



*Natural building blocks for quality of life*

February 10, 2005

EPA Docket Center  
Docket ID No. EPA-HQ-2005-0001  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

To Whom It May Concern:

The National Stone, Sand & Gravel Association (NSSGA) submits the following comments on EPA's proposed amendments to the Spill Prevention, Control and Countermeasure Plan requirements.

Based near the nation's capital, NSSGA is the world's largest mining association by product volume. Its member companies represent more than 90 percent of the crushed stone and 70 percent of the sand and gravel produced annually in the U.S. and approximately 115,000 working men and women in the aggregates industry. There are over 11,000 aggregate mining operations in the U.S. During 2004, a total of about 2.86 billion metric tons of crushed stone, sand and gravel, valued at \$16 billion, were produced and sold in the United States.

**1. Proposed Qualified Small Facility Alternative**

EPA proposed to allow certain covered facilities the option of SPCC plan self-certification. While clearly a good faith attempt, EPA's response falls short of what is needed. In order to improve the approach, EPA should: (1) Adopt a tiered approach, similar to the one proposed by SBA. However, the top tier should be raised from 10,000 gallons to at least 15,000 gallons. Even the smallest aggregate facility will usually have a 10,000 gallon diesel AST, plus various other smaller tanks for used oil, lubricants, greases, and other petroleum products. Basing the tiered system on the fact that 10,000 gallons is a common storage tank size, does not take into account the various other forms of petroleum products that are also required at a small facility. Of the 11,000 aggregate operations in the U.S., well over 70% are small facilities or small businesses, by SBA standards. In order to provide the regulatory relief that EPA is trying to accomplish here for smaller businesses, I suggest the minimum threshold be raised to 15,000 gallons. This action would provide substantive relief to a regulated industry composed of thousands of small businesses. (2) Eliminate the 10-year clean discharge history qualifier and, (3) Expand the proposed allowance for deviations regarding integrity testing to allow for visual inspection of individual shop fabricated tanks up to 10,000 gallons.

## **2. Criteria for Small Facility Exemption and Oil Filled Operational Equipment**

EPA has proposed a common criterion to qualify for small facility exemption and oil filled operational equipment - a 10-year period prior to SPCC plan certification (or since becoming subject to SPCC regulations if the facility has been in existence less than 10 years). The theory behind this criterion is to eliminate “risky” facilities from obtaining regulatory relief. A more rational approach would be to relate the exemption to overall risk associated with the facility and the threat to navigable waters. As opposed to any reportable release, EPA would rely on its own determination of “risk” contained in 40 CFR § 112.4. In that provision, EPA recognizes that facilities that have “more than 42 gallons of oil in each of two discharges as described in 40 CFR part 110 in any 12-month period to submit information to the Regional Authority within 60 days of the date of discharge.” 70 Fed. Reg. at 73,536.

In addition, the time period for the criterion should be changed from covering a 10-year history to a 5-year history for such spills (two spills of 42 gallons or more in a single 12-month period). Most environmental permit and record keeping programs require 3- to 5-year record retention policies.

## **3. SPCC Requirements for Mobile Refueling**

The proposed exemption for mobile airport refuelers from specifically sized secondary containment requirements under §112.8(c) (2) and (11) should be more broadly applied. The relief provided to airport refueling operations should be extended to mobile refueling operations at non-transportation industrial facilities, railroads, as well as solid waste, municipal waste, hazardous waste landfills and mining sites. Requiring sized secondary containment for mobile refuelers operating within a busy industrial facility, rail yard or landfill is not practicable for safety and security reasons. Requiring refueling to take place in specially designated secondary containment areas located within an industrial facility operating area can create safety and security hazards because it entails grouping the vehicles or placing impediments in the operations area.

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 accidental oil discharges, as the vehicles would travel with increased frequency through the busy industrial operating areas.

## **4. Fuel Tanks to Power Equipment**

EPA’s proposal did not discuss oil-filled equipment that includes fuel tanks to power the equipment, such as diesel powered generators, fire pumps, compressors, etc. (commonly referred as “gen-sets”). This equipment is similar to operational equipment in that it is manufactured under industry standards and is self-monitoring. Gen-sets are typically moved quite often (weekly or monthly) to new locations, thus making containment for the entire capacity and inclusion on facility diagrams difficult or impossible. Fuel tanks are an integral component on the trailer or skid along with other operational equipment. In many ways, this equipment is similar to the motive power equipment; however, the equipment is not propelled under its own power, thus does not currently qualify for the “motive power” exemption. This equipment should receive the same exemption as motive power.

**5. Clarification of Motive Power**

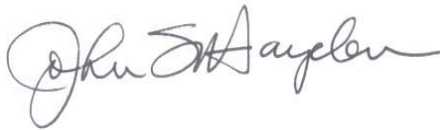
EPA has proposed a reasonable definition and exemption for motive power. See *70 FR 73538*. This exemption would be effective for addressing motive power equipment because of the low level of risk posed by this equipment. However, the definition of motive power containers, currently defined as “onboard bulk storage containers used solely to power the movement of a motor vehicle” (*70 Fed. Reg. 73538*), should be modified to clarify that a “motor vehicle” includes not just automobiles and trucks but all types of motor vehicles, including aircraft, locomotives, watercraft, and equipment that may be stationary for a temporary duration, such as cranes, cherry pickers, or production drill rigs at mining sites.

**6. Listing All Operational Equipment in SPCC Plan**

The requirement to list each individual piece of oil-filled operational and manufacturing equipment in the SPCC Plan and identify each piece of equipment in the facility diagram is an unreasonable burden, especially for a large and complex facility. [See *70 FR 73534*] This requirement is not a good use of the owner/operator and PE’s time and resources and offers negligible, if any, benefits to the overall spill prevention strategy. The rule needs to either remove this requirement or allow for a deviation and subsequently allow the Plan to describe the areas and types of equipment along with how the facility will meet the 40 CFR §112.7(c) containment requirements.

Thank you for the opportunity to submit comments on this proposed rule. Please contact me at 703/526-1065 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Hayden". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John S. Hayden, PG, REM  
Vice President, Environmental Services