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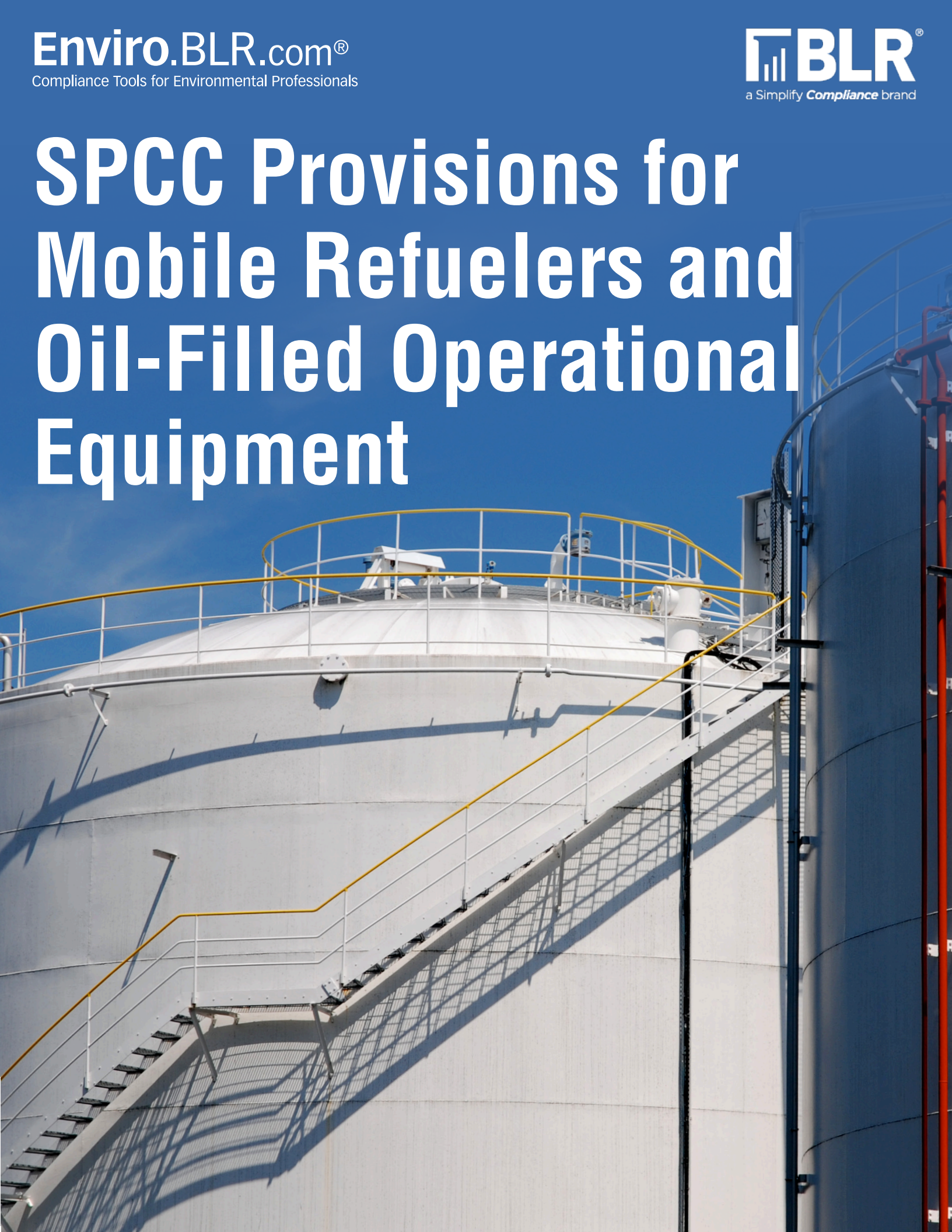
SPCC Provisions for Mobile Refuelers and Oil-Filled Operational Equipment



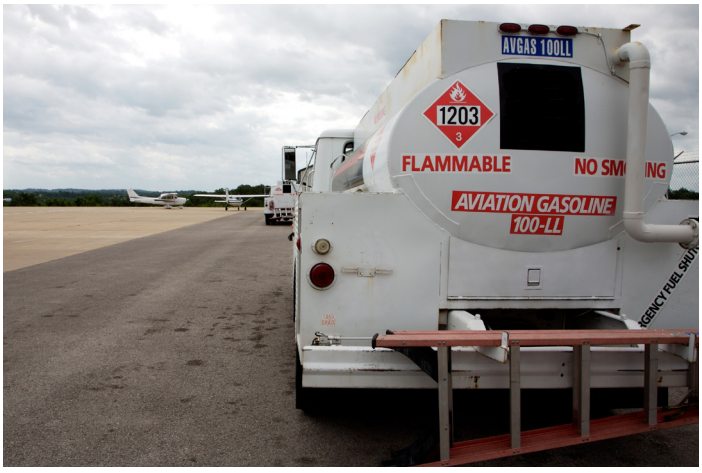
SPCC PROVISIONS FOR MOBILE REFUELERS AND OIL-FILLED OPERATIONAL EQUIPMENT

The 2006 and 2008 streamlining amendments to the federal Spill Prevention, Control, and Countermeasure (SPCC) program included important provisions for mobile refuelers and tanker trucks at non-transportation-related facilities and for oil-filled operational equipment.

Under the 2006 provisions, equipment that meets the U.S. Environmental Protection Agency's (EPA) definition of a mobile refueler is exempted from the sized-secondary containment requirements applicable to other types of oil-bearing equipment such as bulk storage containers or tank batteries. The 2008 amendments expanded this exemption to include similar tanker trucks not storing a fuel.

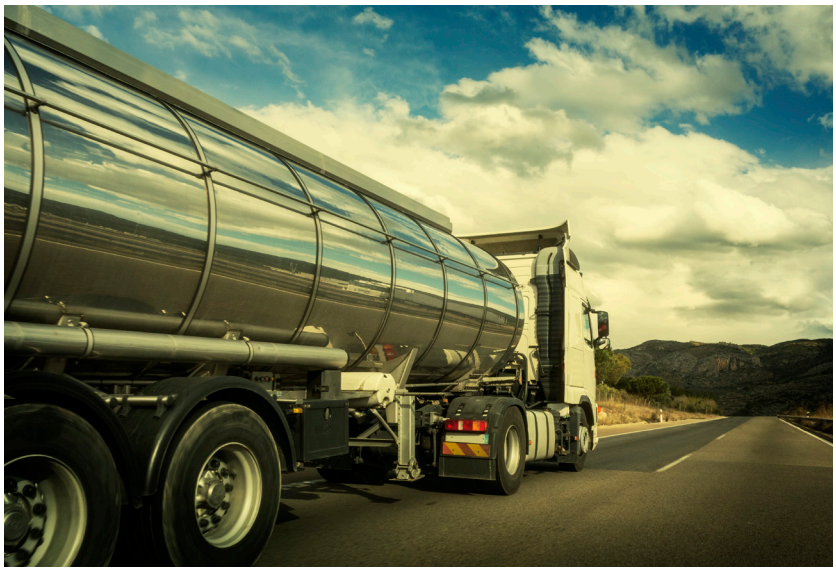
The 2006 amendments also provided that equipment that meets the definition of qualified oil-filled operational equipment may use an alternative to general secondary containment requirements if it is determined that such containment is impracticable due to design and safety consideration and site configuration.

Under the provisions, qualifying mobile refuelers are still required to meet general secondary containment requirements.



Mobile refuelers

The EPA defines a mobile refueler as a bulk storage container on board a vehicle or being towed, which 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.



Mobile refuelers are found at non-transportation-related locations, such as industrial sites, airports, military bases, construction sites, chemical complexes, mining sites, seaport terminals, and tank truck home bases.

The 2006 provision exempts mobile refuelers from the sized secondary containment requirements found in 40 CFR 112.8(c)(2) and (11) for petroleum oils and 40 CFR 112.12(c)(2) and (11) for animal fats and vegetable oils. Before the 2006 amendments, mobile refuelers were required to have sized secondary containment such as a dike or catchment basin that was of sufficient size to contain the capacity of the largest compartment of the container along with enough space to contain precipitation. The exemption does not apply to refuelers used primarily for the bulk storage of oil in a fixed location in place of stationary containers.

Mobile refuelers remain subject to general secondary containment requirements. General secondary containment refers to a broad range of “appropriate” containment and/or diversionary structures or equipment to prevent a discharge from the primary containment system such that the discharge will not escape containment before cleanup occurs.

The regulatory language at 40 CFR 112.7(c) indicates that one of a number of prevention systems "or its equivalent" must be used for onshore facilities. These include dikes, berms, retaining walls, curbing, retention ponds, or sorbent materials. For mobile refuelers, general secondary containment should be designed to address the most likely discharge from the container and from oil transfers into or from the mobile refueler.

Several additional points to keep in mind:

- When mobile or portable bulk storage containers (such as drums, skids, railcars, and totes) are in a stationary, unattended mode, and not under the direct oversight or control of facility personnel, the sized-secondary containment requirements apply.
- When mobile or portable bulk storage containers (other than mobile refuelers) are involved in on-site movement, e.g., being towed by vehicles (including locomotives) or moved to/from a designated operational area, the general secondary containment requirements apply.
- When mobile refuelers that are transportation-related are involved in a transfer operation at a SPCC-regulated facility, they are subject to the loading/unloading rack requirements when the transfer occurs at a rack or the general secondary containment requirements for all other transfers.

Note: The 2008 amendments extended the 2006 exemption from sized secondary containment requirements to non-transportation-related tank trucks at facilities subject to the SPCC rule. The general secondary containment requirements continue to apply to these non-transportation-related tank trucks.

Non-transportation-related tank trucks may operate similarly to mobile refuelers, though not specifically transferring fuel. Instead, these tank trucks may carry other oils such as transformer oils, lubrication oils, crude oil, condensate, or nonpetroleum oils such as animal fats and vegetable oils (AFVOs). Examples include a truck used to refill oil-filled equipment at an electrical substation and a pump truck at an oil production facility.

Vehicles used to store oil or that operate as on-site fueling vehicles are generally considered non-transportation-related. Indicators of when a vehicle is intended to be used as a storage tank and is therefore considered non-transportation-related include:

- The vehicle is not licensed for on-road use;
- The vehicle is fueled on-site and never moves off-site; *or*
- The vehicle is parked on a home-base facility and is filled up off-site but returns to the home base to fuel other equipment located exclusively within the home-base facility and only leaves the site to obtain more fuel.

The exemption from sized secondary containment requirements does not apply to vehicles that are used primarily to store oil in a stationary location, such as tanker trucks used to supplement storage and serving as a fixed tank.

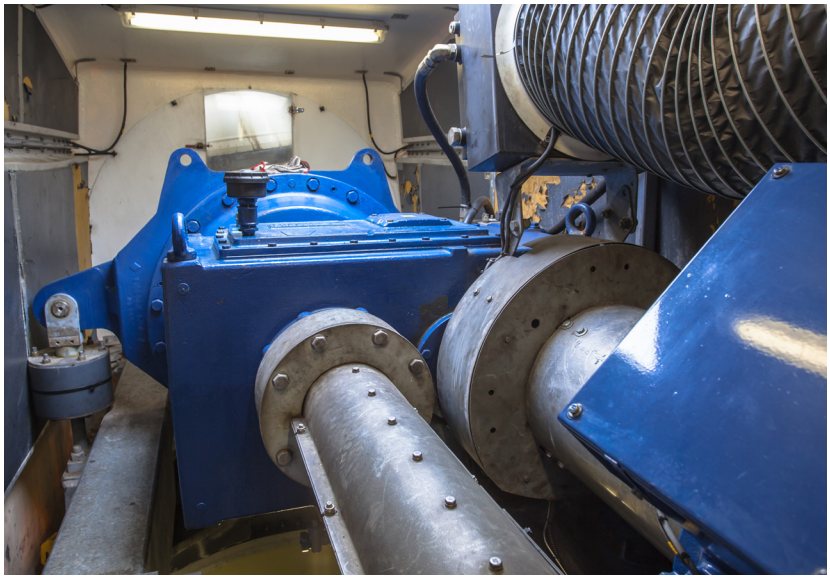
Qualified oil-filled operational equipment

Oil-filled operational equipment is equipment that includes an oil storage container (or multiple containers and associated piping intrinsic to the operation of the equipment) in which the oil is present solely to support the function of the apparatus or the device. It is not considered a bulk storage container and does not include oil-filled manufacturing equipment.

Some examples of oil-filled operational equipment include hydraulic systems, lubricating 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. Generator sets are not considered oil-filled operational equipment.

Under the streamlined 2006 amendments, owners and operators, instead of providing secondary containment for qualified oil-filled operational equipment, have the choice to prepare an oil spill contingency plan and a written commitment of manpower, equipment, and materials to control and remove discharged oil. An inspection or monitoring program must also be in place for the equipment to detect a failure and/or discharge.

To qualify as "qualified oil-filled operational equipment," the facility may not have discharged from any oil-filled operational equipment either more than 1,000 U.S. gallons (gal) of oil in a single discharge to navigable waters or adjoining shorelines or more than 42 U.S. gal in each of two discharges to navigable waters or adjoining shorelines within any 12-month period, in the 3 years before the SPCC Plan certification date or since becoming subject to SPCC requirements. When determining whether a facility is eligible for this provision, the gallon amounts specified refer to the amount of oil that actually reaches navigable waters or adjoining shorelines, not to the total amount of oil spilled.



If a discharge does occur, a facility is not automatically ineligible for the alternative to general secondary containment. If a reportable discharge does occur from qualified oil-filled operational equipment, all reporting requirements must be satisfied and as a result of such reporting, the EPA Regional Administrator may determine that facility SPCC Plan be amended. In order to maintain eligibility under this provision, facilities that are required to amend their plans must show that secondary containment is impracticable.

An oil spill 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. The requirements for these plans are outlined in 40 CFR 109.5 and include procedures for early detection, notification procedures, assurance of resource capacity, actions for

postdiscovery of the discharge, and procedures to facilitate recovery of damages and enforcement measures. This plan can be a stand-alone document or be included as part of a facility's SPCC Plan.

The written commitment of resources must include a written commitment of manpower, equipment, and materials to quickly control and remove any harmful quantity of oil. The intent of the commitment is to ensure that facilities are able to implement the contingency plan once a discharge has been detected.

Facilities that choose this alternative to general secondary containment must be able to detect a discharge for a contingency plan to be effective. To do so, owners and operators must develop an appropriate set of procedures for inspections or a monitoring program for qualified oil-filled operational equipment, which must be included in the facility's SPCC Plan. Signed inspection and monitoring records must be maintained with the SPCC Plan for at least 3 years.