agencias pertinentes. Además, la Oficina de Asuntos Ambientales debe poseer copia de dicho informe para su expediente.

E. Desastres Naturales

1. **Inundaciones** - Las inundaciones son uno de los desastres naturales más comunes reportados en áreas urbanas. Además, dichos eventos pueden ser repentinos o reportables por eventos atmosféricos. El área circundante al tanque sobre terreno está clasificada como **Zona X y una pequeña parte del área como 0.2 PCT ANNUAL CHANCE FLOOD HAZARD**. No se espera que en dicha zona ocurran inundaciones. Sin embargo, de ocurrir alguna eventualidad, el coordinador de emergencia seguirá esta línea de atención:

Antes

- a. Haga una inspección visual del tanque y áreas de los generadores. Verifique que todo se encuentra en su lugar.
- b. Verifique las paredes del tanque (que no haya fisuras, dobleces en las conexiones, roturas en los sistemas).
- c. Limpie las estructuras contenidas (remueva hojas, basura u otros objetos)
- d. Verifique su inventario de equipo y materiales para el control de derrames
- e. **Manténgase al tanto de las noticias y reportes meteorológicos.**
- f. Informe cualquier anomalía que pudiera producir un evento o incidente.
- g. Asegure el área para evitar la entrada de personal no autorizado.

Durante y Después

- h. Si hubiese falta de electricidad y necesita verificar el área, **no utilice** lámparas de keroseno, velas o algún otro propulsor de fuego.
- i. Evite la utilización de objetos o recursos peligrosos cercanos al tanque sobre terreno.
- j. Tome fotografías si hubiese algún daño y notifíquelo al Departamento correspondiente.

2. **Huracanes/ Tormentas** – Los huracanes son tormentas tropicales con vientos sostenidos y mayores de 74 millas por hora. En Puerto Rico, es una de las mayores causas de desastres naturales. La época de mayor incidencia de estos casos es entre Julio y noviembre. El Municipio necesita estar preparado para cualquier situación que se presente ya sea por deslizamiento ligero del tanque (por los vientos), ruptura de las conexiones o alguna otra situación imprevista debido a eventos meteorológicos.

Antes

- a. Realice una inspección visual del tanque sobre terreno.
- b. Asegure y refuerce las conexiones, juntas, tanque, paneles de electricidad cercanos o algún otro equipo. Si es necesario, coloque juntas nuevas o adicionales para evitar cualquier derrame cuando comiencen los vientos huracanados.
- c. Proteja y asegure el tanque con materiales no inflamables como acero o cordones de metal.
- d. Cierre las válvulas de drenaje y verifique los medidores de diésel. Anote la cantidad antes y después de la emergencia.
- e. **Manténgase al tanto de las noticias y reportes meteorológicos.**
- f. Informe si se encontró alguna anomalía.
- g. Asegure el área para evitar la entrada de personal no autorizado.

Después

- h. Si hubiese falta de electricidad y necesita verificar el área, **no utilice** lámparas de keroseno, velas o algún otro propulsor de fuego.
- i. Evaluación de los daños. Verifique si hay liqueos o roturas de las líneas, cables, circuitos, daños a la estructura, entre otras.

- j. Tome fotografías si hubiese algún daño y notifíquelo al Departamento correspondiente

F. Actos Vandalismo/Actos de Sabotaje o Terrorismo-

Terrorismo es el uso de la fuerza o violencia contra las personas, propiedades o ambientes para promover cambios políticos y sociales. Si bien los ataques terroristas pueden tomar diferentes formas, el método más común es la utilización de bombas. Muchos de los peligros asociados a bombas son biológicas, químicas o radiológicas. En este momento, la Nueva Casa Alcaldía es una facilidad que está cubierta bajo la Ley Antiterrorismo aprobada el 12 de junio del 2002 por el Congreso de los Estados Unidos. Por esta razón, el protocolo a seguir estará delineado por la Oficina Municipal para el Manejo de Emergencias. Como guía, utilice el mapa de desalojo presentado en el Apéndice III.

VII. Acciones de Seguimiento

- a. Una vez, la emergencia se encuentre bajo control se debe iniciar la limpieza y recogido de desperdicios. El (Los) supervisor (es) del área afectada, en conjunto con el coordinador de emergencia determinarán el mejor curso de acción.
- b. ***Todo desperdicio generado en el incidente debe ser tratado, almacenado y dispuesto de acuerdo con el 40 CFR 261.33 y/u otras regulaciones estatales y federales.***
- c. Asigne responsabilidades y realice acciones preventivas y/o correctivas para evitar cualquier situación similar. Someta un informe a las agencias pertinentes y a la Oficina de Asuntos Ambientales para archivo.

VIII. Seguimiento y Documentación del Incidente

Las labores de control, remoción y limpieza en situaciones de emergencia deben comenzar inmediatamente. Este Plan no sustituye o reemplaza otros planes del MAC, ni acciones

realizadas por la Oficina Municipal para el Manejo de Emergencias. Las acciones dependerán de la localización y tipo de emergencia. Si ocurriese un derrame de alguna sustancia peligrosa, las personas involucradas en la limpieza deben poseer certificación de 40 horas de adiestramiento (HAZWOPER). Si el derrame es petróleo y/o sus derivados, el personal autorizado debe poseer una preparación en respuesta a emergencias y manejo adecuado de productos de petróleo.

Durante la emergencia es importante designar un personal que: (1) documente toda información obtenida por radio, (2) tome fotografías o videos del incidente y (3) documente acciones y decisiones tomadas durante el transcurso de la emergencia. El archivo de documentos es una parte integral de un incidente y es requerido por las agencias estatales y federales.

Después de la Emergencia, un reporte tiene que ser completado antes del cumplimiento de cuarenta y ocho (48) horas (ver Apéndice I del SPCC). También, se debe coordinar una reunión interagencial con aquellas agencias que participaron en el incidente. El motivo de esta reunión es: (a) información completa del incidente, (b) evaluar la respuesta, (c) revisar el plan de respuesta en base a las lecciones aprendidas y (d) provisión de datos como formas, reportes y bitácoras enviadas a las agencias en caso de litigaciones judiciales.

IX. Comunicación del Riesgo

Los medios tienen un rol importante en respuesta a emergencias. Es relevante mantener y desarrollar un programa de comunicación de riesgo en respuesta a emergencias. La comunicación de riesgo es un proceso interactivo en el cual se intercambia información y opiniones con respecto a una situación específica. La información detallada en este Plan de Emergencia no pertenece a un programa de manejo de riesgo del Municipio, pero representa una guía para la respuesta a emergencias descritas aquí.

El Municipio tiene oficiales de comunicaciones que responden a la prensa en casos de emergencias o situaciones de crisis. Sin embargo, toda comunicación oficial se realizara a través

de la Oficina de Comunicaciones y Prensa, junto con el coordinador de emergencia para informar a la Prensa sobre la emergencia. Es importante destacar que la información brindada a los medios debe ser concisa, precisa y veraz.

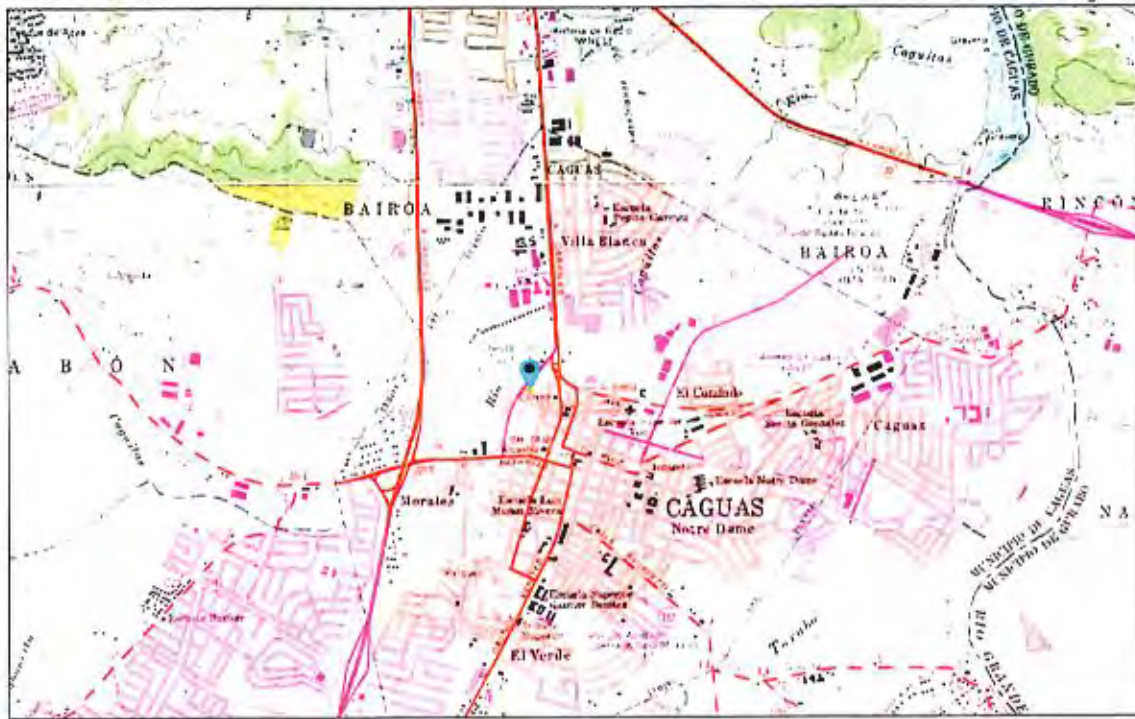
A continuación, una guía breve para una mejor comunicación en caso de emergencias:

ANTES	DURANTE	DESPUES
Desarrolle mensajes claros y precisos	Evite especulaciones y/o suposiciones; circunscríbase a los hechos Sea franco y honesto con los medios	Informe y emita un comunicado de prensa sobre la situación de emergencia
Mantenga informado al público en general mediante la repetición de datos concretos (por ejemplo: un tanque de 10,000 galones tuvo una rotura leve pero no representa peligro a la salud pública)	Mantenga la información constante y breve	Explique las acciones de seguimiento y si hubo algún servicio subcontratado.
	Explique los términos científicos lo más simple.	
	Informe sobre medidas de seguridad y la importancia de seguir instrucciones	

APÉNDICES

APÉNDICE I
MAPA TOPOGRÁFICO

Mapa Topografica SPCC Nueva Alcaldía, Bo. Pueblo, Municipio Autónomo de Caguas



7/14/2023

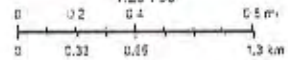
Preparado por:
Oficina de Asuntos Ambientales

Leyenda:



Localización de la Alcaldía Nueva

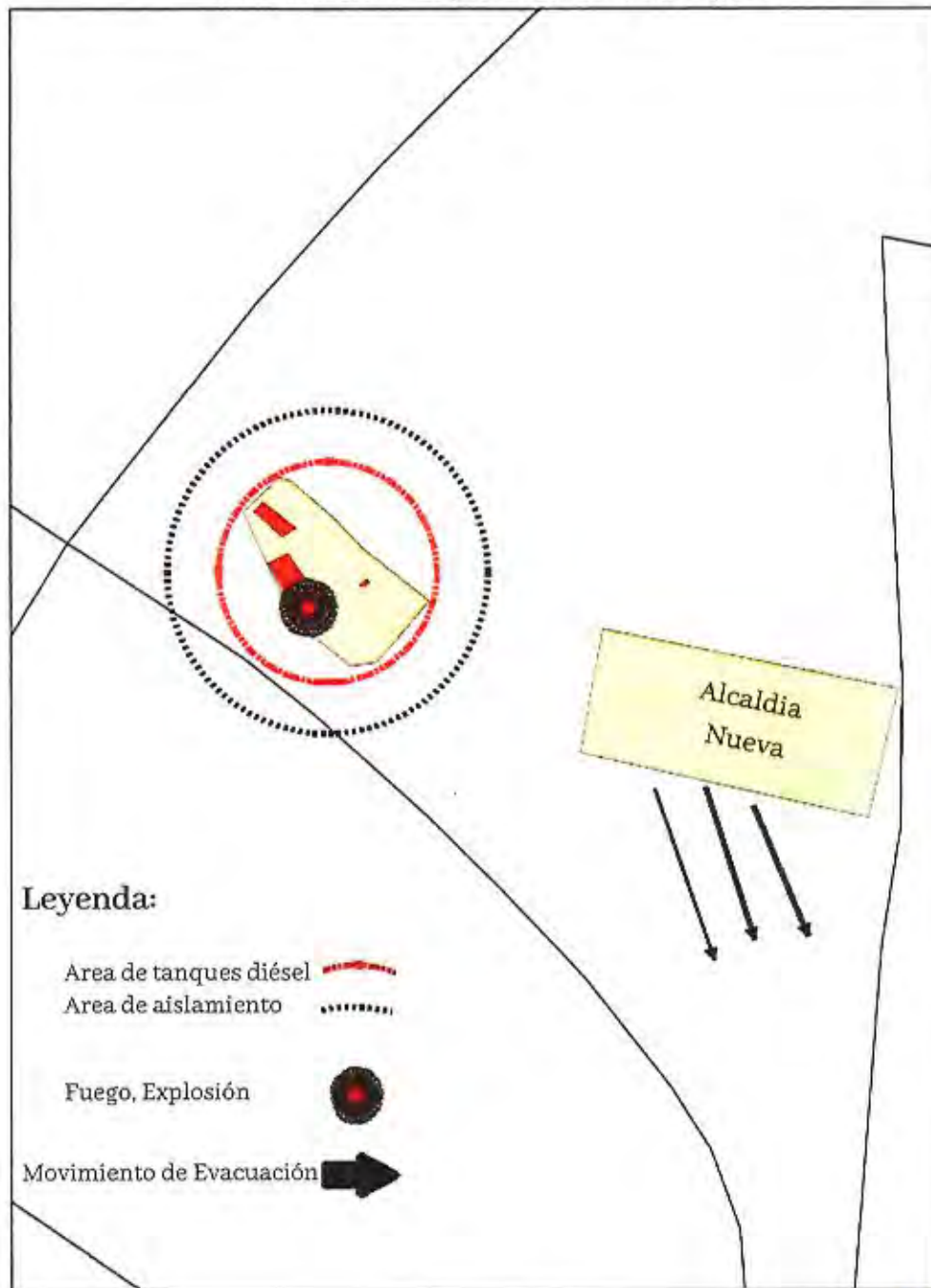
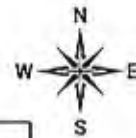
1:25 790







Mapa topográfico de la SPCC Nueva Alcaldía, Bo. Pueblo, Municipio Autónomo de Caguas, Puerto Rico. Escala: 1:25 790. Fecha de elaboración: 7/14/2023.

APÉNDICE II
CROQUIS- EVENTO DE EMERGENCIA

Evento de Emergencia
SPCC Nueva Alcaldía,
Bo. Pueblo, Municipio Autónomo de Caguas



Leyenda:

- Area de tanques diésel 
- Area de aislamiento 
- Fuego, Explosión 
- Movimiento de Evacuación 

1:800

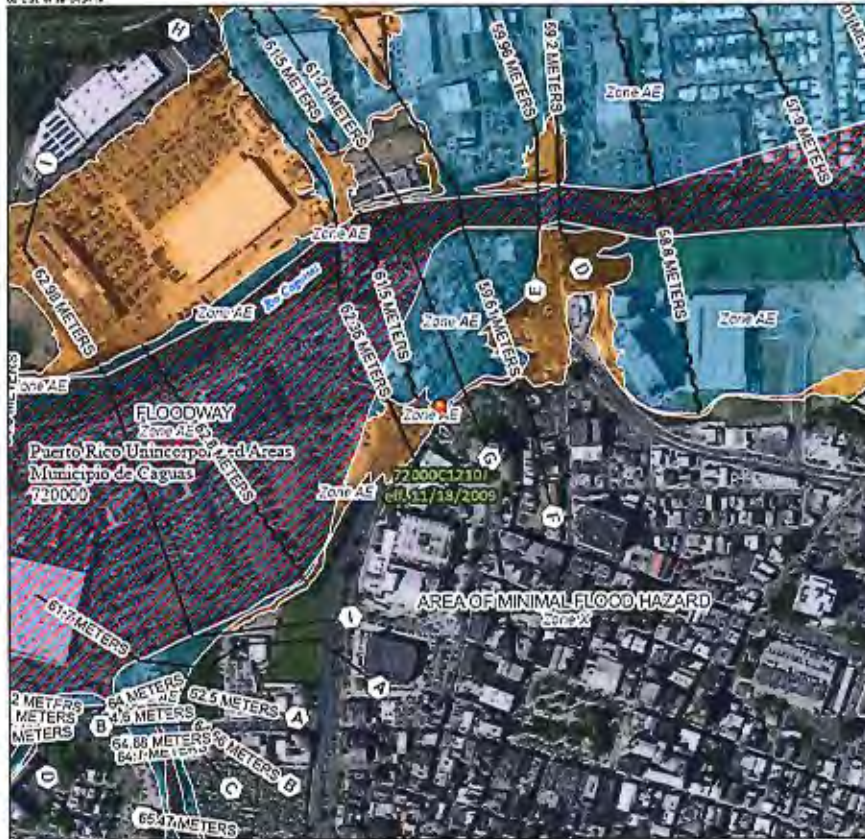
Preparado por:
Oficina de Asuntos Ambientales

APÉNDICE III
MAPA DE INUNDABILIDAD

National Flood Hazard Layer FIRMette



66°23'16" 18°04'54" W



Legend

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

- SPECIAL FLOOD HAZARD AREAS**
 - Without Base Flood Elevation (BFE) Zone A, B, C
 - With BFE or Depth Zone AE, AO, AH, AE, AP
 - Regulatory Floodway
 - OTHER AREAS OF FLOOD HAZARD**
 - 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone C
 - Future Conditions 1% Annual Chance Flood Hazard Zone D
 - Area with Reduced Flood Risk due to Levees, See Notes, CH-13
 - Area with Flood Risk due to Levees Zone E
 - OTHER AREAS**
 - NO SPECIAL: Area of Minimal Flood Hazard Zone X
 - Effective LOMs
 - Area of Undetermined Flood Hazard Zone G
 - GENERAL STRUCTURES**
 - Channel, Culvert, or Storm Sewer
 - Levee, Slab, or Roadway
 - OTHER FEATURES**
 - Cross Sections with 1% Annual Chance Water Surface Elevation
 - Coastal Transect
 - Base Flood Elevation Line (BFE)
 - Line of Slab
 - Jurisdiction Boundary
 - Coastal Transect Baseline
 - Profile Baseline
 - Hydrographic Feature
 - MAP PANELS**
 - Digital Data Available
 - No Digital Data Available
 - Unmapped
- The pin displayed on the map is an approved map point selected by the user and does not represent an advantageous 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 7/24/2023 at 10:22 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 unprocessed areas cannot be used for regulatory purposes.

APÉNDICE IV
DIRECTORIO TELEFÓNICO

Directorio Telefónico en Caso de Emergencias
Agencias Municipales, Estatales y Federales

AGENCIA	TELÉFONO
National Response Center	1-800-424-8002
Agencia Federal de Protección Ambiental	(787) 725-7825
Departamento de Recursos Naturales y Ambientales	787-999-2200
USGS, Rescue Coordination Center	(787) 722-2943
Cuerpo de Bomberos	911/ (787) 743-2121
Oficina Municipal de Manejo de Emergencias (Caguas)	(787) 743- 1510
Hospital HIMA (Caguas)	(787) 744-3141
Hospital Menonita (Caguas)	(787) 653 -0550
Departamento de Policía (Central)	(787) 343-2020
Departamento de Policía (Caguas)	(787)743-2020
Sr. Carlos Díaz Director Departamento Conservación Edificios	(787) 653-5400 x 3256 Mobile: (787) 392-7069
Plan. Guillermo Rivera Director Oficina de Asuntos Ambientales	(787) 653-8833 x. 1717,1719,1721 Cel: (787) 392-7025

APÉNDICE V
POSIBLE ESCENARIO Y DELIMITACION DEL PERIMETRO

Tabla 1. Posible Escenario de Emergencia en la Nueva Alcaldía

INCIDENTE	ACCIÓN	PELIGROS POTENCIALES	SEGURIDAD PÚBLICA	RESPUESTA A EMERGENCIAS
Incendio/ Explosión	<ul style="list-style-type: none"> • Llame a la Oficina de Gestión de Emergencias y Desastres • Si el tanque está involucrado en un incendio, aisle durante 800 metros (1/2 milla) en todas las direcciones. • Manténgase alejado de los tanques envueltos en fuego. • Todos estos productos tienen un punto de inflamación muy bajo: el uso de agua pulverizada durante la lucha puede ser ineficiente. Para incendios pequeños, químico seco CO₂, rociado de agua o espuma regular. • Para incendios masivos, use soportes de manguera no tripulados o boquillas de monitoreo; Si esto es imposible, retírese del área y deje que el fuego arda. 	<ul style="list-style-type: none"> • Altamente inflamable • Fácilmente encendido por calor, chispas o llamas. • Los contenedores pueden explotar cuando se calientan • La escorrentía a las alcantarillas puede crear peligro de incendio o explosión • Los vapores pueden viajar a la fuente de ignición y flashback. 	<ul style="list-style-type: none"> • Como medida de precaución inmediata, aisle el área del derrame o fuga durante al menos 50 metros (150 pies) en todas las direcciones. • Mantenga alejado al personal no autorizado y manténgase contra el viento. • Mantenga alejadas las áreas bajas. • Ventile los espacios cerrados antes de entrar. • Use aparatos de respiración autónomos de presión positiva (SCBA, por sus siglas en inglés). 	<ul style="list-style-type: none"> • Si tiene víctimas, muévalas al aire libre. • En caso de quemaduras, enfríe inmediatamente la piel afectada durante el mayor tiempo posible con agua fría. No se quite la ropa si se adhiere a la piel. • Asegúrese de que el personal médico esté al tanto del material (s) involucrado y tome precauciones para protegerse.

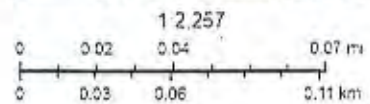
INCIDENTE	ACCIÓN	PELIGROS POTENCIALES	SEGURIDAD PUBLICA	RESPUESTA A EMERGENCIAS
<p>Derrames o fugas</p>	<ul style="list-style-type: none"> • Elimine todas las fuentes de ignición (no fumar, bengalas, chispas o llamas en el área inmediata). • No toque ni camine a través del material derramado. • Evite la entrada a vías fluviales, alcantarillas, sótanos o áreas confinadas. • Cubrir con tierra seca, arena u otro material no combustible y transferir a contenedores. • En derrame de mayor escala, será necesario contactar compañías que mitifiquen el área. 	<ul style="list-style-type: none"> • La inhalación o el contacto con material puede irritar o quemar la piel y los ojos. 	<ul style="list-style-type: none"> • Autorizar al personal a usar ropa protectora. • Retire a las personas a áreas abiertas para evitar la inhalación de vapor. • Evite la entrada de diésel a vías fluviales o aguas navegables. 	<ul style="list-style-type: none"> • En caso de contacto con una sustancia, enjuague inmediatamente la piel o los ojos con agua corriente durante al menos 20 minutos. • Asegúrese de que el personal médico esté al tanto del material involucrado y tome precauciones para protegerse.

INCIDENTE	ACCIÓN	PELIGROS POTENCIALES	SEGURIDAD PÚBLICA	RESPUESTA A EMERGENCIAS
<p>Desastres naturales (inundaciones, huracanes o terremotos)</p>	<ul style="list-style-type: none"> En caso de huracanes, asegure el área y cierre todas las válvulas o tuberías durante el evento. En caso de inundaciones, después del evento verifica cualquier pérdida, daño o fuga. Si se produce una fuga, notifique inmediatamente a la Oficina de Defensa Civil o Manejo de Emergencias. En caso de terremotos, el diésel debe extenderse en el área. Después del evento, haga una inspección visual y notifique cualquier anomalía a la Oficina de Defensa Civil o Manejo de Emergencias o al 911. 	<ul style="list-style-type: none"> Mezcla con otros productos químicos de la zona. Inflamable. Immiscible en el agua, afecta la vida acuática y contamina el sistema de tratamiento de agua, y representa la contaminación de las aguas pluviales. Ruptura del tanque y / o área autónoma, los vapores van a la atmósfera. 	<ul style="list-style-type: none"> Llame a la Oficina de Defensa Civil o Manejo de Emergencias. Llame al Director de Conservación de Edificios. 	<ul style="list-style-type: none"> Elimina personas de la zona. Después de los huracanes, asegure el generador y el tanque de almacenamiento superior. Verifique y cierre las válvulas y apague la transferencia de diésel. Destapa cualquier alcantarillado cerca del área. Inspeccione el área autónoma.

Escenario Intermedio
SPCC Nueva Alcaldía,
Bo. Pueblo, Municipio Autónomo de Caguas



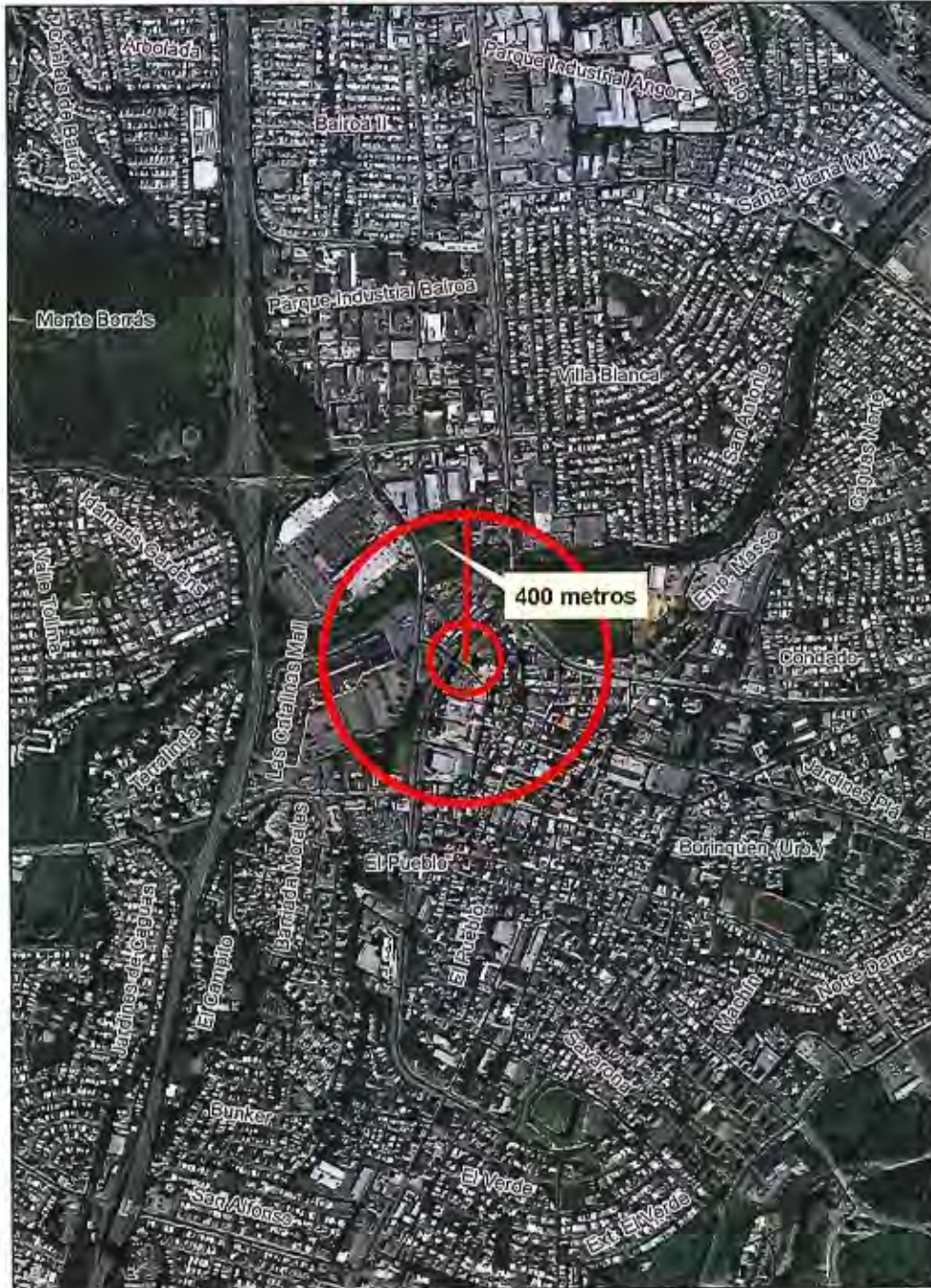
July 21, 2023



Preparado por:
Oficina de Asuntos Ambientales

Source: Esri, Maxar, Earthstar, GeoEye, AeroGRID, IGN, and the GIS User Community

Peor Escenario
SPCC Alcaldía Nueva
Barrio Pueblo, Municipio Autónomo de Caguas



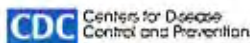
Preparado por:
Oficina de Asuntos Ambientales

1:15,310

Tabla 2. Lista de equipos de respuesta de instalaciones (cualquier equipo adicional debe registrarse en esta lista)

MATERIALES DE CONTROL DE DERRAMES	LOCALIZACION	FECHA DE COMPRA	CANTIDAD	FECHA DE INSPECCION	USADO POR	TIPO, MODELO Y AÑO
Mantas y materiales absorbentes						
Booms						
Spill Kit						
Guantes y botas						
Trajes Tyvek						
Generadores portátiles						
Detector de gas portátil						
Bolsas plásticas						
Arena y arcilla						
Drones de 55 galones						

**APENDICE VI
HOJAS DE DATOS DE SEGURIDAD**



The National Institute for Occupational Safety and Health (NIOSH)

Promoting productive workplaces through safety and health research **NIOSH**

Diesel exhaust

SYNONYMS & TRADE NAMES

CAS NO.

RTECS NO.

DOT ID & GUIDE

HZ1755000

FORMULA

CONVERSION

IDLH

Ca [N.D.]

See: [IDLH INDEX](#)

EXPOSURE LIMITS

NIOSH REL

Ca See [Appendix A](#)

OSHA PEL

none

MEASUREMENT METHODS

NIOSH 5040, 2560

See: [NMAM](#) or [OSHA Methods](#)

PHYSICAL DESCRIPTION

Appearance and odor vary depending upon the specific diesel exhaust component.

MOLECULAR WEIGHT

Properties vary depending upon the specific component diesel exhaust component.

INCOMPATIBILITIES & REACTIVITIES

Varies

EXPOSURE ROUTES

inhalation, skin and/or eye contact

SYMPTOMS

Eye irritation, pulmonary function changes; [potential occupational carcinogen]

TARGET ORGANS

Eyes, respiratory system

CANCER SITE

[in animals: lung tumors]

PERSONAL PROTECTION/SANITATION

(See protection codes)

Skin:No recommendation

Eyes:No recommendation

Wash skin:No recommendation

Remove:No recommendation

Change:No recommendation

FIRST AID

(See procedures)

Breathing:Respiratory support

RESPIRATOR RECOMMENDATIONS

NIOSH

At concentrations above the NIOSH REL, or where there is no REL, at any detectable concentration:

(APF = 10,000) Any self-contained breathing apparatus that has a full facepiece and is operated in a pressure-demand or other positive-pressure mode

(APF = 10,000) Any supplied-air respirator that has a full facepiece and is operated in a pressure-demand or other positive-pressure mode in combination with an auxiliary self-contained positive-pressure breathing apparatus

Escape:

(APF = 50) Any air-purifying, full-facepiece respirator (gas mask) with a chin-style, front- or back-mounted organic vapor canister having an N100, R100, or P100 filter.

[Click here](#) for information on selection of N, R, or P filters.

Any appropriate escape-type, self-contained breathing apparatus

[Important additional information about respirator selection](#)

SEE ALSO

INTRODUCTION

Page last reviewed: October 30, 2019

The National Institute for Occupational Safety and Health (NIOSH)



The National Institute for Occupational Safety and Health (NIOSH)

Promoting productive workplaces through safety and health research



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/m ³ /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/m ³ /7H/2Y- intermittent	Tumorigenic: Carcinogenic by RTECS criteria Lung, Thorax, or Respiration: Tumors	FAATDF 9,208,1987
inhalation/rat	toxic concentration: 4 mg/m ³ /18H/2Y- intermittent	Tumorigenic: Neoplastic by RTECS criteria Lung, Thorax, or Respiration: Tumors	DTESD7 13,459,1986
inhalation/rat	toxic concentration: 2500 µg/m ³ /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/m ³ /2Y- intermittent	Tumorigenic: Carcinogenic by RTECS criteria Lung, Thorax, or Respiration: Tumors	INHTE5 12,97,2000
inhalation/rat	lowest published toxic concentration: 4900 µg/m ³ /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/m ³ /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/m ³ /4H	Vascular: Contraction (isolated tissue)	TXAPA9 230,346,2008

Route/Organism	Dose	Effect	Reference
inhalation/rat	lowest published toxic concentration: 300 µg/m ³ /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/m ³ /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/m ³ /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/m ³ /5W- intermittent	Olfaction: Other olfaction effects	AJCMED 162,352,2000
inhalation/mouse	lowest published toxic concentration: 30 µg/m ³ /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/m ³ /12H/34W- intermittent	Lung, Thorax, or Respiration: Other changes	TOSCF2 44,70,1998
inhalation/mouse	lowest published toxic concentration: 3500 µg/m ³ /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

Route/Organism	Dose	Effect	Reference
inhalation/mouse	lowest published toxic concentration: 6 mg/m ³ /12H/3W- intermittent	Endocrine: Changes in spleen weight Immunological Including Allergic: Decrease in cellular immune response Immunological Including Allergic: Increase in humoral response	TXYAC 116,227,1997
inhalation/mouse	lowest published toxic dose: 2 mg/m ³ /4W- intermittent	Cardiac: Other changes Vascular: Structural changes in vessels	TOXID9 -,148,2008
inhalation/mouse	lowest published toxic dose: 400 µg/m ³ /3D- intermittent	Blood: Changes in spleen	TOXID9 -,35,2008
inhalation/mouse	lowest published toxic concentration: 200 µg/m ³ /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
inhalation/mouse	lowest published toxic concentration: 0.69 µg/m ³ /5H/8W- intermittent	Endocrine: Adrenal cortex hypoplasia	TOLED5 209,277,2012
inhalation/rat	lowest published toxic concentration: 2 mg/m ³ /16W- intermittent	Lung, Thorax, or Respiration: Other changes Blood: Other changes	TOXID9 -,220,2008
inhalation/rat	lowest published toxic concentration: 3500 µg/m ³ /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/m ³ /16W- intermittent	Vascular: Other changes Blood: Hemorrhage Biochemical: Metabolism (intermediary): Effect on inflammation or mediation of inflammation	TOXID9 -,151,2008

Route/Organism	Dose	Effect	Reference
inhalation/rat	lowest published toxic concentration: 300 µg/m ³ /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/m ³ /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		TWIEQ 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	

Organization

Reference

On EPA IRIS database

Page last reviewed: November 16, 2018

OSHA Occupational Chemical Database / DIESEL FUEL

DIESEL FUEL

Chemical Identification

CAS #	68334-30-5; 68476-30-2; 68476-31-3; 68476-34-6; 77650-28-3
Formula	Varies
Synonyms	diesel fuel oil; 1-D; 2-D

Physical Properties

Physical description	A straw yellow to dark colored liquid with a petroleum-like odor.		
Boiling point	540-640°F	Molecular weight	varies
Freezing point/melting point	0°F	Vapor pressure	2.17 mmHg
Flash point	125°F	Vapor density	
Specific gravity	0.841 at 60.8°F	Ionization potential	
Lower explosive limit (LEL)	1.3%	Upper explosive limit (UEL)	6%
NFPA health rating	1	NFPA fire rating	2
NFPA reactivity rating	0	NFPA special instruction	

Vapor hazard ratio (VHR)

Historical exceedance percentage

Target organs

Monitoring Methods Used by OSHA

Analyte code (IMIS no.)

Sampling group

Sampler/Sampling media

Sampling time*

Sampling volume (TWA)*

Sampling flow rate (TWA)*

**Sampling volume
(STEL/Peak/C)***

**Sampling flow rate
(STEL/Peak/C)***

**Analytical method
instruments**

Method reference

Notes

Special requirements

* All sampling instructions above are recommended guidelines for OSHA Compliance Safety and Health Officers (CSHOs), please see the corresponding OSHA method reference for complete details.

Wipe Method

**Sampler/Sampling
media**

Bulk Method

On-Site Screening Techniques

Device

Model/Type

**Sampling information
(see manufacturer
instructions)**

Exposure Limits

OSHA PEL 8-hour TWA (ST) STEL (C) Ceiling Peak	NIOSH REL Up to 10-hour TWA (ST) STEL (C) Ceiling	ACGIH TLV® 8-hour TWA (ST) STEL (C) Ceiling	CAL/OSHA PEL 8-hour TWA (ST) STEL (C) Ceiling Peak
PEL-TWA	REL-TWA	TLV-TWA 100 mg/m ³ (inhalable fraction and vapor) [2007]	PEL-TWA
PEL-STEL	REL-STEL	TLV-STEL	PEL-STEL
PEL-C	REL-C	TLV-C	PEL-C
Skin NA notation	Skin NA notation	Skin Y notation	Skin NA notation
Notes: Not established	Notes: Not established	Notes:	Notes: Not established
Health factors: See NIH-NLM PubChem.	IDLH		
Carcinogenic classifications: TLV-A3; IARC-2B (marine); IARC- 3 (light distillate)	Notes:		
AIHA emergency response planning guidelines - ERPG-1/ERPG-2/ERPG-3: 300 mg/m ³ /1000 mg/m ³ /-			

Additional Resources and Literature References

NOAA: CAMEO Chemicals - Fuel oil, [diesel]

NIOSH: Pocket Guide to Chemical Hazards - Fuel oil, [diesel]

Literature References

- ACGIH: *Documentation of the Threshold Limit Values (TLVs) and Biological Exposure Indices (BEIs)* - Diesel fuel, as total hydrocarbons. See annual publication for most recent information.
- Crisp, A.J., Bhalla, A.K. and Hoffbrand, B.I.: Acute tubular necrosis after exposure to diesel oil. *Br. Med. J.* 2(6183): 177, 1979.
- Das, M. and Misra, M.P.: Acne and folliculitis due to diesel oil. *Contact Dermatitis* 18(2): 120-121, 1988.
- Fischer, T. and Bjamason, B.: Sensitizing and irritant properties of 3 environmental classes of diesel oil and their indicator dyes. *Contact Dermatitis* 34(5): 309-315, 1996.
- Li, F.K., Vip, P.S., Chan, K.W., Chan, T.M. and Lai, K.N.: Acute renal failure after immersion in seawater polluted by diesel oil. *Am. J. Kidney Dis.* 34(6): E26, 1999.
- No authors listed: Diesel fuels. *IARC Monogr. Eval. Carcinog. Risks Hum.* 45: 219-237, 1989.

Last Updated Date : 12/28/2020

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**APÉNDICE XI
ACUERDOS DE CUMPLIMIENTO**

ACUERDO DE CUMPLIMIENTO

Como parte del cumplimiento de las regulaciones federales y estatales establecidas en el Título 40 Sección 112, el Municipio Autónomo de Caguas ha preparado e implantado el Plan para el Control y Prevención de Derrames en la Nueva Casa Alcaldía. He sido informado sobre dicho plan y será mi compromiso cumplir con los procedimientos aquí descritos.

Nombre: _____

Posición: _____

Fecha: _____

Firma: _____

COMPROMISO DE CUMPLIMIENTO

1. Mantener el inventario de "spill mats" para aquellas alcantarillas pluviales cercanas a la estación de gasolina. Esto con el propósito de asegurar que los mismos sean colocados durante el llenado o acarreo de gasolina/diésel hacia los tanques. Cuando la compañía designada para el llenado de los tanques lleve a cabo sus trabajos, los mismos deberán ser supervisados por personal del MAC para asegurar el cumplimiento de los procedimientos descritos en el Plan SPCC.

Comentarios: _____

2. Desarrollar un protocolo para el adiestramiento de personal que labora directa o indirectamente con productos derivados del petróleo en las facilidades de la Nueva Casa Alcaldía. Además, deberá mantener evidencia de dichos adiestramientos en las facilidades por un período de 5 años.

Fecha de Implantación: 2023

Completado en: _____

Comentarios: _____

3. Mantener un equipo de respuestas a derrames, cercanos a las áreas donde se encuentra la estación de gasolina y los generadores de emergencia.

Comentarios: _____
