

claims made within the documents. In order for the data you submit to be considered in making a determination, the data should be collected, transported, and analyzed under the proper quality assurance and quality control protocols as described at <http://www.epa.gov/quality/>.

**Data Available for Comment:** The documents available for comment today can be found at <http://www.epa.gov/oilspill> under the title "Notice of Data Availability for Certain Facilities" in the EDOCKET index at <http://www.epa.gov/edocket>. These documents include relevant portions of a June 10, 2004 letter from the U.S. Small Business Administration's Office of Advocacy to Thomas P. Dunne, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response of the U.S. Environmental Protection Agency; relevant sections of a background document, *Proposed Reforms to the SPCC Professional Engineer Certification Requirement: Designing a More Cost Effective Approach for Small Facilities*; and additional documents submitted by members of the agricultural industry and other industry stakeholders.

**Request for Comments:** We believe that affected parties should be given an opportunity to participate in the Agency's process of considering whether possible streamlined approaches are appropriate. We are especially interested in data relating to the regulatory approaches described in the documents available for your review today. We are listing the following areas, which are discussed in the documents available to you today, as examples of the kinds of data we request be submitted.

- 1—Data to support development of criteria (e.g. facility oil capacity, activity, etc.) to define a threshold for streamlined requirements for "certain facilities."
- 2—Spill rates for facilities handling oil in various amounts.
- 3—Cost differences for preparation and professional engineer certification for the SPCC Plan related to size of facility or amount of oil handled.
- 4—SPCC compliance rates for facilities handling oil in various amounts.

The Agency is soliciting comments only on the data referenced in this NODA; we are not soliciting comments in this NODA on any other topic. The data may be found at Docket No. OPA-2004-0007 (<http://www.epa.gov/edocket>), and on our Web site (i.e., <http://www.epa.gov/oilspill>).

Dated: August 30, 2004.

**Thomas P. Dunne,**

*Acting Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 04-21065 Filed 9-17-04; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 112**

**[OPA-2004-0008; FRL-7810-4]**

**RIN 2050-AF11**

### **Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability (NODA) and request for comments.

**SUMMARY:** This document announces the availability of information that might be relevant to determining whether alternate regulatory requirements for facilities with oil-filled and process equipment under the Clean Water Act would be appropriate. We are making this information available for public review and comment as part of our process of considering possible streamlined approaches that would ensure protection of human health and the environment from oil spills occurring at facilities with such oil-filled and process equipment.

In addition to this document, the EPA is also publishing in today's **Federal Register** a Notice of Data Availability concerning facilities that handle oil below a certain threshold amount.

**DATES:** Written comments must be received by November 19, 2004.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OPA-2004-0008, by one of the following methods:  
*I. Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*II. Agency Web site:* <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

*III. Mail:* The docket for this rulemaking is located in the EPA Docket Center at 1301 Constitution Ave., NW., EPA West, Suite B-102, Washington, DC 20460. The docket number for the proposed rule is OPA-2004-0008. The docket is contained in the EPA Docket Center and is available for inspection by appointment only, between the hours of 8:30 a.m. and 4:30 p.m., Monday

through Friday, excluding legal holidays. You may make an appointment to view the docket by calling 202-566-0276.

*IV. Hand Delivery:* Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. OPA-2004-0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA EDOCKET and federal [regulations.gov](http://www.regulations.gov) websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET 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 for the Public Reading Room is (202) 566-1744, and the telephone number to make an appointment to view the docket is (202) 566-0276.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA/CERCLA Call 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 notice, contact Hugo Paul Fleischman at 703-603-8769 ([fleischman.hugo@epa.gov](mailto:fleischman.hugo@epa.gov)); or Mark W. Howard at 703-603-8715 ([howard.markw@epa.gov](mailto:howard.markw@epa.gov)), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, Mail Code 5203G.

#### SUPPLEMENTARY INFORMATION:

##### What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views fully and clearly.
2. Describe in detail and explain all assumptions you used.
3. Provide all technical information, data, and analyses you used to support your views.
4. If you estimate potential burden or costs, provide all data and analyses that you used to arrive at your estimate.
5. Provide specific examples to illustrate all your concerns.
6. Make sure to submit your comments by the comment period deadline identified.
7. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

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

**Background:** On July 17, 2002, EPA published a final rule amending the Oil Pollution Prevention regulation (40 CFR part 112) promulgated under the authority of the Clean Water Act. This rule included requirements for Spill Prevention, Control, and Countermeasure (SPCC) Plans, and for

Facility Response Plans (FRPs). It also included new subparts outlining the requirements for various classes of oil; revising the applicability of the regulation; amending the requirements for completing SPCC Plans; and made other modifications. (*See* 67 FR 47042.) The compliance dates in 40 CFR 112.3(a) and (b) have been extended several times. *See* 69 FR 48794, August 11, 2004 for further discussion on the compliance extensions.

**Today's NODA:** EPA is considering an initiative that would provide more focused regulation for facilities with oil-filled<sup>1</sup> and process equipment. To assist the Agency in this effort, we are making available to the public a number of documents for review and comment to help inform us as to what measures, if any, we should consider. We believe that as long as protection of human health and the environment is maintained, we should consider alternatives/options that accomplish the stated objectives of the applicable statutes and minimize impacts of applicable requirements. The documents being made available today for comment describe streamlined alternatives that could replace parts of existing regulations for this type of equipment. Because this approach may have merit, we are very interested in your comments. Specifically, we are interested in receiving any evidence, including data and analyses, related to claims made within the documents. In order for the data you submit to be considered in making a determination, the data should be collected, transported, and analyzed under the proper quality assurance and quality control protocols as described at <http://www.epa.gov/quality/>.

**Data Available for Comment:** The documents available for comment today can be found at <http://www.epa.gov/oilspill> under the title "Notice of Data Availability for Oil-Filled and Process Equipment" in the EDOCKET index at

<sup>1</sup> In the preamble to the July 2002 SPCC rule (67 FR 47054), we distinguished between the requirements for bulk storage of oil and for the operational use of oil. Oil-filled electrical, operating, or manufacturing equipment are specifically excluded from the definition of "bulk storage container" at § 112.2 and thus, this NODA does not address such bulk oil storage containers. However, oil-filled equipment must meet other SPCC requirements, such as the general requirements found in § 112.7(c) to provide appropriate containment and/or diversionary structures to prevent discharged oil from reaching navigable waters (67 FR 47055).

<http://www.epa.gov/edocket>. These documents include the relevant portion of: (1) A white paper regarding oil in operational equipment dated April 2, 2003 submitted by the American Petroleum Institute Coalition to the Oil Program Center in the Office of Solid Waste and Emergency Response of the Environmental Protection Agency; (2) a white paper regarding machining coolant systems dated May 22, 2003 from the Alliance of Automobile Manufacturers submitted to the Oil Program Center; (3) a white paper regarding manufacturing process systems and operational equipment dated September 30, 2003 from the U.S. Small Business Administration's Office of Advocacy submitted to the Oil Program Center; (4) a white paper regarding on-shore oil-filled electrical equipment dated February 5, 2004 from the Utility Solid Waste Activities Group (USWAG); and additional documents submitted to EPA by members of the electrical industry and other industry stakeholders.

**Request for Comments:** We believe that affected parties should be given an opportunity to participate in the Agency's process of considering whether possible streamlined approaches are appropriate. We are especially interested in data relating to the regulatory approaches described in the documents available for your review today. We are listing the following areas, which are discussed in the documents available to you today, as examples of the kinds of data we request be submitted.

- 1—Data to support development of criteria to define oil-filled and process equipment
- 2—Data to support the development of streamlined requirements for facilities with oil-filled and process equipment

The Agency is soliciting comments only on the data provided; we are not soliciting comments in this NODA on any other topic. The data may be found at Docket No. OPA-2004-0008 (<http://www.epa.gov/edocket>), and on our Web site (*i.e.*, <http://www.epa.gov/oilspill>).

Dated: August 30, 2004.

**Thomas P. Dunne,**

*Acting Assistant Administrator, Office of Solid Waste and Emergency Response.*

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