

Environmental
Compliance
Navigator

2024™

Presented by

AARCHER®
Nashville | September 9-10

What to expect during an EPA Oil Program Inspection Mark W. Howard USEPA OEM Oil Program



Environmental Compliance Navigator 2024™

The conference for environmental
compliance managers

Nashville, Tennessee
September 9-10, 2024



Legal Disclaimer

This presentation is meant to provide an overview to EPA inspectors, owners and operators of facilities of regulated, and the general public on the implementation of the Spill Prevention, Control, and Countermeasure (SPCC) rule (40 CFR Part 112). This presentation seeks to promote nationally-consistent implementation of the SPCC rule. The statutory provisions and EPA regulations described in this presentation contain legally binding requirements. This presentation does not substitute for those provisions or regulations, nor is it a regulation itself. In the event of a conflict between the discussion in this presentation and any statute or regulation, this presentation is not controlling. This presentation does not impose legally binding requirements on EPA or the regulated community, and might not apply to a particular situation based upon the circumstances. The word “should” as used in this presentation is intended solely to recommend or suggest an action, and is not intended to be viewed as controlling. Examples in this presentation are provided as suggestions and illustrations only. While this presentation indicates possible approaches to assure effective implementation of the applicable statute and regulations, EPA retains the discretion to adopt approaches on a case-by-case basis that differ from this presentation where appropriate. Any decisions regarding compliance at a particular facility will be made based on the application of the statute and regulations. References or links to information cited throughout this presentation are subject to change. Rule provisions and internet addresses provided in this guidance are current as of September 2024. This presentation may be revised periodically without public notice.

Regional Overview of the Inspection Process



How do we Obtain Inspection Targets?



Triggering Events Initiating Inspections



Referrals (Tribal, State or Local)



Oil Discharges or Spills (NRC Reports)



Multi-Media Inspections



Facility Incident



Targeted Outreach with Compliance Monitoring



Routine Compliance Monitoring

- Yep...you have won the inspection lottery



And your friendly EPA inspector shows up at your door...

Inspection Process



Roles of the Inspector

- Official Agency representative
- Fact finder
- Technical authority
- Enforcement case developer (in some cases)
- Enforcement presence
- Technical educator

General Categories of Inspections

- Routine compliance (part of planned inspection program)
- “For cause” in response to suspected spill or violation
- Case development support or follow-up
- Multi-media and technical assistance

Inspection Notice Types

- **Unannounced Inspections**

- Knock Knock! Who's there? EPA. EPA Who?
- EPA Inspectors are authorized to enter any facility during normal business hours
- Legal basis for entry under 40 CFR part 112 is Clean Water Act (Sections 308 and 311[m])
- May be longer due to onsite Plan review

- **Announced Inspections**

- May request of SPCC Plan in advance
- Facilitates coordination and cooperation
- Allows for applicable records to be available for review at time of inspection

What to expect during a SPCC Inspection

Overview

- Opening conference
- Discussion of facility operations and site specific SPCC elements
- Use of detailed SPCC checklist
- Review of Plan onsite
- Records review
- Facility walk-through
- Closing conference
- Follow-up
- In certain cases, enforcement

Sample Inspection Checklist



U.S. ENVIRONMENTAL PROTECTION AGENCY SPCC FIELD INSPECTION AND PLAN REVIEW CHECKLIST

ONSHORE FACILITIES (EXCLUDING OIL DRILLING, PRODUCTION AND WORKOVER)

Overview of the Checklist

This checklist is designed to assist EPA inspectors in conducting a thorough and nationally consistent inspection of a facility's compliance with the Spill Prevention, Control, and Countermeasure (SPCC) rule at 40 CFR part 112. It is a required tool to help federal inspectors (or their contractors) record observations for the site inspection and review of the SPCC Plan. While the checklist is meant to be comprehensive, the inspector should always refer to the SPCC rule in its entirety, the SPCC Regional Inspector Guidance Document, and other relevant guidance for evaluating compliance. This checklist must be completed in order for an inspection to count toward an agency measure (i.e., OEM inspection measures or GPRAs). The completed checklist and supporting documentation (i.e. photo logs or additional notes) serve as the inspection report.

This checklist addresses requirements for onshore facilities including Tier II Qualified Facilities (excluding facilities involved in oil drilling, production and workover activities) that meet the eligibility criteria set forth in §112.3(g)(2).

Separate standalone checklists address requirements for:
Onshore oil drilling, production, and workover facilities including Tier II Qualified Facilities as defined in §112.3(g)(2);
Offshore drilling, production and workover facilities; and
Tier I Qualified Facilities (for facilities that meet the eligibility criteria defined in §112.3(g)(1))

Qualified facilities must meet the rule requirements in §112.6 and other applicable sections specified in §112.6, except for deviations that provide environmental equivalence and secondary containment impracticability determinations as allowed under §112.6.

The checklist is organized according to the SPCC rule. Each item in the checklist identifies the relevant section and paragraph in 40 CFR part 112 where that requirement is stated.

- Sections 112.1 through 112.5 specify the applicability of the rule and requirements for the preparation, implementation, and amendment of SPCC Plans. For these sections, the checklist includes data fields to be completed, as well as several questions with "yes," "no" or "NA" answers.
- Section 112.6 includes requirements for qualified facilities. These provisions are addressed in Attachment D.
- Section 112.7 includes general requirements that apply to all facilities (unless otherwise excluded).
- Sections 112.8 and 112.12 specify requirements for spill prevention, control, and countermeasures for onshore facilities (excluding production facilities).

The inspector needs to evaluate whether the requirement is addressed adequately or inadequately in the SPCC Plan and whether it is implemented adequately in the field (either by field observation or record review). For the SPCC Plan and implementation in the field, if a requirement is addressed adequately, mark the "Yes" box in the appropriate column. If a requirement is not addressed adequately, mark the "No" box. If a requirement does not apply to the particular facility or the question asked is not appropriate for the facility, mark as "NA". Discrepancies or descriptions of inspector interpretation of "No" vs. "NA" may be documented in the comments box subsequent to each section. If a provision of the rule applies only to the SPCC Plan, the "Field" column is shaded.

Space is provided throughout the checklist to record comments. Additional space is available as Attachment E at the end of the checklist. Comments should remain factual and support the evaluation of compliance.

Attachments

- Attachment A is for recording information about containers and other locations at the facility that require secondary containment.
- Attachment B is a checklist for documentation of the tests and inspections the facility operator is required to keep with the SPCC Plan.
- Attachment C is a checklist for oil spill contingency plans following 40 CFR 109. Unless a facility has submitted a Facility Response Plan (FRP) under 40 CFR 112.20, a contingency plan following 40 CFR 109 is required if a facility determines that secondary containment is impracticable as provided in 40 CFR 112.7(d). The same requirement for an oil spill contingency plan applies to the owner or operator of a facility with qualified oil-filled operational equipment that chooses to implement alternative requirements instead of general secondary containment requirements as provided in 40 CFR 112.7(k).
- Attachment D is a checklist for Tier II Qualified Facilities.
- Attachment E is for recording additional comments or notes.
- Attachment F is for recording information about photos.

Sample Inspection Checklist

FACILITY INFORMATION			
FACILITY NAME:			
LATITUDE:	LONGITUDE:	GPS DATUM:	
Section/Township/Range:	FRS#/OIL DATABASE ID:	ICIS#:	
ADDRESS:			
CITY:	STATE:	ZIP:	COUNTY:
MAILING ADDRESS (IF DIFFERENT FROM FACILITY ADDRESS - IF NOT, PRINT "SAME"):			
CITY:	STATE:	ZIP:	COUNTY:
TELEPHONE:	FACILITY CONTACT NAME/TITLE:		
OWNER NAME:			
OWNER ADDRESS:			
CITY:	STATE:	ZIP:	COUNTY:
TELEPHONE:	FAX:	EMAIL:	
FACILITY OPERATOR NAME (IF DIFFERENT FROM OWNER - IF NOT, PRINT "SAME"):			
OPERATOR ADDRESS:			
CITY:	STATE:	ZIP:	COUNTY:
TELEPHONE:	OPERATOR CONTACT NAME/TITLE:		
FACILITY TYPE:			NAICS CODE:
HOURS PER DAY FACILITY ATTENDED:		TOTAL FACILITY CAPACITY:	
TYPE(S) OF OIL STORED:			
LOCATED IN INDIAN COUNTRY? <input type="checkbox"/> YES <input type="checkbox"/> NO RESERVATION NAME:			
INSPECTION/PLAN REVIEW INFORMATION			
PLAN REVIEW DATE:	REVIEWER NAME:		
INSPECTION DATE:	TIME:	ACTIVITY ID NO:	
LEAD INSPECTOR:			
OTHER INSPECTOR(S):			
INSPECTION ACKNOWLEDGMENT			
<i>I performed an SPCC inspection at the facility specified above.</i>			
INSPECTOR SIGNATURE:			DATE:
SUPERVISOR REVIEW/SIGNATURE:			DATE:

Sample Inspection Checklist

SPCC GENERAL APPLICABILITY—40 CFR 112.1

IS THE FACILITY REGULATED UNDER 40 CFR part 112?

The completely buried oil storage capacity is over 42,000 U.S. gallons, **OR** the aggregate aboveground oil storage capacity is over 1,320 U.S. gallons **AND**

Yes No

The facility is a non-transportation-related facility engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using, or consuming oil and oil products, which due to its location could reasonably be expected to discharge oil into or upon the navigable waters of the United States

Yes No

Sample Inspection Checklist

GENERAL SPCC REQUIREMENTS—40 CFR 112.7		PLAN	FIELD
Management approval at a level of authority to commit the necessary resources to fully implement the Plan ⁷		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Plan follows sequence of the rule or is an equivalent Plan meeting all applicable rule requirements and includes a cross-reference of provisions		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	
If Plan calls for facilities, procedures, methods, or equipment not yet fully operational, details of their installation and start-up are discussed (<i>Note: Relevant for inspection evaluation and testing baselines.</i>)		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	
112.7(a)(2)	The Plan includes deviations from the requirements of §§112.7(g), (h)(2) and (3), and (i) and applicable subparts B and C of the rule, except the secondary containment requirements in §§112.7(c) and (h)(1), 112.8(c)(2), 112.8(c)(11), 112.12(c)(2), and 112.12(c)(11)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	
If YES	<ul style="list-style-type: none"> The Plan states reasons for nonconformance Alternative measures described in detail and provide equivalent environmental protection (<i>Note: Inspector should document if the environmental equivalence is implemented in the field, in accordance with the Plan's description</i>) 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA

Closing Conference

- Fill in information gaps
- Answer questions
- Prepare documentation
 - Checklists and/or inspection report
 - EPA is not required to leave the checklist
- The EPA inspector does not typically provide Agency compliance determinations in the field
- EPA inspector may identify potential deficiencies in the field
- EPA inspector may provide compliance assistance as allowed by EPA policy



NOTICE OF SPCC INSPECTION
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7

Date: 10/01/13	Lead Inspector (Print Name & Sign): Inspector Jack <i>Inspector Jack</i>	Inspection Number: 13
Additional Inspectors: Inspector Jane		
Facility Name: Hill Top	Facility Address: 123 Crown Lane, Hilltop, KS	Facility Type: Bulk Storage
Facility Phone: 555-555-5555	Facility Email: hilltop@email.com	Facility Fax: 555-555-5555
<p>The purpose of the inspection process is to determine compliance with Section 311 of the Clean Water Act (the "Act"), 33 U.S.C. § 1321, and the Oil Pollution Prevention regulations found at 40 C.F.R. Part 112 (the "Regulations"). The scope of the inspection and plan review process may include, but is not limited to, reviewing and obtaining copies of documents and records; interviewing facility personnel; a physical inspection of the facility (including process areas), taking photographs or video, collecting samples; and other activities necessary to determine compliance with the Act and the Regulations.</p> <p>Please review this Notice of SPCC Inspection ("Notice") carefully. Please be advised that this Notice and any attached document(s) may not set forth all deficiencies with the Act and/or Regulations, and that an in-depth review of this Notice and any other relevant information may identify deficiencies not yet identified herein. Also note that the deficiencies noted are preliminary observations only, and this Notice is <u>not</u> a final determination of compliance or noncompliance.</p> <p>Please be advised that any noncompliance with the Act and/or Regulations may constitute a violation under the Act for which penalties or other relief may be sought. Penalties may be assessed upon subsequent findings by a court of law or the Administrator that the facility has violated the Act and/or the Regulations. The United States Environmental Protection Agency ("EPA") reserves its right to initiate an enforcement action under the Act and any other applicable law, and to seek penalties and other appropriate relief for any violation of the Act, the Regulations, or other applicable laws. This Notice and other relevant information will be reviewed by appropriate EPA personnel to determine if any deficiencies identified in such review constitute violations of the Act and/or the Regulations, and whether an enforcement action is appropriate. EPA will provide written correspondence describing any deficiencies identified during the subsequent inspection review process.</p> <p>If deficiencies with the Act and/or Regulations were identified during the inspection and communicated to you during the closing conference, you are urged to correct such deficiencies as soon as possible. EPA requests you submit all information, as soon as possible, evidencing your correction of the deficiencies to:</p> <p align="center">[Contact] U.S. Environmental Protection Agency [Address]</p> <p>If it is not feasible to correct the deficiencies within <u>30</u> days (NOTE TO REGIONS: MAY NOT BE MORE THAN 30 DAYS) of the date of the inspection, immediately submit a detailed explanation and schedule indicating by when the noted deficiencies will be corrected. If you believe that your facility is not required to have an SPCC Plan, or is in compliance with the SPCC regulatory requirements, you may submit an explanation, supported by documentation, as to why the facility is not subject to the SPCC provision of the Oil Pollution Prevention regulations at 40 C.F.R. Part 112 or meets its requirements within <u>30</u> days (NOTE TO REGIONS: MAY NOT BE MORE THAN 30 DAYS) of the date of the inspection.</p> <p align="center">Confidential Business Information</p> <p>For the information submitted to EPA, you may be entitled to claim it as Confidential Business Information (CBI) pursuant to the regulations set forth in 40 C.F.R. Part 2. If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in 40 C.F.R. Part 2 Subpart B. Unless CBI is claimed, EPA may make the information available to the public without further notice to you.</p>		
Acknowledgement of Inspection		
Signature of Facility Representative:		
Title of Facility Representative:		



**U.S. ENVIRONMENTAL PROTECTION AGENCY
SUMMARY OF SPCC DEFICIENCIES**

Onshore Facilities (Excluding drilling, production and workover)

Facility Name/Address: Hill Top/123 Crown Lane, Hilltop, KS Facility Start Date: xx/xx/xx
 Inspector: Inspector Jack Date: 10/01/13 SPCC #: xxxxxxx

Citation	Deficiency	Plan	Field
112.3(a)	No Spill Prevention Control and Countermeasures Plan		
112.3(d); 112.6(a)(1) or (b)(1)	Plan not certified by a Professional Engineer (PE), not self-certified, or incomplete		
112.3(e)(1) or (2)	Plan not maintained on site or not available for review		
112.3(g)	Plan self-certified (or Tier I template used) though not eligible		
112.5(a)	No plan amendment(s) after change in: design, construction, operation, or maintenance		
112.5(b)	No evidence of five year review of plan by owner/operator		
112.5(c); 112.6(a)(2) or (b)(2)	Technical amendments(s) not certified by a PE or self-certified	X	
112.6(b)(2)	PE certified portions of Plan not certified by a PE following technical amendments		
112.6(b)(3)	Deviations from the SPCC rule requirements are not certified by a PE		
112.7	No signed management approval of plan		
112.7	Plan does not follow sequence or have a cross reference		
112.7(a)(2)	No or inadequate environmental equivalent for deviations from requirements		
112.7(a)(3)	No or incomplete facility diagram		
112.7(a)(3)(i)	No or incomplete listing of type of oil and storage capacity of containers	X	
112.7(a)(3)(ii)	No or inadequate description of discharge prevention measures		
112.7(a)(3)(iii)	No or inadequate description of drainage controls		
112.7(a)(3)(iv)	No/inadequate description of countermeasures for discharge discovery, response, cleanup		
112.7(a)(3)(v)	No or inadequate description of disposal methods for recovered materials		
112.7(a)(3)(vi)	No or incomplete contact list & phone numbers for response & reporting discharges		
112.7(a)(4)	No or inadequate procedures for reporting discharges		
112.7(a)(5)	No or inadequate procedures for use in an emergency		
112.7(b) or 112.6(a)(3)(i)	Plan has inadequate or no prediction of equipment failure which could result in discharges		
112.7(c)	No or inadequate containment and/or diversionary structures to prevent a discharge		
112.7(d)	No or inadequate demonstration that secondary containment is impracticable		
112.7(d)	No periodic integrity and leak testing of containers, valves and piping when impracticability is claimed for bulk storage containers		X
112.7(d)(1)	No or inadequate: contingency plan per 40 CFR part 109 or FRP under 112.20		
112.7(d)(2)	No written commitment of manpower, equipment, and materials		
112.7(e)	Inspections and tests not in accordance with written procedures in Plan		
112.7(e)	Record of inspections are not signed by facility supervisor		
112.7(e)	Record of inspections are not maintained for three years		
112.7(f)(1)	No training of oil-handling personnel on discharge prevention		
112.7(f)(2)	No designated person responsible for spill prevention		
112.7(f)(3)	Spill prevention briefings are not conducted at least annually		
112.7(g)	No or inadequate description of facility security		
112.7(h)(1)	Loading/unloading rack drainage does not flow to containment		
112.7(h)(1)	Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck using the rack		
112.7(h)(2)	No interlocked warning light, physical barrier system, or warning signs to prevent vehicular departure before complete disconnect from transfer lines		

Deficiencies found during the inspection are marked with an "X"

Post Inspection

- SPCC reporting on compliance monitoring observations
- Facility found in compliance
 - Follow up and case closure
- Facility found to out of compliance
 - Facility provided notice
 - Issuance of post inspection letter
 - Notice of Deficiencies
 - Notice of Violations
 - Expedited Settlement Agreements
 - EPA Orders under FWPCA 311c and 311 e
 - Enforcement Actions (covered later in detail)
 - Class I and Class II penalty actions
 - DOJ referrals
 - Compliance Action Enforcement/follow up
 - Case Closure

Case Closure

- Operator proves compliance
 - Plan Amendments
 - Photo documentation showing corrections
 - Case is closed.



Findings from the Field

- ---

Typical Compliance Issues
From Around the Ten EPA
Regions



Inspection Trends

Where are we inspecting?

- High Risk facilities
 - Refineries, terminals, and bulk oil storage
- Production operations on and offshore
- Animal Fat and Vegetable Oil (AFVO) facilities
- Alternative fuels facilities (Biodiesel)
- Facilities that have discharged oil into waters of the US

Common SPCC Plan Violations

- Inadequate cross reference
- Inadequate facility diagrams
(facility and diagram don't match, missing piping and loading areas)
- Plans not addressing spill trajectory requirement
- Inadequate discharge notification form
(quantity of discharged **to water** and media impacted)
- Missing 112.7(a) elements (the mini response plan)

Other Common SPCC Plan Violations (cont.)

- Inadequate contingency plan (40 CFR Part 109)
- Lack of contingency plan when required
- Notification section incomplete (or dated)
- Inadequate flowline maintenance program (production only)
- Generic/non-specific information
- Plan just repeats the rule requirements and not specific to implementation at the facility
- Missing information (leads to questions)
- Still seeing PE plans using the pre 2002 rule format
- No Plan!

Common Implementation Violations

- No secondary containment for the loading rack or loading area
- Inadequate or inappropriate pipe support
- Tank overfill protection not present, not functional or not inspected
- No inspection records
- No integrity testing program or schedule for implementation
- Improper application of visual only inspection regime

Common Implementation Violations

- Active containment methods cannot be implemented as described in Plan
- Double walled tank non-compliance issues including not inspecting interstice
- Actual drainage at the facility does not support the containment strategies in the Plan
- Post certification modifications, alterations or construction impacts implementation
- Containment and inspection of mobile portable container not implemented
- Using building for containment does not account for actual drainage conditions

No containment for oil storage tanks

Common Violation



Grossly inadequate containment

**Common
Violation**



Don't forget smaller containers



Failures in Secondary Containment



Failures in Secondary Containment



Containment Design



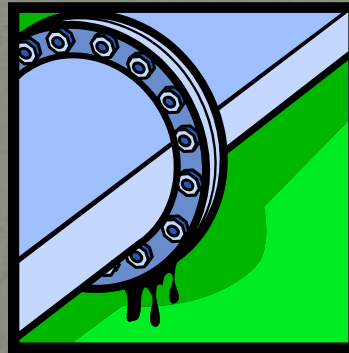
No sized containment for loading rack transfer areas

Common Violation



Failure Analysis

- Where experience indicates reasonable potential for equipment failure
 - Tank loading or unloading equipment
 - Tank overflow, rupture, or leakage
 - Any other equipment known to be a source of a discharge
- Predict for each type:
 - Direction
 - Rate of flow
 - Total quantity of oil which could be discharged



§112.7(b)

Oil Filled Operational Equipment

- Facilities often fail to include discussion of oil-filled equipment under 112.7(k) in their plans.
- Facilities often forget that they have generators, transformers, hydraulic equipment, heat-transfer equipment with oil storage greater than 55 gallons.



Integrity Testing Issues

- Facilities are still not putting together an integrity testing program required by 112.8(b)(6) or a schedule for implementation
- STI Categories need to be evaluated by the inspector
- Looking for implementation scheduled for formal integrity testing
- Are the required visual inspections being conducted and documented



Properly Addressing Mobile Refuelers Regulated Under the SPCC Program



Mobile Refuelers

- Mobile refueler being used as a stationary tank fails and was located upstream from a fish hatchery. The spill impacted the nursery



No or inoperative overflow
device or no transfer
procedure
No inspection of device

**Common
Violation**



Buried piping installed
after **August 16, 2002**

NOT

Protectively wrapped
and cathodically
protected; or

Satisfy the corrosion
protection provisions for
piping in 40 CFR parts
280 or 281 (state
program)



Gen-Set Bulk Fuel tanks are not Properly Addressed in SPCC Plan and no Sized Containment or Integrity Program



Oil Leaking from Tanks





What is the Problem???

You tell me...

The Virtual Inspection

AS OF 6/17/05 THIS IS
A PERMANENTLY
CLOSED CONTAINER



18 11:02 AM



1270

WASTE OIL





6 22 '99





DANGER
NO
SMOKING

9 16 '96





LD LMT 127000 LB 57800 KG
LT WT 96000 LB 22700 KG
WTC 5-60

DOT 114 100 6-3
DOT 114 100 6-3
DOT 114 100 6-3

800-424-9300

DOT 114 100 6-3

DOT 114 100 6-3

DOT 114 100 6-3

DOT 114 100 6-3

DOT 114 100 6-3



1000 GAL
1
1000 GAL

1000 GAL
1
1000 GAL



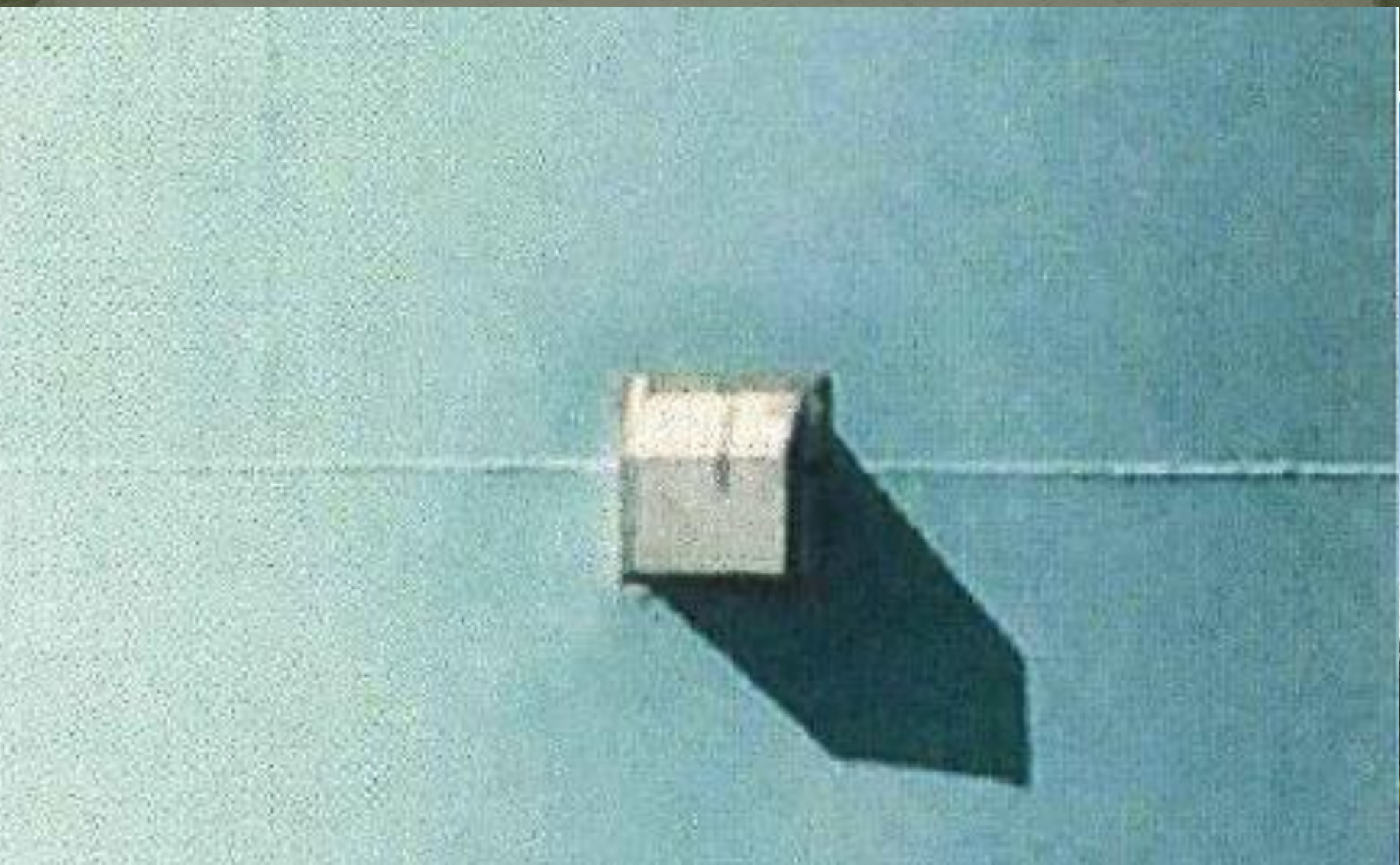




GASOLINE















07-21-2015 11:36



08.04.2016 09:28



1-2







Wooden twig
used in the
bottom of a
tank



On a positive note
facilities are complying



10/08/2015 09:13

Questions for Mark?

